

# Administration of Criminal Justice and the Relevancy of Judges' Rules and Police Interrogation in Nigeria

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**Abstract:** Previously, there had been hue and cry by the general public that the police always obtained statements from suspects by the use of force, thereby make them confess the crime they did not commit. In order to guarantee that the accused person has given statement to the police voluntarily, Judges' rules were made in Nigeria to guide the police and other agencies who investigate crimes, when questioning any person suspected of committing a crime. It is therefore, these rules of administrative practice that this article sets out to examine its historical development in England and Nigeria. The paper further looks at the application and extent of adherence to Judges' Rules in Nigeria. It discusses problems of non-observance of these Rules by the police in Nigeria and concludes with recommendations that our code of practice should be amended in line with the 1994 United Kingdom's model.

**Keywords:** Admissible evidence, Criminal trial, Judges' Rules, police interrogation.

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## 1. INTRODUCTION

In Nigeria, Section 4 of the Police Act<sup>1</sup> empowers the police to prevent and detect crime, arrest the offenders, protect life and property and enforce all laws. The same law also allows the police to arrest every offender, investigate, interrogate and record statement from the suspect and ensure that any person responsible for the commission of any crime is prosecuted in the law courts. With regard to interrogating a suspect, reliance on Judges' Rules is provided in order to ensure that the suspect or accused does not make any statement to the police out of oppression, inducement, the use of force or threat of violence. The challenges the police may encounter in this process cannot however, be over emphasized. Be that as it may, observance of the Judges' rules in the course of police investigation of criminal matters will certainly enhance best practice which will contribute tremendously to fight against crime and when the best practice is observed and adhered to, it will not only uplift the police in the fight against criminals in a country, but it will also ensure that the police have respect for human rights in the course of investigation of crimes.

## 2. HISTORICAL BACKGROUND TO THE JUDGES' RULES AT COMMON LAW AND IN NIGERIA

The early common law rules of evidence provided that when a suspect made a confessional statement to the police willingly and voluntarily tending to show that he had committed the offence, without any oppression, threat, promise or inducement in the course of police investigation of criminal matters, such statements were regarded as strongest and best evidence against an accused in the determination of his guilt. However, in the early part of the 19<sup>th</sup> century, there was hue

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<sup>1</sup> Cap. P19, LFN, 2004

and cry by the general public that the courts should not admit such document as a matter of course, because the police always obtained statements from the suspects by use of force, inducement and threat. This in turn led the judges of the Kings Bench Division in the United Kingdom at the request of the Home Secretary formulated what is now known as the “Judges’ Rules”. The rules were built up to advance the voluntariness of confessions and to take care of public complaint and needs. They are not statutory provisions, judicial decisions, practice directives or court rules, but are administrative rules to guide the police and other agencies who investigate crimes on what to do and what not to do when questioning any person suspected of committing a crime<sup>2</sup>. These rules do not have the force of law, but the courts do act on them. It therefore follows that while no one can be punished for a breach of these rules, who may be very severely criticized, and suffer the penalty of having valuable evidence rejected in court during a criminal trial. The judges have power to dis-allow, whether legally admissible or not, evidence that is of a prejudicial nature<sup>3</sup>. Also, the British public expects at all times that the police will act fairly, and the general desire by the police is to live up to this expectation. The rules as it is are of great assistance to the police and the court in fighting crime. It is generally accepted that any statement taken in accordance with the rules cannot be challenged. The position of the law is that where a confession was obtained, the police officer concerned will have to prove to the court that the statement was taken in accordance with the procedure allowed by the rules. The concept of Judges’ rules was given a formal recognition by the English court in the often quoted case of *R v Voisin*.<sup>4</sup> In this case, a corpse had been found with the words “Bladie Belgium” written on a piece of paper. The police without cautioning the accused, asked him to write these words. He did but the police had not charged him and it was apparent that he had written the words voluntarily making the same spelling mistakes. The court held it was tantamount to a confession. His Lordship Lawrence J. (as he then was) went further to say that:

These rules have not the force of law; they are administrative directions the observance of which the police authorities should enforce upon their subordinates as tending to the fair administration of justice. It is important that they should do so, for statements obtained from prisoners contrary to the spirits of these rules may be rejected as evidence by the judge presiding at the trial.<sup>5</sup>

In Nigeria, the concept of Judges’ Rules as applicable in Evidence Act *vis-à-vis* the Administration of Criminal Justice System today has its origin in the early English common law rules of evidence enumerated above. This is so because most English law and traditions found their way into the Nigerian legal system by virtue of the fact that Nigeria was a British colony. An incident of this colonial nexus brought about the introduction and adoption of English Model Courts and Judges’ Rules into Nigeria in 1912 which became effective in 1914 and which rules have been amended and amplified in England over the years, the latest being repealed in 1994. Beside the above position, these rules were further made applicable in Nigeria by virtue of Nigerian Police Act. Section 4 of the Act reads thus:

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 directly charged. And shall perform such military duties within or outside Nigeria as may be required of them by, or under the authority of this or any other Act<sup>6</sup>

Furthermore, the domestication of the Convention on Elimination of Torture and other forms of degrading or Inhuman Treatment or Punishment in Nigerian legislation has enhanced the application of and adherence to these codes of practice. For instance, Article 9(3) (a) provides as follows:

The rules adopted for the interrogation of suspects are the English Judges’ Rules, which permit police officers or other law enforcement officials to question anyone, whether a suspect or not, from whom useful information can be obtained ....and also requires them to caution a person they reasonably suspect to have committed an offence before putting any questions to him.

Also, Section 29(1) and (5) of the Nigerian Evidence Act<sup>7</sup> provides to the effect that:

<sup>2</sup> Johnson, T., Judges Rules & police interrogation in England today” 57. *Journal of Criminal Law & Criminology*(1966)

<sup>3</sup> *R V Cook* (1959) 2 All ER 97

<sup>4</sup> (1982) 1 K.B.531

<sup>5</sup> *Ibid* at 539

<sup>6</sup> Cap. P.19, LFN, 2004

<sup>7</sup> Cap. HB. 214, 2011

....confession made voluntarily by the accused to the police in the course of investigation is relevant and admissible provided it was not taken under oppression, inducement, threat of violence or the use of force<sup>8</sup>....

The above sheds clear light that the Judges' rules principle as applicable in England and other Common Law jurisdictions are also applicable in the Nigerian courts *mutatis mutandi* so far as possible and practicable. The whole idea behind the rules is that the courts have discretionary power to admit or reject in evidence any statement obtained from an accused person without compliance with the rules. But before the court exercises this discretion, there should generally be circumstances showing that the breach might have affected the voluntary nature of the statement. Thus, the status of Judges' Rules in Nigeria was considered by the court in the case of *State v Edekere & 7 Ors.*<sup>9</sup> In this case, the accused having made a statement to the police raised an objection to its admission in evidence in the course of his trial on the ground that he had not been cautioned and that the signature beneath the caution which appeared on the statement was not his. He contended that since he had not been cautioned in accordance with the Judges' rules, the statement was therefore inadmissible. In overruling the objection, the court held that even if the accused was not cautioned, which was not proved, the breach does not itself make the statement inadmissible, that only if the breach suggested that the statement might not have been made voluntarily that it would become inadmissible. A similar decision was taken by the English Court in the case of *Collins v. Gunn*<sup>10</sup>. In this case, the court held that fingerprint obtained from the accused person with or without caution can be put in evidence, if it is relevant unless it was obtained oppressively, by false representation, bribe or threat. The requirement that caution must be administered to the one suspected of committing a crime before his statement is recorded is a procedural device in aid of administration of justice as part of administrative directive to the police and kindred organizations that are vested with the power to investigate crime.

