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Correctional Centres Reform for Family and Conjugal Rights: Best Practices and Future Directions

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Abstract

This paper examines the need for correctional centre reform, focusing on family and conjugal rights, analysing global best practices, and exploring future directions for reform. The right to family life and procreation is acknowledged in various international and regional human rights laws. However, the extent of this right for incarcerated individuals remains contested and inconsistently applied. Conjugal visits, often restricted in prison systems globally, are a central aspect of this right, recognised in some nations as a crucial element of rehabilitation and family cohesion, yet dismissed as a privilege in others. By examining the policies and outcomes in countries that permit conjugal visits, such as Saudi Arabia and some selected states in the United States, this paper evaluates the impact on inmates' mental health, recidivism, and reintegration. The analysis includes a comparative review of legal frameworks, addressing how reforms in conjugal rights and family visitation policies contribute to rehabilitation goals, reduce violence within prison facilities, and improve post-incarceration social outcomes. This paper argues that recognising the family and conjugal rights of incarcerated individuals aligns with the objectives of the criminal justice system, reforming individuals, and promoting public safety through successful reintegration. By synthesising current data, theories, and practices, this paper provides a foundation for policymakers, human rights advocates, and legal scholars to consider family rights as a pivotal component in the evolution of correctional policies worldwide.

Keywords: *Correctional Centres, Inmates, Conjugal rights, Family, Reform, Nigeria.*

Introduction

Reproductive rights are a person's constitutionally protected rights relating to the control of their procreative activities, specifically the cluster of civil liberties about pregnancy, abortion, and sterilisation, especially the personal bodily rights of a woman in her decision whether to become pregnant or bear a child; the phrase includes the idea of being able to make reproductive decisions free from discrimination, coercion, or violence.[1]

Reproductive rights are generally recognised as human rights. It is an individual's right to decide whether to procreate and have reproductive health. These include the right to plan a family, terminate a pregnancy, use contraceptives, and gain access to reproductive health services, among others.[2]

Reproductive health is a state of complete physical, mental, and social well-being and not merely the absence of disease

[1] Black's Law Dictionary, Ninth Edition (West Publishing Company, U.S.A. 1979)

[2] *What are Reproductive Rights?* < http://family.findlaw.com/reproductive-rights/what-are-reproductiverights-.html> accessed on 20 November, 2024

or infirmity in all matters relating to the reproductive system and its functions and processes. Reproductive health implies that people can have a satisfying and safe sex life and that they can reproduce and have the freedom to decide if, when, and how often to do so.[3]

The right to establish a family and procreation cannot be discussed disjunctively because they move hand in hand, which is part of reproductive rights. Marriage is the first step in establishing a family unit. Marriage has been defined as the essential prerequisite for the creation of a legally recognised family unit, which must be between two people of opposite sexes (a man and a woman).[4]

The concept of family rights within the context of incarceration is grounded in a broader human rights framework, where the right to establish and maintain a family is considered fundamental. Human rights instruments, such as the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), and African Charter on Human and Peoples' Rights (ACHPR), emphasise the family as the "natural and fundamental group unit of society", warranting state protection and support. However, despite these assertions, inmates' rights to family life, including conjugal visits and family contact, are inconsistently recognised worldwide. The restrictive stance in many jurisdictions reflects an ongoing debate on whether conjugal rights should be viewed as a privilege or a rehabilitative tool essential for successful reintegration.

Countries vary in their approaches to conjugal and family visitation rights for inmates. Countries such as Denmark, Sweden, and Canada have instituted programs allowing inmates periodic conjugal visits, emphasising the role of family relationships in reducing recidivism and fostering psychological stability.[5] In contrast, countries such as Nigeria, the United Kingdom, and certain U.S. states have stringent limitations, if any, on conjugal visitation, often due to logistical, cultural or security concerns. Consequently, inmates in these restrictive jurisdictions are deprived of the opportunity to maintain marital bonds and, in some cases, parent-child relationships, which research has shown to be critical for post-incarceration adjustment.[6]

This paper aimed to analyse the relationship between correctional centres' reforms, including conjugal and family visitation rights, and positive rehabilitation outcomes. Theoretical perspectives on rehabilitation suggest that maintaining family ties mitigates the adverse psychological effects of incarceration, offering inmates an incentive for reformation and providing emotional support that helps reduce aggression and violence in correctional centre environments.[7] Moreover, these policies support inmates' reintegration, as family relationships established or maintained during incarceration act as stabilising factors upon release, particularly in societies where the family serves as a primary support system.[8]

This paper examines best practices from jurisdictions that permit conjugal visits, exploring the policy implications and operational challenges these practices present. The analysis further addresses potential objections, including concerns regarding prison security, cultural resistance, and logistical constraints. This paper aims to propose viable recommendations for systems like Nigeria's by highlighting successful implementations, where reforming restrictive policies could yield significant social and rehabilitative benefits.

