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Human rights concerns in the pardon process: The marginalisation of petty offenders in Nigeria

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Abstract
This article critically examines the human rights implications of the pardon process in Nigeria, focusing on the systemic marginalization of petty offenders. Although the Nigerian Constitution empowers the executive to grant pardons, recent events reveal a trend of excessive focus on high-profile, political and economic upper-class class, often to the exclusion of low-level and indigent inmates. These inequities raise serious issues about equality before the law, access to justice, and the abuse of constitutional powers. Drawing on legal analysis, constitutional provisions, and comparative practices, the article highlights the invisibility of petty offenders in pardon considerations despite their vulnerability to harsh sentencing and prison overcrowding. The article advocates for a rights-based reform of the clemency system that prioritizes fairness, transparency, and the inclusion of marginalized groups. The paper concludes by proposing practical legal reforms to ensure that the pardon process serves both justice and social equity.

Keywords: Human rights, pardon process, Prerogative of Mercy (POM), Nigeria, petty offenders, executive clemency, equality before the law

Introduction
In most democratic societies, such as Nigeria, the power to grant pardons is provided for in constitutional law as an instrument of mercy, justice, and rehabilitation. Prerogative of mercy, also known as executive clemency or royal prerogative, refers to the authority of a President or Governor to pardon a criminal or commute a criminal sentence [1]. Blackstone, a renowned scholar, in his book [2] describes the royal prerogative as those powers that the King enjoys alone in contradistinction to others and not to those he enjoys in common with any of his subjects [3].

In ancient Rome, clemency power was exploited for political purposes rather than justice or mercy. The executive would pardon a person for self-aggrandizement, popularity, or to appease the people. A well-known example of this is the biblical story of Pontius Pilate pardoning Barabbas instead of Jesus. The lessons learned in Greece and Rome set the framework for the development in England of monarchical pardon powers [4].

The statutory prerogative of mercy evolved during the reign of King Ine of Wessex in 668 to 72 A.D from the statutory rolls of the Anglo-Saxon monarchs. The power of the English onarch to pardon· Prior to the seventeenth century, was absolute. which later found its way into the Nigerian legal system, now enshrined in sections 175 and 212 of the Nigerian Constitution. Prerogative of mercy (POM) [5] is traceable to Nigeria after the Berlin conference of 1884-1885, which was summoned by Otto von Bismarck, the Chancellor of Germany. The conference, amongst other things, empowered Great Britain to control the coast from Lagos to Calabar, making Nigeria a British Colony. The laws made in Britain in the British Parliament before 1900 became applicable to Nigeria as a British colony as statutes of general application. It is imperative to state that the concept of POM in effect came into Nigeria through the conduit pipe of statute of general application, and since then has remained indelible in the Nigerian legal history [6].

In Nigeria, the prerogative lies with the President at the federal level and Governors at the state level, supported by advisory bodies like the Council of State [7]. Section 175 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) retained the concept of POM. However, over the years, the exercise of this power has been increasingly viewed with suspicion and controversy, particularly regarding its selective application. While the spirit of clemency is meant to uphold justice and human dignity, recent patterns suggest that presidential and gubernatorial pardons disproportionately favour political elites and high-profile individuals, many of whom are convicted of severe economic or corruption-related crimes.

Conversely, indigent and petty offenders often do not benefit from these clemency initiatives. This disparity not only sabotages the principles of equality before the law, but it also raises fundamental human rights issues regarding access to justice, equity, and transparency in state power.

This paper explores the legal, political, and ethical extent of Nigeria's pardon process with a particular emphasis on the exclusion of petty offenders. It argues for a rights-based reform to ensure that clemency practices align with constitutional guarantees and international human rights obligations.

2. Legal and constitutional framework for pardon in Nigeria

Section 175 of the 1999 Constitution15 (as amended), which is in tandem with the provisions of section 212, retained the concept of POM. It provides as follows:

'The President may:

a) grant pardon to any person concerned or convicted of any offence created by an Act of the National Assembly, either free or subject to legal conditions
b) grant relief to any person, either for an indefinite period or for a specified time, for the execution of any punishment imposed on that person for such offence
c) replace a less severe form of punishment

(2) After consultation with the Council of State, the President's powers under subsection (1) of this chapter shall be exercised by him. (3) The President may exercise his authority under subsection (1) of this chapter, acting in accordance with the recommendation of the Council of State, in relation to individual involved in crimes against army, navy or air force legislation or convicted or sentenced by a court martial'.

