NATIONAL OPEN UNIVERSITY OF NIGERIA

SCHOOL OF ARTS AND SOCIAL SCIENCE

COURSE CODE: POS110

COURSE TITLE:
CRIMINAL JUSTICE ADMINISTRATION

COURSE GUIDE

POS110
CRIMINAL JUSTICE ADMINISTRATION

Course Team Dr. A.A. Atere (Developer/Writer) - OSU
Ebobo, U. C. (Co-developer/writer) - LASU
Dr. R. O. Arop (Coordinator) - NOUN

NATIONAL OPEN UNIVERSITY OF NIGERIA

National Open University of Nigeria
Headquarters
14/16 Ahmadu Bello Way
Victoria Island
Lagos

Abuja Office
No. 5 Dar es Salaam Street
Off Aminu Kano Crescent
Wuse II, Abuja
Nigeria

e-mail: centralinfo@nou.edu.ng
URL: www.nou.edu.ng

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Introduction

Welcome to **POS110** Criminal Justice Administration.

This course is a three-credit unit course for undergraduate students in the arts and social sciences. The materials have been developed with the Nigerian context in view. This Course Guide gives you an overview of the course. It also provides you with information on the organisation and requirements of the course.

Course Aims

The aims are to help you understand the administration of criminal justice, essentials elements of criminal justice administration, the acussational system, common law, civil law, violence and crime in Nigeria, measurement of crime and criminal liability and responsibilities. Also to help you gain better understanding of the crime, its measurement and liability/responsibilities from a global perspective. These broad aims will be achieved by:

(i) Introducing you to the background of criminal justice and its administration,
(ii) Expatiating on the essential elements of criminal justice administration i.e. the law, courts and the police.
(iii) Extrapolating the trends in crime and violence in Nigeria.

Course Objectives

To achieve the aims set out above, **POS110** has overall objectives. (In addition, each unit also has specific objectives. The unit objectives are at the beginning of each unit. It is expected that you read them before you start working through the unit. You can as well refer to them during your study of the unit to check your progress).

The wider objectives for the course as a whole are as itemised below. By meeting these objectives, you would have met the aims of the course. On successful completion of the course, you should be able to:

- Give a brief history of the development of criminal justice administration in Nigeria
- Appreciate the duties/roles of the essential elements of criminal justice administration i.e. the law, courts and the police.
- List the rights of an accused
- Differentiate between an accused and an offender
- Give a brief history of the development of prisons in Nigeria

- List the objectives of the Nigeria Prisons
- Explain the development of common and civil law
- Identify the differences between common and civil law
- Differentiate between different types of legal systems
- Give an overview or a bird's view of violence and crime in Nigeria.
- Describe the common instruments of crime measurement used in Nigeria and abroad
- Differentiate between the terms: criminal liability and criminal responsibilities.
- Explain the terms: police discretion and accountability
- Be able to draw a sketch of police administrative structure according to the differences in ranks and duties
- Give a brief account of police and community relations.
- Have a broad understanding of the criminal justice administration in Nigeria and abroad.

Working through This Course

To complete the course, you are required to read and assimilate the study units and other related materials. You are also required to jot down in bullet forms important points highlighted in the course to act as guides and reminders of what is required of you. This is to aid you in understanding the concepts being presented. However at the end of each unit, you will be required to submit written assignments for assessment purposes. While at the end of the course, you will have to write a final examination. All these are directed towards testing your knowledge of the course so far.

Course Materials

The major materials needed for this course are:

(i) Course guide.
(ii) Study units.
(iii) Assignments file.
(iv) Relevant textbooks including the ones listed under each unit
(v) You may also need to get yourself acquainted with the rule of law and court proceedings on criminal matters.
(vi) As a beginner, you need to read newspapers and interact with other mass media as often as possible.

Study Units

There are 20 units (of four modules) in this course. They are listed as follows:

Module 1 Criminal Justice Administration

Unit 1 Background to Criminal Justice Administration
Unit 2 What is Criminal Justice Administration?
Unit 3 Essential Elements of Criminal Justice Administration

Module 2 The Courts

Units 1 Common and Civil Law
Units 2 What is Law?
Units 3 Different types of Legal System

Module 3 Overview of Violence and Crime in Nigeria

Unit 1 Violence and Crime in Nigeria
Unit 2 Violence Defined
Unit 3 Crime Defined
Unit 4 Violence in Nigeria
Unit 5 Crime in Nigeria
Unit 6 Measurement of Crime
Unit 7 Criminal Liability and Responsibilities

Module 4 The Police

Unit 1 The Police
Unit 2 Police Discretion
Unit 3 Police Accountability
Unit 4 Police Administrative System
Unit 5 Police and Community
Unit 6 Police and Corruption

Textbooks and References

Certain books have been recommended in the course. You may wish to purchase them for further reading.

Assessment File

An assessment file and a marking scheme will be made available to you. In the assessment file, you will find details of the works you must submit to your tutor for marking. There are two aspects of the assessment of this course; the tutor marked assignment (TMA) and the written examination. The marks you obtain in these two areas will make up your final marks. The assignment must be submitted to your tutor for formal assessment in accordance with the deadline stated in the presentation schedule and the Assignment file. The work you submit to your tutor for assessment will count for 30% of your total score.

Tutor-Marked Assignment

You will have to submit a specified number of the Tutor-Marked Assignment (TMAs). Every unit in this course has a tutor marked assignment. You will be assessed on four of them but the best three performances from the Tutor-Marked Assignments (TMAs) will be used for your 30% grading. When you have completed each assignment, send it together with a Tutor-Marked Assignment form, to your tutor. Make sure each assignment reaches your tutor on or before the deadline for submissions. If for any reason, you cannot complete your work on time, contact your tutor for a discussion on the possibility of an extension. Extensions will not be granted after the due date unless in exceptional circumstances.

Final Examination and Grading

The final examination will be a test of three hours. All areas of the course will be examined. Find time to read the unit all over before your examination. The final examination will attract 70% of the total course grade. The examination will consist of questions, which reflects the kinds of self-assessment exercises and tutor-marked assignment you have previously encountered. And all aspects of the course will be assessed. You should use the time between completing the last unit, and taking the examination to revise the entire course.

Course Marking Scheme

The following table lays out how the actual course mark allocation is broken down.

Assessment	Marks
Assignments (Best Three Assignments out of Four marked)	30%
Final Examination	70%
Total	100%

Presentation Scheme

The dates for submission of all assignments will be communicated to you. You will also be told the date of completing the study units and dates for examinations.

Course Overview and Presentation Schedule

Unit	Title of work	Weeks Activity	Assignments
	Course Guide		
	Module 1 Criminal Justice Administration		
1	Background to Criminal Justice Administration	Week 1	Assignment 1
2	What is Criminal Justice Administration	Week 2	Assignment 2
3	Essential Elements of Criminal Justice Administration	Week 3	Assignment 3
4	The Accusational System	Week 3	Assignment 4
	Module 2 The Courts		
1	Common and Civil Law	Week 4	Assignment 1
2	What is Law?	Week 5	Assignment 2
3	Different Types of Legal system	Week 5	Assignment 3
	Module 3 Overview of Violence and Crime in Nigeria		
1	Violence and Crime in Nigeria	Week 6	Assignment 1
2	Violence Defined	Week 7	Assignment 2
3	Crime Defined	Week 7	Assignment 3
4	Violence in Nigeria	Week 8	Assignment 4
5	Crime in Nigeria	Week 8	Assignment 5
6	Measurement of Crime	Week 9	Assignment 6
7	Criminal Liability and Responsibilities	Week 9	Assignment 7
	Module 4 The Police		
1	The Police	Week 10	Assignment 1
2	Police Discretion	Week 11	Assignment 2
3	Police Accountability	Week 11	Assignment 3
4	Police Administrative System	Week 12	Assignment 4
5	Police and Community	Week 13	Assignment 5
6	Police and Corruption	Week 13	Assignment 6

How to Get the Most from This Course

In distance learning, the study units replace the university lecture. This is one of the great advantages of distance learning; you can read and work through specially designed study materials at your own pace, and at a time and place that suits you best. Think of it as reading the lecture instead of listening to the lecturer. In the same way a lecturer might give you some reading to do, the study units tell you where to read, and which are your text materials or set books. You are provided exercises to do at appropriate points, just as a lecturer might give you an in-class exercise. Each of the study units follows a common format. The first item is an introduction to the subject matter of the unit, and how a particular unit is integrated with the other units and the course as a whole. Next to this is a set of learning objectives. These objectives let you know what you should be able to do by the time you have completed the unit. These learning objectives are meant to guide your study. The moment a unit is finished, you must go back and check whether you have achieved the objectives. If this is made a habit, then you will significantly improve your chances of passing the course. The main body of the unit guides you through the required reading from other sources. This will usually be either from your set books or from a Reading section. The following is a practical strategy for working through the course. If you run into any trouble, telephone your tutor. Remember that your tutor's job is to help you. When you need assistance, do not hesitate to call and ask your tutor to provide it.

1. Read this Course Guide thoroughly, it is your first assignment.
2. Organise a Study Schedule. Design a 'Course Overview' to guide you through the Course. Note the time you are expected to spend on each unit and how the Assignments relate to the units. Whatever method you choose to use, you should decide on and write in your own dates and schedule of work for each unit.
3. Once you have created your own study schedule, do everything to stay faithful to it. The major reason why students fail is that they get behind with their course work. If you get into difficulties with your schedule, please, let your tutor know before it is too late to help.
4. Turn to Unit I, and read the introduction and the objectives for the unit.
5. Assemble the study materials. You will need your set books and the unit you are studying at any point in time. As you work through the unit, you will know what sources to consult for further information.
6. Keep in touch with your study centre. Up-to-date course information will be continuously available there.

7. Well before the relevant due dates (about four weeks before due dates), keep in mind that you will learn a lot by doing the assignment carefully. They have been designed to help you meet the objectives of the course and, therefore, will help you pass the examination. Submit all assignments not later than the due date.
8. Review the objectives for each study unit to confirm that you have achieved them. If you feel unsure about any of the objectives, review the study materials or consult your tutor.
9. When you are confident that you have achieved a unit's objectives, you can start on the next unit. Proceed unit by unit through the course and try to pace your study so that you keep yourself on schedule.
10. When you have submitted an assignment to your tutor for marking, do not wait for its return before starting on the next unit. Keep to your schedule. When the assignment is returned, pay particular attention to your tutor's comments, both on the tutor-marked assignment form and also the written comments on the ordinary assignments.
11. After completing the last unit, review the course and prepare yourself for the final examination. Check that you have achieved the unit objectives (listed at the beginning of each unit) and the course objectives (listed in the Courses Guide).

Facilitators/Tutors and Tutorials

Information relating to the tutorials will be provided at the appropriate time. Your tutor will mark and comment on your assignments, keep a close watch on your progress and on any difficulties you might encounter and provide assistance to you during the course. You must take your tutor-marked assignments to the study centre well before the due date (at least two working days are required). They will be marked by your tutor and returned to you as soon as possible.

Do not hesitate to contact your tutor if you need help. Contact your tutor if:

- You do not understand any part of the study units or the assigned readings
- You have difficulty with the exercises
- You have a question or problem with an assignment or with your tutor's comments on an assignment or with the grading of an assignment.

You should try your best to attend the tutorials. This is the only chance to have face-to-face contact with your tutor and ask questions which are answered instantly. You can raise any problem encountered in the

course of your study. To gain the maximum benefit from course tutorials, prepare a question list before attending them. You will learn a lot from participating in discussion actively.

Summary

The course guide gives you an overview of what to expect in the course of this study. The course teaches you the basic principles of news reporting and writing, and how these principles can be applied. It also acquaints you with the legal and ethical rules guiding your job as a reporter.

We wish you success with the course and hope that you will find it both interesting and useful.

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NATIONAL OPEN UNIVERSITY OF NIGERIA

National Open University of Nigeria
Headquarters
14/16 Ahmadu Bello Way
Victoria Island
Lagos

Abuja Office
No. 5 Dar es Salaam Street
Off Aminu Kano Crescent
Wuse II, Abuja
Nigeria

e-mail: centralinfo@nou.edu.ng
URL: www.nou.edu.ng

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MODULE 1 CRIMINAL JUSTICE ADMINISTRATION

UNIT 1 BACKGROUND TO CRIMINAL JUSTICE SYSTEM

CONTENTS

1.0 INTRODUCTION

Criminal justice administration deals with the way criminal justice is being carried out by the police, the prosecution courts and correctional institutions (Prisons). In a criminal justice system, these distinct agencies operate together both under the rule of law and as the principal means of maintaining the rule of law within society.

The background to Criminal justice administration therefore focuses on the development of the police, the courts, and the prisons in the administration of justice in Nigeria.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- describe the historical background of the Nigeria Police explain the history of the law courts
- explain the history of the correctional institutions (prisons).

3.0 MAIN CONTENT

3.1 The Development of the Nigerian Police

The history, development, performance and problems of the Nigerian police, courts and prisons have been discussed and analyzed by several scholars (Tamuno 1970, Adewoye 1977, Awe 1968; Alemika 1983, 1988, 1993a; Ahire 1991, 1993; Rotimi 1993; Alemika 1994; Alemika and Chukwuma 2000; Eweluwa 1980; Milner 1972).

Organised state police force was introduced to the country in 1861 when the British subjugated Lagos territory and made it a colony. Modern Nigeria was constituted through colonisation and colonial amalgamation of about four hundred nationalities (Otite 1991). These nationalities were relatively independent socio-political entities. Many of them, however, maintained economic, especially trade, linkages. Furthermore, these nationalities had different types and scales of social, political and economic organisations. The forms of economic organisation ranged from communalism to feudalism while the political systems ranged from the segmentary, democratic and republican forms of governance to centralised monarchical and proto-state formations. These numerous nationalities were invaded, plundered and subjugated to colonial rule by the British colonisers between 1861 and 1903.

As soon as each of these nationalities were brought under British colonial rule, a police force was established to enforce colonial laws and order, and to protect British interests (Tamuno 1970, Ahire 1991; Alemika 1993a). As a result, scores of police forces were created at local, protectorate, regional and national levels during the colonial rule of Nigerian people (Tamuno 1970, Alemika 1993a). Colonial police forces were established for the “prevention and detection of crime, the repression of internal disturbances, and the defence of the colony and the protection against external aggression” (Police Ordinance, 1897). The forces were routinely used to oppress the indigenous people and for punitive expeditions and expansion of colonial territory. Throughout the colonial rule therefore, Nigeria had several local police forces, in addition to the Nigeria Police Force.

The Nigeria Police Force was established in 1930 by merging the Northern Nigeria Police Force and the Southern Nigeria Police Force. From 1930 to 1966, there were national and local police forces. In Northern Nigeria, there were native authority police forces and in the Western Nigeria, there were local government police forces. These forces coexisted with the national police force - Nigeria Police Force. The Eastern Region of the country did not establish local police forces, but availed itself of the services of the Nigeria Police Force.

The local police forces were disbanded in 1966 on account of reports of widespread corruption, partisan political oppression, and poor standard of recruitment, training, conduct and performance (Working Party Report 1966, Rotimi 1993, Ohonbamu 1972). The 1979 and 1999 constitutions of the Federal Republic of Nigeria, provided for only a national police force - the Nigerian Police Force. The force is under the command of an Inspector General of Police. A command of the force under a Commissioner of Police is established for each State and the Federal Capital Territory of the Federation.

3.1.1 Functions of the Nigerian Police

The Nigeria Police Force has wide functions and power. Those functions are to:

a. Prevent, investigate and detect crimes;
b. Apprehend offenders,
c. protect life and property of citizens,
d. preserve law and order,
e. Maintain peace and order
f. Enforce all laws and regulations with which they are directly charged and perform military duties (section 4, Police Act)

In consonance with these duties, the Nigerian police are empowered to prosecute suspects, arrest suspects with or without warrant depending on the nature and circumstances of crime, serve summons issued by courts, grant bail to suspects pending appearance in courts, search and seize property believed to have been stolen or used to commit crimes, and regulate public assembly and procession etc.

Hence the first contact an offender has with the criminal justice system is usually with the police (or law enforcement agents) who investigate a suspect's wrong-doing and make an arrest. The police are empowered to use reasonable and necessary force and other forms of legal coercion and means to effect public and social order. The Police are primarily concerned with keeping the peace and enforcing criminal laws based on their particular mission and jurisdiction. Policing therefore includes an array of activities like investigation of crime, enforcement of specific Federal laws, maintenance of law and order and the provision of services [(1)]

SELF -ASSESSMENT EXERCISE 1

'The Nigeria Police Force was established in 1930'. Discuss.

3.2 The Development of Nigeria Court System

Nigeria under the colonial master developed its legal systems according to the English legal system. English legal system - courts, laws and other juridical forms- were introduced into Nigerian territory in March 1863. The English Common Laws and Equity were thereby introduced. Sources and classifications of Nigerian law include colonial laws, post-colonial statutes and military decrees, customary laws, Islamic legal system, and international conventions. Contemporary Nigerian legal system consists of a hierarchy of courts: Federal (Supreme Court, Court of Appeal, Federal High Court) and State (High Court, Customary Court of Appeal, Sharia Court of Appeal (presently in Northern States), Magistrate, Area and Customary Courts). The Federal Courts are superior to State Courts. However criminal cases are heard in the Magistrate, State High Courts and Federal High Courts.

The courts having criminal jurisdiction in Nigeria are grouped under two broad classifications: the courts of general criminal jurisdiction and the courts of special criminal jurisdiction.

Courts of general criminal jurisdiction are courts having jurisdiction to try all persons alleged to have committed an offence. While the courts of special criminal jurisdiction are courts having jurisdiction to try certain classes of persons alleged to have committed an offence.

The structure of the courts can be summarised as follows:

1 The trial chamber which consists of two chambers; the trial chamber and the appeal chamber (the president and two other judges)
2 Appeal chamber
3 The prosecutor (prosecution, investigation and legal services)
4 The registry.

However the structure of the court and sources of law on criminal matters shall be adequately expatiated upon in the next unit.

SELF-ASSESSMENT EXERCISE 2

Briefly discuss the introduction of English type of Legal system in the administration of justice in Nigeria**.**

3.3 The Development of Nigeria Prisons

The colonial government, in 1872, introduced English type prisons. The first prison was established in 1872 at Broad Street in Lagos, with a

capacity of 300 inmates. The Nigerian Prisons service is guided by the provisions of several laws enacted over time (e.g. Prisons Ordinance 1916; Laws of Nigeria 1948; 1958; Prisons Decree No 9 of 1972; Federal Government White Paper released in 1971). The primary function of the Nigerian Prison Service is to effect safe custody of 'criminal prisoners' (i.e. convicted prisoners) and 'prisoners' (anyone 'legally' detained but not convicted). In addition to this primary function, there are other statements of objectives of the Nigerian Prisons Service.

3.3.1 Objectives of the Nigerian Prisons

The Nigerian Prisons Service Staff Duties Manual lists the objectives of the Prison Department as:

(a) Safe custody of inmates;
(b) Identification of the causes of the anti-social behaviour of offenders,
(c) The treatment and reformation of inmates so that they will become disciplined and law abiding citizens of a free society;
(d) Training of inmates towards their eventual rehabilitation on discharge; and
(e) Generation of funds for government through prison farms and industries in Lagos, Abeokuta, Osun, and some major cities in Nigeria.

Largely, Nigerian prisons, in spite of rhetoric of correction, reformation and rehabilitation, remain human warehouses (Alemika 1983, 1987) or human cages (Kayode 1987) rather than reformatory centers. As a result it was observed that:

> Penal policy of reformation – rehabilitation in Nigeria is no more than a public disguise for 'modernising' while in practice nothing has changed from the inherited penal system that was geared towards the punishment, incapacitation, and deprivation of incarcerated offenders… in spite of official declarations that the Nigerian Prisons Service goals have shifted to reformation and rehabilitation, nothing has been done in any meaningful way to change the operations and organisations of the service to fulfill such goals (Alemika 1983:137).

In actual sense, the Nigerian Prisons are punitive theatres characterised by overcrowding, poor hygiene, absence of meaningful educational and vocational training, poor state or absence of recreational facilities and

violations of citizens' rights. The Nations law emphasizes the punishment and custody of offenders while reformation is prescribed. As a result, Idada (1972) argued that: "from the attitude of the courts, at least in Nigeria, there is clear evidence that punishment is the primary aim of the sentencing process. Here then, is a major area of conflict, which is deep and far-reaching. The result is that roles which are expected to be complimentary are now conflicting with disruptive consequences. For various considerations, convicts who could have responded better to other forms of treatment are sent to prisons … Hardened criminal careers have been thereby encouraged by this indiscreet use of magisterial powers and authority… (108-109).

SELF-ASSESSMENT EXERCISE 3

Critically assess the role of the Nigerian Prisons in the Criminal Justice Administration process.

4.0 CONCLUSION

The criminal justice is the system of practices and institutions of governments directed at upholding social control, deterring and eradicating crime by sanctioning those who violate laws with criminal penalties and rehabilitation efforts.

Criminal justice administration in Nigeria is undertaken within and by three core criminal Justice institutions - police, courts and prisons, noted above. The interplay of theses institutions are the core discourse of the criminal justice administration in Nigeria.

5.0 SUMMARY

In this unit we have discussed the development of the Nigeria Police Force (Law Enforcement Agents), the Nigerian Courts System (Legal system), the Nigerian prisons (correctional institutions) and the objectives of the Nigerian Prisons. In the next unit we shall examine the roles of these institutions in the administration of criminal justice in Nigeria.

6.0 TUTOR-MARKED ASSIGNMENT

1. 'The Nigeria Police Force was established in 1930'. Discuss.
2. Briefly discuss the introduction of English type of Legal system in the administration of justice in Nigeria**.**
3. Critically assess the role of the Nigerian Prisons in the Criminal Justice Administration process.

7.0 REFERENCES/FURTHER READING

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Other Sources

Laws of Nigeria 1984 and 1958

Decree no. 9 of 1972

Government white paper in 1971

Police ordinance 1897

Police Act

UNIT 2 WHAT IS CRIMINAL JUSTICE ADMINISTRATION?

CONTENTS

1.0 INTRODUCTION

In most countries of the world, Nigeria inclusive the criminal justice system is aimed at control and prevention of crime and equal justice (Equity, fairness and protection of individual rights). The core participants of the criminal justice administration are the law enforcement agent (the police), the courts (which include the judge, prosecutor and the court clerks) and the prisons. This unit is focused on the definition of Criminal Justice Administration, who is a criminal, difference between a criminal and an offender, the rights of an accused, the duties of the police, the duties of the prosecutor/defense counsel and the judge in criminal justice administration.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- define criminal justice administration
- differentiate between a criminal and an offender
- examine the rights of an offender
- describe the trial process in criminal cases
- explain the roles of the three elements of criminal justice administration.

3.0 MAIN CONTENT

3.1 What is Criminal Justice Administration?

Criminal justice administration is the system of practice and institutions of governments directed at upholding social control, deterring and mitigating crime and sanctioning those who violate laws with criminal penalties and rehabilitation efforts.

In 1969, for instance, because of the increase in crime rate in America, the American President established a commission called the 1969 American President's Commission to combat crime. In the process the commission defined the criminal justice system as the means for society to "enforce the standards of conduct necessary to protect individuals and the community. Hence in a civilized nation like America, efforts had to be made to ensure that the citizens abide by the rules and standard of the government in order to ensure safety of lives and property. This, therefore, led to the establishment of the president's commission in 1969 which to a large extent controlled criminal activities in the community.

In England and Wales, the criminal justice system aims to "reduce crime by bringing more criminals to justice and to raise public confidence that the system is fair and will deliver for the law-abiding citizens". In Canada as well, the criminal justice system aims to balance the goals of crime control and prevention and justice (equity, fairness, protection of individual rights)

SELF-ASSESSMENT EXERCISE 1

What is criminal justice administration?

3.2 Who is a Criminal?

Criminal, according to the Oxford dictionary of current English, means a person who has committed a crime or something relating to crime which is disgraceful and regrettable. Which means any action relating to crime which is not honourable and brings about disgrace is criminal. Sutherland and Cressey (1962) proposed a definition of crime which is accepted by most social scientists and legal scholars; he said "Criminal behaviour is the violation of criminal law. It is not a crime unless it is prohibited by the criminal law.

The criminal law in turn is defined conventionally as a body of specific rules regarding human conduct which have been promulgated by political authority which apply uniformly to all members of the classes

to which the rules refer and which are enforced by punishment administered by the state.

A criminal is therefore a person whose behaviour violates the criminal law (Nkpa, 1994). He added that it is the court that actually determines whether a person could be called a criminal or not, the individual who after court proceedings is found to have broken the criminal law is thereby referred to as a criminal. In other words, a criminal is a person convicted by a competent court of a crime

According to Obioha (2003) "there is no crime without a human being behind it, who is referred to as criminal from the legal point of view" such an act automatically renders the person involved liable to punishment under any order in council, ordinance or law or statute. Every criminal act, irrespective of its degree or place of commission has its measures well spelt out. Obioha (2002) affirmed this when he said that "any given legal document or society or convention which prohibits an act or omission would definitely spell out what happens to the individual actors". It is therefore not out of place for a person who violates the laws and rules of the society to be called a criminal. Therefore until a person is convicted of a crime, he is **NOT** a **CRIMINAL**.

3.2.1 Who is an Offender?

An offender could be said to be a person who violates the rules and norms of a society but not the criminal law as stated by the state. If he has not broken the criminal law therefore he is an offender not a criminal, for example quarrels between couples, family disputes, community disputes which do not violate the rules of the society (loss of life and property) as stated by the law. Even a person who has broken a statute or law is only an offender until proven guilty by the court of law.

SELF-ASSESSMENT EXERCISE 2

Differentiate between a criminal and an offender.

3.3 Who Makes an Arrest?

All over the world, arrest is made mostly by the police especially in criminal matters. Section 10 – (1) of the law on criminal justice administration in the high courts and magistrate courts of Lagos State states that a **police officer** may, without an order from a magistrate and without a warrant, arrest a person.

3.3.1 Process of Arrest

In making an arrest there are rules to be followed even by the police officer.

According to the laws of Lagos state on criminal justice administration, in making an arrest, the police officer or other person making the arrest shall touch or confine the body of the person to be arrested, unless there is a submission to the custody by the word or action

It is also to be noted that a private person can arrest a person committing a felony but must take him to the nearest police station or hand him over to the police at the earliest

A person arrested shall not be handcuffed, otherwise bound or be subjected to unnecessary restraint except by order of a court, a magistrate or justice of the peace or unless there is reasonable apprehension of violence or an attempt to escape or unless the restraint is considered necessary for the safety of the person arrested.

Section 3

(1) except when the person arrested is in the actual course of the commission of a crime or is pursued immediately after the omission of a crime or escape from lawful custody, the police officer or other person making the arrest shall inform the person arrested of the cause of the arrest.

(2) The police officer or the person making the arrest or the police officer in charge of a police station or any Law Enforcement Agency shall inform the person arrested of his rights to:

a) Remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice;

b) Consult a counsel of his choice before making or writing any statement or answering any question put to him after arrest.

3) The police officer or the person making the arrest shall inform the person arrested that he may apply for free legal representation from the office of the Public Defender, Legal Aid Council or any such agency.

Section 9

(1) Any person who is arrested, whether with or without a warrant shall be taken with reasonable dispatch to a police station, or other place for the reception of arrested persons and shall without delay be informed of the charges against him.

(2) The person who is arrested under sub section (1) of this section while in custody shall be given reasonable facilities for obtaining legal advice, take steps to furnish bail and otherwise make arrangements for his defence or release.

(3) Where any person who is arrested with or without warrant volunteers to make a confessional statement, the police shall ensure that the making and taking of such statement is recorded on video and the said recording, and copies thereof may be produced at the trial provided that in the absence of video facility, the said statement shall be written in the presence of a legal practitioner of his choice.

Section 10

(3) The commissioner of police shall remit to the office of the Attorney General a record of all arrests made with or without a warrant in relation to State offences within one week of the arrest.

Section 20

(1) also states that officers in charge of the police station shall report to the nearest magistrate the cases of all person arrested without warrant within the limits of their respective station whether such persons have been admitted to bail or not and the magistrate shall notify the Chief Registrar of the High Court of such report who shall forward the report to the Director of Public Prosecutions for necessary actions.

Sub section (2) states that where no report is made in accordance with subsection (1), the chief magistrate shall notify the Chief Registrar of the High Court of the development.

SELF -ASSESSMENT EXERCISE 3

Briefly discuss the process of arrest of a criminal.

3.4 Trial of a Criminal

Section 56 of the Criminal Justice Administration law of Lagos state states that every court has authority to cause to be brought before it any person who is within the jurisdiction and is charged with an offence committed within the state or which according to law may be dealt with as if the offence had been committed within the jurisdiction and to deal with such person according to law.

Section 58 states that subject to the powers of transfer contained in the enactment or law establishing any court, the place for the trial of an offence shall be in the division or district:

(a) where the offence was committed;
(b) where the act was done or where consequence ensues or to be done;
(c) where the act is an offence by reason of its relation to any other act which is also an offence;
(d)i. When it is uncertain in which of several divisions or districts an offence was committed;
(ii) When an offence is committed partly in one division or district and partly in another;
(iii) When an offence is continuing one, and continues to be committed in more divisions or districts than one; or
(iv) When it consists of several acts committed in different divisions or districts, it may be tried by a court having jurisdiction in any of such division or districts.

3.4.1 Offences against Federal Laws

Some offences are judged according to the Federal laws of the country, such offences include murder, assassination, treason, armed robbery etc. such cases are tried according to the law based on section 60. Where an offence is against Federal law-

(a) is begun in the state and completed in another state;
(b) is completed in the state after being begun in another state, the offender may be dealt with, tried and punished as if the offence had been actually or wholly committed in the state.

Section 61

(1) Whenever any doubt arises as to the magistrate court in which any offence shall be tried, a high court judge shall, upon the application of a magistrate or the accused, decide in which magistrate court the offence shall be tried.

(2) Any such decision of a high court judge shall be final and conclusive except that it shall be open to an accused person to show that no magistrates' court in the state has jurisdiction in the case.

3.4.2 Discontinuance in Criminal Cases by the Attorney – General

Section 71

(1) In any criminal proceedings for an offence against a law of the state and at any stage before judgment, the Attorney – General of the state may discontinue the proceedings, either by himself or through officers of his department and the defendant shall be discharged in respect of the charge or information immediately.

(2) if the defendant has been committed to prison he shall be released, or if on bail the recognisance shall be discharged, and where the defendant is not before the court when such discontinuance s entered, the registrar or other proper officer of the court shall immediately cause notice in writing of the entry of such discontinuance to be given to the officer in charge of the prison or other place in which the defendant may be detained and such notice shall be sufficient authority to discharge the defendant or if the defendant is not in custody shall immediately cause such notice in writing to be given to the defendant and his sureties and shall in either case cause a similar notice in writing to be given to any witness bound over to prosecute.

(3) Where a discontinuance is entered in accordance with the provisions of this section, the discharge of an accused person shall not operate as a bar to any subsequent proceedings against him on account of the same facts.

SELF-ASSESSMENT EXERCISE 4

Examine the laws guiding the prosecution of an accused in Nigeria.

3.5 Rights of an Accused

Given the presumption of innocence that is implicit in our constitutional scheme, the rights of Criminal suspect are:

a. Protection against unreasonable searches
b. Proper and prompt notification of charges
c. Due process.
d. Right to counsel (free)
e. Public trial

f. Impartial adjudication
g. Examination of prosecution witness
f. Fair trial

SELF-ASSESSMENT EXERCISE 5

Briefly analyse the rights of an accused.

3.6 Duty of Counsel

The duties of counsel in criminal cases as contained in the Legal Practitioners' Rules of Professional Conduct are:

a. Counsel must accept brief except in special circumstances
b. Counsel must discharge his duty diligently; the right to request for adjournment should not be abused.
c. Counsel is a minister in the temple of justice; he must uphold the law. Counsel should not join or conceal criminal transactions.

Rule 9 of the rules of professional conduct further provides that counsel should not allow his personal opinion to affect his conduct of the defence in a criminal trial. The primary duty of the defence is not to secure acquittal for the accused at all cost but to ensure that justice is done.

SELF-ASSESSMENT EXERCISE 6

Briefly discuss the duties of the counsel in criminal cases.

3.7 Forms of Punishment

Every criminal act, irrespective of its degree or place of commission has its measures well spelt out. Obioha (2002) confirmed this when he said that "any given legal document or society or convention which prohibits an act or omission would definitely spell out what happens to the individual actors". It is therefore not out of place for an offender who violates the laws and rules of the society to be punished.

Punishment can therefore be described as negative consequence of misdemeanor. In such a situation, the offender is made to suffer for the misdeeds, fault or the crime committed such punishment is usually inflicted by the state.

According to Encyclopedia of Philosophy, punishment is considered as something unpleasant, as an imposition. Characteristically punishment is unpleasant. It is inflicted deliberately on offender because of an offence committed.

In other words it is an infliction of pain and displeasure on the offender. Hence Hart (1992) defines punishment as a deliberate infliction of pain and displeasure where the pain may involve the loss of life, rights and property by an individual or groups of individuals who may be said to have been convicted of misdemeanor or felony. Punishment can also be deliberate and inadvertent.

Deliberate punishments are pains inflicted on an individual (offender) in line with the law, conviction and society's prescription (external force), while a non-deliberate punishment is when an individual (offender) undergoes a self- inflicting pain without the involvement of an external force.

However there are two forms of punishment. These are the informal and the formal forms of punishments.

Informal Punishment

Here the individual is punished for his or her offences following strictly the culture and sub-culture specifics and prescriptions.

In some cultures offenders are punished simply by being ostracized where others may be made to face or suffer punishments in form of flogging, boycott, sacrifices, payment of fine and exile. Informal form of punishment does not need the courts or the police. This was mostly used in the pre-court era.

Formal Punishment

This came into existence through the court system. Offenders in the formal form of punishment are dealt with by simply following the modern institutionalised agencies such as the law courts and other criminal justice systems. When offenders are tried in the law courts and found guilty, they are sometimes imprisoned or sentenced to death depending on the gravity of offence. Little wonder McClokle and Korn (1954: 88-89) believe that the isolation of the prisoners from free community means that he has been rejected by society. In order words, though he is still alive but lives in a secluded environment where he is considered not existing by the society for as long as he is confined to the prison walls.

SELF- ASSESSMENT EXERCISE 7

Examine forms of punishment.

4.0 CONCLUSION

Criminal Justice Administration covers the whole process of arrest, trial and execution of punishment as have been examined in this course. The combination of the roles of the police, the judges and the defence counsel are all intertwined in the administration of justice such that at the end of the trial, and conviction all the parties involved are satisfied.

5.0 SUMMARY

The summation of the criminal justice administration as dealt with in this course is the definition of criminal justice administration, the definition of a criminal, process of arrest and trial, rights of the accused, duties of the counsel and punishment.

6.0 TUTOR-MARKED ASSESSMENT

1. Define criminal justice administration.
2. Differentiate between an accused and an offender.
3. Examine the rights of an accused.
4. Examine the laws guiding the prosecution of an accused in Nigeria.
5. Examine the forms of punishment.

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UNIT 3 ESSENTIAL ELEMENTS OF CRIMINAL JUSTICE ADMINISTRATION

CONTENTS

1.0 INTRODUCTION

Criminal justice refers to the agencies of government charged with enforcing law, adjudicating crime, and correcting criminal conduct. The criminal justice system is essentially an instrument of **social control**: society considers some behaviors so dangerous and destructive that it either strictly controls their occurrence or outlaws them outright. The criminal justice system is best conceived of as the "Wedding Cake" Model (a four-layer cake). The relatively small first layer is made up of the celebrated cases involving the famous, wealthy, or powerful, or the not-so-powerful that victimise a famous person. Also included in this category are unknown criminals whose cases become celebrated either because they are brought before the Supreme Court for some procedural irregularity or because they involve media events. People in the first layer of the wedding cake receive a great deal of public attention, and their cases usually involve the full panoply of criminal justice procedures, including the famous defense attorneys, jury trials, and elaborate appeals. These do not represent how the system really

operates. The second and third layers of the cake are made up of serious felonies encountered daily in urban jurisdictions, such as robberies, burglaries, rapes, and homicides. Those that fall in the second layer do so by virtue of their seriousness, the prior record of the defendant, and the defendant's relationship to the victim. The more serious second layer crimes are likely to be prosecuted to the fullest extent of the law, and if convicted, these offenders receive lengthy prison sentences. Felonies are relegated to the third layer because if the amount of money taken is relatively small or the damage done trivial it usually receives an outright dismissal, a plea bargain, a reduction in charges, or a probationary sentence. The fourth layer of the cake is made up of the millions of misdemeanors. These are handled by the lower criminal courts in assembly-line fashion. Few defendants insist on exercising their constitutional rights because the delay would cost them valuable time and money.

Support for the wedding cake model comes from research showing that the criminal justice system acts like a funnel in which a great majority of cases are screened out before trial. At each stage of the system cases are dismissed, and relatively few reach trial. Those that do are more likely to be handled with a plea bargain than with a criminal trial. The funnel indicates that the justice system does not treat all felonies alike; only the relatively few serious cases make it through to the end of the formal process.

This unit focused on the roles of the Law enforcement agents (Police), the Adjudication (Courts) and the Correctional institutions (Prisons) in the administration of criminal justice in Nigeria.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- determine the roles of the police in criminal justice administration
- describe the roles of the courts in the administration of Criminal justice
- explain the role of the prisons in the administration of justice.

3.0 MAIN CONTENT

3.1 The Role of the Police in the Criminal Justice Administration

The first contact an offender has with the criminal justice system is with the police, who investigates a suspected wrong doing and makes an arrest. The Police identifies criminal suspects; investigate crimes;

apprehend offenders and participate in their trials; deterring crime through patrol; aiding individuals in danger or in need of assistance; providing emergency services; resolving conflict and keeping the peace; maintaining a sense of community security; keeping vehicular and pedestrian movement efficient; promoting civil order; operating and administering the police department.