Provisions of the Law on Reproductive Rights and the Right to Family

Marriage and procreation are fundamental to the existence and survival of humans.[9] It is regarded as a core human right. This is because the right to life is essential for the enjoyment of other human rights, and life centres on procreation. Virtually all human rights are subsumed under reproductive rights, which encompass fundamental and secondary general rights.[10] Marriage provides structure to one's life and fulfils human needs for affection, emotional security, encouragement, and approval. Additionally, it

[3] Reproductive health in the Western Pacific <https://www.who.int/westernpacific/health-topics/reproductive-health> accessed on 6 April, 2025

[4] *Corbet v Corbet* (1971) P. 83; Hyde v. Hyde (1866) L.R. 1 P. & D. 130

[5] **Craig Haney, 'Mental Health Issues in Long-Term Solitary and "Supermax" Confinement' (2003) 49(1):124-156 Crime & Delinquency <https://www.researchgate.net/publication/249718605> accessed March 2025**

[6] Rebecca L. Naser and Christy A. Visher, 'Family Members' Experiences with Incarceration and Reentry' (2006) 7(2), 20–31 Western Criminology Review <https://www.researchgate.net/publication/229021186_Family_members'_experiences_with_incarceration_and_reentry> accessed 25 January 2025

[7] Maruna, Shadd. (2001). Making Good: How Ex-Convicts Reform and Rebuild Their Lives. Making good: How ex-convicts reform and rebuild their lives. <Making Good: How Ex-Convicts Reform and Rebuild Their Lives> accessed 12 March 2025

[8] Sykes, G. (1958), The Society of Captives: A Study of Maximum Security Correctional Centres. Princeton University Press, Princeton.

[9] Nairn J, 'Is there right to have children? Substantive due process and probation conditions that restrict reproductive rights'11

[10] Comments by Professor Haruna B. A., at Women and the Law lecture class of Bayero University, Kano (Kano, Nigeria, 12 October 2016)

gives the satisfaction that comes with being a parent.[11] 'The same needs are present among inmates as among free people, but their fulfilment is neglected.'[12]

Laws protecting marriage and procreation, which can be termed the right to establish a family, are provided below.

a. International Laws

Various international instruments have made provisions for protecting and establishing family life. Starting with the UDHR, which is the first and principal document on human rights, it provides for the right to marry and found a family in the following words:

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.[13]

The act of marrying to found a family under this document is a matter of right and not a privilege.

The ICCPR equally plays a role in protecting the family institution, as follows:

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognised.[14]

The ICESCR equally provides for the protection of the family in its own way. It provides;

The States Parties to the present Covenant recognise that

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.[15]

The International Convention on the Elimination of All Forms of Racial Discrimination[16]stated that

'State parties undertake to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights… The right to marry and the choice of spouse'

Apart from these international instruments, regional instruments also provide for the protection of the family institution. The African Charter, in providing this protection, states that:

1. The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.
2. The State shall have the duty to assist the family which is the custodian or morals and traditional values recognized by the community. [17]

The European Convention is more explicit in safeguarding the right to marry and establish a family, although the Convention makes it dependent on various national laws.

The convention provided that:

> Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.[18]

The American Convention also made similar provisions on the rights of the family, where it states that:

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.
2. The right of men and women of marriageable age to marry and raise a family shall be recognized, if they meet the conditions required by domestic laws, insofar as such conditions do not affect the principle of non-discrimination established in this Convention.[19]

The ECHR and ACHR are more specific regarding the right to marry and found a family than the ACHPR, as

[11] Zemans E. S and Cavan, R. S, 'Marital Relationships of Prisoners in the United States' (1958) 49 (1) Journal of Criminal Law, Criminology and Political Science 50

[12] Zemans E. S and Cavan, R. S, 'Marital Relationships of Prisoners in the United States'50