Section 212 relates to State Governors as they can also exercise the power of POM. One would notice the use of the word 'pardon' in section 175 CFRN. The exercise of POM automatically invokes the coming into operation of a sort of pardon, which may be unconditional or conditional.

In both cases, the exercise of this discretion is to be undertaken after consultation with designated advisory bodies, particularly the Council of State, on whose advice the President relies.

While these provisions are drafted in elastic and apparently discretionary language, their application is still subject to legal and normative limitations. The constitutional framework anticipates that such powers will be exercised with integrity and in conformity with justice, the public good, and the rule of law. However, in practice, these powers are applied with apparent focus on political expediency rather than reformative purpose.

Beyond domestic constitutional provisions, Nigeria is bound by international human rights instruments that demand non-discrimination and equal access to justice. Article 26 of the International Covenant on Civil and Political Rights (ICCPR) guarantees equality before the law, while Article 3 of the African Charter on Human and Peoples' Rights reinforces the right to equal protection. These instruments, which Nigeria has ratified, underscore the state's duty to ensure that discretionary powers, such as clemency, do not reinforce social or economic inequalities.

Notably, the existing legal framework lacks specific criteria or clear guidelines for prioritizing categories of offenders, such as those with minor or non-violent convictions, or individuals who are indigent, sick, or rehabilitated. This normative lacunae perpetuates a clemency culture that privileges the powerful and effectively Contributes to the systemic neglect of low-level inmates [8].

3. Human rights implications of the current pardon practice

The exercise of executive pardon in Nigeria, although constitutionally enshrined, has often raised significant human rights concerns, particularly due to its inconsistent and unclear application. The crux of the matter is the unequal treatment of offenders, which directly contravenes the principle of equality before the law, a cornerstone of both the Nigerian Constitution and international human rights instruments. This includes mainly the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights, to which Nigeria is a party [9].

Over time, successive governments have faced sustained criticism for manipulating the clemency process to advance elite interests, often granting pardons to politically influential individuals convicted of high-level corruption and other grave offences to serve elite interests, frequently extending pardons to politically connected individuals convicted of grand corruption or other serious offences. High-profile cases such as the presidential pardons granted to Salisu Buhari, Diepreye Alamieyeseigha, and Shettima Mustapha illustrate this trend [10].

Salisu Buhari was the first Speaker of Nigeria's Fourth Republic House of Representatives in 1999. Shortly after assuming office, it was discovered that he had forged academic credentials and falsified his age, falsely claiming to have graduated from the University of Toronto. In July 1999, he admitted to the allegations and was convicted by an Abuja High Court. He was sentenced to two years' imprisonment with an option of fine, which he paid [11]. However, not long after, President Olusegun Obasanjo granted him a presidential pardon, a decision that sparked public outrage and raised concerns about early signs of impunity in the new democratic dispensation [12].

Another controversial figure is Diepreye Solomon Peter (DSP) Alamieyeseigha, the former Governor of Bayelsa State between 1999 and 2005. He was arrested in London in 2005 for money laundering, after authorities discovered over £1 million in cash and assets linked to corruption. He jumped bail in the UK, allegedly disguised as a woman, and returned to Nigeria where he was later impeached. In 2007, he pleaded guilty to six-count charges of corruption and was sentenced to two years in prison, although he served only a short period due to time already spent in custody [13]. Despite the gravity of his crimes, President Goodluck Jonathan granted him a state pardon in March 2013. This decision provoked widespread condemnation, as Alamieyeseigha was a convicted felon and the pardon was seen as a reward for political loyalty to Jonathan.

