

A COMPARATIVE APPRAISAL OF TORTURE AS A PROCEDURAL CLOG TO THE ADMINISTRATION OF CRIMINAL JUSTICE IN NIGERIA AND RUSSIA

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Abstract: *The phenomenon of torture remains a serious concern to human rights scholars, activists and practitioners. The United Nations Convention against Torture, Inhuman or Degrading Treatment or Punishment, 1984 (UNCTIDTP, 1984) is a ratified Convention by Russia and Nigeria. While Russia is yet to domesticate the Convention, Nigeria has in accordance with section 12 of its Constitution albeit with some of the provisions of the Convention excised. This paper appraises the concept of torture in both Russia and Nigeria within the context of the administration of criminal justice and compares the countries legal regimes against the use of torture in criminal investigation. The paper found that torture delays criminal trials, occasionally occasions miscarriage of justice and Nigeria's domestication UNCTIDTP, 1984 remained a lesson for Russia. While Russia needs to domesticate the UNCTIDTS, 1984 like Nigeria has done, both countries should put in place strong enforcement mechanisms, criminalizing torture with stiff penalties like a life sentence or death penalty.*

Keywords: *Torture, clog, barrier, criminal justice, delay, miscarriage of justice, defendant*

1. Introduction

The law recognises and provides for a myriad of safeguards for a fair criminal trial in all the countries that are parties to international conventions that protect citizens' human rights (Universal Declaration of Human Rights 1948). This touches on the mandate of the United Nations. Indeed, the three pillars for which the United Nations stands are peace and security, development and human rights (Ornguga and Tijani, 2012). The United Nations, as demonstrated in its commitment to the provisions of the Universal Declaration on Human Rights venerates the observance of fundamental human rights of citizens of its member countries, particularly

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when such citizens are in vulnerable conditions. This has made the United Nations to set apart every December 10 of every year for the United Nations International Human Rights Day (Ayo-Ojo, 2024). The thrust of this paper is, therefore, temporally apposite as it seeks to discuss what affects not only the right to dignity of human person but also the right to the fair trial of an accused person. Critical to the administration of criminal justice are the various rights available for the accused person or criminal defendant in his trial such as rights to fair hearing generally, prompt intimation of the charge against the accused person, presumption of innocence, adequate time and facilities for his defence, defence by himself or a legal practitioner of his own choice cross examination of the prosecution's witnesses, assistance of an interpreter without payment of any money, entitlement to copies of the judgment conclusively determining his case, rule against retroactivity of an offence, defence or bar of *autre fois* acquit or *autre fois* convict, defence of pardon, freedom to give or not to give evidence and immunity from trial for an offence that is unknown to law (Constitution of the Federal Republic of Nigeria, 1999).

The menace of torture affects the right to dignity of human person and the right to fair hearing (Wolbert, 2007). Torture affects the admissibility of an accused person's extra-judicial confessional statement, being a product of coercion, oppression, force and violence (Nasiru, 2022). This paper will, therefore, appraise the phenomenon of torture as a procedural clog to the administration of criminal justice in Russia and Nigeria. The paper will demonstrate that entrenching a good legal framework against torture is not enough. The concerned stakeholders must ensure that the laws are enforced so that the delay that may be occasioned due to torture will be obviated. In order to achieve the objective of the paper, the paper is divided into seven parts. Part one is the introduction to the paper; part two examines the meaning and forms of torture; parts three and four discuss the existing legal framework against torture in Nigeria and Russia; part five interrogates why torture still continues in spite of the existing legal framework; part six discusses the effect of torture; and part seven concludes the paper while making some recommendations.

2. Explicating Meaning and Nuances of Forms of Torture

Torture is an acute and chronic violation of a person's right to dignity of person. "Acute" and "chronic" because it puts a person's life in imminent peril (Sharma, and Kelly, 2018). Nigeria's Anti-Torture Act elaborately defines what constitutes torture. Torture is an intentional infliction of pain or suffering- whether physical or mental – on a victim at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity, as long as it does not arise from lawful sanctions (Anti-Torture Act, 2017). This definition is restrictive in that it "officialises" torture. The Act limits the phenomenon of torture to official activities while closing its door to all other acts of torture that take place outside official circles. This is a great detraction from the social utility of the Act because the acts of torture that go on outside official quarters arising from citizens' acts of self-help are more than the official ones (Yahya, Hambali, Afolayan, Olorunyomi, and Chiroma, 2018).

