THE LEGALITY OF THE PRACTICE OF HOLDING CHARGE UNDER THE NIGERIAN CRIMINAL JUSTICE SYSTEM

OKOJIE, Eric Ayemere and ENAKEMERE, Lucky Ehimen  
1Department of Business Law, Faculty of Law, University of Benin, Nigeria  
2Legal Practitioner, Benin, Nigeria

ABSTRACT

The practice of Holding Charge which is a form of pre-trial detention has been viewed as one of the major legal constraints to proper and swift administration of Criminal Justice in Nigeria and has remained unabated despite the apparent opposition against such practice in advanced legal systems like England and United States of America. This paper is an exposition of the said practice, making a case for either its repeal or resort for possible alternatives to the practice by making a comparative analysis of municipal, regional and international instruments, case law and statutes on the practice of holding charge (pre-trial detention) as well as analyzing the legality or otherwise of this phenomenon.

Keywords: Holding Charge, Criminal Law, Prosecution, Nigeria.

1. INTRODUCTION

It is a known fact that a majority of the prison population in Nigeria are awaiting trial inmates; a great proportion of whom are kept in prison custody under the pre-trial or remand procedure known as holding charge. “Holding charge” is that term used to describe a criminal charge that is filed by the police before a magistrate court against an accused person just for the purpose of securing an order of his remand in a police or prison custody pending the conclusion of investigations. It may also mean “a criminal charge” that is filed against an accused person by the police before a magistrate court that ostensibly has no statutory power to try the offence charged, makes an order remanding the person in prison custody pending the conclusion of the investigation or arraignment of the person in the High court. The rationale for the continued practice of holding charge in the Nigeria Criminal Justice System was emphasized by Mukhtar JSC in Lufadeju & Anor v. Johnson in particular:

“... The fact is there was strong suspicion that the respondent and some others have committed an indictable offence to wit treason. After their arrest by the police, there was the need to properly and lawfully keep them in custody, and the only way to do this was to take...

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1 It is generally referred to as pretrial detention in these jurisdictions.
them to a magistrate who would in turn remand them in custody. They could not possibly continue to remain in police custody without the order of a court. Police investigations sometimes take time, and sometimes there is the fear of a likelihood of continued committal for the same or other offences. There is also a likelihood of interference with investigations. While this process continues or is concluded, the legal advice of the ministry of Justice is sought…”

The practice is therefore seen as a means of lawfully securing the accused person between the period of completion of investigations and arraignment before a court of competent jurisdiction. Where bail is not granted, the accused is at liberty to apply for bail at the High court. Also the period of remand must be definite and not too long, but where this is the case, the accused can also apply to the High Court for review of the remand order. The fact that holding charge is still being adopted by the police brings to the fore one of the major problems of our criminal justice system.

The problem arises from the inadequacy of the police in the area of proper investigations into the case. The police cannot cope with the 24 or 48 hours constitutional requirement within which they are supposed to arraign a suspect in court due to the cumbersome investigative methods they adopt. They therefore secure an order of remand against an accused person pending when investigations are concluded. In some cases the system is confronted with the problem of a suspect fleeing or in other cases tampering with investigations. Pending the completion of an investigation into the case, the police would rush to the magistrate court to hold the accused in waiting when the court lacks jurisdiction to try such suspect. This practice has therefore been frowned upon by the lower courts. For instance, In Ogor v. Kolawole, the Court of Appeal said: “Before the accused is brought before the court, it should be assumed that the case is ripe for hearing, not for further investigation. He must not be there on mere suspicion under section 35 of the constitution. If there can be no sensible and prima facie inference that can be drawn that an offence has been committed. Then the accused cannot be deprived of his liberty even for a second. There cannot be a holding charge hanging like a sword of Damocles over an accused in court pending the completion of investigation into the case against him”.

Another reason is the lack of proper machinery in handling of cases in respect of serious offences between the police and the Ministry of Justice. This is because, before the suspect is taken to court, there is often a communication gap between the relevant Government agencies and consequently; the police rarely consults with the Ministry of Justice before charging suspects to court. It is usually after a series of adjournments at the Magistrate Court that the case file is finally handed over to the State’s Director of Public Prosecution for its legal opinion. Furthermore, the police seem to rely on the statutory provisions of the CPA and CPC in the continued practice of holding charge and some judicial pronouncements have not helped matters either. These judgments have assisted in justifying the continued practice of holding charge in the Nigeria Criminal Justice System.