[13] Article 16, UDHR

[14] Article 23, ICCPR

[15] Article 10, ICESCR

[16] The International Convention on the Elimination of All Forms of Racial Discrimination was adopted on 21 December. G.A. Res. 2106 (XX), entered into force 4th January, 1969) 660 UNTS 195 [hereinafter CERD]

[17] Article 18, ACHPR

[18] Article 12, ECHR

[19] Article 17, ACHR

shown in the provisions above. It is equally worthy to note that the

The ECHR and ACHR made the right dependent on national or domestic legislation. The ACHR explicitly prohibits discrimination in the exercise of the right to marry and establish a family, as stated in Article 17.

b. National Legislation

In addition to those mentioned above, international and regional instruments that protect and safeguard the right to marry and establish a family, various countries have enacted laws for the same purpose. This section examines the domestic laws of Nigeria, Saudi Arabia, and the United States.

i. Nigerian Laws

The Constitution is the principal legislation from which all other laws derive their validity. It recognised marriage in the following words:

> For the purpose of promoting national integration, it shall be the duty of the State to: … encourage inter-marriage among persons from different places of origin, or of various religious, ethnic or linguistic association or ties…[20]

It went further under another section to state that 'the State shall direct its policy towards ensuring that the evolution and promotion of family life is encouraged.'[21]

Another part of the constitution that mentions the home (family) is Chapter IV, which states that:

> The privacy of citizens, their homes, correspondence, telephone conversations, and telegraphic communications is hereby guaranteed and protected.[22]

Under the Nigerian constitution, reproductive rights are not explicitly addressed. The decision to express oneself emotionally is recognised under Section 37 of the Constitution and must comply with other constitutional provisions.[23] In the authors' view, the above provisions encourage marriage, promoting family life, and the right to privacy in homes can be construed to cover the right to marry and found a family (procreate). Encouraging marriage and promoting family life is outlined in Chapter II of the Constitution, which contains directive principles and objectives, wherein the government is tasked with striving to achieve the same. They are not considered rights but rather mere privileges that cannot be enforced against the government in any court. However, the decision of whether or not to have children, the number of children, birth spacing, and control are private matters of the home that should be equally protected by the Constitution or any state laws as a matter of right, not privilege. Therefore, in the authors' view, the citizens' right to privacy in their homes encompasses these rights and is thereby protected as a matter of right by Section 37 of the Constitution.

The Nigerian Correctional Service Act

The Nigerian Correctional Service Act, 2019, directly impacts inmates, their detention, and welfare. The Act does not explicitly mention conjugal visits but provides for family visits, emphasising the importance of maintaining family bonds and social reintegration. The Act centres on the reform and rehabilitation of offenders within safe, secure, and humane conditions. This highlights the importance of preserving family connections for inmates' well-being and successful reintegration into society. This is facilitated through supervised family visits, which are standard procedures in the correctional system.

The legislation does not explicitly mention conjugal visits, which are usually defined as private visits that allow married inmates to engage in sexual relations with their spouses. The absence of such provisions in the Act suggests that conjugal visits are not officially recognised or guaranteed in the Nigerian correctional system. The Act focuses on the reformation and rehabilitation of offenders, considering family visits to be an essential part of this process. It also mandates that correctional facilities operate under safe, secure, and humane conditions, which should include provisions for family interaction and support.

ii. Saudi Arabia Laws

The Saudi Basic Laws (constitution) do not provide much information regarding marriage and procreation (reproductive rights). However, by Article 1 of the basic laws, the Holy Qur'an and the Prophet's Sunnah (traditions) are part and parcel of Saudi Arabia's basic laws (constitution). While protecting privacy, the Constitution provides that 'houses are inviolable. They shall not be entered without the permission of their owners, nor shall they be searched except in cases specified by the law.'

Since the basic law does not cover much in relation to the right to marry and establish a family, it is necessary to refer to the Qur'an and Sunnah, from which Saudi laws derive their validity.