Why torture a person? The purpose may be to (1) obtain information or confession from the victim or a third person; punish him for an act he or a third person has committed or is suspected of having committed; and intimidate or coerce him or a third person for any reason

based on discrimination of any kind. Torture impinges on a person's right to dignity of human person from which other human rights derive their essence and meaning (Tarhule, 2010).

By the provisions of the Nigeria Anti-Torture Act, 2017, the forms of torture include systematic beatings, head-banging, punching, kicking, striking with rifle butts, jumping on the stomach; food deprivation or forcible feeding with spoiled food, animal or human excreta or other food not normally eaten; electric shocks; cigarette burning, burning by electrically heated rods, hot oil, acid, by robbing of pepper or other chemical substances on mucous membranes, or acids or spices directly on the wounds; the submersion of the head in water or water polluted with excrement, urine, vomit or blood; being tied or forced to assume fixed and stressful bodily positions (Nigeria Anti-Torture Act, 2017). It also includes rape and sexual abuse, including the insertion of foreign bodies into the sex organs or rectum or electrical torture of the genitals; other forms of sexual abuse; mutilation such as amputation of the essential parts of the body such as the genitalia, ears, or tongue and any other part of the body; dental torture or the forced extraction of the teeth. Moreso, it takes the form of harmful exposure to the elements such as sunlight and extreme cold; the use of plastic bags and other materials placed over the head to the point of asphyxiation. Also, the use of psychoactive drugs to change the perception, memory, alertness or will of a person, such as administration of drugs to induce confession or reduce mental competency, or the use of drugs to induce pain or certain symptoms of disease; or any other forms of aggravated and deliberate cruel (Sahara Reporters, 2021).

Also, it entails inhuman or degrading physical or pharmacological treatment or punishment; and mental or psychological torture, which is understood as referring to such cruel, inhuman or degrading treatment calculated to affect or confuse the mind or undermine a person's dignity and morale such as blindfolding, threatening a person or such persons related or known to him with bodily harm, execution or other wrongful acts, confinement in solitary cells put up in public places, confinement in solitary cells against their will or without prejudice to their security (Nigeria Anti-Torture Act, 2017). Torture also takes the form of prolonged interrogation to deny normal length of sleep or rest, causing unscheduled transfer of a person from one place to another creating the belief that he shall be summarily executed, maltreating a member of the person's family, causing the torture sessions to be witnessed by the person's family relatives or any third party, inducing generalised fear among certain sections of the population, denial of sleep or rest (Nigeria Anti-Torture Act, 2017). As well as inflicting shame by stripping a person naked, parading him in a public place, shaving his head or putting marks on his body against his will; or confinement in jails and prisons under intolerable and inhuman conditions or degrading mental treatment or punishment.

The various forms of torture enumerated above impinge adversely on a person's fundamental human rights to life, personal liberty, movement and dignity of human person, among others (Ayo-Banjo, 2024). The effect of each of the forms of torture to the administration of criminal justice, particularly when the torture takes place at the office or venue designated and designed for the investigation of criminal matters, is of a more serious concern (Obi, and Ezeogu, 2017).

In Russia and Nigeria, there are legal provisions that frown on the phenomenon of torture either because it devalues the worth of a person or it puts a person's life in imminent peril. The legal provisions on the subject-matter of torture in the former are not as robust as

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those of the latter due perhaps to the fact that Russia has not enacted its own specific legislation on the subject-matter of torture like Nigeria. But what are the various laws dealing with the phenomenon of torture in both countries?

3. Examining the Legal Framework against Torture in Nigeria

Nigeria is a member of many international organizations and a party to many international and regional conventions or treaties. Again, the National Assembly of the Federal Republic of Nigeria also makes laws for Nigerians while the respective State Houses of Assembly make laws for the component units (states) (The Constitution of the Federal Republic of Nigeria, 1999). An attempt will, therefore, be made to discuss, albeit briefly, each of the treaties and laws applicable to torture in Nigeria.

