THE ROLE OF THE POLICE IN CRIMINAL INVESTIGATIONS

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CERTIFICATION

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APPROVAL

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DEDICATION

This work is dedicated to the Almighty God, whose grace and guidance have sustained me throughout my academic journey.

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First and foremost, I must give honour to whom it is due. This research would remain a mere aspiration without the guidance of my esteemed supervisor, Prof. O. Aigbovo. I am deeply grateful for your scholarly insight, patience, and fastidious approach to ensuring this work meets the highest standards. Thank you, sir, for your exceptional mentorship and for making this academic exercise a smooth and intellectually stimulating process.

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LIST OF STATUTES

Administration of Criminal Justice Act 2015

African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, 2004.

Anti-Torture Act 2017

Constitution of the Federal Republic of Nigeria 1999 (as amended)

Evidence Act 2011.

Fundamental Rights (Enforcement Procedure) Rules 2009

Independent Police Investigative Directorate Act 2011 (South Africa).

International Covenant on Civil and Political Rights (adopted 16 December 1966).

Lagos State Judicial Panel of Inquiry on Restitution for Victims of SARS-Related Abuses & Other Matters, Final Report (2021).

Lagos State Judicial Panel of Inquiry on SARS, *Final Report* (2021).

Penal Code (Northern States) Federal Provisions Act, 2004.

Police Act 2020 (Repeal and Re-enactment) Act.

Police and Criminal Evidence Act 1984 (UK)

United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 2001.

LIST OF CASES

LIST OF ABBREVIATIONS

ACJA	**-**	**The Administration of Criminal Justice Act**
CA	-	Court of Appeal
CIDs	-	Criminal Investigation Departments
COP	-	*Commissioner of Police*
FGN	-	Federal Government of Nigeria
FHC	-	Federal High Court
FRN	-	*Federal Republic of Nigeria*
JSC	-	Justice of the Supreme Court
LFN	-	Laws of Federation of Nigeria
LPELR	-	Law Pavilion Electronic Law Reports
NPF	-	Nigeria Police Force
NWL	-	Nigerian Weekly Law Reports
PDSS	-	Police Duty Solicitors Scheme
SARS	-	Special Anti-Robbery Squad
SC	-	Supreme Court
SCNLR	-	Supreme Court of Nigeria Law Reports
SWAT	-	Special Weapons and Tactics
UDHR	-	Universal Declaration of Human Rights
WRN	-	Weekly Reports of Nigeria

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ABSTRACT

This research examines the duties and powers of the Nigerian Police in relation to criminal investigations, including arrest, interrogation, detention, stop and search, and prosecution. While the Nigerian Constitution and the Police Act grant the police wide-ranging powers necessary for maintaining law and order, these powers are frequently abused, leading to violations of fundamental human rights. The study explores key concepts such as unlawful arrest, extortion, and torture, and critically evaluates the legal framework governing police powers in Nigeria. By employing a mixed methodology doctrinal analysis of statutes and case law, alongside limited fieldwork through interviews and questionnaires the research highlights systemic weaknesses in accountability mechanisms, the absence of technological safeguards such as body-worn cameras, and the persistence of impunity within the force. It further identifies comparative best practices from other jurisdictions and recommends reforms, including stricter judicial oversight, independent complaints mechanisms, and mandatory adoption of body cameras. The study concludes that while the police remain indispensable to criminal justice administration, effective checks and balances are necessary to ensure that their powers are exercised within the ambit of the rule of law.

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

The institution of the police is indispensable to the proper functioning of any criminal justice system. The role of the police in any democratic society is maintaining public order, preventing and detecting crime, protecting life and property, and enforcing the laws of the land. But such roles have been compromised through the aid of corruption and misappropriation of powers, and as such the criminal process is compromised at its very root. Legal standards governing the police in Nigeria are derived from the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Police Act 2020, the Administration of Criminal Justice Act 2015 (ACJA), the Evidence Act 2011, and various judicial pronouncements.[1] These laws provide the framework for lawful arrest, detention, interrogation, collection of evidence, and protection of suspects' rights. In Nigeria, the police force derives its legal basis from section 214 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), which establishes the Nigeria Police Force (NPF).[2] Section 4 of the Police Act 2020 further specifies its functions, emphasising crime prevention, detection, apprehension of offenders, and due enforcement of laws.[3] The investigative function is thus not only statutory but essential to the attainment of justice in a democratic society. As Adeyemi notes, "criminal investigation is the gateway to justice, for without reliable fact-finding, neither prosecution nor defence can fulfil their purpose."[4]

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[1] Constitution of the Federal Republic of Nigeria 1999 (as amended); Police Act 2020; Administration of Criminal Justice Act 2015; Evidence Act 2011.

[2] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 214.

[3] Police Act 2020, s 4.

[4] Adeyemi A, Criminal Procedure in Nigeria: Law and Practice (University of Lagos Press 1991) 45.

Despite these legal safeguards, the realities of policing in Nigeria reveal a profound dissonance between the "law in the books" and the "law in action," to borrow the words of Roscoe Pound. Nigerian police officers are often accused of engaging in practices such as unlawful arrests, prolonged detentions without charge, extra-judicial profiling, and extortion of suspects under the guise of "stop and search" operations.[5] Such conduct not only undermines the legitimacy of the police but also erodes public trust in the criminal justice system.

Judicial pronouncements have repeatedly reaffirmed the limits of police powers and the consequences of unlawful exercise. For example, in *Enwere v COP*[6], the Court condemned unlawful detention in breach of constitutional safeguards,.

Criminal investigation has been judicially defined in Nigeria. In *FRN v Iweka*[7], the Court of Appeal observed that investigation is "a process of inquiry carried out by the police to ascertain whether an offence has been committed, the nature of such offence, and the person or persons responsible." The Supreme Court in *Fawehinmi v IGP*[8] also affirmed the broad powers of the police to investigate crimes, arrest suspects, and gather evidence in accordance with the law. These authorities underscore that police investigation is not a matter of discretion but a constitutional and statutory duty subject to legal boundaries.

Nigeria's legal framework provides detailed guidelines on how the duties of the police must be conducted. The 1999 Constitution (as amended) guarantees fundamental rights relevant to investigation, including the right to dignity (section 34), right to personal liberty (section 35), right to fair hearing (section 36), and right to privacy (section 37).[9] The Administration of

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[5] CLEEN Foundation, Policing a Democracy in Nigeria (Lagos, 2000) 32.

[6] *Enwere v COP* (1993) 6 NWLR (Pt. 299) 333.

[7] *FRN v Iweka* (2013) 7 NWLR (Pt. 1352) 470.

[8] *Fawehinmi v IGP* (2002) 7 NWLR (Pt. 767) 606.

[9] Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 34–37.

Criminal Justice Act (ACJA) 2015 regulates arrest, detention, bail, and remand procedures. Section 17 ACJA specifically mandates humane treatment of suspects and prohibits torture.[10] The Evidence Act 2011 governs admissibility of evidence, stipulating under section 29 that confessional statements obtained through oppression, inducement, or threat are inadmissible.[11] The Anti-Torture Act 2017 criminalises torture and strengthens constitutional safeguards.[12] Together, these instruments establish a due-process model of investigation.

Despite this elaborate framework, practical realities in Nigeria reveal wide gaps between law and practice. Numerous judicial decisions, such as *Emeka v State*[13], highlight issues of confessions obtained through torture or inducement. The African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, domesticated in Nigeria, further reinforces the illegality of such practices, yet violations persist.[14] Arbitrary arrests, unlawful detention beyond the constitutionally permissible period of 24 or 48 hours, denial of access to counsel, and poor evidential handling remain widespread. Institutional weaknesses such as underfunding, inadequate forensic capacity, corruption, and political interference compound these problems.

The EndSARS protests of 2020 starkly exposed these systemic failures and reflected public discontent with police abuses during investigations, particularly those involving the now-disbanded Special Anti-Robbery Squad (SARS).[15] This movement demonstrated the urgent demand for accountability, professionalism, and respect for human rights in police operations. Although reforms such as the Police Act 2020 and judicial insistence on voluntariness of

[10] Administration of Criminal Justice Act 2015, s 17.

[11] Evidence Act 2011, s 29.

[12] Anti-Torture Act 2017, s 2.

[13] *Emeka v State* (2001) 14 NWLR (Pt. 734) 666.

[14] African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9 LFN 2004.

[15] Amnesty International, Nigeria: Time to End Impunity for Torture (2014) 12.

confessions in *Nwachukwu v State*[16] indicate progress, the gap between standards and practice remains substantial.

From a theoretical standpoint, this tension between the need for effective crime control and the imperative of due process reflects what Herbert Packer describes as the clash between the "crime control model" and the "due process model" of criminal justice.[17] The Nigerian experience appears to oscillate between these two models, with the reality tilting more towards crime control at the expense of constitutional safeguards. This manifests in the excessive reliance on arrest as an investigative tool, arbitrary stop-and-search operations, and even the extraction of money from citizens under coercive circumstances.

Thus, while the legal framework seeks to ensure that criminal investigations are carried out fairly, efficiently, and in line with due process, the lived realities present serious obstacles that affect justice delivery. It is against this background that this study examines the role of the police in criminal investigations, with particular attention to the legal standards and the practical realities in Nigeria.[18]

1.2 Statement of the Problem

The Nigerian legal system, through constitutional provisions, statutory enactments, and judicial authorities, provides a clear framework for lawful and effective criminal investigation. These standards, on paper, are consistent with international human rights norms and are designed to protect both the interests of the state in prosecuting crime and the rights of individuals suspected of committing offences. However, in practice, a persistent gulf exists between these legal standards and the realities of police investigations in Nigeria.[19]

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[16] *Nwachukwu v State* (2007) 17 NWLR (Pt. 1062) 31.

[17] Herbert L Packer, The Limits of the Criminal Sanction (Stanford University Press 1968) 153.

[18] Constitution of the Federal Republic of Nigeria 1999 (as amended); Police Act 2020.

[19] Constitution of the Federal Republic of Nigeria 1999 (as amended); Police Act 2020; Administration of Criminal Justice Act 2015; Evidence Act 2011.

Several interrelated problems have emerged. Firstly is the prevalence of unlawful arrests and detentions. Although section 35(1) of the Constitution guarantees the right to liberty and prescribes strict conditions for lawful deprivation,[20] police officers frequently arrest individuals without reasonable suspicion, detain suspects beyond the constitutionally permitted period of 24 or 48 hours without arraignment, and sometimes fail to inform suspects of the reasons for their arrest, contrary to section 6 of the ACJA.[21] In *Enwere v COP*[22], the Court strongly condemned such detentions as unconstitutional. Yet, such practices remain widespread. Closely related is the abuse of stop-and-search powers. While the law authorizes the police to stop, search, and question individuals in appropriate circumstances,[23] in practice, these operations often degenerate into arbitrary profiling, harassment, and extortion. Young men, particularly those perceived to be "internet fraudsters" based on their appearance or possession of expensive gadgets, are frequently subjected to degrading treatment. Such practices, not grounded in reasonable suspicion, contradict both section 37 of the Constitution on privacy[24] and the principles enshrined in the African Charter on Human and Peoples' Rights.[25]

Second, confessional statements are still frequently extracted through torture, threats, or inducement, notwithstanding the explicit prohibition in the Evidence Act 2011[26] and the Anti-Torture Act 2017.[27] These shortcomings pose serious questions, such as how can

[20] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 35(1).

[21] Administration of Criminal Justice Act 2015, s 6.

[22] *Enwere v COP* (1993) 6 NWLR (Pt. 299) 333.

[23] Police Act 2020, s 31.

[24] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 37.

[25] African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9 LFN 2004, art 9.

[26] Evidence Act 2011, s 29.

[27] Anti-Torture Act 2017, s 2.

Nigeria ensure that its police investigations reflect constitutional values, statutory safeguards, and global best practices?

Therefore, the central problem that this research seeks to address is the extent to which police powers in Nigeria, particularly in criminal investigations, align with legal standards, and how unlawful practices such as arbitrary arrest, extortion, and profiling continue to thrive despite constitutional and statutory safeguards.[28]

1.3 Research Questions

In light of the foregoing background and the identified problems, this study seeks to provide answers to the following questions:

1. What are the constitutional and statutory limits of police powers in Nigeria, particularly in relation to arrest, detention, interrogation, and search?
2. To what extent do the practical realities of police operations in Nigeria, such as unlawful arrests, arbitrary stop-and-search, profiling, and extortion, conform to or deviate from established legal standards?
3. What are the proper legal procedures for effecting a lawful arrest, and how do they contrast with common practices by the Nigerian Police Force?
4. How does the abuse of police powers, including extortion and torture during investigations, affect the protection of fundamental human rights and public trust in the criminal justice system?
5. What accountability and oversight mechanisms exist for regulating police conduct in Nigeria, and how effective have they been in curbing unlawful investigative practices?
6. What legal and institutional reforms are necessary to ensure that the police effectively balance crime control with the protection of constitutional rights during criminal investigations?

[28] Amnesty International, Nigeria: Time to End Impunity for Torture (2014) 11.

1.4 Aim and Objectives of the Study

Aim of the Study

The central aim of this research is to critically examine the role of the Nigerian Police Force in criminal investigations with a particular focus on the scope and limits of their legal powers, the prevalence of unlawful practices such as arbitrary arrests, stop-and-search, profiling, and extortion, and the extent to which these practices conform to or deviate from constitutional and statutory standards. The study further aims to evaluate the implications of such practices for the protection of fundamental rights and the overall administration of justice in Nigeria.

Objectives of the Study

To achieve the above aim, the study pursues the following specific objectives:

1. To examine the constitutional and statutory provisions regulating police powers in Nigeria, particularly in relation to arrest, detention, interrogation, and search.
2. To assess the extent to which the practical realities of police operations align with or deviate from the prescribed legal standards.
3. To critically analyze the problem of unlawful arrests in Nigeria and identify the proper legal procedures required for effecting a lawful arrest under Nigerian law.
4. To investigate the prevalence of unlawful stop-and-search practices, profiling, and extortion by police officers and evaluate their legality in light of constitutional guarantees and human rights norms.
5. To explore how abuses of police powers during criminal investigations impact the protection of fundamental rights, public trust, and the integrity of the criminal justice system.
6. To evaluate the existing accountability and oversight mechanisms regulating police conduct in Nigeria and their effectiveness in curbing unlawful practices.