Shettima Bulama Mustapha, former Managing Director of the Bank of the North, was also among those controversially pardoned in 2013 by President Jonathan. He had been convicted for corruption and mismanagement of public funds during his tenure at the bank. Although his case did not cause the same level of public scrutiny and uproar as that of Alamieyeseigha, it nonetheless lent further credence to the belief that presidential clemency was increasingly being employed as a tool to shield politically connected individuals from accountability, further eroding the credibility of national anti-corruption initiatives

These developments have drawn pointed criticism from both civil society and legal scholars, many of whom contend that the use of clemency for political ends compromises the integrity of the rule of law and entrenches patterns of impunity. Agbedo, for instance, argued that these pardons call into question the government's professed commitment to the fight against corruption and violate the public's legitimate expectation of accountability [14].

By contrast, low-level and indigent offenders, many of whom are held for petty, non-violent crimes or remain in prolonged pretrial detention, rarely benefit from the exercise of pardon. These individuals, disproportionately drawn from marginalised socio-economic groups, endure prolonged incarceration in overcrowded and unsanitary prison conditions that fail to meet the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) [15]. The exclusion of such vulnerable populations from clemency frameworks constitutes a form of indirect discrimination and reinforces structural inequalities in the justice system.

Moreover, this selective application of mercy contributes to persistent prison overcrowding, which in turn violates the right to dignity, health, and humane treatment of inmates. With many correctional centres operating at over 150% capacity [16], the denial of clemency to low-risk, petty offenders exacerbates exposure to communicable diseases, psychological harm, and inhumane conditions. The right to health and freedom from cruel, inhuman, or degrading treatment, guaranteed under Section 34(1) of the 1999 Constitution and Article 5 of the African Charter [17], is systematically violated under these circumstances.

The human rights concerns at stake go beyond the issue of physical confinement. When the pardon process is perceived as favouring the political elite, it diminishes public trust in legal and democratic institutions and weakens the legitimacy of anti-corruption initiatives, and fosters widespread disillusionment with the justice system. The image of well-connected convicts walking free, while impoverished

defendants languish in cells without access to legal aid or rehabilitation, further delegitimises the state's claim to equitable justice [18].

In sum, the current pardon practice in Nigeria not only entrenches socio-economic disparities but also infringes fundamental rights enshrined in national and international law. To align the clemency regime with human rights principles, Nigeria must adopt transparent, inclusive, and rights-based criteria for the exercise of executive pardon, particularly one that prioritises the plight of low-level, non-violent offenders.

4. The politics of pardon: High-profile vs. low-level offender

The Nigerian pardon process has long been criticised for its lack of transparency, with accusations that it favours influential persons over vulnerable or indigent offenders. This political selectivity came under renewed scrutiny following the 2022 presidential pardons granted to former governors Joshua Dariye and Jolly Nyame, both of whom were incacerated in prison for large-scale corruption involving N1.16 billion and N1.6 billion, respectively. Despite their convictions being upheld through multiple judicial tiers up to the Supreme Court, the National Council of State endorsed their clemency, prompting public backlash [19].

The controversy further highlights the intricate relationship between Nigeria's ethno-religious plurality, regional interests, and shifting political allegiances. A pertinent question that arises is whether the public and political responses would have been different had the beneficiary not hailed from the Niger Delta, a region often referred to as the economic mainstay of the nation due to its oil wealth. Equally relevant is the apparent personal relationship between President Jonathan and Alamieyeseigha, as Deputy Governor and Governor, respectively. These circumstances raise concerns about the potential politicisation of presidential pardons and the need for greater institutional checks to guard against conflict of interest and abuse of discretion [20]. Presidential and gubernatorial pardon announcements have consistently favoured disgraced governors, business magnates, and political figures. For example, the 2022 presidential pardon granted to two former governors convicted of corruption Joshua Dariye and Jolly Nyame sparked widespread public criticism.

Socio-Economic Rights and Accountability Project (SERAP) urged President Muhammadu Buhari (as he then was) to use his "good offices to urgently review and withdraw the pardon granted to former governors of Plateau State, Senator Joshua Dariye, and Taraba State, Rev Jolly Nyame, who are serving jail terms for corruption.