This aspect will address some international treaties that have been ratified or domesticated or enacted by the Federal Republic of Nigeria.

i. Universal Declaration of Human Rights

The Universal Declaration of Human Rights of 1948 is the first port of call in this regard. It is a foremost international treaty in the protection of citizens' fundamental human rights. Nigeria has ratified the Convention and it forms the basis of the Nigerian legal grundnorm (Dias, 1985). According to the Declaration, 'no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Universal Declaration of Human Rights, 1948). This is premised on the belief and faith of the peoples of the United Nations in fundamental human rights, dignity and worth of the human person and in the equal rights of men and women. No doubt, the act of torture is a cruel, callous and wicked demonstration of man's inhumanity to his fellow man. The Declaration condemns such an act. This will restore or preserve the humanity of man and the dignity of his person.

ii. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The next international treaty that has been ratified by Nigeria, which appositely addresses torture, is the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Russia and Nigeria are parties to the Convention, having been ratified by both countries. According to the Convention, each State Party shall adopt or take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its domain or jurisdiction (Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984). The Convention so much frowns on torture that it provides that 'No exceptional circumstances whatsoever, whether state war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.' The effect is that under no guise or excuse will torture be permitted. Indeed, the Convention against Torture also criminalises the substantive acts of torture and all attempts to commit torture with attendant condign penalties. The implication of this is that each state party to the Convention can, in its domesticated version or enacted version of the Convention, make provisions for torture as a substantive criminal offence and as an inchoate offence in form of an attempt (The Criminal Code Act, 2004). By the Convention's provisions on the criminalization

of torture and an attempt to commit torture, Nigeria and other countries with similar constitutional provisions, would be saved from any accusation of constitutional violations when persons are charged for torture or attempt to commit it (The Constitution of the Federal Republic of Nigeria. 1999). The Convention equally recognizes the civil remedies available to victims of torture when it amply provides that such victims shall have a litigable cause of action which will entitle them to compensation or other civil remedies cognizable under the affected jurisdiction (Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984). In criminal prosecutions, confessional statements extracted from suspects through torture shall not be admissible against such suspects but against the torturers. Accordingly, 'each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.' The expression '...any statement which is established to have been made as a result of torture...' presupposes that the fact of the involuntariness of the disputed statement must first be established. This requires a special procedure in criminal prosecutions. The procedure will elongate the time of trial and lead to avoidable expenditure of time and resources.

iii. African Charter on Human and Peoples' Rights

This is another international treaty of a regional character that has been domesticated in Nigeria (African Charter on Human and Peoples' Rights 1981). It is an African regional treaty that seeks to protect the citizens of its member countries from the menace of torture. According to this Charter, 'human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.' Again, the Charter provides that 'every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment or treatment shall be prohibited (African Charter on Human and Peoples' Rights 1981).

4. Domestic Legal Framework against Torture in Nigeria

The existing domestic legal framework against the menace of torture is also robust, ranging from the organic law of the land which is the Constitution of the Federal Republic of Nigeria to the Administration of Criminal Justice Act (or Law), 2015.

a. Constitution of the Federal Republic of Nigeria

This is the fundamental law of Nigeria. Any other law that is inconsistent with it is automatically null and void to the extent of its inconsistency. Contained in the fourth chapter of the Constitution are various fundamental human rights that seek to guarantee the humanity of man. According to the Constitution, 'every individual is entitled to respect for the dignity of his person, and accordingly (a) no person shall be subjected to torture or to inhuman or degrading treatment.' The implication of this is that Nigeria's Constitution frowns on torture.

b. The Anti-Torture Act

The Act is Nigeria's version of the Convention Against Torture although the Act does not contain all the provisions of the Convention. The Act deservedly places a heavy burden on

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the government of Nigeria by ensuring that the rights of all persons, including suspects, detainees and prisoners are respected at all times and that no person under investigation or who is held in custody of any person in authority shall be subjected to physical harm, force, violence, threat or intimidation or any act that impairs his freewill; the Act equally provides that the government shall fully adhere to the principles and standards of the absolute condemnation and prohibition of torture set by the Constitution of the Federal Republic of Nigeria and various international instruments to which Nigeria is a State party (Nigeria Anti-Torture Act, 2017).

According to Nigeria's Anti-Torture, nothing whatsoever, including state of war or threat of war, internal political instability or any other public emergency can or will ever justify the infliction of torture on any person within its jurisdiction. The Act prohibits detention places, solitary confinement, a place where a person can be rendered incommunicado or other similar forms of detention as such places can serve as a haven for torturous activities. The Act makes provisions for the inadmissibility of confession, admission or statement resulting from torture, except as against the perpetrator of the torture. Again, victims of torture can complain to competent Authorities and such victims or interested parties on their behalf may seek legal assistance in the proper handling and filing of the complaint from Human Rights Commission, and non-governmental organisations and private persons.