Also, this practice is being adopted by some unscrupulous police officers as a means of settling personal scores on behalf of complainants having received some form of gratification from them against a “perceived enemy” of the complainant. In other cases, this practice is also adopted by some police officers as a means to victimize those suspects that refused to offer

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4 Lufadeju & Anor v. Johnson (2009) 8 ACLR 190 @ 213
5 (1985)6 NCLR at 534
7 n5
them financial gratification when it is obvious from their investigations that no offence was committed or a lesser offence was committed.

2. THE REMAND AND THE ARRAIGNMENT PROCEDURE DICHTOMY

The power to remand by a magistrate is provided for in sections 236(3)\(^8\) for Southern Nigeria and 129(2)\(^9\) for Northern Nigeria. While section 236 CPA provides that: “If any person arrested for any indictable offence is brought before any magistrate for remand, such magistrate shall remand such person in custody or, where applicable, grant bail to him pending the arraignment of such person before the appropriate court or tribunal for trial.” By the same token, section 4 of the Police Act\(^10\) provides that, “the police shall be employed for the detection and prevention of crime the apprehension of offenders, the preservation of life and property and due enforcement of laws and regulations with which they are directly charged”. The corresponding provision under the CPC provides that: “…the court may from time to time, on the application of the officer of a police station, authorize the detention of the person under arrest in such custody as it thinks fit for a time not exceeding fifteen days and shall record its reason for so doing”\(^11\). Hence, before a magistrate exercises his power of remand or arraignment, the accused must be brought before the court upon the police instituting a criminal proceeding against such person.

In the discharge of this function, it is inevitable that the police will detain suspects in the lawful custody pending investigation and in order not breach the individual’s constitutional rights; resort is made to the magistrate for a remand order based on a hastily prepared charge. It must however be noted that the police have the discretion whether to investigate a complaint or not based on reasonable suspicion of the commission of an offence\(^12\) and it is our humble view that if this discretion is judiciously exercised, the majority of such complaints will be disposed of at the police stations without the need of proceeding to court.

The current laws allow a magistrate to remand a person who has been arrested from for allegedly committing an offence pending trial within a specific period of time. Under section 236 of the Criminal Procedure Act, the Court can order the remand of the accused when it becomes necessary that the court cannot proceed with the hearing of the case, but it shall not normally exceed eight days. While under section 129(2) and (4), the mandatory maximum period of remand is fifteen days and the court shall record its reasons for doing so. However, in practice, these mandatory time times are usually exceeded by the courts.

The procedure for remand was clearly outlined by the Court of Appeal in *Johnson v. Lufadeju*,\(^13\) the court stated that by virtue of the provisions of section 236(3) of the criminal procedure law of Lagos State, cap 31, laws of Lagos State, 1994, Proceedings for obtaining an order of remand entail the following steps.

a) Arrest of the suspect for an indictable offence;

b) Filing of a request for remand before a magistrate court;

c) Appearance of an accused person before a magistrate;

d) Explanation of the reasons for the arrest of the accused person

e) Grant of bail to the accused person where possible or an order to remand of the accused persons.

Consequently, in practice, before a magistrate can exercise his powers under sections 236 (3) of the CPA and 129 of the CPC, he must first hold that he has no jurisdiction

\(^8\) Criminal Procedure Act, Cap C14 LFN, 2004.


\(^10\) Cap. P19, LFN, 2004

\(^11\) Sec 129(2), ibid

\(^12\) There is provision in the Police Act on the conduct of investigations.

\(^13\) n 2
whatsoever, under the law in which the accused was brought before him, the charge is read and explained to the accused person but his plea shall not be taken, the magistrate will then proceed to remand the accused person. This procedure is merely an administrative or Quasi – judicial function of the magistrate which is not dependent on whether the court has jurisdiction to try the offence for which the accused is charged and such proceedings does not commence a criminal trial.