There are more than 1,300 police stations nationwide. Police officers are not usually armed but are issued weapons when required for specific missions or circumstances. They are often deployed throughout the country, in 1989 the then Head of State – General Gbadamosi Babangida announced that a large number of officers be posted to their native areas to combat crime and facilitate police – community relations. This was necessary because they are indigenes who are well acquainted with the nooks and crannies of the area such that when criminals go into hiding the police would map out strategies to apprehend them from their hiding places. This worked to a large extent especially during the Niger Delta crisis.

It may be important to note here that the police department in charge of crime is the Criminal Investigation Department which is divided into state and federal Investigation Departments. Lagos State, for example, has its investigation department (Panti) with its head quarters at Alagbon. While the Federal Investigation Departments head quarters is at Abuja (FCT).

SELF-ASSESSMENT EXERCISE 1

The court Proceedings is not complete without the duty of the Police. Discuss.

3.2 The Role of the Courts in the Administration of Justice

Criminal courts are considered by many to be the core element in the administration of criminal justice. Ideally they are expected to convict and sentence those found guilty of crimes while ensuring that the innocent are freed without any consequence or burden.

Hypothetically, during the entire criminal court process the rights of the individual are protected at all times. These rights, determined by federal and state constitutional mandates, statutes, and case law form the foundation for protecting the accused. They include such basic concepts as the right to an attorney, the right to a public trial, and the right to a speedy trial amongst others. Under the protective umbrella of due process are included the rights to be present at trial, to be notified of the charges, to have an opportunity to confront hostile witnesses, and to have favorable witnesses appear.

Court dockets are too crowded and funds too scarce to grant each defendant the full share of justice. Consequently, a system known as **plea bargaining** has developed: defendants are asked to plead guilty as charged in return for consideration of leniency or mercy.

After conviction and sentencing, the offender enters the correctional system. The most common correctional treatment, **probation**, is a legal disposition that allows the convicted offender to remain in the community, subject to conditions imposed by court under the supervision of a probation officer. This allows the offender to continue to work and avoids the crippling effects of incarceration.

A person given a sentence involving incarceration ordinarily is confined to a correctional institution for a specified period. **Jails**, or houses of correction, hold offenders convicted of misdemeanors and those awaiting trail or involved in other proceedings, such as grand jury deliberations, arraignments, or preliminary hearings.

State and federally operated facilities that receive felony offenders sentenced by the criminal courts are called **prisons or penitentiaries**.

The last segment of the corrections system, **parole**, is a process whereby an inmate is selected for early release and serves the remainder of the sentence in the community under the supervision of a parole officer.

3.2.1 What is the Court?

As defined by the Oxford Dictionary of English, the court is the place where cases are heard with the judge, jury and law officers present.

The court can be said to be a place where disputes are settled and justice is administered. With regard to criminal justice, the court setting includes critical people who are referred to as the courtroom workgroup which include professionals and non-professional individuals. These are the judge, prosecutor and the defense attorney.

3.2.2 Structure of the Court

- The Trial chamber. This is divided into two: the Trial chamber and the Appeal chamber. It consist of the president and two other judges
- The Appeal chamber
- The prosecutor (Prosecution, Investigation and Legal services)
- The Registry.

The courts having jurisdiction in Nigeria are grouped under two broad classifications:

a. Courts of general criminal jurisdiction: these are courts with general jurisdiction to try all persons alleged to have committed an offence
b. courts of special criminal jurisdiction: these courts have jurisdiction to try only certain cases of persons alleged to have committed an offence

3.2.3 The Court Room Work Group

The Judge

The judge/magistrate is a person elected or appointed, who is knowledgeable in the law and whose function is to objectively administer the legal proceedings and offer a final decision to dispose of a case.

The judge is the umpire; he should not descend into the arena and should not take over the duty of the prosecutor or the defense. He should avoid talking too much. Where the judge takes over the duty of the prosecution, the judgment will be quashed on appeal.

The Prosecutor

The prosecutor/district Attorney is a lawyer who brings charges against a person, persons or corporate entity. It is the duty of the prosecutor to explain to the court what crime was committed and to detail what evidence has been found which incriminates the accused. The prosecutor is a servant of the state who makes accusations on behalf of the state in criminal proceedings, while the plaintiff is the complaining party in civil proceedings.

Defense Attorney

A defense attorney counsels the accused on the legal process, likely outcomes for the accused and suggests strategies. The accused not the lawyer has the right to make final decision regarding a number of fundamental points including whether to testify and accept a plea offer or demand a jury trial in appropriate cases.

It is the defense attorney’s duty to represent the interest of the client, raise procedural and evidentiary issues, and hold the prosecution to its burden of proving guilt beyond a reasonable doubt.

Defense counsels may challenge evidence presented by the prosecution or present exculpatory evidence and argue on behalf of their client. At trial, the defense attorney may attempt to offer a rebuttal to the prosecutor's accusations.

- In Nigeria and the United States of America an accused person is entitled to a government paid defense attorney if he or she is in jeopardy of losing his or her life and / or liberty. Those who cannot afford a private attorney may be provided one by the state. (Section 3- (3) of the criminal justice administration law of Lagos State)

3.2.4 Sources of Law on Criminal Procedure

Statute law is the main source of the law on criminal procedure in Nigeria. These statutes can be classified into two main categories:

a. **Principal Enactment**. Principal enactment is further divided into two:

- Criminal Procedure Act (CPA) for the states in Southern Nigeria
- Criminal procedure code (CPC) for the states in Northern Nigeria

b. **Secondary Enactment.** Only a few will be mentioned here because of the length of this course.

The list of secondary enactment is inexhaustible

- Constitution of the Federal Republic of Nigeria 1999
- Magistrate court Laws
- High court laws for the state and Federal capital territory
- Federal high court Act 1973
- Court of Appeal Act 1976
- Supreme court Acts
- Armed forces Decree no 105 of 1993

Police Act 1967, Children And young person's law 1994 etc, are the other secondary enactment.

SELF -ASSESSMENT EXERCISE 2

The court is a place of Judgment. Discuss.

3.3 The Process of Justice

As mentioned above, the initial contact an offender has with the criminal justice system is usually with the police. Police officers usually react to a report of a crime and go to the venue to make arrests at times resulting in a bloody shootout between the criminals and the police in cases where criminals are armed. An **arres**t occurs when the police take a person into custody for allegedly committing a criminal act. An arrest is legal when all of the following conditions exist when/where:

(a) the officer believes there is sufficient evidence (**probable cause**) that a crime is being or has been committed and that the suspect committed the crime;
(b) the officer deprives the individual of freedom; and
(c) the suspect believes that he or she is in the custody of a police officer and cannot voluntarily leave.

The police officer is not required to use the word arrest or any similar word to initiate an arrest; nor does the officer first have to bring the suspect to the police station. After arresting the criminal suspect, they investigate complaint of crime to gather sufficient facts or evidence to identify the perpetrator, justify an arrest, and bring the offender to trial. Investigations may take a few minutes or may take years to complete and involve numerous investigators.

After arrest and investigation, the suspect remains in police custody. The person may be taken to the police station to be fingerprinted and photographed and to have personal information recorded (booking). Witnesses may be brought in to view the suspect (in a **lineup**) and further evidence may be gathered on the case. Suspects will be interrogated by police officers to get their side of the story, they will be asked to sign a confession of guilt, or they may be asked to identify others involved in the crime. The law allows suspects to have their lawyers present when police conduct in-custody interrogations.

After proper police investigation the evidence in a case file is handed over to the prosecutor, who represents the state at any criminal proceedings, a decision will be made whether to file a complaint, information, or bill of indictment with the court having jurisdiction over the case. **Complaints** are used in misdemeanors; **information** and **indictment** are employed in felonies. Each is a charging document asking the court to bring a case forward to be tried.

Because it is a tremendous personal and financial burden to stand trial for a serious felony crime, the Nigerian Constitution provides that the state must first prove to an impartial hearing board that there is probable

cause that the accused committed the crime and, therefore, that there is sufficient reason to try the person as charged. In about half the states and the Federal system, the decision of whether to bring a suspect to trial (indictment) is made by a group of citizens brought together to form a **grand jury**. The grand jury considers the case in a closed hearing, in which only the prosecutor presents evidence. In the remaining states, a piece of information is filed before an impartial lower-court judge, who decides whether the case should go forward. This is known as **a preliminary hearing** or **probable cause hearing**. The defendant may appear at a preliminary hearing and dispute the prosecutor's charges. During either procedure, if the prosecutor's evidence is accepted as factual and sufficient, the suspect is called to stand trial for the crime. These procedures are not used for misdemeanors because of their lesser importance and seriousness.

An **arraignment** brings the accused before the court that will actually try the case. The formal charges are read to the defendants and they are informed of their constitutional rights (such as the right to legal counsel), have their bail considered, and have the trial date set.

If the bail decision has not been considered previously, it is evaluated at arraignment. **Bail** is a money bond, the amount of which is set by judicial authority; it is intended to ensure the presence of suspects at trial while allowing them their freedom until that time. Suspects who cannot afford bail or whose cases are so serious that the judge refuses them bail (usually restricted to capital cases) must remain in detention until trial. In most cases, this means an extended stay in the jail.

After arraignment, it is common for the prosecutor to meet with the defendant and his or her attorney to discuss a possible guilty plea arrangement. If a bargain can be struck, the accused pleads guilty as charged, thus ending the criminal trial process. In return for the plea, the prosecutor may reduce the charges, request a lenient sentence, or grant the defendant some other consideration.

If a plea bargain cannot be arranged, a criminal trial takes place. This involves a full-scale inquiry into the facts of the case before a judge. The defendant can be found guilty or not guilty, thereby leaving the case unresolved and open for a possible retrial.

After a criminal trial, a defendant, who is found guilty as charged, is sentenced by the presiding judge. Disposition usually involves a fine, a term of community supervision (probation), a period of incarceration in a penal institution, or some combination of these penalties. Disposition is usually made after a pre-sentencing investigation is conducted by the court's probation staff. After disposition, the defendant may appeal the conviction to a higher court.

After conviction, if the defendant believes he or she was not treated fairly by the justice system, the individual may appeal the conviction. An appellate court reviews the trial procedures in order to determine whether an error was made. It considers such questions as whether evidence was used properly, whether the judge conducted the trial in an approved fashion, and whether the attorneys in the case acted appropriately. If the court rules that the appeal has merit, it can hold that the defendant be given a new trial or, in some instances, order his or her outright release. Outright release can be ordered when the state prosecuted the case in violation of the defendant's right to a speedy trial. Offenders who are found guilty and are formally sentenced come under the jurisdiction of correctional authorities. They may serve a term of community supervision under control of the county probation department; they may have a term in a community correctional center; or they may be incarcerated in a large penal institution.

At the end of the correctional sentence, the offender is released into the community. Most incarcerated offenders are granted parole before the expiration of the maximum term given them by the court and therefore finish their prison sentences in the community under supervision of the parole department. Offenders sentenced to community supervision, if successful, simply finish their terms and resume their lives unsupervised by court authorities.

SELF-ASSESSMENT EXERCISE 3

Critically examine the process undertaken in criminal justice system.

3.4 The Trial Process

All persons are selected and questioned by both the prosecution and defense to determine their appropriateness to sit in court. Prosecutor's opening statement to the jury describes what they will attempt to prove and the major facts of the case.

Defense attorney's opening statement to the court begins by emphasising that any doubts about the guilt of the accused must be translated into an acquittal.

The procedure usually entails:

a) The prosecutor's presentation of evidence and direct examination.
b) Defense attorney's cross-examination.
c) Defense attorney's presentation of evidence and direct examination.

d) Prosecutor's cross-examination.
e) Defense attorney's closing statements to the jury.
f) Prosecutor's closing statements to the jury (summation).
g) Judge's instructions to the jury on the law, evidence, and standards of proof.
h) Pronouncement of verdict.
i) Judicial sentencing.

SELF-ASSESSMENT EXERCISE 4

Critically analyse the trial process in criminal justice administration.

3.5 Purposes of Sentencing

Sentencing is directed at deterrence, it is hoped to deter others from committing similar crimes.

Incapacitation – offenders are confined, not for what they have done, but for what it is feared they will do in the future.

Rehabilitation is meant to reduce future criminality by administering some type of treatment under supervision of correction agents.

Desert/retribution is directed to punish offenders for their misdeeds; offenders must now pay society back to make things even.

3.6 The Correctional Institutions: (Prisons & Jails)

3.6.1 What is Prison?

Prison is defined as detention centers for prisoners after trial. Offenders after proper and just trial at the courts of law and found guilty of offense are then turned over to the correctional institutions/authorities to serve their punishments as decided by the court.

Like all other aspects of criminal justice, the administration of punishment has taken many different forms throughout history. Earlier on, exile and execution used to be the primary forms of punishment because civilizations lacked the resources necessary to construct and maintain prisons. But in recent times, prison is the most publicly visible form of punishment.

Therefore jails are used for containment of the accused. Prison serves as a form of punishment, as well as removing criminals from the general population and inhibiting their ability to perpetrate further crimes. In other words prison offers criminals a chance to be rehabilitated; it offers

schooling or job training to prisoners as a chance to learn a vocation and thereby legitimate living when they are returned to society.

However a controversial area in punishment is the treatment of offenders by the criminal justice system. A substantial number of studies point to the fact that the criminal justice system is a tool to project the interest of the wealthy and it is biased against the poor. This bias is seen in various stages of trial for example, the area of securing a lawyer. The poor who cannot secure the services of a lawyer and does not even know of the existence of the Legal Aid Council is daily detained in police custody or thrown into the prisons. The DPP's office graphically is a relic, an archive of a sort exhibiting heaps of untreated files awaiting advice on matters that concern human liberty. Perhaps many of the personnel in the office of the DPP do not and cannot appreciate the trauma that suspects/accused go through when incarcerated.

SELF-ASSESSMENT EXERCISE 5

Analyse the role of the prison in criminal justice administration in Nigeria.

3.7 The Accusational System

An accusation is a formal criminal charge against a person alleged to have committed an offense punishable by law, which is presented before a court or a magistrate having jurisdiction to inquire into the alleged crime.

Accusation in legal terms means officially charging someone with a crime either by indictment by a grand jury or filing charges by a District Attorney. It can be said to mean in lay terms any claim of wrongdoing by another person.

Accusation in criminal law is a charge made to a competent officer against one who has committed a crime or misdemeanor, so that he may be brought to justice and punishment.

The paper in which the accusation is set forth—such as an indictment, information, or a complaint—is called an *accusatory instrument.*

Most state constitutions contain language similar to that in the Sixth Amendment.

In many state rules of Criminal Procedure, the accusatory instrument serves to protect the state constitutional rights of the accused. In Louisiana, for example, the purpose of a bill of information is to inform

a defendant of the nature and cause of the accusation against him or her as required by the Louisiana State Constitution (*State v. Stevenson*, 2003 WL 183998 [La. App. 2003]).

3.7.1 What does an Accusation Involve?

In any Federal criminal prosecution, the Statute setting forth the crime in the accusation must define the offense in sufficiently clear terms so that an average person will be informed of the acts that come within its scope. The charge must also inform the accused in clear and unambiguous language of the offense with which he or she is being charged under the Statute

3.7.2 Difference between Accusation and Allegation

Allegation is an attempt to slander someone on the basis of gossip or trivial information, such as newspapers or magazines. Accusation is also an attempt of accusing someone that they were responsible for what took place during an incident, based on hard evidence.

Accusation Charge

“an assertion that someone is guilty of a fault or offence; "the newspaper published charges that Jones was guilty of drunken driving"

Allegation allegement

“statements affirming or denying certain matters of fact that you are prepared to prove”

4.0 CONCLUSION

Criminal justice system is based on dispensation of justice. The criminal justice committees of each State of the Federation usually liaise with their Attorney General to work out mechanisms that will fast track the review matters of prison inmate especially those awaiting trials.

Human liberty they say is priceless. According to Anthony Aniagolu “the police and judiciary need only to be cleaned up and the other arms of government’ will automatically follow suit. Once the police can be trusted to apprehend criminals and (the courts entrusted to give them immediate trials and punishment, every member of the society would soon wake up and law and order will be established. In support of this, the former Inspector General of Police, Musiliu A. Smith said “it is to be acknowledged that a corrupt law enforcement officer undermines the confidence and trust of the public. Such an officer is also an obstruction

to the pursuit of justice". This also points to the fact that as a law enforcement officer a high level of discipline is required and where that discipline is trampled upon, it brings disgrace not only on the officer but on the whole body of officers.

5.0 SUMMARY

The final determination of guilt or innocence is typically made by a third party, who is supposed to be disinterested. This is a judge, a panel of judges or a jury panel composed of unbiased citizens. The criminal justice Administration is not complete without the involvement of the police, courts and prisons as adequately analysed in this course.

In many parts of the world, Nigeria inclusive, guilt or innocence is decided through the adversarial system. In this system, both parties (the accused and the accuser) will both offer their version of events and argue their case before the court (sometimes before a judge or a panel of judges and sometimes like in the United States of America, before a jury). The case should be decided in favour of the party which offers the most sound and compelling arguments based on the law as applied to the facts of the case.

6.0 TUTOR-MARKED ASSIGNMENT

1. Briefly examine the essential elements of criminal justice administration.
2. The court process is not complete without the duty of the police. Discuss.
3. The court is a place of judgment. Discuss.
4. Critically analyse the trial process.
5. Analyse the role of the Nigerian Prison in Criminal Justice Administration.

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MODULE 2 THE COURTS

UNIT 1 COMMON AND CIVIL LAW

CONTENTS

1.0 INTRODUCTION

It is widely believed that state government and law developed together therefore law and order could not exist in a society without the organised, authorised institution of the state. Law stands as a binding force that ties the State Government and its citizens. In this unit we shall focus on the definition of law, the concept of primitive /customary law, historical development of common law, definition of common law, differences between common law and civil law, principles of common law, criminal law, civil law, and the differences between them.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- define law
- examine the concept of primitive/customary law
- define common law
- define civil law
- differentiate between common and civil law
- examine principles of common and civil law
- examine criminal law and civil law
- differentiate between criminal law and civil law.

3.0 MAIN CONTENT

3.1 Definition of Law

Let us start this unit with the definition of law. If law is simply represented by any system of rules as some have suggested then it is synonymous to "morality".

Lon Fuller contended that "Law can be more appropriately… viewed as a direction of purposive human effort, consist in the enterprise of subjecting human conduct to the governance of rules". As such, law consists of both rules of conduct and the mechanisms or processes for applying those rules. Individuals must have incentives to recognize rules of conduct or rules become irrelevant, so institutions for enforcement are necessary. Similarly when the implications of existing rules are unclear, dispute resolution institutions are required and as conditions change, mechanism for development of new rules and changes in old rules must exist. In all, legal systems have very similar characteristics. It is necessary to note that law can be imposed from above by some coercive authority, such as king, a legislative, or a supreme court or law can also develop, " from the ground" as customs and practice evolves.

This explains the differences in law between countries, States, customs and even families. I remember when I was a young adult; my father stipulated that by 7pm we must all be in the house. So no matter how far or near we went, we tried as much as possible to be home before 7pm, if not, we would be severely punished. This rule guided our code of conduct in my family, unlike in other families where children could stay out till 9pm or probably the next day.

Law imposed from the top (authoritative law) typically requires the support of a powerful minority (the ruling class) while law developed from the bottom up (customary law) requires widespread acceptance.

Hayek noted that many issues of law are not; whether the parties have abused anybody's will but whether their actions have conformed to expectation which other parties had reasonably formed because they corresponded to the parties on which everyday conduct of the members of the group was based. This signifies that custom gives rise to expectations that guide people's actions and what will be regarded as binding Will are those principles that everybody counts on being observed and which thereby conditions the success of most activities. This leads to the analysis of the types of law.

SELF-ASSESSMENT EXERCISE 1

What is law?

3.1 Types/Categories of Law

As a result of the differences in culture, custom, modes of production etc, we have three different types of law. These are:

- Indigenous law
- Imported law
- Developed law

Indigenous law is defined as a set of law which originated from laws and legal systems in pre-colonial societies before the western "imported law" was imposed on or penetrated the third world countries. It existed as an integrated "state" or "official" law of each empire or kingdom. But with interaction with the western world and independence, laws were imported from western culture, such as "fundamental rights", "parliamentary democracy", "independent judiciary" etc. It therefore led to the development of imported law.

Imported law This is law and legal system which were imported or received from the modern western capitalist countries, either in the course of colonisation of third world countries or under less direct but nonetheless strong influence from these western countries.

Imported law is grouped into two major areas which are constitutional law and contract law. However it is noteworthy that in many colonies, beginning at a relatively early stage in their external domination, there developed a colonial judicial and administration system which was rather modernised or well arranged, although directed mainly to the maintenance of law and order. As a result various courts were established and developed on the line closely following the judicial system of the western ruling country and linked to that judicial system as the court which is the last report, e.g. the Supreme Court which is the

highest court in Nigeria, is linked with the then House of Lords and now Supreme Court.

Development law This refers to miscellaneous legislation whose aim is to promote, initiate, control and regulate the process of political, economic and social development of a nation in the post independent era.

3.1.1 Common Features of Development Law and Imported Law

Development law and imported law have two features in common arising from the nature of legislature itself:

1. They are both official and written laws enacted through the general legislative process.
2. The legislative techniques (including drafting style the legal framework and legal terminology) are based on a general legal system which is dominated by imported law and their precepts are similar.

3.2.2 Dissimilarities/Differences in Development and Imported Law

Development law has other characteristics that contrast strikingly with those of imported law. Generally, imported law is managed and enforced by the courts which play the role of neutral adjudicators in the settlement of disputes with the judiciary and lawyers as most important players. The development law is enforced and managed mainly by administrative department, at least, in the first instance.

In many cases the general form of enactment take the form of a direction to the administrative authority or an exhortation of the people; very wide discretionary powers are often delegated to administrative authorities.

SELF-ASSESSMENT EXERCISE 2

Examine in detail the major types/categories of law.

3.2 Concept of Customary Law

Customary law is recognised not because it is backed by some strong individuals or institutions but because each individual recognises the benefits of behaving in accordance with other individuals' expectations, given that others also behave as he expects. Alternatively if a minority coercively imposes law from above, then that law will require much

more force to maintain social order than is required when law develops from the bottom through mutual recognition and acceptance. Reciprocities are therefore the basic source both of the recognition of duty to obey law and of law enforcement in a customary law system. That is, individuals must "exchange" recognition of certain behavioural rules for their mutual benefits.

There are three conditions that make a duty clear and acceptable further to those affected:

1. The relationship of reciprocity out of which the duty arises must result from a voluntary agreement between the parties immediately affected; they themselves "create" the duties.
2. The reciprocal performance of the parties must in some sense be equal in value
3. The relationship within the society must be sufficiently fluid so that the same duty you have today, l may owe you tomorrow. In other words, the relationship duty must in theory or in practice be reversible.

As a result of the reciprocity of customary law as stated above, private properties rights and the rights of individuals are likely to constitute the most important primary rules of conduct in such legal systems.

Punishment is frequently the threat that induces recognition of law imposed from above but incentives must be largely positive when customary law prevails. Individuals' expectation of protection of personal property and rights must be equivalent or more than the cost they bear by obeying the rules and regulations of customary law. Here offences are treated as torts (private wrongs or injuries) rather than crimes (offences against the state or society). A potential action by one person has to affect someone else before any question of legality can arise, any action that does not, such as what a person does alone or voluntarily cooperating with someone else but in a manner that clearly harms no one, is not likely to become the subject of a rule of conduct under customary law. No wonder Fuller proposed that "customary law" might be described as a "language of interaction".

Interaction can then be accomplished by clear (although not necessarily written) codes of conduct enforced through reciprocally acceptable, well established adjudication arrangement accomplished by effective legal sanctions. Demstz added that property rights will be defined when the benefits of doing so cover the cost of defining and enforcing such right.

SELF-ASSESSMENT EXERCISE 3

Briefly describe the concept of customary law.

3.3.1 Causes of Evolution from Customary Law

- Dispute resolution is a source of evolution under customary law
- Offences against individuals are minutely provided for by the law e.g. rape, homicide and indecent assault.
- Recognition of reciprocal benefit.
- Dispute resolution procedures (disputants cannot be forced to court).
- Ability to obtain support in dispute resolution.
- The adjudicated solution tends to be accepted due to fear of sever boycott sanctions (total ostracism by the community)
- Thus, Carl Mayer proposed that the origin, formation and ultimate process of all social institutions (including law) is essentially the same as the spontaneous order Adam Smith described for markets.

SELF-ASSESSMENT EXERCISE 4

Examine the evolution from customary law to common law.

3.4 Development of Common Law

The common law originated in the reign of Henry 11 (ruled 1154-1189) not as a set of substantive rules but as a set of institutions and procedures to enforce rights whose substance was defined by community custom. However, with the development both of a legal profession and of the jury in the 13th century, new legal norms emerged whereby custom was rapidly turned into law, which then developed within the court system.

Common law is a system of law that prevails in England and in countries colonised by England. The name is derived from the medieval theory that the customs of local jurisdiction was applied in local or manorial courts. In its early development, common law was largely a product of 4 English courts- (Kings Bench, Common Pleas, Exchequer and Exchequer chamber).The term common law signifies that part of the legal system that did not develop out of equity, maritime law or other branches of practice.

Business and Finance Banking Dictionary defines common law as a body of law based on judicial decisions and precedent that has become the basis of the legal system in Great Britain and USA. Many of the legal concepts in use today, including the law of contracts are derived from common law. Common law is a body of law based on custom and

general principles and that, embodied in case law, serves as precedents or is applied to situations not covered by statute.

For (Britannica Concise Encyclopedia) Common law refers to the body of law that has grown out of legal customs and practices that developed in England. (Real Estate Dictionary)

The US Supreme Court defines common law as the body of judge made Law that was administered in the Royal Courts of England (Kings' Bench, Common Pleas, Exchequer and Exchequer chamber). In contrast with other bodies of English law administered in different courts such as equity, admiralty, cannon law and customary law of the borough and manorial courts. William Blackstone described the Common Law as the general customary law of the realms as interpreted by the Royal Judges, the "Living oracles" of the law.

Common Law in modern usage frequently used to denote unwritten law which is generally derived from cases decided by courts and not from the express authority contained in a Statute. As a general term, the common law may express the general customs of English law (and those in the legal systems derived from England, such as that in the United States of America), originating from her medieval inheritance, which refers to early laws, unwritten in form but administered by the common law courts.

The common law may also refer to the earlier development of English law administered by the common law courts before the Judicature Acts 1873-5. After the Judicature Acts and especially since the Judicature Acts of 1925 which set up the Supreme Court, the courts have developed common law principles alongside doctrines in equity.

The common law is not found in the statutory law because it is developed by judges. The common law is so flexible that it has been the strength of the English legal system and permitted continuity with change. Milson had written "the common law is a by product of administrative triumph, the way in which the government of England came to be centralised and specialised during the centuries after the conquest. (Historical foundation of the common laws 1981)

William Blackstone also called common law an unwritten law because the common law principles could not be found in any place but rather in the decision of judges in thousands of individual cases. He thought such laws should be respected because it represents practices stretching as far back as the human mind could recall as a result he calls it the "perfection of reason".

By the time of the American Revolution, however, an alternative understanding of the routine of common law emerged through the study of legal history introduced by Mathew Hayes' History of Common Law (1713), both English and American lawyers began to understand that the common law evolved and that it supports a growing emphasis on liberty. Joseph Priestly is also of the view that "many things in the present state of the law are unintelligible without the knowledge of the history and progress of it".

SELF-ASSESSMENT EXERCISE 5

Examine in detail the development of common law.

3.4.1 Characteristics of Common Law

- Primary rules characterised by a predominant concern for individual rights and private property.
- Responsibility of law enforcement falling to the victim backed by reciprocal arrangements for protection and support in a dispute.
- Standard adjudicative procedures established in order to avoid violent forms of dispute resolution.
- Offences treated as torts and typically punishable by economic payments in restitution.
- Strong incentives to yield to prescribed punishment when guilty of an offence due to the reciprocally established threat of social ostracism and
- Legal change arising through an evolutionary process of developing custom and norms

SELF-ASSESSMENT EXERCISE 6

Analyse the basic characteristics of common law.

3.4.2 Basic Principles of Common Law

- In common law, one must ascertain the facts
- One must locate any relevant statutes and cases
- One must extract principles, analysis and statements by various courts of what they consider important to determine how the next court is likely to rule on the facts of the present case.
- Later decisions and decisions of the higher courts carry more weight than earlier cases than those of lower courts
- One integrates all the lines drawn and reasons given and determines what "the Law is" then one applies the law to the facts.

Common law is divided into civil and criminal law. Civil law refers to the laws of contracts and tort while criminal law refers to the law of crime

SELF- ASSESSMENT EXERCISE 7

Examine the basic principles of common law.

3.5 Criminal Law

Criminal law is concerned with actions which are dangerous or harmful to society as a whole in which prosecution is pursued not by an individual but rather by the State. The purpose of criminal law is to provide the specific definition of what constitutes a crime and prescribe punishments for committing such crime. No criminal law can be valid unless it includes both of these factors.

In criminal litigation, the burden of proof is *always* on the State. The State must prove that the defendant is guilty. The defendant is *assumed* to be innocent; the defendant needs to prove nothing. (There are exceptions. If the defendant wishes to claim that he/she is insane, and therefore not guilty, the defendant bears the burden of proving his/her insanity. Other exceptions include defendants who claim self-defense or duress.)

In criminal litigation, the state must prove that the defendant satisfied each element of the statutory definition of the crime, and the defendant's participation, "beyond a reasonable doubt." It is difficult to put a valid numerical value on the probability that a guilty person really committed the crime, but legal authorities who do assign a numerical value generally say "at least 98% or 99%" certainty of guilt.

3.6 Civil Law

Civil laws are rules and regulations which govern transactions and grievances between individual citizens. It is also a law concerned with ordinary citizens

In civil litigation, the burden of proof is initially on the plaintiff. However, there are a number of technical situations in which the burden shifts to the defendant. For example, when the plaintiff has made out a prima facie case, the burden shifts to the defendant to refute or rebut the plaintiff's evidence.

In civil litigation, the plaintiff wins if the preponderance of the evidence favors the plaintiff. For example, if the jury believes that there is *more*

than a 50% probability that the defendant was negligent in causing the plaintiff's injury, the plaintiff wins. This is a very low standard, compared to criminal law.

A few tort claims (e.g., fraud) require that plaintiff prove his/her case at a level of "clear and convincing evidence", which is a standard higher than preponderance, but less than "beyond a reasonable doubt."

3.7 Differences between Criminal Law and Civil Law

Criminal law is much better known to laymen than civil law. One of the most fundamental distinctions between civil and criminal law is in the notion of punishment.

In criminal law, a guilty defendant is punished by either:

(1) Incarceration in a jail or prison,
(2) Fine paid to the government, or, in exceptional cases,
(3) Execution of the defendant: the death penalty.
In contrast, a defendant in civil litigation is *never* incarcerated and never executed. In general, a losing defendant in civil litigation only reimburses the plaintiff for losses caused by the defendant's behaviour.

In civil law, a private party (e.g., a corporation or individual person) files the lawsuit and becomes the plaintiff. In criminal law, the litigation is always filed by the government, who is called the prosecution.

So-called punitive damages are never awarded in a civil case under contract law. In a civil case under tort law, there is a possibility of punitive damages, *if* the defendant's conduct is egregious and had *either:*

(1) a malicious intent (i.e., desire to cause harm),
(2) gross negligence (i.e., conscious indifference), *or*
(3) a willful disregard for the rights of others. The use of punitive damages makes a public example of the defendant and supposedly deters future wrongful conduct by others. Punitive damages are particularly important in torts involving dignitary harms (e.g., invasion of privacy) and civil rights, where the actual monetary injury to plaintiff(s) may be small.

One can purchase insurance that will pay damages and attorney's fees for tort claims. Such insurance coverage is a standard part of homeowner's insurance policies, automobile insurance, and insurance for businesses. In contrast, it is *not* possible for a defendant to purchase insurance to pay for his/her criminal acts.

While a court can order a defendant to pay damages, the plaintiff may receive nothing if the defendant has no assets and no insurance, or if the defendant is skillful in concealing assets. In this way, large awards for plaintiffs in tort cases are often an illusion.

The notion that the threat of punishment will deter criminal conduct is based on the principle that human beings are rational. In practice, criminals are either impulsive (i.e., *not* rational) or believe that they will not be caught by the police. Therefore, the threat of punishment may *not* always deter criminal conduct, as one is reminded every day by reading reports of journalists.

Legal theory considers the possibility of loss of freedom (i.e., incarceration) as much more serious than merely paying damages to an injured plaintiff. As a result of this high value placed on personal freedom, legal dogma is that criminal litigation is more serious than civil litigation; therefore criminal defendants have more rights and protections than civil defendants. From a personal perspective, the economic reality is that most people would prefer to spend, for example, one year in prison, than pay a million naira from their personal assets.

The standard in tort cases is what a reasonable and prudent man would have done, the details of applying this standard to the facts of the case is decided by the jury, and *un*known to the defendant until the end of the trial.

In criminal law, police generally must first obtain a search warrant in a proceeding showing a "neutral and detached" magistrate that there is "probable cause", before searching or seizing items from a person's house.

In civil law, an attorney may request documents or a visit inside a building. (Federal Rule of Civil Procedure 34). He may demand information from the opposing party about any matter that is relevant to the case, provided that information is not privileged. He may also properly demand information that would be *in*admissible at trial, if such demand "appears reasonably calculated to lead to the discovery of admissible evidence". Federal Rule of Civil Procedure 26(b)(1). An attorney may even take the deposition of nonparties in a civil case, and require them to bring documents with them. Federal Rule of Civil Procedure 30,34(c).

In a criminal case, the suspect or defendant has the right to remain silent during questioning by police and prosecuting attorneys. In a criminal case, the defendant may choose to refuse to be a witness, and the jury may infer *nothing* from the defendant's choice not to testify.

However, in a civil case, the defendant must be available and cooperative for depositions and testimony as a witness in the trial. In fact, the defendant in a civil case in Federal court must voluntarily provide his/her opponent with a copy of documents "in the possession, custody, or control of the party that are relevant to disputed facts alleged with particularity in the pleadings." [Federal Rule of Civil Procedure 26(a) (1)(B)]

Further, the defendant in a civil case must voluntarily provide names of people who are "likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings." [FRCP 26(a)(1)(A)] In other words, the defendant in a civil case must help his/her opponent collect evidence that will defeat the defendant. And, at trial, if a party invokes its Fifth Amendment privilege against self-incrimination, then the judge will instruct the jury that they may make an adverse inference against the party who refused to testify.

There are often several years between the filing of a complaint in a civil case and the trial. So much for "speedy trial"

SELF-ASSESSMENT EXERCISE 8

Briefly explain the differences between criminal law and civil law.

4.0 CONCLUSION

However, it is possible to try a defendant in criminal court and then try the same defendant again in civil court, for the same event. The most famous example of this situation is the cases of O.J. Simpson. While legal scholars carefully explain the distinction between criminal and civil law, the plain fact is that one *can* be tried twice for the same event in different judicial systems. Another situation in which one can have two trials for the same event is a prosecution under State law (e.g., for assault and battery) in a State court, then a second prosecution in a Federal court under Federal Statute (e.g. civil rights violation).

It is also important to note that the prohibition against double jeopardy applies *only* to criminal trials. The corresponding concept in civil litigation is *res judicata*: one can have only one trial for claims arising from one transaction or occurrence.

5.0 SUMMARY

This unit has successfully treated the concept of primitive/customary law, the emergence of common, the characteristics of common law, the principles of common law, the basic ideas of criminal law and civil law and finally the differences between criminal law and civil law.

6.0 TUTOR-MARKED ASSIGNMENT

1. What is law?
2. Examine in detail the major types of law.
3. Critically examine the major differences of development law and imported law.
4. Briefly describe the concept of customary law.
5. Examine in detail the development of common law.
6. Analyse the basic characteristics of common law.
7. Examine the principles of common law.
8. Briefly analyse the differences between criminal law and civil law.

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UNIT 2 WHAT IS LAW?

CONTENTS

1.0 INTRODUCTION

The extent of law in human society is a means of attaining social harmony by the curbing of the evil passion of man. St Thomas Aquinas in investigating the origin of law in society posits that in the state of nature, man had existed in paradise without any personal or material problems, but this state was perverted by man's selfishness and it fell on man to fashion laws that will restore the ideal situation that had prevailed in the state of nature.

To Bodin, man needed a system of laws, because the original state of man was one of discovery, force and violence, therefore law is necessary for peaceful co -existence. Similarly, Hume believes that without law, government and coercion human society could not exist and law is a natural necessity for man. The focus of this unit is to examine what essentially is law, examine the types of law, categories of law and differences in these categories.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- examine what essentially law is
- analyse types of law
- examine the categories of law.

3.0 MAIN CONTENT

3.1 What Essentially Law is

In defining law we must distinguish between laws of nature and man – made laws. Laws of nature deals with that which is, i.e. something, the result of which can be deduced from known observation of cause and effect, like the laws of gravity or certain laws of economics.

Man-made laws, on the other hand are concerned with law as it ought to be, i.e. what the society thinks or lays down as a code of behaviour. This is based on the values, practices and good judgment of the people.

Law may be understood as rules and regulations which guide human behaviour, the breach of which the people of a given State or community may frown upon and which such a State or community can enforce. The law of a given community to Elias (1956) is the body of rule which is recognised as obligatory by its members. From this definition we can deduce three qualities of law:

a. The rules or patterns of behaviour must be recognised by the majority of people in the community;
b. They must be rules which the community demands that each of its members should observe;
c. Non- observance of the rule must lead to the imposition of sanction by the community.