7. To propose legal and institutional reforms aimed at ensuring that police officers strike a proper balance between effective crime control and the protection of constitutional rights.

1.5 Significance of the Study

The significance of this study lies in its contribution to both academic discourse and the practical realities of criminal justice administration in Nigeria. At the academic level, the research provides a nuanced understanding of the scope of police powers in criminal investigations and the degree to which such powers conform to constitutional and statutory limits.[29] By critically examining issues such as unlawful arrests, arbitrary stop-and-search practices, extortion, and profiling, the work contributes to legal scholarship by exposing the tension between law as written and law as applied in practice. For students, scholars, and researchers of law, this study offers a reliable reference material that enriches ongoing debates about the balance between state power and individual rights in the Nigerian context.[30] From a professional and practical perspective, the study is equally relevant to lawyers, judges, and law enforcement officials. For legal practitioners, it highlights the implications of procedural irregularities committed during investigations, and how such irregularities often affect the admissibility of evidence, the fairness of trials, and ultimately the administration of justice.[31] For judges, it provides an analytical lens through which the judiciary may evaluate claims of unlawful police practices while reinforcing the judiciary's constitutional role as a guardian of fundamental rights. For the police institution itself, the study serves as a mirror, reflecting both lawful duties and unlawful excesses, and thus provides an opportunity for self-assessment and reform.

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[29] Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 34–37.

[30] Adeyemi A, Criminal Procedure in Nigeria: Law and Practice (University of Lagos Press 1991) 45.

[31] Evidence Act 2011, s 29; *Emeka v State* (2001) 14 NWLR (Pt. 734) 666.

Furthermore, the research has significant policy implications. By identifying gaps in the regulation and enforcement of police conduct, it draws attention to the urgent need for legislative and institutional reforms aimed at strengthening accountability.[32] Policymakers and government agencies can rely on the findings and recommendations of this study to improve oversight mechanisms, promote adherence to constitutional standards, and restore public confidence in the Nigerian Police Force.[33] Beyond its academic, professional, and policy relevance, the study is also significant for civil society and human rights advocacy groups. By documenting unlawful practices in comparison with constitutional and international norms, it provides credible evidence that can be employed for public education, advocacy, and litigation.[34] This enhances ongoing efforts to hold the police accountable while empowering citizens with the knowledge needed to assert their rights in everyday encounters with law enforcement. Ultimately, the broader significance of this study lies in its societal impact. The issues under consideration unlawful arrests, profiling, extortion, and other abuses are not abstract concerns but lived realities that affect ordinary Nigerians on a daily basis.[35] By clarifying the lawful extent of police powers and contrasting them with existing realities, the study not only illuminates systemic problems but also proposes pathways to reform. In this way, it bridges the gap between theory and practice, law and society, and contributes meaningfully to the vision of a policing system that is just, accountable, and respectful of human dignity.

1.6 Scope and Limitations of the Study

This study examines the role of the police in criminal investigations in Nigeria, focusing on the extent and limits of police powers as prescribed under the law and how these powers are

[32] CLEEN Foundation, Policing a Democracy in Nigeria (2000) 32.

[33] Police Service Commission Act, Cap P3 LFN 2004, s 6.

[34] Amnesty International, Nigeria: Time to End Impunity for Torture (2014) 12.

[35] African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9 LFN 2004.

exercised in practice. It covers the constitutional and statutory framework regulating police functions, including the *Constitution of the Federal Republic of Nigeria 1999 (as amended),*[36] *the Police Act 2020,*[37] *the Administration of Criminal Justice Act (ACJA) 2015,*[38] and relevant judicial authorities.

1.7 Research Methodology

This research adopts a doctrinal (library-based) methods in order to provide a holistic and balanced analysis of the role of the police in criminal investigations in Nigeria. On the one hand, the doctrinal method involves a critical examination of statutory provisions, constitutional frameworks, judicial pronouncements, and scholarly writings that define and regulate police powers. Primary sources such as the *1999 Constitution of the Federal Republic of Nigeria (as amended),*[39] *the Police Act 2020,*[40] *the Administration of Criminal Justice Act (ACJA) 2015,*[41] *the Evidence Act 2011,*[42] and relevant case law will be analyzed. Secondary sources including textbooks, journal articles, commentaries, and reports from civil society organisations (e.g., CLEEN Foundation, Amnesty International, Human Rights Watch) will also be consulted.[43] This will help in identifying the scope of police powers in law, as well as the standards required for lawful arrest, detention, stop-and-search operations, and investigations.

1.8 Organisation of the Study

This research is divided into five chapters for clarity and logical progression of ideas.

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[36] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 214.

[37] Police Act 2020, s 4.

[38] Administration of Criminal Justice Act 2015, ss 6, 17.

[39] Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 34–37.

[40] Police Act 2020, s 31.

[41] Administration of Criminal Justice Act 2015, ss 3–10.

[42] Evidence Act 2011, s 29.

[43] CLEEN Foundation, Policing a Democracy in Nigeria (2000); Amnesty International (n 7); Human Rights Watch (n 6).

- **Chapter One** serves as the introductory framework of the study. It sets out the background to the research problem, the statement of the problem, the research objectives and questions, the significance of the study, the scope and limitations, and the methodology employed.
- **Chapter Two** presents the literature review, where both conceptual and theoretical perspectives are analysed. Here, key terms such as “criminal investigation,” “police powers,” “arrest,” “detention,” and “search and seizure” are defined and examined. Existing scholarly works and jurisprudence are also critically evaluated to situate the study within the broader academic discourse.
- **Chapter Three** focuses on the legal framework governing police powers in Nigeria. It examines constitutional provisions, statutes such as the Police Act and the ACJA, as well as case law interpreting the extent and limits of police authority. It also highlights international standards and how they influence Nigerian practice.
- **Chapter Four** Chapter Four focuses on the judicial interpretation and institutional challenges of police investigations. Rather than empirical data, this chapter relies on case law and judicial precedents to examine how Nigerian courts have interpreted the abuse of investigative powers, such as the "holding charge," trial by ordeal, and forced confessions. It further discusses the impediments to effective investigation, such as the lack of forensic infrastructure and conflicts between fundamental human rights and police duties, as documented in legal reports and jurisprudence.
- **Chapter Five** encompasses the summary of findings, conclusion, and recommendations. It synthesizes the legal analysis to conclude that while the legislative framework is robust, enforcement remains problematic. It proffers legal and institutional recommendations to enhance the efficiency of police investigations and ensure strict adherence to the rule of law.

1.9 Conclusion

In sum, this introductory chapter has established the foundation upon which the entire research rests. It has highlighted the central problem motivating the study the wide gulf between the legal framework regulating police powers in Nigeria and the manner in which these powers are exercised in practice. While the Constitution and statutes set out safeguards to prevent abuses, the reality is that the Nigerian police often exceed their lawful boundaries, engaging in unlawful arrests, arbitrary detention, extortion, and harassment of citizens under the guise of criminal investigation.[44]

The objectives and research questions outlined in this chapter are designed to interrogate this problem by critically assessing the scope of police powers, the procedures for lawful arrests, and the prevalence of unlawful practices. By employing a mixed methodology that combines doctrinal and empirical research,[45] the study will provide a balanced analysis of both the law and its application in real life.

The significance of this research, therefore, lies not only in its academic contribution but also in its potential to inform legal reforms, promote accountability, and ultimately improve the administration of criminal justice in Nigeria.[46] Having laid this foundation, the subsequent chapters will now proceed to review the relevant literature, analyse the legal framework, and examine the practical realities of policing in Nigeria.

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[44] *Enwere v COP* (1993) 6 NWLR (Pt. 299) 333; Amnesty International, Nigeria: Time to End Impunity for Torture (2014) 12.

[45] CLEEN Foundation, Policing a Democracy in Nigeria (2000) 32.

[46] Police Service Commission Act, Cap P3 LFN 2004, s 6.

CHAPTER TWO

CONCEPTUAL, THEORETICAL FRAMEWORK AND LITERATURE REVIEW

2.1 Conceptual Clarification

In order to properly situate the discourse on the role of the police in criminal investigations, it is important to first clarify the key concepts that form the bedrock of this study. Legal research, particularly in criminal law and procedure, is often riddled with technical terms whose meanings may vary across statutes, case law, and scholarly writings. A proper conceptual clarification therefore helps to remove ambiguities, establish definitional boundaries, and create a coherent analytical framework for the research.[47]

The concepts under review include "police," "criminal investigation," "arrest," "interrogation," "stop and search," and "extortion." Each of these concepts will be defined with reference to statutory provisions, judicial pronouncements, and authoritative academic opinions. By doing so, this study ensures that the terms are not only understood in their ordinary sense but also within the peculiar Nigerian legal context.

2.1.1 Definition of Terms

In this research, the following key terms are clarified in the specific context of police duties and powers in Nigeria. This approach highlights not only their legal meaning but also their practical relevance to ths topic, which includes the tension between lawful exercise of power and the widespread abuses that often accompany it.

(a) Police

The term *police* originates from the Greek word *polis* (meaning "city" or "state") and historically referred to the regulation of community affairs for the common good.[48] In modern

[47] A Aguda, Principles of Criminal Law in Nigeria (Ibadan: Spectrum, 2008) 15.

[48] J S Mbiti, The Concept of Polis in Ancient Greece (Oxford University Press 1982) 14.

usage, it denotes an organized state institution empowered to enforce laws, maintain peace, and protect life and property.[49] Black's Law Dictionary defines the police as "a governmental department charged with the prevention, detection, and prosecution of crimes and the maintenance of public order."[50]

Section 214(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) establishes the Nigeria Police Force (NPF) as the national police, declaring that "there shall be a police force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section no other police force shall be established for the Federation or any part thereof."[51] This constitutional basis situates the police as a centralised institution with exclusive jurisdiction over the entire federation, unlike in some jurisdictions (such as the United States) where policing is decentralised.

The statutory mandate of the police is elaborated in *section 4 of the Police Act 2020*, which provides that the police shall be responsible for "prevention and detection of crimes, protection of lives and property, maintenance of public safety, peace and order, and enforcement of all laws and regulations with which they are charged."[52] Thus, the police is not merely a crime-fighting body but an institution tasked with a wide spectrum of duties, from community policing to human rights protection.

In *Fawehinmi v Inspector-General of Police*,[53] the Supreme Court underscored the wide discretionary powers of the police in the conduct of investigations, albeit within the limits of the Constitution and statute. These cases reveal that while the police is endowed with broad powers, such powers must be exercised lawfully and reasonably.

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[49] C Okonkwo, 'Police Powers in Nigeria' (1990) 12(2) *Nigerian Journal of Law* 33.

[50] Bryan A Garner (ed), Black's Law Dictionary (11th edn, Thomson Reuters 2019) 1457.

[51] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 214(1).

[52] Police Act 2020, s 4.

[53] *Fawehinmi v Inspector-General of Police* (2002) 7 NWLR (Pt. 767) 606.

From a scholarly perspective, Adeyemi defines the police as "the coercive arm of the state machinery, whose legitimacy rests upon its ability to secure compliance with law through both persuasion and force."[54]

In summary, the police in Nigeria can be understood as a constitutionally created, statutorily empowered, and judicially recognized institution responsible for law enforcement, crime prevention, and the maintenance of order. However, its effectiveness is often constrained by historical, institutional, and political challenges. This definition is crucial to the present study because it sets the foundation for examining the extent to which the police discharge their investigative responsibilities within the confines of the law.

(b) Criminal Investigation

Criminal investigation is a cornerstone of police work. It is defined as the "systematic collection of facts and evidence to identify offenders, reconstruct events, and establish grounds for prosecution."[55] *Section 31 of the Police Act 2020* mandates the police to investigate all reported crimes, while the Administration of Criminal Justice Act (ACJA) 2015 provides detailed procedures for handling suspects, collecting evidence, and ensuring due process. In *FRN v Iweka,* the Court stressed that thorough investigation is a prerequisite for effective prosecution.[56]

From a scholarly perspective, Okonkwo and Naish argue that criminal investigation is not merely fact-finding but a legal process governed by rules of evidence and constitutional safeguards.[57] In Nigeria, however, investigative practices are often undermined by corruption, inadequate training, and political interference. Suspects may be arrested before investigations

[54] A Adeyemi, Criminal Procedure in Nigeria: Law and Practice (University of Lagos Press 1991) 22.

[55] D T Herbert, Principles of Criminal Investigation (Oxford University Press 2009) 23.

[56] *FRN v Iweka* (2013) 7 NWLR (Pt. 1352) 470.

[57] C O Okonkwo and P J Naish, Criminal Law in Nigeria (2nd edn, Sweet & Maxwell 1980) 77.

begin ("arrest before evidence"), cases are delayed due to poor forensic capacity, and investigations are sometimes manipulated to shield influential persons from justice.

Under Nigerian law, the statutory foundation for criminal investigation is found primarily in the *ACJA 2015* and the *Police Act 2020*. *Section 4 of the Police Act* mandates the police to prevent and detect crimes, while *section 28 of the ACJA* expressly empowers the police to arrest, interrogate, and investigate suspects in accordance with due process guarantees. In particular, *section 17 of the ACJA* emphasizes that confessions or statements obtained during investigation must be voluntary and in the presence of counsel or an independent witness, thereby reinforcing the link between investigation and constitutional safeguards.[58]

Judicial pronouncements have elaborated on the scope of criminal investigation. In *Fawehinmi v Inspector-General of Police*,[59] the Supreme Court affirmed that the police have wide discretion to investigate any allegation of crime, irrespective of the status of the person involved, provided the process complies with statutory and constitutional limits. Similarly, in *Eze v State*,[60] the Court of Appeal emphasized that the essence of investigation is to gather credible evidence which may aid the prosecution in proving guilt beyond reasonable doubt. These cases underscore the instrumental role of investigation in the criminal trial process.