The arraignment proceedings on the other hand, are judicial in nature and commence criminal trials. In *Asakitikpi v. The State*, the Supreme Court laid down the stages of an arraignment:

a) The accused person shall be placed before the court unfettered, which is without restraint.

b) The charge or information shall be read over and explained to the accused person to the satisfaction of the court.

c) The charge must be read over to the accused person by the court registrar or other officer of the court.

d) Thereafter the accused person shall be called upon to plead instantly to the charges read over him.

An arraignment therefore consists of charging the accused, reading over and explaining to him in the language he understands to the satisfaction of the court and then followed with a plea. The plea is what differentiates, an arraignment from a remand according to the Supreme Court and the steps which are mandatory must therefore be strictly complied with in all criminal trials as they have been specifically provided to guarantee the fair trial of an accused person and to safeguard his interest at such a trial and failure to satisfy any of them will render the whole trial defective, null and void.

3. THE LEGALITY OF THE PRACTICE OF HOLDING CHARGE IN NIGERIA

The argument has arisen whether statutory provisions which allow a court without jurisdiction over certain offences to remand an accused person indefinitely pending when such person is eventually charged to a court of competent jurisdiction are not inconsistent with the provisions of the constitution? In answering this germane question, we refer to the provisions of the 1999 Constitution (as amended). Section 35(4) provides that: “Any person who is arrested or detained in accordance with sub section (1) (c) of this section shall be brought before a court of law within a reasonable time, and if he is not tried within a period of – (a) Two months from the date of his arrest or detention in the case of a person who is in custody or is not entitled to bail; or (b) Three months from the date of his arrest or detention in the case of a person who has been released on bail. He shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date.” Section 35 (5) states that; the expression “a reasonable time” means: (a) In the case of an arrest or detention in any place where there is a court of competent jurisdiction within a radius of forty kilometers, a period of one day; and (b) In any other case, a period of two days or such longer period as in the circumstances may be considered by the courts to be reasonable.

These constitutional provisions in our humble view, create mandatory timelines within which a person arrested or detained must be tried by a court of competent jurisdiction as failure to so do will amount to an infringement of that person’s fundamental right to dignity of the human person and personal liberty. There are also a number of United Nations instruments

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15 See also the Supreme Court’s decision in *Tobby v. The State* (2001) 10 NWLR pt 720 p.23 pp (a) 33.
16 n5, ptt @ p197, ratio 8.
17 Supra
18 Supra, sections 34(1)(a) and 35(1).
that specifically address the issue of unnecessary or unnecessarily prolonged pretrial detention, which is often seen as a major contributor to prison overcrowding. A fundamental principle of human rights is that persons have the right to trial within a “reasonable” period of time, thus reducing the length of pretrial detention. The Universal Declaration of Human Rights provides that:

“Everybody charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial detention at which he has had all the guarantees necessary for his defence.”

This provision can be safely interpreted to mean that persons held in pretrial detention have not been found guilty of any offence and, therefore, should not be punished. Another fundamental right found both in both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights is the right not to be subjected to arbitrary detention.

The United Nations Human Rights Committee has held that pretrial detention (including holding charge) should only be used in circumstances where it is lawful, reasonable, and necessary. The U.N. Standard Minimum Rules for Non-custodial Measures also contain a number of provisions designed to ensure that pretrial detention is used only as an option of last resort.

A number of regional instruments have also included reference to pretrial detention. The Kampala Declaration on Prison Conditions in Africa recommended that judicial investigations and proceedings ensure that prisoners are kept in remand detention for the shortest possible period, avoiding, for example, continual remands in custody by the court, and that there should be a system for regular review of the time detainees spend on remand. As well, the African Charter on Human and People’s Rights states that persons have a right to be tried within a “reasonable time.” Regrettably, despite these constitutional safeguards in addition to the regional and International Instruments on pretrial detention, the trend in the