As such, Law may be defined as a rule of human conduct imposed upon and enforced among the members of a given state. To Lon Fuller, "Law, when more appropriately viewed, as a direction of purposive human effort consists in the enterprises of subjecting human conduct to the governance of rules". Law consists of both rules of conduct and the mechanisms or process for applying those rules. Individuals must have incentives to recognise rules of conduct or the rules become irrelevant, so institutions for enforcement are necessary.

Law may also be referred to as the rule and measure of act whereby man is induced to act or restrained from acting. It is a rational ordering of things which concern the common good, promulgated by whosoever is charged with the case (Thomas Aquinas).

Austin, also views law as a command set either directly or circuitously by a sovereign individual or to a member of some independent political society in which his authority is supreme and supported by sanction. Law can be imposed from above by some coercive authority, such as a king, a legislature, or a supreme court. It can also develop from the

ground as customs and practice evolve and requires widespread acceptance. This is referred to as customary law.

SELF-ASSESSMENT EXERCISE 1

Describe what law essentially is.

3.2 Types of Law

Law is divided into two broad types: the written or enacted laws and unwritten or un-enacted laws.

- The written or enacted laws are laws passed by the elected representatives of the people meeting in a legislature. The law must be passed in the prescribed manner. For instance, some laws may require the votes of two-thirds of the total member of the legislature, while others require only a simple majority.
- The unwritten or un-enacted laws are a set of binding rules of conduct which the society will enforce. We have two types in Nigeria; they are customary law and the common law.

Customary Law is derived from the immemorial customs of the people. We must note that not all customs are laws. It is only such customs as the people recognise as valid in certain situations and which will be enforced by the local community for example; one of the essentials of a valid marriage under customary law is the payment of bride price.

The common law on the other hand is a judge – made law, that is, it grows as a result of decisions handed down by the courts which may be followed in subsequent cases. Here law owes its existence not to the legislature or customs but to the decision of judges. Once such a decision is rendered by the highest court of the land e.g. the supreme court of Nigeria, it will become the law of the land until it is changed by the legislature. Thus, the doctrine of judicial precedent is an integral aspect of the common law.

However Common Law has grown from various sources; they are:

a. Customary Law
b. English Law
c. Local legislation
d. Law reports
e. Text books
f. Judicial precedents

- **Customary Law**

The various bodies of customary law form the most important sources of our law, primarily because they govern most of our personal laws. Subjects such as marriage, and divorce, succession and inheritance, land tenure, chieftaincy matters are still governed by customary law (Trubek & Galanter, 1974)

Nigeria is made up of many ethnic groups with diverse customs and culture. Sometimes, within the same groups customs do vary from place to place. But a custom will have the force of law only if recognised as such by the majority of the people and enforced by the courts.

- **English Law**

English Law was introduced in 1863, into the colony of Lagos on the amalgamation of the North and South in 1914, and extended to the rest of Nigeria (Griffiths, 1984)

- **Local Legislation**

This includes statutes and decrees and edicts. Statutes are law as passed by our legislature. To become law, they must go through the necessary procedure and must be assented to by the president or the governor as the case may be.

Decrees and edict with the suspension of all legislatures, decrees and edicts become the modes of exercising legislative powers. These decrees and edicts become laws immediately they have been signed by the head of the Federal Government and the State Government respectively.

- **Text Books**

The courts turn to text books written by notable authors on customary laws, when such points have not been previously decided in the court and where there is no reliable witness available. Section 58 of the Evidence Act provides that “any book or manuscript recognised by natives as a legal authority is relevant”.

- **Law Reports**

The most important of the early law reports were the Nigerian Law Report and the Court of Appeal Reports. Other recognised law reports have since been added to the list.

- **Judicial Precedents**

One of the consequences of the reception of English common law in Nigeria is the adoption of the doctrine of judicial precedent. It means that the decision of the superior courts will be followed by inferior courts in similar cases, thus it is closely connected with the hierarchy of courts. It follows that the decision of the highest court will bind all other courts, thus becoming the law of the land until changed by Statutes.

SELF-ASSESSMENT EXERCISE 2

Examine the major types of law.

3.3 Categories of Law

Law is categorised into three main categories; indigenous law, imported law, and development law.

- **Indigenous law** is defined as a set of laws which originated from laws and legal systems in pre-colonial societies before the western "imported law" as imposed on African countries.

The indigenous law existed as an integrated state or official law of each empire in kingdom. Generally speaking, this indigenous empires or kingdoms seem to have had two distinct underlying motivating principles which tended to contradict one another.

First was the existence of an absolutely despotic king or emperor at the apex of the State apparatus, who was often thought of as a living god or descendant of gods worshipped by the dominant class or group of people in the state. Thus, the emperor or king had apparently unlimited arbitrary power both in secular and sacred matters. In actual practice, of course, this power was unlimited and restricted by convention and by religious custom or law, as well as the actions of the elders surrounding him, who were inclined to follow precedents and complicated procedures.

Secondly, in contrast with the villages which were unduly scattered and fragmented geographically, a wide range of autonomy was recognised in the daily life of the villagers. Division of labour and social stratification gradually emerged, but the structure of village society was generally characterised by equality and homogeneity, because threats of kinship and lineage often wove villagers closely together. Therefore it was not necessary to establish any clear legal system with fixed norms in order to resolve disputes between villagers. Almost all disputes could be settled through informal meditation or conciliation with the general participation of all villagers (Chiba, 1986). The form of law at this level

therefore is mainly oral, unwritten and based on the memories of village elders who played a central role in this process.

- **Imported law** refers to laws and legal system which were imported or received from the modern western capitalist countries either in the course of the colonisation of developing countries or under less direct but nonetheless strong influence from these western countries. It must be noted that imported western law is the law of western "modern capitalist state" and does not encompass all the laws of the entire legal system of these western countries. Imported law is today the basic and most important component of the official legal system in almost all third world countries, due to its nature as a "legal system". All basic concepts and the way of thinking about law is formulated on the basis of western law and legal tradition. Legal profession, Court systems and judicial administration have continued the legacy of colonial times and have close connotations with their counterparts in the former suzerain country. This explains why Nigerians who have studied law in England come to Nigerian Law School for one year and be called to bar before they can practice in Nigeria.

- **Development law:** refers to miscellaneous legislation whose aim is to promote, initiate, control and regulate the process of political economic and social development of a nation in the post independence era.

At the beginning of independence, the international and internal situations surrounding these countries were not favorable in political and economic terms. There were and still are many economic and social problems which resulted in political instability. It was necessary for the state to take active and progressive measures in order to overcome these problems and to secure political stability, hence the emergence of development law.

However development law and imported law have two features in common. One arises from the nature of legislation itself. These laws are not necessarily "official and written laws" enacted through the general legislative process. Therefore as far as the formality of law is concerned, development law closely resembles imported law.

Furthermore, because legislative technique (including drafting style, the legal framework and legal terminology) is based on a general legal system which is dominated by imported law and its precept, it may be difficult in certain cases to distinguish development law clearly from imported law.

SELF-ASSESSMENT EXERCISE 3

Critically examine the three categories of law.

4.0 CONCLUSION

The definition of law as have been analyzed above can be natural or man-made but one thing is true of both laws; they are developed to check man's behavior in the society as well as protect individuals' lives and properties.

5.0 SUMMARY

This unit can be summed up as covering following objectives: examination of what law essentially is, the major types of law, which are natural and man-made laws and the various categories of law.

6.0 TUTOR-MARKED ASSIGNMENT

1. Describe what law essentially is.
2. Examine the various types of Law.
3. Critically examine the three categories of law.

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UNIT 3 TYPES OF LEGAL SYSTEMS

CONTENTS

1.0 INTRODUCTION

The history of law is closely connected to the development of civilization, ancient Egyptian Law dating as far back as 3000 BC, contained a civil code that was probably broken into twelve books. It was based on the concept of Ma'at, characterised by tradition, rhetorical speech, social equality and impartiality. (Hallaq, 2005, Théodoridés, 1999).

However as we saw in the previous unit, what is law there are several different types of legal systems used by most Commonwealth countries. These are Common Law, Civil Law which is referred to as the *civil code system* to avoid confusion with the civil/criminal legal distinction under Common Law, Religious Legal System and Totalitarian Legal system. Many countries also have some elements of Customary Legal System existing alongside their main legal systems. This unit is focused on the analysis of these legal systems, their principles and differences and the meaning of the concepts *mala in se* and *mala prohibita.*

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- analyse the Customary Legal System
- analyse the Common Legal System
- describe the Civil Code System
- explain Religious Legal System

- analyse Totalitarian Legal System
- describe the principles of legal systems
- define *Mala in se*
- define *Mala prohibita.*

3.0 MAIN CONTENT

3.1 Customary Legal System

Customary legal system is recognised not because it is backed by the power of some strong individuals or institution, but because each individual recognises the benefits of behaving in accordance with other individual expectations given that others also behave as he expects. Alternatively, if a minority coercively imposes law from above, then that law will require much more force to maintain social order than is required when law develops from the bottom through mutual recognition and acceptance.

Reciprocities are the basic source both of the recognition of duty to obey law and law enforcement in a customary legal system. That is, individual must "exchange" recognition of certain behavior rules for their mutual benefits. Based on this, Fuller suggested three conditions that make a duty clear and acceptable to those affected (Customary Legal System).

a. The relationship of reciprocity out of which the duty arises must result from a voluntary agreement between the parties immediately affected. They themselves "create" the duty
b. The reciprocal performances of the parties must in some sense be equal in value.
c. The relationships within the society must be sufficiently fluid so that the same duty you owe me today, I may owe you tomorrows. In other words, the relationship of duty must be in theory and practice irreversible.

As a result of this reciprocity in customary law, private property rights and the rights of individuals are likely to constitute the most important primary rules of conduct in such legal systems. Since voluntary recognition of these laws and participation in their enforcement is likely to arise only when substantial benefits from doing so can be internalised by each individual.

In customary legal system incentives prevail because individual expect to gain as much or more than the cost they bear from voluntary involvement. Protection of personal property and individual rights is a very attractive benefit. Under customary law, offences are treated as

torts (Private wrongs or injuries) rather than crimes (offences against the state or society). A potential action by one person has to affect someone else before any question of legality can arise. Any action that does not, such as what a person does alone or in voluntary cooperates with someone else but in a manner that clearly harms no one, is not likely to become the subject of a rule of conduct under customary law. Hence Fuller asserted that "all customary law can be said to be described as language of interaction". It must be noted here that the customary system described above depicts that of the advanced societies.

SELF-ASSESSMENT EXERCISE 1

Examine the Customary Legal System.

3.2 Common Law

As have been analysed in the previous units, this system developed from a set of traditional laws first brought together in England around the 12th Century. The name derives from the fact that it was one set of laws "common" to the whole kingdom, rather than different sets of laws used by individual communities or tribes.

One of the distinguishing features of common law is that it developed through usage rather than being imposed by codified legislation as with the civil code system. *(Legislation* means laws - sometimes also called *statutes* - that are made by a representative body such as a parliament. *Codification* is when individual laws of a similar nature are bundled together under one new law.)

Common law developed based on the outcomes of individual court cases. Each court case provided a basis for judging the next case of a similar nature. No wonder Coke (1794) described it as "reason is the life of the law, nay the common law itself is nothing else but reason". By this he meant not the "natural reason" of every man but "artificial reason" of lawyers, obtained by long study and experience. For some like John Davies (1569-1626), it was "nothing else but the common Custom of the realm", William Blackstone (1723-1780) also posited that common law derived its authority from immemorial usage and "universal reception throughout the kingdom".

There are several core principles which guide common law, though they are not necessarily unique to it. These include:

1. The rights of the individual exist alongside those of the State;
2. It is adversarial;
3. It has a presumption of innocence;

4. It develops case law through judgments and precedents;
5. Case law co-exists with Statute law and - in most cases - a Constitution;
6. Crimes are punished and civil wrongs are rectified by compensation/ restitution.

- **Based on the rights of the individual**

Common law derived originally as a way of determining individual rights - especially property rights - and balancing them against the best interests of society. The common laws which were developed and applied by succeeding judgments were meant to regulate the lives of individuals living in society rather than impose laws from above (authoritarian). Proponents of common law say it also builds laws from the ground upwards - from the "grassroots" - case-by-case, rather than imposing them from the top, even by parliaments which are meant to represent the people. Common law is therefore said to be more responsive to individual needs and circumstances.

- **Adversarial**

Common law systems rely on adversarial justice. This means the two sides in a case have the chance to present their arguments equally before a neutral umpire for a decision. Depending on the court, these neutral umpires can be judges, juries, magistrates or chairs of tribunals and in some cases combinations of these. The judge or jury is expected to hear all the evidence presented by each side, together with legal arguments, and make a decision on who has the strongest case. In most criminal cases, sentence is passed by a judge, whether or not there is a jury. In civil cases juries can sometimes determine the extent of compensation.
In criminal cases the two adversaries are the *prosecution* representing the State and the *defence* representing the accused person. In civil trials, the *plaintiff* makes a complaint against another person or company called the *defendant* (or in some cases the *respondent*). In many common law countries it is considered so important that the adversarial system operates fairly that the judge may appoint a lawyer paid for by the taxpayer to defend someone who cannot afford their own lawyer. This is often called L*egal Aid*. Under the adversarial system, each side is usually allowed to bring witnesses to testify in the court. These witnesses are usually questioned by the lawyer who called them and are then cross-examined by the opposing lawyers. The magistrate or judge makes sure both sides get the chance to present their case fairly.

At the end of the trial or hearing, both sides then summarise their case to the judge. The judge will then normally present his or her own summary of the case to them before sending them into a private room to discuss

the case and reach a verdict. If one side does not like the outcome, they may ask the court for "leave to appeal" to a higher court, where the main points of the case are argued again in front of a new judge or a group of judges sitting as a *bench*. This adversarial system can go all the way to the highest court in the land if the matter is important enough or involves significant constitutional matters. The highest court's decision is usually final, unless new evidence comes to light in later years which convinces them to re-open the case.

- **Presumption of innocence**

The presumption of innocence means that an accused person is innocent of the accusations until a judge has determined they are not. The accused does not have to prove innocence - that is presumed. The accuser, acting through a prosecutor, must convince a court of their guilt "beyond reasonable doubt". Under common law in modern democracies, if a judge or jury has any doubt that the accused is guilty, they must return a verdict of not guilty.

- **Case law**

Judges play an active part in deciding law. Their judgments are binding on lower courts unless overridden by specific legislation. This is not true in civil code systems where the interpretations of judges is either given less weight or banned altogether, as in the Napoleonic Code - one of the earliest and most common of the modern civil code systems.

One of the features of common law systems is that courts not only have to determine the facts in a case but they also have to argue all the relevant legal precedents set by previous courts making decisions on similar matters. As Hale (1609-1676), puts it, the authority of the common law in England was derived from “their being admitted and received by us” either through statute or “by immemorial usage and custom in some particular cases and courts”. Both the prosecution and the defence lawyers present not only evidence of events but also evidence about how these previous cases were resolved. Judges and juries too are expected to consider not only the facts of the current case but also the arguments about previous cases. For this reason, judgments in common law cases are often long and involved. This is necessary so that future lawyers, juries and judges can see how a verdict was reached when considering their own cases. Traditionally these lengthy and intricate judgments were printed annually in a court's law reports.

- **Co-exists with other laws**

Judges interpret the Constitution and Statutes (i.e. parliament-made laws) where they are unclear. Of course, the constitution of a country is the paramount law and judges are not able to change its basic provisions. But even with the constitution they can interpret how it is applied in real life. In strong democracies, judges have a role in interpreting laws as they interact with each other. For example, a court may decide that legislation passed by a Parliament is unlawful because it clashes with more important constitutional rights. Such cases are usually eventually determined by the highest court in the nation or state, such as a high court or Supreme Court. If these courts decide a Statute is unconstitutional, Parliament will normally amend it; otherwise it cannot be successfully applied. The ability for judges to interpret Statute law against a background of common law means legislation does not have to state every possible circumstance. It can state the general principles and set limits (for example on the maximum amount an offender can be fined) and leave the rest for the courts to determine in line with other statute laws and common law precedents.

- **Punishment and compensation**

Punishment and compensation as remedies to wrongdoing are not unique to common law, though it is useful to understand the principles behind both. In common law, the concept of compensation is normally applied in the civil rather than the criminal sector, where the State prosecutes and the courts impose punishments for an offence against the State itself.

In civil courts, the principle is that a victim of a wrong by another person (or group such as a company) should be compensated for that wrong, usually with money, known as *damages*, but also by a court order to do something to put matters right, such as rehabilitate land which has been damaged. Common law proceeds on the basis that compensation should be sufficient to return the victims to the state they were in before the wrongdoing took place. Of course, in a civil action where someone has lost a limb, no amount of damages will ever replace a real limb. But the courts will set an amount so the victim should have no further ill effects from the harm they were done by the perpetrator (the one who is ordered to pay).

SELF-ASSESSMENT EXERCISE 2

Examine the principles of Common Law Legal System.

3.2 Civil Code Systems

This is the most common type of legal system in the world, either in its pure form or as a basis upon which other elements such as religious law are added. Civil Code systems seek to resolve non-criminal disputes such as disagreements over the meaning of contracts, property ownership, divorce, child custody, and damages for personal and property damage.

The **Civil Code** or **Civil Law** system is also called by other names such as *Roman law*, *Continental law* or *Napoleonic law or Civil commae*. All are systems where laws are legislated by parliament or some other form of representative government and codified (i.e. brought together). They are distinguished from common law mainly because they come from parliaments, not from court cases. Indeed, in civil code systems the courts do not usually have as much freedom to interpret laws. In the original Napoleonic courts judges were specifically banned from interpreting Statute laws.

The underlying principle of civil code systems is that the laws applied to citizens are made by citizens through their political representatives. Judges are there to administer laws, not make them.

Laws are **codified**, which means laws of a similar nature are bundled together to create a rational system across the whole area. Advanced societies try to ensure that all laws have consistent principles and interact with each other in a logical way without conflict between laws. In complex societies codified laws are vast and detailed. Critics say this means they are hard to change but proponents argue they give certainty and predictability.

Civil code systems are mainly **inquisitorial** rather than adversarial. That means courts are there to track down the truth, not to be a forum where two sides battle to demonstrate to a judge or jury who is right and who is wrong. Judges in civil code trials are usually more active in questioning witnesses, challenging evidence and even - in some cases - directing investigations. This is quite different to common law trials where the judge is supposed to be impartial.

Although the presumption of innocence is not usually stated explicitly in civil code laws, many countries have subsequently built it into their systems by adopting external or international obligations. For example, most European countries have ratified the European Convention on Human Rights which guarantees the right to a fair trial and the presumption of innocence. Thus these principles have become part of their national laws.

Trial by jury is less common in inquisitorial systems, especially when judges have a strong role in hunting down the "truth' in a case rather than arbitrating between two adversarial parties. The common law developed to give accused people the option of trial by their "peers", meaning people from society in general rather than from the country's rulers.

SELF-ASSESSMENT EXERCISE 3

Civil Legal System is one of the Legal Systems in Nigeria. Justify this statement.

3.3 Religious Legal System

Religious law is explicitly based on religious precepts. Examples include the Jewish Halakha and Islamic Sharia; both of which translate as the "path to follow"; while Christian Canon Law also survives in some church communities. Often the implication of religion for law is un-alterability, because the word of God cannot be amended or legislated against by judges or governments.

Although throughout history many countries have had legal systems based wholly or partly on religious laws and teachings, today by far the most common are those aligned to Islam (for instance the northern states of Nigeria practice Islamic (Sharia) law). Another example is the Torah or Old Testament, in the Pentateuch or Five Books of Moses. This contains the basic code of Jewish law, which some Israeli communities choose to use. The Halakha is a code of Jewish law which summarizes some of the Talmud's interpretations. Nevertheless, Israeli law allows litigants to use religious laws only if they choose. Canon law is only in use by members of the clergy in the Roman Catholic Church, the Eastern Orthodox Church and the Anglican Communion.

For instance, Islamic law (Sharia) is based on the Koran and Sunnah holy books, supplemented by interpretations over the centuries by Muslim scholars and jurists. The Quran has some law, and it acts as a source of further law through interpretation, (Glenn, 2000). It provides rules on how practicing Muslim should live their lives. Like common law and civil code law, Islamic law is still evolving and there are still disagreements about exactly what makes up Sharia and its scholarly interpretations (Fiqh). But during the last few decades, one of the fundamental features of the movement of Islamic resurgence has been the call to restore the Sharia, which has generated a vast amount of literature and affected world politics.(Akhlaghi, 2005).

Islamic law shares some similarities with common law, principally the fact that it has evolved through application, with current judgments

based on precedents and the analysis of previous cases of a similar nature. There are, however, some fundamental differences in areas such as individual rights and equality before the law, especially in the treatment of women.

Although some Islamic scholars disagree, judges in Islamic law are given freedom within Sharia and Fiqh to analyse precedents (case law) and contemporary circumstances to provide judgments suitable to the present day. In some countries, however, judges are encouraged or even required to make very literal applications of the laws, with little room for contemporary interpretation. For example, there is still ongoing debate between fundamentalists and modernists in Islam about the correctness of severing limbs for crimes.

Many countries where Islamic law forms part of their legal system also utilize elements of civil code law, especially countries which gained independence from colonial powers which themselves relied on civil code law. In many countries, civil code laws apply to certain aspects of public life while Islamic law applies to other aspects, usually more personal matters such as family law. In many countries two separate court systems are maintained to deal with these differences.

SELF-ASSESSMENT EXERCISE 4

Briefly assess the Religious Legal System in Nigeria.

3.4 Totalitarian Legal System

Through modern democratic eyes, totalitarian legal systems; whether hard-line communist states, feudal autocracies, personal dictatorships or absolute monarchies are not so much separate systems of law as the arbitrary application of some elements of the other three systems and the rejection of some basic principles of human rights.

Probably the most common system of totalitarian law is socialist law, though this is currently on the wane throughout the world. Even in its most virulent days, socialist law was arguably little more than an amalgam of civil codes law overlaid on Marxist-Leninist theory. It differed from traditional civil code legal systems in areas such as the rights of the individual, property law or unbiased court processes.

One cannot, however, dismiss socialist and other totalitarian states as being merely misapplied civil code law. The fact that their laws lacked provision for the individual to challenge the state meant they could never evolve. The great strengths of common law and civil code law and some modern brands of Islamic law are that they change through

application and correction at the hands of the people themselves, individuals involved in court cases in common law and through the democratic process of legislation in the case of civil code law.

Not only are there significant differences in emphasis between common law, civil code law and religious law systems and vast disparities in their application around the world, but measures such as human rights, crime rates or the severity of sentences are open to subjective interpretation depending on one's views on individual rights compared with the obligations of citizenship.

Modern China, for example, is evolving from a socialist law system to a more mainstream civil code law system, though is still a considerable way short of countries such as France in applying principles such as equality before the law or freedom of speech.

SELF-ASSESSMENT EXERCISE 5

Briefly examine the Totalitarian Legal System.

3.4 Mala in se

Crime can be divided into two distinct categories under the law, natural and legal crime. Natural crimes are crimes that are understood to be wrong and unacceptable in and within society. *Mala in se* are Wrongs in themselves; acts morally wrong and offenses against conscience. Crimes *mala in se* are usually common-law crimes or those dangerous to life or limb.

Mala in se is another term used to describe natural crime. It is known to be offenses or acts that a person should inherently understand as wrong and should not partake in such actions as murder, stealing, prostitution, gambling just to mention a few.

In Criminal Law, crimes are categorized as either *mala in se* or *mala prohibita*. The latter, a term that describes conduct that is specifically forbidden by laws.

SELF-ASSESSMENT EXERCISE 6

Mala in se is a term used to describe a particular type of crime. Discuss.

3.5 Mala Prohibita

Legal crimes, on the other hand are acts or offenses that are in direct violation of a law. *Mala prohibita* is associated with legal crimes because society has deemed the action(s) as violations of laws against the best interests of society. The Law Dictionary of America also defined *MALA PROHIBITA* as those things which are prohibited by law, and therefore unlawful.

Mala prohibita is *[*Latin, Wrongs prohibited.*]* a term used to describe conduct that is prohibited by laws, although not inherently evil. Courts commonly classify statutory crimes as *mala prohibita.* This, however, is not a fixed rule since not all statutory crimes are classified as such. Examples of *mala prohibita* include public intoxication, traffic violation and carrying a concealed weapon. (West's Encyclopaedia of American Law).

A distinction was formerly made in respect of contracts, between *mala prohibita* and *mala in se*; but that distinction has been, and, it is now established that when the provisions of an act of the legislature have for their object the protection of the public, it makes no difference with respect to contracts, whether the thing be prohibited absolutely or under a penalty.

A fine line exists that separates *mala in se* and *mala prohibita*. It seems, at times, that some natural crimes are better classified as legal crimes. As stated by Mark Davis (2006) "Legal scholars have used the terms *mala prohibita* and *mala in se* to draw the distinction between legally proscribed and morally proscribed offenses".

MSN Encarta (2007) stated the following about crime: Crimes are now usually classified as *mala in se,* which includes acts, such as murder, as offensive to morals as to be obviously criminal; and *mala prohibita,* which are violations of specific regulatory statutes, such as traffic violations, that ordinarily would not be punishable in the absence of statutory enactments prohibiting the commission of such acts.

SELF-ASSESSMENT EXERCISE 7

Briefly distinguish between the terms Mala In se and Mala Prohibita.

4.0 CONCLUSION

Legal systems as mentioned above vary from country to country. The specific system that a country is ruled by is often determined by its history, connections with other countries, or its adherence to international standards. In other words, the basis upon which legal systems are developed in each country is based on the structure of their colonial countries and the style of law adopted after independence due to civilization and modernization. Some countries operate both the religious legal system and totalitarian legal system together. For example Nigerian legal systems were influenced by British legal systems. It can also be said that Nigeria operates both the religious legal system (Sharia in the Northern States), and other legal systems as stated above.

5.0 SUMMARY

This unit has successfully treated the types of Legal Systems. In the course of this material the types of legal systems examined are; customary legal system, common legal system, religious legal system and totalitarian legal system. Also included are the meaning of the concept; Mala in se and Mala prohibita and attempt at differentiating the two concepts.

6.0 TUTOR-MARKED ASSIGNMENT

1. Examine the Customary Legal System.
2. Civil Legal System is one of the Legal Systems in Nigeria. Justify this statement.
3. Examine the principles of Common Legal System.
4. Briefly assess the Religious Legal System.
5. Briefly examine the Totalitarian Legal System.
6. *Mala in se* is a term used to describe a particular type of crime. Discuss.
7. Briefly distinguish between the terms *Mala In se* and *Mala Prohibita.*

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MODULE 3 OVERVIEW OF VIOLENCE AND CRIME IN NIGERIA

UNIT 1 VIOLENCE AND CRIME IN NIGERIA

CONTENTS

1.0 INTRODUCTION

Violence and Crime are twin concepts that affect development in the society. It occurs throughout the world; whether developed or underdeveloped societies. Violence and crime have been prevalent in Nigeria since the amalgamation of the northern and southern protectorates in 1914 by the British colonial masters. Violence and crime in Nigeria come in various shapes and dimensions which are discussed in units four and five of this module. This unit is therefore focused on the brief history of violence and crime in Nigeria, types of violence and crime in Nigeria, the causes of violence and crime and the effects of violence and crime in Nigeria.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- give a brief history of violence and crime in Nigeria
- describe types of violence in Nigeria
- explain types of crime in Nigeria
- deduce causes of violence and crime in Nigeria
- explain the effects of violence and crime in Nigeria.

3.0 MAIN CONTENT

3.1 Brief history of Violence and Crime in Nigeria

Violence here is discussed under three (3) main subheadings; Ethnic, Political and Religious.

- **Ethnic Violence**

Ethnic groups are defined as a community of people who share cultural and linguistic characteristics including history, tradition, myth, and origin. Nigeria is estimated to have 200 ethnic groups, with three main ethnic groups and over 120 languages spoken. The main groups are the Yorubas, Hausa-Fulani and the Igbos, none of whom constitute a majority of the population anyway. Ethnic conflicts are often caused by an attempt to secure more power or access more resources. The primordial school stresses the uniqueness and the overriding importance of ethnic identity. From their point of view, ethnicity is a biological and fixed characteristic of individuals and communities. (Geertz, 1963).

Consequently, ethnic groups around the country have clashed over a diverse set of issues, from superiority, access to power, land ownership to religion, mainly between Muslims and Christians. Over the past few years thousands of people have been killed in ethnic clashes. In actual fact, all across Nigeria there is an ever-lengthening thread of ethnic violence: Ife/Modakeke, Ogoni and Andonis, Sagamu, Kano, Zango-Kataf, Jukuns/Tivs, etc. However it is believed that behind these conflicts lie the interests of the elite in each state.

There have been series of clashes from the Niger Delta region in south south Nigeria to the dry brush land in the north; hundreds of people have died as disputes between ethnic groups have escalated into sharp, small-scale wars, often involving modern weapons. The most recent clashes involved members of Nigeria's two dominant ethnic groups, the southern-based Yoruba, and northern-based Hausa. Other recent flare-ups have involved the Ijaw, Itsekeri, and Urhobo groups in the Niger

Delta region which lasted for about a decade (1997 – 2006), and Ibo-speaking groups in the east.

Historians attributed the map of Nigeria drawn up by British Governors in the early part of the 20th century as responsible for the country's explosive ethnic and political violence. For Professor Gusau, the end of military rule may simply have opened the door for opportunists trying to take advantage of perceived weaknesses in the new civilian government. Professor Gusau and Reverend Kukah opined that the long standing tribal differences may be the cause of this violence especially ethnic violence. According to them, the Hausa-Yoruba clashes, is as a result of an economic "envy". In Shagamu for instance where up to 70 people were killed on July 17th and 18th, violence was sparked by a perceived ethnic slight leading to the Yoruba rioters venting their frustration over high unemployment on wealthy Hausa merchants.

In the farming communities of Aguleri and Umuleri in Anambra State, the conflict, over land caused violence in 1933, 1964 and 1995. But, the recent one in 1999 was so devastating that thousands of lives and properties were destroyed resulting from the use of more sophisticated weapons.

While economic and social explanations appear to go a long way toward explaining Nigeria's troubled ethnic relations, a darker, more sinister explanation has also been put forward. After the riots in Kano, the police chief confirmed that some of the people arrested confessed to being supported and encouraged by retired military officers.

Explanations for the various conflicts range from esoteric questions about religion and traditional monarchies to practical concerns about land, oil, corruption or cattle. Most analysts agree, however, that poverty and other chronic economic disparities have made Nigeria a fertile breeding ground for extremists. According to Reverend Matthew Kukah, much of the tension stems from economic and social imbalances created by years of military rule. Reverend Kukah posits that competition between the various ethnic groups intensified by poverty; create what he calls a "tinderbox," where the slightest provocation can lead to an explosion. In fact, according to Bawa Hassan Gusau, a professor of political science at Bayero University in Kano, ethnic violence has been a fact of life in Nigeria for decades.

- **Political Violence**

Following the ethnic background discussed above the political atmosphere in Nigeria was that of competition between these major tribal groups, the Yorubas, Hausas and the Igbos. Hence, from the onset

there existed pockets of oppositions among these tribal groups agitating for the seat of the presidency and major political positions in the country which at times led to violence and political uprising. This also resulted to the division of the country into geo-political zones in which everyone is represented in the presidency and the governing council.

Also concerning the sharing of the "National Cake" which has been a cause of unrest in the Niger Delta region, the President Obasanjo's administration announced a 13 percent revenue allocation to the oil producing areas from the federation account. In addition, the Niger Delta Development Commission Bill forwarded by the executive to the National Assembly was passed into Law in May 2000. Niger-Delta indigenes remain highly skeptical of government promises, and continue to seek direct payments from the oil companies. Decades of neglect by previous governments and dislocations caused by energy projects aggravated socio-economic unrest in the Niger Delta region. Violent inter-ethnic strife, sabotage of pipelines/installations, and kidnapping of Nigerian and expatriate oil workers became the order of the day and in 1997 during a communal fight in Warri, over 400 people lost their lives.

Political violence in Nigeria has also been recorded in a number of states and at different levels of government. Anambra state for example, since 1999 has experienced protracted feud between erstwhile godfathers and godsons. Oath taking and impatient scramble for returns on political investment, vote rigging and arson has made the state a jungle.

Other states like Osun, Ekiti, Ondo, Lagos and Ogun amongst others had a taste of the bitter pile of political violence. A recent case was the murder of the 2009 Action Congress flag bearer Dipo Dina in Jan 2010.

About 30 people were killed and 30 injured in Kano, the largest city in northern Nigeria with a population of eight million people, after mobs of youths armed with clubs, machetes and jerry cans of petrol roamed the streets on predominantly Muslim Kano, attacking suspected Christians. An estimated 10,000 Kano residents, mostly Christians fled from their homes in troubled parts of the city, and took refuge at the main military and police barracks on 11th, May 2004.

- **Religious Violence**

President Olusegun Obasanjo declared a state of emergency in Plateau State in central Nigeria on 18th May 2004, following the Christian massacre of Muslims that in turn led to reprisal killings of Christians in the northern city of Kano. The bloodletting had claimed more than 2,000 lives since September 2001. Obasanjo sacked Governor Joshua Dariye, accusing him of failing to act to end a cycle of violence between the

Plateau State's Muslim and Christian communities. The president also disolved the Plateau State legislature and appointed a retired army general, Chris Ali, as interim administrator for the next six months. Ali is a native of Plateau State.

In January 2010 fresh crisis erupted in Jos, again leaving thousands of people dead. This time it was said to be the worst sectarian clash that has ever taken place in the country. This time it was said to have started as a result of a disagreement between a Muslim and a Christian in the Dutse-uku quaters of Nasarawa, Gwong, Jos North Local Govt, with one claiming the other encroached on his land resulting in deserted homes.
There were also series of violent attacks in Bauchi, Maduguri and Potiskun in Yobe State between 26th July and 27th July 2009 in which over 250 deaths were recorded. The Boko Haram mayhem was also a notable violent attack in the northern part of Nigeria in which the *boko haram* Islamic organisation attacked a police station in a bid to retaliate the arrest of its leaders which led to a faceoff with the police spreading to other areas and by the next day corpses were located at police stations and around the town.

SELF-ASSESSMENT EXERCISE 1

1. Give a brief history of violence and crime in Nigeria.
2. Define in simple terms violence and crime in Nigeria.

3.2 Types of Crime in Nigeria

Crimes in Nigeria include: attempted murder, manslaughter, attempted suicide, Harm and wounding, assault, child stealing, slave dealing, rape/indecent assault, kidnapping, unnatural offence, armed robbery, demand menace, theft other than stealing, burglary, house breaking, store breaking, false pretence/cheating/fraud, forgery, receiving stolen property, unlawful possession, arson, forgery of currency note, coining offence, gambling, breach of public peace, perjury, bribery and corruption, escape from lawful custody and others. (Summary of Crime Statistics in Nigeria from 1994-2003)

SELF-ASSESSMENT EXERCISE 2

Mention in bullet form the types of crimes in Nigeria.

3.3 Causes of Violence and Crime in Nigeria

Several factors account for the occurrence and incessant rise of violence in Nigeria. Among these are;

- **Victim Proneness**

Most of the crimes committed in Nigeria are caused by us, the government and pressures on the political systems. Crimes caused by us have been termed by Von Hentig (1948) as “victim proneness". Victim proneness occurs when the victim exposes valuable possessions or anything else attractive to perpetrate the crime. It also operates where the victim is not aware of the surrounding areas, affluent lifestyle and the level or quality of security measures in our homes. Special categories of people represent victim proneness. They are the young, females, old, immigrants, members of a minority depressed, the lonesome, heartbroken and tormented.

- **The Political System**

The kind of political system adapted could also cause crime. This is possible when a lot of pressure is exerted on the political system by the disadvantaged in societies. The pressures of the disadvantaged according to Horton (1916), operates via conditions such as poverty, unemployment, bad housing, insecurities, lack of conditions and others. This notion of pressures on a political system was termed “pressure theory" or "containment theory".

- **Poverty**

Ted Gurr and Monty Marshall (2003) are of the opinion that violence in most African countries are caused by the combination of poverty and weak states and institutions. (Peace and Conflict, 2001:11-13; 2003)

The most powerful factor is the ever-increasing level of poverty-typified in joblessness, deteriorating infrastructures, etc. All these clashes are due to the fundamental crisis of underdevelopment; there is widespread poverty and this gives rise to a scramble for limited resources. Most of these communities are no better than slums. Industries are shutting down with the attendant consequences of job losses; most families find it difficult to feed themselves. There are no potable water, no good roads, proper medical facilities, social infrastructures, electricity supplies and no good schools. Environments such as these generate fear, distrust, hatred, frustrations, anger, etc. Under such circumstances, it is easy to believe that if the other ethnic group(s) go(es) away there will be enough.

According to Rev. Kukah, competition between the various ethnic groups has been intensified by poverty, creating what he calls a "tinderbox," where the slightest provocation can lead to an explosion.

In addition, according to the multiple indicator cluster survey published by the Federal Office of Statistics in 1996, only one in every ten Nigerian can be described as non-poor. The other 90 percent are described as either "core poor" or "moderately poor". Taken in context, what one sees is the harsh reality of a nation where less than 11 million people can be described as "living people", while the remaining 99 million people are best described as the "living dead".

Moreover, the UNDP in Nigeria, in its debut Human Development Report on Nigeria graphically depicts the nation's Human Development rank. Nigeria was ranked 137th out of 174 nations behind other low human development countries. Dr. Ibrahima Fall, former UNICEF representative in Nigeria, wrote in the partnership magazine (a UN publication) "poverty in Nigeria has been a long standing issue. Its reality manifests in incidences and severity over the years, despite vast human and material resources and economic and development potential that the country is blessed with. In less than a decade, Nigeria has slipped from a middle-income status nation to a low-income category, and is currently regarded as one of the poorest countries in sub-Saharan Africa. Fall also wrote, "with 34 million Nigerians, representing 70 percent of households, officially recognized as poor, the extent of Nigeria's poverty strikes one as you walk the streets of the nation." Dr. Fall declared the overwhelming percentage of Nigerians as poor. The United Bank for Africa's monthly business and economic digest for March/April 1996 also noted that poverty manifests itself in "prostitution, exposure to risks, corruption, robbery, street life, increased unemployment, living in squalor, shanties, shackles, high infant mortality, acute malnutrition, low life expectancy, human degradation, living in overcrowded and often poorly ventilated homes".

