

Bridging the Justice Gap: Examining the Impact of Delayed Trials on Access to Justice for Pretrial Detainees in Nigeria and Its Implications for Human Rights

S. A. Abdulmudallib*

Independent Researcher, Nigeria

*Corresponding Author

S. A. Abdulmudallib, Independent Researcher, Nigeria.

Submitted: 2026, Mar 24; Accepted: 2026, Apr 27; Published: 2026, May 04

Citation: Abdulmudallib, S. A. (2026). Bridging the Justice Gap: Examining the Impact of Delayed Trials on Access to Justice for Pretrial Detainees in Nigeria and Its Implications for Human Rights. *World J Tourism Mgm*, 2(2), 01-05.

Abstract

*Pretrial detention remains a significant challenge to access to justice in Nigeria, with thousands of individuals confined for months and even years without trial. Despite constitutional guarantees under section 35 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), statutory safeguards in the Administration of Criminal Justice Act 2015 (ACJA), and oversight provisions of the Nigerian Correctional Service Act 2019, system inefficiencies, judicial backlog, procedural delays, and inadequate access to legal representation continue to undermine timely trial proceedings. This article examines the impact of delayed trials on pretrial detainees, highlights the resulting violations of fundamental rights, including liberty, dignity, and the right to a fair trial. Drawing on Nigerian case law, including *Abacha v Fawehinmi* (2000) 6 NWLR (Pt 660) 228 and *Onyeka v Federal Republic of Nigeria* [2018] LPELR-44031(CA), as well as reports from the Nigerian Correctional Service and civil society organizations, the study identifies gaps in law and practice. The article further evaluates access to justice mechanisms, including legal aid, plea bargaining, and alternative dispute resolution, and proposes judicial, legislative, and administrative reforms. Implementation of these measures is essential to reduce pretrial detention periods, protect human rights, and restore public confidence in Nigeria's criminal justice system.*

Keywords: Pretrial Detainees, Access to Justice, Delayed Trials, Human Rights, Nigeria

PART I

1. Introduction

Access to justice is a cornerstone of any functional legal system, ensuring that individuals can assert their rights, obtain remedies, and benefit from fair legal processes. In Nigeria, however, prolonged detention of individuals awaiting trial commonly referred to as pretrial detention continues to undermine this principle. The Nigerian Correctional Service Act 2019 provides that detention of suspects should be strictly regulated to prevent remand from becoming punitive.¹ Similarly, the ACJA 2015 prescribes statutory timelines within which trials should commence and outlines procedures for remand hearings.² Despite these legal safeguards, system inefficiencies, procedural delays, and administrative bottlenecks result in suspects spending months and some even years in custody without trial.

These delays carry significant human rights implications, particularly for the right to liberty, dignity, and fair trial under section 35 of the 1999 Constitution, as well as international norms under the International Covenant on Civil and Political Rights (ICCPR)³ and the African Charter on Human and Peoples' Rights (ACHPR).⁴ Reports from the Nigerian Correctional Service indicate that pretrial detainees often constitute a significant proportion of prison populations, reflecting the gap between statutory protections and practical enforcement.⁵ Judicial pronouncements have repeatedly emphasized the fundamental right to liberty and the dangers of prolonged detention. In *Abacha v Fawehinmi*,⁶ the Supreme Court highlighted that detention without timely trial undermines the rule of law.

Despite this, implementation remains inconsistent, leaving many detainees trapped in legal limbo. This article examines the interplay between delayed trials, pretrial detention, and access to justice in Nigeria. It highlights human rights implications, evaluates system challenges, and proposes practical interventions to ensure that constitutional and statutory safeguards translate into meaningful protection for detainees. The article proceeds in four main parts: Part II sets out the conceptual and legal framework; Part III analyses the causes of delayed trials; Part IV examines the impact on human rights; and Part V evaluates existing access to justice mechanisms before offering recommendations.