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19 Article 11  
20 For instance Article 9 of the International Covenant on Civil and Political Rights provides that: (1) everyone has the right to liberty and security of persons. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law; (2) Anyone who is arrested shall be informed, at the time of his arrest, of the reasons for his arrest and shall be promptly informed of any charges against him; (3) Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other state of the judicial proceedings, and, should occasion arise, for execution of the judgment; (4) Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful; (5) Anyone who has been the victim of an unlawful arrest or detention shall have an enforceable right to compensation.  
21 Also referred to as the Tokyo Rules  
22 Rule 6 for instance addresses the issue of the avoidance of pre-trial detention, it provides as follows: Pre-trial detention shall be used as a means of last resort in criminal proceedings, with due regard for the investigation of the alleged offence and for the protection of society and the victim (at 6.1); Alternatives to pre-trial detention shall be employed at as early a stage as possible. Pre-trial detention shall last no longer than necessary to achieve the objectives stated under rule 5.1 and shall be administered humanely and with respect for the inherent dignity of human beings (at 6.2); and, the offender shall have the right to appeal to a judicial or other competent independent authority in cases where pre-trial detention is employed (at 6.3).  
25 Nigeria is a signatory to the instrument.
criminal Justice system has been for the police to hurriedly prefer a “holding charge” against an accused and promptly arraign him before a Magistrate.

In Enwere v. C.O.P\textsuperscript{26}, the Court of Appeal while declaring the practice as unconstitutional and allowing the appeal held that it is unknown in Nigeria law and an accused person detained thereunder is entitled to be released on bail within a reasonable time before trial more so in capital offence. In that case; the appellants were arrested and remanded in police custody on 11\textsuperscript{th} of May, 1992 on charges of conspiracy to commit a felony, to wit: murder and the unlawful killing of a member of the Abia State House of Assembly. On the application brought under the Fundamental Rights (Enforcement Procedure Rules), the appellant was released on bail on the same day by the High Court at Calabar where the appellant had in the meantime been removed and detained. The liberty of the appellant was short-lived as on the 21\textsuperscript{st} of May, 1992, he was rearrested by the police. On the 27\textsuperscript{th} of May, 1992, he was arraigned before the Isuikwuato Magistrate Court which refused the bail application for want of jurisdiction ordered the remand of the appellant in Isuikwuato Police station. The appellant thereafter on the 31\textsuperscript{st} of December 1992 applied to the High Court of Abia state for grant of bail which, though unopposed, was nevertheless refused. There was no charge before the High Court. Dissatisfied with the decision, the appellant appealed to the Court of Appeal.

In the case of Shagari & ors v. COP\textsuperscript{27}, the Court of Appeal unequivocally observed that:

“…it is crystal clear that there is no formal charge against the appellants and also there is no proof of service. There is however evidence that the appellants were and are still being detained or remanded under the holding charge which going by the numerous pronouncements of our courts has no place in our constitutional system. It is in fact unknown in Nigeria law. Persons detained under illegal, unlawful and unconstitutional document tagged holding charge must be unresistingly be released on bail… but by continuing to detain them on holding charge, that is not a judicious and judicial exercise of discretion…”

Also, in Johnson .v. Lufadeju\textsuperscript{28}, the Court of Appeal shared a similar view on this issue when it held that inter alia:

“…it is the duty of the court to guard the constitutional rights of the citizens. Consequently, the court must never uphold legislative provisions which derogate from the constitutional rights of the citizens. In this, section 236 (3) of the criminal procedure law of Lagos state which permits the police to hold a person arrested for an indictable offence in detention under a holding charge without any information being filed against him in appropriate court does not conform with any of the stipulated exceptions to the right to personal liberty guaranteed in sections 32 and 35 of the 1979 and 1999 constitutions respectively, consequently, section 236(3) of the criminal procedure law of Lagos state is unconstitutional…”

Nonetheless, the Supreme Court while setting aside the judgment on appeal held that there was no conflict between sections 236 (3) CPA and 35 of the 1999 constitution and if anything, the section 236(3) rather complements the provisions of section 32 of the 1979