Besides, the Nigerian Anti-Torture Act not only ensures the physical well-being of a victim of torture but also guarantees his psychological wellness by ensuring that he is medically certified healthy following any incident of incarceration or torture. To this effect, a person arrested, detained or under custodial investigation shall have the right to be informed of his right to demand a physical and psychological examination by an independent and competent doctor of his own choice after interrogation, which shall be conducted outside the influence of the police or security forces. The medical report shall contain some details on the history and findings of the physical and psychological state of the person.

In criminal law, the law attributes criminal responsibility to parties who are involved in the commission of an offence (Bamgbose and Akinbiyi, 2015). The Anti-Torture Act provides that a person who actually participates in the infliction of torture or who is present during the commission of the act is liable as the principal; (b) a superior military, police or law enforcement officer or senior government official who issues an order to a lower ranking personnel to torture a victim for whatever purpose is equally liable as the principal; an order from a superior officer or from a superior in the office or public authority shall not be invoked as a justification for torture; and a commanding officer of the unit under whose authority the torture happens is liable as an accessory. It, therefore, appears that the parties mentioned above shall be criminally responsible under the enumerated circumstances any time torture occurs. This is to ensure that no one hides under the fact that he lacks the *mens rea* required for the commission of torture. Liability is, therefore, strict under the Act.

One other innovation introduced by the Anti-Torture Act is that anyone found guilty of torture shall be sentenced to a term of imprisonment not exceeding twenty five (25) years. Again, when torture leads or results to death, the culprit shall, on conviction, be sentenced to death. The problematic area of the Act has to do with enforcement. The provisions therein are lofty but their enforcement is not as easy as written. The Anti-Torture Act provides that the Attorney General of the Federation and other law enforcement and investigative agencies shall

ensure that the function of overseeing the implementation of this Act shall be specifically assigned to a particular office or unit of the agency concerned. The challenge with this provision is that such a contemplated office or unit is not yet in existence. Even if such an office or a unit were in existence, there cannot be a fair enforcement or any enforcement at all as the office or unit is created from within the investigative agency concerned. Can a person be a judge in his own cause and still remain impartial or objective? For the effective and effectual enforcement of the Anti-Torture Act, there must be a separate monitoring unit created from an entirely different department of the government which will be saddled with the responsibility of monitoring the effective implementation of the provisions of the Anti-Torture Act on the menace of torture.

Another aspect of the problematic area of Nigeria's Anti-Torture Act beleaguered by the same enforcement challenge is in the aspect of education and training by Attorney General of the Federation and other concerned parties of the law enforcement personnel (civil or military), medical personnel, public officials and other persons involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. Do such trainings or education programmes take place at all? When they do, the personnel involved hardly see them as a medium of learning but as a money-making exercise.

c. The Evidence Act

The Evidence Act is another piece of legislation in Nigeria that indirectly prohibits torture. This relates to the relevance and admissibility of confessional statements of criminal suspects which were obtained as a result of torture, coercion, force or oppression (*Abdullahi v. Hashidu*, 1999). The Evidence Act is key to the prosecution of accused persons in Nigeria. Once a statement of an accused person has been established to be a product of torture, such a statement will be inadmissible before the court no matter how grave the charge may be.

In criminal proceedings, a suspect's confession is a form of admission made at any time by him which states or suggests the inference that he actually committed the offence alleged against him (Sobere, 2024). A suspect's confession is relevant to the proceedings in which he is standing trial unless excluded by the court. But the torturous aspect of the Act is captured below:

If, in any proceeding where the prosecution proposes to give in evidence a confession made by a defendant, it is represented to the court that the confession was or may have been obtained – (a) by oppression of the person who made it; or (b) in consequence of anything said or done which was likely, in the circumstances existing at the time to render unreliable any confession which might be made by him in such circumstances, the court shall not allow the confession to be given in evidence against him except in so far as the prosecution proves to the court beyond reasonable doubt that the confession (notwithstanding that it may be true) was not obtained in a manner contrary to the provisions of this section.