Nigeria's child poverty is equally alarming. In the words of Michael Hansenne of the ILO, "child labour is one of the faces of poverty". Hunger (a constant companion of most Nigerian children) was described by Mr. Ismail Sevagelding, World Bank vice-president for Environmentally Sustainable Development (ESD) in 1994, as the manifestation of the extreme forms of poverty and destitution.

The gap between the rich and the poor has never been greater. While the rich got richer, the condition of the majority has deteriorated with the income of single individuals equaling and surpassing the combined income of millions of Nigerians. Okwudiba Nnoli (1980) produced empirical examples linking socio-economic factors to ethnic conflict in Nigeria. According to J.S. Furnival, cited in Nnoli (1980:72-3), "the working of economic forces make for tension between groups with competing interests."

This can be said to be the major cause of violence in Nigeria.

- **Manipulations**

As a result of these tribal clashes, the ruling class consciously exploits the poison of ethnicism as a means of keeping the working class permanently divided and diverting their attention away from the real problems confronting them: the crisis of Nigerian capitalism. The OPC/Egbesu clash is also a clash between the two sectarian tribal groups with the masses caught in the line of fire. The conscious manipulation of ethnic consciousness under terrible social conditions gives rise to periodic explosions of ethnic clashes.

- **Self Determination**

The Aguleri-Umuleri war is being waged by communities with the same history, culture, language, who live and farm together and answer the same name. They are culturally homogeneous. The same holds true for the Ife-Modakeke war. A major cause of ethnic conflict is psychology, especially the fear and insecurity of ethnic groups during transition. It has been opined that extremists build upon these fears to polarise the society. Additionally, memories of past traumas magnify these anxieties. These interactions produce a toxic brew of distrust and suspicion that leads to ethnic violence.

- **Deepening Crisis**

Capitalism is at a dead end. It has no beacon ahead. No 'ideology' capable of uniting and inspiring the people. It eats away at their hearts and souls and seeks to corrupt, divide and weaken them with ethnic consciousness. Gurr's (1970) relative deprivation theory offers an explanation based on an ethnic groups' access to power and economic resources. This is closely related to Horowitz, (1985) who wrote that group worth is based on the results of economic and political competitions.

According to Lake and Rothschild, (1996) ethnic conflict is a sign of a weak state or a state embroiled in ancient loyalties. In this case, States act with bias to favour a particular ethnic group or region, and behaviors such as preferential treatment fuel ethnic conflicts.

- **Sharia Law**

The launching of Sharia law and the declaration of Zamfara State as an Islamic State on 27th October, 1999 resulted into violence which claimed many lives and properties. First, these laws, just like the Christian

Canon laws, are very reactionary and were written in the middle Ages. They are not divine laws, they were written by men just like the reactionary Christian Canon laws. These laws violate all aspects of the fundamental human rights.

Secondly, the actions of the Zamfara State government are clearly an attempt to divert attention from the main issues at stake: the citizens are impoverished, no decent wage, no provision of free and qualitative education and health, no new development of industries, no good and ventilated accommodation, diseases and infections abound and no visible end to poverty, etc.

Thirdly, the other sections of the Nigerian ruling class are trying to use this action to split masses nationally on religious lines. The Sharia law just like the 1999 Constitution is being imposed on the people of Zamfara State. Contrary to the public statements of the Zamfara State government the laws apply to everybody. Alcohol had been banned; fornication and adultery are capital crimes, eating pork is a crime, women and men can no longer travel together in the same bus, there is now segregation between men and women in all areas of life, the list goes on. The laws clearly violate the fundamental human rights of everybody whether Muslim or Christian; women and children are going to be grossly discriminated against. Brutal punishment is meted out on anybody who violates any of the conditions.

As such this brought about violence/clashes between the Christian and Muslims in Zamfara state which also spread to other parts of the north claiming thousands of lives and properties in 2000.

- **Killing of Law Enforcement Agents**

The violence that erupted in Bayelsa state was as a result of 12 police officers who were killed by the people of Odi. This led to the invasion of parts of Bayelsa State by over 2,000 soldiers, following president Olusegun Obasanjo's order on November 21st which also led to the destruction of Odi and over 200 innocent people killed, including women and children while many were forced to run for their lives. This violence erupted as a result of feelings of deprivation by the Ijaws and majority of the Niger Delta people. To buttress this point, the theoretical approach (the Instrumentalist argument) of (Barth.1969, Glazer and Moynihan, 1975) which states that Africa countries where poverty and deprivation are becoming endemic, mostly as a result of distributive injustice, ethnicity remains an effective means of survival and mobilisation. Ethnic groups that are formed for economic reasons, easily disband after achieving their objectives. This corresponds with Benedict Anderson's (1991:5-7) argument that ethnicity is "a construct" rather

than a constant. This invasion led to the various violence and kidnaps in the Niger Delta region today.

- **The Lies of the Ruling Class**

The recent episodes of inter-ethnic warfare in Nigeria, exemplified by the carnage and rapid killings in the 2001 Jos riot, the 2000 Kano/Kaduna Sharia riots, the countless Tiv-Jukun clashes in Benue and Taraba states, the 2001 Tiv-Hausa riot in Nassarawa state, including the numerous OPC (the Yoruba sectarian group) - Hausa clashes, the Aguleri/Umuleri war and the Ijaw-Itsekiri riots, among others, were indications of how terrible the situation has suddenly become in Nigeria as a result of lies from the ruling class etc.

SELF-ASSESSMENT EXERCISE 3

Account for the causes of violence and crime in Nigeria.

3.4 Effects of Violence and Crime in Nigeria

Although several causes of crime and violence exist, the effects on our societies are great. This effect varies in regions due to differential reporting and differential Police actions. The effects can be economic effects, social effects Psychological effects and environmental effects, these are summarised as:

- Low level of development
- Low level of foreign/local investments
- Low level of capital inflow
- Poor savings
- New location of industries
- Economic fear
- High level of poverty
- Unemployment
- Homelessness
- High rate of dependence on government
- Deaths
- Child abandonment due to death and loss of parents
- Mistrust
- Avoidance of strangers/good people
- Mob instant justice
- Hunger/starvation
- Rise in prices of commodities
- High rate of dependence on imported goods as against locally manufactured goods.

- Low life expectancy ratio.
- High rate of armed robbery and crime
- Security intensification based on reporting and Police action.
- Formation of watchdog groups/vigilantes in the community

SELF-ASSESSMENT EXERCISE 4

Analyse the possible effects of violence and crime in Nigeria.

3.5 Measures Aimed at Reducing Violence and Crime in Nigeria

- Security intensification based on reporting and Police action. Even though it is a possible effect of crime it can also be used as a measure to reduce crime; this includes formation of watchdog groups in our community, formation of Community Police (now providing jobs for the unemployed youths), and formation of joint force from the enforcement agencies.
- Reducing crime in our societies should also be the concern of all, and it can only be done if government public and foreign policies favour the disadvantaged than the rich, (the masses being properly provided for in government policies)
- The government officials and representatives should be adequately prevented from stealing of public funds and carrying them abroad.
- Provision of social amenities: good roads, water, electricity, housing, education and security. Meeting the human basic needs of food, clothing and shelter according to Maslow and Marx.
- Provision of jobs and new companies to boost employment.
- Reduction in police corruption and the need for the judiciary to carry out their duties judiciously without prejudice or fear and preferential treatment.
- Like is the case in America and most of the European countries; there should be rewards for hard and good work. In the olden days there was a saying: “a good name is better than riches”, but now it is the other way round, “riches are better than a good name”, this shouldn’t be the case. Hard work with integrity should be encouraged and rewarded.
- Development of the areas where most of the country’s funds are coming from, e.g. the Niger Delta region where the youths are restless because so much wealth is derived by government from their land, yet they languish in abject poverty, lack medical facility/attention, their youths and old die of sickness that can easily be cured if medical facilities/attention were available, high rate of teenage pregnancy, child abandonment/abuse and

unemployment etc, which is the crux of the Niger Delta crisis up till date.

- Provision of old people's homes and facilities to cater for them.
- There used to be prompt payments of pensions to retired and old people. In the recent times payment of pension has been halted and the old people suffer without care from the government and people they have served in the days of their youth. This is very discouraging even to the youths.
- Education should be encouraged by building of schools; primary, secondary and tertiary institutions. In the same vein, teachers should be encouraged and produced in large number to match the size of the population.

SELF-ASSESSMENT EXERCISE 5

Give the possible measures of reducing violence and crime in Nigeria.

4.0 CONCLUSION

Violence and crime is detrimental to human life and development. Children and women suffer under these violent actions, there is mass poverty and the illiteracy level increases as a result. Hence in whatever way you look at it crime and violence are in no way good for any nation.

5.0 SUMMARY

The topic "crime and violence in Nigeria" covers the brief history of violence in Nigeria, definition of crime and violence, the types of violence, types of crime, causes of violence and crime and the possible measures aimed at reducing crime and violence in Nigeria.

6.0 TUTOR-MARKED ASSIGNMENT

1. Give a brief history of violence and crime in Nigeria.
2. Define in simple terms crime and violence.
3. Mention in bullet form the various types of crime in Nigeria.
4. Account for the causes of violence and crime in Nigeria.
5. Analyse the possible effects of violence and crime in Nigeria.
6. Give the possible measures of reducing crime and violence in Nigeria.

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UNIT 2 VIOLENCE DEFINED

CONTENTS

1.0 INTRODUCTION

Violence is the expression of physical or verbal force against self or other, compelling action against one's will on pain of being hurt (Merriam, 2009, Askoxford, 2009, Bartleby, 2009). The word violence covers a broad spectrum. It varies between a physical altercation, between two beings where a slight injury may be the outcome to war and genocide where millions may die as a result. Consequently, this unit is focused on the definition of violence and types of violence

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- define violence
- list types of violence.

3.0 MAIN CONTENT

3.1 Definition of Violence

Vittorio, (2005) describes two different modern concepts of violence; the "minimalist conception" of violence as an intentional act of excessive or destructive force, the other is the "comprehensive conception" which includes violations of rights, including a long list of human needs.

There are various definitions of violence. This includes psychological and sociological definitions.

Psychology and **sociology** define violence as Neurobiologist of science. Jan Volavka, (1999) emphasizes, “violent behavior is defined as overt and intentional physically aggressive behavior against another person." Scientists do not agree on whether violence is inherent in humans. Among prehistoric humans, there is archaeological evidence for both contentions of violence and peacefulness as primary characteristics (Heather, 2006).

Since violence is a matter of perception as well as a measurable phenomenon, psychologists have found variability in whether people perceive certain physical acts as 'violent'. For example, in a state where execution is a legalised punishment we do not typically perceive the executioner as 'violent', though we may talk, in a more metaphorical way, of the state acting violently. Likewise understandings of violence are linked to a perceived aggressor-victim relationship: hence psychologists have shown that people may not recognise defensive use of force as aggressive or violent at all, even in cases where the amount of force used is significantly greater than in the original aggression (Rowan, 1978).

Riane Eisler, who describes early cooperative, egalitarian societies (she coins the term "gylanic", as it is widely agreed that the term matriarchal is inaccurate), and Walter Wink, who coined the phrase “the myth of redemptive violence,” suggest that human violence, especially as organised in groups, is a phenomenon of the last five to ten thousand years.

The “violent male ape” image is often brought up in discussions of human violence. Dale Peterson and Richard Wrangham in “Demonic Males: Apes and the Origins of Human Violence” write that violence is inherent in humans, though not inevitable. However, William L. Ury, editor of a book called "Must We Fight? From the Battlefield to the Schoolyard—A New Perspective on Violent Conflict and Its Prevention” debunks the "killer ape" myth in his book which brings together discussions from two Harvard Law School symposiums. The conclusion is that “we also have lots of natural mechanisms for cooperation, to keep conflict in check, to channel aggression, and to overcome conflict. These are just as natural to us as the aggressive tendencies (Cindy, 2002)."

Stephen, (2007) in a New Republic article “The History of Violence” offers evidence that on the average the amount and cruelty of violence to humans and animals has decreased over the last few centuries.

The Centers for Disease Control and Prevention (CDC) defines violence as "Injury inflicted by deliberate means", which includes assault, as well

as "legal intervention, and self-harm". The World Health Organization ("WHO") in its first *World Report on Violence and Health* defined violence as "the intentional use of physical force or power, threatened or actual, against oneself, another person or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, mal-development or deprivation."

WHO estimates that each year around 1.6 million lives are lost worldwide due to violence. It is among the leading causes of death for people ages 15–44, especially of males.

3.2 Types of Violence

There are various types of violence, among which are; Political violence, ethnic violence, religious violence, crimes against women, youth and crime, diagnosis of Psychiatric disorder, law, war and media violence.

- **Political Violence**

This is violence arising from political agitations by citizens of a country. In Nigeria for instance, elections are not without violence, some of which claim lives and properties. Political violence assumes many different forms, there is violence at the local government level; there is violence at the State level; and there is violence at the Federal level. Each of these forms of violence assumes a different manifestation. In trying to evaluate the recent elections and the impact of political violence in the country, two things come to mind. The first is the significance of this electoral contest and the manner in which greed, fear of losing and the corruptibility of the electors and the elected conspire to make politics the game of the vampires whose taste for blood is driven by money and luxuries of life. The second thing to note here is the gravity of the contest and the political violence that could take place in Nigeria.

- **Religious and Political Ideology**

Religious and political ideologies have been the cause of interpersonal violence throughout history. Both supporters and opponents of the twenty-first century War on Terrorism regard it largely as an ideological and religious war.

Anti-capitalists assert that capitalism is violent. They believe private property, trade, interest and profit survive only because police violence defends them and that capitalist economies need war to expand. They may use the term "structural violence" to describe the systematic ways

in which a given social structure or institution kills people slowly by preventing them from meeting their basic needs, for example the deaths caused by diseases because of lack of medicine. Free market supporters argue that it is violently enforced state laws intervening in markets - state capitalism - which cause many of the problems anti-capitalists attribute to structural violence.

Frantz Fanon critiqued the violence of colonialism and wrote about the counter violence of the "colonised victims."

Throughout history, most religions and individuals like Mahatma Gandhi have preached that humans are capable of eliminating individual violence and organising societies through purely nonviolent means. Gandhi himself once wrote: “A society organised and run on the basis of complete non-violence would be the purest anarchy”. Modern political ideologies which espouse similar views include pacifist varieties of voluntarism, mutualism, anarchism and libertarianism.

Religious violence in Nigeria has claimed many lives in the recent times. Religious violence include those in Kano, Boko Haram, Potiskum and the most recent Jos crisis which claimed about 1,000 lives in one day. In May 1999 violence erupted in Kaduna State over the succession of an Emir resulting in more than 100 deaths. In Kaduna between February-May 2000 over 1,000 people died in rioting over the introduction of criminal Shar'ia in the State. Hundreds of ethnic Hausas were killed in reprisal attacks in southeastern Nigeria. In September 2001, over 2,000 people were killed in inter-religious rioting in Jos. In October 2001, hundreds were killed and thousands displaced in communal violence that spread across the Middle-Belt States of Benue, Taraba, and Nasarawa.

More than 1,000 people were killed in sectarian clashes between Christians and Muslims in Jos, the Plateau State capital, in September 2001. Subsequently a low intensity conflict spread to the surrounding countryside, where the mainly Christian farmers clashed repeatedly with the predominantly Muslim livestock herders. Several hundred more people died in these skirmishes, which forced several thousands of people to abandon their homes.

About 30 people were killed in Kano, the largest city in northern Nigeria with a population of eight million people. Religious violence erupted with Muslim protest demonstration on 10th May 2004 against the killing of several hundred Muslims in the small town of Yelwa in Plateau State in central Nigeria on 2nd of May 2004. A further 45 had been arrested and 40 had been injured after mobs of youths armed with clubs, machetes and jerry cans of petrol roamed the streets on predominantly

Muslim Kano, attacking suspected Christians. An estimated 10,000 Kano residents, mostly Christians fleeing from their homes in troubled parts of the city, took refuge at the main military and police barracks on 11th May 2004.

At least 57,000 people fled their homes following sectarian violence involving Christians and Muslims in northern and central Nigeria. More than 30,000 Christians have been displaced from their homes in Kano, the largest city in northern Nigeria, which was sacked by religious violence on Tuesday and Wednesday. A further 27,000 displaced people had sought refuge in Bauchi State in central Nigeria following a massacre of Muslims by Christian gangs in neighbouring Plateau state earlier in May.

- **Crimes against Women**

Criminological studies have traditionally ignored half the population: Women are largely invisible in both theoretical considerations and empirical studies. Since the 1970s, important feminist works have noted the way in which criminal transgressions by women occur in different contexts from those by men and how women experiences with the criminal justice system are influenced by gendered assumptions about appropriate male and female roles. Feminists have also highlighted the prevalence of violence against women, both at home and in public."

Gilligan, (1986) writes that violence is often pursued as an antidote to shame or humiliation. The use of violence often is a source of pride and a defense of honour, especially among males who often believe violence defines manhood (Michael, 1989).

Men are overwhelmingly the aggressors in certain categories of crime such as domestic violence, sexual harassment, sexual assault, and rape. Women are mostly the victims in these categories. It is estimated that women are one quarter of the victims of violence at some point. For example, violence between couples, violence on the streets against women on steering/wheels and violence against widows in Nigeria who are meant to go through several hardship and rituals just to prove innocence in the death of a husband.

- **Youth and Crime**

Official crime statistics reveal high rates of offense among young people. These offenses include rape, assault, theft and fraud of different kinds. In America, about 34 percent of all offenders arrested for criminal offenses in 2006 were under the age of twenty-one (Federal Bureau of Investigations 2007b). Rising crime rates are often directly related to the

moral breakdown among young people and vandalism, school truancy, and drug use, which illustrates society's increasing permissiveness. The mass murder at Columbine High School is an example of how moral outrage can deflect attention from larger issues.

A recent case of youth crime was the slaying of Ed Thomas, by Mark Becker in June, 2009. Becker walked into a gym class in Iowa and shot his teacher six times, leaving him dead. Becker was charged with first degree murder, and pleaded not guilty by reason of insanity. He was found guilty, and that charge carries a life sentence in jail.

According to the book, *The Effects of Race and Family Attachment on Self Esteem, Self Control, and Delinquency*, children who are raised by both parents and receive proper affection are more than likely to grow into non-violent individuals. It is believed that children need to bond with their parents during the early ages of childhood. As a result, the child has a higher chance of not growing into a violent person. Many children who do not receive the affection they need from their parents often turn to other sources to fill that void with a common source being a gang.

- **Diagnosis of Psychiatric Disorder**

The American Psychiatric Association planning and research committees for the forthcoming DSM-V (2012) have canvassed a series of new relational disorders which include *Marital Conflict Disorder Without Violence* or *Marital Abuse Disorder (Marital Conflict Disorder With Violence)*. Couples with marital disorders sometimes come to clinical attention because the couples, recognise long-standing dissatisfaction with their marriage and come to the clinician on their own initiative or are referred by an astute health care professional. Secondly, there is serious violence in the marriage which is -*"usually the husband battering the wife"*. In these cases the emergency room or a legal authority often is the first to notify the clinician. Most importantly, marital violence "is a major risk factor for serious injury and even death and women in violent marriages are at much greater risk of being seriously injured or killed (National Advisory Council on Violence Against Women, 2000)." The authors of this study add that "There is current considerable controversy over whether male-to-female marital violence is best regarded as a reflection of male psychopathology and control or whether there is an empirical base and clinical utility for conceptualising these patterns as relational."

Recommendations for clinicians making a diagnosis of *Marital Relational Disorder* should include the assessment of actual or "potential" male violence as regularly as they assess the potential for

suicide in depressed patients. Further, "clinicians should not relax their vigilance after a battered wife leaves her husband, because some data suggest that the period immediately following a marital separation is the period of greatest risk for the women. Many men will stalk and batter their wives in an effort to get them to return or punish them for leaving. Initial assessments of the potential for violence in a marriage can be supplemented by standardised interviews and questionnaires, which have been reliable and valid aids in exploring marital violence more systematically."

The authors conclude with what they call "very recent information" on the course of violent marriages which suggests that "over time a husband's battering may abate somewhat, but perhaps because he has successfully intimidated his wife. The risk of violence remains strong in a marriage in which it has been a feature in the past. Thus, treatment is essential here; the clinician cannot just wait and watch". The most urgent clinical priority is the protection of the wife because she is the one most frequently at risk, and clinicians must be aware that supporting assertiveness by a battered wife may lead to more beatings or even death.

It is also important to this topic to understand the paradoxical effects of some sedative drugs. Serious complications can occur in conjunction with the use of sedatives creating the opposite effect as to that intended. Malcolm Lader at the Institute of Psychiatry in London estimates the incidence of these adverse reactions at about 5%, even in short-term use of the drugs. The paradoxical reactions may consist of depression, with or without suicidal tendencies, phobias, aggressiveness, **violent behavior** and symptoms sometimes misdiagnosed as psychosis.

- **Law**

One of the main functions of law is to regulate violence. Sociologist Max Weber stated that the State claims, for better or worse, a monopoly on legitimate violence practiced within the confines of a specific territory. Law enforcement is the main means of regulating nonmilitary violence in society. Governments regulate the use of violence through legal systems governing individuals and political authorities, including the police and military. Civil societies authorise some amount of violence, exercised through the police power, to maintain the status quo and enforce laws.

However, German political theorist Hannah Arendt noted: "Violence can be justifiable, but it never will be legitimate ... Its justification loses in plausibility the farther its intended end recedes into the future. No one questions the use of violence in self-defense, because the danger is not

only clear but also present, and the end justifying the means is immediate". In the 20th century in acts of genocide governments may have killed more than 260 million of their own people through police brutality, execution, massacre, slave labor camps, and through sometimes intentional famine.

Violent acts that are not carried out by the military or police and that are not in self-defense are usually classified as crimes, although not all crimes are violent crimes. Damage to property is classified as violent crime in some jurisdictions but not in others. It is usually considered a less serious offense unless the damage injures, or potentially could injure, others. Unpremeditated or small-scale acts of random violence or coordinated violence by unsanctioned private groups usually are prosecuted. While most societies condone the killing of animals for food and sport, increasingly they have adopted more laws against animal cruelty.

The Federal Bureau of Investigation classifies violence resulting in homicide into criminal homicide and justifiable homicide (e.g. self defense).

- **War**

War is a state of prolonged violence, large-scale conflict involving two or more groups of people, usually under the auspices of government. War is fought as a means of resolving territorial and other conflicts, as war of aggression to conquer territory or loot resources, in national self-defense, or to suppress attempts of part of the nation to secede from it.
Jared Diamond in his award-winning books, Guns, Germs and Steel and The Third Chimpanzee provides sociological and anthropological evidence for the rise of large scale warfare as a result of advances in technology and city-states. The rise of agriculture provided a significant increase in the number of individuals that a region could sustain over hunter-gatherer societies, allowing for development of specialised classes such as soldiers, or weapons manufacturers. On the other hand, tribal conflicts in hunter-gatherer societies tend to result in wholesale slaughter of the opposition (other than perhaps females of child-bearing years) instead of territorial conquest or slavery, presumably as hunter-gatherer numbers could not sustain empire-building.

- **Violence in the Media**

This is referred to as war of letters and war on the pages of news papers. The citizens make complains known on the pages of news papers and the necessary authority takes note and actions are taken either for or against it**.**

SELF-ASSESSMENT EXERCISE

What are the various types of violence?

4.0 CONCLUSION

Violence whether legitimate or illegitimate is anti – development. As such it should be discouraged.

5.0 SUMMARY

This unit has successfully defined violence and given the types of violence which are political violence, religious violence, ethnic violence, crimes against women, youth and crime, law, war, violence on media.

6.0 TUTOR-MARKED ASSIGNMENT

1. What is violence?
2. What are the various types of violence?

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UNIT 3 CRIME DEFINED

CONTENTS

1.0 INTRODUCTION

Crime is a pervasive and distressing social phenomenon in contemporary societies. Crime has therefore become a constant source of social concern and people are fascinated with proffering explanations of criminal activity, even though these explanations are often incomplete and contradictory. This unit focuses on the definition of crimes in the society, sociological theory of crime, types of crime, and categories of crimes.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- define crime
- explain sociological theories of crime
- examine the various types of crime
- examine the categories of crime.

3.0 MAIN CONTENT

3.1 Definition of Crime

Crime is defined as an “act or omission punishable by law” (Okunola 2002). For crime to be known as such, it must be processed through an administrative system or enforcement agency (Schlesinger and Tumber, 1994).

Godden (1993) defined law as norms defined by government as principles which citizens must follow, formal sanctions being used by those in authority against people who do not conform as such, law is an important element in the definition of crime.

To Durkheim, in an attempt to define crime, we must seek out its essential characteristics: for these are to be found wherever crime occurs, no matter what the social type, be it high or low. According to him, crime is an act, which offends strong and defined states of the collective conscious. This is so because the only characteristics common to all crimes recognized as such are the following:

1 A crime offends sentiments which are found among all normal individuals of any society:
2 These sentiments are strong:
3 These sentiments are defined.

Similarly, Marshal (1996) posits that crime can equally beheld to be an offence which goes beyond the personal and into the public sphere breaking prohibitory rules and laws to which legitimate punishment or sanctions are attached and which requires the intervention of a public authority (State or a Local body).

SELF-ASSESSMENT EXERCISE 1

What is crime?

3.2 Sociological Theories of Crime

Criminology proposes that crime and delinquency are caused more by the interplay of social, political, economic and cultural factors and forces than by biological and psychological pathologies. Accordingly, sociological criminologist have variously explained crime and delinquency as products of anomie precipitated by disjunction between goals and means; conflict of cultures; social learning and differential association, social bonding and control, social injustice and oppression embedded in capitalist political economy and so on.

Social Disorganisation Theory

Social disorganisation perspective argues that delinquency is produced by social or community disorganisation. Shaw and McKay who are generally regarded as the pioneers of ecological (social disorganisation) theory of crime and delinquency, defined the indices of social or community disorganisation as population heterogeneity, rapid population turnover, poor standard of living of residents, dilapidated

building structures, weak social ties among residents and absence of dominant cultural patterns shared by most residents. Areas or zones of cities characterised by these indicators of social or community disorganisation record high incidence of crime and delinquency as well as high rates of mental illness, infant mortality and other social problems. Delinquency from this perspective is caused by social disorganization. The specific features of community disorganisation that lead to delinquency were described as:

…Successive changes in the composition of population of the alien culture, the diffusion of cultural standards…result…in dissolution of the neighborhood culture and organization. The continuity of conventional neighborhood traditions and institutions is broken. Thus, the effectiveness of the neighborhood as a unit of control and as a medium of the transmission of the moral standards of a society is greatly diminished (Shaw 1951:24). For example the major influx of people and western cultures into Lagos state affected the moral standards of Lagosians such that Lagos is referred to, in the local parlance as a no man's land. Anything goes without a frown or check from the citizens.

The critical argument of this perspective is that the absence of strong community and social ties, inadequate socio-economic opportunities as well as lack of dominant and consistent cultural norms in the neighborhood of cities can generate high rate of delinquency among young persons. The proponents argue that juvenile delinquency is a feature of an environment characterised by community disorganisation rather than a product of individual biological or psychological disability. Applied to the Nigerian setting, the perspective suggests that crime and delinquency will be highest in areas of cities where low-income migrants from different parts of the country are concentrated. Overcrowding, poor standard of living, cultural heterogeneity and absence of dominant cultural patterns that serve as effective social control, usually characterise such areas. One of the criticisms leveled against the perspective is that its explanation is tautological, as it simply postulates that 'bad conditions' beget crime and delinquency. But crime and delinquency are some of the indicators of the 'bad conditions'. Nonetheless, the perspective draws attention to the role of culture, environment and standard of living as factors that may influence the incidence and persistence of delinquency in a community.

Anomie or Strain Theory

Crime and delinquency have been explained as reactions or modes of adaptation to strain or frustration caused by disjunction between the culturally prescribed goals and institutionalised means for the realisation of such goals. Robert Merton introduced this perspective.

To Merton (1968) social structures exert enormous pressures on individuals. One of such pressures is that the social structure determines the nature of the aspiration of their citizens. Thus, in Nigeria, citizens are pressured to aspire to wealth, political power, and high educational achievement. According to Merton (1968:18) aberrant behaviour including crime and delinquency "may be regarded sociologically as a symptom of dissociation between culturally prescribed aspirations and socially structured avenues for realizing these aspirations". The point is that society prescribes goals that its citizens should pursue. However, the institutionalised means for realising the aspirations are restricted by distribution of talents and opportunities and by structural inhibitions. Furthermore, cultural goals are emphasised without corresponding emphasis on the means of attaining those ends. Consequently, society creates the condition whereby the realisation of the goal is emphasised to the detriment of the institutionalised means. Crime and delinquency result from overwhelming emphasis on goals, success or aspirations without corresponding emphasis on the means.

In Nigeria, there is overwhelming emphasis on being successful which means to be wealthy, to engage in ostentatious lifestyle and conspicuous consumption (possess expensive cars, large and expansive buildings, make huge donations at public fund-raising, etc), to be highly educated and to wield political power. Nigerians who fail to meet these aspirations and goals prescribed by society experience tremendous pressure or strain. Because of the dissociation of goals from means, many individuals may turn to other (non- institutionally prescribed) means to attain the cultural goals.

To Merton, therefore, the explanation of crime and delinquency lies in the degree of correspondence between culturally prescribed goals and institutionalised norms or means for attaining the cultural goals. The pressure experienced by those who are excluded from the institutionalised means for realising cultural goals can lead those individuals to adopt five modes of adaptation. These according to Merton (1968) are conformity, innovation, ritualism, retreat and rebellion.

In spite of the strain exerted on people, majority of people continue to seek the attainment of cultural goals through institutionalised means. Such people choose conformity as mode of adaptation. Some individuals, however, pursue the realisation of the cultural goals through innovation (abandonment or rejection of institutionalised means and adoption of unlawful means).

A young Nigerian graduate, who has been in the unemployment market for long and decided to forget about the search for job and go into

Advance Fee Fraud just to attain wealth, thereby meets one of the society's culturally prescribed goals for the citizens, irrespective of abilities and talents. But another Nigerian may adopt innovation, he or she devices a means of trafficking drugs. In both cases, the individuals were pursuing the culturally prescribed goals, the latter through innovation-an adaptation of unlawful (a criminal or delinquent) means to the realisation of culturally prescribed goals.

To Merton, the adaptation of innovation entails the pursuance of the goals prescribed by society through unlawful means- for example drug trafficking, corruption and embezzlement, sale of sub-standard goods, examination and admission malpractices, election rigging and violence etc. to obtain wealth, education and political power. Individuals who adopt ritualism mode of adaptation concentrate on the institutionalised means and de-emphasise the goals. Such individuals are satisfied to be recognised as hardworking and honest, even if they do not attain the goals (wealth, education and power) prescribed by society. The retreater simply withdraws from society. He/she rejects the cultural goals and institutionalised means prescribed by society. An often-cited example is the drug addict, whose life revolves around sensations induced by drugs. Finally, the individual who adopts the rebellion mode of adaptation rejects the validity of cultural goals and institutionalised means prescribed by society. In place of both, new goals and means are substituted. Innovation, retreatism and rebellion modes of adaptation represent deviance that may involve crime and delinquency.

The anomie or strain theory is probably the most popular sociological explanation of crime and delinquency since it was first formulated in the 1930's by Robert Merton. From the theory, crime and delinquency can be prevented or reduced if there is concordance between cultural goals and institutionalised means for their attainment. However, crime and delinquency will increase whenever citizens are socialised to aspire to certain goals while the means or avenues for realizing those goals are restricted to a large or significant segment of the population. Thus as Shaw and McKay (1942:439) observes: … where there is the greatest deprivation and frustration…and where there exists the greatest disparity between the social values to which people aspire and the availability of facilities for acquiring these values in conventional ways, the development of crime as an organised way of life is most marked. Crime, in this situation, may be regarded as one of the means employed by people to acquire, or to attempt to acquire, the economic and social values generally idealised in our culture, which persons in other circumstances acquire by conventional means.

Social Learning and Differential Association Theory

In some modes of academic discourse and popular consciousness, crime and delinquency are regarded as abnormal behaviours that occur through "strange" means or pathological conditions or processes. However, differential association theory formulated by Edwin Sutherland (1939) suggests that there is nothing unusual in the process of becoming a criminal or delinquent. Criminal and delinquent behaviours are learnt in similar processes as people learn to become criminologists, lawyers, physicians, scholars, poets, and so on.

Differential association theory identified the methods or processes through which criminal behaviour is learnt. The influential criminological theory involves nine propositions paraphrased below:

1. Criminal behaviour is learned (that is in the same way we learn other behaviour)
2. Criminal behaviour is learned in interaction with other persons in a process of communication.
3. The principal part of the learning of criminal behaviour occurs within intimate personal groups.
4. When criminal behaviour is learned, the learning includes (a) techniques of committing the crime, which are sometimes very complicated, sometimes very simple; (b) the specific direction of motives, drives, rationalisations, and attitudes.
5. The specific direction of motives and drives is learned from definitions of legal code as favourable and unfavourable.
6. A person becomes delinquent because of an excess of definitions favourable to violations of law over definitions unfavourable to violations of law. This is the principle of differential association.
7. Differential associations may vary in frequency, duration, priority and intensity. This means that associations with criminal behaviour and also associations with anti-criminal behaviours vary in those respects.
8. The process of learning criminal behaviour by association with criminal patterns involves all the mechanisms that are involved in any other learning (emphasis added).
9. Though criminal behaviour is an expression of general needs and values, it is not explained by those general needs and values, since non-criminal behaviour is an expression of such needs and values.

These propositions attempt to explain the processes and mechanisms by which criminal and delinquent behaviours are learnt. The last proposition attempts to show that the same values and needs may lead some individuals to obey the law while it may lead others to violate the

law depending on what they learnt as methods of realising those values and needs.

Differential association perspective has contributed largely to the significant attention paid to the influence of family, peers and mass media (especially electronic medium of mass information and entertainment) on juvenile delinquency. Peers and mass media are perceived as important media from which children and young persons learn delinquent behaviours. The theory implies, for the layperson, that people learn by association, imitation and motivation.

Differential association explains how crime and delinquency are learnt as well as crime rates between communities. The nine propositions explain the process of learning crime and delinquency. Sutherland (1947), however, also suggested that crime rates are explained by differential social organisation. Every social organisation consists of criminal and anti-criminal elements. The balance (of preponderance) between criminal and anti-criminal elements determines the crime rates in a society. Some of the policies and programmes dealing with juvenile delinquency are influenced by the "common –sense assumption" embedded in differential association theory, which is that "bad company corrupts good manner" thus, criminal prevention and control policies and programmes, among other things, attempts to isolate criminals from delinquent influences.

Control Theories of Crime and Delinquency

Several theorists have argued that crime and delinquency are produced by weak personal (self) or social control (Reiss 1951; Nye 1958; Reckless 1961; Hirschi 1969). Control theorists identified social and personal dimensions of control. These theorists, consciously or unconsciously assume that human beings are naturally aggressive and requires control. Where control is absent or weak, the human natural impulses towards aggression and crime are released.

Reiss (1951:196) distinguished between personal (self) control and social control. According to him personal or self control is the "the ability of the individual to refrain from meeting needs in ways which conflict with the norms and rules of the community". On the other hand, social control is "the ability of social groups or institutions to make norms or rules effective". The two levels of control are intertwined. Social control precedes personal control. When social values and norms are not adequately and properly inculcated by the family and other socialising institutions (e.g. schools, religious bodies and civil associations), individuals are more likely to develop or exhibit (personal) self-control.

Nye (1958) identified four dimensions of social control- *conscience* – that results from the internalisation of social norms and rules; *affection* shared by children and parents; *parental regulation* of children's choices and associations; and *availability of alternate means* to fulfill or accomplish goals. The presence and effectiveness of these dimensions of social control will strengthen self-control, induce compliance and reduce delinquency.

Walter Reckless (1961:341) attributed the incidence of crime and delinquency to weakness of containment – "the lack of well defined limits to behaviour, the breakdown of rules, and the absence of definite rules for adolescents to play". Reckless identified "push and pull" factors in crime and delinquency. Factors such as poverty, injustices, bad companions, inconsistent moral front in society may pull individuals toward delinquency. On the other hand 'inner push factors' like weak self-concept, aggressiveness, and restlessness may push young people towards delinquency.

Travis Hirsch (1969) developed his social control and bonding theory around four concepts: attachment, commitment, involvement and belief. Hirsch suggests that human natural instincts lead to delinquency and crime. Consequently, the natural motivation of human beings is to deviate. Individuals will conform to social norm and rules only if there is effective social control through social bonding to society. Social bond involves attachment, commitment, involvement and belief. Attachment to others in the society restrains individuals from deviating. Commitment to and involvement in conventional activities, help to bond individuals to society and minimise the chances of their being involved in delinquent and criminal activities. Finally, belief in the legitimacy of the rules, norms and values of society, minimises delinquency. The implication of the theory is that crime and delinquency are reflections of society's failure to create enabling conditions for attachment to people (i.e. family, friends) commitment to and involvement in conventional activities (schooling, employment, recreation and leisure), and belief in conventional norms, values and rules.

Radical and Conflict Theory of Crime and Delinquency

The radical and conflict theorists argues that the criminal laws that defines certain acts as crime or delinquency do not represent the consensus of society. Laws, they argue, are instruments, which the ruling class employ to protect their interests. As a result, criminal laws prohibit the behaviours of the poor and powerless that threaten the interests of the ruling class while excusing or condoning equally or even more injurious behaviours of the rulers or those who control the politics

and economy of society that harm the majority of the citizens (Reiman 1984; Quinney 1970).