A key advocate in this opposition was the Socio-Economic Rights and Accountability Project (SERAP), which strongly criticised the pardons. In an official letter to President Muhammadu Buhari (as he then was), SERAP urged the withdrawal of the clemency because it undermined the fight against corruption and violated both constitutional and international legal standards. The organisation argued that presidential pardons in such cases are inconsistent with section 15(5) of the 1999 Constitution, which mandates the state to "abolish all corrupt practices and abuse of power." 1 SERAP also cited Articles 26 and 30 of the UN Convention against Corruption, which Nigeria is party to, for their requirement that states impose effective and dissuasive sanctions in cases of grand corruption [21].

SERAP's criticism extended beyond legal principles to the practical repercussion of unequal clemency. The group highlighted the stark contrast between how politically exposed persons are easily pardoned, while low-level and petty offenders, many of whom are poor and legally unrepresented, remain in prison and are disregarded in the clemency process [22]. This disparity, they argued, entrenches a culture of impunity and deepens the structural inequalities within Nigeria's justice system.

Furthermore, SERAP pointed out that the investigation and prosecution of the former governors is not economically friendly as it costs Nigerian taxpayers over ₦300 million. The subsequent presidential pardon, they contended, not only eroded the independence of the judiciary but also diminished public trust in the rule of law and the government's anti-corruption agenda. SERAP called for a constitutional amendment to section 175 of the 1999 Constitution to make the exercise of presidential mercy more transparent and justiciable. Such reform, they argued, should allow the public to scrutinise and challenge arbitrary grants of clemency and ensure that mercy does not become an opportunity for shielding political elites from accountability.

4.1 The invisibility of low-profile offenders in Nigeria's clemency regime

Despite the constitutional powers of the President and State Governors to grant clemency, Nigeria's pardon process has disproportionately benefitted high-profile political elites, leaving low-level and socio-economically disadvantaged offenders to remain in overcrowded prisons. These inequalities reflect a politics of visibility where marginalised offenders, often criminalised for survival-based conduct, are excluded from meaningful consideration in the exercise of prerogative mercy.

Petty offences such as public nuisance, prostitution-related charges, street hawking, begging, vagrancy, minor traffic infractions, and drug use are disproportionately enforced against the poor, often without access to legal representation or fair trial guarantees. These offences, while low in gravity, are socially and economically costly when enforced through imprisonment. Yet, clemency processes in Nigeria rarely prioritise these categories of offenders, even though their continued incarceration violates principles of proportionality, equity, and restorative justice.

A case in point is the offence of public nuisance under Section 234 of the Criminal Code, often arbitrarily deployed against the urban poor. In Kabiru Ibrahim's case, a 20-year-old scavenger was charged for constituting a nuisance essentially for being found at a so-called "black spot" at night. Though he pleaded not guilty, the court imposed a bail condition of ₦100,000, a sum far beyond the reach of most people in his socio-economic bracket. This case exemplifies how vague offences criminalise poverty, entrench inequality, and result in imprisonment for inability to meet bail or fines. The lack of any real victim and the absence of a public danger question the legitimacy of such incarceration, yet these are rarely grounds for clemency review [23].

Similarly, prostitution is criminalised under vague and discriminatory provisions, particularly under the Penal Code, which labels female sex workers as vagabonds without corresponding penalties for their male clients. Despite the absence of a federal law banning prostitution, law enforcement officers continue to arrest, exploit, and even abuse women under loosely defined morality laws. Arrested sex workers are often excluded from pardon processes due to the stigma and moralistic overtones associated with their charges, despite courts like the one in Mensah's case declaring such arrests unconstitutional [24]. The persistent criminalisation exacerbates their vulnerability and undermines their right to fair and equal treatment under the law.

The criminalisation of street begging and hawking under laws such as the Street Trading and Illegal Market (Prohibition) Law of Lagos reflects a systemic failure to acknowledge Nigeria's lack of a welfare state. Fines ranging from ₦90,000 to ₦180,000 or imprisonment from six months to one year for simply trading on pedestrian bridges disproportionately target the poor. Beggars, often mentally ill or physically disabled, are imprisoned not for harming others, but for surviving. The clemency process, however, remains silent on these cases, showing an institutional bias against the socio-economically disadvantaged [25].

Moreover, outdated offences such as being "idle and disorderly," "a rogue," or a "vagabond" under Sections 249–250 of the Criminal Code are still routinely enforced, especially against homeless persons. These offences criminalise status rather than conduct and allow police to arrest people pre-emptively, often without due process. Despite their disproportionate impact on the vulnerable, individuals convicted under these provisions rarely benefit from executive pardon.