\textsuperscript{26} (1993) 6 NWLR pt436, p320 ptt 335, ratio 3.
\textsuperscript{27} (2005) All FWLR (pt 262) 451 at p469. See also Oshinaga v. COP (2004) 17 NWLR pt 901 at p1.
\textsuperscript{28} n2, ratio 15.
constitution and is designed to aid the administration of criminal justice in Nigeria.\(^{29}\) In that case, on 12\(^{st}\) January, 1997, the respondent was arrested and detained at a police station. On 12\(^{nd}\) March, 1997, the respondent and eleven other persons were taken before the 1\(^{st}\) respondent at the chief magistrate court, Ikeja, Lagos. A charge of conspiracy to commit treason and treasonable felony was preferred against the respondent and the eleven other persons, and was read to them. Their pleas, were, however, not taken. Thereafter, an oral application for bail was made on behalf of the respondent and his co-accused persons. The 1\(^{st}\) appellant refused the application and held that the applicants could make the bail application to the High Court at the magistrates court lacked jurisdiction to make any order whatsoever in the matter because it had no jurisdiction to try the offences for which the appellant and the others were charged. Subsequently, the 1\(^{st}\) appellant ordered the remand of the respondent at the force C.I.D, Alagbon pending the filing of information and his arraignment before the High Court. The respondent was dissatisfied with the order of the magistrate court and he appealed to the High court to quash the order, contending in the main that section 236 (3) of the criminal procedure law of Lagos State is inconsistent with section 32 (1) of the 1979 constitution. The High court in its ruling refused the application and dismissed it. On appeal, the order of the magistrate court and the ruling of the High Court were set aside. The appellant’s appeal to the Supreme Court was allowed, setting aside the Court of Appeal decision and affirming the order of the magistrate’s court and ruling of the High Court.

4. REMAND PROCEDURES IN OTHER JURISDICTIONS

In other jurisdictions, such as England and Wales, the time limits have been established to limit the maximum length of pre-trial detention, is 182 days.\(^{30}\) However, this limit can be extended further if the prosecution can justify the time they are taking to bring the case to trial.\(^{31}\) A 2009 report found that the average length of pre-trial detention was 13 weeks.\(^{32}\) In 2011 there were approximately 12,266 pre-trial detainees in England and Welsh prisons, who made up 14% of the total prison population.\(^{33}\) In 2009, 13% of pretrial detainees were foreign nationals.\(^{34}\) Under English law there is a presumption in favour of releasing the defendant pending trial,\(^{35}\) this is subject to a number of exceptions,\(^{36}\) including if the court is satisfied;

1. That there are substantial grounds for believing that the defendant, if released (whether subject to conditions or not) would fail to surrender to custody, commit an offence, or interfere with witnesses or otherwise obstruct the course of justice, or

2. That the defendant should be kept in custody for his own protection.

A short period of custodial remand may also be imposed if the court decides that it has not been practicable to obtain sufficient information for the purpose of taking certain decisions required by the law on release pending trial. The legislation sets out a number of factors to be taken into account when the court takes the decision whether to refuse release,\(^{37}\) including:

1. The nature and seriousness of the offence
2. The character, antecedents, associations and community ties of the defendant.
3. The defendant’s record as respect the fulfillment of his obligations under previous grants of release, and

\(^{29}\) n5, ratio 10, per Onnoghen, JSC at p230  
\(^{31}\) Section 22(3) of the Prosecution Offences Act 1985.  
\(^{33}\) ICPS; 29 July 2011.  
\(^{34}\) 2009 Council of Europe Annual Penal Statistics – SPACE I  
\(^{35}\) Section 4 of the Bail Act 1976.  
\(^{36}\) Set out in Schedule 1 of the Bail Act 1976.  
\(^{37}\) ibid.
d) Any other factors considered to be relevant.

No conditions should be imposed on release pending trial unless it appears to the court that it is necessary to do so for the purpose of preventing the failure of the defendant to surrender to custody, the commission of an offence while released, the interference with witnesses or obstruction of the course of justice.\(^\text{38}\)

Pre-trial detainees should be out of contact with convicted prisoners as far as reasonably possible, unless the pre-trial detainee has consented to share accommodation and participate in activities with convicted prisoners\(^\text{39}\). However, under no circumstances should an untried prisoner be required to share a cell with a convicted prisoner.\(^\text{40}\) While in pre-trial detention a defendant should have the right to communicate with a lawyer, the right to an interpreter and translation of documents, and the right to view codes of practice governing detainee rights. English law provides that, in certain circumstances, where a person has been convicted of a criminal offence and the conviction has been reversed or the person has been pardoned on the ground that a newly discovered fact shows beyond reasonable doubt that there has been a miscarriage of justice, the secretary of state shall pay compensation for the miscarriage of justice.\(^\text{41}\)