### 3. APPLICATION OF JUDGES' RULES IN NIGERIA

As earlier stated Judges' Rules were developed in England and adopted into the Nigerian Legal System by virtue of, colonial background. The relevance of Judges' Rules in obtaining voluntary statements cannot be over emphasized. As already noted, they aid the police in obtaining free and voluntary statements from the suspects. It follows therefore that since interrogation is governed by these rules, the possibility of having threats or promises which induce one to confess is highly unlikely. However, where confessions are obtained under undue influence or duress, they become unreliable and hence their exclusion.

As stated above, the adherence to these rules renders evidence so procured admissible in a court of law. However, statements made in consequence of breach of these rules may still be admissible as evidence in a court of law, as illustrated above. The Nigerian Judiciary has considered Judges Rules to be merely directory rather than mandatory on law enforcement officers<sup>11</sup>. The rules according to the 1964 modification and as applicable to Nigeria are as follows:

**3.1 Rule 1:** When a police officer is trying to discover whether or by whom an offence has been committed he is entitled to question any person, whether suspected or not, from whom he thinks that useful information may be obtained. The police officer can do this whether or not the person concerned has been taken into custody provided he has been charged with the offence or informed that he may be prosecuted for it. The English Court subscribed to this position when it held in *R v Stenning*<sup>12</sup> that police interrogation could take place while an arrested person was in custody at the police station before any charge was laid. On the issue as to what are the limits or parameter in which the police investigation or questioning can cover? The English criminal Court of Appeal in *R v Bucham*<sup>13</sup> stated that a person arrested on a minor charge may be questioned about other more serious crimes he may have committed. It must be understood that the suspect's answers to any questions put and any statement that he may volunteer should be reduced into writing. It is important that this procedure be followed for the following reasons, namely: the suspect may be able to clear himself of suspicion; if it is later decided to charge him, his statement will be available to check this story in the witness box and it may disclose manners, which open new avenues of investigation.

<sup>8</sup> Ibid.

<sup>9</sup> (1981) 2 NCR 335

<sup>10</sup> (1963) AC 25

<sup>11</sup> Agaba, J., Practical Approach to Criminal Litigation in Nigeria (1<sup>st</sup> edn. Nigeria: Panaf press Abuja), P.95

<sup>12</sup> 490 cr.App.R.344

<sup>13</sup> 48 cr.App.R.126

**3.2 Rule 2:** As soon as a police officer has evidence which would afford reasonable grounds for suspecting that a person has committed an offence, he shall caution that person or cause him to be cautioned before putting to him any questions, or further questions, relating to that offence. The caution shall be in the following terms:

You are not obliged to say anything unless you wish to do so but what you say may be put into writing and given in evidence.

When after being cautioned a person is being questioned, or elects to make a statement, a record shall be kept of the time and place at which any such questioning or statement began and ended and of the persons present.

The above rule has become what is known as the right of silence of the suspects during police interrogation. Lord Diplock clearly explained the right of silence in *Hall v R*<sup>14</sup> when he stated thus:

It is clear and widely known principle of the common law..... That a person is entitled to refrain from answering a question put to him for the purpose of discovering whether he has committed a criminal offence..... The caution merely serves to remind the accused of a right which he already possesses at common law.

Another question begging for answer under rule 2 is what should happen if when after being questioned a person elects to make a statement; the law is that a record shall be kept of the time and place at which any such questioning or statement began and ended and of the persons present. The reasoning of the Supreme Court of Nigeria per Rhodes Vivour J.S.C(as he then was) in the case of *Oguda v The State*<sup>15</sup> is very instructive on this issue when His Lordship observed that the hallmarks of a properly taken confessional statement are as follows:

- a. The cautionary words must be well written and signed;
- b. The body of the statement written by the accused person or someone, usually a Police Officer, on the accused's directives, giving a detailed confession which will show clearly that he committed the offence for which he is charged;
- c. The statement must be endorsed by a Superior Police Officer and signed by the accused person.<sup>16</sup>

The author submits that the caution is fundamental to the admissibility of confessions because it is the foundation of the constitutional right of the citizen not to be compelled to make a statement. Without the words of caution, a confessional statement should be rejected by the trials court for violating the constitutional right to silence.