Several verses in the Qur'an recognise the right to marry and establish a family. It provides thus:

'…He has made for you mates from yourselves…'[24]

[20] Section 15 (3) (c) CFRN
[21] Section 17 (3) (h) CFRN
[22] Section 37 CFRN
[23] Alobo E. E, Criminal Law and Sexual Offences in Nigeria (Princeton & Associate, Lagos 2016) 298
[24] Qur'an 42:11

Other verses stressing marriage provide:

> And among His Signs is this, that he created for you wives from among yourselves, that you may find repose in them, and He has put between you affection and mercy. Verily, in that are indeed signs for a people who reflect.[25]

> And marry those among you who are single (i.e. a man who has no wife and the woman who has no husband) and (also marry) the Salihun (pious, fit and capable ones) of your (male) slaves and maid-servants (female slaves). If they be poor, Allah will enrich them out of His Bounty. And Allah is All-Sufficient for His creatures' needs, All-Knowing (about the state of the people).[26]

There are several verses in the Qur'an on conjugal relations and procreation. In Chapter 2 of the Quran, Allah directs man as follows:

> Your wives are tilth for you, so go to your tilth when and how you will[27]

While commenting on this verse, Al-Hilali and Khan [28]stated that it means that one can have sexual relations with his wives in any manner as long as it is vaginal and not anal intercourse.

Regarding procreation, the Qur'an provides:

> O Mankind! If you are in doubt about Resurrection, then verily, We have created you (i.e. Adam) from dust, then from a Nutfah (mixed drops of male and female sexual discharge
>
> i.e. the offspring of Adam), then from a cloth (a piece of thick coagulated blood) then from a little lump of flesh – some formed and some unformed (as in the case of miscarriage) – that We may make (it) clear to you (i.e. to show you Our Power and Ability to do what We will). And We cause whom We will to remain in the wombs for an appointed term, then We bring them out as infants...[29]

From the Sunnah of the Prophet (SAW), he was reported to have said:

> Young men, those of you who can support a wife should marry, for it keeps you from looking at strange women and preserves you from immorality…[30]

In another hadith, the Prophet reportedly said:

> The most worthy conditions to be fulfilled are those by which you make sexual intercourse lawful.[31]

The community reading of the above Qur'an provisions, Sunnah of the Prophet (SAW), and Article 1 of Saudi Arabia's Basic Law suggests that marriage in Saudi Arabia is a divine right to be enjoyed by citizens. Therefore, Saudi Arabia views family institutions from an Islamic perspective.

Relying on the above and other Islamic provisions, Section 16 of the Rights and Duties of Prisoners[32] provided for the right of prisoners to enjoy privacy with their spouses as follows:

> Right to have privacy with your spouse twice in a month for each one of your wives if you have more than one, in accordance with the existing rule and in compliance with the defined provision of Islamic law.

iii. AMERICAN LAWS

Under the American Constitution, there is no explicit provision regarding the right to marry and establish a family; however, the Constitution provides for the right of people to be secure in their persons and houses.[33] This right can be construed as the right to privacy, which includes the right to decide one's personal life and the right to decide whether or not to procreate, among others.

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[25] Qur'an 30:21
[26] Qur'an 24:32
[27] Qur'an 2: 223
[28] Al-Hilali M. T and Khan M. M, 'The Noble Quran English Translation of the Meanings and Commentary' (Madinah, KSA 1430 A.H) 48
[29] Qur'an 22:5. See also Q23:12-15 and Q35:11. This was further supported by a prophetic Hadith reported in Sahih Al-Bukhari, Vol. 4, Hadith No. 549
[30] Narrated by Abdullah bin Mas'ud. Reported by Bukhari and Muslim in Bulugh Al-Maram Min Adilat Al-Ahkam Hadith 994 (Book of Marriage)
[31] Narrated by 'Uqba bin 'Amir. Reported by Bukhari and Muslim in Bulugh Al-Maram Min Adilat Al-Ahkam Hadith 1023 (Book of Marriage)
[32] Part 2, Rights and Duties of Correctional centres (Male and Females) Kingdom of Saudi Arabia 3rd Edition 1433 A.H (2012 A.D) see also Executive Order No. 3517, 1745 12th Rajab 1406 A. H. See also Article 13 of Correctional centres and detention System Royal Decree No. M/31 that protects the health of pregnant inmates in a correctional centre from the onset of the symptoms.
[33] Fourth Amendment, Constitution of the United States

As noted by one author,[34] Privacy falls within the zone of privacy sheltered by the combination of other constitutional guarantees, which include the right of association, the prohibition against quartering soldiers, limitation on searches, and the right against self-incrimination.