Part II

2. Conceptual and Legal Framework

2.1. Key Concepts

Pretrial detention refers to the confinement of individuals suspected or accused of criminal offences before conviction by a competent court. While intended to secure the presence of the accused at trial or protect public safety, excessive pretrial detention often results in punitive consequences for individuals who have not been found guilty.⁷ Access to justice, on the other hand, entails the ability of individuals to seek and obtain remedies through formal legal processes. For pretrial detainees, this includes timely trial, fair remand procedures, and the ability to challenge detention.⁸ Delays in trials create a justice gap, where formal protections exist but fail to operate in practice.

2.2. Constitutional and Statutory Framework

The primary constitutional provision governing pretrial detention in Nigeria is section 35 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), which guarantees the right to personal liberty and protection against arbitrary detention, mandating that detained individuals must be brought before a court within a reasonable time.⁹

The ACJA 2015 supplements this constitutional guarantee through several key provisions. Sections 167 and 218 prescribe timelines for remand hearings and trial commencement, while sections 271–273 provide for plea bargaining as an alternative mechanism to reduce trial delays.¹⁰ The Nigerian Correctional Service Act 2019 further reinforces these protections: sections 9–10 emphasizes humane treatment, access to legal counsel, and periodic review of pretrial detention.¹¹ Additionally, the Legal Aid Act provides free legal representation to indigent detainees, although resource constraints limit its effectiveness in practice.¹²

2.3. Judicial Recognition

Nigerian courts have consistently affirmed the fundamental nature of pretrial rights. In *Abacha v Fawehinmi (supra)*,¹³ the Supreme Court stressed the fundamental nature of personal liberty, holding that detention without timely trial is incompatible with constitutional guarantees. In *Sagay v State*,¹⁴ the Court of Appeal reaffirmed that failure to bring detainees promptly before a court violates their statutory and constitutional rights. More recently, in *Onyeka v Federal Republic of Nigeria (supra)*,¹⁵ the court emphasized the need to enforce remand limits, noting the

persistent gap between law and practice.

2.4. International Norms

Nigeria's obligations under international human rights law provide an important overlay to domestic protections. Article 9 of the International Convention on Civil and Political Rights (ICCPR) protects against arbitrary detention and guarantees the right to trial within a reasonable time.¹⁶ Article 6 of the African Charter on Human and Peoples' Rights (ACHPR) similarly guarantees liberty and fair trial.¹⁷ The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) establish minimum standards for the treatment of prisoners, including pretrial detainees, which aimed at reinforcing the domestic framework.¹⁸ The Rule (the Nelson Mandela Rules) are internationally recognized guidelines that set minimum standards for the humane treatment of all persons deprived of liberty. Originally adopted in 1955 and revised in 2015 in honor of Nelson Mandela, the Rules emphasize respect for human dignity, non-discrimination, separation of pretrial detainees from convicted prisoners, access to legal counsel and healthcare, proper living conditions, and protection from torture or degrading treatment. Although not legally binding, they serve as authoritative benchmarks that guide States, Courts, and oversight bodies in ensuring that imprisonment does not result in additional suffering beyond lawful deprivation of liberty.

PART III

3. Causes of Delayed Trials in Nigeria

3.1. Judicial Backlog and Court Inefficiency

One of the most pervasive causes of delayed trials is the chronic backlog of cases in Nigerian courts. Courts handle hundreds of pending cases with limited judicial personnel, resulting in prolonged adjournments and extended remand periods.¹⁹ The ratio of judges to population remains critically low, and infrastructure constraints, including inadequate courtroom facilities and poor record management compound the problem.²⁰

3.2. Inadequate Access to Legal Representation

Many detainees cannot afford legal representation, and the resources available through the Legal Aid Council are insufficient to meet even the average demand.²¹ Without legal representation, detainees are ill-equipped to challenge unlawful detention, apply for bail, or navigate complex procedural requirements. The gap between demand and supply of publicly funded legal services perpetuates prolonged pretrial detention, particularly for indigent accused persons.²² This has a significant effect on the access to justice and the pre-trial detainees.

