



POLICY BRIEF

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Security Agencies Abuse of Detention Powers: Time for Legislative Safeguards

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Executive Summary

Nigerian security agencies are essential for upholding law and order, national security, and citizen safety. Yet, their frequent misuse of detention powers through arbitrary arrests, prolonged pre-trial custody, and flouting of constitutional limits undermines democratic governance, erodes public trust, and fuels human rights abuses. Unchecked authority not only fosters systemic abuse and weakens the rule of law but also enables political repression disguised as security measures, jeopardizing Nigeria's democratic stability and good governance. This brief urges legislative safeguards, including stronger judicial oversight, parliamentary accountability, and independent monitoring, to balance security needs with fundamental rights. In view of this, the following recommendations are proposed:

- The National Assembly Committee on Police Affairs may wish to enforce the Administration of Criminal Justice Act (ACJA) adherence by requiring monthly police reports on arraignment timelines. It should further recommend budgetary sanctions against non-compliant commands to deter prolonged unlawful detentions.
- Introduce Enforceable Sanctions and Budgetary Controls: National Assembly should tie security agencies' appropriations to measurable compliance with detention safeguards, impose budgetary restrictions for persistent violations, and criminalize disobedience of court orders with mandatory contempt proceedings.
- NASS should intensify its oversight of the National Human Rights Commission to ensure that it carry out effective inspection and reporting of abuse of detention powers by security and intelligence agencies. NHRC should also implement a centralized digital custody and bail tracking system to prevent manipulation, delay, and unlawful prolonged detention.

1. Background

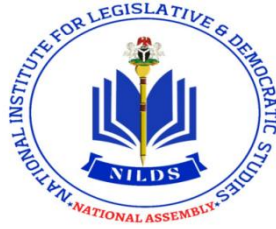
Nigerian security agencies are indispensable for maintaining law and order, protecting national security, and safeguarding citizens. Yet, their recurring misuse of detention powers via arbitrary arrests, extended pre-trial detentions, and disregard for constitutional limits undermines democratic governance, erodes public trust, and sparks grave human rights concerns. Section 35 of the Nigerian Constitution guarantees the right to personal liberty and stipulates that

suspects must be brought before a court within a reasonable time, 24 hours where a court is within 40 km, and 48 hours otherwise¹. The Administration of Criminal Justice Act (ACJA) 2015 further modernized criminal procedure by prohibiting arrest in lieu, requiring documentation of arrests and detentions, and mandating timely arraignment².

However, security-related statutes such as the Terrorism (Prevention) Act provide

¹ <https://nigerian-constitution.com/chapter-4-section-35-right-to-personal-liberty/>

² https://www.policinglaw.info/assets/downloads/2015_Administration_of_Criminal_Justice_Act.pdf



extended detention allowances under certain circumstances, often cited by security agencies to justify prolonged custody. These exceptions have become loopholes for abuse³.

In practice, constitutional safeguards are frequently undermined. Recent cases highlight systemic disregard for judicial authority:

- **Nasir El-Rufai (2025–2026):** The former Kaduna State governor was detained after honoring invitations from the EFCC and later transferred to ICPC custody. Despite bail being granted, he remained in detention for weeks, with his legal team alleging that the ICPC ignored bail applications. Protests erupted across Kaduna and Abuja demanding his release, while groups like MURIC condemned the detention as a violation of his fundamental rights⁴.
- **Sambo Dasuki (2015–2019):** The former National Security Adviser was held in prolonged detention despite multiple court orders granting him bail. His case became emblematic of executive defiance of judicial rulings⁵.
- **Ibrahim El-Zakzaky (2015–2021):** The leader of the Islamic Movement in Nigeria was detained for years despite court orders for his release, raising international human rights concerns⁶.
These cases demonstrate that detention powers are often exercised beyond constitutional limits, with agencies disregarding judicial pronouncements.

The persistence of such practices indicates systemic institutional gaps rather than isolated incidents. They reveal a troubling pattern: security agencies exploit statutory exceptions, delay compliance with court orders, and rely on executive backing to sustain unlawful detentions.

2. Factors

Several factors contribute to the low enforcement of existing legal safeguards, among others are:

- i. **Prolonged Detention without Trial:** Suspects are often held beyond constitutionally permitted periods without charge. For example, *Punch Newspapers* reported that former Kaduna State governor Nasir El-Rufai was transferred from EFCC to ICPC custody in February 2026, yet his lawyers stated. That “no remand order has been shown to them, despite the 48-hour window for holding a person without charge having lapsed⁷.”
- ii. **Disobedience of Court Orders:** Security agencies sometimes fail to comply with judicial bail rulings. In El-Rufai’s case, *The Leader Nigeria* noted that despite a bail application filed on February 19, the ICPC had “yet to grant bail eight days after his detention,” raising concerns about deliberate delay tactics. Earlier precedents include Sambo Dasuki, who remained in custody for years despite multiple bail orders, and Ibrahim El-Zakzaky, whose release orders were ignored for extended periods.