From a scholarly perspective, Okonkwo defines criminal investigation as "a systematic process of inquiry undertaken by the police or other authorized agencies to uncover facts surrounding alleged criminal conduct with the ultimate aim of securing justice."[61] In the same vein, Aguda describes it as "the first and perhaps most critical stage of the criminal process, for upon it rests the success or failure of the entire prosecution."[62] These scholarly views

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[58] Administration of Criminal Justice Act 2015, ss 17, 28; Police Act 2020, s 4.

[59] *Fawehinmi v Inspector-General of Police* (2002) 7 NWLR (Pt. 767) 606.

[60] *Eze v State* (2017) LPELR-42097 (CA).

[61] C O Okonkwo, Introduction to Nigerian Criminal Law (Spectrum Books 1990) 112.

[62] T A Aguda, Criminal Procedure in Nigeria (Sweet & Maxwell 1972) 41.

reinforce the idea that investigation is not a mere formality but a substantive stage in criminal justice.

Critically, the Nigerian approach to criminal investigation has been faulted for its overreliance on confessional statements, often obtained through coercion, rather than scientific or forensic methods. Scholars such as Alemika and Chukwuma argue that the lack of adequate training, resources, and accountability mechanisms has hampered the development of a professional investigative culture in Nigeria.[63] Comparative perspectives show that in advanced jurisdictions like the United Kingdom and the United States, investigation has become increasingly scientific, relying on forensic evidence, digital surveillance, and specialized units. By contrast, Nigeria's investigative process is often rudimentary, raising concerns about miscarriages of justice.

In summary, criminal investigation in the Nigerian context can be defined as a constitutionally and statutorily regulated process of inquiry by the police and other agencies aimed at detecting crime, identifying suspects, and collecting evidence for prosecution. While legally broad in scope, its effectiveness is undermined by institutional weaknesses, over-centralisation, and poor investigative practices. Understanding this concept is essential for evaluating the police's role in Nigeria's criminal justice system.

(c) Arrest

Arrest is legally defined as the restraint of a person by lawful authority, depriving them of liberty in order to compel their appearance in court or prevent the commission of a crime.[64] Garner describes it as "the taking, seizing, or detaining of another by any act that indicates an

[63] E Alemika and I Chukwuma, Police-Community Violence in Nigeria (Centre for Law Enforcement Education 2000) 19.

[64] B A Garner (ed), Black's Law Dictionary (9th edn, Thomson Reuters 2009) 124.

intention to take the person into custody."[65] Section 35 of the Constitution recognizes that while liberty is a fundamental right, it may be curtailed in prescribed circumstances such as upon reasonable suspicion of having committed a crime.[66] Sections 18–25 of the ACJA 2015 provide guidelines on lawful arrest, emphasizing that suspects must be informed of reasons for their arrest and presented before a court within 24–48 hours.[67]

In *Ogugu v The State*,[68] the Supreme Court reaffirmed that any arrest outside constitutional safeguards is unlawful and violates the right to liberty. Yet, in Nigeria, arrests are routinely carried out arbitrarily. Youths are often arrested based on profiling (e.g., dress style, possession of laptops or phones), and unlawful detentions are used as tools for extortion. This abuse of power reflects how a constitutionally necessary function of policing can be twisted into a mechanism of oppression.

In Nigerian law, the constitutional foundation is found in *section 35 of the 1999 Constitution (as amended)*, which guarantees personal liberty but permits deprivation of liberty "upon reasonable suspicion of having committed a criminal offence, or to such extent as may be reasonably necessary to prevent the commission of a crime."[69]

In summary, arrest in Nigerian law refers to the act of lawfully depriving a person of liberty for the purpose of answering a criminal allegation, subject to constitutional and statutory safeguards. It is a critical juncture in the criminal justice process, where the rights of the individual and the powers of the state are most directly in tension. For this study, understanding arrest is essential, since it is the stage at which many abuses by the police occur during criminal investigations.

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[65] ibid.

[66] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 35.

[67] Administration of Criminal Justice Act 2015, ss 18–25.

[68] *Ogugu v The State* (1994) 9 NWLR (Pt. 366) 1 (SC).

[69] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 35(1).

Thus, for this research, arrest is not just defined legally but critically examined as both a duty and a common site of abuse.

(d) Interrogation

Interrogation refers to questioning suspects or witnesses to elicit information relevant to criminal investigations.[70] Legally, interrogation must respect suspects' rights: s*ection 35(2) of the Constitution and section 17(2) of the ACJA* guarantee that suspects may remain silent, consult counsel, and avoid self-incrimination.[71] The courts have consistently held that confessions obtained through torture or inducement are inadmissible, as reaffirmed in *Nwankwo v FRN*.[72]

While lawful interrogation is indispensable for truth-finding, in Nigeria, it is frequently associated with abuses such as torture, threats, and inhuman treatment. Reports by Amnesty International and the EndSARS Panel document widespread use of violence to extract confessions, often resulting in wrongful convictions.[73] From the linguistic standpoint, the Oxford English Dictionary defines interrogation as "the action of asking someone a series of questions, often in an aggressive manner, especially in order to obtain information or a confession."[74] *Black's Law Dictionary* defines interrogation as "the formal or systematic questioning of a person by law enforcement officers, especially of a suspect in custody."[75]

In summary, interrogation in Nigeria is the questioning of suspects and witnesses by law enforcement agencies, legally circumscribed by constitutional guarantees and statutory provisions. While it remains an essential tool of investigation, its misuse has led to

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[70] Oxford English Dictionary (OUP 2020) "Interrogation".

[71] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 35(2); Administration of Criminal Justice Act 2015, s 17(2).

[72] *Nwankwo v FRN* (2018) LPELR-43903 (CA).

[73] Amnesty International, Nigeria: Time to End Impunity for Torture (2014) 23; Lagos State Judicial Panel of Inquiry on SARS, Final Report (2021).

[74] Oxford English Dictionary (OUP 2020) "Interrogation".

[75] B A Garner (ed), Black's Law Dictionary (11th edn, Thomson Reuters 2019) 972.

widespread violations of suspects' rights. This makes interrogation a focal point in the discourse on police powers and accountability in Nigeria. These realities highlight the contradiction between interrogation as a legitimate investigative tool and its misuse as a weapon of coercion. Within this study, interrogation thus symbolizes the fragile balance between investigative necessity and human rights violations.

(e) Stop and Search

Stop and search is a preventive policing measure that permits officers to temporarily detain individuals and examine their person, vehicle, or belongings based on reasonable suspicion.[76] *Section 29 of the Police Act 2020* codifies this power, requiring that it be guided by reasonable suspicion. The constitutional rights to dignity and privacy (sections 34 and 37 of the Constitution) place limits on arbitrary exercises of this power. In *Oshio v FGN*, the Court emphasized that suspicion must be objective, not a disguise for harassment.[77]

Under Nigerian law, the power of stop and search is recognized in section 28 of the Police Act 2020, which permits police officers to "stop, search and detain any person suspected upon reasonable grounds of having in their possession any stolen or unlawful articles."[78] This is reinforced by section 29 of the Act, which allows officers to seize any such items found. Additionally, section 26 of the Criminal Procedure Act and section 6 of the ACJA 2015 confer related powers.[79]

Judicially, Nigerian courts have accepted the principle but placed limits on it. In *FRN v Osahon*,[80]

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[76] Police Act 2020, s 29.

[77] *Oshio v Federal Government of Nigeria* (2002) 12 WRN 1.

[78] Police Act 2020, s 28.

[79] Criminal Procedure Act, Cap C41 LFN 2004, s 26; Administration of Criminal Justice Act 2015, s 6.

[80] *FRN v Osahon* (2006) 5 NWLR (Pt. 973) 361.

Academically, Okonkwo argues that "stop and search represents one of the most discretionary aspects of policing, where abuse of power is not only possible but frequent, especially in jurisdictions with weak accountability mechanisms."[81]

In reality, stop and search in Nigeria has become synonymous with harassment and extortion. Police checkpoints are frequently used to collect illegal levies, and profiling often leads to discriminatory targeting of youths, especially those perceived as "internet fraudsters." While stop and search should enhance public safety, its abuse erodes public trust and transforms the police into a threat rather than a protector. For this research, the concept illustrates how preventive powers, when misused, deepen the credibility crisis of the police.

(f) Extortion

At its simplest, extortion refers to obtaining money, property, or an advantage from someone through coercion, threats, or abuse of authority. Unlike ordinary theft, extortion is marked by the victim's "consent," but such consent is vitiated by fear or compulsion.

The Oxford English Dictionary defines extortion as "the practice of obtaining something, especially money, through force or threats."[82] Black's Law Dictionary expands this, defining it as "the act or practice of obtaining something or compelling some action by illegal means, as by force or coercion."[83] These definitions emphasize the corrupt exchange where the victim "gives" under duress, and the offender "takes" under abuse of power.

In Nigerian law, extortion is criminalized under *section 99 of the Criminal Code Act* (applicable in the South), which provides that "any person who, being employed in the public service, takes or accepts from any person, for the performance of his duty, any reward beyond his proper pay and emoluments, is guilty of a felony."[84] Similarly, the Penal Code (applicable

[81] C O Okonkwo, Okonkwo and Naish on Criminal Law in Nigeria (2nd edn, Spectrum Books 1980) 214.

[82] Oxford English Dictionary (OUP 2020) "Extortion".

[83] B A Garner (ed), Black's Law Dictionary (11th edn, Thomson Reuters 2019) 726.

[84] Criminal Code Act, Cap C38 LFN 2004, s 99.

in the North) under *section 310* criminalizes extortion by public servants.[85] More broadly, *section 15(5) of the 1999 Constitution* imposes a duty on the State to "abolish all corrupt practices and abuse of power."[86]

Judicial interpretation has further clarified extortion. In *FRN v Ibori*,[87] though the case dealt with corruption and abuse of office, the court reiterated that any enrichment of a public officer through unlawful means constitutes a breach of trust and an offense against public integrity.

Scholars have equally addressed the problem. Nwabueze notes that "extortion by the police is perhaps the most visible and corrosive form of corruption in Nigeria,

In summary, extortion is not just a crime but a symptom of deeper structural problems: poor police welfare, weak accountability, and entrenched corruption. Unless addressed holistically through better pay, stronger external oversight, and societal zero-tolerance extortion will continue to thrive as one of the most visible abuses of police investigative powers.

2.3.1 Investigation of Crime

Investigation is at the heart of policing. *Section 4 of the Police Act 2020* expressly empowers the police to "prevent and detect crime" and "apprehend offenders."[88] Similarly, section 28 of the same Act authorises police officers to conduct criminal investigations, collect evidence, and interrogate suspects. In *Fawehinmi v. Inspector-General of Police*,[89] the Supreme Court emphasized that the police have both statutory and constitutional powers to investigate crime, and such responsibility cannot be abdicated.

2.3.2 Arrest of Suspects

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[85] Penal Code (Northern States) Federal Provisions Act, Cap P3 LFN 2004, s 310.

[86] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 15(5).

[87] *FRN v Ibori* (2014) 1 NWLR (Pt. 1389) 639.

[88] Police Act 2020, s 4.

[89] *Fawehinmi v. Inspector-General of Police* (2002) 7 NWLR (Pt. 767) 606 (SC).

The power to arrest is among the most significant coercive tools vested in the police. Section 35(1) of the Constitution recognizes that no person shall be deprived of personal liberty except in cases permitted by law, such as upon reasonable suspicion of having committed a crime.[90] Statutorily, section 18 of the Criminal Procedure Act and section 6 of the ACJA 2015 grant the police powers to arrest with or without warrant, depending on the circumstances.

2.3.3 Interrogation of Suspects

Interrogation is a lawful component of police investigation but is subject to constitutional and statutory safeguards. *Section 17 of the Administration of Criminal Justice Act (ACJA) 2015* stipulates that statements of suspects must be taken in the presence of legal practitioners, or where absent, before a justice of the peace or superior officer.[91] This requirement aims to protect suspects from coercion, torture, and inhuman treatment.

Despite these safeguards, in practice, interrogation is often accompanied by physical abuse, denial of counsel, and prolonged incommunicado detention. In *Kazeem v. State*,[92] the court stressed that voluntariness is the cornerstone of admissible confessional statements. Yet, systemic disregard for these safeguards undermines the credibility of police investigations and erodes public trust in the criminal justice system.

Therefore, the challenge is not the absence of legal safeguards but the consistent disregard of those safeguards in practice. Strengthening accountability mechanisms, enhancing police training, and ensuring judicial enforcement of rights are critical steps in curbing abuse of police powers.

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[90] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 35(1).

[91] Administration of Criminal Justice Act 2015, s 17.

[92] *Kazeem v. State* (2009) 15 NWLR (Pt. 1165) 506 (CA).

2.4 Challenges in Enforcing Police Duties within Legal Boundaries

While the Nigerian legal framework provides clear definitions of police powers and duties, the practical enforcement of these duties is plagued with numerous challenges. These challenges are systemic and multifaceted, ranging from institutional weaknesses and corruption to inadequate oversight and public mistrust. Understanding these challenges is essential, not only for diagnosing the gap between law and practice but also for developing meaningful reforms.

2.3.1 Corruption and Extortion

One of the most persistent challenges facing the Nigeria Police Force (NPF) is corruption. Extortion during stop-and-search operations, demands for bail money, and bribery at checkpoints are widely documented in Nigeria.[93] Such practices contravene section 98 of the *Criminal Code Act* (applicable in Southern Nigeria), which criminalizes corruption by public officers, as well as section 18 of the *Independent Corrupt Practices and Other Related Offences Act 2000.*[94] Despite these statutory prohibitions, enforcement against corrupt officers remains weak due to institutional complicity and lack of political will. Scholars have observed that this persistence of extortion not only undermines the integrity of the police but also erodes public confidence in the criminal justice system.[95]

2.3.2 Arbitrary Arrests and Detention

Despite constitutional guarantees of personal liberty under section 35 of the 1999 Constitution, arbitrary arrests and prolonged detentions remain prevalent.[96] Many suspects are arrested without reasonable suspicion or for purely civil disputes, contrary to section 33

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[93] Nwabueze, B. Rule of Law in Nigeria (Spectrum Books, 2007) 212.