Conflict theorists explain crime and delinquency in terms of inequality in the distribution of socio-economic opportunities and political power. It is this inequality that is reflected in criminal laws and the actions of the criminal justice agencies and officials. Crime and delinquency are products of socio-economic inequality and injustice as well as the political oppression that sustains them. In this light, crime and delinquency can only be minimised with the enthronement of socio-economic justice and democracy in society (Taylor et al. 1973). According to Gillis, (1974): "… the troubles of the children of the poor were deeply embedded in the economic and demographic structure of the society". The growing tendency to treat these as psychological and therefore as subject to clinical, rather than political or economic solution was at least as disturbing as the phenomenon itself (p.131).

Sociological theories of crime, draws attention to the social structure, economic and political systems of society as sources of crime and delinquency. The idea of correcting or reforming individual juvenile offenders without restructuring the society is to sociological criminologists ridiculous, and its implementation can only lead to further oppression, impoverishment and further drift into criminal and delinquent career.

The foregoing brief discussion of selected theories and perspectives provides us with an understanding of crime especially their multiple and complex origins and manifestations.

SELF-ASSESSMENT EXERCISE 2

Examine the sociological theories of crime.

3.3 Categories of Crime

Lopez-Rey (1970) suggested that crime can be sorted into two categories; conventional and unconventional. To him conventional crimes are mostly made up of offences against persons, property, moral, mores and public order. Unconventional crimes include those committed under cover of official or semi-official position, against international law and usages; as the sequel of patriotic, political, ideological, revolutionary and even fanatic religious actions; by intelligence services, economic and financial frauds, and criminal corruption at high levels. Very few of them are new, the vast majority is defined as criminal offence by national penal codes and special laws but largely go unpunished (Lopez-rey, 1975:18).

Legally offences can also be categorised by the degree of punishment it attracts. Based on this definition, Madarikan and Aguda (1974) noted that there are three kinds of offences as stated in table 1 below.

Table 1: Crime categories by degree of punishment

Felonies	Offences punishable without proof of previous conviction with death or by imprisonment for 3 years or more.
Misdemeanours	Offences punishable by imprisonment for not less than 6 months, but less than 3 years.
Simple offences	Offences which are neither a felony nor misdemeanour.

Source: Madarikan & Aguda (1974).

A fourth category can be added; treason. This consists in the levying of war against the state and adhering to war enemies, giving them aid and comfort. In addition, it includes forgery and counterfeiting of state's currency, and counterfeiting of privy seal. However considered from the punishment it attracts, treason can safely be grouped under felony. Further more from the legal point of view, Obilade (1970: 245) submits that offences can equally be classified as indictable and non-indictable. Here an indictable offence is one in:

(a) which on conviction may be punished by a term of imprisonment exceeding two years; or
(b) Which on conviction may be punished by imposition of a fine exceeding four hundred naira; not being an offence declared by the law creating it to be punishable on summary conviction?

Any offence outside (a) and (b) is a non – indictable offence. Crime records in most cases do not come in the forms described above. A common format by the Nigerian police force (NPF) groups crime statistics under the following four categories in table 2 below.

Table 2: Common Crime Categories

Crime Category	**Offences**
Crime against persons	Murder, manslaughter, attempted murder, suicide, grievous harm/wounding; assault, child stealing, slave dealing, rape and indecent assault, unnatural offences and other offences
Crime against property	Stealing, robbery and extortion, burglary, house breaking, false pretences/cheating, store breaking; forgery, receiving stolen property; unlawful possession, arson and other offences
Crime against local acts	Traffic acts, offences against township acts, liquor acts, dogs acts and other offences

Other offences	Forgery of CBN notes, coining offences, gambling; offences against public order, forgery, bribery and corruption, escape and rescue and other offences

Source: Nigerian Police Force Annual Report (1980).

Livingstone (1960) posited that it is probable that violent crime is prevalent among the disreputable poor or those at the very bottom of the social ladder.

He also used the concept of the underclass, that is, people not attached to the dominant institutions of society. These are the lumpen proletariat, a pool of surplus labour created by the capitalist economy. But Chamblis and Pearce Haralambos and Heald (1980) are of the view that crime is widespread in every social stratum of the society.

SELF-ASSESSMENT EXERCISE 3

Examine briefly the categories of crime.

3.4 Types of Crime

As a result, Vold and Bernard (1996) identified three types of crime:

1. Victimless crime
2. Organised crime
3. White collar crime

Victimless crimes: are behaviours that are widely prohibited by law but do not have a victim in the traditional sense. e.g. prostitution, gambling, drug and narcotics law violation etc. these offences are frowned at by law enforcement officials and the police in most societies because of the large number of people (especially lower class) involved. This crime involves people from all strata of the society as such some of them have been decriminalised e.g. prostitution.

Organised crime: The highest level of criminal organisation is the syndicate, which is a large, permanent association of criminals that operates like a large business organisation. This type of criminal activity is referred to as organized crime. Organised crime represents a large combination of capital and skilled, personnel devoted to criminal activity or the supply of illegal goods and services such as sale and purchase of ammunitions and drugs. A good example in the recent times with the development of internet facilities is the fraud related offences. In 2007 a total amount of $239.1 million was reported lost to fraud while in 2008 a total amount of $264.6 million with a median dollar loss of $931.00 was lost to fraud.

Table 3 below shows percent of total complaints received in 2008.

Table 3: 2008 Top 10 IC3 Compliant Categories (Percent of total complaints received)

Non-delivery	32.9%
Auction Fraud	25.5%
Credit/Debit card fraud	9.0%
Confidence fraud	7.9%
Computer fraud	6.2%
Check fraud	5.4%
Nigerian letter fraud	2.8%
Identity theft	2.5%
Financial institution fraud	2.2%
Threat	1.9%

0.0% 5.0% 10.0% 15.0% 20.0% 25.0% 30.0% 35.0% 40.0% 45.0% 50.0%

Source: Internet Fraud, Scam and Crime Statistics (2008)

Other significant findings related to an analysis of referrals include:

1 Non-delivery merchandise and /or payment was, by far, the most reported offense, comprising 32.9% of referred complaints.
2 Internet auction fraud accounted for 25.5% of referred complaints.
3 Credit/debit card fraud made up 9.0% of referred complaints
4 Confidence fraud("con men"), computer fraud, check fraud and Nigerian letter fraud (also called "Advance fee fraud" or AFF) round out the top seven categories of complaints referred to law enforcement during the year.

Of those complaints reporting a dollar loss, the highest median losses were found among:

1 Check fraud ($3,000)
2 Confidence fraud ($2,000)
3 Nigerian (West Africa, 419, Advance Fee) letter fraud ($1.650)

Hence it can be rightly deduced that an upward movement in civilization and modernization attracts a higher movement in newly introduced crime and crime rate all over the world.

White Collar Crime

Edwin Sutherland focused on the problem of crime in modern business practices, which he termed white collar crime. It consists of violation of

the criminal law "committed by a person of respectability and high social status in the course of his occupation (Reid, 1997).

He maintained that the criminality of upper class persons "has been demonstrated again and again in the investigations of banking public utilities, stock exchange, the oil industry, real estate, reorganization committees, receiverships, bankruptcies and politics. He also noted that white collar criminals are far less likely to receive active prison terms than are common criminals. The deference shown to white collar crime, Sutherland argued is due primarily to their social standing. This corroborates the statement that criminals are treated differently because of their social status and power in the society. In 2009 for instance the managing directors of five big banks were sacked and called for interrogation on financial mismanagement in their various banks. True to the saying, not all of them could be caught and interrogated, many went into hiding abroad and were speaking from the telephone and newspapers and those that were arrested are still in detention now. While some properties belonging to them were seized and private companies closed down, it is believed that most of these monies were put in banks abroad and could not be touched by the government.

But like the Nigerian factor and their local standing posited by Sutherland, the sentences/judgment they will get may not commemorate to the offense committed

The former Inspector General of police Tafa Balogun when he was arrested for corruption was seriously exposed and disgraced out of office, this could also be probably because he was an advocate and anti-corruption officer at the helm of affairs in the police force. It was really a scandal. Governor James Ibori of Delta State, Governor Ayo Fayose of Ekiti state are good examples in recent times. Omisore who was indicted in the murder of the AG, is also a good example. Chief Justice of the Federation in 2006 was given a kangaroo trial such that he even contested for governorship from detention. Meanwhile the other less privileged people arrested for same offense were seriously dealt with and jailed till date.

SELF-ASSESSMENT EXERCISE 4

Crime varies according to the degree of punishment; examine this assertion in relation with of types of crime.

4.0 CONCLUSION

Crime is inevitable in the society, whether developed or underdeveloped. Criminologists all over the world have studied the trend and causes of crime and tried to define it according to their findings as a result of which they also proffer some recommendations which could also help in reduction of crime rates.

5.0 SUMMARY

This unit has sufficiently dealt with the issue of crime and its definition by analysing the definition of crime, sociological theories of crime, categories of crime and types of crime.

6.0 TUTOR-MARKED ASSIGNMENT

1. What is crime?
2. Examine the sociological theories of crime.
3. Examine briefly the categories of crime.
4. Crime varies according to the degree of punishment; examine this assertion in relation with types of crime.

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UNIT 4 VIOLENCE IN NIGERIA

CONTENTS

1.0 INTRODUCTION

Violence may be defined as behaviour involving physical force intended to cause damage or kill. It can also be physical or emotional force or energy.

Nigeria in recent times has been characterised by various violent clashes which have claimed many lives including that of women and children. The nature and dimensions of these violent clashes shall be the thrust of this unit. The underlining causes of this violence are religious, political, ethnic, intra-ethnic etc.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- examine the nature , scope and wave of violence across the country.

3.0 THE MAIN CONTENT

3.1 Nature and Dimensions of Violence In Nigeria

Dimension of Violence in Nigeria may be religious, political, ethnic, socio-economic, intra-ethnic etc. One common feature is that it leaves hundreds and thousands of lives and properties destroyed. It usually starts like a little uproar and quickly erupts into a seemingly unquenchable violence. It is however worthy of note that even among the same ethnic and religious group violence also exists. An example is the Ijebu-Ife mayhem, in which violence was unleashed on the town in 2009 following a violent clash between the youth and the vigilante group of the area. Hundreds of lives were lost and many deserted the town. The Ebiras of Okene Local Government area of Kogi State have

been having their share of intra ethnic clash over some years, a case of brother against brother, and friend against friend.

Nigeria's two major religions, Islam and Christianity, are sometimes depicted as monolithic entities that confront each other in pitched battles, with formal implementation of the criminal aspects of the Muslim Sharia Legal Code (or the likelihood of implementation) providing the spark that touches off violence. Riots based (at least ostensibly) on religious affiliation and religious policies have indeed occurred, the worst such being the two confrontations that took place in Kaduna between February and May 2000.

In May 1999 violence erupted in Kaduna State over the succession of an Emir resulting in more than 100 deaths. In Kaduna in February-May 2000 over 1,000 people died in rioting over the introduction of criminal Sharia in the State. Hundreds of ethnic Hausa were killed in reprisal attacks in south-eastern Nigeria. In September 2001, over 2,000 people were killed in inter-religious rioting in Jos. In October 2001, hundreds were killed and thousands displaced in communal violence that spread across the Middle-Belt states of Benue, Taraba, and Nasarawa.

Plateau State has the highest number of displaced people as a result of clashes between Christians and Muslim communities there. The predominantly Christian Tarok farmers consider the mostly Muslim Hausa cattle herders as outsiders, and accused them of stealing land and trying to usurp political power. These led to the burning down of 72 villages between 2002 and the end of 2003. More than 1,000 people were killed in sectarian clashes between Christians and Muslims in Jos, the Plateau State capital, in September, 2001. Subsequently a low intensity conflict spread to the surrounding countryside, where the mainly Christian farmers clashed repeatedly with the predominantly Muslim livestock herders. Several hundred more people died in these skirmishes, which forced several thousand people to abandon their homes. Most of the clashes in Plateau have been portrayed as being between Christian and Muslim communities, but have often assumed an ethnic dimension.

By 27th April, 2004 at least 20 people had died in three days of clashes between rival ethnic militias in central Plateau State. The clashes were between ethnic Tarok fighters and their Fulani rivals at Bakin Chiyawa in the Shendam district of the state. The fighting was intense, with both sides using guns, bows and arrows and machetes. The fighting was caused by a dispute over use of an area of land designated for cultivation by the agrarian Tarok and for grazing by the nomadic Fulani. Hausa fighters burned churches and killed nearly 100 people in a Tarok village.

In early May 2004, Nigerian security forces restored order in remote areas of central Plateau State, where sectarian violence had left scores of people dead. Calm returned to the highlands town of Telwa, as hundreds of police reinforcements arrived to quash revenge attacks by Christian ethnic-Tarok fighters against the mainly Muslim-ethnic Hausa community. Local authorities also announced drastic measures to put a stop to the recurring violence. The deputy governor of Plateau state imposed a dusk-to-dawn curfew on Yelwa town, and the government, in addition, ordered security personnels to shoot on sight anybody or group found fomenting trouble. The Red Cross estimated as many as 600 people may have been killed in attacks on the town of Yelwa by Christian tribe militias in the first week of May, 2004.

President Olusegun Obasanjo declared a state of emergency in Plateau State in central Nigeria on 18th May 2004, following the Christian massacre of Muslims that in turn led to reprisal killings of Christians in the northern city of Kano. The bloodletting had claimed more than 2,000 lives since September 2001. Obasanjo sacked Governor Joshua Dariye, accusing him of failing to act to end a cycle of violence between the Plateau State's Muslim and Christian communities. The President also dissolved the Plateau State legislature and appointed a retired army general, Chris Ali, as interim administrator for six months. Ali is a native of Plateau State.

In January 2010, fresh crisis erupted in Jos, again leaving thousands of people dead. This time it was said to have started as a result of disagreement between a Muslim and a Christian in the Dutse-uku quaters of Nasarawa-Gwong, Jos North Local Government, with one claiming the other encroached on his land while rebuilding his devastated home. The Plateau State information commissioner Gregory Yelong put the Casualty figure in the violence at more than 500, but the State Police Commissioner said ‘only 109 people were killed’.

However because of the extent and frequency of these riots claiming innocent lives, the Inspector General of Police, Onovo said, henceforth Divisional Police Officers will be held responsible for any of such attacks in their area of jurisdiction, regretting the massacre of more than 100 Christian families in three Beron villages by ethnic Fulani kinsmen. There were also series of violent attacks in Bauchi, Maduguri and Potiskun in Yobe State between 26th July and 27th July 2009, in which over 250 deaths were recorded. The Boko Haram mayhem was also a notable violent attack in the northern part of Nigeria in which the Boko Haram Islamic organisation attacked a police station in a bid to retaliate the arrest of its leaders which lead to a face-off with the police spreading to other areas and by the next day corpses were located at police stations and around the town. Police stations and officers were also burnt down

in this retaliation. This time it was said to be the worst sectarian clash that has ever taken place in the country.

Political violence in Nigeria has also been recorded in a number of states and at different levels of government. Anambra state for example, since 1999 has experience protracted feud between erstwhile godfathers and godsons, Oath taking and impatient scramble for returns on political investment, vote rigging and arson made the state unmanageable.

Other states like Osun, Ekiti, Ondo, Lagos and Ogun amongst others have also had a taste of the bitter pill of political violence. A recent case was the murder of the 2009 action congress flag bearer Dipo Dina in January 2010.

About 30 people were killed and 30 injured in Kano, the largest city in northern Nigeria with a population of eight million people, after mobs of youths armed with clubs, machetes and jerry cans of petrol roamed the streets on predominantly Muslim Kano, attacking suspected Christians. An estimated 10,000 Kano residents, mostly Christians fled from their homes in troubled parts of the city, and took refuge at the main military and police barracks on 11th May 2004.

The violence in the Niger Delta region of Nigeria which started in March 1997 has left indelible marks in a number of families. Killing maiming and kidnapping has the other of the day. Despite the presence of the joint military task force team the problem has lingered on over the years. Both Nigerians and expatriates have been kidnapped and brutally murdered all in a bid to claim what the youth believe is rightly theirs.

SELF-ASSESSMENT EXERCISE

Discuss the nature and dimension of violence in Nigeria.

4.0 CONCLUSION

The devastating effect of violence on communities in Nigeria cannot be over emphasised. However the level of human and material resources lost to violent clashes is better imagined than experienced. Communities have been deserted, able bodied men and women who are supposed to bring development to such communities have taken refuge either in neighbouring communities or relocated to urban centers. This has increased the level of poverty in such communities. Children have been orphaned and women turned into widows in their prime. It must be noted therefore that except an end is put to such unhealthy clashes, no meaningful development can be achieved in Nigeria.

5.0 SUMMARY

In all these Sectarian attacks lives are lost, properties destroyed, able bodied men and women were maimed and the socio-economic structure of the country is threatened. Political killings, extra- judicial killings, brothers killing brothers, friends killing friends, so much social insecurity and people living in fear and uncertainty not knowing what may happen next is the order of the day in the country. If Nigeria must survive an end must be put to these violent acts.

6.0 TUTOR-MARKED ASSIGNMENT

Discuss the nature and dimension of violence in Nigeria.

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UNIT 5 CRIMES IN NIGERIA

CONTENTS

1.0 INTRODUCTION

Crime is defined by Oxford Dictionary as offence against an individual or the state which is punishable by law. It is also an action that is disgraceful or regrettable. The Latin word for crime is "Crimen" which means judgment; it also describes it as an act forbidden by Statute (law). The definition of crime has been adequately treated in unit 3 of this module. As such this unit is focused on a brief definition of crime to act as a reminder, the history of crime in Nigeria, the types of crime in Nigeria, the statistics of crime between 1999 and 2004 and the measures of combating or reducing crime in Nigeria.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- describe the history of crime in Nigeria
- list different types of crime in Nigeria
- derive crime statistics in Nigeria from 1999-2004
- measures aimed at combating or reducing crime in Nigeria.

3.0 MAIN CONTENT

3.1 History of Crime in Nigeria

The political and social–economic conditions of the country in the 1970s can be described as the causes of the rise/increase in crime in Nigeria. This is because efforts to curb crime were not intense. Material wealth and acquisition by the military in government, government officials,

civil servants and the business men was the order of the day. Prices of goods and services also were on the increase that it was glaring that one needs money to enjoy the basic things of life as well as getting good quality things like food, clothes, drugs and housing. A political position was like a ticket to acquisition of wealth and abuse of power by the military. In 1972 the then Head of State General Gowon, partially lifted the ban on political activity that had been in force since 1966 in order to permit a discussion of a new constitution that would prepare the way for civilian rule. The debate that followed was ideologically charged. Awolowo's call for a transition to "democratic socialism" made the military particularly nervous. The press, trade unions, and universities demanded a quick return to the democratic process. The decennial census was scheduled for 1973. Under the banner "Prepare to be Counted," the military government conducted a public campaign that emphasized the technical rather than political dimensions of the exercise. The procedure was to be supervised by a committee whose members were selected carefully for geographical and ethnic balance, and computers were to be used for processing the returns. Despite measures taken to ensure a more accurate count than had been possible before, the results once again confounded demographers: the census found that Nigeria's population had increased by nearly 44 percent in 10 years, a rate of growth unprecedented in any developing country. According to the returns submitted, the north contained 64 percent of the total population, compared with 53.7 percent in 1963, a figure even then believed to be exaggerated. The 1973 census, on which representation in a new, elected parliament would be based, revived fears that one ethnic group would permanently dominate the others. It also meant that a considerable share of oil revenues would flow to the northern states under the existing system of allocation. The government failed in its efforts to sell the census as a technical exercise because the political implications were widely understood and hotly debated, despite the ban on political discussion.

The Gowon regime came under fire because of widespread and obvious corruption at every level of national life. Graft, bribery, and nepotism were an integral part of a complex system of patronage and "gift" giving through which influence and authority were asserted. Although the military had pledged to rid the government of corruption, the public became increasingly aware of abuses, primarily because of daily exposés in the press. In 1973 the federal government established a special anticorruption police force--the "X-Squad"--whose subsequent investigations revealed ingenious forms of extortion and fraud-- not only in government and public corporations but in private business and in the professions as well.

A major scandal that had international implications and reached the highest levels of government and the business community took place in the mid-1970s; it involved the purchase abroad of construction materials by state agents at prices well above market values. Rake-offs were pocketed by public officials and private contractors. Other scandals in hospitals and orphanages shocked the populace, while corruption in importing medical drugs whose effective dates long since had expired revealed that even the health of Nigerians was at risk.

Inefficiencies compounded the impact of corruption. In mid 1975, 400 cargo ships, 250 of them carrying 1.5 million tons of cement--clogged the harbor of Lagos, which had been paralysed for fifteen months with vessels waiting to be unloaded. To compound the error, spoiled and inferior-grade cement was concealed by mixing it with acceptable material for use in public building projects. Later, buildings collapsed or had to be dismantled because of the inferior product. New roads washed away because of bad construction and inadequate controls. In these scandals, as in others, the culprits were a combination of Nigerian businessmen, government officials, and foreign companies. Few people and few projects seemed exempt from the scourge.

Crime posed a threat to internal security and had a seriously negative impact on efforts to bring about economic development. Armed gangs, often composed of former soldiers, roamed the countryside engaging in robbery, extortion, and kidnapping. The gangs sometimes operated with the connivance of the police or included moonlighting soldiers. Pirates raided cargo ships awaiting entry to ports or unloaded them at the piers ahead of the stevedores. Drug trafficking and smuggling were prevalent. Punishment was meted out to large batches of convicted and suspected criminals, who were dispatched by firing squads in public executions meant to impress spectators with the seriousness of the offenses and with the government's concern to curb crime. These measures had no noticeable effect on the crime rate, however, but seemed rather to provoke a callous public attitude toward violence.

In January 1975, Gowon revamped the membership of the Federal Executive Council, increasing the number of military ministers. He depended more and more on a small group of advisers and became increasingly inaccessible to his military colleagues. Without broad consultation, he backed off from the 1976 date set for a return to civilian rule, explaining that to adhere rigidly to it would "amount to a betrayal of a trust" and "certainly throw the nation back into confusion." Public employees staged protest strikes in May and June that brought essential services to a standstill. The government responded by granting retroactive wage increases that averaged 30 percent, which fed inflation and led to industrial strikes as union members demanded parallel raises.

The political atmosphere deteriorated to the point that Gowon was deposed in a bloodless coup d'état July 29, 1975, the ninth anniversary of the revolt that had brought him to power. At the time, Gowon was at an OAU summit meeting in Kampala, Uganda. The perpetrators of the coup included many of the officers who had participated in the July 1966 coup. Even the officers responsible for Gowon's security were involved. Gowon pledged his full loyalty to the new regime and left for exile in Britain, where he received a pension from the Nigerian government.

Historians refer to this as the beginning of the rise in crime in Nigeria. From this date henceforth crime was imbibed into the fabric of the nation that everyone, whether public servant, government official or the general public except a few God fearing ones became involved in crime. Crime became the order of the day. Till date despite all efforts to combat crime by the police and the preceding governments, crime is still on the increase on a daily basis. With the development of technology (internet facility) crime rate rises by the day, in fact you dare not do legitimate business on the net because of fraudsters and there is nothing that can be done about it for now except to warn innocent citizens to stay away from making payments for any goods, properties or services on net. The Author wanted to register for the American Visa Lottery last year and was surprised when web site opened belonged to fraudsters even though American flag, logo and everything was on the site. In the event many including the author were given employment without interview on the net for AVO Oil and Gas in America, a company that does not exist and were asked to pay 250, 000 Naira for registration. The question was If really, like it is written on their letter of appointment that they will pay for Visa and children's fees including accommodation for one year, how is it they could not pay 250,000 Naira for registration. One has to be wise and vigilant to do business on the net because of fraudsters.

Nigerian-operated fraud scams, known as 419s, are noted for their cleverness and ingenuity. These scams target foreigners worldwide, posing risks of both financial loss and personal danger to their victims. Scams are often initiated through internet postings or from internet cafes, by unsolicited e-mails, faxes, and letters, or can involve credit card use. The expansion of bilateral law enforcement cooperation has resulted in numerous raids on commercial fraud premises and the return of some assets to fraud victims. New types of sophisticated scams, however, are introduced daily.

In addition, Nigerian confidence artists offering companionship through internet dating web sites almost always pose as U.S. citizens visiting or living in Nigeria who unexpectedly experience a medical, legal, financial or other type of "emergency" that requires the immediate

financial assistance of the U.S. citizen in the United States. Commercial scams or stings that targets foreigners, money transfers, lucrative sales, contracts with promises of large commissions or up-front payments, or improperly invoke the authority of one or more ministries or offices of the Nigerian government and may cite, by name, the involvement of a Nigerian government official continue to be a problem. In some scams, government stationery and seals are also improperly used to advance the scam. Nigerian crime syndicates, often considered by law enforcement officers internationally as 'organised crime', have gained a certain international notoriety, particularly in the fields of drugs and fraud.

SELF-ASSESSMENT EXERCISE 1

Briefly account for the increase/rise in crime in Nigeria.

3.2 Types of Crime in Nigeria

Crimes in Nigeria include: attempted murder, manslaughter, suicide, attempted suicide, Harm and wounding, assault, child stealing, slave dealing, rape/indecent assault, kidnapping, unnatural offence, armed robbery, demand menace, theft other than stealing, burglary, house breaking, store breaking, false pretence/cheating/fraud, forgery, receiving stolen property, unlawful possession, arson, forgery of currency note, coining offence, gambling, breach of public peace, perjury, bribery and corruption, escape from lawful custody and others. (Summary of Crime Statistics in Nigeria from 1994-2003).

SELF-ASSESSMENT EXERCISE 2

Mention in bullet form the types of crimes in Nigeria.

3.3 Crime statistics in Nigeria

Summary of Crime Statistics in Nigeria from 1994-2003

Offence	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
MURDER	1629	1585	1561	1730	1670	1645	1255	2120	2117	2136
Attempted Murder	259	321	307	250	248	220	76	253	267	233
MANSLAUGHTER	20	25	21	18	27	14	101	14	13	6
SUICIDE ATTEMPTED	200	229	238	272	313	323	146	241	152	191
SUICIDE	291	120	77	58	43	30	41	27	29	38
G/HARM AND WOUNDING	17167	16300	17605	14720	14362	15931	9756	15241	17580	17666
ASSAULT	46924	46543	52747	42815	40764	33881	17909	37531	29329	29125
CHILD STEALING	131	175	146	303	107	147	101	116	55	39
SLAVE DEALING	33	16	7	17	11	21	11	45	17	18
RAPE/INDECENT ASSAULT	2364	2364	2198	2585	2249	2241	1529	2284	2084	2253
KIDNAPPING	461	415	373	377	282	342	243	349	337	410
UNNATURAL OFFENCE	685	462	419	435	516	456	376	434	277	306
OTHERS	20114	18227	16922	17355	17009	13467	12097	17349	14475	15037
ARMED ROBBERY	2044	2109	2419	2181	2286	2291	1877	2809	3889	3497
DEMAND/MENACE	777	243	88	128	112	63	133	112	88	80
THEFT/OTHER STEALING	69341	70542	71338	58095	54506	42974	29127	40796	35231	33124
BURGLARY	7858	7690	6390	7706	5548	4928	3768	5523	2683	2769
HOUSE BREAKING	10532	10568	9237	8562	7847	5979	3636	6059	5448	4706
STORE BREAKING	6137	5646	4235	4729	4036	3643	2446	3089	2973	2790
FALSE PRETENCE CHEATING/ FRAUD	13546	13524	13057	11950	12037	9996	7927	10234	9134	9508
FORGERY	712	682	753	1245	718	483	489	573	528	576
RECEIVING STOLEN PROPERTY	2053	1790	1809	1826	1595	1469	887	1226	1312	1289
UNLAWFUL POSSESSION	7965	7754	6885	6236	5247	4533	2983	4159	4086	4142
ARSON	1615	1240	1002	1190	1131	1225	761	892	1440	1499
OTHERS	14426	16698	15120	13315	13554	11432	9210	1275	11535	11052
FORGERY OF CURRENCY NOTE	63	113	80	38	70	36	124	101	70	74
COINING OFFENCE	100	8	10	14	14	7	4	32	6	16
GAMBLING	1308	319	250	203	158	264	189	263	228	148
BREACH OF PUBLIC PEACE	8052	7926	7097	7100	7519	6765	5395	7532	7324	7298
PERJURY	61	22	153	97	20	12	16	455	17	50
BRIBERY AND CORRUPTION	224	390	579	100	138	75	48	57	43	36
ESCAPE FROM LAWFUL CUSTODY	672	629	712	543	484	552	294	312	229	272
OTHERS	3326	2383	2480	2629	2726	2047	15296	2573	3466	3322
TOTAL	**241091**	**237058**	**236315**	**341822**	**197347**	**167492**	**128257**	**174588**	**155412**	**138001**

Source: Federal Office of Statistics

SELF-ASSESSMENT EXERCISE 3

Study the table and explain the crime rate in Nigeria from 1999-2004.

3.4 Causes of Crime

The Common Causes of Crime are:

- **Victim Proneness**

Most of the crimes committed in Nigeria are caused by the government and pressures on the political systems. Crimes caused by us have been termed by Von Hentig (1948) as "victim proneness". Victim proneness occurs when the victim exposes valuable possessions or anything else attractive to perpetuate the crime. It also operates where the victim is not aware of the surrounding areas, affluent lifestyle and the level or quality of security measures in our homes. Special categories of people represent victim proneness. They are the young, females, old, immigrants, members of a minority depressed, the lonesome, heartbroken and tormentor.

- **The Political System**

The kind of political system adapted could also cause crime. This is possible when a lot of pressure is exerted on the political system by the disadvantaged in societies. The pressures of the disadvantaged, according to Horton (1916), operates via conditions such as poverty, unemployment, bad housing, insecurities, lack of conditions and others. This notion of pressures on a political system was termed “pressure theory" or "containment theory".

- Poverty: Ted Gurr and Monty Marshall (2003) are of the opinion that violence in most African countries are caused by the combination of poverty and weak States and institutions. (Peace and Conflict, 2001:11-13; 2003) .The most powerful factor is the ever-increasing level of poverty-typified in joblessness, deteriorating infrastructures, etc. All these clashes are due to the fundamental crisis of underdevelopment; there is widespread poverty and this gives rise to a scramble for limited resources.
- Curiosity: Trying new things is one of the hidden desires of every individuals, this mentality leads us to where we are right now particularly in the field of technology, we explore every little thing we see out of curiosity thus resulting to negative and positive effects, but never the less we mostly benefit from it and out of that we also see the after effect.

- Social Influence: This pertains to people surrounding us, that is, family and friends. Peer pressures that pushes us to the limits and to the boundaries of exaggeration, thus leads us to succumbing to peer pressures, escaping is so hard to attain.
- Availability and Accessibility: Makes us easy to outsource everything we need in a very easy way. In the case of drug abuse and peddling, the saddest part of it is that sometimes the authorities are involved in this crime and worse still, very influential personalities are also behind all of this.

SELF-ASSESSMENT EXERCISE 4

What are the major causes of crime in Nigeria?

3.4 Measures of combating crime or reducing crime in Nigeria

- Security intensification based on reporting and Police action. Even though it is a possible effect of crime it can also be used as a measure to reduce crime; this includes formation of watchdog groups in our community, formation of Community Police (now providing jobs for the unemployed youths), and formation of joint force from the enforcement agencies.
- Reducing crime in our societies should also be the concern of all, and it can only be done if government public and foreign policies favour the disadvantaged than the rich, (the masses being properly provided for in government policies)
- Government officials and representatives should be adequately guided against stealing of public funds and carrying them abroad.
- Provision of social amenities: good roads, water, electricity, housing, education and security. Meeting the human basic needs of food, clothing and shelter according to Maslow and Marx.
- Provision of jobs and new companies to boost employment.
- Police corruption reduced and the judiciary should carry out their duties judiciously without prejudice or fear and preferential treatment.
- Like is the case in America and most of the European countries; there should be rewards for hard and good work. In the olden days there was a saying “a good name is better than riches”, but now it is the other way round, “riches are better than a good name”, this shouldn’t be the case. Hard work with integrity should be encouraged and rewarded.
- Development of the areas where most of the country’s funds are coming from, e.g. the Niger Delta region where the youths are restless because so much wealth is derived by government from

their land, yet they languish in abject poverty, lack of medical facility/attention, their youths and old die of sickness that can easily be cured if medical facilities/attention were available, high rate of teenage pregnancy, child abandonment/abuse and unemployment etc, which is the crux of the Niger Delta crisis up till date.

- Provision of old people's homes and facilities to cater for them.
- There used to be prompt payments of pensions to retired and old people. In the recent times payment of pension has been halted and the old people suffer without care from the government and people they have served in the days of their youth. This is very discouraging even to the youths.
- Education should be encouraged by building of schools: primary, secondary and tertiary institutions. In the same vain, teachers should be encouraged and produced in large number to match the size of the population.

SELF-ASSESSMENT EXERCISE 5

Give the possible measures of reducing crime in Nigeria.

4.0 CONCLUSION

Crime with its devastating effects is bad for development and thus should be discouraged by all and sundry.

5.0 SUMMARY

This unit has successfully dealt with a brief history of crime in Nigeria, types of crime in Nigeria, crime statistics for the years 1999-2003, causes of crime and the measures adopted to reduce the crime rate in Nigeria.

6.0 TUTOR-MARKED ASSIGNMENT

1. Briefly account for the increase/rise in crime in Nigeria.
2. Mention in bullet form the types of crime in Nigeria.
3. What are the major causes of crime in Nigeria.
4. Give the possible measures of reducing crime in Nigeria.

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UNIT 6 MEASUREMENT OF CRIME

CONTENTS

1.0 INTRODUCTION

It is important to note that no society, small or big developed or underdeveloped. Primitive or modern can be free of crime. This is because every society has rules guiding human behaviour, as long as these rules exist, certain behaviours are classified as norms. This unit is focused on the definition of crime, measurement of crime and types of measurement.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- define crime
- examine the measurement of crime
- describe the different types of measurement of crime.

3.0 MAIN CONTENT

3.1 Definition of Crime

If the existence of rules classifies certain behaviours as norm, then some other behaviours will certainly be classified as abnormal. Such abnormal behaviour is what is referred to as crime in such societies. That is crime is relative in its scope and nature. There are certainly some behaviour that are widely classified as crime all over the world, while there are others that may not be seen as crime depending on the time, place and occasion of occurrence. For example in some areas in the northern part certain behaviour which are classified as crime and attracting serious punishment is not seen as such in some other areas in the same north and other geographical area in the country. Such behaviour as

consumption of alcoholic drinks is a grievous offence under the Sharia law.

To Durkhiem, in an attempt to define crime, we must seek out its essential characteristics: for these are to be found wherever crime occurs, no matter what the social type, be it high or low. He said, crime is an act, which offends strong and defined states of the collective conscious. This is so because the only characteristics common to all crimes recognised as such are the following:

1 A crime offends sentiments which are found among all normal individuals of any society
2 These sentiments are strong
3 These sentiments are defined.

Okunola, (2002) defines crime as "An act of omission punishable by law". For crime to be known as such it must be processed through an administrative system or enforcement agency (Schlesinger and Tumber 1994). Similarly Marshal (1996) posits that crime can equally be held to be an offence which goes beyond the personal, into the public sphere breaking prohibitory rules and laws to which legitimate punishments or sanctions are attached and which requires the intervention of a public authority (State or Local body)

The definitions of crime have been sufficiently dealt with in the previous unit the emphasis of this unit is on the measurement and types of measurement crime.

SELF-ASSESSMENT EXERCISE 1

Crime is an act punishable by law. Discuss.

3.2 Measurement of Crime

Measurement of crime relates to the extent and nature of crime. It reports trends in different crimes. Politicians, citizens, mass media practitioners, moral entrepreneurs and criminologist often suggest that crime is either on the increase or on the decline. How do they come about such conclusion? There are two broad sources employed. The first source is impression or feeling or fear of insecurity based on the "assessment" of likelihood of victimisation. Another source is crime statistics collected, or collated and published by law enforcement, judicial and penal agencies, and by researchers, especially criminologists. Neither of the two sources are accurate information on the extent, pattern and trend of crime.

Crime statistics therefore are inaccurate, for several reasons, including the following:

1. Only a fraction of crime that occur in a community are known and dealt with by official agencies. Consequently a high proportion of crime is hidden, unknown to the public, especially, law enforcement agencies. However, the more serious crimes are more likely to be detected, reported and recorded.
2. Many cases of crime reported to the police are not recorded because they may be 'informally' resolved, for example family matters.
3. Nigerian police, judicial and prison agencies do not pay attention to the need for accurate recording, processing and publication of criminal statistics. Poor information management is one of the hallmark of Nigerian criminal justice system, and one of the causes of the ineffectiveness and inefficiency of the nation's law enforcement and criminal justice agencies (Ojomo and Alemika 1993).

SELF-ASSESSMENT EXERCISE 2

What do you understand by measurement of crime?

3.3 Types of Measurement of Crime

There is no comprehensive statistics on crime at any level in Nigeria, from Local Government to Federal Government. In any serious country, attempt will be made to obtain reasonable statistical indicators of the extent, pattern and trend of crime and in order to devise and implement appropriate prevention and control strategies, to achieve and sustain effective case management system, and to promote rational and humane criminal justice administration. In many societies criminal statistics and information management have been recognised as preconditions for effective, efficient and humane, criminal justice administration.

Criminologist attempt to determine the extent and nature of crime, using three types of measurements namely; Uniform Crime Reports, victimisation surveys and Self report studies; they all have similar purposes of concluding the trends in different crimes and suggesting the attention of problematic issues. Although, these types of crime measurement all have the same aim, results vary tremendously between them. Each type of measurement is conducted by a different group that holds their own techniques of gathering information.