The Evidence Act has defined the word 'oppression' to include torture, inhuman or degrading treatment, and the use or threat of violence whether same amounts to torture or not. What the international treaties frown on is what the Evidence Act also prohibits – torture. The

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court has the responsibility to determine whether a disputed statement was obtained torture-free or not.

d. The Police Act

The Nigerian Police Act also obliquely makes some provisions on the issue of torture. During investigation of criminal cases, an arrestee who wishes to make a statement is free to do so (Police Act, 2020). Such a statement may be taken in the presence of a lawyer of his choice and if the arrestee does not have a lawyer, the statement may be taken in the presence of an officer of the Legal Aid Council of Nigeria or an official of a civil society organization or a justice of the peace or any other person of his choice albeit such persons shall not interfere with or disturb the process of statement taking. He or she only needs to discharge his duty as a legal practitioner or as such a close person to the arrestee.

e. The Administration of Criminal Justice Act

This is the current adjectival or procedural legislation on the prosecution of criminal cases in Nigeria (Administration of criminal Justice Act, 2015). The relevance of the provision of the Act or Law is that it provides a clear safeguard when recording the statement of a suspect during investigation and even incarceration as opined by (Eyongndi, 2021). According to the relevant provision of the Law:

Where a person arrested on allegation of having committed an offence, volunteers to make a statement it shall be taken, in the presence of a legal practitioner of his choice: or where he has no legal practitioner of his choice any other person of his choice: Provided that the legal practitioner or any other person mentioned in this subsection shall not interfere while the person is making his statement, except for the purpose of discharging his role as a legal practitioner. Where any person who is arrested with or without a warrant volunteers to make a confessional statement, the Police shall ensure that the making and taking of such statement is recorded on video and the said recording and copies of it may be produced at the trial provided that in the absence of video facility, the said statement shall be in writing in the presence of a legal practitioner of his choice.

This provision of the ACJA and the entirety of the Act, provides legal guardrails against torture in criminal investigation and interrogation of accused persons and incarceration either as pre-trial or after conviction (Saheed, 2021).

5. Domestic and International Legal Framework against Torture in Russia

There is also an existing legal regime for the prohibition of torture in Russia. It has both international and national dimensions. An attempt will be made to discuss the legal framework on the basis of two sub-headings.

Russia has also ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since 1987. The provisions of the Convention as discussed under the Nigerian situation apply *mutatis mutandi* to the Russian jurisdiction. Another important Convention which was also ratified by Russia in 1998 is the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment (CPT). The pith and substance of the Convention is the prohibition of torture and other inhuman or degrading treatments.

The Constitution of the Russian Federation is the first domestic legislation to be mentioned in a discussion on torture. Under the Constitution, man's rights and freedoms are not only the core pre-occupation of the Russian Federation but also the supreme value of Russia's organic law (The Constitution of the Russian Federation, 1993). Hence, Russian Federation owes its citizens the obligation of ensuring the recognition, observance and protection of her citizens' human and civil rights and freedoms, particularly the right to dignity of human person. The Constitution of Russia recognizes basic or fundamental human rights and freedoms of every citizen as being immanently inalienable which are to be enjoyed by every citizen from birth. The underlying philosophy is that 'human dignity shall be protected by the State. Nothing may serve as a basis for its derogation. Nobody should be subjected to torture, violence, or other severe or humiliating treatment or punishment.' It is now sacrosanct in the Russian Federation that any law which abolishes or diminishes human and civil rights and freedoms shall not be adopted. The purport of the foregoing is that in Russia, every republic, kray, oblast, city of federal significance, autonomous oblast or autonomous okrug must observe compliance with the dignity of human person.

Another important Russian legislation on the subject-matter of torture is the Criminal-Procedural Code of the Russian Federation, 2012. According to this piece of legislation and based on a person's honour and dignity before a Russian court hearing a criminal matter, 'No one of the participants in criminal court proceedings shall be subjected to violence or torture or to other kinds of cruel or humiliating treatment, degrading his human dignity.'

Russia has not enacted a domestic legislation on torture in the manner of the Nigerian Anti-Torture Act despite many instances of physical, sexual and psychological torture and abuse against in-mates across the country (Bland, 2022). The phenomenon is rampant in penal institutions with instances of rape in Saratov, Kaluga and Krasnoyarsk. The net of law ought to catch the police officers in charge of police cells/temporary detention cells, penitentiary officials, security agents and investigators who are involved in torture in one way or another (Kalashnikov v Russia, 2002).