In addition, traffic offences frequently amplified by overlapping and inconsistent federal and state regulations often attract disproportionate sanctions, including the impoundment or auctioning of vehicles without the benefit of a fair hearing. Human rights

advocates have appropriately raised constitutional concerns over the legitimacy of such punitive actions. Nevertheless, individuals from low-income backgrounds who are penalised under these traffic regimes rarely attract public attention or support sympathy or presidential mercy, reinforcing a clemency system that is blind to injustices [26].

Even in more serious areas like drug use, where global consensus now favours treatment over punishment, Nigeria continues to criminalise substance users under the NDLEA Act, with prison terms ranging from 15 to 25 years. This not only worsens overcrowding but also exacerbates health conditions. Despite their non-violent status, these offenders are rarely considered in clemency lists that favour the politically connected. The United Nations General Assembly Special Session on Drugs voted to approach substance use disorders as public health issues rather than punishing them as criminal offences [27]. This recommendation for reform does not extend to traffickers and dealers.

Again, although abortion does not fall strictly within the category of petty offences, its criminalisation under Sections 228–230 of the Criminal Code and Sections 232–236 of the Penal Code underscores the systemic neglect of vulnerable populations. The denial of reproductive autonomy, particularly to impoverished women and girls, leads to unsafe procedures, incarceration, and preventable deaths [28]. Clemency policies have yet to reflect the constitutional and international rights implications of this persistent criminalisation.

These examples collectively demonstrate that Nigeria's clemency process operates within a framework of class, gender, and social bias. Low-level offenders, particularly those imprisoned for victimless or survival-based offences, are not only obscre in the pardon considerations, but their continued incarceration reflects a deeper injustice in the country's penal and correctional philosophies. Decriminalising such offences, or at the very least prioritising them in clemency policies, would represent a shift toward justice that is more equitable, humane, and consistent with constitutional and international human rights obligations.

5. Comparative perspectives and reform models

To further illustrate the differences in clemency systems across jurisdictions, the table below compares Nigeria's pardon practice with those of India and South Africa, two constitutional democracies that provide valuable reform lessons. These countries reflect varying degrees of transparency, judicial review, and human rights integration in their clemency frameworks:

5.1 South Africa

Under the present South African Constitution, 1996, the power of pardon is vested in the President by Article 84(2) (j), which provides that: "The President is responsible for… pardoning or reprieving offenders and remitting any fines, penalties or forfeitures". The power under section 84(2) (j) of the Constitution of South Africa 1996 can be used to pardon an individual [29] or a group of people. In Hugo's case, President Mandela remitted the sentences of all mothers with children under the age of 12 who were imprisoned for having committed minor offences. In Albutt [30] and Chonco [31] President Mbeki pardoned certain people who would have been eligible for amnesty from the Truth and Reconciliation Commission, but who failed to apply for it. Parliament cannot restrict the President's power through legislation [32], and the President cannot restrict it himself by agreement. While the power is broad, it is still restricted. The most significant restriction is that it must be exercised in a manner consistent with the Constitution. he power of executive clemency is vested in the President under Section 84(2)(j), which authorises the President to "pardon or reprieve offenders and remit any fines, penalties or forfeitures." While this provision grants broad discretion, it is exercised within a constitutional system that emphasizes human dignity, rehabilitation, and fairness. In practice, South Africa's clemency process is supported by the Department of Justice and guided by the principles of transparency, proportionality, and social reintegration.