Attempts are made to obtain comprehensive crime statistics through various sources. The main sources are:

a. **Official records –** police, courts, prisons, welfare agencies.

b. **Crime surveys –** These are of two general types – self report of criminal behaviours and criminal victimisation survey. The first is a survey of the public, under anonymous condition. Respondents are asked what types of criminal and delinquent activities they have engaged in, whether or not discovered/detected and reported (or not reported) to the police, during the year.

The second Criminal victimisation Surveys obtain information from members of the public on how many times they have been victims of crime.

While the UCR measures the extent of crime through police reports, victimisation surveys view crime through interviewing people about their experiences as victims of households. The results for each household remains in the sample for a few years.

The victimisation survey measures only part 1 index crimes and excludes homicide and arson because the victims are impossible to interview or very difficult to account for.

The third way of measuring crime is through self report surveys. Anonymous questionnaires are randomly distributed amongst citizens in places of choice. The questionnaire relies on the individual's honesty in admitting his/her own criminal acts. Similar to victims surveys and Police reports, Self report surveys also adds its own distinct dimension to our knowledge about crime being a way of measurement.

SELF-ASSESSMENT EXERCISE 3

Mention three ways in which the extent and nature of crime can be determined in Nigeria.

4.0 CONCLUSION

Although these various types of crime measurement have the same aim, which is to determine the extent and nature of crime, the result they give or provide vary tremendously between them. Each type of measurement as we must have observed is conducted by a different group that has its own techniques of gathering information

5.0 SUMMARY

This unit has successfully dealt with the meaning of crime, the types of crime measurement and the sources of data collection on the nature and extent of crime.

6.0 TUTOR-MARKED ASSESSMENT

1. Crime is an act punishable by law. Discuss.
2. What do you understand by measurement of crime?
3. Mention three ways in which the extent and nature of crime can be determined in Nigeria.

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UNIT 7 CRIMINAL LIABILITY AND CRIMINAL RESPONSIBILITY

CONTENTS

1.0 INTRODUCTION

Criminal Liability and Responsibility are terms used in law to describe why people commit crimes and defense put up by persons who have committed crime and most probably tried and convicted. This unit is very interesting because of its nature. This unit is focused on the definition of criminal liability, principles of criminal liability, definition of criminal responsibility, principles of criminal responsibility, factors to be considered in assessing criminal responsibility, patterns of criminality and mental disorder and evidence of knowledge of wrongfulness.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- define criminal liability
- describe the principles of criminal liability
- define criminal responsibility
- name evidence of knowledge of wrongfulness
- explain the principles of criminal responsibility
- list factors that are considered in assessing criminal responsibility
- identify patterns of criminality and mental disorder.

3.0 MAIN CONTENT

3.1. Definition of Criminal Liability

Criminal liability is defined as the crime against the State for which an officer of the State can bring legal action. Society is harmed by an individual breaking the laws of the State. Usually there is no Statute of limitations for criminal liability.

Criminal liability in legal terms refers to the state of one who is bound in law and justice to do something which may be enforced by action. This liability may arise from contracts either express or implied, or in consequence of torts committed. Hence the liabilities of one man are not in general transferred to his representatives further than to reach the estate in his hands. For example a master is liable for the acts of his servant while in his employ.

SELF-ASSESSMENT EXERCISE 1

Briefly define with examples the term criminal liability.

3.2 Principles of Criminal Liability

"Law, with all its weaknesses, is all that stands between civilization and barbarism" **(John Derbyshire)**

Criminal Liability is what unlocks the logical structure of the Criminal Law. Each element of a crime that the prosecutor needs to prove (beyond a reasonable doubt) is a principle of criminal liability. There are some crimes that only involve a subset of all the principles of liability, and these are called "crimes or criminal conduct." Burglary, for example, is such a crime because all you need to prove beyond a reasonable doubt is an *actus reus* concurring with a *mens rea*. On the other hand, there are crimes that involve all the principles of liability, and these are called "true crimes." Homicide, for example, is such a crime because you need to prove *actus reus*, *mens rea*, concurrence, causation, and harm. The requirement that the prosecutor must prove each element of criminal liability beyond a reasonable doubt is called the "*corpus delicti* rule."

For a crime to be committed:

- A criminal law has to be broken
- The person accused must normally have intended to commit the act or have committed the act recklessly
- The person accused must be at an age of criminal responsibility and know that what he or she did was wrong

There are five principles of liability in Criminal Law:

- Principle of *Actus Reus*
- Principle of *Mens Rea*
- Principle of Concurrence
- Principle of Causation
- Principle of Resulting Harm

THE PRINCIPLE OF *ACTUS REUS*

- Involuntariness - sleepwalking, hypnotic behavior, etc. are seen as examples of acting upon forces beyond individual control, and are therefore not normally included in the principle of *actus reus*. However, certain "voluntarily induced involuntary acts" such as drowsy driving might arguably be included if the prior voluntary act created the risk of a future involuntary act.
- Manifest criminality – being caught red-handed, clear-cut case of *actus reus* proven beyond a reasonable doubt
- Possession -- the law recognises various degrees of this. Actual possession means physically on your person. Constructive possession means physically under your control. Knowing possession means you know what you are possessing. Mere possession means you don't know what you are possessing. Unwitting possession is when something has been planted on you. The only punishable types of possession are the ones that are conscious and knowable.
- Procuring - obtaining things with the intent of using them for criminal purposes; e.g., precursor chemicals for making narcotics, "pimping" for a prostitute, and procuring another to commit a crime ("accessory before the fact")
- Status or condition - sometimes a chronic condition qualifies as action, e.g., drug addiction, alcoholism, on the assumption that first use is voluntary. Sometimes the condition, e.g. chronic alcoholism, is treated as a disease which exculpates an individual. Most often, it's the punishment aspect of criminal law in these kinds of cases that triggers an 8th Amendment issue. Equal Protection and other constitutional issues may be triggered.
- Thoughts - sometimes, not often, the expression of angry thoughts, e.g., "I'll kill you for that" is taken as expressing the resolution and will to commit a crime, but in general, thoughts are not part of the principle of *actus reus*. Daydreaming and fantasy are also not easily included in the principle of *mens rea*.
- Words - these are considered "verbal acts"; e.g. sexual harassment, solicitation, terroristic threats, assault, inciting to riot.

THE PRINCIPLE OF *MENS REA*

- **Circumstantial -** determination of *mens rea* through indirect evidence
- **Confessions -** clear-cut direct evidence of *mens rea* beyond a reasonable doubt
- **Constructive intent -** one has the constructive intent to kill if they are driving at high speeds on an icy road with lots of pedestrians around.
- **General intent -** the intent to commit the *actus reus* of the crime one is charged with; e.g., rape and intent to penetrate
- **Specific intent -** the intent to do something beyond the *actus reus* of the crime one is charged with; e.g., breaking and entering with intent to burglarise
- **Strict liability -** crimes requiring no *mens rea*; liability without fault; corporate crime, environmental crime
- **Transferred intent -** the intent to harm one victim but instead harm another

The Principle of Concurrence

- some crimes have additional elements that must accompany the criminal act and the criminal mind; e.g., rape, but not with your wife
- Enterprise liability - in corporate law, this is the idea that both the act and the agency (*mens rea*) for it can be imputed to the corporation; e.g., product safety
- Year-and-a-day rule - common law rule that the final result of an act must occur no later than a year and a day after the criminal state of mind. For example, if you struck someone on the head with intent to kill, but he didn't die until a year and two days later, you could not be prosecuted for murder. Many states have abolished this rule or extended the time limit. In California, it's three years.
- Vicarious liability - sometimes, under some rules, the guilty party would not be the person who committed the act but the person who intended the act; e.g., supervisors of employees

The Principle of Causation

- **Actual cause -** a necessary but not sufficient condition to prove causation beyond a reasonable doubt; prosecutor must also prove proximate cause
- **But for or sine qua non causation -** setting in motion a chain of events that sooner or later lead to the harmful result; but for the actor's conduct, the result would not have occurred

- **Intervening cause -** unforeseen events that still hold the defendant accountable
- **Legal causation -** a prosecutor's logic of both actual and proximate cause
- **Proximate cause -** the fairness of how far back the prosecutor goes in the chain of events to hold a particular defendant accountable; literally means the next or closest cause
- **Superceding cause -** unforeseen events that exculpate a defendant

Principles of Resulting Harm

These are issues involving the law of accessories and attempts.

Responsibility for Crime: Presumptions

Presumptions are court-ordered assumptions that the jury must take as true unless rebutted by evidence. Their purpose is to simplify and expedite the trial process. The judge, for example at some point in testimony, may remind the jury that it is okay to assume that *all* people form *some* kind of intent before or during their behaviour. It is wrong, however, for the judge to order the jury to *assume* intent or a specific kind of intent in a case. Presumptions are not a substitute for evidence. Presumptions are supposed to be friendly reminders about safe, scientific assumptions about human nature or human behavior in general. The most common presumptions are:

- reminders that the accused is considered innocent until proven guilty
- reminders that the accused is to be considered sane, normal, and competent

It is important to understand that presumptions are <u>not</u> inferences. Presumptions *must* be accepted as true by the jury. Inferences *may* be accepted as true by the jury, but the trick is to get the jury to believe they thought of it first. Lawyers are not allowed to engage in the practice of "stacking of inferences", or basing an inference solely upon another inference. Lawyers are also prohibited by logic from making certain "impermissible inferences" and here's an example of how the logic goes:

Evidence admitted:	Inferences that can be drawn:
Witnesses testify that X repeatedly hit Y on the head with a club until	Intent to kill or seriously injure; Purposely or Knowingly using club

stopped by passersby	as deadly weapon.
Witnesses testify that X repeatedly hit Y on the head with a rolled-up newspaper	Intent to kill cannot be inferred; newspaper cannot be construed as a deadly weapon

SELF-ASSESSMENT EXERCISE 2

Critically examine the principles of criminal liability.

3.3 Definition of Criminal Responsibility

For an individual to be found "Not Criminally Responsible", they must have been unable, by virtue of mental disorder or age, to appreciate the nature and quality of the act or know that it is wrong.

Evidence of Knowledge of Wrongfulness

1. Efforts to avoid detection

- wearing gloves during crime
- waiting until dark
- taking victim to an isolated place
- wearing mask or disguise
- concealment of a weapon on way to crime
- falsifying documents (passport, firearm permit)
- giving a false name
- threatening to kill witnesses if they report to police
- giving a false alibi

2. Disposing of evidence

- wiping off fingerprints
- washing off blood
- discarding of murder weapon
- burying a murder victim secretly
- destroying incriminating documents

3. Efforts to avoid detection

- fleeing from the crime scene
- fleeing from the police
- lying to the police

4. Statement by the defendant that he or she knew the act was wrong at the time of the offense
5. Notifying the police that a crime was committed

6. Expression of remorse or guilt after the crime committed

Absence of hallucinations or delusions suggesting that the offense was justified.

SELF-ASSESSMENT EXERCISE 3

Define criminal responsibility supported with evidence of knowledge of wrongfulness.

3.4 General Principles of Criminal Responsibility

The general principles of criminal responsibility are as follows:

- Requirement of Voluntary Act or Omission

(a) A person commits an offense only if he voluntarily engages in conduct, including an act, an omission, or possession.
(b) Possession is a voluntary act if the possessor knowingly obtains or receives the thing possessed or is aware of his control of the thing for a sufficient time to permit him to terminate his control.
(c) A person who omits to perform an act does not commit an offence unless a law provides that the omission is an offense or otherwise provides that he has a duty to perform the act.

- Requirement of Culpability

(a) Except otherwise stated by law, a person does not commit an offence unless he intentionally, knowingly, recklessly, or with criminal negligence engages in conduct as the definition of the offence requires.
(b) If the definition of an offense does not prescribe a culpable mental state, a culpable mental state is nevertheless required unless the definition plainly dispenses with any mental element.
(c) If the definition of an offense does not prescribe a culpable mental state, but one is nevertheless required, intent, knowledge, or recklessness suffices to establish criminal responsibility.
(d) Culpable mental states are classified according to relative degrees, from highest to lowest, as follows:

(1) Intentional;
(2) Knowing;
(3) Reckless;
(4) Criminal negligence.
(e) Proof of a higher degree of culpability than that charged constitutes proof of the culpability charged.

- Definitions of Culpable Mental State

(a) A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

(b) A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

(c) A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

(d) A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

- Causation: Conduct and Results

(a) A person is criminally responsible if the result would not have occurred but for his conduct, operating either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result and the conduct of the actor clearly insufficient.

(b) A person is nevertheless criminally responsible for causing a result if the only difference between what actually occurred and what he desired, contemplated, or risked is that:

(1) A different offense was committed; or

(2) A different person or property was injured, harmed, or otherwise affected

SELF-ASSESSMENT EXERCISE 4

Criminals are to be held accountable for their actions. Discuss this assertion in relation to the principles of criminal liability.

3.5 Factors considered in assessing criminal responsibility

Here, our focus is on Rogers Criminal Responsibility Scales (R-CRAS) developed by Richard Rogers to meet the needs of the psychologist involved in forensic practice within the criminal court system.

As professionals in forensic practice realise, the construct of legal insanity is, at best, poorly linked to the knowledge we have of human behaviour. The legal profession has developed at least four different "standards" of legal insanity: the McNaghten standard, the Irresistible Impulse standard, the American Law Institute standard, and the Guilty but Mentally ill standard. The R-CRAS was designed by using gradations of severity to standardise the evaluation of clinical information, such that the ambiguity of the decision on criminal responsibility is minimised.

Based on this Rogers stated these factors to be considered in assessing criminal responsibility:

1. Evidence of mental disorder currently, in the past and at time of offense,
   presence of delusions, mood disorder
2. Motive for offence
3. - if no apparent motive other than psychotic, suggests valid mental disorder
   - if rational motive is also present, such as profit, suspect malingering or coincidental mental disorder
4. Consider planning and preparation for crime
5. Evidence of impaired functioning within a few days of the crime
6. Detailed understanding of accused's thinking and behaviour before, during and after crime:

- evidence of bizarre behaviour
- attempt to escape or avoid detection

7. Consider criminal record and personality disorder
8. Consider previous psychiatric history
9. Do previous hospital records describe delusions or hallucinations that relate to current offense
10. If accused did not know the act was wrong, was this due to mental disorder?

SELF-ASSESSMENT EXERCISE 5

Based on Rogers's scales of Not-criminally responsible, examine the factors to be considered in assessing criminal responsibility.

3.5.1 Factors that Qualify for a "Not Criminally Responsible" (NCR) Defense?

1. Age of criminal responsibility

The **defense of infancy** is a form of defense known as an excuse so that defendants falling within the definition of an "infant" are excluded from criminal liability for their actions, if at the relevant time, they had not reached an **age of criminal responsibility**. After reaching the initial age, there may be levels of responsibility dictated by age and the type of offense allegedly committed. In Nigeria and many African and Western countries for example the age of infancy defense is 10years.

In this context, laws tend to use the phrase, "age of criminal responsibility" in two different ways:

a. As a definition of the process for dealing with an alleged offender, the range of ages specifies the exemption of a child from the adult system of prosecution and punishment. Most States develop special juvenile justice systems in parallel to the adult criminal justice system. Here, the hearings are essentially welfare-based and deal with children as in need of compulsory measures of treatment and/or care. Children are treated in this system when they have committed what would have been an offense in an adult.

b. As the physical capacity of a child to commit a crime. Hence, children are deemed incapable of committing some sexual or other acts requiring abilities of a more mature quality.

2. "Mental disorder"

- This is defined in the Criminal Code as a "disease of the mind"
- Can include any mental abnormality which causes impairment with the exception of voluntary intoxication or transient mental states such as hysteria or concussion
- Consequently, personality disorders are eligible for this defence. At the present time this is uncommon, largely because appellate court decisions have rendered it unlikely that an individual with a personality disorder would be unable to **appreciate** the **nature and quality** of the act in the manner that the courts have ruled.

3. "Appreciate"

- Implies an ability to foresee and measure consequences and not simply “to know” in the cognitive sense.

4. "Nature and quality”

- refers to the physical consequences of an act.

Hence such mental disorder can be stated as thus:

- Major mental disorders (psychotic disorders) and mental retardation generally not controversial
- Personality Disorders
- Enduring patterns of inflexible, maladaptive (i.e. resulting in significant functional impairment or subjective distress) ways of perceiving, relating to or thinking about the environment and oneself.
- Onset in childhood and exhibited in a wide range of important social and personal contexts
- Many types described
- DSMIV describes three clusters:
  Cluster A – paranoid, schizoid, schizotypal
  Cluster B – antisocial, borderline, histrionic, narcissistic
  Cluster C – avoidant, dependant, obsessive-compulsive
- does not impair ability to reason or “appreciate”
- do not usually consider themselves as mentally ill
- not usually regarded by others as mentally ill
- Paraphilias
- recurrent, intense sexual urges and sexually arousing fantasies involving non-human objects, children or non-consenting persons, or the suffering of oneself or sexual partner (sexual deviations, anomalies, perversions)
- usually not suffering from co-existing major mental illness (psychosis) but may do so
- problem of labeling abnormal sexual arousal patterns as a mental disorders for purposes of NCR
- paraphilias acts usually not carried out simply because of abnormal desires – personality disorder, intoxication, situational stresses
- no impairment of reasoning
- do not usually think of themselves as mentally disordered
- general public tends to think of them as “bad” rather than “mad”
- Post-traumatic Stress Disorder
- would likely qualify for inclusion as a mental disorder for NCR purposes included in DSM –IV

- presence of PTSD insufficient – must be a causal relationship between stressor and psychiatric symptoms and between psychiatric symptoms and offense
- may be a defense if crime occurs during a flashback (absent other motive)
  flashbacks are common symptom of PTSD but rare as a cause of crime
  regarded as dissociative phenomena and could justify that diagnosis.
  PTSD by itself does not lead to loss of reality contact
- NCR may be justified if subject entered a dissociative state – would not be in touch with reality
- Some PTSD sufferers engage in sensation-seeking behaviour to make them "feel alive"
- Some sufferers may experience severe depressive symptoms with desires to join other victims or desire to get killed or caught e.g. threat or shooting at police without intent to kill
- Such cases may or may not justify NCR
- An explanation is not the same as an excuse
- Multiple Personality Disorder
- DSM IV refers to as "Dissociative Identity Disorder"
- Controversial in both law and psychiatry

SELF-ASSESSMENT EXERCISE 6

What factors qualify for Not Criminally Responsible defense?

3.5.2 Patterns of Criminality and Mental Disorder

1. Crime was a response to psychotic symptoms, such as delusions and hallucinations – many will be NCR
2. Crime motivated by compulsive urges, such as paraphilias or disorders of impulse control – most not NCR
3. Crime the result of a personality disorder
4. Coincidental mental disorder not related to crime
5. Mental disorder results from the crime – dissociation, depression
6. Malingered mental disorder to avoid responsibility

3.6 Tactical Issues That May Be Used in Cross-Examining Experts

1. Understanding of the legal test
2. studies revealing poor knowledge of experts on the prevailing standard (eg. approximately 40% understand current meaning of "appreciate")
3. Demonstration of bias
4. Focus on possible malingering
5. Emphasise non-psychotic motives

- **Automatism**

Automatism refers to activity performed without conscious awareness and usually followed by complete amnesia. Since *R. v. Kemp (1956)* an artificial distinction has been made between insane and non-insane automatisms based on whether or not the condition arose from intrinsic factors. This special category of defense to a criminal charge, is defined in a leading Canadian case as:

- "Unconscious, involuntary behaviour, the state of a person who, though capable of action, is not conscious of what he is doing. It means an unconscious, involuntary act, where the mind does not go with what is being done." *(R v. Rabey, 1981)*
- Current law requires a two-step approach (*R.v. Stone, 1999)***:**
- Defense must provide evidence to enable the trial judge to instruct that, on the balance of probabilities, the accused acted involuntarily. Psychiatric evidence is required as well as consideration of such factors as: severity of the triggering stimulus, evidence of bystanders, history of automatistic-like dissociative states, evidence of motive, and whether the alleged trigger of the automatism was also the victim.
- Judge must determine whether it is a ***mental disorder*** or ***non-mental disorder*** automatism
- The first consideration is whether or not there is a mental disorder. There are two approaches to this that should be considered holistically rather than alternatively:

1. How a normal person would react in the same circumstances – an extremely shocking trigger would be required in a normal person;
2. Any condition likely to present a recurring danger to the public should be treated as a disease of the mind. Absence of continuing danger however does not preclude a finding of disease of the mind. Psychiatric evidence is relevant.

Mental Disorder Automatism

The determination of this is left to the fact finder (judge). Cases proceed like any other. Certain clinical conditions may produce "mental disorder automatisms":

- Catatonic schizophrenia
- Cerebral tumour
- Cerebral vascular disease
- Epilepsy - especially the type known as temporal lobe epilepsy (TLE) or complex partial seizures.
- Dissociative States:
- Conditions in which there is loss of the usual integration of personal identity and memories, sensory and motor functions
- There is a splitting off of specific mental activities from the rest of conscious awareness (A commonplace example would be driving to work while focusing on the day in court and arriving with no memory of the actual drive)
- Dissociative Disorders are severe, result in diverse and significant impairment of functioning fairly common
- Are often associated with childhood physical or sexual abuse
- Dissociative symptoms may occur in a number of other psychiatric disorders (e.g. conversion disorder, acute and chronic post traumatic stress disorder, borderline personality disorder, major depression, acute schizophrenia, etc.)
- Several major subtypes exist:

1. Dissociative amnesia
2. Dissociative fugue
3. State of wandering often with confusion about one's personal identity or even adoption of a new identity

- Dissociative Identity Disorder ("Multiple Personality Disorder")
- Depersonalisation Disorder
- Dissociative Disorder, not otherwise specified

Non-mental Disorder Automatism

This can be determined by the trial judge alone and results in a complete acquittal. Certain clinical conditions may cause Non-Mental Disorder Automatism:

- Cerebral concussion
- Hypoglycemia (low blood sugar)
- Drugs (medically administered)
- Alcohol – idiosyncratic or pathological intoxication
- Dissociative state – see above
- Sleepwalking – Parks case

- Parasomnias – behavioural phenomena inappropriate to the sleeping state
- Commoner in childhood but can occur for the first time in adults
- Violence can occur in various sleep disorders:
- associated with sudden wakening

- sleep drunkenness
- confusion, disorientation, misinterpretation of reality on sudden arousal from deep (stage three or four) sleep
- may act as if defending against imagined attack
- no subsequent recall

- associated with sleepwalking

- complex coordinated actions
- includes destruction of surrounding objects, self injury or injury to others
- victim usually a spouse
- repeat actions actually common and repeated
- genetic predisposition
- may be precipitated by external factors

- night terrors

- probably commonest parasomnia
- may have some recall of a frightening dream
- behaviour suggestive of night terror witnessed by others
- REM sleep behaviour disorder
- mainly elderly men
- 50% neurological disorder – none with psychiatric abnormality
- dream enactment during REM

SELF-ASSESSMENT EXERCISE 7

What are the tactical issues that may be used in cross examination o**f** experts**?**

4.0 CONCLUSION

Criminal liability and responsibility is a very interesting aspect of criminal law and procedure because it tends to exempt some set of people from the kind of punishment that ought to have been meted to them because of age or mental disability. As has been mentioned above, if a child of ten (10) years commits murder for instance in Nigeria, the child cannot get the same punishment as an adult who commits the same offence. The child may probably be kept in remand home until the adult

age when he /she will be made to undergo the punishment required or otherwise. Likewise, man with mental disability does not always get the same punishment with a sane person, even though they both commit the same crime.

5.0 SUMMARY

Criminal liability and responsibility as discussed in this unit, is focused on the definition of criminal liability, principles of criminal liability, definition of criminal responsibility, principles of criminal responsibility, factors considered in assessing criminal responsibility, factors that qualify for criminal responsibility defense, patterns of criminal and mental disorder and tactical issues that may be used in cross examining experts.

6.0 TUTOR-MARKED ASSIGNMENT

1. Briefly define with examples the term “Criminal Liability”.
2. Criminal are to be held accountable for their actions. Discuss this assertion in relation to the principles of criminal liability.
3. Define criminal responsibility supported with evidence of knowledge of wrongfulness.
4. Critically examine the principles of criminal responsibility.
5. What factors qualify for “Not criminally responsible” defense?

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MODULE 4 THE POLICE

UNIT 1 THE POLICE

CONTENTS

1.0 INTRODUCTION

The police play important roles without which the sustenance of order, justice, legality, development and democracy may be difficult. The Nigerian Police force is therefore the National Police of Nigeria on whose shoulders lay the role of enforcement of law and policing in the country. This unit is focused on a brief history of Nigerian Police, the powers of the police, the duties of the police and the reforms at making the Nigerian police effective, policing and combating crime as provided in the Constitution and the Police Act.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- give a brief history of the Nigerian Police
- describe the powers of the police as provided by the Police Act
- list the duties of the police
- explain the reforms aimed at better policing.

3.0 MAIN CONTENT

3.1 A Brief History of the Nigeria Police

Nigeria police began with a thirty-member consular guard formed in Lagos Colony in 1861. In 1879 a 1,200-member armed paramilitary Hausa Constabulary was formed. In 1896 the Lagos Police was established. A similar force, the Niger Coast Constabulary, was formed in Calabar in 1894 under the newly proclaimed Niger Coast Protectorate. In the north, the Royal Niger Company set up the Royal Niger Company Constabulary in 1888 with headquarters at Lokoja. When the protectorates of Northern and Southern Nigeria were proclaimed in the early 1900s, part of the Royal Niger Company Constabulary became the Northern Nigeria Police, and part of the Niger Coast Constabulary became the Southern Nigeria Police. Northern and Southern Nigeria were amalgamated in 1914, but their police forces were not merged until 1930, forming the NPF, headquartered in Lagos. During the colonial period, most police were associated with local governments (native authorities). In the 1960s, under the First Republic, these forces were first regionalised and then nationalised. The federal military government under General Gowon accepted the recommendation of the working party that the Nigerian police system be unified. The working party after extensive discussions and consultations came to the inevitable conclusion that 'unification is feasible' and should be formerly accepted as an articulation of the country's ultimate objective (The report of the Working Party on Police and Prison Services 1966:22). As a result the local police forces were dissolved and their qualified personnel were absolved into the Nigerian Police.

The dissolution of the local police force was anchored on several points. The members of the local police force were ill equipped, poorly trained and poorly behaved, and constituted an instrument of oppression in the hands of traditional rulers, local governments and politicians (Rotimi 1993; Ahire 1993, Ohonbamu 1972, Tamuno 1970, Alemika 1988, 1993).

In mid-1980 plans were announced to expand the force to 200,000. By 1983, according to the federal budget, the strength of the NPF was almost 152,000, but other sources estimated it to be between 20,000 and 80,000. As at 1983, there were more than 1,300 police stations nationwide. Police officers were not usually armed but were issued weapons when required for specific missions or circumstances. They were often deployed throughout the country, but in 1989 General Gbadamosi Babangida, the then military head of state announced that a larger number of officers would be posted to their native areas to facilitate police - community relations.

SELF-ASSESSMENT EXERCISE 1

Briefly discuss the evolution of the Nigeria police.

3.2 The Powers of the Police

Members of the Nigerian Police Force have statutory powers to:

- Investigate crimes,
- To apprehend offenders,
- To interrogate and prosecute suspects,
- To grant bail to suspects pending completion of investigation or prior to court arrangement,
- To serve summons, and
- To regulate or disperse procession and assemblies.
- They are also empowered to search and seize properties suspected to be stolen or associated with crime, and
- "to take fingerprint impressions of all persons…" in their custody (sec. 19-26 of Police Act)

SELF-ASSESSMENT EXERCISE 2

How powerful is the Nigeria Police?

3.3 Duties of the Nigeria Police

The primary role of police is policing; securing compliance with existing laws and conformity with precepts of social order. But the police are not the only agency involved in policing, in the broad sense of the term. Policing has always been necessary in all societies for the preservation of order, safety and social relations.

To Susan (2000), Police work involves a variety of tasks and responsibilities. Officers are expected to prevent crime, protect lives and properties, enforce the laws, maintain peace and public order, and provide a wide range of services to the citizens. A common trend unifying these diverse activities, however is that potential for violence and the need and right to use coercive means in order to establish social control (Bitner, 1970).

Broadly speaking, modern police are assigned the primary duty of law enforcement and order maintenance. But the consent of law and what constitute order vary widely across time and nations, and are determined by the political economy of societies. The concrete roles played by the police are defined by law and conception of order in accordance with the political and economic interests of the dominant or ruling groups in society. Robert Reiner (1993) stresses this point:

"The police are specialist carriers of the state's bedrock power, the monopoly of legitimate use of force. How and for what this is used speaks to the very heart of the condition of a political order".

The NPF performed conventional police functions and was responsible for internal security generally; for supporting the prison, immigration, and customs services; and for performing military duties within or outside Nigeria as directed

The roles of the police vary across societies with different political and economic organizations. According to the Institute for the studies of Labour and Economic crisis (1982:12), in capitalist societies: The main function of the police has been to protect the property and well being of those who benefit most from an economy based on the extraction of private profit. The police were created primarily in response to rioting and disorder directed against oppressive working and living conditions.

SELF-ASSESSMENT EXERCISE 3

Enumerate the duties of the police.

3.4 Police Reforms

There are several reforms aimed at improving the lives of the Nigeria police in the recent times. These include the 79 point agenda, the three point agenda, and the White Paper Reform among the others. The white paper reform states:

- **Better pay:** Police officers are paid as little as $40 (#62) a month, this should be raised to $100 for police constable.
- **Bad eggs:** Deal with the estimated 10,000 officers with criminal tendency hired already.
- **Complaints:** A complaint mechanism set up for public to complain and have their complaints established.
- **Better education:** All recruits should attain a certain educational level before being recruited into the force.
- **Promotion:** Officers should be promoted after every four years of active and effective service. Promotion should also be transparent.
- **Uniforms:** Policemen should not have to buy their own uniform.
- **Communications:** Policemen should get an up to date communication network.
- **Equipment:** police should be given better investigating tools and the training to use them.

However recommendations that would have removed the president's power to appoint the chief of police and give the appointee security of tenure in office were taken out of the white paper.

SELF-ASSESSMENT EXERCISE 4

Evaluate the recent reforms of the Nigeria police.

4.0 CONCLUSION

The Nigerian police have come a long way and need to be appraised for their efforts in peace keeping both internally and externally (Foreign peace keeping Mission).

5.0 SUMMARY

This unit has successfully discussed a brief history of the Nigerian police, the powers of the police, the duties of the police and the recent reforms aimed at improving the lives and standard of the Nigerian Police.

6.0 TUTOR-MARKED ASSIGNMENT

1. Briefly discuss the evolution of the Nigeria Police Force.
2. Discuss the Powers of the Police.
3. Enumerate the duties of the Nigeria Police.
4. Evaluate the recent reforms of the Nigeria police.

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UNIT 2 POLICE DISCRETION

CONTENTS

1.0 INTRODUCTION

Discretion according to the Oxford Dictionary of English means the freedom to decide what should be done in a particular situation. Police however has also been severally accused of discrimination in the use of their power and judgment to dispose of many cases. In using their discretion about who to bring to court, police officers have admitted using many cues to character such as age, race/ethnicity, grooming and dress, demeanor, etc. this unit is focused on the sociological definition of police discretion, causes of discretion and areas of discretion.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain the definition of Police discretion
- explain the causes of discretion
- describe the areas of police discretion
- describe peoples view on police discretion.

3.0 MAIN CONTENT

3.1 Definition of Police Discretion

By definition, discretion is the making of choices among a number of possible courses of action (Davis, 1969). To Davis one is actually "free to make choices".

Discretion, uncertainty, and inefficiency are rampant and essential in criminal justice, as such nobody expects perfection. Justice is a sporting

event in which playing fair is more important than winning. Law enactment, enforcement, and administration all involve trading off the possibility of perfect outcomes for security against the worst outcomes. To Manning (1977), discretion is a symbolic bureaucracy because Police employees on the bottom have more discretion than employees on the top. The law simply does not cover every situation that a police officer encounters in the field. In cases where the law may be clear, it might be more prudent for the officer to ignore strict letter-of-the-law interpretations. Laws are passed in a vacuum, and usually written quite narrowly. Police encounter a wide range of behaviors and a variety of situations that the law hasn't even thought about yet. One of the most amazing things about policing is not who they arrest, but who and how many they let go (non-arrest options, leniency, under reaction). On the other hand, police work is dangerous, and officers sometimes view non-dangerous situations as more dangerous than they really are which often times lead to overreaction, unwarranted use of deadly force, extrajudicial killings and abuse.

Police discretion was a taboo topic up until 1956 when an American Bar Foundation study "discovered" it. Prior to then, nobody would admit it existed. The attitude of police administrators was that any deviation from accepted procedures was extralegal and probably a source of corruption. When it was finally exposed, people like the American Friends Service Committee (1971) called for its abolishment, and police administrators sought a clampdown on discretion (administrative rulemaking). It is now recognised as a necessary evil or something that can be put to good use if structured properly. Generally, police bureaucracies are organized to manage (detect, investigate, sort out, sieve, arrest, detain, prosecute, harass) those considered to be dangerous for the preservation of the status quo. As Carter and Radelet (1999; 9) puts it, the police “are part of and not apart from the community they serve”. As such a high level of discretion is mostly needed in the discharge of their duties. The exercise of discretion is not the problem but the abuse of discretion is the problem. Community policing is about giving officers more discretion to better serve the needs of the community. Whether a police department has a *legalistic*, *watchman*, or *service* style is a matter of how discretion is controlled and structured. This explains why police officers arrest people for wandering at certain time of the day and situations (whether a crowded area and probably suspicious of robbery attack).

Philosophers such as Ronald Dworkin and H.L.A. Hart have referred to discretion as "the hole in the doughnut" (doughnut theory of discretion) and "where the law runs out" (natural law theory). In this perspective, discretion is the empty area in the middle of a ring consisting of policies and procedures. The freedom of being able to make choices is called a

strong sense of discretion by Dworkin. In the weaker sense, we would consider cases in which not only the rules don't apply, but the officer makes individualised judgments. In both senses, it's the problem of loose definition. The analyses of these terms are required for clearer understanding of Police discretion:

- **Discretion-as-judgment -** Discretion is the opposite of routine and habitual obedience. It brings knowledge, skill, and insight to bear in unpredictable ways. Police are not soldiers who must blindly follow orders (Theirs is not to reason why, theirs is but to do or die). Police must be more than competent at applying the rules; they must adapt those rules to local circumstances in a rule-bound way. For example fighting between wives of two policemen, where both of them were brought to the station, a high level of discretion is needed to settle them to achieve fairness and equity of justice.

- **Discretion-as-choice -** Discretion is not just a matter of realising when you're in the hole of the doughnut, or a "grey area". It involves making personal contributions, judgment calls, exercising autonomy, and individual solutions. It's about the courage to make your own decisions, to have personal input, following your conscience, even if those decisions are reversed later by a superior.

- **Discretion-as-discernment -** Discretion is not just about making "safe" choices, or being "soft". It's about making good, virtuous choices by habit or the wisdom that comes from age (The better part of valor is discretion). Prudence, foresight, the ability to size up people, arguments, and situations. Tactfulness, tolerance, empathy, and being discreet are all forms of discernment. Being able to discern the truth in cases brought before them in the station or on the field and even in family matters.

- **Discretion-as-liberty -** Discretion is not where the law ends, nor is it the same as intellectually deriving principles from rules. It's about permission to act as a free and equal agent, and using that permission in extending the rights and duties of office (under color of law) toward a vision of liberty, inalienable rights, and the kinds of things that no majority, rule, or principle can ever take away.

- **Discretion-as-license -** Discretion is the opposite of standard expectations. It is the privilege to go against the rules, disobey your superiors, be less than optimal or perfect all the time, all without degenerating the rules or eroding the trust between you,

your superiors, or the public. License (not licentiousness) involves a sense of accountability that does not have to be formally recognised or structural.

Discretion is not doing as you please. Discretion is bounded by norms (professional norms, community norms, legal norms, moral norms). The future of policing as a profession depends upon whether discretion can be put to good use. Two problems impeding police professionalisation, however, are that there are few uncontroversial areas of police work, unlike other professions, and the public seems unwilling to trust informally in the accountability of police officers; they seem to want strict, formal accountability mechanisms. Sometimes the public wants non-enforcement, and other times they want strict enforcement. Citizens will scream false arrest in the first case, and some groups may file a writ of mandamus in the second case (a writ of mandamus is a court order to get a public official to perform their duty).

SELF-ASSESSMENT EXERCISE 1

Critically analyse Police Discretion.

3.2 Causes of Discretion

"Policing in America" by Gaines, Kappeler & Vaughn breaks down the vast amount of research into the causes of discretion. Decision elements are grouped into three (3) categories and summarised below:

- **Offender variables -** Police take adult complaints more seriously than those made by juveniles. Arrest and force is more likely to be used against the poor and uneducated. Citizens who show deference (good demeanor) toward police are treated more leniently. People in middle to upper income brackets receive more and better service from police. Gender and mental health status affect how police handle many incidents. Police sympathise with and only lecture some offenders.

- **Situation variables -** Police give serious (crime) matters more attention than minor (non-crime) matters. The presence of weapons or acts of resistance often results in police overreaction and extrajudicial killings. The type of property involved in a property crime determines police response and investigatory effort. Activities initiated by police are followed up more than activities initiated by citizen complaint. Visibility of vice is a major factor in vice enforcement (the three Cs of Vice: Complaints, Commercial, and Conspicuous). Police tend to

become much more bureaucratic when witnesses, an audience, or the media are present.

- **System variables -** Police tend to become lenient when the court and correctional systems are clogged. Police tend to become strict when the city needs revenue. Size and structure of the department controls individual discretion. Communities that have sufficient social service resources, like detox and mental health facilities, allow officers to use more non-arrest options. The way in which officers are summoned plays a role in how they will act when they get there.