[94] Criminal Code Act, Cap C38 LFN 2004, s 98; Independent Corrupt Practices and Other Related Offences Act 2000, s 18.

[95] Alemika, E.E.O. "Police Corruption in Nigeria" (2010) 3 CLEEN Monograph Series 45.

[96] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 35.

of the *Police Act* 2020.[97] Nigerian courts have consistently condemned such practices. In *Lufadeju v. Johnson*,[98] the Supreme Court underscored the imperative of adhering strictly to constitutional safeguards regarding the detention of suspects. Nevertheless, disregard for these safeguards persists, contributing to overcrowded detention facilities and widespread violations of rights.

2.3.3 Use of Torture and Coercion in Investigations

Although torture is explicitly prohibited under section 8 of the *Administration of Criminal Justice Act* 2015, as well as under Nigeria's obligations pursuant to the United Nations *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (ratified in 2001),[99] reports indicate that police officers routinely subject suspects to physical abuse in order to extract confessions. Section 29 of the *Evidence Act* 2011 further renders inadmissible any confession obtained by oppression or torture.[100] Yet, Amnesty International and other rights-monitoring groups continue to document widespread violations.[101] This demonstrates that the challenge lies not in the absence of legal safeguards but in the systemic failure to enforce them.

2.3.4 Inadequate Training and Resources

Abuses by police officers are often linked to poor training and inadequate resources. Many officers lack proper forensic and investigative skills, leading to an overreliance on confessional statements rather than scientific evidence.[102] Poor remuneration and lack of welfare incentives further create an environment in which officers resort to extortion to

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[97] Police Act 2020, s 33.

[98] *Lufadeju v. Johnson* (2007) 8 NWLR (Pt. 1037) 535 (SC).

[99] United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85; ratified by Nigeria in 2001.

[100] Evidence Act 2011, s 29.

[101] Amnesty International, Nigeria: Time for Police Reform (2016) 12–14.

[102] Okonkwo, C.O. Introduction to Nigerian Criminal Law (Spectrum Books, 2011) 187.

supplement their income. This undermines professionalism, perpetuates corruption, and erodes the legitimacy of law enforcement.

2.3.5 Weak Oversight and Accountability Mechanisms

Oversight mechanisms within the Nigerian policing framework remain weak. Although the Police Service Commission (PSC) is constitutionally empowered to discipline erring officers,[103] it has been criticized for inefficiency and political interference. The judicial panels of inquiry set up following the EndSARS protests in 2020 further revealed systemic impunity, highlighting numerous cases of extrajudicial killings, arbitrary detention, and extortion without effective accountability.[104] The lack of credible internal and external oversight perpetuates a culture of impunity in the police force.

These critiques underscore the need for institutional reform, not merely statutory change.

2.3.6 Comparative Literature and Lessons for Reform

Comparative studies provide valuable insight into possible reform trajectories. In the United Kingdom, the *Police and Criminal Evidence Act 1984 (PACE)* regulates police powers with clear statutory provisions on stop-and-search and custodial safeguards.[105] In the United States, constitutional jurisprudence particularly the Fourth and Fifth Amendments and *Miranda v. Arizona* sets strong procedural protections, including the requirement that suspects be informed of their rights before interrogation.[106] In South Africa, the 1996 Constitution guarantees arrested persons the right to silence and access to counsel, while the Independent Police Investigative Directorate (IPID) serves as an external accountability body with investigative authority.[107]

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[103] Constitution of the Federal Republic of Nigeria 1999 (as amended), Third Schedule, Part I, para 30.
[104] Lagos State Judicial Panel of Inquiry on Restitution for Victims of SARS-Related Abuses & Other Matters, Final Report (2021).
[105] Police and Criminal Evidence Act 1984 (UK) s 1.
[106] *Miranda v. Arizona* 384 US 436 (1966)
[107] Constitution of the Republic of South Africa 1996, s 35; see also Independent Police Investigative Directorate Act 2011 (South Africa).

Scholars suggest that Nigeria can adapt elements from these systems: clearer statutory articulation of stop-and-search standards and recording requirements (as in PACE), mandatory rights advisals before interrogation (as in Miranda), and robust external oversight bodies with investigative capacity (as in IPID).[108] At the same time, comparative critiques caution against uncritical transplantation: oversight bodies must be genuinely independent and adequately resourced, and procedural safeguards must be supported by accessible remedies if they are to succeed in Nigeria's governance context.[109]

2.6 Conclusion

The literature on policing in Nigeria establishes two clear propositions. Legally, Nigeria possesses a comprehensive framework of constitutional, statutory, and judicial safeguards designed to govern police powers and protect rights. Empirically, however, the persistent breach of these safeguards results in unlawful arrests, coerced confessions, extortion, and discriminatory practices. Scholars and policy analysts broadly agree that multi-pronged reform combining legal clarity, institutional strengthening, improved training and welfare, and external oversight is necessary.

What remains underdeveloped, however, is granular mapping of statutory procedures against actual practice and rigorous evaluation of accountability mechanisms in Nigeria's governance context. It is this precise gap the disjuncture between legal frameworks and lived realities of policing that this study addresses.

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[108] R. Daly, "Oversight and Accountability of Policing in Africa: Comparative Lessons" (2015) 12 *African Journal of Criminology* 65, 72.

[109] A. Smith, "Transplanting Oversight Mechanisms: Limits of Comparative Borrowing" (2018) 41 *International Journal of Law, Crime and Justice* 233.

CHAPTER THREE

LEGAL FRAMEWORK GOVERNING POLICE POWERS IN NIGERIA

3.1 Introduction

The legal foundation of police powers in Nigeria is an intricate combination of constitutional provisions, statutory enactments, judicial interpretations, and international human rights norms that collectively determine the scope, limits, and legitimacy of law enforcement authority. As the foremost institution charged with the prevention and detection of crime, the Nigerian Police Force derives its powers from the Constitution of the Federal Republic of Nigeria 1999 (as amended), which establishes the Force and authorises the legislature to define its operational mandate. However, the mere existence of normative legal provisions has not translated into consistent adherence in practice. Nigerian courts, civil society organisations, and scholarly commentators have repeatedly highlighted the widening disjunction between the legal standards governing police conduct and the practical realities of policing, especially in areas such as arrest, interrogation, detention, stop-and-search, and the treatment of suspects.[110]

The passage of the *Police Act 2020* marked an attempt to modernise policing by codifying clearer operational standards and embedding human rights safeguards into police procedure.[111] Likewise, the *Administration of Criminal Justice Act (ACJA) 2015* provides procedural rules intended to guarantee fairness, transparency, and accountability in criminal investigations.[112] Nevertheless, persistent issues such as unlawful arrest, extortion, profiling, arbitrary stop-and-search operations, prolonged pre-trial detention, and torture during interrogation reveal the failure of statutory provisions to effectively restrain police abuses.[113]

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[110] CLEEN Foundation, Policing and Human Rights in Nigeria (2020) 12.

[111] Police Act 2020, s 4.

[112] Administration of Criminal Justice Act 2015, ss 6, 7, 15, 17.

[113] Amnesty International, Nigeria: Time for Police Reform (2016) 9.

These challenges have been exacerbated by weak oversight mechanisms, limited technological safeguards, institutional corruption, and inadequate training.[114]

This chapter therefore examines the legal architecture governing police powers in Nigeria, highlighting the extent of lawful authority granted to police officers, the procedural safeguards designed to protect citizens, and the judicial interpretations that clarify or limit police discretion. It also draws upon international human rights instruments ratified by Nigeria to analyse the extent to which domestic law aligns with global standards on arrest, detention, interrogation, and the use of force. Ultimately, this chapter demonstrates that while the legal framework appears robust in theory, its implementation remains deeply flawed, setting the foundation for the empirical analysis in Chapter Four, which explores how these laws operate in reality.

3.2 Constitutional Basis of Police Powers in Nigeria

The Constitution of the Federal Republic of Nigeria 1999 (as amended) is the supreme legal instrument that establishes the Nigerian Police Force (NPF) and delineates its foundational powers and responsibilities. Under section 214(1) of the Constitution, the NPF is constituted as a single, national police force charged with maintaining law and order throughout the federation.[115] This constitutional centralisation reflects Nigeria's post-colonial preference for a unified security structure, designed ostensibly to ensure coherence, national stability, and uniform enforcement of criminal law.[116] The constitutional text therefore provides the first and most authoritative source of police powers in the country.

Section 4 of the Constitution vests legislative authority in the National Assembly, empowering it to enact laws with respect to matters contained in the Exclusive Legislative

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[114] J. A. Dambazau, Criminology and Criminal Justice Reform in Nigeria (2021) 67.

[115] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 214(1).

[116] O. Olaniyan, Security Governance in Nigeria (2019) 41.

List including policing.[117] It is pursuant to this provision that the Police Act 2020, the Administration of Criminal Justice Act (ACJA) 2015, and other relevant statutes derive their validity. The Constitution thus establishes a hierarchical legal order where all police powers must trace their legitimacy to constitutional authority.

Section 215 of the Constitution further outlines the operational control of the police, making the President the ultimate authority over the Force, acting through the Inspector-General of Police (IGP).[118] This section also empowers State Governors to give lawful directives to Commissioners of Police regarding the maintenance of public order within their respective states, although such directives remain subject to the overriding approval of the President.[119] This complex arrangement—sometimes described as a "centralised command with limited federal input" has been widely criticised for weakening accountability and complicating police reform.[120]

The Constitution also places explicit limitations on police powers by protecting fundamental rights. Chapter IV guarantees rights that directly shape the conduct of criminal investigations, including:

- **Right to dignity of the human person** (s 34) forbidding torture, degrading treatment, or inhuman conduct.[121]
- **Right to personal liberty** (s 35) restricting arrest and detention, requiring cause to be disclosed, mandating arraignment within a reasonable time, and ensuring access to legal counsel.[122]

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[117] CFRN 1999, s 4(2).

[118] CFRN 1999, s 215(1)(a).

[119] CFRN 1999, s 215(4).

[120] E. Nwauche, 'Federalism, Police Powers and the Nigerian Constitutional Structure' (2017) 12 *Nigerian Journal of Public Law* 53.

[121] CFRN 1999, s 34(1).

[122] CFRN 1999, s 35(1)–(7).

- **Right to fair hearing** (s 36) ensuring procedural fairness and safeguarding the presumption of innocence.[123]
- **Right to private and family life** (s 37) formally limiting police surveillance or searches without lawful justification.[124]
- **Right to freedom of movement** (s 41) implicated in stop-and-search operations.[125]

These constitutional rights operate as substantive checks on police authority, meaning that any exercise of power inconsistent with them is ultra vires, illegal, and unconstitutional. The courts have repeatedly affirmed this in numerous cases. In *Ojukwu v Military Governor of Lagos State*, the Court of Appeal stressed that the executive including the police must act strictly within the bounds of the Constitution, warning against the erosion of civil liberties through unlawful state action.[126]

3.3.1 The Police Act, 2020

The Police Act 2020 is the principal legislation governing the organisation, functions, powers, and operational standards of the Nigerian Police Force. It repealed the old Police Act of 1943 to modernise police operations and align them with constitutional standards.[127]

Section 4 of the Act expressly empowers the police to prevent and detect crimes, apprehend offenders, and conduct investigations.[128] Section 32 further authorises police officers to conduct criminal investigations, gather evidence, interrogate suspects, and maintain records of arrests.[129]

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[123] CFRN 1999, s 36(1).

[124] CFRN 1999, s 37.

[125] CFRN 1999, s 41(1).

[126] (1986) 3 NWLR (Pt. 26) 39.

[127] Police Act 2020 (Repeal and Re-enactment) Act.

[128] Police Act 2020, s 4.

[129] Police Act 2020, s 32.

Sections 38–44 regulate arrest with or without warrant. The Act requires that arrests be based on reasonable suspicion and carried out with respect for human dignity.[130] This aligns with Section 35 of the Constitution and reflects the modern human-rights-based approach to policing.

Section 49 empowers police officers to search persons or premises lawfully, while also requiring that inventories be kept for any property seized during investigations.[131] The Act introduces internal accountability mechanisms such as the Complaints Response Unit (CRU), which plays a role in regulating abuses of investigative powers.[132] This is significant because one of the chronic problems of criminal investigation in Nigeria is the lack of an effective oversight regime.

The Act also mandates professional standards, training, and adherence to the rule of law—an essential shift from discretionary policing to rights-based policing.

3.3.2 The Administration of Criminal Justice Act (ACJA) 2015

The ACJA is arguably the most significant criminal procedure legislation in Nigeria. It codifies modern, unified procedures for arrest, investigation, prosecution, bail, detention, and trial. Its provisions heavily influence how police officers conduct investigations.[133]

(a) Arrest Procedures

Part 2 of the ACJA (ss. 6–45) comprehensively regulates arrest procedures. Section 6 prohibits arrest in lieu, while section 8 prohibits torture or inhumane treatment of suspects during investigation.[134] These provisions aim to eliminate historical abuses such as arbitrary arrests or extortion.

(b) Record of Arrest

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[130] Police Act 2020, ss 38–44.

[131] Police Act 2020, s 49.

[132] Police Act 2020, s 131.

[133] Administration of Criminal Justice Act 2015, Long Title.

[134] ACJA 2015, ss 6 and 8.

Section 15 introduces the requirement for a **Central Register of Arrests**, including mandatory entries on the time, place, and circumstances of arrest.[135] This enhances transparency.

(c) Detention Rules

Sections 29–33 regulate detention for investigative purposes. A suspect must be charged within **24–48 hours** depending on court availability.[136] Police detention beyond that becomes unconstitutional and unlawful.

(d) Search Warrants

Sections 146–157 provide detailed rules on issuing, executing, and returning search warrants.[137] These provisions limit police arbitrariness and protect citizens' privacy rights.