### 3.3 Rule 3:

(a) Where a person is charged with that he may be prosecuted for an offence or charged with an offence, he shall be cautioned in the following terms:

Do you wish to say anything? You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence.

(b) Questions relating to the offence should not be put to the accused after he has been charged or informed that he may be prosecuted except for the purpose of preventing or minimizing harm or loss to some other person or the public or for clearing up an ambiguity in a previous answer or statement and should be stated in the following terms:

I wish to put some questions to you about the offence with which you have been charged (or for an offence for which you may be prosecuted). You are not obliged to answer any of these questions but if you do, the questions and answers will be taken down in writing and be given in evidence.

(c) When such person is being questioned, or elects to make a statement, a record shall be kept of the time and place at which any questioning or statement began and ended and of the persons present.

The case which clearly underscored this principle of the rule was that of *Usman v. State*<sup>17</sup>. In that case, the Appellant was tried and convicted for the murder of his wife by strangulation. He made statements to the police. Appellant's counsel

<sup>14</sup> 55 Cr.App.R.108s

<sup>15</sup> (2011) 18 PWLR (pt. 1278)1

<sup>16</sup> However, the practice of taking the accused to a Superior Police Officer is for convenience and is not a rule that renders non-observance fatal to the admissibility of a confession. See *Alarape V. The State*(2001) 2 S.C 114 at p. 127

<sup>17</sup> (2010) ALL FWLR (pt. 542) 1691

contended among other things that the statement made in Hausa as well as the English translation was inadmissible on the ground that the statement was neither read over to the Appellant at the time it was taken nor was same signed by him. Dismissing this contention, the Court held inter alia:

Breaches of the Judges Rules do not render a document inadmissible. At best, such breaches might only affect the weight the court attaches to the statement and certainly not its admissibility.<sup>18</sup>

**3.4 Rule 4:** All written statements made after caution shall be taken in the following manner:

(a) If a person says that he wants to make a statement he shall be told that it is intended to make a written record of what he says. He shall always be asked whether he wishes to write down himself what he wants to say; if he says that he cannot write or that he would like someone to write it for him, a police officer may offer to write the statement for him. If he accepts the offer, the officer shall before starting ask the person making the statement to sign or make his mark to the following:

I wish to make a statement. I want someone to write down what I say. I have been told that I need not say anything unless I wish to do and that whatever I say may be given in evidence.

(b) A person writing his own statement shall be allowed to do so on his own without any prompting as distinct from indicating to him what are materials.

(c) If the suspect is to write the statement himself, he shall be asked to write out and sign the statement below before writing what he wants to say:

I make this statement of my own free will. I have been told that I need not say anything unless I wish to do and that whatever I say may be given in evidence.

(d) If a police officer writes the statement, he is to take down the exact words of the person making the statement, without putting any questions other than such as may be needed to make the statement coherent, intelligible and relevant to the material matters. He shall not prompt him.

(e) When the police officer has finished writing the statement, the person making it shall be asked to read it and to make any corrections, alterations or addition he wishes. When he has finished reading it, he shall be asked to write and sign the following:

I have read the above statement and I have been told that I can correct, alter, or add anything I wish. This statement is true. I have made it of my own free will.

(f) If a suspect who has made a statement refuses to write the above mentioned certificate at the end of it or to sign it, the senior police officer present is to write on the statement and in the presence of the person making it, what transpired. If the person making the statement cannot read or refuses to read it, the officer who has written it for him shall read it over to him and ask him whether he would like to alter or add anything and to put his signature or make his mark at the end. The police officer shall then certify on the statement itself what he has done.

**3.5 Rule 5:** If at any time after a person has been charged with, or informed that he may be prosecuted for an offence, a police officer wishes to bring to the notice of that person any written statement made by another person who in respect of the same offence has also been charged or informed that he may be prosecuted, he shall hand to that person a true copy of that written statement, but nothing shall be said or done to invite any comment. If the person says that he would like to make a statement or starts to say something in reply, he shall at once be cautioned as prescribed by rule 3(a).