The Constitution's entrenched Bill of Rights, judicial independence, and oversight mechanisms including the South African Human Rights Commission and the Public Protector help ensure that the exercise of clemency aligns with broader constitutional values. This framework offers a useful model for countries like Nigeria, where political interference and a lack of clear guidelines continue to undermine the legitimacy of the prerogative of mercy [33]. Thus, the President cannot pardon in breach of the Bill of Rights and must act in good faith. A pardon in exchange for a bribe would be an example of one made in bad faith. The power must be exercised rationally. It must be rationally related to a legitimate purpose. The President must exercise the power personally.74 In the case of President of the Republic of South Africa and others v South African Rugby Football Union and Others (The SARFU case), the Constitutional Court held that the powers conferred upon the President by section 82(1) of the Interim Constitution; which are similar to those conferred by section 54(2) of the 1996 Constitution, are conferred on him as the Head of State rather than as the Head of the National Executive. Apart from item 9(2) of schedule 5 to the present South African Constitution, read with clause 1 of Annexure in schedule 6, which provides that until 30 April 1998 the President must consult the Executive Deputy Presidents before the exercise of certain powers including pardon, the Constitution does not oblige the President to consult any person before the exercise of the power of pardon75. The President is therefore solely responsible for the Head of State powers in section 84(2) of the Constitution.

The reviewability of the President's power to pardon, as evident in the Hugo's case, was upheld by section 239 of the 1995 Constitution. The section provides that the exercise of power or performance of a function in terms of the Constitution amounts to conduct of an organ of State, and by the provisions of the Bill of Rights all organs of State are bound together.

5.3 India

The Indian Supreme Court's decision in Epuru Sudhakar v. Government of Andhra Pradesh is a landmark judgment that clarified the constitutional limits of executive clemency [34]. The case involved the Governor of Andhra Pradesh's remission of sentence under Article 161 of the Indian Constitution to a politically affiliated convict, Gowru Venkata Reddy, despite allegations of murder and strong claims of political influence. The petitioner, Epuru Sudhakar, whose father was the victim, challenged the pardon, on the grounds that it was granted arbitrarily, without due consideration, and in disregard of material facts. The Supreme Court held that although Articles 72 and 161 confer elastic powers of pardon on the President and Governors, these powers are not immune from judicial review. The Court reiterated that such powers must be exercised in good faith, with fairness, and based on relevant considerations, and not on political or extraneous grounds. Drawing on precedents such as Maru Ram v. Union of India, Kehar Singh v. Union of India, and Swaran Singh v. State of U.P., the Court asserted that while clemency is a constitutional act of grace, it must align with the principles of constitutionalism and the rule of law [35]. Notably, the judgment emphasised the need to consider both victims' rights and public interest in the exercise of clemency, warning against its abuse for partisan gain. The Court affirmed that the arbitrary or mala fide exercise of the prerogative of mercy can and should be subject to judicial scrutiny.

This case offers a vital comparative perspective for Nigeria's application of the prerogative of mercy under Section 175 of the 1999 Constitution. It emhasizes the need for institutional safeguards, transparent procedures, and judicial oversight to prevent the politicisation of presidential pardons that remain pertinent in the Nigerian context. India's clemency system requires state jail departments to submit quarterly lists of convicts eligible for remission, prioritising first-time, non-violent offenders, women, the sick and the elderly. Supreme Court precedent, such as the Epuru Sudhakar case, directs the state to ensure procedural fairness and consider social vulnerability in pardons.

Both countries demonstrate the importance of clear, rule-based criteria that prioritise low-level, non-violent offenders. This promotes transparency, improves prison conditions through decaceration, and strengthens public trust. Nigeria could adopt similar legislative or regulatory frameworks to protect clemency decisions from political influence while elevating social equity.

5.4 Comparative table: International pardon practices

Country	Legal basis for pardon	Procedure / guidelines	Human rights integration
Nigeria	Sections 175 & 212 of the 1999 Constitution (as amended)	Presidential and gubernatorial discretion after consultation with the Council of State; no binding criteria	Limited – Power is broad, lacks transparency and procedural safeguards; favours elite offenders over petty or indigent ones. Human rights concerns persist over fairness, equality, and prison decongestion.
India	Articles 72 & 161 of the Constitution	Supreme Court oversight (Epuru Sudhakar), jail manuals, remission guidelines, mandatory state reports	Strong – Courts have upheld judicial review of clemency to prevent arbitrariness and promote fairness, rehabilitation, and victim rights. Prioritises first-time, non-violent, and vulnerable offenders.
South Africa	Section 84(2)(j) of the 1996 Constitution	Reviewed by the Department of Justice; decisions consider age, illness, sentence served, influenced by Human Rights Commission guidelines	Moderate to Strong – Emphasises dignity, equity, and social reintegration; prioritises non-violent and over-incarcerated inmates in accordance with principles of restorative justice.