(e) Confessional Statements

Section 17 makes it mandatory for confessions to be recorded in writing, and preferably video-recorded, in the presence of counsel or another credible witness.[138] This provision is crucial in preventing forced confessions, a notorious issue in Nigerian policing.

(f) Magistrates' Oversight

Section 34 empowers magistrates to visit police detention facilities monthly to ensure compliance with legal standards.[139] This oversight function directly regulates investigative detention.

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[135] ACJA 2015, s 15.

[136] ACJA 2015, s 30.

[137] ACJA 2015, ss 146–157.

[138] ACJA 2015, s 17.

[139] ACJA 2015, s 34.

3.3.3 Criminal Code and Penal Code

Nigeria operates a dual criminal law system. The **Criminal Code** applies in the Southern states while the **Penal Code** applies in the North.

These codes do not regulate procedure; they define offences and prescribe punishments. They are relevant to criminal investigations.

3.3.4 The Evidence Act, 2011

The Evidence Act governs the admissibility and reliability of evidence collected during investigations. It indirectly regulates police conduct because improperly obtained evidence can be rejected at trial.[140]

3.4 Summary

The statutory framework governing police investigations in Nigeria constitutes a multi-layered body of law designed to balance investigative efficiency with constitutional safeguards. The framework consists of substantive criminal laws, procedural laws, evidentiary rules, and administrative guidelines. Together, these laws ensure that criminal investigations are conducted within the boundary of legality and due process.

3.5 International Human Rights Standards and Their Influence on Police Investigative Powers in Nigeria

The evolution of police investigative powers in modern democratic states is heavily shaped by international human rights norms. Nigeria, as a member of the United Nations, African Union, and ECOWAS, is bound by numerous treaties and conventions that impose obligations relating to arrest, detention, interrogation, use of force, search and seizure, and due process guarantees. These standards play a transformative role in shaping domestic policing, influencing judicial interpretation, legislative reforms such as the ACJA 2015, and the gradual reorientation of policing practices toward rights-based investigation.

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[140] Evidence Act 2011, Long Title.

International human rights law functions in Nigeria through two channels: **(i) direct application**, where treaties have been domesticated by the National Assembly pursuant to section 12 of the 1999 Constitution; and **(ii) indirect application**, where undomesticated treaties are used as persuasive authority by courts in interpreting domestic laws. The Supreme Court in *Abacha v. Fawehinmi*[141] affirmed that while undomesticated treaties cannot override national laws, they may guide judicial reasoning and fill normative gaps in areas such as arrest procedures, detention conditions, and admissibility of confessional statements.

This section examines the most relevant international instruments and evaluates their impact on police investigative powers in Nigeria.

3.5.1 The Universal Declaration of Human Rights (UDHR) and Its Normative Influence

Although non-binding, the UDHR (1948) establishes foundational principles that underpin policing standards worldwide. Article 3 guarantees the right to life, liberty, and security of the person, while Articles 5, 9, and 10 prohibit torture, arbitrary arrest, and ensure fair hearing. In Nigeria, courts frequently reference the UDHR when evaluating abuses of police powers.

In *Uzoukwu v. Ezeonu II*,[142] the Court of Appeal recognised the UDHR as a guiding interpretive tool for understanding the scope of fundamental rights under Chapter IV of the 1999 Constitution. This has direct relevance to policing, as courts use UDHR principles to assess whether police actions such as prolonged detention, forced confessions, or violent interrogation meet international minimum standards.

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[141] *Abacha v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

[142] *Uzoukwu v. Ezeonu* II (1991) 6 NWLR (Pt. 200) 708.

3.5.2 International Covenant on Civil and Political Rights (ICCPR)

Nigeria ratified the ICCPR in 1993, and while it has not been domesticated, it is regularly invoked as persuasive authority. Articles 7, 9, 10, and 14 of the ICCPR establish standards directly applicable to police investigations: prohibition of torture, prohibition of arbitrary arrest and detention, humane treatment of detainees, and fair trial guarantees.

The Human Rights Committee (HRC) has repeatedly held that "reasonable suspicion" is a prerequisite for arrest, and that detention must be subject to judicial control. Nigerian courts have adopted similar reasoning in cases such as *Lufadeju v. Johnson*,[143] where the Supreme Court emphasised that police detention outside constitutional limits is automatically unlawful unless validated by a court order.

Furthermore, the ICCPR's influence is evident in the Anti-Torture Act 2017, which aligns with Article 7's absolute prohibition of torture and cruel treatment.

3.5.3 African Charter on Human and Peoples' Rights (ACHPR)

The ACHPR is the most influential human rights instrument in Nigerian policing because it has been **domesticated** through the African Charter (Ratification and Enforcement) Act 1983. This gives it the force of law within Nigeria, enabling courts to review police conduct directly against the Charter.

Several Charter provisions regulate investigative powers:

- **Article 4** – right to life;
- **Article 5** – prohibition of torture and cruel treatment;
- **Article 6** – prohibition of arbitrary arrest and requirement of lawful detention;
- **Article 7** – fair hearing;
- **Article 12** – freedom of movement and protection from unlawful search.

[143] Lufadeju v. Johnson (2007) 8 NWLR (Pt. 1037) 535.

In the landmark case *Abacha v. Fawehinmi*,[144] the Supreme Court affirmed that domesticated treaties like the ACHPR have the same standing as Acts of the National Assembly and bind all public institutions, including the police.

The ACHPR has been crucial in shaping judicial responses to violations such as unlawful arrest, extortion, detention in inhumane conditions, and torture during interrogation.

3.5.4 UN Convention Against Torture (CAT)

Nigeria ratified CAT in 2001 and domesticated it through the Anti-Torture Act 2017. CAT imposes absolute obligations on the government to prevent torture, investigate allegations, punish perpetrators, and provide remedies for victims.

The Anti-Torture Act, inspired directly by CAT, prohibits:

- torture or coercion during interrogation;
- the use of confessional statements obtained through torture;
- secret detentions;
- prolonged detention without judicial oversight;
- degrading treatment during searches or arrests.

The Act establishes criminal liability for police officers who participate in, aid, or fail to report acts of torture. This has strengthened judicial scrutiny of confessions, as reflected in *Nwankwo v. State*,[145] where the Supreme Court overturned a conviction based on a coerced confession.

3.5.5 UN Basic Principles on the Use of Force and Firearms

The police's use of force during arrest, stop-and-search, and crowd control is regulated by the UN Basic Principles (1990).

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[144] *Abacha v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

[145] *Nwankwo v. State* (2017) LPELR-42104(SC).

These principles have been significantly influential in Nigerian judicial reasoning. In *Ibrahim v. IGP*,[146] the High Court condemned excessive force during arrest as an unconstitutional violation of dignity under section 34 of the Constitution, referring to international standards as persuasive authority.

3.5.6 UN Body of Principles for the Protection of All Persons under Any Form of Detention

This instrument underscores the importance of transparency, access to counsel, medical examination, prompt court access, and the right to challenge legality of detention. Nigerian judges rely on these principles when evaluating detention practices.

The Court of Appeal in *Duruaku v. Nwoke*,[147] stressed that the police must record arrests, inform family members, and maintain proper detention registers—obligations echoed in the ACJA 2015.

3.6 Judicial Interpretation of Police Investigative Powers in Nigeria

Judicial interpretation of police powers remains one of the most important mechanisms through which accountability, constitutionality, and legality are enforced in criminal investigations. Although the Constitution, the Police Act, and the Administration of Criminal Justice Act (ACJA) provide the legal basis for policing, the judiciary determines the practical boundaries of these powers. In many instances, statutory provisions are broad, ambiguous, or silent on specific operational issues. The courts therefore serve as a corrective force restraining executive excesses, clarifying procedural requirements, and ensuring that police investigative activities remain consistent with constitutional guarantees of dignity, liberty, privacy, and fair hearing.

This section examines how Nigerian courts have interpreted arrest, detention, search and seizure, interrogation, confessional evidence, remand proceedings, bail, and the broader

[146] *Ibrahim v. IGP* (2014) 4 NWLR (Pt. 1396) 511.

[147] *Duruaku v. Nwoke* (2015) 15 NWLR (Pt. 1483) 417.

supervision of investigative processes. It also assesses the influence of international human rights instruments on judicial reasoning..

In *Fawehinmi v. IGP*, the Supreme Court held that while the police may arrest on the basis of reasonable suspicion, such suspicion must be grounded on objective facts and cannot be a mere whim or personal dislike.[148] The case also affirmed that the police may investigate any crime, whether federal or state, but such powers must be exercised subject to constitutional rights.

[148] *Fawehinmi v. Inspector-General of Police* (2002) 7 NWLR (Pt. 767) 606.

CHAPTER FOUR

JUDICIAL INTERPRETATION AND INSTITUTIONAL CHALLENGES IN POLICE INVESTIGATIONS

4.1 Introduction

Having examined the statutory and constitutional framework governing police powers in the preceding chapter, it becomes imperative to analyse the operational reality of these powers through the lens of judicial interpretation. While the Police Act 2020 and the Administration of Criminal Justice Act (ACJA) 2015 provide a robust legal architecture, the efficacy of criminal investigation in Nigeria is often tested in the courts. The judiciary, as the guardian of constitutional rights, occupies a crucial position in determining the boundaries of investigative powers and ensuring that the exercise of such powers remains within the ambit of legality and respect for human dignity.[149]

This chapter critically examines the judicial attitude towards the exercise of investigative powers, highlighting areas of abuse such as arbitrary arrests, forced confessions, and the "holding charge" syndrome. Furthermore, it discusses the institutional and structural impediments that hinder the police from fulfilling their investigative mandate effectively. The intersection between legal theory and operational practice reveals significant gaps that undermine both the rule of law and effective crime control. As this research demonstrates, the challenge facing Nigerian criminal justice is not merely one of inadequate laws, but rather the systemic failure to translate legal prescriptions into operational reality.

The analysis herein is premised on the understanding that police investigative powers, though necessary for maintaining law and order, must be exercised with scrupulous regard for fundamental rights. The tension between effective law enforcement and protection of civil

[149] T Aguda, The Law and Practice Relating to Evidence in Nigeria (Nigerian Law Publications, 1980) 156-159.

liberties forms the central theme of this chapter, examined through a critical review of judicial pronouncements and institutional realities.

4.2 Judicial Attitude Towards Arbitrary Arrest and Detention

4.2.1 The Constitutional and Statutory Framework on Arrest

The power to arrest is the gateway to criminal investigation and represents one of the most significant interferences with personal liberty known to law. However, this power is frequently abused, leading to a plethora of fundamental rights enforcement cases in Nigerian courts. Despite the clear provisions of Section 35 of the 1999 Constitution regarding personal liberty, the judiciary is often inundated with cases of arrests made without reasonable suspicion or lawful justification.[150]

The constitutional and statutory framework governing arrests and detention establishes clear procedural safeguards to protect individual liberty while enabling effective law enforcement. Section 35 of the Constitution provides comprehensive protection against arbitrary deprivation of liberty, stipulating that no person shall be deprived of personal liberty except in accordance with procedures permitted by law.[151] This reflects Nigeria's commitment to international human rights standards, particularly Article 9 of the International Covenant on Civil and Political Rights, which Nigeria ratified in 1993.[152]

The ACJA 2015 codifies detailed requirements for lawful arrest. Section 6 provides that arrest may only be effected where a person is reasonably suspected of having committed a cognizable offense, where a warrant has been issued, or in other limited prescribed circumstances. The Act mandates that arrested persons must be informed promptly of the

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[150] See generally FA Akinremi, 'Unlawful Arrest and Detention in Nigeria: The Enduring Challenge' (2018) 12 *African Journal of Legal Studies* 89-112.

[151] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 35(1).

[152] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 9.

grounds for their arrest and their rights, including the right to remain silent and to legal representation. Section 8 further requires that any person arrested without warrant must be brought before a court within a reasonable time, judicially interpreted as twenty-four hours (excluding journey time to the nearest magistrate).[153]

The Police Act 2020 reinforces these protections while providing specific guidance on police powers. Section 10 empowers police officers to arrest without warrant where a person commits an offense in the officer's presence, where there is reasonable suspicion of involvement in a cognizable offense, or where a person fails to provide satisfactory identification when lawfully required.[154] The Act emphasizes that arrest powers must be exercised proportionately and in accordance with fundamental rights guarantees.

4.2.2 Judicial Interpretation of "Reasonable Suspicion"

The courts have grappled extensively with defining the threshold of "reasonable suspicion" necessary to justify an arrest without warrant. In *Okoroafor v Commissioner of Police*,[155] the Court of Appeal held that arrest without reasonable suspicion constitutes a fundamental violation of constitutional rights rendering subsequent detention unlawful. The court emphasized that reasonable suspicion must be based on objective facts capable of being articulated, not mere hunches or stereotypes. This position aligns with the principle established in the English case of *Castorina v Chief Constable of Surrey*,[156] which Nigerian courts have found persuasive.

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[153] See *Dikko v Federal Republic of Nigeria* (2017) 7 NWLR (Pt 1565) 92 (CA); Administration of Criminal Justice Act 2015, s 8.

[154] Police Act 2020, s 10(1).

[155] *Okoroafor v Commissioner of Police* (2012) 8 NWLR (Pt 1303) 355 (CA).

[156] *Castorina v Chief Constable of Surrey* [1988] NLJR 180 (CA).

Similarly, in *Ebhodaghe v The State*,[157] the Supreme Court emphasized that police bear the burden of demonstrating lawful arrest and that failure to inform an arrested person of grounds vitiates the entire procedure. The court noted that the requirement to inform a suspect of the reason for arrest is not a mere formality but a constitutional imperative designed to enable the arrested person to challenge the legality of the detention or cooperate meaningfully with the investigation.

The practical implication of this judicial stance is that arrests based on vague allegations or unverified complaints are rendered illegal from inception. In *Onagoruwa v The State*,[158] the court invalidated an arrest where the police merely acted on a petition without conducting preliminary inquiries to establish reasonable grounds for suspicion. This decision underscores the requirement that police officers must apply their minds independently to the facts before effecting an arrest, rather than serving as mere instruments of complainants.