6. Why Does Torture Persist in Criminal Cases Despite the Avalanche of Laws?

In both Russia and Nigeria, the menace of torture continues unabated, particularly during the investigation of the commission of crimes. Why is this so when various laws have been put in place? First, the proof of an accused person's guilt is stricter in criminal cases than the proof of liability of a defendant in civil cases. In Nigeria, the standard of proof in criminal cases is proof beyond reasonable doubt while the civil standard is on the balance of probabilities or on preponderance of evidence. In Russia, the standard is premised on irremovable doubt. In Nigeria, the facts to be proved are the facts in issue which are the essential ingredients of the offence charged. Under the Russian criminal justice system, the facts to be proved include the event of the crime such as the time, place, mode and other circumstances surrounding the commission of the offence; the accused person's guilt, the form of the guilt and the motive for committing the offence; the circumstances that depict or characterize the personality of the accused person; the nature and extent of the damage caused through the crime committed; the concomitant circumstances of the crime committed; and the circumstances extenuating or mitigating the punishment to be meted to that accused person upon conviction (Russian Criminal-

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Procedural Code, 2001). Therefore, criminal investigators fish for evidence by all means, including extracting confessions from suspects with the use of force or torture. Again, the proof of criminal guilt is in three ways – direct evidence, circumstantial evidence and confessional evidence. Of these three modes of proof, confessional evidence is the easiest way of proof as it relieves the investigator of expenditure of time, efforts and other resources. In Nigeria, the investigators sometimes use coercion, force, intimidation and torture in order to wring confessional statements out of the suspects being investigated and interrogated. Such evidence is not admissible. Under the Russian criminal jurisprudence, the confessional evidence of an accused person requires corroboration before such confessional material can serve as a foundation or basis for a criminal conviction. Another factor for the ubiquity of torture at the investigation level is lack of awareness about the condign punitive measures against the perpetrators of such a dastardly and inhuman treatment. Again, the investigators engage in the torturous act because they are not checked by the law and government. Besides, non-enforcement of the applicable laws like the Nigerian Anti-Torture Act is an impetus to the impunity of the Nigerian investigators. It is settled that the Act contains condign punitive measures against the perpetrators of torture. But such measures are not being enforced (Akujobi, 2022).

7. The Effect of Torture on the Administration of Criminal Justice

Torture elongates criminal trials. This is a challenge not only to the judiciary but also to the administration of criminal justice. In Russia and Nigeria, the judiciary is an arbiter of criminal disputes. It convicts or acquits based on the evidence before it. In Nigeria, the guilt of an accused person must be proved not beyond every iota of doubt but beyond reasonable doubt (Ekpo v The State, 2018). In the cause and process of the proof, the accused person/defendant will object to the admissibility of a disputed confessional statement.

This will stall the trial because trial-within-trial, otherwise called mini-trial, must be conducted to determine the admissibility of such a disputed confessional statement. The concept of trial-within-trial is implied in section 29(3) of the Nigerian Evidence Act that provides that “in any proceeding where the prosecution proposes to give in evidence a confession made by a defendant, the court may of its motion require the prosecution, as a condition of allowing it to do so, to prove that the confession was not obtained as mentioned in either subsection 2(a) or (b) of this section.” If many accused persons object to the admissibility of their confessions, there is going to be a challenge of joint trial which will necessitate a consideration of the statement of each of the accused persons. This is a clog to an expeditious hearing of a criminal case (Kamila v The State, 2018).

Torture leads to a miscarriage of justice when disputed confessional statements are wrongly admitted by the learned trial court. And this sometimes happens since judges are also human beings and human errors are sometimes unavoidable. This may necessitate an appeal which will further prolong the fate of the case (Sule v The State, 2019).

8. Conclusion and Recommendations

Nigeria has a robust legislative enactment of the Convention against torture. However, the provisions of the Nigerian Anti-Torture Act are not as comprehensive as those of the Convention against Torture. Russia is yet to have its own home-grown Act like Nigeria.

Russia's proposed legislation on this subject-matter has a lot to imbibe from its Nigerian counter-part. Russian can, however, improve on the deficiencies of the Nigerian Act. The scope of the Russian legislation should cover more areas of torture than penitentiary centres, the equipollent of the Nigerian correctional centres. Both Russia and Nigeria do not have effective enforcement mechanisms to breathe life into their respective legal regimes against torture. Both jurisdictions out-law and criminalise torture committed by public or government officials, thereby excluding extra-official cases of torture which are more than the official ones. In view of the fact that torture constitutes a strong barrier to the administration of criminal justice as it elongates criminal trials beyond reasonable periods of time, coupled with the fact that it constitutes a flagrant infraction of a person's fundamental right to the dignity of his person, the governments of both countries must entrench a formidable enforcement framework to combat the phenomenon of torture in and outside official quarters. This will obviate unnecessary objections to the admissibility of victims' statements obtained through torture. Both jurisdictions must also establish strong and impartial monitoring bodies to ensure compliance with the provisions of their respective laws. The minimum punishment for established cases of torture should be either a life sentence or a capital sentence.

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