The operative constitutional text on the right to marry and found a family is Section 1 of the Fourteenth Amendment, which states:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Supreme Court has equally extended fundamental rights by recognising other rights that are not specifically covered by the Constitution, relying on Section 1 and other provisions of the Constitution. These rights include the rights to privacy,[35] marriage,[36] and parenting, among others.[37]

Article 5 of the American Declaration protects the right to privacy and family life. It specifically states that *every person* has the right to be protected by law against abusive attacks on their honour, reputation, and private and family life.[38]

The ACHR equally provided that no one may be the object of arbitrary or abusive interference with his private life, his family, or his home.[39]

Some states in the United States of America have also taken steps to recognise and protect the right to marry and establish a family. The Californian, Michigan, and New York State codes recognised the solemnisation and dissolution of marriage, the rights of spouses during marriage, and after dissolution of the same.

Under the New York State Code, for instance, apart from the recognition it gave the solemnisation and dissolution of marriage, it still recognised the right of privacy, as it is contained under the U. S Constitution.[40]

California recognises the personal rights mentioned or recognised in the U.S. Constitution, although it subjects them to the qualifications and restrictions provided by law. The State equally recognises the rights of children, even before birth. Consequently, a child conceived in California but not yet born is deemed an existing person, so far as necessary for the child's interests in the event of the child's subsequent birth.[41] This is part of the procreative right of the mother and the right to life of the unborn child.

3.2.0: EFFECT OF IMPRISONMENT ON THE RIGHT TO ESTABLISH FAMILY

The right to marry and establish a family, as outlined above, can be conveniently considered a right rather than a privilege. It is a natural right inherited from our grandparents, Adam and Eve. However, under national laws, like every other right, this right is not absolute but exists with some limitations. An earlier study noted that the right to procreate has been inflated to be limitless in scope and even inviolable. When the right conflicts with other rights, it is invariably limited.[42]

Section 45(1) of the Constitution of Nigeria provides an exception to the right to privacy as contained under Section 37. These exceptions are in the interest of defence, public safety, public order, and public morality, among others.

Even if the right to marry and find a family is considered a right, this provision of the Constitution[43] has limited it.

Under Saudi Arabia's laws, there is no explicit limitation. However, using the Quran and Sunnah as part of the Constitution, the limitations of Islamic law will automatically apply. These limitations on the right to marry and establish a family include not marrying women within the prohibited degrees[44] and marrying a maximum of four women,[45] among others.

American laws, on the other hand, have the 'due process of law' as a limitation to the right to marry and establish a

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[34] Nairn J, 'Is there right to have children? Substantive due process and probation conditions that restrict reproductive rights' 12

[35] Union Pacific R. Co. V. Botsford 141 U.S 250 (1891)
[36] *Loving v. Virginia,* 388 U.S. 1, 12 (1967)
[37] Troxel V. Granville 530 U. S 57 (2000)
[38] American Declaration of the Rights and Duties of Man AOS Res XXX art 26; International Conference of American States 9th Conference, OAS Doc. OEA/Ser. L/V/I Rev. XX (1948) reprinted in OAS Basic documents pertaining to human rights in the inter-American system at 17, OAS Doc. OEA/Ser. L. V/II 71, doc. 6 Rev. 1 (1988) [193] Article 11 ACHR

[39] Article 11 ACHR

[40] New York Laws (Civil Rights) United State Codes NY Civ Rights L § 8 (2016)
[41] California Code (Civil Code) United State Codes CA Civ Code § 43.1 (2016)
[42] Dillard C. J, 'Rethinking procreation Right' 38
[43] Section 45, Constitution of Nigeria
[44] Q4:23
[45] Q4:3

family by the provision of the Constitution of the United States. The limitation of procreation in America is that procreative probation is used as an alternative to imprisonment. Defendants are given the choice of imprisonment or reproductive probation when they are sentenced for crimes that are not related to family issues, in which such a sentence may be said to be desirable.[46]

The New York laws, while discussing void marriages, stated that a marriage is incestuous and void whether the relatives are legitimate or illegitimate between either: an ancestor and a descendant; a brother and sister of either the whole or the half-blood; an uncle and niece or an aunt and nephew.[47]

From the above, it is clear that this right exists with limitations and is not absolute. However, the limitation on prisoners' exercise of this right is the main focus of this study. Therefore, there is a need to examine the effect of denying prisoners this right. This paper also discusses why granting prisoners this right will serve a better purpose than denying them.