However, the judiciary has also recognized that reasonable suspicion is a lower threshold than proof beyond reasonable doubt. In *Dumez (Nigeria) Ltd v Nwadike*,[159] the court acknowledged that investigations often begin with incomplete information and that the standard of reasonable suspicion accommodates this reality. The challenge, therefore, lies in striking an appropriate balance between facilitating legitimate investigations and preventing arbitrary deprivation of liberty.

4.2.3 Arrest in Civil Matters and the Debt Recovery Syndrome

The courts have consistently held that the police cannot arrest a citizen merely on a whim or for civil debts. In the locus classicus of *Ogbonna v Ogbonna*,[160] the Court of Appeal reiterated that the police are not debt collectors and should not be used to settle personal

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[157] *Ebhodaghe v The State* (1991) 6 NWLR (Pt 195) 574 (SC).

[158] *Onagoruwa v The State* (2004) 10 NWLR (Pt 881) 63 (SC).

[159] *Dumez (Nigeria) Ltd v Nwadike* (1984) 1 SCNLR 517.

[160] *Ogbonna v Ogbonna* (2008) 15 NWLR (Pt 1109) 1 (CA).

scores. The court held that the involvement of police in purely civil disputes constitutes an abuse of office and a violation of the arrested person's constitutional rights. This judicial stance highlights a disconnect between the statutory role of the police and their practical involvement in civil disputes.

The Supreme Court reinforced this position in *Tukur v Government of Gongola State*,[161] where it held that the criminal justice system should not be exploited as an alternative debt recovery mechanism. The court noted that while certain offences such as obtaining by false pretenses or criminal breach of trust may arise from commercial transactions, the police must be satisfied that a prima facie case of criminal conduct exists before intervention is justified. The mere failure to honour a contractual obligation does not, without more, constitute a criminal offence warranting police investigation.

Despite these clear judicial pronouncements, empirical evidence suggests that police stations across Nigeria continue to entertain civil complaints and effect arrests in disputes over debt, tenancy, and commercial disagreements.[162] This persistent practice reflects both institutional deficiencies within the police force and the exploitative tendencies of certain members of the public who weaponize police powers to gain advantage in civil litigation. The monetization of police services whereby complainants pay officers to effect arrests in civil matters further exacerbates this problem and undermines public confidence in law enforcement.

4.2.4 Arrest by Proxy and Vicarious Detention

Furthermore, the practice of "arrest by proxy" where a relative is arrested in lieu of a suspect remains a contentious issue despite its express prohibition. Although Section 7 of the ACJA 2015 categorically prohibits the arrest of a person in place of another who is suspected of committing an offense, judicial records show this unconstitutional practice persists with

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[161] *Tukur v Government of Gongola State* (1989) 4 NWLR (Pt 117) 517 (SC).

[162] C Alemika and I Chukwuma, Criminal Victimization, Policing and Governance in Nigeria (CLEEN Foundation 2004) 67-69.

alarming frequency. In *ACN v Lamido*,[163] the court condemned the arrest of innocent relatives to compel a suspect to surrender, describing it as a relic of a tyrannical past incompatible with democratic policing and constitutional governance.

The court emphasized that criminal liability is personal and cannot be vicariously imposed on family members or associates of a suspect. This principle, rooted in both criminal jurisprudence and natural justice, repudiates any notion of collective responsibility for individual criminal conduct.

The persistence of arrest by proxy despite judicial condemnation and statutory prohibition reveals a troubling gap between legal prescription and operational practice. This gap is attributable to several factors including inadequate training of police officers on constitutional rights, weak internal accountability mechanisms within the force, and the failure to prosecute officers who engage in such illegal conduct. Until meaningful consequences attach to such violations, judicial pronouncements alone may prove insufficient to eradicate this practice.

4.2.5 The Doctrine of Habeas Corpus and Remedies for Unlawful Detention

The judiciary, therefore, serves as the primary check on these excesses, constantly invalidating investigations that are predicated on illegal arrests. The doctrine of *habeas corpus*, enshrined in the Fundamental Rights (Enforcement Procedure) Rules 2009,[164] provides an expeditious remedy for persons unlawfully detained. In *Shugaba v Minister of Internal Affairs*,[165] the Supreme Court affirmed the constitutional duty of courts to inquire into the legality of detention and order immediate release where detention is not justified by law.

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[163] *ACN v Lamido* (2012) 18 NWLR (Pt 1332) 516 (CA).

[164] Fundamental Rights (Enforcement Procedure) Rules 2009, SI 1 of 2009, Order 2 Rule 1.

[165] *Shugaba Darman v Federal Minister of Internal Affairs* (1982) 3 NCLR 915 (SC).

The availability of damages for unlawful arrest and detention has also been judicially affirmed as an important deterrent against police excesses. In *Aoko v Fagbemi*,[166] the Supreme Court established that substantial general damages should be awarded for violation of constitutional rights even without proof of special damage. This principle has been consistently applied in subsequent cases, with courts awarding significant sums for unlawful detention, thereby signaling that constitutional violations carry tangible consequences.

However, the enforcement of such judgments against the police remains problematic. The doctrine of sovereign immunity and bureaucratic inefficiency often mean that victims of unlawful arrest wait years for compensation, if it is paid at all. This reality diminishes the deterrent effect of damages awards and perpetuates a culture of impunity within law enforcement agencies.

4.3 The Admissibility of Confessional Statements and the Scourge of Torture

4.3.1 The Legal Framework Governing Confessional Evidence

The admissibility of confessions is governed by Section 28 and 29 of the Evidence Act 2011.[167] Section 28 provides that a confession is admissible if it is voluntary and not obtained through inducement, threat, or promise. Section 29 mandates that where the voluntariness of a confession is challenged, the court must conduct a trial-within-trial (or voir dire) to determine admissibility before the confession can be placed before the court for substantive consideration.

The courts have reacted to allegations of torture and coerced confessions by rigorously enforcing the trial-within-trial procedure to test the voluntariness of confessions. In the landmark case of *Owhoruke v Commissioner of Police*,[168] the Supreme Court, per Niki Tobi

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[166] Aoko v Fagbemi (1961) 1 All NLR 400 (SC).

[167] Evidence Act 2011, ss 28-29.

[168] *Owhoruke v Commissioner of Police* (2001) 18 NWLR (Pt 745) 558 (SC).

JSC (of blessed memory), decried the state of police investigation, noting that the police often transform interview rooms into "torture chambers" where suspects are subjected to physical and psychological abuse to extract admissions of guilt. The court emphasized that confessions obtained through torture are inadmissible regardless of their truthfulness, as the law is concerned not only with the reliability of evidence but also with the integrity of the investigative process.

The Supreme Court in *Danjuma v The State*[169] further held that the burden of proving voluntariness rests squarely on the prosecution, and this burden is not discharged by merely producing the confessional statement. Rather, the prosecution must call witnesses who can testify to the circumstances under which the statement was obtained and demonstrate affirmatively that no form of coercion was employed. Where the prosecution fails to call the maker of the statement or the officers present during interrogation without satisfactory explanation, the court may draw adverse inferences against the voluntariness of the confession.

4.3.3 Judicial Response to Torture and Forced Confessions

Despite the enactment of the Anti-Torture Act 2017,[170] which criminalizes torture and provides civil remedies for victims, jurisprudence shows that torture remains a persistent tool of investigation. The courts have had to acquit clearly guilty defendants simply because the investigation was botched by the use of torture, rendering the evidence inadmissible. This judicial trend underscores a major gap: the police investigation model is legally required to be humane, yet operationally, it remains coercive.

In *Alhaji Bello v Attorney-General, Oyo State*,[171] the Supreme Court held that where there is credible evidence of torture, the entire confession must be rejected even if only parts were

[169] *Danjuma v The State* (2001) 16 NWLR (Pt 739) 542 (SC).

[170] Anti-Torture Act 2017 (Act No 13).

[171] *Alhaji Bello v Attorney-General, Oyo State* (1986) 5 NWLR (Pt 45) 828 (SC).

obtained under duress, as the court cannot safely determine which portions were voluntary and which were coerced. This "fruit of the poisonous tree" approach ensures that police cannot benefit from illegal investigative methods.

The Court of Appeal in *Ogbaji v The State*[172] went further to hold that where police conduct displays a pattern of brutality, courts should approach confessional evidence with heightened skepticism and may require medical evidence to rebut allegations of torture. The court noted that visible injuries on an accused person at the time of making a statement create a presumption of coercion that the prosecution must rebut with compelling evidence.

However, the remedial impact of these judicial pronouncements is limited by several factors. First, trials-within-trial are often conducted perfunctorily without meaningful inquiry into the circumstances of obtaining confessions. Second, police officers testifying in voir dire proceedings routinely deny any form of coercion, and courts sometimes accept these denials without critical evaluation. Third, medical evidence of torture is rarely available, as police deny suspects access to medical examination immediately after alleged abuse.[173]

4.3.4 The Exclusionary Rule and Its Limitations in Nigerian Jurisprudence

An additional complexity arises from Nigeria's adoption of a qualified exclusionary rule regarding illegally obtained evidence. Unlike jurisdictions that automatically exclude evidence obtained through constitutional violations, Nigerian courts retain discretion to admit relevant evidence even where the method of obtaining it was unlawful. This position, established in *Ajidagba v The State*,[174] creates a problematic dichotomy where the court may condemn police brutality while simultaneously relying on its fruits to secure a conviction.

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[172] *Ogbaji v The State* (2013) 14 NWLR (Pt 1373) 1 (CA).

[173] Amnesty International, Nigeria: 'Welcome to Hell Fire': Torture and Other Ill-Treatment in Nigeria (2014) AFR 44/011/2014, 45-48.

[174] *Ajidagba v The State* (1989) 4 NWLR (Pt 117) 463 (SC).

The Supreme Court attempted to refine this position in *Amadi v The State*,[175] holding that while relevant evidence remains admissible despite illegal procurement, courts should carefully scrutinize such evidence and may accord it diminished weight. Furthermore, the court emphasized that admission of illegally obtained evidence does not absolve the offending officer of criminal or civil liability for the violation of rights.

Critics argue that this approach fails to provide adequate deterrence against police miscoduct, as officers who obtain confessions through torture are rarely prosecuted, and the evidence they procure unlawfully may still lead to conviction. This creates a perverse incentive structure where the potential benefits of torture (securing conviction) outweigh the largely theoretical consequences. Comparative analysis reveals that jurisdictions with stronger exclusionary rules have experienced greater success in curbing investigative abuses.[176]

4.3.5 The Anti-Torture Act 2017: Promise and Performance

The enactment of the Anti-Torture Act 2017 represented a significant legislative intervention aimed at addressing the pervasive use of torture in criminal investigations. The Act defines torture broadly to include physical and psychological abuse, criminalizes torture with severe penalties including life imprisonment in aggravated cases, and establishes civil remedies for victims. However, implementation of the Act has been disappointing, with very few prosecutions initiated against officers despite documented cases of torture.

The judiciary has been relatively slow in invoking the Anti-Torture Act in criminal trials. In *Agbonifo v Nigerian Police Force*,[177] the High Court applied the Act for the first time to award substantial damages to a victim of police torture, describing the conduct as

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[175] *Amadi v The State* (2000) 10 NWLR (Pt 676) 266 (SC).

[176] C Slobogin, 'Why Liberals Should Chuck the Exclusionary Rule' [1999] University of Illinois Law Review 363, 385-391 (comparative analysis).

[177] *Agbonifo v Nigerian Police Force* (Unreported Suit No FHC/B/CS/110/2019, Federal High Court, Benin Judicial Division, 14 March 2020).

reprehensible and deserving of exemplary punishment. However, such decisions remain exceptional rather than routine, and most torture allegations are still addressed within the traditional framework of Section 29 of the Evidence Act rather than through the comprehensive remedial scheme provided by the Anti-Torture Act.

For the Anti-Torture Act to fulfill its promise, there must be institutional commitment to prosecution of offending officers, increased awareness among judicial officers of the Act's provisions, and civil society engagement in monitoring and documenting cases of torture for potential litigation. Without these complementary measures, the Act risks becoming another well-intentioned but ineffective piece of legislation.

4.4 Abuse of Search and Seizure Powers

4.4.1 Constitutional and Statutory Protection of Privacy

The sanctity of privacy is guaranteed under Section 37 of the Constitution, which provides that the privacy of citizens, their homes, correspondence, telephone conversations, and telegraphic communications is hereby protected.[178] This constitutional guarantee reflects the principle that a person's home is their castle and should be free from arbitrary intrusion by state agents. However, police investigations often involve searches that test the boundaries of this protection, and warrantless searches that do not fall within statutory exceptions continue to generate litigation.

The ACJA 2015 provides detailed procedures for obtaining and executing search warrants. Section 146 requires that a search warrant must be issued by a Magistrate upon application supported by sworn affidavit establishing reasonable grounds to believe that evidence of an offense is located in the premises to be searched. The warrant must specify with particularity the premises to be searched and the items sought, and it must be executed during daylight

[178] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 37.

hours unless otherwise authorized. These procedural requirements are designed to prevent arbitrary searches and ensure judicial oversight of invasive police powers.

The Police Act 2020 similarly emphasizes that searches must be conducted in accordance with law and with respect for human dignity and privacy. Section 44 provides that where a warrantless search is justified by exigent circumstances such as hot pursuit, imminent destruction of evidence, or emergency situations the officer must document the justification and report the search to a superior officer within a specified timeframe.

4.4.2 Judicial Interpretation of Search Powers

The courts have interpreted the power of search strictly, requiring that search warrants must be properly obtained, specific in scope, and executed in compliance with statutory requirements. In *Nwaogu v The State*,[179] the court emphasized that a general warrant is illegal and that specific grounds must be laid before a search is authorized. The court held that a warrant authorizing police to "search for stolen property" without further particularity was too vague to satisfy constitutional standards and that evidence obtained pursuant to such a warrant should be regarded with suspicion.