5. THE ALTERNATIVES TO HOLDING CHARGE

Possibilities for avoiding pre-trial detention are exceptionally important. Persons who undergo pretrial detention usually suffer the worst prison conditions. All the international rules on the treatment of detained persons, emphasis the major distinction between people who have been found guilty, convicted by a court, and sentenced to prison and those who have not. Prisoners who awaiting for their trial, imprisoned on remand, are regarded differently because the law sees them as innocent until found guilty. Therefore, their rights should be especially protected. Article 9(3) of the Convention on Civil and Political Rights requires that “it shall not be the general rule” that people awaiting trial are detained. The United Rules for Non – Custodial Measures\(^\text{42}\) suggests that “pretrial detention shall be used as a means of last resort” in Criminal proceedings, with due regards to the investigation of the alleged offence and for the protection of society and the victim\(^\text{43}\). One of the basic function of holding charge is to prevent the suspect from absconding, interfering with the investigation of the offence or continuing to commit offences. This function may also be served by the following means:

- A frequently used alternative to pre-trial detention is bail. The Court releases the defendant (suspect) with some conditions that have to be obeyed. Sometimes bail is granted when sureties are provided. Money is paid to the court which is forfeited if the suspect does not appear for the trial. Sometimes the judge gives bail, but imposes some conditions, such as reporting to the police station regularly or living in a specified place. In the United Kingdom there are bail hostels, where the suspect is required to live until the case comes up for trial.\(^\text{44}\)
- Restriction of movement: in this case, the suspect is required to stay within a certain area or within certain premises. Most commonly his or her home (Home/House Arrest). Another less restrictive form would be to forbid the suspect from travelling to certain locations. Observance of the conditions is generally enforced through constant monitoring by the police. Such monitoring can also be carried out electronically.

\(^{38}\) ibid.  
\(^{39}\) Section 7(2) of the Prison Rules 1999.  
\(^{40}\) ibid.  
\(^{41}\) Section 133 of the Criminal Justice Act 1988.  
\(^{42}\) Also known as the Tokyo Rules.  
\(^{43}\) Rule 6.1, ibid.  
\(^{44}\) www.justiceandprison.org/wordpress/%3f...
• Supervision: in this case, the suspect awaiting trial submits to supervision, primarily in order to ascertain that he or she is not going to disappear. The suspect may be required to report to the police or other agency (or even private citizens) at fixed intervals, or a representative of such an agency will make random checks on whether or not the suspect has adhered to the conditions.

• Release on recognizance: the most common measure used to avoid pre-trial detention is simply the release on recognizance, whereby the suspect agrees to appear before the court when the case comes to trial. Such simple release may be used even in more serious cases, when the suspect is an established member of the community.

6. CONCLUSION

It is our humble view that the practice of holding charge as a form of pretrial technique has no legal basis under the Nigerian Criminal Justice System and as such align with the Court of Appeal’s pronouncement in Shagari & ors v. C.O.P, Oshinaga v. C.O.P, Johnson .v. Lufadeju and Jimoh v. C.O.P. To that extent it is an unlawful device utilized by the police for the purpose of violating the individual’s constitutional right of presumption of innocence, liberty and freedom from arbitrary arrest and to have his case heard within a reasonable time. Our Constitution abhor a criminal charge that has no legal basis and this principle of law has been judicially affirmed. In Anaekwe v. C.O.P while determining whether “holding charge” is known to Nigeria law, the Court of Appeal held that it is a unique police phraseology not known to Nigerian criminal law and jurisprudence. It is either a charge or not there is nothing like a holding charge.

Furthermore, it is our humble view that the discretionary powers of the police as provided in the statutes is another breeding ground for the continued practice of holding charge.

We therefore conclude that, unless the practice of holding charge is abolished completely or reviewed by legislative amendment to comply with the provisions of the constitution and other international instruments, and resort to other alternatives to pretrial detention as encouraged in advanced criminal justice systems, the menace of prison congestion with awaiting trial inmates and prolonged delay in the administration of justice will hardly be overcome under the Nigeria Criminal Justice System and suspects will continue to be detained indefinitely without charge, sufficient evidence, or due process particularly in the light of the Supreme Court’s pronouncement in Lufadeju .v. Johnson which declared the practice as not unconstitutional.

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