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<https://nigsac.gov.ng/assets/lawsdoc/terrorism%20prevention%20publication.pdf>

⁴ <https://www.ripplesnigeria.com/icpc-silent-on-bail-request-as-el-rufai-faces-court-feb-25/>

⁵ <https://dailytimesng.com/after-10-years-court-gives-fg-sept-26-deadline-to-conclude-case-against-dasuki/>

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<https://www.aljazeera.com/news/2021/7/29/nigerian-court-acquits-shia-leader-ibrahim-zakzaky-of-all-charges>

⁷ <https://punchng.com/icpc-yet-to-respond-to-el-rufais-bail-application-says-aide/>



- iii. Inadequate Legislative Oversight: Parliamentary oversight mechanisms rarely translate into enforceable consequences. Civil society groups like MURIC have had to publicly pressure the legislature and agencies, condemning El-Rufai's continued detention and demanding either his release or arraignment, citing the constitutional 48-hour limit.
- iv. Broad Discretionary Security Powers: Vague national security justifications allow expansive interpretation of detention authority. Agencies often invoke statutes like the Terrorism (Prevention) Act to justify extended custody, even in cases unrelated to terrorism.
- v. Weak Accountability Systems: Internal disciplinary systems lack transparency and deterrent effect. Officers who flout constitutional safeguards rarely face sanctions, reinforcing a culture of impunity.

3. Cross-Country Comparison

In the United States, Detention powers are constrained by constitutional guarantees of due process and habeas corpus. Federal law (18 U.S.C. §4001) prohibits indefinite detention without congressional authorization, and courts actively review custody through habeas petitions. Oversight is exercised by Congress over agencies like the DOJ and DHS. Despite this, immigration detention has drawn criticism for prolonged custody.

In Canada, the Charter of Rights and Freedoms protects against arbitrary detention, and suspects must be brought before a judge without unreasonable delay (typically within 24 hours). Bail reforms under Bill C-75 (2019) emphasized release conditions over prolonged custody, reducing reliance on pre-trial detention. Parliamentary committees monitor compliance.

In South Africa, Section 35 of the Constitution mandates that suspects be brought before a court within 48 hours. Judicial oversight is compulsory, and magistrates conduct routine inspections of detention facilities. Parliament's Justice Committee enforces compliance, while civil society plays a strong watchdog role.

In Ghana, the 1992 Constitution enshrines the 48-hour rule, with bail rights under the Criminal Procedure Code. Parliamentary oversight exists, but watchdogs like CDD-Ghana report persistent violations, including suspects held despite bail orders. Political cases often expose weak enforcement.

4. Lessons Learned

Nigeria should emulate the UK, India, and South Africa by reforming its detention regime: mandate National Assembly approval for any custody beyond the 48-hour constitutional limit to bolster habeas corpus; default to bail with quarterly parliamentary scrutiny of detention data; require judicial inspections reported directly to legislative committees for unbiased compliance checks; and enforce penalties on agencies violating bail rulings. These steps convert paper protections into robust accountability, slashing arbitrary detentions and easing prison overcrowding. Thus, Nigeria's legal framework mirrors these countries but suffers from weak enforcement. The clear path forward is to tighten judicial oversight, empower legislative committees with enforceable sanctions, and make bail compliance mandatory. These steps will align Nigeria with international best practices while addressing its systemic enforcement gaps.

5. Areas for Legislative Intervention

The following measures are recommended:

- The National Assembly through the Senate and House Committees should Enforce Strict Judicial Oversight of Detention Powers: This is to ensure that



the National Judicial Commission and relevant institutions enforce the strict adherence to bail of detainees within 48 hours. However, conditions should be set for situations that require judicial authorization for any detention beyond 48 hours. Ensure mandatory court review of exceptions (including under the Terrorism (Prevention) Act), make bail the default position, and impose automatic sanctions for violations of constitutional timelines and court orders.

- Introduce Enforceable Sanctions and Budgetary Controls: National Assembly should tie security agencies' appropriations to measurable compliance with detention safeguards, impose budgetary restrictions for persistent violations, and criminalize disobedience of court orders with mandatory contempt proceedings.
- NASS should intensify its oversight of the National Human Rights Commission

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6. Conclusion

Nigeria's democracy cannot thrive where executive agencies exercise detention powers without effective accountability. Legislative intervention is urgently required not to weaken national security but to ensure that security operations operate firmly within constitutional boundaries. Therefore, strengthening safeguards against abuse of detention powers is essential to protecting civil liberties, reinforcing judicial authority, and consolidating democratic governance in Nigeria.

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