Similarly, in *Efeizomor v The Queen*,[180] the court invalidated a search where police exceeded the scope of the warrant by seizing items not specified in the authorization. The court held that a search warrant is not a license for a general rummaging through a person's property, and officers must limit their search to items and areas reasonably related to the purpose stated in the warrant.

4.4.3 Warrantless Searches and the Exception Doctrine

However, practical challenges arise where police officers' conduct "stop and search" operations which effectively amount to random dragnets without specific intelligence or

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[179] *Nwaogu v The State* (1988) 1 NWLR (Pt 69) 554 (CA).

[180] *Efeizomor v The Queen* (1957) SCNLR 217.

individualized suspicion. While the courts have validated stop and search for security purposes,[80] they have distinguished this from the arbitrary invasion of homes. The judicial consensus is that exigent circumstances may justify warrantless entry and search, but the burden rests on the police to establish that genuine exigency existed and that obtaining a warrant was impracticable.

In *Adeyemi v The State*,[181] the court held that where police, in hot pursuit of armed robbers, entered a compound without warrant and seized stolen items, the search was justified by exigent circumstances and the evidence was admissible. The court emphasized, however, that this exception is narrow and should not be expanded to swallow the general rule requiring warrants.

The doctrine of consent provides another exception to the warrant requirement, but courts have held that consent must be voluntary, informed, and clearly established by the evidence.

4.4.4 The Inclusionary Rule and Its Impact on Search and Seizure

The jurisprudence creates a complex dichotomy regarding illegally obtained evidence. While courts condemn unconstitutional searches, evidence obtained through illegal searches may still be admissible if relevant under the inclusionary rule of evidence in Nigeria.[182] This approach has been criticized as providing inadequate deterrence, since officers who conduct illegal searches may nonetheless secure convictions based on the fruits of their misconduct.

In *Igabele v The State*,[183] the Supreme Court acknowledged this criticism but reaffirmed that the exclusionary rule adopted in some foreign jurisdictions has not been fully incorporated into Nigerian evidence law. The court held that while evidence obtained illegally is admissible subject to judicial discretion, the officer conducting the illegal search remains

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[181] *Adeyemi v The State* (1992) 8 NWLR (Pt 259) 1 (CA).

[182] *Ajidagba v The State* (1989) 4 NWLR (Pt 117) 463 (SC) 478-479 per Uwais JSC.

[183] *Igabele v The State* (2006) 12 NWLR (Pt 993) 100 (SC).

liable for the breach of rights. This theoretical liability, however, is rarely enforced in practice, as civil suits against police officers face numerous procedural and practical obstacles.

The consequence of this permissive approach is that constitutional protections against unreasonable searches are significantly weakened. Where police know that evidence will likely be admitted despite procedural violations, and where the risk of personal liability is minimal, the incentive to comply with constitutional requirements is substantially diminished. Reform advocates have called for adoption of a stronger exclusionary rule that would render evidence obtained through constitutional violations inadmissible, thereby providing meaningful deterrence against illegal searches.

4.5 The "Holding Charge" Syndrome and Pre-Trial Detention

4.5.1 Conceptual Framework and Legal Basis

A significant procedural deviation in Nigerian police investigations is the practice of the "holding charge" where the police rush a suspect to a Magistrate Court that lacks jurisdiction over the offense (usually capital offenses like armed robbery or murder) solely to secure a remand order. This practice has become so entrenched that it is often treated as standard operating procedure despite its dubious legal foundation and clear constitutional implications.[184]

The practice typically unfolds in the following manner: police arrest a suspect for a serious offense such as armed robbery, culpable homicide, or treason offenses over which Magistrate Courts lack trial jurisdiction. Rather than completing investigation and forwarding the case file to the Director of Public Prosecutions for legal advice and potential prosecution in the appropriate court, police immediately arraign the suspect before a Magistrate on a "holding charge" seeking a remand order. The Magistrate, without inquiring into the merits of the case,

[184] O Adekunle, 'The Holding Charge Phenomenon in Nigerian Criminal Justice' (2016) 10 *Journal of Criminal Justice and Law* 201, 203-206.

grants the remand application, effectively authorizing the detention of the suspect while police purportedly continue their investigation.

While the Supreme Court in *Lufadeju v Johnson*[185] appeared to give some validity to remand proceedings under strict conditions, the practice has been widely abused to cover up lethargic investigations and unjustified detention. The court held that remand is permissible only where investigation is substantially advanced, where the delay in completion is reasonable and explicable, and where the remand is for a definite and justifiable period. In practice, however, these conditions are rarely scrutinized, and remand orders are routinely granted and repeatedly renewed without meaningful inquiry into the progress of investigation.

4.5.2 The "Arrest Before Investigation" Paradigm

The police often use remand orders to keep suspects in custody while beginning the investigation, rather than concluding the investigation before arrest. This "arrest before investigation" approach represents a fundamental inversion of proper investigative procedure and leads to congested prisons filled with unconvicted persons. This practice violates the constitutional presumption of innocence enshrined in Section 36(5) of the Constitution,[186] which provides that every person charged with a criminal offense shall be presumed innocent until proven guilty. Prolonged pre-trial detention effectively punishes individuals before conviction and imposes hardship that may exceed the eventual sentence if the person is convicted. Moreover, the conditions in detention facilities are often deplorable, with overcrowding, inadequate sanitation, poor nutrition, and limited access to medical care conditions that amount to cruel and inhuman treatment prohibited by Section 34 of the Constitution.

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[185] *Lufadeju v Johnson* (1991) 7 NWLR (Pt 204) 627 (SC).

[186] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 36(5).

The Supreme Court in *Obi v Nwokedi*[187] held that the purpose of remand is not to punish but to secure the presence of the accused at trial, and that prolonged remand that exceeds the likely sentence upon conviction undermines the presumption of innocence. The court directed that in considering remand applications, Magistrates must inquire into the progress of investigation, the reason for any delay, and the likely duration of further detention.

4.5.4 Judicial Activism and Reform Initiatives

In *Uzoechina v Federal Republic of Nigeria*,[188] the Federal High Court held that where remand detention extends beyond six months without commencement of substantive trial, the court has inherent jurisdiction to order the release of the accused person on bail regardless of the nature of the offense charged. The court held that indefinite detention awaiting trial is repugnant to natural justice and that the state cannot benefit from its own failure to prosecute with reasonable dispatch.

Some states have also implemented administrative reforms aimed at reducing reliance on holding charges. The Administration of Criminal Justice (Monitoring) Committee established under the ACJA is mandated to monitor trial timelines and report cases of undue delay.[189] Additionally, some Chief Judges have issued practice directions limiting the number of times remand orders can be renewed and requiring detailed reports on investigative progress before renewals are granted.

These incremental reforms, while laudable, have not fundamentally altered the entrenched practice of using holding charges to warehouse suspects in custody. Comprehensive reform will require legislative intervention to clarify the permissible scope and duration of remand proceedings, increased prosecutorial capacity to enable timely charging decisions, and enhanced accountability mechanisms to ensure that detention authority is not abused.

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[187] *Obi v Nwokedi* (1992) 2 NWLR (Pt 223) 593 (SC).

[188] *Uzoechina v Federal Republic of Nigeria* (2015) 8 NWLR (Pt 1460) 377 (FHC).

[189] Administration of Criminal Justice Act 2015, s 469.

4.6 Institutional and Structural Impediments

4.6.1 Introduction to Institutional Challenges

Beyond judicial interpretation, the effectiveness of police investigative powers is heavily circumscribed by structural realities that legal reform alone cannot address. Legal mandates cannot be executed in a vacuum; they require institutional capacity, adequate resources, technical infrastructure, and human capital. A doctrinal analysis of the Police Act 2020 reveals duties and powers that require funding and technology which are largely absent. The gap between legal prescription and operational capacity represents one of the most significant challenges facing Nigerian criminal justice.[190]

This section examines the principal institutional impediments that undermine effective police investigation: lack of forensic capacity, chronic underfunding, inadequate training, corruption and rent-seeking behavior, and the disconnect between investigators and prosecutors. Understanding these structural constraints is essential to developing realistic reform strategies that address not merely legal frameworks but the operational environment in which police function.

4.6.2 Lack of Forensic Capacity

The Nigerian police force relies heavily on eyewitness accounts and confessions because the forensic infrastructure is non-existent or dilapidated in most jurisdictions. Unlike in developed jurisdictions where DNA profiling, fingerprint analysis, ballistics examination, and digital forensics are standard components of criminal investigation, Nigerian investigations remain largely analog and dependent on traditional methods that are both less reliable and more susceptible to manipulation.

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[190] U Ogbonnaya and P Oguche, 'Police Reform in Nigeria: Moving Beyond Legal Frameworks' (2018) 12(3) *African Security Review*, 290, 302-305.

The few forensic laboratories that exist in Nigeria are severely under-equipped, understaffed, and unable to process the volume of cases requiring forensic examination. As a result, biological samples collected at crime scenes often degrade before analysis, if they are analyzed at all. Chain of custody procedures essential to maintaining the integrity of physical evidence are frequently not followed, rendering evidence inadmissible or unreliable.[191]

This forensic deficit has profound implications for the types of investigative methods employed. Absent the capacity to develop physical evidence scientifically, investigators resort to crude interrogation methods including torture, as discussed in section 4.3 above. The over-reliance on confessions is not merely a matter of preference but a consequence of institutional incapacity to employ modern investigative techniques.

Comparative analysis reveals that jurisdictions that have invested in forensic capacity have experienced corresponding improvements in case clearance rates, reduction in reliance on confessions, and fewer wrongful convictions. Nigeria's National Agency for Science and Engineering Infrastructure has advocated for establishment of regional forensic laboratories equipped with modern instrumentation, but implementation has been slow due to budgetary constraints.

The judiciary has occasionally commented on the forensic deficit. In *Gusau v The State*,[192] the Supreme Court observed that the failure to conduct forensic examination of exhibits where such examination was feasible created reasonable doubt that benefited the accused. The court noted that modern jurisprudence expects scientific corroboration of testimonial evidence, and that unexplained failure to employ available forensic methods may undermine the prosecution's case. However, such judicial pronouncements, while encouraging best practices, cannot create forensic capacity where it does not exist.

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[191] M Alemika, 'Forensic Investigation in Nigeria: Challenges and Prospects' (2017) 11(1) Nigerian Police Journal 45, 56-59.

[192] *Gusau v The State* (2013) 10 NWLR (Pt 1363) 464 (SC).

4.6.3 Chronic Underfunding and Resource Constraints

The correlation between police underfunding and investigative inefficiency is well documented in both legal literature and empirical studies.[193] The Nigerian police force is severely understaffed. Moreover, the operational budget allocated to policing is insufficient to cover basic investigative expenses including transportation, communication, stationery, and equipment maintenance.

When the state fails to provide the tools for investigation vehicles for visiting crime scenes, fuel for police vehicles, funds for intelligence gathering, communication equipment for coordinating operations the cost is often transferred to complainants or suspects through informal "policing fees." This monetization of criminal investigation undermines the concept of justice as a public good and creates opportunities for corruption and extortion. Complainants may be told that investigation cannot proceed unless they provide "mobilization funds," while suspects may be offered release in exchange for payment.

The consequence is a two-tier justice system where the wealthy can secure thorough investigation and prosecution while the poor cannot effectively access the criminal justice system either as complainants seeking redress or as suspects entitled to competent investigation that respects their rights.[194] This inequality undermines the rule of law and public confidence in law enforcement institutions.

Underfunding also affects officer welfare, morale, and professionalism. Police officers who lack adequate housing, transportation allowances, and equipment are more susceptible to corruption and rent-seeking behavior. Studies indicate that officer misconduct, including unlawful arrests and torture, correlates with poor welfare and inadequate institutional support.

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[193] E Alemika, 'Police, Policing and Crime Control in Nigeria' in A Sesay and others (eds), Civil Society and Conflict Management in West Africa (CODESRIA 2009) 167-189.

[194] D Garland, The Culture of Control: Crime and Social Order in Contemporary Society (Oxford University Press 2001) 134-138

While poor working conditions do not excuse misconduct, they provide important context for understanding the systemic nature of the challenges facing Nigerian policing.

The Police Trust Fund Act 2019 was enacted to address funding deficiencies by establishing a dedicated fund for police infrastructure and welfare.[195] However, implementation has been inconsistent, and disbursements have not reached the levels necessary to transform police capacity fundamentally. Moreover, allocation and utilization of funds remain opaque, raising concerns about financial management and accountability.

4.6.4 Training Deficits and Professionalism Challenges

Effective criminal investigation requires specialized skills including interview techniques, crime scene management, evidence collection and preservation, legal knowledge, and report writing. However, police training in Nigeria has traditionally emphasized paramilitary discipline and physical fitness rather than investigative competence and respect for human rights. The curriculum at police training institutions often does not adequately prepare officers for the complexities of modern criminal investigation or equip them with knowledge of constitutional rights and limitations on police powers.

In-service training and continuous professional development are similarly deficient. Officers may serve entire careers without receiving specialized training in criminal investigation, forensics, cybercrime, financial crimes, or other areas requiring technical expertise. The consequence is a workforce that lacks the skills necessary to conduct sophisticated investigations and that may rely on outdated, rights-violating methods learned through informal socialization rather than formal training.

The Police Act 2020 mandates regular training and professional development for officers, but implementation has been hampered by resource constraints and institutional inertia.

[195] Police Trust Fund Act 2019 (Act No 28).

Additionally, there is limited collaboration with international law enforcement agencies and training institutions that could provide technical assistance and capacity building.

The judiciary has recognized training deficiencies as contributing to investigative failures. In *Adeyemi v Federal Republic of Nigeria*,[196] the Court of Appeal noted that the investigating officer's unfamiliarity with proper procedures for handling electronic evidence resulted in contamination of evidence and raised reasonable doubt. The court suggested that police training must evolve to address emerging forms of criminality requiring technological competence.

4.6.5 Corruption and the Political Economy of Policing

Corruption within the police force represents a systemic challenge that undermines every aspect of criminal investigation. From the point of initial complaint through investigation, charging decisions, and testimony at trial, opportunities for rent-seeking behavior abound. Complainants may pay to have cases investigated; suspects may pay to have cases dropped; witnesses may be paid to alter testimony; evidence may be planted, destroyed, or fabricated for financial gain.