LaFave (1965) and Davis (1969) list the following reasons for non-arrest:

- Police believe the legislature did not desire full enforcement. Instead, they believed the politicians were making symbolic statements, expressing an ideal, or appearing to be tough on crime. Some (community standard) statutes are full of ambiguity, and some old statutes need to be taken off the books. Other laws may carry penalties that the police think are too severe.
- Police believe the community wants lenient or lax enforcement. The crime is common within a sub cultural group, victims do not file complaints, witnesses refuse to testify, victim and offender are related, the victim is involved in misconduct, and the victim is more likely to get restitution without arrest. An arrest may cause loss of valuable public support or unduly harm someone's status in the community.
- Police believe other duties are more urgent or important. The officer goes off duty in ten minutes, the department has stopped subsidizing officers for court appearances, there's inadequate manpower for backup, and the police trade non-enforcement for other favors, deals, or to gain informants.

SELF-ASSESSMENT EXERCISE 2

Account for the causes of police discretion.

3.3 Areas of Discretion

Domestic Violence - This has been one area where police have been more than willing to ask social workers, social scientists, and academicians for help. Instead of just locking up husbands who beat their wives, the police have always appeared more interested in doing nothing, and more recently, experimenting with alternatives such as mediation, counseling, cooling-off periods, social service referrals.

Hirschei *et al.* (1992) found four (4) reasons for police inaction with this wife battery:

- Domestic violence was seen as a private matter
- Female victims were often uncooperative
- Arrest of the breadwinner would hurt the family
- Male officers would side with the male assailant

In 1984, results of the Minneapolis Domestic Violence Experiment were released (Sherman & Berk 1984), and it was the first study showing that arrest worked (for anything). Over a period of 18 months, officers randomly selected one of three options (arrest, mediation, or cooling-off) to use on domestic violence calls. Interviews were then conducted with the victims six months later to see if any additional abuse occurred. Arrest alone produced a deterrent effect as those none arrested were twice as likely to re-offend. Consider what else is known from replications of this study:

- Arrest increases violence among people who have nothing to lose, like the unemployed.
- Arrest deters violence in cities with higher proportions of whites and hispanics
- Arrest deters violence in the short run, but escalates violence later in cities with higher proportions of blacks
- A small (chronic) portion of violent couples are responsible for the majority of calls
- Offenders who flee before the police arrive are deterred by arrest warrants

Drunk Driving - Although we are accustomed now to toughness with this crime, toughness was not always the case historically. There have been some studies showing three kinds of officers who DO make DUI arrests: (1) rate busters; (2) moralists, or drunk-haters; and (3) bounty hunters, who wish to collect the overtime pay. The following are reasons why the police would NOT make DUI arrests:

- **Laziness -** to avoid work, visibility, court dates, paperwork, overtime
- **Opinion that DUI is not serious -** a low priority, something they've done themselves
- **Lack of faith in utility of arrest -** no point in it; better to follow the person home or have someone else drive

Hate Crime - We are currently in a societal phase where the primary law enforcement action regarding hate crime is documentation. The principle behind hate crime legislation is that even the most minor offense

undercuts the very heart of a community, but police have widespread discretion in deciding which acts, which individuals, and which groups in the community are minor nuisances or community threats. In addition, the police are accustomed to protecting every group's rights, regardless of belief or ideology.

Mental Illness - For the most part, homelessness, alcohol and drug abuse, and mental illness are intermingled. Some 8-11% of police calls for service involve the mentally ill, and an unknown additional amount involves malingering by poor people who do not have access to private care so they call the police to forcibly obtain care for family members. Calls about panhandlers can constitute as much as 25-35% of all calls. If facilities are not available, the police generally allow the homeless to stay on the street, or they forcibly relocate them. The following are problems associated with this:

- Conflict over the proper uses of available public facilities
- Public demand for actions that are only marginally criminal

Use of Force - Along with high-speed pursuits, use of force is an area where there has been recent administrative control and structuring of discretion. The amount of force to be used by police officers is usually described in police manuals as no greater than necessary and reasonable in a given situation. Despite these variations, a rough national consensus currently exists on the best policy, specifically that the use of deadly force should be limited to the defense of the life of the officer or other citizens Fyfe 1979, Sparger and Giacopassi (1992). As such less lethal force by police officer was opted for. This includes actions that utilize either an officer’s body (e.g., hands, feet) or a less lethal weapon (baton, chemical spray, electromagnetic device, etc.) (Alpert and Dunham, 2004; Garner and Maxwell, 1999). Unquestionably, the use of force must be controlled and confined to protect the department from civil liability, but the following factors are also worthy of consideration:

- Police officers' rights to protect themselves
- Precedent set by the past behavior of police officers
- Need to build security access for future police officers

Vice Crime - Vice is crime against the public order or morality (e.g., prostitution, nude dancing, gambling, pornography, illegal sale of alcohol, narcotics). Such crimes are also "victimless" in the sense that participants are involved consensually and willingly. There are a number of reasons why enforcement vice is uneven, sporadic, and ineffective:

- The laws are almost unenforceable. Investigation leading to conviction requires Complaints, and the activity being Commercial and Conspicuous
- Most police departments can't afford special vice units, and such investigations are costly and time-consuming. They go after it when opportunities avail themselves
- Vice enforcement encourages illegal police activity, like wrongful searches, planted evidence, entrapment, corruption, and organized crime infiltration

SELF-ASSESSMENT EXERCISE 3

Discuss in detail the areas where police discretion may be successfully applied.

4.0 CONCLUSION

In conclusion, police discretion appears to be a double-edged sword. It can be used for good or bad. It's not as simple as being right or wrong. Certainly if the sources of discretion included individual police officer prejudice, whim or caprice, this would be completely wrong, but there are other, more important causes of discretion, as have been discussed.

5.0 SUMMARY

Police discretion as have been dealt with in this unit is based on the definition of police discretion, the causes of police discretion and the areas of police discretion.

6.0 TUTOR-MARKED ASSIGNMENT

1. Critically analyse the definition of police discretion.
2. Account for the causes of police discretion.
3. Discuss in detail the areas where police discretion may be successfully applied.

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INTERNET RESOURCES

Exceptions to Domestic Violence Arrest Policy

Gender Bias in CJ: a Male Feminist View

Use of SWAT tactics to evict the Homeless

Police and Prostitutes

Exclusion of Evidence due to Police Improprieties/Discretion

The History of Policing Violence against Women

Lecture Notes on Issues in Policing

UNIT 3 POLICE ACCOUNTABILITY

CONTENTS

1.0 INTRODUCTION

Accountability is a vital element of Nigerian policing. Both individual officers and law enforcement agencies should be held accountable for their actions. Police officers are the public officials society has authorized to use force, ensuring that they use this warrant equitably, legally and economically on behalf of citizens is at the core of police accountability. Police is a part of the society and not detached from the society just as posited by Susan (2000) effective accountability procedures are therefore essential if the police are to achieve their goals of lawfulness and legitimacy, as defined by The National Academy of Sciences.

Lawfulness refers to compliance with the formal requirements of the law, including statutes and court decisions. Legitimacy refers to the perception that police conduct is both lawful and consistent with public expectations (National Research Council, 2004). Bayley (2002) recognised that lawful conduct and accountability are essential for

crime-fighting just like Goldstein (1990) and Scott (2000) see lawfulness and legitimacy as essentials in community policing contrary to the popular view that effective crime control and respect for constitutional principles are competing values in policing (Packer, 1968).

This unit is focused on police accountability procedures related to the conduct of individual officers. These procedures are: enforcement of law/ police authority; use of force, command and control mechanism, routine supervision, managing police culture, accountability to the community, regular performance evaluation and early intervention systems.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- define police accountability
- examine accountability procedures
- describe the formal agency policies on the use of police authority
- explain command and control mechanisms
- describe the routine supervision of officers by first-line supervisors
- describe the Management of police culture
- explain accountability to the community
- deduce regular performance evaluations
- explain early intervention systems designed to identify performance problems
- determine procedures for investigating allegations of officer misconduct.

3.0 MAIN CONTENT

3.1 Definition of Police Accountability

It is a fundamental principle of a democratic society that the police should be held to account for their actions. Accountability includes both *what* the police do and *how* they perform. Accountability can be divided into two; Agency- level accountability and Individual level accountability. Agency-level accountability involves the performance of law enforcement agencies with respect to controlling crime and disorder and providing services to the public (National Institute of Justice, 1999). While Individual-level accountability involves the conduct of police officers with respect to lawful, respectful, and equal treatment of citizens.

Individual-level accountability procedures fall into two general categories: internal and external. Procedures that are internal to law enforcement agencies include controlling officer conduct through written policies, command and control, routine supervision, regular performance evaluations, and the investigation of allegations of misconduct, and early intervention systems (EIS). External accountability procedures include citizen oversight agencies.

Increased Interest in Accountability

Interest in police accountability on the part of police managers, policy-makers and police scholars have increased in recent years as a result of three developments.

First, Violent Crime Control Act authorizes the Nigerian Justice Department to bring suit against law enforcement agencies where there is a "pattern or practice" of abuse of citizens' rights and to seek organizational reforms designed to end those abuses (Livingston 1999, 2004; Walker, 2005a).

Second, early intervention systems (EIS) represent an important new management tool designed to enhance accountability. Officers who are identified through this medium are then subjected to formal interventions (typically counseling or retraining) designed to correct the performance problems (Walker, 2003; Walker, Alpert and Kenney, 2001). An EIS is now required by the Commission on the Accreditation of Law Enforcement Agencies (Commission on Accreditation for Law Enforcement Agencies, 2006:35.9.1).

Third, there has been a steady growth in the number of external citizen oversight of agencies across the country. Civil rights and civil liberties activists have demanded external procedures for reviewing citizen complaints, arguing that they will be more effective than internal police complaint review procedures. The Nigerian police have an EIS complaint box opened on officer performance that permits analysis by police commanders for the purpose of identifying officers who appear to have recurring performance problems (e.g., high rates of use of force, citizen complaints, etc.).

All three of these developments reflect growing public concern about police accountability, and in particular the reduction of incidents of officers' misconduct. They also reflect the willingness of many law enforcement agencies to adopt new accountability procedures voluntarily and in a number of cases the willingness of elected officials to impose citizen oversight over the objections of their law enforcement agency. Despite this growing concern, little is known about the

effectiveness of accountability procedures (National Research Council, 2004: 252-326).

For all practical purposes, the subject of this paper overlaps with the question of controlling police discretion (Davis, 1975; Gottfredson and Gottfredson, 1988; Mastrofski, 2004; Walker, 1993). The accountability procedures examined here generally seek to reduce misconduct involving the misuse of discretion, either directly through a policy directive, or through improved supervision or through a deterrence-based disciplinary action.

SELF-ASSESSMENT EXERCISE 1

Define police accountability.

3.2 Controlling the Use of Police Authority through Formal Agency Policies

Police organisation like every other organisation relies on distinctive structural forms and management process to maintain accountability. Characteristically their functions are centralised with functionally defined bureaus and their management processes emphasises pre-service training and elaborate command and control mechanisms. In many respects police organisation typified the classical command and control organisation that emphasise top level decision making ; flow of order from executive down to line personnel, flow of information up from line personnel to top executive, layers of dense supervision, unity of command, elaborate rules and regulations, elimination of discretion and simplification of work task.

The first accountability procedure to be considered involves the direction and control of police authority through formal agency policies. This approach, generically known as administrative rulemaking, is a basic feature of modern police management. Administrative rulemaking consists of three elements: specifying approved and forbidden actions in written policies; requiring officers to file written reports on specific actions; requiring administrative review of officers' reports (Davis, 1975; Goldstein, 1977:93-130; Walker, 1993).

A comprehensive review would include all critical incidents where the exercise of police authority poses some potential danger to the life, liberty, or safety of citizens. Administrative rulemaking first developed with regard to the use of deadly force. Over the last three decades it has extended to the use of non-lethal force, vehicle pursuits, domestic violence incidents, the deployment of canines, and other actions.

3.2.1 Deadly Force

Administrative rulemaking in policing is most highly developed in the area of police use of deadly force. Departmental policies on this subject are arguably the most detailed of any area of police conduct. Despite some variations, a rough national consensus currently exists on the best policy, specifically that the use of deadly force should be limited to the defense of the life of the officer or other citizens, Fyfe (1979); Sparger and Giacopassi (1992)). At the same time, the literature on the effectiveness of deadly force policies is arguably larger than any other area of police conduct (Fyfe, 1979; Geller and Scott, 1992).

The Nigerian police force order 237 which allows it to shoot suspected persons or detainees attempting to escape or avoid arrest, is impermissibly broad. It simply gives the police officers permission to shot at will and wreck havoc on individuals or groups. It is against international standards and is being abused by police officers to commit, justify and cover up "illegal killings" said Mr. Van Der Borgat the Director of Amnesty International, following their report titled "Nigerian Police kill at will" based on this force order there has been incessant killing by the Nigerian police such that bullets could be released on citizens for minor arguments like refusal to give bribe and verbal abuses. For example extra-judicial killing of six persons at Apo; 13 at Abia, 25 at Benue; the killing of Mrs Iroh in Lagos by police stray bullet, and Haliru Salau Agaba who was killed over refusal to buy a stick of cigarette for a plain cloth police man (Corporal Bello Rabiu) working with the CID in Kaduna in 2001, police killing at Boko Haram in 2009; just to mention a few.

3.2.2 Less Lethal Force

Less lethal force by police involves officers' actions that utilize either an officer's body (e.g., hands, feet) or a less lethal weapon (baton, chemical spray, electromagnetic device, etc.) (Alpert and Dunham, 2004; Garner and Maxwell, 1999). The term "less lethal" has recently replaced "less *than* lethal" in recognition of the fact that weapons other than firearms are in fact potentially lethal.

Virtually all police departments have written policies governing the use of force, although policies vary considerably across departments with respect to many important details. Use of force policies typically specify the legitimate purposes for which force may be used, the types of force that are authorized and not authorized. And also the specific circumstances in which force is authorised or forbidden. Policies increasingly include a use of force continuum that relates the

permissible use of force to the citizen's behavior (Department of Justice, 1999:37-38).

Virtually all of the research on police use of less lethal force investigates patterns in the use of force, particularly the situational factors associated with its use, the characteristics of citizens against whom force is used (Alpert and Dunham, 2004; Bureau of Justice Statistics, 1999). There are no studies that directly investigate whether restrictive policies on the use of force reduce either the overall rates of force or the incidence of excessive force by police officers (National Academy of Sciences, 2004:283-286). Although the evidence on the effectiveness of restrictive policies on the use of deadly force suggests possible effectiveness with regard to less lethal force, the two types of force are different in important respects, and caution is advisable in the absence of empirical evidence. Less lethal force incidents are far more numerous and ambiguous than are deadly force incidents.

While the impact of restrictive policies on the use of force has not been investigated directly, there is indirect evidence from several studies suggesting that certain organisational characteristics of police departments are effective in reducing the incidence of the use of force. Alpert and MacDonald (2001) found that departments that require a supervisor or some other official to complete use of force reports have lower use of force rates than departments where the officer involved in each incident complete force reports. Presumptively, requiring a supervisor to complete use of force reports represents a more intensive level of supervision and accountability (in the sense that the reporting process is more independent therefore objective). Terrill (2001) found that close supervision was associated with lower levels of use of force by officers. Alpert and MacDonald (2001), meanwhile, found that departments that use force reports for a specific purpose have higher overall use of force rates.

SELF-ASSESSMENT EXERCISE 2

Compare the use of deadly force and less lethal force in Nigeria policing.

3.2.3 Vehicle Pursuits

Vehicle pursuits are a potentially extremely dangerous police action. Research has found that pursuits can result in unacceptable rates of accidents and injuries and deaths to officers and citizens (Alpert and Dunham, 1990). Because they involve a discretionary decision that can result in injury or death, they can be considered a form of police use of force. To reduce the potential risks, most police departments have

adopted formal policies governing pursuits. Existing policies vary considerably with respect to their degree of restrictiveness (Alpert and Dunham, 1990; Wells and Falcone 1992). Existing policies typically restrict pursuits based on consideration of the suspected offense, weather and road conditions, and other risks to officer or citizen safety. Policies also typically limit pursuits to two police vehicles and forbid potentially dangerous tactics such as ramming a fleeing vehicle. Policies typically authorise supervisors and/or dispatchers to terminate pursuits when they feel the risks outweigh the potential benefits. (Alpert and Dunhan,1990). The evidence also indicates that restrictive policies on vehicle pursuits reduce accidents, injuries and deaths. Studies have consistently found that relatively more restrictive policies reduce the overall number of pursuits and the adverse consequences of pursuits, including accidents, injuries and deaths to both officers and citizens (Alpert 1997; Crew, Kessler, and Fridell, 1994; Wells and Falcone 1992).

SELF-ASSESSMENT EXERCISE 3

Examine the use of vehicle pursuit in relation to Nigerian police accountability.

3.2.4 Command and Control Mechanism

Command and control management has met two sets of needs in Nigeria policing. First, command and control styles have strengthened the ability of police to respond to civil disturbances, riots, labour disputes and other problems from which coordinating large numbers of police was required. Police intervention in the various riots and chaos (political and religious) across the country is an indication of flow of order of police executives from top level to officers who will actually go to the venue to enforce law and order and ensure peace returns to the area. Police intervened in the recent Jos Plateau crisis in which about 1000 people lost their lives. On the visit of the police chief, he said the DPOs of such communities will be held accountable for such riots in future occurrence. Thereby, ordering all police officers in the area to be more effective in their efforts to quell such crisis.

Secondly, command and control systems have resolved many of the inherent tensions of policing, for example, between constrains imposed on police by law and the opportunities for effectiveness provided by their warrant to use force. For example “Operation fire for fire’ with police acquisition of more sophisticated ammunition to aid police effectiveness brought about incessant killing and extrajudicial killings which to a large extent has affected police community-relations in recent times.

However command and control mechanism is used by executives to resolve tensions and character of the officers by:

- Instituting rules that prescribe the behaviour of officers
- Creating dense pattern of control and supervision to enforce these rules
- Establishing the principles of unity of command to eliminate ambiguity in the chain of authority and
- Routinising the job of police officers by defining it as law enforcements.

So far these strategies have been successful in that it has indeed reduced political control of officers, reduced corruption, improved qualification and training of police officers, constraint on police officers' use of force, especially deadly force, production of more equitable police service and arguably enhancement of the tenure of police chiefs. It has also improved the capacity of police to respond to riots and other disturbances that require coordinated group response.

3.2.4.1 Strains in Command and Control Strategy

As logically appealing as the command and control organization seems, many aspects of police work are not compatible with classical command and control organizations:

1. Patrol work is not amenable to attempts to simplify or routinize it.
2. Police officers unlike assembly line workers or military troops do not work under the direct scrutiny of supervisors. Even sergeants are in the field, the unpredictable timing and location of police activities thwart ordinary supervision of performance. Consequently, although serious attempts have been made to eliminate or structure discretion, it has remained an integral and pervasive feature of police work especially at the level of patrol officer. This staring ice gives rise to the failure of use of police discretion. (Discretion driven underground), unrecognised and unrewarded, creativity and productive adaptations.

Police department also often fail to tap potential abilities of their officers. Officers prefer to "stay out of trouble" which stifles officers who are otherwise resourceful and abet officers who "perch" in their positions.

SELF-ASSESSMENT EXERCISE 4

Critically examine police command and control mechanism of accountability.

3.3 Managing Police Culture

Experts have argued that there is a police subculture, that it has a powerful effect on policing, and that this effect is largely negative with respect to accountability (Skolnick, 1994; Westley, 1970). Recent research, however, has also found that the police subculture is far more complex and multidimensional than assumed in earlier research (Herbert, 1998; Reuss-Ianni, 1983; Terrill, Paoline, and Manning, 2003). What is Police Culture? They are:

1. "Stay out of trouble"
2. "the blue curtain and cynicism
3. "I am being paid for being a police officer. Beyond staying out of trouble, if you want me to do anything, bring me on overtime"
4. "we are the finest"
5. "Machismo"
6. "Serve and protect"

Generally, it is acknowledged that a primary determinant of police behaviour is the culture within which they find themselves. Good management is often described as the management of organisational culture which in most cases are informal (organisational myths, heroes and valiant, informal pattern of communication, the norms and mores of the organisation e.t.c). Often management's attempt to manage culture through command and control merely results to suspicion, isolation, insularity, demeaning perception of citizens grumpiness, the "blue curtain and cynicism" resulting to an attitude on the part of the officer that says "management leave me alone let me do my work"

3.3.1 Successful Management of Culture is achieved in Three Ways

1. **Leadership through values**: Organisational values are implicit in every action of organisation incumbents. Explicit organisational values are set to state the beliefs, the standards to be maintained by its members and the broader mission to be achieved. The Nigerian police as well have mission statements which guide their operations e.g. the Nigerian Police three point agenda. Most often values operate at several levels of individual and organisational awareness, for instance, an officer who has to help his friend out of trouble is faced with various alternatives that he has to choose from. For example, being loyal to his friend or maintaining high standard of professional practice. At other times when officers decide to keep their colleagues dirty secrets by drawing the "blue curtain" around them, they choose the value of loyalty to peers over other values such as quality service to

community (Goldstein, 1977). So these implicit and explicit values shape and drive police performance (Robert Wasserman). It is the responsibility of police chiefs to; identify flow of value from the law and constitution that represent the highest norms of the profession and consistent with the ideals of society; enunciate these values persuasively and unambiguously through the development of concise value statement and statements of policy on issues. As such procedures and rules are derived from value based policies (Daryl Gates) and it encourages officers to weigh their actions constantly in the light of departmental values resulting in officers' selection of appropriate courses of action from within a range of options rather than in the role fashion too often prescribed by advocates of command and control. Leadership values addresses the issue of accountability by attempting to link the nature of police work (application of discretionary judgments to a wide range of problems) with mechanisms of control that emphasis professional self regulation rather than mere obligatory accommodation of rules.

2. **Accountability to community**: Police accountability can be grouped into two forms namely community relations units and civilian review boards. Community relation unit are police officers who carry the message of police department to communities while civilian review boards focus primarily on the performance in individual police officers, particularly on mistakes and incompetence. They also concentrate on perceived and real abuses while community policing focus on substantive issues of problems, crimes and quality of life in the society.

3. **Administrative mechanism**: conventional administrative mechanism includes: education, training, rewards, discipline, peer influence, direction, supervision, recognition and career opportunities, though their use and emphasis vary across occupations. Police in the past use classical organisational principles which are direction, supervision, discipline and pre-service training. But because of the increase in and determination to "be the best" and improved accountability, the police have adopted the conventional administrative mechanisms as stated above.

SELF-ASSESSMENT EXERCISE 5

Examine the effect of police culture in police accountability.

3.4 Routine Supervision

The Role of First-line Supervision is an established principle in policing that first-line supervisor –sergeants– play a critical role in directing and controlling the behavior of officers in police-citizen interactions. Sergeants review incident reports related to the exercise of police authority (Geller and Scott, 1992), prepare official performance evaluations (Oettmeier and Wycoff, 1997), and deliver the "interventions" in early intervention systems (Walker, 2003). Though there is minimal research, at best, on what sergeants do and how they interact with officers under their command, Engel (2000, 2001, 2002, 2003) identified four different styles of supervision;

- The issues involving the impact of first-line supervision include both individual-level and organisational-level factors. Individual-level factors involve the attitudes and supervisory styles of individual sergeants (Engel, 2000, 2001, 2002, 2003).
- Organisational-level factors include the ratio of sergeants to officers (generally referred to as the "span of control"). Many departments have official policies requiring a ratio of, for example, one sergeant for every eight officers. Some investigations have found that misconduct problems have occurred where departments failed to meet their own span of control standard (Bobb, 2002:16).
- Other organisational factors include the formal role of the sergeant with respect to completing use of force reports.
- Terrill (2001) found that close supervision was associated with lower levels of use of force by officers. A study in New York City found that close supervision resulted in lower levels of officer misconduct (Davis and Mateu-Gelabert, 1999).

SELF-ASSESSMENT EXERCISE 6

Examine police supervision with regards to accountability.

3.5 Performance Evaluations (The Role of Performance Evaluations)

Regular performance evaluations are a basic element of the personnel process in policing, as is the case throughout the private and the public employment sectors. Regular evaluations are designed to identify and reward desirable performance, to identify and seek to correct performance shortcomings, and to terminate employees whose performance is substandard.

Existing performance evaluation procedures in policing have been severely criticised. A 1977 Police Foundation study found that they did not adequately reflect actual police work and generally provided inflated assessments of officer performance (Landy, 1977). A 1999 report, prepared in the context of community policing, made essentially the same criticisms, suggesting that little progress had been made in 20 years (Oettmeier and Wycoff, 1997). Consistent with these critiques, Falkenberg, Gaines, and Cordner (1991) also found serious definitional problems in the performance evaluation categories used in one medium-sized department. Lilley and Hinduja (2006), meanwhile, found that a large proportion of agencies surveyed had not incorporated community policing principles into their performance evaluations.

SELF-ASSESSMENT EXERCISE 7

Briefly relate performance evaluation with police accountability.

3.6 Early Intervention Systems

(The Nature and Purpose of Early Intervention Systems)

Early intervention systems (EIS) involve a performance data base that permits police managers to identify officers with patterns of problematic conduct and then to provide specially tailored interventions designed to correct those conduct problems (Walker, 2003).

EIS vary considerably in terms of their scope, particularly the number of performance indicators they include. Some include as few as five indicators while others include as many as twenty or more. EIS also vary considerably in terms of the procedures for identifying officers with conduct problems (referred to generally as the “thresholds” problem), as well as the process for prescribing and delivering interventions. In short, EIS are extremely complex administrative tools and are not comparable across departments.

Additionally, understanding of the potential uses of EIS has evolved since the concept first appeared. Many experts in the field argue that the principal role is not to discipline but to help officers whose performance is substandard. Current rhetoric involves professional development and “saving” careers (Walker, 2005b:5-6). Additionally, some agencies are attempting to use their EIS to identify “top performers” (Walker, 2003:11). At least one police department uses its EIS to hold supervisors accountable (San Jose Independent Police Auditor, 2001; Walker, 2005b:10-13). Some experts, finally, have discussed the potential for using EIS data (e.g., aggregate data on use of force trends) to engage community groups on the issue of accountability.

SELF-ASSESSMENT EXERCISE 8

Examine the role of EIS in police accountability.

3.7 Misconduct Investigations

(Internal versus External Misconduct Investigations)

Allegations of officer misconduct may come from either internal or external sources. Internal allegations involve reports by supervisors or other department employees. External allegations involve formal or informal complaints by citizens. All internally generated allegations are investigated by the Internal Affairs Unit (IAU) or Professional Standards Units (PSU). A number of cities and counties have established external citizen oversight agencies with original jurisdiction for investigating citizen complaints (Walker, 2001).

Though many issues relating to internal and external misconduct investigations overlap, we shall discuss them separately for the purpose of analysis.

- **Internal Misconduct Investigations**: The nature and quality of police internal investigations of citizen complaints have been a major part of the police-community relations problem. Civil rights groups have attacked police departments units for failing to investigate citizen complaints thoroughly or fairly. These allegations have been documented by external investigating commissions (Christopher Commission, 1991:151-180; U.S. Commission on Civil Rights, 1978, 1981, 1994; Mollen Commission, 1994:70-89; National Advisory Commission on Civil Disorders, 1968:310-312).

The literature on IAUs is extremely limited. The only descriptive survey of IAUs is over 20 years old (West, 1988). While anecdotal evidence indicates considerable variations with respect to the structure, staffing, and procedures of IA/PSU units (Chevigny, 1969; Human Rights Watch, 1998; Mulcahy, 1995; Pate and Fridell, 1993; Sherman, 1978; West, 1988), there are no recent surveys specifying these variations. The most detailed information about IA/PSU units are the reports published by various citizen oversight agencies (Bobb, 2000; Office of Independent Review, 2005:17-31). The role of the police auditor style of oversight primarily involves conducting detailed reviews of internal police procedures and publicly reporting the findings on a regular basis (Walker, 2005a:135-170).

U.S. Justice Department investigations related to "pattern or practice" of abuse of citizens have found substantial shortcomings in internal investigations in a number of departments across the country. These shortcomings include inadequate use of force policies, the failure of officers to complete required reports, and the failure of supervisors to review reports (U.S. Department of Justice, 2003, 2004) Misconduct investigations, whether internal or external, have multiple goals. These include providing thorough and fair investigations, deterring future misconduct, providing satisfaction to citizen complainants and to subject officers, improving public attitudes toward the police, and enhancing the professionalism of the department (Walker, 2001:56-60).

- **External Misconduct Investigations:** There is a significant body of descriptive literature on external citizen oversight agencies and procedures. Several articles and books have developed classification schemes for external agencies identifying different roles, structures, and procedures (Goldsmith, 1988; Perez, 1994; Walker, 2001). Not all citizen oversight agencies have authority to independently investigate citizen complaints. Many simply involve the review of completed investigations by IA units, with authority to recommend a different disposition or that the case be reinvestigated. No external citizen oversight agency has the power to impose discipline of officers against whom complaints are sustained. And also as is the case with internal misconduct investigations, there is only very limited discussion of the multiple goals of external misconduct investigations (Brereton, 2000).

SELF-ASSESSMENT EXERCISE 9

Misconduct investigation is divided into three parts. Discuss.

3.8 Accountability and Legitimacy

Effective accountability is vital to the achievement of the goals of policing. Many experts argue that law enforcement agencies that reduce problematic officer behavior will enjoy greater trust among citizens and, as a result, will receive greater cooperation from citizens in programs designed to reduce crime and disorder (Bayley, 2002; Harris, 2005).

The most important area in this regard involves the perceived legitimacy of the police and relations with racial and ethnic minority groups. Racial and ethnic tensions have beset the American police for over forty years, and have persisted despite the introduction of many different reforms. At the same time, since community policing is designed to develop effective partnerships with neighborhood groups, it follows that

enhanced legitimacy and a reduction in racial and ethnic tensions will enhance the development of community policing (Skogan and Hartnett, 1997).

With all these mechanisms of accountability the police still fall short of their expected efficiency and conduct in these areas:

- Inadequate manpower, both in terms of quantity but more especially of quality
- Inadequate funding
- Poor crime and operational information management, including inaccurate recording and collation, poor storage and retrieval, inadequate analysis and infrequent publication of criminal statistics
- Poor remuneration and general condition of service
- Inadequate initial and on the job training and deficient syllabi which places too much emphasis on law enforcement and order maintenance without adequate liberal and broad training that can illuminate the nature and sources of law and criminality
- Poor resource management
- Inadequate logistic, arms and ammunition, uniform and accoutrement, telecommunication and transportation facilities – both in terms of quality and quantity.
- Inadequate office and residential accommodation
- Inhuman conditions under which suspects are held in police cells
- Unhygienic working environment
- Limited contacts or relationship with the citizens outside law enforcement and order maintenance functions
- Low commitment
- Indiscipline and involvement in crime or collusion with criminals
- Lack of integrity
- Perversion of the course (i.e. procuring and supplying false evidence tampering with exhibit and false accusations)
- Poor knowledge of law and disregard for human rights
- Corruption and extortion
- Brutality. (Alemika 1997, 1998, Osoba 1994 and Balogun 2003)

SELF-ASSESSMENT EXERCISE 10

Do specific accountability mechanisms enhance legitimacy and public perceptions of the police, particularly on the part of racial and ethnic minority groups?

4.0 CONCLUSION

Holding individual police officers accountable for their conduct is an essential element of policing. It is directly and indirectly related to achieving the basic goals of policing: reducing crime and disorder, enhancing the quality of neighborhood life, and providing fair, respectful and equal treatment for all people.

5.0 SUMMARY

This unit has successfully treated Police Accountability from the definition of accountability to the various mechanisms of accountability; formal agency policy on use of police authority; use of force, less lethal force, vehicle patrol, command and control, routine supervision, managing police culture, accountability to community, regular performance evaluation, early intervention system designed to identify performance problems, procedures for investigating allegations of officer misconduct and the defects in police accountability.

a. TUTOR-MARKED ASSIGNMENT

1. Define Police Accountability.
2. Compare the use of deadly force and less lethal force in Nigerian policing.
3. Critically examine police command and control mechanism of accountability.
4. Briefly relate performance evaluation with police accountability.
5. Examine the role of early intervention system in police accountability.
6. Misconduct investigation is decided into three parts, discuss.
7. Do specific accountability mechanisms enhance legitimacy and public perception of the police, particularly on the part of racial and ethnic minority groups?

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UNIT 4 POLICE ADMINSTRATIVE SYSTEM

CONTENTS

1.0 INTRODUCTION

This unit is focused on the administrative system of the police. Emphasis is laid on the structure of the police, the size of the police and the role of the police in the society, the complaint mechanism available to the public, communication between division and commands and the criminal investigation department of the police.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- describe the administrative structure of the police
- describe the size of the police
- identify the role/duties of the police
- explain the mechanism of the police
- explain communication between division and command
- describe the duties of the criminal Investigation Department.

3.0 MAIN CONTENT

3.1 Structure of the Nigeria Police Force

As outlined in Section 214 of the 1999 constitution of the Federal Republic of Nigeria, the Nigerian Police Force is a Federal Police Force (Nigerian Constitution, 1999, section 214) State and Local government are not permitted to establish their own Police Force.

The NPF is headed by an Inspector of Police (IGP) (CLEEN 9th July 2008, Nigeria 1999 sec 215), who is appointed by the country's president, after consultations with the Nigeria Police Council. A Deputy Inspector General, is second in command (World Encyclopedia of Police and Corrections system 2006, 700), assists the IGP in his or her work. Assistant Inspector Generals are responsible for supervising staff operations in the various departments at the NPF Lagos base Headquarters. NPF police commands within each state are under the authority of the commissioner of police (Nigeria 1999, sec 215).

The 2006 edition of the World Encyclopedia of Police Forces and Correctional Systems provides in the following lists of the 17 ranks in the NPF, from highest to lowest rank:

- Inspector General,
- Deputy Inspector General
- Assistant Inspector General
- Commissioner of Police,
- Deputy Commissioner
- Assistant Commissioner
- Chief Superintendent
- Superintendent
- Deputy Superintendent
- Assistant superintendent
- Chief Inspector
- Inspector
- Sergeant Major
- Sergeants
- Corporal
- Constables
- Recruits (2006, 700)

The NPF is divided into 12 zones. Each zone reportedly has between two and four state commands as well as a series of area commands, divisions, police stations, and police posts under these commands. According to the World Encyclopedia of Police Forces and Correctional Systems, the size and complexity of the NPF state police commands vary, depending on such factors as population density and a need for a police presence. Many police posts and stations are reportedly located at railway lines and highways of major urban centers (World Encyclopedia of Police Forces and Correctional Systems, 2006: 1698).

These area commands were grouped under zone commands as follows:

- Zone 1, Headquatered in Kano, with Kano, Katsina, and Jigawa Commands.
- Zone 2, Headquatered in Lagos, with Lagos and Ogun Commands
- Zone 3, Headquatered in Yola, with Adamawa and Gombe Commands

The headquarters of the NPF, located in Lagos, is reportedly divided into five departments. These include:

- Departments A, in charge of general administration:
- Department B, responsible for communications, including the supervision of a country wide police radio network.
- Department C, responsible for finance and other resources,
- Department D in charge of criminal records and investigations which include the Criminal Investigation Department (CID), which is the central agency responsible for the collection, compilation, classification, and recording of information concerning crimes and criminals and dissemination of such information as required.
- Department E referred to as the special branch which is in charge of internal security and counter subversive activities

According to the world encyclopedia of police forces, the CID investigates the cases from all parts of Nigeria.

The CID is reportedly divided into several sections which include among others:

- The crime section,
- The missing persons section,
- The fraud section,
- The X squad section,
- The boats and telecommunication fraud section,
- The National Central Bureau (which includes the Interpol, Narcotics and antiquities units) and
- The Police Public Complaints Bureau.

The NPF also have several section and units, including the:

- Mounted branch,
- The Police Dog Section,
- The Nigeria Railway Police,
- The Post Authority Police,
- The Force Signal Section (which operates radio communication), and
- The Central Motor Registry
- In addition, the NPF has an auxiliary force called the Special Constabulary, which is involved in combating crime

In the year 2007, report on the state of the NPF, the IGP announced the creation of several specialised NPF units including:

- An anti terrorism squad which units were deployed to Kano, Abuja, Lagos and Rivers State, and
- Anti robbery Squad which units were deployed to Lagos, Abuja and the Niger Delta Region (Nov, 2007).
- The IGP also highlighted the importance of the X quad which was created to fight police corruption and handle investigations on official complaints against police officers.

In late 1986, the NPF was reorganised nationwide (occasioned by a public eruption of tensions between the police and the army over pay and border patrol jurisdictions…) into seven **area commands**, which superceded a command structure corresponding to each of the state of Nigeria and **five directorates** (**criminal investigation, logistics, supplies, training and operations**) under Deputy Inspectors General. Each **command** was under a Commissioner of Police and was further divided into **police provinces and divisions** under local officers. NPF headquarters which was also an area command supervised and coordinated the other area commands.

In mid 1989, another NPF reorganisation was announced after the Armed Forces Ruling Council's acceptance of a report by Rear Admiral Murtala Nyako. A Quick Intervention Force was also created in each state separate from the Mobile Police Units specially to monitor political events and to quell unrest during the transition to civil rule. Each **State Unit** comprising of between 160 to 400 officers was commanded by an Assistant Superintendent and equipped with vehicles communications gear, weapons and crowd control equipment, including cane shields, batons, and tear gas.

Under the new structure, a Federal Investigation and Intelligence Bureau (FIIB) were to be set up as the successor to the Directorate of Intelligence and Investigation; three directorates were established:

- Directorate for operations,
- Directorate for administration and
- Directorate or logistics, each headed by a Deputy Inspector General.

The Directorate of Operation was subdivided into four units under a Deputy Director Operations, Deputy Director Training, Deputy Director Communications and the Police Mobile Force.

The Directorate of Administration was composed of an administration unit headed by an Assistant Inspector General (AIG) and of budget and personnel units under Commissioners of Police.