3.3. Procedural and Administrative Bottlenecks

Delays in case file processing, witness unavailability, and repeated adjournments dwelling on a flimsy excuses and some even baseless, contribute significantly to prolonged detention which proves lack of diligent prosecution.²³ Prosecutorial delays, including the failure of the police to promptly forward case files to the Director of Public Prosecutions, are a documented feature of the Nigerian criminal justice system. Similarly, adjournments are

routinely granted without adequate justification, in contravention of the ACJA's case management provisions.²⁴

3.4. Socio-Economic and Systemic Factors

It not in doubt that overcrowded correctional facilities, inadequate infrastructure, and corruption within the criminal justice system exacerbate delays and undermine the administration of justice in Nigeria.²⁵ Socio-economic inequality means that wealthier accused persons are better positioned to secure bail and effective legal representation, creating a two-tier system in which pretrial detention disproportionately affects the poor.²⁶ Several scenarios to this regards are there publicly for one to see.

3.5. Institutional Practices

Routine remand renewals without proper judicial scrutiny remain a significant problem. Such practices violate the statutory provisions of the ACJA and the Nigerian Correctional Service Act, which require periodic judicial review of remand orders.²⁷ The absence of robust oversight mechanisms allows unlawful detention to persist unchallenged for extended periods. Though ACJA attempted to provide mechanism for remand order renewal, it is delineated that the provisions are just rebranding and legalizing the holding charge initial era (which was declared illegal by the Nigerian Supreme Court in the case of *Lufadeju V Johnson*) in new name and form by calling it 'Remand Proceeding.'

PART IV

4. Impact on Pretrial Detainees and Human Rights

4.1. Constitutional Violations

Prolonged pretrial detention constitutes a prima facie breach of section 35 of the 1999 Constitution. The failure to bring accused persons before a court within the constitutionally prescribed timeframe violates the right to personal liberty, and courts have consistently so held.²⁸ Where statutory remand periods under the ACJA are exceeded without judicial authorization, the detention becomes unlawful and exposes the State to liability in fundamental rights enforcement proceedings.²⁹

4.2. Human Rights Breaches

Beyond constitutional violations, prolonged pretrial detention engages Nigeria's obligations under international human rights law. The extended confinement of individuals without trial violates the presumption of innocence, the right to a fair trial within a reasonable time, and the prohibition on arbitrary detention enshrined in both the ICCPR and the ACHPR.³⁰ Amnesty International has documented numerous cases in which pretrial detainees were held for periods far exceeding those permitted by law.³¹

4.3. Social, Psychological, and Economic Effects

The consequences of prolonged pretrial detention extend far beyond legal violations. Detainees experience significant psychological harm, including anxiety, depression, and trauma resulting from uncertain legal status and separation from family.³² The social stigma associated with detention even prior to conviction can cause lasting reputational damage, while the economic consequences of lost employment and disrupted livelihoods affect both detainees

and their dependants.³³

4.4. Illustrative Cases

In *Onyeka v Federal Republic of Nigeria*,³⁴ the Court of Appeal condemned procedural delays that had resulted in the appellant's detention for a period grossly exceeding statutory limits, finding this to constitute a violation of his right to liberty. Similarly, in *Okoro v State*,³⁵ the court condemned the practice of repeated remand renewals without substantive judicial review, emphasizing the systematic nature of the problem.

Reports from the Nigerian Correctional Service indicate that pretrial detainees constitute over 70 percent of the prison population, a figure that illustrates the severity and scale of the challenge.³⁶

PART V

5. Access to Justice Mechanisms and Proposed Interventions

5.1. Legal Aid and Public Defence

The Legal Aid Act establishes a framework for the provision of free legal services to indigent accused persons, though the practical reach of this framework is severely constrained by inadequate funding and limited geographical coverage.³⁷ Pro-bono initiatives by civil society organizations, including the NULAI-Nigeria, OSIWA-Pretrial, Bayero University Law Clinic, CLEEN Foundation and Prisoners' Rehabilitation and Welfare Action (PRAWA), help mitigate some delays by providing legal assistance to vulnerable detainees.³⁸ However, these efforts are insufficient in scale to address the system deficit in legal representation.