6. Conclusion and Recommendations

6.1 Summary of key findings

This analysis has uncovered deep-seated and troubling patterns of exclusion and unequal treatment and marginalisation in Nigeria's pardon process that violate fundamental human rights principles and undermine the rule of law. The obvious favoritism shown toward high-profile political and economic elites, coupled with the complete neglect of petty offenders who constitute a substantial percentage of the correctional population, represents a fundamental perversion of what should be an instrument of mercy and justice.

The current practice effectively creates a two-tiered system of justice in which wealth, political connections, and social status determine access to clemency, while poverty, marginalisation, and lack of influence consign offenders to serve their full sentences regardless of circumstances. This discriminatory application of mercy violates constitutional guarantees of equal protection, contradicts international human rights obligations, and perpetuates systemic inequalities that undermine Nigeria's commitment to democracy and the rule of law.

The human rights costs of this selective clemency are substantial and multifaceted. Petty offenders, often from the most vulnerable segments of society, continue to languish in overcrowded prisons under deplorable conditions while those who have committed far more serious offenses against the Nigerian people receive presidential pardons. The failure to address prison overcrowding through systematic clemency consideration of minor offenders perpetuates conditions that constitute cruel, inhuman, and degrading treatment in violation of international human rights standards.

The analysis has also revealed the absence of institutional mechanisms necessary for fair and effective clemency administration. The lack of clear criteria, systematic review processes, institutional infrastructure, and transparency measures creates vacums for arbitrary decision-making and reinforces patterns of discrimination and political manipulation.

The renewed public attention occasioned by the Alamieyeseigha pardon presents a critical opportunity for legislative and judicial stakeholders, including the National Assembly and members of the legal profession, to revisit and reassess the normative basis of executive clemency. There is an urgent need to formulate objective, transparent, and context-sensitive guidelines to ensure that the power is exercised in a manner consistent with law and the public interest. I therefore recommend as follows:

1) A dedicated Pardon and Clemency Regulation Act should be enacted to establish clear, consistent and binding criteria for granting clemency. These criteria should prioritise low-level, non-violent, indigent, first-time, and rehabilitated offenders, including the terminally ill. This would standardize the pardon process with restorative justice principles, address prison overcrowding, and promote fairness in line with Nigeria's obligations under the ICCPR and the African Charter.
2) The role of the Council of State should be constitutionally strengthened by an amendment to require reasoned, written recommendations before any pardon is granted. Its membership should be expanded to include a retired judge and a representative from civil society. Additionally, Clemency Review Committees involving correctional institutions and legal aid bodies should be mandated to conduct periodic reviews of eligible inmates and ensure that victims participate in decision-making. The constitutional amendment should introduce judicial review of clemency decisions where there is evidence of arbitrariness, mala fides, discrimination, or constitutional violations. The President or governors, as the case may be, should be required to publish the reason for each pardon ensuring that clemency decisions are transparent, reviewable, and consistent with the rule of law.
3) Nigeria should establish an independent commission to monitor and audit the exercise of the prerogative of mercy, evaluate demographic trends, and publish annual reports. This will foster trust, deter political abuse, and align the pardon process with international best practices in democratic accountability, equality before the law, and humane corrections.

The current exercise of the prerogative of mercy in Nigeria reflects deep structural imbalances and calls for urgent policy transformation. Although the Constitution vests executive authorities with the power to grant clemency, the practice has often reinforced inequality by favouring high-profile, politically connected offenders while neglecting indigent and low-risk inmates, many of whom remain in prolonged detention for petty offences. To realign the clemency system with principles of justice and human rights, there is a compelling need to shift from an elite-driven model to a restorative justice framework. Such a shift would promote rehabilitation, victim-offender mediation, and community reintegration, placing human dignity and social equity at the centre of mercy decisions [36]. A restorative-based approach to clemency would not only decongest correctional centres but also restore public confidence in the justice system by ensuring that mercy serves both justice and societal healing, rather than elite impunity. It would also reflect Nigeria's constitutional commitment to equality before the law and its obligations under international human rights law [37].

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