**3.6 Rule 6:** Persons other than police officers charged with the duty of investigating offences or charging offenders should endeavour to comply with these rules.

In the light of the foregoing, questions arise as to what effect does a breach of these rules have? Does it, if serious enough in itself, render the confessional statement inadmissible or is its importance confined to the indications it may give on the question of voluntariness? There has been no consistent approach to this question. The position of the law in Nigeria and England where the rules originated is that breaches of the rules are of importance only as they affect voluntariness of the

<sup>18</sup> Per Muhammad JCE at p. 1701

accused in making statement. A breach of the rules does not necessarily result in exclusion of the confession if the confession is held to have been made voluntarily. Section 31 of the Evidence Act states that:

If a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception practiced on the defendant for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of these questions, or because he was warned that he was not bound to make such statement and that evidence of it might be given.

On the other hand, even where the confession has been made voluntarily it could be excluded by the Judge in the exercise of his discretion in accordance with rule 3(c) on the ground that the rules have not been followed.

The other question that occasionally occurs is whether a confessional statement is admissible either on the ground that the cautionary statement was not administered by the police officer or that it was not properly or sufficiently administered. Here again, the point has been made that these rules are administrative rules and not rules of courts to be followed strictly. In other words, they are rules of administrative practice. Therefore, mere non-observance of the rules would not render a confession inadmissible if the court is otherwise satisfied that the statement in question was voluntarily made<sup>19</sup>. It is settled law now that the admissibility of a confessional statement depends not on whether there was compliance with the Judges' rules but whether same was made voluntarily.<sup>20</sup> The requirement of caution is satisfied if the suspect is cautioned before he begins to make a statement even if he is not cautioned again when he begins to make a confession. In other words, the initial cautionary statement suffices throughout the interview.<sup>21</sup> In concluding this section, it is worthy to mention that the Judges' rules doctrine as it stands now serves two main purposes, namely: as a guideline for investigating police officers to prevent an abuse of authority on their part and in cases of confessions to ensure that they are made voluntarily. The author submits that unless and until the rules have the force of law with punishment section for the offenders, it would remain a toothless bull dog.

#### 4. ALTERNATIVE WAY TO CONFIRM VOLUNTARINESS OF CONFESSONAL STATEMENTS

At Common Law and in Nigeria, it has been a well-established proposition of the laws of evidence that a confession statement of the suspect to the police in the course of investigation into a crime is relevant and admissible in evidence at his trial if the statement was given by the accused voluntarily to the police. Because of the above position of the law, it has become a common occurrence for many suspects who made statements to the police, together with their lawyers, to deny voluntariness of their statements when same are sought to be tendered in court. However, the police in Nigeria have developed a practice whereby the police officer accepting a confession is obliged to take the suspect and the statement made by him before the Superior Police Officer (SPO) not below the rank of an Assistant Superintendent of Police (ASP) as early as possible. The Superior Police Officer is required to satisfy himself or herself that the statement is free and voluntary. If the police officer is satisfied, he/she must ask the accused if he made the statement voluntarily and whether it is true and correct. If the accused admits same, he will sign it and the Superior Police Officer will endorse and sign the confession to that effect. The mere fact that a superior police officer has not endorsed confession does not render it inadmissible as earlier stated. Be that as it may, such endorsement has the value of assuring the trial court that it has been properly taken and or that the proper procedures were followed. The whole idea is that if the statement was made under threat or duress, such threat would have been removed by the time the suspect is brought before a superior officer before whom he should feel safer. Whether such fear of duress is actually removed by this procedure is a different matter. However, it is submitted that it is a commendable practice to act as a check on interrogating officers. This practice is not covered by the Judges' Rules or any rule of evidence but it has been applauded by the Court.<sup>22</sup> As earlier pointed out, this is a practice evolved by the police and it is merely desirable. Non-compliance would not invalidate a confession.<sup>23</sup> In *Alarape v. State*,<sup>24</sup> the Supreme Court reiterated this point when it held:

<sup>19</sup> *R v Voisin*(supra)

<sup>20</sup> *Onungwa v. State* (1976) 2 SC 169; *R v. Prager* (1972) 1 WLR 260

<sup>21</sup> *Sangara v. State* (1965) 1 NLR 59

<sup>22</sup> *Nwigboke & Ors v. The Queen* (1959) 4 FSC 101; SCNJ 36; *Oguno v. State* (supra)

<sup>23</sup> *Nwigboke v. The Queen* (supra)

<sup>24</sup> (2001) 2 SCNJ 162

It is not the requirement of any law that if a confessional statement has not been read over and confirmed before a superior Police Officer, it will *ipso facto* cease to be effective or be rendered inadmissible. Such a confirmation simply makes proof of its voluntariness easier and no more. The practice has however been commended in many cases.<sup>25</sup>

Although the usual practice is to get the suspect or accused person to sign the self-incriminating statement again after it has been read to him before a superior police officer, it has been held that failure to re-sign would not affect its admissibility.<sup>26</sup>

## 5. PROBLEMS OF NON-OBSERVANCE OF JUDGES' RULES

In Nigeria, the police are charged with the responsibility of maintaining law and order as well as protecting lives and property of citizens<sup>27</sup>. The above entails that the police are especially charged by law to prevent crime, and when it has already been committed, to investigate and subsequently bring such offenders to justice through the law court.

As pointed out earlier, when the police are interrogating an accused person or a suspect, reliance on Judges' Rules is made in order to ensure that the suspect does not make any statement out of oppression, threat or use of force or coercion<sup>28</sup>. However, the difficulties that the police may encounter in the application of Judges' Rules cannot be overemphasized. There are various factors attributed to the non-observance of these rules of practice.

### 5.1 Co-accused Statement:

Here the rule is that if a police officer wishes to bring to the notice of a suspect or accused person a statement made by another person who is also suspected or charged with the same offence, he shall hand to that suspect a true copy of the written statement made by that other person. This problem arose in the case of *R v. Ajose*<sup>29</sup>. Here, the accused made a statement to the police in which he mentioned another accused person. This statement was later read to him by a police constable in the presence of the co-accused person who confirmed the statement even without caution. It was held that the statement was admissible only against the maker and not against the co-accused. Similarly, in *Evbuowman v Police*<sup>30</sup>, a police officer called an accused, read to him a confession, which a co-accused made against him. The accused kept mute and was convicted. On appeal, the Court quashed the conviction on the ground that the police officer acted contrary to the judges' rules. Perhaps a stronger reason was that an accused is not obliged to say anything and the prosecution in the absence of the purported confession had not proved his case beyond reasonable doubt. In an attempt to get round this problem, the West African Court of Appeal has modified the rule by the inclusion of the following proviso to the rule:

Provided that when the person charged is illiterate the statement may be read over or interpreted to him by some person other than a policeman. Anything said to such reader by the person charged when the statement is read shall not be admissible in evidence against him, but if, after the statement has been so read, he shall be desirous of making a statement to the police in reply, such statement shall be taken only after the usual caution has been administered.<sup>31</sup>

### 5.2 Police Negligence:

Since most if not all the police officers are aware of the existence and application of Judges' Rules when questioning an accused person or suspect, ideally, adherence should not be a problem. However, most police officers do not apply them due to negligence on their part. The term negligence has a lot of meanings ascribed to it. In this context, negligence means failure to exercise care towards others which a reasonable, prudent person would not do in the circumstances, or taking action which such a reasonable person would not.<sup>32</sup> The Supreme Court of Nigeria in the case of *Federal Ministry of Health and Anor V. Cement Shipping Agencies Ltd* had made pronouncement concerning when a person is said to be negligent thus:

<sup>25</sup> Igu JSC at p.181 *Ogun v. State*(2011)7 NWLR (pt. 1246)314

<sup>26</sup> *Oke V. The Republic* (1968) NMLR 69

<sup>27</sup> Section 4 of Police Act

<sup>28</sup> Section 29 (5) of Evidence Act, 2011

<sup>29</sup> (1934) 2 WACA 118

<sup>30</sup> (1961) AC 36

<sup>31</sup> *R v. Ajose* (1934) 2 WACA 118

<sup>32</sup> (2011)196 LRCN 1-270 particularly at p.236 ratio 10

A person is said to be negligent if he omits or fails to do something which a reasonable man under similar circumstance would do or do something which a reasonable and prudent man would not do.