Imprisonment has a significant effect on prisoners' right to marry and establish a family, especially under the Nigerian prison system. Some countries allow prisoners to exercise this right, while others do not. Countries like Saudi Arabia, Iran, India, and a few states in the United States of America allow prisoners to exercise their procreative rights through conjugal visits (that is, the spouse spends some time with the prisoner in privacy within the prison). Most of the United States, Nigeria, Pakistan, and a major part of the United Kingdom do not allow prisoners to have conjugal visits.[48]

Conjugal visits support marriages during periods of imprisonment, which separate couples from each other.[49] Conjugal visits will also help reduce sexual tensions and homosexuality within prisons. In some jurisdictions, such as Denmark, Sweden, and the Netherlands, prisoners are allowed to be visited by their partners for a period of three hours with appropriate facilities in place, during which they may have conjugal relations.[50]

However, this conjugal right is usually accorded only to married couples. The question now is what happens to unmarried inmates. Should they just be left like that to continue experiencing sexual tension, or should they be allowed to find satisfaction through homosexuality? In the author's view, single inmates should be allowed to marry either another prisoner or a free person. A prison marriage rarely occurs to create a bond between couples; its usual purpose is a moral one to legitimatize a child along with other self-satisfaction by the prisoners, as marriage and family life within prison and in the free community have very different connotations. [51]

The aim of imprisonment is not limited to punishment but also to reform prisoners to become better members of society. If the aim is restricted to punishment, then some prisoners will continue returning to prison for different offences because the prison has failed to help them in reformation and rehabilitation. The family is the best small friendly group that can help the prisoner in their transformation from prisoner to free person. It is not disputed that some families have, in one way or the other, contributed to the criminal behaviour of the prisoner, usually the parenting family, and in some cases, the spouse. However, in many instances, especially in the case of non-professional criminals, families have potential rehabilitative values.[52]

Imprisonment alone is enough trauma and psychological distress for the prisoner, which can be mitigated with the help of the family. Therefore, restricting prisoners' conjugal/procreative rights will not just traumatise and punish them, but will equally harden them as they have no one to protect but themselves.

Imprisonment has different effects on prisoners' lives, especially regarding procreation. As noted earlier, this study advocates for prisoners' conjugal rights to the point of procreation and establishing their own family. The effect

[46] Nairn J, 'Is there right to have children? Substantive due process and probation conditions that restrict reproductive rights' 3

[47] The consolidated laws of New York (domestic relations) United State Codes NY Dom Rel L § 5 (2016)

[48] Shahid R, Correctional centresers: If conjugal visits aren't allowed in jails in Pakistan, how do people live in there? <www.quora.com%2fCorrectional_centresers-If-conjugal-visits-arent-allowed-in-jails-in-Pakistan-how-do-people-livein-there/RK=0/RS=STz024c9bkfhEH99uUDuU8UYI0M> accessed on 14 November, 2016

[49] Zemans E. S and Cavan R. S, 'Marital Relationships of Correctional centresers in the United States' 50

[50] Araromi M. A, 'Correctional centresers' Rights Under the Nigerian Law: Legal Pathways to Progressive Realization and Protection' 190

[51] Zemans E. S and Cavan R. S, 'Marital Relationships of Correctional centresers in the United States' 50

[52] Zemans E. S and Cavan R. S, 'Marital Relationships of Correctional centresers in the United States' 50

of imprisonment on male conjugal/procreative rights cannot be the same as that of the female, as they differ in their reproductive systems. Therefore, it is pertinent to discuss these effects separately.

3.2.1: EFFECT ON MALE PRISONERS

Denying male prisoners conjugal visits has a greater effect on their psychological and mental health. Denying prisoners (male) contact with their family and friends has been reported to damage the physical and mental well-being of inmates.[53] Another effect of imprisonment on male prisoners is the sense of responsibility as a father and husband which contributes to their self-respect through the support of their wives and children.[54] Prisoners usually lose this sense of responsibility as they are usually paid a little token, or in some cases, they get nothing.[55]

The loss of the right to privacy and the right to personal liberty and movement presents an extreme change from life in the community to that in prison for male prisoners.[56] The lack of conjugal/procreative rights equally hardens the prisoner as he has no one to think about, miss, or care for but himself alone. It makes him feel rejected by society and therefore hostile to that society without any second thought.