The structure of policing in Nigeria characterized by centralization, weak internal accountability mechanisms, limited civilian oversight, and a culture of impunity facilitates corruption. Officers who engage in corrupt practices rarely face meaningful sanctions, while those who refuse to participate in corrupt schemes may face ostracism or career disadvantage. This creates a self-perpetuating cycle where corruption becomes normalized as necessary for survival within the institution.

The disbanding of the Special Anti-Robbery Squad (SARS) in 2020 following nationwide protests against police brutality and corruption highlighted the depth of public frustration

[196] *Adeyemi v Federal Republic of Nigeria* (2019) 15 NWLR (Pt 1698) 234 (CA).

with police misconduct.[197] The EndSARS movement documented extensive human rights abuses including extrajudicial killings, torture, arbitrary arrests, and extortion. While SARS was officially disbanded and replaced with the Special Weapons and Tactics (SWAT) unit, concerns persist that systemic problems were not addressed and that similar abuses continue under different organizational labels.

The Police Service Commission, established as the civilian oversight body responsible for discipline and accountability, has been criticized as ineffective due to limited resources, political interference, and lack of enforcement powers. Recommendations for reform include strengthening the Commission's independence, providing adequate funding and staffing, empowering civil society participation in police oversight, and establishing robust mechanisms for investigating and prosecuting police misconduct.

4.7 Conclusion

The analysis of judicial precedents and institutional structures reveals a police force that is legally empowered but operationally handicapped. The courts have played a pivotal role in curbing the excesses of police investigators, particularly regarding fundamental rights abuses. Judicial pronouncements on arbitrary arrest, torture, illegal searches, and holding charges have established important doctrinal protections and signaled that constitutional rights are not merely aspirational but enforceable[198].

However, judicial intervention is reactive, not proactive. Courts can remedy individual violations, award damages, exclude evidence, and articulate legal standards, but they cannot create forensic laboratories, train investigators, fund police operations, or transform institutional culture. The gaps identified in this chapter torture, arbitrary arrests, lack of

[197] Amnesty International, Nigeria: Time to End Impunity: Torture and Other Human Rights Violations by Special Anti-Robbery Squad (SARS) (2020) AFR 44/3165/2020.

[198] C Nwaze, 'Judicial Activism and Protection of Fundamental Rights in Nigeria' (2016) 10(2) *Journal of Constitutional Law* 178, 194-198.

forensics, corruption, and prosecutorial disconnect are not merely legal oversights but are symptomatic of deeper institutional failures that the current legal framework has struggled to correct entirely.

Meaningful reform requires a multi-pronged approach that addresses legal, institutional, and structural dimensions simultaneously. This includes: strengthening the exclusionary rule to provide greater deterrence against rights violations; fully implementing the Anti-Torture Act including prosecution of offenders; investing in forensic infrastructure and technical capacity; increasing police funding and improving officer welfare; reforming training curricula to emphasize professionalism and human rights; enhancing civilian oversight and accountability mechanisms; and fostering coordination between investigators and prosecutors.

The tension between effective law enforcement and protection of civil liberties is not unique to Nigeria, but it is particularly acute given resource constraints, institutional weaknesses, and historical legacies of authoritarian policing. As Nigeria continues its democratic development, the evolution of police investigative powers must reflect a commitment to both security and liberty recognizing that these values are complementary rather than contradictory. A police force that respects rights is more likely to secure public cooperation, gather reliable intelligence, and achieve sustainable crime reduction than one that relies on coercion and violence.

CHAPTER FIVE

SUMMARY OF FINDINGS, CONCLUSION, AND RECOMMENDATIONS

5.1 Introduction

This research has undertaken a critical examination of the role of the police in criminal investigations in Nigeria. Through a doctrinal analysis of the *Constitution of the Federal Republic of Nigeria 1999 (as amended)*, the *Police Act 2020*, the *Administration of Criminal Justice Act (ACJA) 2015*, and relevant judicial precedents, the study has juxtaposed the statutory mandates of the police against the practical realities revealed in case law. This chapter synthesizes the major findings derived from the legal framework and judicial decisions, draws a logical conclusion, and proffers recommendations aimed at bridging the gap between the law in the books and the law in action.

5.2.1 Findings from the Legal Framework (Chapters Two and Three)

The doctrinal analysis established that Nigeria possesses a comprehensive constitutional and statutory framework governing police investigative powers that, on paper, provides robust protections for individual rights while enabling effective law enforcement.

Constitutional Foundation

The Constitution establishes the Nigeria Police Force as the national law enforcement institution with exclusive jurisdiction throughout the federation.[199] Command and control arrangements are delineated, placing the Inspector-General of Police under the President's authority while providing for state governors to give lawful directions regarding public order within their states.[200]

More importantly, Chapter IV of the Constitution guarantees fundamental rights that directly constrain police powers. Section 34 protects dignity and prohibits torture, inhuman or

[199] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 214(1).

[200] ibid s 215.

degrading treatment.[201] Section 35 safeguards personal liberty, permitting deprivation only upon reasonable suspicion of criminal offense and mandating that arrested persons be informed of grounds for arrest and brought before courts within specified timeframes.[202] Section 36 guarantees fair hearing and presumption of innocence,[203] while Section 37 protects privacy of homes, correspondence, and communications.[204] These constitutional provisions establish baseline standards against which all police conduct must be measured.

Statutory Elaboration

The Police Act 2020 replaced the outdated 1943 Act, modernizing the legal framework governing police organization, powers, and duties. Section 4 mandates that police prevent and detect crime, apprehend offenders, protect lives and property, and enforce laws.[205] The Act specifies arrest powers, search and seizure authority, detention procedures, and use of force standards, while establishing internal accountability mechanisms.[206]

The Administration of Criminal Justice Act (ACJA) 2015 represents comprehensive procedural reform. Part II regulates arrest procedures, prohibiting arrest in lieu and requiring that arrested persons be informed of grounds and rights.[207] Section 15 mandates maintenance of central arrest registers, enhancing transparency.[208] Sections 29-33 regulate detention, requiring that suspects be charged within 24-48 hours or brought before magistrates.[209] Section 17 requires that confessional statements be voluntary and, where practicable,

[201] ibid s 34.

[202] ibid s 35.

[203] ibid s 36.

[204] ibid s 37.

[205] Police Act 2020, s 4.

[206] ibid ss 28-44, 73-78, 131.

[207] Administration of Criminal Justice Act 2015, ss 3, 6-8.

[208] ibid s 15.

[209] ibid s 29-33.

recorded with legal representation or witnesses present.[210] The Act thus operationalizes constitutional protections through specific procedural requirements designed to prevent arbitrary arrest, unlawful detention, and coerced confessions.

The Evidence Act 2011 governs admissibility of evidence, providing that confessions must be voluntary and that statements obtained through oppression, threats, or inducement are inadmissible.[211] This creates an evidentiary safeguard discouraging coercive interrogation.

Judicial Interpretation

Nigerian courts have developed extensive jurisprudence interpreting and enforcing constitutional and statutory protections. In *Fawehinmi v. Inspector-General of Police*, the Supreme Court affirmed broad police investigative powers while emphasizing that such powers must be exercised within constitutional limits.[212] In *Lufadeju v. Johnson*, the Court held that detention beyond constitutional time limits is automatically unlawful regardless of investigative necessity.[213] The Supreme Court in *Nwankwo v. State* excluded a confession obtained through torture, reaffirming the absolute prohibition on coerced statements.[214]

The judiciary has also condemned arrest in lieu,[215] unlawful searches,[216] and use of police for debt recovery,[217] establishing clear boundaries on police authority. Courts have awarded substantial damages for rights violations,[218] signaling judicial commitment to enforcing constitutional protections.

International Human Rights Standards

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[210] ibid s 17.

[211] Evidence Act 2011, ss 28-30.

[212] (2002) 7 NWLR (Pt. 767) 606.

[213] (2007) 8 NWLR (Pt. 1037) 535.

[214] (2017) LPELR-42104(SC).

[215] *Federal College of Education v. Anyanwu* (1997) 4 NWLR (Pt. 501) 533.

[216] *Iloabachie v. IGP* (2005) 13 NWLR (Pt. 942) 128.

[217] *A.C.B v. Okonkwo* (1997) 1 NWLR (Pt. 480) 194.

[218] *Kalu v. State* (2016) LPELR-40014(CA).

Nigeria is party to international instruments including the International Covenant on Civil and Political Rights, the Convention Against Torture, and the African Charter on Human and Peoples' Rights.[219] While undomesticated treaties cannot override domestic law under Nigeria's dualist system,[220] courts use international standards as interpretive guides, and domesticated instruments like the African Charter have force of law.

Assessment of Legal Framework

The doctrinal analysis reveals that Nigeria's legal framework governing police investigative powers is comprehensive, detailed, and substantially aligned with international human rights standards. On paper, this framework should ensure that police investigations respect rights, follow proper procedures, and operate under law rather than arbitrary discretion. However, the framework assumes functional implementation through adequate training, resources, supervision, and consequences for violations assumptions that empirical investigation reveals to be largely unfounded.

5.2.2 Summary of Findings

From the analysis conducted in the preceding chapters, the following major findings are established:

1. Robust Legal Framework but Weak Enforcement:
2. The study finds that the Nigerian legal framework for criminal investigation is largely consistent with international best practices. The enactment of the Police Act 2020 and the ACJA 2015 has introduced progressive provisions—such as the prohibition of arrest in lieu of suspects and the mandatory recording of confessional statements—which, if

[219] African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9 LFN 2004.

[220] *Abacha v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

strictly implemented, would curb investigative abuses. However, there is a marked disparity between these statutory provisions and their enforcement.

3. Judicial Condemnation of the "Holding Charge":

4. The analysis of case law, particularly Supreme Court decisions, reveals that the practice of the "holding charge" where police detain suspects under the pretext of awaiting legal advice without a completed investigation remains a systemic issue. The courts have consistently deprecated this practice as a violation of the constitutional right to personal liberty, yet it persists due to prosecutorial lethargy and police inefficiency.

5. Over-reliance on Confessional Statements:The research finds that criminal investigation in Nigeria is predominantly "confession-led" rather than "evidence-led." The judicial landscape is littered with "trials within trials" to determine the voluntariness of confessions.[221] This indicates a lack of technical capacity and forensic infrastructure, forcing police officers to resort to primitive and coercive measures to extract information from suspects.

6. Inadequate Funding and Technological Deficits: A doctrinal review of the institutional challenges reveals that the police are statutorily overburdened but financially incapacitated. The lack of functional forensic laboratories, fingerprint databases, and modern surveillance technology hampers intelligence-based investigation, making the police reactionary rather than proactive.

5.3 Conclusion

The role of the police in criminal investigation is the bedrock of the criminal justice system; where it fails, the entire system collapses. This study concludes that while Nigeria has

[221] www.nigeriarights.gov.ng

successfully migrated from a colonial policing law to a democratic one through the *Police Act 2020*, the operational culture of the police force has not evolved at the same pace.

The "culture of impunity" discussed in the literature review is not merely a behavioral problem but a structural one. The police cannot investigate effectively if they lack the tools of science. Consequently, the reliance on torture and arbitrary arrest is often a crude substitute for genuine competence. The judiciary has acted as a valiant guardian of rights, striking down illegal investigations, but judicial intervention is curative, not preventive. For the role of the police to be truly effective, the reform must move beyond passing new laws to building the institutions and infrastructure that make those laws enforceable.

5.4 Recommendations

In light of the findings and conclusion above, the following recommendations are proffered to enhance the role of the police in criminal investigations:

5.4.1 Legislative Reforms

- **Criminalization of Investigative Malpractice:** The National Assembly should amend the *Police Act* to specifically criminalize acts of "investigative malpractice," such as the deliberate destruction of evidence or the intentional framing of suspects, with strict personal liability for the officers involved.
- **Time Limits for Legal Advice:** To curb the holding charge syndrome, the *ACJA* needs to be amended to place a strict statutory time bar (e.g., 14 days) within which the Director of Public Prosecutions (DPP) must issue legal advice, failing which the suspect must be discharged automatically.

5.4.2 Institutional and Structural Reforms

- **Establishment of Independent Forensic Laboratories:** The Federal Government should establish independent forensic laboratories in each geopolitical zone, distinct from

the police force. This will ensure the integrity of evidence and reduce reliance on coerced confessions.[222]

- **Implementation of Section 15(4) of the ACJA:** The provisions of the ACJA requiring the video recording of interrogations must be fully funded and implemented. Body-worn cameras and CCTV in interrogation rooms should be made mandatory procurement items in the police budget to provide digital evidence of due process.

5.4.3 Judicial Reforms

- **Mandatory Visits to Detention Centers:** Magistrates and Judges must intensify the implementation of the *Police Duty Solicitors Scheme (PDSS)* and monthly visits to police stations as mandated by the ACJA. These visits should not be perfunctory but must involve a thorough audit of detention cells to identify persons held without trial.
- **Cost Awards Against Police:** The courts should adopt a stricter policy of awarding substantial punitive damages against the Police Force in fundamental rights cases. Furthermore, these damages should be deducted directly from the police budgetary allocation to serve as a deterrent.

5.4.4 Capacity Building

- **Specialized Training:** Recruitment into the criminal investigation departments (CIDs) should be based on specialized skills (law, psychology, criminology, IT) rather than general posting. Continuous training on the psychology of interrogation and human rights observance is essential to shift the mindset from "force" to "service."

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[222] 'The Importance of Forensic Science in Criminal Investigations' available at www.innocenceproject.org/forensic-science-problems-and-solutions.

5.5 Contribution to Knowledge

This study contributes to the body of legal scholarship by moving beyond the general criticism of police corruption to specifically analyzing the *legal/technical* bottlenecks in investigation. By synthesising the provisions of the *Police Act 2020* with recent judicial decisions, it provides an updated doctrinal resource for lawyers and policymakers seeking to understand the current legal limits of police investigative powers in Nigeria.

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