In other words, it means carelessness or lack of exercise of proper care when dealing with suspects. In essence a police officer is negligent as regards his duty to observe Judges' Rules if he does not take reasonable care or does it deliberately not to apply these rules of practice. In most cases, police officers just rush into forcing suspects or accused persons into confessing so that they dispose off their cases easily. This is attributable to lack of motivation and dedication by the police force caused by so many factors which center on poor remuneration.

### **5.3 Lack of Quality Training/Capacity Building:**

The Nigerian Police Force is established to prevent and detect crime, arrest offenders, protect life and property and enforce all laws. It is also the responsibility of the Police Force to arrest every offender, investigate and to ensure that any person who commits a crime is prosecuted in the law court. The police can only carry out these constitutional duties if they are well trained to do so. There is need for periodical training of the police. It is submitted that a national police institute should be established in Nigeria to train Police Officers. There is also need to train the police internationally as this will afford them the opportunity of meeting and interacting with their counterparts from other jurisdictions. This will help them keep abreast with the rules and modern trends in their field and help develop the police.

### **5.4 Office Accommodation:**

It is true that in Nigeria most of the investigating police officers have no office accommodation; in some cases, their offices are under deplorable and poor conditions that lack technical support for excellent service. The state of infrastructure and support materials in most police stations requires urgent attention if the police must do their work well.

### **5.5 Out Datedness of the Judges' Rules:**

The codes of practice that are presently being applied in Nigeria are the 1964 Judges' Rules, which were adopted from England. These rules are being applied the way they were received without any alterations or amendments. In contrast, the English codes of practice have been repealed and updated several times over to the effect that they are now more detailed and abreast with the problems in contemporary England. On the other hand, the Nigerian codes of practice are as old as 1964, entailing that they do not address the current needs of society as they are always in a state of flux. Thus it can be said that Judges' Rules have become ineffective due to the fact that they have become archaic and do no longer address the contemporary needs of society, hence their ineffectiveness. As a result, they ought to have been updated so that they conform to the current problems that society is experiencing.

## **6. CONCLUSION AND RECOMMENDATIONS**

This discourse has examined the application as well as relevance of Judges' Rules and Police investigation in Nigeria. As it has been pointed out, these rules are an extension of rules of confessions merely to guide the police and other agencies that investigate criminal matters when questioning an accused person on what to do and what not to do in order to arrive at freely and voluntarily made statements by the suspects. They do not have the force of law but are built up to advance the voluntariness of accused's confessions. The paper finds that the concept of Judges' Rules in Nigeria to some extent helps the police to recognize and respect fundamental human rights of individual by protecting them against making statements that may be incriminating on them. The negative aspect of the rules is non-observance by the police officers precipitated by torture of suspects which amounts to negligence and general disregard for fundamental human rights. The paper further finds that lack of knowledge of these rules of administrative practice as well as an individual right against self-incrimination has characterized the categorization of persons in authority such as the Police, EFCC, ICPC, thereby occasioning the disregard for these rules of practice. The work also reveals that the codes of practice that are presently being applied in Nigeria are the 1964 Judges' rules, which were adopted from England which rules have been repealed and amplified in England the largest being in 1994. It is submitted that our codes are too archaic and obsolete to serve any meaningful purpose as far as police investigations are concerned today. In the circumstance, it is suggested that the reform of the rules in Nigeria is imperative. Based on the foregoing analysis, the following recommendations are proffered:



### 6.1 Continuous Training and Sanitization of Members of the Police Force:

The sanitization of the Police, Judiciary and other stakeholders on the contemporary practices and procedures of Judges' Rules and police investigation method should be intensified in order to ensure the efficiency of the rules in practice. It is also suggested that education of the general public on fundamental human rights and in particular, person's right against self-incrimination, in the light of Judges' Rules should be taken seriously by the Federal and State governments.