It is worth noting that apart from the emotional and psychological effects, male prisoners can still procreate after serving their jail term, even if they are released at the age of 60. Imprisonment serves as a temporary sterilisation for males, similar to the probation condition used in America as an alternative to imprisonment. Can female prisoners be said to enjoy the same rights after serving their jail terms? This is addressed in the next section.

3.2.1: EFFECT ON FEMALE PRISONERS

The effect of imprisonment on female prisoners is much greater than on male prisoners. They suffer all the effects of imprisonment on the male prisoners, including psychological and mental health issues, when they are denied contact with their family and friends which leads to the damage of their physical and well-being, and they equally lose the sense of responsibility as mothers. The majority of women imprisoned in the United States, for instance, are custodial mothers with more than one child.[57] In addition, imprisonment may damage their reproductive health, either temporarily or permanently.

Female prisoners usually suffer sexual abuse from prison officials; in some cases in the United States, they are sterilised to avoid pregnancy while serving their prison term or probation period, either willingly or unwillingly.[58] This sterilisation is usually unnecessary, and as a result, they face challenges in their reproductive health, which in some cases even results in permanent loss of fertility or life.[59] Equally, the fear of not conceiving during the probation period to avoid jail terms makes women use contraceptives which may lead to permanent infertility or abortion, even when they have conceived which usually endangers their lives or even results in death.[60]

Amnesty International reported in 1998 that the types of abuses that take place in the penal system of the United States of America include overcrowding, physical brutality, and the shackling of pregnant prisoners. This report covers women's prisons in Michigan, Arizona, and California.[61]

Another effect of imprisonment on a female's right to marry and have a family is that when they decide to have a family (children) after the prison term or the probation period, it may be difficult or even impossible due to their age or other related factors such as menopause.[62] In summary, reproductive health is more important to a woman's sense of bodily integrity than to a man's.

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[53] Ayuk et al., 'The Impact of Correctional centres Reforms on the Welfare of the Inmates: A Case Study of Afokang Correctional centres, Calabar, Cross River State, Nigeria' 2

[54] Zemans E. S and Cavan R. S, 'Marital Relationships of Correctional centres in the United States' 50

[55] Zemans, E. S and Cavan R. S, 'Marital Relationships of Correctional centres in the United States' 50

[56] Tajudeen I. O, 'Behind the Correctional centres Walls: Rights or No Rights?' 790

[57] Geer M. A, 'Human Rights and Wrongs in Our Own Backyard: Incorporating International Human Rights Protections Under Domestic Civil Rights Law – A Case Study of Women in United States Correctional centres' 86

[58] Levi R, et al, 'Correctional centres as a tool of Reproductive Oppression' 329

[59] Levi R, et al, 'Correctional centres as a tool of Reproductive Oppression' 330

[60] Nairn J, 'Is there right to have children? Substantive due process and probation conditions that restrict reproductive rights' 3

[61] Geer M. A, 'Human Rights and Wrongs in Our Own Backyard: Incorporating International Human Rights Protections Under Domestic Civil Rights Law – A Case Study of Women in United States Correctional centres' 82-83

[62] Geer M. A, 'Human Rights and Wrongs in Our Own Backyard: Incorporating International Human Rights Protections Under Domestic Civil Rights Law – A Case Study of Women in United States Correctional centress' 82-83

Finally, the imprisonment of women, especially mothers, often leads to the breakup of the family, with children ending up on the street or in state institutions.[63]

3.3.0: CONCLUSION

The right to marry and establish a family is one of the most fundamental human rights for the very existence of man. It encompasses all other rights that can be enjoyed by humans. If the human race does not continue to exist for generations, there will be no need to protect any rights. In fact, there will be nothing called the right to protection. In essence, this study is of the view that the existence of humans is what necessitates human rights and their protection; therefore, the very existence of humans should be protected first, and then the protection of all other rights follows.

From the abovementioned laws (international, regional, and national), the right to marry and found a family is recognised, although with different weight depending on the law of a state. In some jurisdictions, it is considered a right, while in others, it is considered a privilege.

This paper has provided laws guaranteeing and protecting the right to marry and establish a family under International, Regional and National (Nigeria, Saudi Arabia, and America) laws. It also discusses the effect of imprisonment on this right and how it affects male and female prisoners differently.

[63] Agomo U, 'A Critical Analysis of the Current Situation of Female Offenders in African Countries' 57