5.2. Plea Bargaining and Diversion

The provision of Sections 271–273 of the ACJA 2015 provide a legislative basis for plea bargaining as a mechanism to expedite case resolution and reduce trial delays³⁹ Despite this, awareness of the plea bargaining process remains limited among both legal practitioners and detainees, and procedural clarity is lacking in practice.⁴⁰ Greater investment in sensitization and capacity building is required to realise the potentials of plea bargaining as an access to justice mechanism.

5.3. Continuous Judicial Reforms

The ACJA mandates case management protocols and periodic remand reviews, but enforcement of these provisions remains inconsistent.⁴¹ Judicial reforms should focus on strict compliance with statutory timelines, reducing unnecessary adjournments, and expanding judicial capacity through increased appointments and training. The introduction of dedicated criminal courts with specialized dockets could also contribute to reducing backlog.

5.4. Civil Society and Non-Governmental Organisations

Civil society organizations play a vital role in monitoring detention conditions by providing legal assistance, and advocating for system reform.⁴² Their engagement with both detainees and relevant authorities helps to bridge the some gap between formal legal protections and practical outcomes. Strengthening partnerships between the state and civil society, including through formal recognition and funding support, would enhance the effectiveness

of these interventions.

5.5. Technological and Administrative Innovations

The adoption of digital case tracking systems and electronic court records can reduce procedural inefficiencies and improve coordination between courts, correctional facilities, and prosecutorial authorities.⁴³ Integration of prison records with court databases would enable proactive identification of cases where statutory remand limits are approaching, facilitating timely review and reducing unlawful detention.

6. Conclusion

Prolonged pretrial detention in Nigeria disclosed a system failure that undermines access to justice and violates fundamental constitutional and human rights protections. This article has demonstrated that judicial backlog, inadequate legal representation, procedural bottlenecks, and weak institutional oversight are the primary contributors to the justice gap experienced by pretrial detainees. The legal framework, comprising section 35 of the 1999 Constitution, the ACJA 2015, and the Nigerian Correctional Service Act 2019, provides a sound normative foundation for the protection of pretrial detainees' rights. However, the persistent gap between law and practice demands urgent attention. Nigerian courts have repeatedly affirmed the constitutional right to liberty and condemned unlawful detention, but judicial pronouncements alone are insufficient without meaningful enforcement. To address these challenges, this article makes the following recommendations. First, the judiciary should enforce ACJA timelines rigorously, reduce unnecessary adjournments, and expand judicial capacity through increased appointments. Second, legal aid funding should be substantially increased, and pro-bono initiatives supported, to ensure effective representation for all detainees. Third, plea bargaining and diversion programs should be fully operationalized, with robust awareness campaigns targeting both practitioners and detainees. Fourth, independent oversight mechanisms should be established to conduct regular remand reviews and monitor compliance with statutory detention limits. Fifth, digital case management systems should be implemented to improve administrative efficiency and enable proactive identification of cases requiring judicial attention. Finally, a comprehensive national policy framework for the reduction of pretrial detention should be developed, drawing on the lessons of comparative experience and civil society expertise. Effective implementation of these measures will reduce pretrial detention periods, enhance access to justice, and protect the human rights of detainees thereby restoring public confidence in Nigeria's criminal justice system.