### 6.2 Suspect Access to a Lawyer:

We recommend that every suspect should be allowed access to a lawyer of his own choice while in police custody or detention. He/she should be able to communicate and consult with the solicitor. This is so, even if a suspect is in police custody provided that in such a case no reasonable delay or hindrance is caused in the processes of the investigation or administration of justice by doing so. More so, if a suspect is given access to a lawyer, that should not lead to interference with evidence, or recovery of proceeds of crime.

### 6.3 Amendment of Judges' Rules:

The Judges' Rules of practice that are being adhered to today in Nigeria are the 1964 Judges Rules that were adopted from the United Kingdom. These rules have never undergone any form of amendment since their adoption whereas the codes of practice in the United Kingdom have undergone various changes the latest being in 1994 which make them more relevant in that Jurisdiction's society. Since their adoption, a lot of changes have occurred in Nigeria as a country and in the world. Notable among these changes is the establishment of the human rights regime, which guarantees respect as well as protection of fundamental rights of Nigerians. It is upon this basis that many countries and in particular the United Kingdom have had their codes of practice altered in order to be in conformity with the demands of protection of Fundamental Rights of the individual.

This consequently renders Nigerian Judges' Rules archaic owing to the fact that they are no longer responsive to the new demands of Human Rights as they used to be 50 years ago, when their adherence was in conformity with the needs of the society. Thus, we submit that our codes of practice should be amended in line with 1994 United Kingdom's model.

### 6.4 Making Judges' Rules, Rules of Law Rather than Administrative Practice:

The importance of Judges' Rules in obtaining confessions cannot be underestimated. A confession that is obtained from a suspect can, to the extent of its admissibility, render a conviction. Judges' Rules are made applicable in order to arrive at voluntary confessions or of any statement of the accused to the police. However these rules are not binding rules of law, but merely rules of practice. Consequently, a trial Judge has the discretion to exclude a confession made in breach of these Rules, or to admit such confession in so far as it is relevant to the facts in issue. The issue of judicial discretion was carefully described by the English Court in the case of *R v Houghton*<sup>33</sup> where Lawton L. J. said:

Judges in criminal cases have discretion to disallow evidence even if it is relevant and admissible, if admissibility would operate unfairly against an accused.....

It follows from the foregoing that if a conviction is made based on a confession obtained in breach of these rules, it may be unfair to the convict. This tends to defeat the whole purpose of Judges' Rules. Consequently, it will be prudent to exclude all confessions obtained in breach of Judges' Rules, whether relevant to the facts in issue or not. In the light of the above, we recommend that the Judges rules be amended to have the force of law and command compliance from the police as well as other stake holders. This in turn will be seen as a way of enhancing basic rights of an individual.

### 6.5 Punishments for Erring Police Officers:

As earlier stated, it is true that the present Judges' Rules and police interrogation in Nigeria have no force of law to ensure compliance talk less of sanctions. Accordingly, we recommend that the rules be amended to provide for sanctioning or liability of the investigation police officer (IPO) who errs in the course of his duty. The law should equally provide punishment for the Nigerian Police Force as an institution whenever persons are acting or under a duty to act on their behalf. We feel strongly that the imposition of sanction on a police offender is crucial to effective compliance with the judges' rules. Beside the institution of criminal proceedings against the IPO, we also recommend that other penalties other

<sup>33</sup> (1979) 68 Cr. App.R.197

than court action be implemented for breach of Judges' rules leading to induced confessions. Hence it is suggested that police internal disciplinary measures be strengthened in order to command compliance from police officers.

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