The Directorate of Logistics had four units –procurement, workshop/transport, supply and work/maintenance –under AIGs.
The zonal arrangements were maintained and the AIGs were authorised to transfer officers up to the rank of Chief Superintendent to set up Provost Units, to deploy Mobile Units and to promote officers between the ranks of a sergeant and inspector.

The 1989 constitution provided for a Police Service Commission that was responsible for NPF policy, organisation, administration and finance (except for pensions). But in February 1989, Babangida abolished the police service commission and established Nigerian Police Council in its stead, under direct presidential control. The new council was composed of:

- The President as Chairman;
- The Chief of General Staff,
- The Minister of Internal Affairs and
- The Police Inspector General.

In September 1990, Alhaji Sumaila Gwazo, formerly SSS Director was named as the new Minister of State, Police Affairs. The Decree defined the functions of the Police Council to include:

- The organisation and administration of the Nigerian Police Force and all other matters relating thereto (not being matters relating to the use and operational control of the force or the appointment, disciplinary control and dismissal of members of the force.
- The general supervision of the Nigerian Police Force, and
- Advising the president on the appointment of the Inspector – General of Police.

The NPF operating budget between 1984 and 1988 remained in the N360 million to N380 million range, and in 1988 increased to N521 million. More notable were large capital expenditure infusions of N206 million in 1986 and N206.3 million in 1988, representing 3.5 and 2.5 % of total federal capital expenditure in those years. These increases were used to acquire new communication equipment, transport, and weapons to combat the rising crime wave. An example of such purchases is the 100 British Leyland DAf Comet trucks delivered in1990. Despite this increases, an NPF study in late 1990 concluded that the forces' budget must double to meet its needs.

Training

Police training was directed from headquarters by a Deputy Inspector General designated as Commander. Recruits were trained at Police Colleges in Oji River, Maiduguri, Kaduna and Ikeja, which also offered training to other security personnel, such as armed immigration officers. The police college at Ikeja trained Cadet Sub Inspectors. There were also in-service training schools including the Police Mobile Force Training School at Guzuo, southwest of Abuja, the Police Detective College at Enugu, the Police Dogs Service Training Centre, and then Mounted Training Center.

In August 1989, Babangida laid a foundation stone for a Nigerian Police Academy (NPA) in Kano State. The NPA was to be affiliated to Bayero University until adequate infrastructure was available for independent operation. Admission was to be by **merit**, **quota system** and by **federal character**. The commandant was to be at least an AIG and assisted by a Provost who will oversee the academic program. Modeled after the Nigerian Military University in Kaduna, the NPF would offer a five year academic and professional degree program for new cadets and an eighteen month intensive course for college graduates aspiring to a police career.

It may be right o quickly add here the functions of the Nigerian police as provided by section 4 of the Police Act:

- The police shall be employed for the prevention and detection of crime,
- The apprehension of offenders,
- The preservation of law and order,
- The protection of life and property and
- The due enforcement of all laws and regulations with which they are charged, and
- Shall perform such military duties within or without Nigeria.

SELF-ASSESSMENT EXERCISE 1

Examine the Structure of the Nigeria Police.

3.3 Size of the Nigeria Police

Since 1999, the Nigeria Police Force has reportedly doubled in size from approximately 160,000 to over 300,000 officers (SAS Dec, 2007). The police force comprised approximately 371,800 officers (Nigerian Nov. 2007). However the NPF is still reportedly understaffed and is faced with shortages in either resources or equipment required to function effectively (SAS Dec, 2007, 31st ; UN 7th Jan. 2006 Para, 39; see also the Economist 5th June 2008). General Olusegun Obasanjo reduced the recruitment age from 19 years to 17 years in order to increase the size of the police force.

Each of the 36 states is serviced by a command of the federal police. As at January 2001, the Nigeria Police Force numbered 163,722, of which 20,287 were recruits in training. The establishment, organisation, control, command and management of the Nigerian police force, are governed by a colonial legislation.

(Police Act (CAP 359 of the Laws of the Federation of Nigeria, 1990) and the 1999 Constitution.

SELF-ASSESSMENT EXERCISE 2

Evaluate the size of the Nigerian Police.

3.4 Availability of Complaint Mechanism

The 2007 mission to Nigeria report of the United Nations (UN) special Raporteur on torture and other cruel, inhuman or degrading treatment and punishment provides an overview of the complaint mechanisms available to victims of police abuse (UN 22nd, Nov, 2007, Para. 29-33). The report stated that:

Oral or written complaints of police misconduct by members of the public can be made to any superior police officer about acts of misconduct involving his or her subordinates, and if the complainant is dissatisfied with the response, he/she could complain in writing to higher officers including the IGP (Inspector General of Police) complaints could also be sent to the Police Public Complaints Bureau (PPCB) located in the Police Public Relations Department of every state police command, or to the Police Provost Department at the force

headquarters. In addition, human rights desk for receipts of complaint have been established in recent years for each state command.

The report further noted that individuals may also make complaints about human rights violation in writing or orally to Nigerian National Human Right Commission (NHRC) which is mandated to investigate human rights violations.

Nevertheless the UN report and other sources conducted by the research directorate indicate that these complaint mechanism had not been effective that the police commit abuses with impunity (Denmark Jan 2005, 32-33, HRW July 2005 56-58, 60, NOPRIN 10th Dec. 2007, 10-11th). The 2005 report by Human Right Watch (HRW) states that the NHRC is acutely under resourced and lacked judicial power to enforce redress (July 2005, 62). According to the special raporteur, victims of police abuse lacked confidence in the complaint mechanism and a majority do not have access to these mechanisms. For example, they cannot afford lawyers (UN, 22nd Nov. 2007, Para 41)

According to HRW, in cases where individuals, lawyers and human rights organisations have attempted to register complaints the NP have created obstacles to present investigation or prosecution (e.g by intimidating witnesses, bribing victims or their families to drop their complaints, or conspiring with the judicial authority to have cases dismissed). (July 2005; 57. see also UN22 Nov. 2007, Para 43). In its 2005 report, HRW noted that very few cases of police misconduct have been fully investigated (July 2005, 58)

Several sources cited in the 2005 British-Danish facts-finding mission report similarly indicted that few cases of police misconduct are investigated and prosecuted (Denmark Jan 2005, 23rd). Cases of police brutality are reportedly investigated only if the victims are well connected or are considered influential individuals or if the cases have received the attention of the media or of politicians after being brought to light by nongovernmental organizations (NGOs) or other observers.

In the concluding remarks of his mission to Nigeria report the special rapouteur stated that torture is an intrinsic part of the functioning of the police in Nigeria (UN 22nd Nov, 2007) and that Nigeria's current system is unable to effectively investigate allegations, protect victims of serious human right violations and bring law enforcement officials in Nigeria to account.

SELF-ASSESSMENT EXERCISE 3

A woman was recently abused by the Nigerian Police. Advise the woman on steps to take to ensure that the officer is booked.

3.5 Communication between Division and Commands

On the 9th of July 2008 correspondence, the executive director of the CLEEN foundation (formerly known as the center for law enforcement education (CLEE), a Nigeria, nongovernmental organization (NGO) that works to promote public safety security and accessible justice (CLEEN n. d.) stated that:

"Nigeria has a centralised National Police Force under one commander called the Inspector General of Police (IGP) therefore there is a regular communication, cooperation and collaboration between different divisions and commands in their criminal investigation and tracking down of criminal suspects.

As noted in the World Encyclopedia of Police Forces and Correctional Systems, Department B of the NPF Lagos headquarters is responsible for supervising a country wide police radio network, linking the NPF states command to the headquarters (2006, 1697, 701) the publication also noted that although criminal investigations are generally carried out by the police station in the area in which the alleged crime occurred, the CID may be called upon for assistance in more serious cases, or in instances where investigations need to be made in other Nigeria states or in other countries (World Encyclopedia of Police Forces and Correctional Systems, 698)

SELF-ASSESSMENT EXERCISE 4

Are there any communication between Police divisions and commands?

3.6 Force Criminal Investigation Department

FCID Department- Force Criminal Investigation Department (FCID) is the highest investigation arm of the Nigeria Police Force (NPF). The department is headed by a Deputy Inspector General (DIG). Its primary functions include the investigation and prosecution of serious and complex criminal cases within and outside the country. The department also coordinates crime investigation through the NPF. The NPF (CID) is divided into sections, with most of them headed by Commissioners of Police. The sections are:

- Administration
- Antifraud section
- The central criminal registry (CCR)
- Special anti robbery squad (SARS)
- X squad
- General investigation
- Special fraud unit (SFU)
- Legal section
- Forensic science laboratory
- Interpol liaison
- Homicide
- Anti human trafficking unit
- Special branch CIB SIB
- Force CID Kaduna Annex

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SELF-ASSESSMENT EXERCISE 5

The Force Criminal Investigation Department investigates crime. Discuss.

4.0 CONCLUSION

The NPF is under the general operational and administrative control of an Inspector General of Police (IGP) appointed by the president and responsible for the maintenance of law and order. After consultations with the Nigerian Police Council, Deputy Inspectors General, (DIGs) who are next in rank are appointed to support the IGP at the headquarters. In each state, the IGP is supported by Police Commissioners. Assistant Inspectors General are responsible for supervising staff operations in the various departments at the NPF's headquarters and the various zones into which the Force has been divided.

5.0 SUMMARY

The police administrative system discussed in this unit is focused on the definition of police administration, the structure of Nigeria Police, the size of Nigeria Police, the complaint mechanisms available to the public, the communication between divisions and command and the Force criminal investigation command.

6.0 TUTOR-MARKED ASSIGNMENT

1. Define Police Administrative System.
2. Examine the Structure of Nigerian Police.
3. A woman was recently abused by the Nigerian Police. Advise the woman on steps to take to ensure that the officer is brought to book.
4. Are there any communication between Police divisions and commands?

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UNIT 5 POLICE AND COMMUNITY

CONTENTS

1.0 INTRODUCTION

Policing refers to measures and actions taken by a variety of institutions and groups (both formal and informal) in society to regulate social relations and practices in order to secure the safety of members of community as well as conformity to the norms and values of society. Policing is therefore a "sub-set of control process" which involves "creation of systems of surveillance coupled with the threat of sanctions for discovered deviance either immediately or in terms of the initiation of penal process or both (Reiner 2000:3) policing can also imply a "set of process with specific social functions. Based on this background, community policing will be focused on the background to Community Policing in Nigeria, principles, characteristics and achievements of community policing in Nigeria.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- describe the notion of community policing in Nigeria
- explain the principles of community policing
- list the characteristics of community policing
- describe the achievements of community policing in Nigeria.

3.0 MAIN CONTENT

3.1 Background to Community Policing in Nigeria

The emergence of state with its vast bureaucracies anchored on centralisation, hierarchical authority/power structure and professional staff (Weber, 1968) changed the traditional policing philosophy rooted in the idea of policing as every body's business. But in recent times, the need for citizens' involvement in everyday policing became necessary for effective neighborhood policing. As such the Nigeria Police implemented Community Policing guided by the realisation that its philosophy and tenets could fulfill the requirement for improved service delivery and the need for communities to work in partnership with the police. The ultimate goal being improved safety and security for the Nigerian people. Community Policing was officially launched in six pilot States in 2004 (Benue, Enugu, Jigawa, Kano, Ondo and Ogun). In 2007, the partnership extended to eleven additional States and the Federal Capital Territory (Lagos, Cross River, Kaduna, Anambra, Edo, Bauchi, Kogi, Oyo, Imo, Katsina, Borno and the FCT) bringing the total to seventeen States and the FCT.

In 2008, the Inspector General of Police (IGP) recognised the symbiotic relationship between his 9-way Test and the tenets and practices of NPF's Community Policing initiatives in those pilot States. He therefore introduced Community Policing as both the strategy and philosophy of the entire NPF, in full support of Mr. President's 7-point Agenda.

The philosophy and strategy of Community Policing focuses on crime and social disorder, through the delivery of police services; including traditional aspects of law enforcement, as well as crime prevention, problem solving, community engagement, and partnerships. The Community Policing philosophy balances reactive fast responses to calls for service, with proactive problem-solving centered on the causes of crime and disorder. It requires police and citizens to join as partners in the course of both identifying and effectively addressing these issues. Like Carter and Radelet (1999: 9) argued, the police "are part of and not apart from the communities they serve" as such they have to be part of the problem solving as well as the entire community. In the western world, immediately a stranger comes into a community especially the blacks, both the neighbours and police are on the watch to see if he is a criminal or a law abiding citizen.

Decentralised neighborhood based-structure and close relations with members of the community (Neighborhood Policing - NP) are fundamental requirement of Community Policing. In Summary, this

requires empowered police personnel that have geographic ownership and accountability. The IGP and his command team have recognised that Community Policing and NP enable intelligence-led targeting of the issues that matter most to communities. This called for the posting of police officers to their states of origin, since having come from the area; they are familiar with the nooks and crannies of the state/criminal hideouts and are expected to make apprehension of criminals easier and boost effective community policing in terms of interpersonal relationships.

Intelligence-led Policing (ILP) requires the NPF to: interpret the crime and disorder environment, including potential victims/targets; ensure police partners and police staff implement appropriate action plans; and finally, guarantee that those actions have the required impact on the crime and disorder environment.

Moreover, the NPF has the role of upholding the law, safeguarding justice and protecting the lives, rights, and dignity of its citizens and visitors. Susan (1990) posits that police role includes a variety of tasks and responsibilities, as such; it cannot achieve this gargantuan task without support. Therefore its Community Policing philosophy is also being developed to operate as a key element of a wider, multi-partners Nigeria Community Safety (CS) Strategy.

Since NPF's inauguration of Community Policing, it has been supported by the 'Nigeria Safety and Security, Justice and Growth (SJG) Programme (funded by the UK's Department for International Development – DFID). In partnership with SJG, NPF focused its development activities on five key areas in the eighteen pilot States; these key areas are: NPF service delivery, police partnerships, accountability of the NPF, empowerment of NPF personnel, and problem solving. This development includes the appropriate involvement of Nigeria's Informal Policing Structures (IPS - Vigilantes) in the five key areas. Moreover, SJG is supportive of the IGP's vision to implement country-wide Community Policing.

SELF-ASSESSMENT EXERCISE 1

Briefly account for the development of community policing in Nigeria.

3.1.1 Rationale for Community Policing

The reasons for adopting the more proactive approach inherent in community policing are both philosophical and pragmatic.

At the philosophical level, any police organisation that seeks to serve democratic and humanitarian ideals must be (and be seen to be) open, fair, apolitical, accountable and responsive to public perceptions and expectations. Such policing is characterised by the notion of "police service" rather than "police force", where the most significant benchmarks of performance are public satisfaction, trust and confidence.

At the pragmatic level, there exists a wealth of evidence to confirm that the traditional approach to policing, which tends to be reactive and exclusively law-enforcement based, is ultimately not effective in preventing crime and anti-social behavior within society. Further, a predominantly reactive policing style encourages an alienating police culture, whereby the police and public develop a 'them and us' mentality towards one another. The inevitable outcome is that the police image suffers, public confidence declines, and citizens withdraw their voluntary support and cooperation.

Finance provides another pragmatic and compelling reason to pursue a community policing style. Citizens and their elected representatives are entitled to ask how public funds are being spent and to demand value for money. In competing for their share of limited public funds, public sector organisations should be able to prove that they have spent their budget wisely and that resources have been targeted effectively towards social priorities. If the police can demonstrate that they are both operationally and cost effective in achieving results, as evidenced in service quality and public satisfaction, they gain a significant edge in the bidding for future finance and resources.

3.1.2 Common Misconceptions about Community Policing

"Community policing is 'soft' policing": This view presumes that because community policing demands better communication and understanding between police and public, it encourages more liberal and tolerant attitudes towards criminal offending. Actually the opposite is true: proactive policing is more effective both in preventing offending and in achieving offender detection and remedial action post offense.

"Community policing is only for uniform patrols or a specific community policing unit" In fact the potential rewards of community policing cannot be fully realised unless there is a shared understanding of and commitment towards that approach throughout the whole police organisation. Community policing requires the integrated involvement of all departments and functions, with their combined efforts and expertise being focused on community based action plans addressing local priorities. The gathering and sharing of intelligence and data is a

crucial aspect of this collaboration, particularly in the targeting of offenders.

"Community policing replaces all other policing styles and methods": Community policing does not replace but harnesses core policing functions such as traffic enforcement, crime investigation and public order management. These core responsibilities remain essential and are entirely compatible and complementary if they meet the performance standards and criteria demanded by community policing.

SELF-ASSESSMENT EXERCISE 2

"Community policing is a new development in Nigeria". Account for the rational for the development of community policing in Nigeria.

3.2 Community Policing Principles and Values

Community Policing is a philosophy to guide police management styles, policies, strategies and operational performance. Key principles are that community policing:

- Relies upon active partnership between the police and the community
- Ensures the police view their primary role as the provision of quality service to the community
- Entails that the police adopt a problem solving approach to their work
- Requires that the Police involve the community in deciding policing priorities

Community policing therefore embraces the following values

- Respect for and protection of human rights
- Transparency and openness in relation to activities and relationships within and outside the police organisation
- Demonstrable commitment at all times to deliver the best possible service
- Empowerment of all police personnel to make appropriate decisions and thereby facilitate a speedy delivery of quality service
- Willingness to seek for, listen to and act upon public opinion relating to policing priorities
- Accountability, where the police are answerable for what they do, and citizens with a genuine sense of grievance against the police have an effective means of redress

SELF-ASSESSMENT EXERCISE 3

Analyse the Principles and Values of Community Policing in Nigeria.

3.3 Characteristics of Community Policing

Effective community policing will evidence the following key characteristics:

1. Policing is Visible and Accessible

- Selected patrol officers are assigned permanently to small areas or zones (usually called 'beats') with delegated responsibility for policing that area
- High visibility patrols are conducted, ordinarily on foot, to interact with the public, gain the confidence and cooperation of citizens, and develop local knowledge
- The aim of patrol activity is to be preventive and provide public reassurance
- Patrolling must therefore be directed and focused on clear objectives, not aimless and undirected
- The demeanor of patrol officers is such that citizens will feel able to seek police assistance

2. Policing Involves Community Consultation, Cooperation and Interdependency

- The police participate with the public at large in identifying and prioritizing community needs
- The police and community work in partnership to devise and implement agreed solutions to problems
- The community actively engage in the policing role through volunteer schemes, initiating neighborhood support networks and augmenting police patrol activities

3. Policing Involves Multi-Agency Collaboration

- The police recognises that no statutory (or voluntary) body can make a meaningful impact on social problems if it acts in isolation of others
- The police liaise and work together with other statutory agencies and voluntary organisations in addressing crime and other disturbances to public tranquility

4. Policing is Essentially Proactive

- The underlying causes of crime, incidents and public complaints are analysed and identified
- Rather than simply reacting to the incidence of crime, anti-social behavior and other sources of public complaint, the police adopt a systematic and integrated problem-solving approach with a view to reducing and preventing such incidents
- Perception and actuality are treated with equal seriousness (e.g. the 'fear of crime'; public perception of police integrity and competence)
- All police personnel and departments are involved in the problem-solving process, contributing ideas and designing initiatives for more effective policing

5. Policing is Accountable

- Police managers are open and accountable about policies, strategies, operations and decisions affecting the community
- All police personnel are accountable for their professional and personal standards and for their treatment of citizens
- Policing effectiveness is monitored, evaluated and open to scrutiny
- Citizens with a grievance against the police have a means of redress

6. Policing is About Providing Quality of Service

- Standards of service delivery are measured
- Testing objectives are set for operational performance and public satisfaction
- The police develop a culture of service excellence

SELF-ASSESSMENT EXERCISE 4

Examine the basic characteristics of community policing in Nigeria.

3.4 Achievements

Police achievements in the area of community policing can be grouped into two because of the wide gap between the federal and the state levels.

- **Federal Achievements**

The establishment of a Community Policing Office within 'F' Department at Headquarters and the proposed replication of that in State 'F' Departments, reflects the commitment of the NPF to work with, care for and protect the communities it serves. Moreover, 'F' Department is currently planning restructuring and development activities to ensure the sustainability and institutionalisation of Community Policing.

- **State /Divisional Level Achievements**

'Community Policing is making a real difference in our State, we are more proactive. We anticipate problems or conflict, then travel to speak with those who may be involved, whatever the time of day. On each occasion the problem has not manifested' (State Commissioner of Police, Kaduna, several months after Strategic Management Training in Jos).

Relationships with Informal Policing Systems (Vigilantes) have also been developed or improved in many of the Divisions, as commented on by independent observers in Gwagwalada Division. These activities have encouraged increased collaboration and consultation between the police and communities in various aspects of service delivery and community concerns. For example, the Enugu State Government enacted a law on neighbourhood associations and watch groups to support Community Policing and strengthen existing relationships. This led to increased numbers of neighborhood associations and watch groups being created and old ones being rejuvenated.

In Lagos state for example the vigilante groups are on ground to give police report on gangs and crimes/robberies in the areas and usually robbery suspects. As a result the police go to communities where threats have been reported to make arrest and follow up. In February 2010, there was this issue between the OPC and the Vigilante groups in my area in Ikorodu over a sacrifice that was carried by the OPC and deposited in another area. This caused chaos to the extent that some boys from the other area were injured and the aggrieved camp came into the area and started destroying peoples' cars. The vigilante reported the case to the police and immediately they came in and made some arrests. This immediately stopped the chaos and peace was restored to the area. Hence the presence of the police is felt in the community and criminals and law abiding citizens try to sit up and stay out of trouble. This is why in most cases criminals go to communities where they are not known to commit havoc instead of their own communities where they can easily be identified and pinned down. The same is the case in Gwagwalada as it was confirmed by an indigene "Until community policing we had to

sleep with one eye open. Now we can sleep with both eyes shut. We pray that all of Nigeria adopts this system'.

All the State Commissioners of Police in the eighteen SGJ supported States have received training and workplace support in strategic management, integrated management planning and all aspects of Community Policing. Independent monitoring visits to those States have shown a variety of workplace successes, such as improved police-community relations and active partnerships.

Since inception, Police Divisions have been one of the key foci of the implementation process, with massive sensitisation and awareness campaigns being mounted for both police and communities by 'F' Department's Community Policing Team. Moreover, existing divisional management structures are being developed, through training programmes, to accommodate community policing principles and practices.

The concept of Neighbourhood Policing with Dedicated Policing Teams (DPT) to manage micro-beats was introduced and the following personnel structures established as primary drivers of improved service delivery:

- Community Policing Developers (CPD)
- Community Safety Officers (CSOs)
- Human Rights Officers (HROs)
- Community Policing Officers (CPOs)
- Neighbourhood Watch Officers (NWOs)
- Vigilante Support Officers (VSOs)
- Divisional Intelligence Officers (DIOs)
- Conflict Resolution Officers (CROs)
- The majority of these structures are in the SJG supported States and in various stages of evolution.

Divisional Managers are given wide discretionary powers concerning tactical and operational issues affecting their Divisions. However, because of the traditional, hierarchical nature of micro-managing police stations, very little input is sought from subordinates and the communities they police.

Extensive sensitisation and awareness campaigns was conducted for members of the public targeting: Police Community Relations Committees (PCRCs), neighbourhood watch groups, the media, National Union of Road Transport Workers, market associations, motorcycle riders, taxi drivers, Parents-Teachers Association,

community leaders and government agencies dealing with safety and security issues.

Intelligence-led Policing (ILP) pilots have been introduced in 35 Divisions across Lagos, FCT, Kano and Kaduna. Divisional Intelligence Officers (DIOs) were trained in the concepts and processes of ILP and have been able to transfer that learning to their Divisions.

In addition, to date, approximately one hundred and fifty thousand police personnel of all ranks have undergone one of the training events. To develop the high standards of service delivery demanded by community policing, the following training needs have been identified from information generated on Community Policing Courses:

- Firearms use and management
- Conflict resolution and the management of public order
- Management of the recommended intelligence model and intelligence analysis
- Management of Community Safety
- Management of policing standards, accountability and anti corruption
- Crime investigation
- Management of serious crime
- Recruit development
- Development of a Police Leadership Framework
- Development of leadership and management skills (Strategic Management and Middle-level Management)
- Management of training function
- Financial management and budget preparation
- Managing and developing human resources
- Management of informal policing training

SELF-ASSESSMENT EXERCISE 5

Looking at the participation of police in your area, analyse the achievements of community policing so far.

4.0 CONCLUSION

Police play important role without which the sustenance of order, legality, and development may be difficult. Policing has always been necessary in all societies for the preservation of order, safety and social relations especially in modern societies characterised by diversities and contradictions arising from population heterogeneity, urbanisation, industrialisation and conflicting ideologies.

5.0 SUMMARY

In this unit we have discussed the background of community policing in Nigeria, the rationale behind it, common misconception of community policing, principles and values of community policing, characteristics and achievements evident in our communities so far.

6.0 TUTOR-MARKED ASSIGNMENT

1. Briefly account for the development of community policing in Nigeria.
2. Community policing is a new development in Nigeria. Account for the rationale for its development.
3. Analyse the principles and values of community policing in Nigeria.
4. Examine the basic characteristics of community policing in Nigeria.
5. Looking at police participation in your area, analyse the achievements of community policing so far.

7.0 REFERENCES/FURTHER READING

All other CPMT training materials completed but due for review.

Beat Patrol Handbook Completed, Printed and used in all Beat Patrol Training Events.

Beat Patrol Lesson Plans Completed.

Carter & Radelet (1999). Police Deviance Cincinnati, Ohio: Anderson Publishing Co.

Community Policing Handbook Completed and Circulated

Community Safety StrategyDraft completed – not adopted to date.

Community Policing Force Order IGP approved – now with Force Orders Working Party.

Conflict Resolution Community Handout Completed and used in all Community Training Events.

Conflict Resolution Guidance Document Completed and used in all Conflict Resolution Training Events.

Conflict Resolution: Police Training Plan Completed and used in all Police Training Events.

Divisional Management Team (DMT) Handbook Completed and used in all DMT Training.

'E' Department Strategic Plan. 'Training and Development' First draft was examined and disseminated at a workshop with strategic 'E' and 'F' personnel for feedback. Feedback integrated and final draft produced.

'F' Department Strategic Plan. 'Research, Planning and Development' First draft with DIG 'F' for consultation.

Force Order on Firearms Draft completed.

Guide to the NPF Strategic Planning Process Draft completed and disseminated for feedback through a variety of workshops.

Handouts for NPIIS Training Completed.

Human Rights Policy Early draft completed.

Lesson Plans for NPIIS Completed.

Media and Communications Strategy Requested by PRO at IGP conference - first draft now with PRO.

Nigeria Police Integrated Intelligence Strategy (NPIIS) Document approved by IGP for the pilot process Disseminated to 'D' Department personnel at June 08 workshop Intelligence-led Policing (ILP) pilots for Level 1 (local intelligence) have been introduced in 35 Divisions across Lagos, FCT, Kano and Kaduna.

New DMT 4-week Course Training Plan (2 Modules of 2 weeks) Completed and Pilot course is currently being implemented (May and June 2009).

Reiner, R. (2000). The Politics of the Police. (Oxford University Press).

Strategic Plans for all other HQ Departments Not yet started – but planned for

To be supported by 'F' Department

Susan Martin (1990). On the Move: The status of women in Policing. (Washington DC Police Foundation).

The integration of Community Policing with Rapid Response Firstdraft completed and discussed at workshop with CPMT and Trainers from Lagos and CPMT from Kaduna. Used for implementation in Kaduna with Operation Yaki Personnel.

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UNIT 6 POLICE AND CORRUPTION

CONTENTS

1.0 INTRODUCTION

Corruption has eaten deep into the fiber of the Nigerian citizens. As such the police being a part of the community in which they work (Susan, 2000), have also been deeply rooted in corruption in several ways. Hence the society which they are supposed to protect and salvage from corruption has accused them of it. A former Chief of Police, Tafa Balogun was tried and convicted of corrupt practices. Police corruption and brutality are intertwined, there is no way you talk of police corruption that you will not talk about police brutality. Consequently, this unit is focused on definition of police corruption, causes of police corruption, indications of police corruption and brutality and reforms aimed at improving the Police Force.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- explain the causes of Police Corruption
- describe the indications of Police Corruption/Brutality
- identify Police Reforms at improving the Police Force.

3.0 MAIN CONTENT

3.1 Definition of Police Corruption

Corruption can be defined as dishonesty or illegal behaviour (Oxford Dictionary of Current English). Police corruption can therefore be said to be police dishonesty or illegal behaviour in the course of discharging their duty. While corruption is endemic in all segments of the Nigerian

society, it is particularly objectionable among the police because it is their occupational responsibility to prevent and work at its elimination. Reiner, 2005 suggests that "while policing may originate in collective and communal processes of social control, specialised police forces developed hand in hand with the development of social inequality and hierarchy". Robinson and Scaglion (1987:109) advanced this argument further that the evolution or emergence of specialized and state police forces "is linked to economic specialisation and differential access to resources that occur in the transition from a kinship to a class dominated society (Reiner, 2000:5).

As a result, Alemika (1999:10) posits that Police corruption elicits serious concern for three reasons:

- First, the police are expected to be morally upright as well as be law enforcement agents. If the police who are employed to prevent and detect corruption, and bring culprits to judgment are themselves stingingly corrupt, the society's crusade against corruption is guaranteed to fail.
- Second, the police exercise powers that have profound implications for the life, property, safety and freedom of citizens. Where the exercise of such powers is contaminated by corrupt motives, the citizens feel exceedingly vulnerable, insecure and powerless.
- Third, police corruption is often tantamount to extortion, a form of robbery or demand with force.

These dimensions of police corruption explain why the public is threatened by such practices… The most significant source of negative police community relations is corruption. Corrupt motive is also a source of police brutality. In many circumstances, police brutality is a means of coercing individuals to succumb to demands for bribes, and at some other time, it is a punishment for not cooperating with the police in their demand for gratification (Alemika 1999: 10).

Closely related to the problem of corruption and extortion is the incidence of collusion of some police officers with criminals, resulting in increased insecurity and police inefficiency in tackling crime. The twin phenomenon of police brutality and corruption constitute the main barrier between the police and the public in Nigeria.

Human rights groups have frequently accused Nigeria's police of abuses and corruption but it is rare for the government to make similar charges. But recently, perhaps because of the high rate of police corrupt practices, Nigeria's police minister launched a scathing attack on the force, accusing officers of killing, robbery and other abuses. As a result

security in Nigeria is a thing of fear. However, the National police chief blamed the security problems on poverty, corruption and religious tension. In addition Ibrahim Lame said the lack of security was "condemnable and unacceptable". He told a meeting of police commanders: "The current rate of crime across the nation, rising cases of extra-judicial killings, human rights violations, robberies, high-profile assassination and deliberate failure to comply with government directives are testimony to the sheer incapacity or willful defiance of police high command" to government directives.

Consequently, the Inspector General of Police Ogbonna Onovo said the police were "operating under unbearable conditions" (The Vanguard newspaper), adding that criminals were often better armed than the police.

With reference to extrajudicial killings, Amnesty International's Erwin van der Borght said: "The Nigerian police are responsible for hundreds of unlawful killings every year." While Last year, a BBC investigation found that staff in the mortuary in the south-eastern city of Enugu were unable to cope with the large number of bodies the police were delivering - many of whom had been accused of being armed robbers. Mr Onovo also denied reports that armed robbers had ordered a bus driver to run over passengers on the Lagos-Benin highway. However, shocking pictures of this incident prompted the Senate to open an inquiry the result of which is being awaited.

SELF-ASSESSMENT EXERCISE 1

Define Police Corruption.

3.2 Causes of Police Corruption

Several studies, especially anthropological inquiries (Schwartz and Miller 1964; Robinson and Scaglion 1987, Robinson, Scaglion and Olivero 1994) have established linkages among economic and political structures, to form and character of policing, and the development of police forces. The political and economic crisis in Nigeria from the early 1980-81 impacted on the Nigerian police force and its forgoing tasks. With pressure from the despotic rulers to curb and crush opposition and curtail rising crimes coupled with institutional neglect (suffered by the police) which is manifest in lack of resources, embargo on recruitment and promotion for several years, victimisation and nepotism, the Nigerian police embraced a culture of impunity. As a result, extrajudicial killing, detention without trial and corruption became widespread and condoned by the successive governments. The inefficiency of the police became glaring as cases of armed robbery

involving the use of sophisticated weapon and high casualties as well as incidences of ethno- religious conflicts persisted.

SELF-ASSESSMENT EXERCISE 2

What are the major causes of Police Corruption in Nigeria?

3.3 Indications of Police Corruption and Brutality

The Police in Nigeria, with the backing of autocratic leaders and repressive laws frequently acted outside the rule of law. Often they are laws unto themselves, maiming, killing and detaining persons arbitrarily and with impunity. Political opponents of governments and military administrations usually workers, students, radicals and human rights activists continue to suffer excessive and recurrent waves of brutalities, abductions, unwarranted searches and violations of privacy and private family life, extra-judicial killings, bodily injury, intimidation, harassment and loss of personal liberties in the hands of the police and sundry state 'intelligence" and security agencies in the country (Alemika, 1993b:208). The Apo killing of six, the Benue killing of 16 and the Abia killing of three are examples worth citing.

In Abia State on the 9th of August 2006, the Nigerian police paraded 12 robbery suspects, including a 12 year old before the media and the general public at the central police station in Umuahia all with gun-shot wounds while four others were shot to death. Thereafter, they were killed and their bodies dumped at the federal medical centre, Umuahia after obtaining confessional statement from them.

In Benue state however, on the 22nd August, 2006, the police claimed to have gunned down three robbers when they attempted to rob some residents at a suburb. This killing brought to 12 the number of armed robbery suspects in the state within two weeks.

The Boko Haram incident is still fresh in the minds of Nigerians. The battle began on the 26th of July when Boko Haram, a militant Islamist organisation attacked a police station in retaliation for the arrest of its leaders. Police responded with their own retaliation and a curfew fell on the area. The attack spread and by the next day corpses were located at police stations, people fled their homes and some were being pulled down from their cars to be shot dead as police stations were burnt down. The Nigeria police troops then surrounded the home of Mohammed Yusuf (their Leader) in Maiduguri on 28th July after his followers locked themselves inside and were killed by the police.

SELF-ASSESSMENT EXERCISE 3

Briefly discuss Police Corruption and brutality in Nigeria.

3.4 Reforms Aimed at Controlling Police Corruption

As a result of the uprising after the Apo six killings, the **Goodluck Jonathan Commission on the Apo killings** was set up. After their findings and submission of report by the panel to the government on 25th August 2005, the police officers were consequently arraigned before a federal high court in Abuja, tried and believed to be responsible for the killings. Compensation was paid to deceased's relatives and this appeared to raise hopes of government commitment to combat extrajudicial killings.

In 1986 **an effort to reduce bribery** and to make identification of offenders easier, made it a crime for police officers on beats and check points to carry more than N5 on their person.

The Nigerian Police three point agenda

1. Implementation of government's white paper on police reforms:

- Road map for taking the Nigeria police to the next level
- Training and retraining as imperative for professionalism and confidence building
- Building institution and individual capacities
- Reformation of superior mechanism
- Outward resource distribution

2. Renewed commitment to combating violent crimes and other forms of criminality

- Intelligent led policing
- Community policing
- Consultative and strategic partnership
- Optimal utilization of resources; men and women

3. Enhancing police image and improving personnel welfare

- Developing the professional capacities for individual police personnel
- Zero tolerance for corruption and corrupt practices
- Moral rearmament and ethical re-orientation

- Recognition and reward for outstanding performances
- Promotions and general welfare packages
- Accommodation issues, barracks and owner occupier houses.

The 79 point agenda for improving the police force is due to be considered by the National Assembly and turned into a reform bill.

The white paper on reforms states:

- **Better pay:** Police officers are paid as little as $40 (#62) a month, this should be raised to $100 for police constable.
- **Bad eggs:** Deal with the estimated 10,000 officers with criminal tendency hired already.
- **Complaints:** A complaint mechanism set up for the public to complain and have their complaints established.
- **Better education:** All recruits should attain a certain educational level before being recruited into the force.
- **Promotion:** Officers should be promoted after every four years of active and effective service. Promotion should also be transparent.
- **Uniforms:** Police men should not have to buy their own uniform.
- **Communications:** Police men should get an up to date communication network
- **Equipment:** police should be given better investigating tools and the training to use them.

However recommendations that would have removed the president's power to appoint the chief of police and give the appointee security of tenure in office were taken out of the white paper. Chukwuma (2009), suggests this has not given the police independence which is necessary for effectiveness as they will always see their jobs as carrying out the will of the political powers

In 2007, Inspector General Sunday Ehindero announced that more than 10,000 officers would be sacked in an attempt to root out "bad eggs". Thousands of officers with criminal records have been employed by his predecessor Tafa Balogun who was later convicted on corrupt charges. But the officers who were sacked were often not the "bad eggs", instead they had survived the purge.

SELF-ASSESSMENT EXERCISE 4

Briefly analyse the Nigerian Police Reforms in recent times.

4.0 CONCLUSION

Even though corruption has eaten deep into the fabric of Nigeria, it is possible to reduce it to a minimal level. This is especially so with the slogan of the new Minister of Communication "Nigeria, Good People, Great Nation". Police brutality can also be reduced with effective monitoring and follow up of police abuse and misconduct in the society.

5.0 SUMMARY

Corruption and brutality are twin problems facing the Nigerian police of today. Efforts have been made by past and present regimes to curtail and reduce corruption and brutality respectively with a little success. This unit has successfully treated the definition of police corruption, causes of police corruption, indications of police corruption and brutality in Nigeria and the various reforms aimed at improving the Nigerian Police Force.

6.0 TUTOR-MARKED ASSIGNMENT

1. Define Police corruption.
2. What are the major causes of police corruption in Nigeria?
3. Briefly discuss the indications of police corruption and brutality in Nigeria.
4. Briefly analyse the Nigerian Police Reforms in recent times.

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