EndNotes:

1. Nigerian Correctional Service Act 2019, ss 9–10.
2. Administration of Criminal Justice Act 2015 (ACJA), ss 167, 218.
3. International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art 9.
4. African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS

- 217 (ACHPR), art 6.
5. Nigerian Correctional Service, Annual Report (2023).
6. *Abacha v Fawehinmi* (2000) 6 NWLR (Pt 660) 228 (SC).
7. Penal Reform International, 'Pretrial Detention in Nigeria: Challenges and Reforms' (2021) 12.
8. *ibid* 14.
9. Constitution of the Federal Republic of Nigeria 1999 (as amended), s 35.
10. ACJA (n 2), ss 167, 218, 271–273.
11. Nigerian Correctional Service Act 2019 (n 1), ss 9–10.
12. Legal Aid Act, Cap L9, Laws of the Federation of Nigeria 2004, ss 7–9.
13. *Abacha v Fawehinmi* (n 6).
14. *Sagay v State* [2014] LPELR-23356(CA).
15. *Onyeka v Federal Republic of Nigeria* [2018] LPELR-44031(CA).
16. ICCPR (n 3), art 9.
17. ACHPR (n 4), art 6.
18. United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), UNGA Res 70/175 (17 December 2015).
19. CLEEN Foundation, 'Report on Criminal Justice Reforms in Nigeria' (2023) 8.
20. Nigerian Correctional Service (n 5) 21.
21. Legal Aid Act (n 12), ss 7–9.
22. PRAWA, 'Report on Pretrial Detention in Nigeria' (2023) 17.
23. Amnesty International, 'Nigeria: Pretrial Detention and Human Rights' (2022) 9.
24. ACJA (n 2), s 218.
25. Nigerian Correctional Service (n 5) 15.
26. Penal Reform International (n 7) 19.
27. ACJA (n 2), ss 167, 218; Nigerian Correctional Service Act 2019 (n 1), ss 9–10.
28. Constitution of the Federal Republic of Nigeria 1999 (n 9), s 35; *Abacha v Fawehinmi* (n 6).
29. *Onyeka v Federal Republic of Nigeria* (n 15).
30. ICCPR (n 3), art 9; ACHPR (n 4), art 6.
31. Amnesty International (n 23) 14.
32. Penal Reform International (n 7) 22.
33. PRAWA (n 22) 23.
34. *Onyeka v Federal Republic of Nigeria* (n 15).
35. *Okoro v State* [2015] LPELR-24820(CA).
36. Nigerian Correctional Service (n 5) 5.
37. Legal Aid Act (n 12).
38. CLEEN Foundation (n 19) 12; PRAWA (n 22) 10.
39. ACJA (n 2), ss 271–273.
40. *ibid*.
41. *ibid*, ss 167, 218.
42. CLEEN Foundation (n 19) 18.
43. Nigerian Correctional Service (n 5) 30.

Bibliography:

Legislation

- i. Constitution of the Federal Republic of Nigeria 1999 (as amended)
- ii. Administration of Criminal Justice Act 2015

-
- iii. Criminal Procedure Act, Cap C41, Laws of the Federation of Nigeria 1990
 - iv. Legal Aid Act, Cap L9, Laws of the Federation of Nigeria 2004
 - v. Nigerian Correctional Service Act 2019
 - ii. International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171
 - iii. United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), UNGA Res 70/175 (17 December 2015)

Cases

- i. Abacha v Fawehinmi (2000) 6 NWLR (Pt 660) 228 (SC)
- ii. Okoro v State [2015] LPELR-24820(CA)
- iii. Onyeka v Federal Republic of Nigeria [2018] LPELR-44031(CA)
- iv. Sagay v State [2014] LPELR-23356(CA)

International Instruments

- i. African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217

Reports and Institutional Publications

- i. Amnesty International, 'Nigeria: Pretrial Detention and Human Rights' (Amnesty International 2022)
- ii. CLEEN Foundation, 'Report on Criminal Justice Reforms in Nigeria' (CLEEN Foundation 2023)
- iii. Nigerian Correctional Service, Annual Report (NCS 2023)
- iv. Penal Reform International, 'Pretrial Detention in Nigeria: Challenges and Reforms' (PRI 2021)
- v. Prisoners' Rehabilitation and Welfare Action (PRAWA), 'Report on Pretrial Detention in Nigeria' (PRAWA 2023)

Copyright: ©2026 S. A. Abdulmudallib. This is an open-access article distributed under the terms of the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited.