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PRESUMED GUILTY: THE LEGAL AND ETHICAL CASE AGAINST PUBLICISING MUGSHOTS BEFORE TRIAL IN NIGERIA

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Abstract

The practice of publicising arrest photographs, commonly referred to as mugshots, before a suspect has been tried and convicted, raises profound questions about the integrity of criminal justice systems. In Nigeria, this practice has become a disturbingly routine. Law enforcement agencies, particularly the Economic and Financial Crimes Commission (EFCC) and the Nigeria Police Force, regularly release images of arrested suspects to the media and on official social media platforms, often accompanied by narratives of guilt. This article examines the legal and ethical foundations upon which such practice must be interrogated. Drawing on the constitutional guarantee of the presumption of innocence under section 36 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), as well as provisions of the Nigerian Data Protection Act 2023, the African Charter on Human and Peoples' Rights, and established jurisprudence from common law and international human rights bodies, the article argues that the routine publicisation of mugshots before conviction constitutes a violation of the right to a fair hearing, an erosion of the presumption of innocence, and a form of reputational harm with no legitimate justification in a rights-respecting legal order. The article further proposes institutional and legislative reforms to address the problem.

Keywords: Mugshots; Presumption of Innocence; Fair Hearing; Criminal Justice; Data Protection; Right to Privacy

1. Introduction

A photograph taken at the moment of arrest is not a neutral document. It captures a person at their most vulnerable, dishevelled, sometimes handcuffed, stripped of the social dignity that ordinary life permits. When that image is released to the public before a court has determined guilt, it performs a function the law explicitly prohibits: it renders a verdict. The audience that views it draws an inference.[2] The suspect, in the public imagination, becomes a criminal.

Across Nigeria, this sequence of events has become normalised. The EFCC in particular has cultivated a culture of high-visibility arrests.[3] Officials parade suspects before cameras, post images on official Twitter and Facebook pages, and issue press releases describing individuals as perpetrators of economic crimes, all before any judicial finding has been made.[4] The Nigeria Police Force follows a similar pattern, especially in high-profile kidnapping, drug, or terrorism-

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[2] Woolmington v Director of Public Prosecutions [1935] AC 462 (HL).

[3] S Nwokoro "Interrogating allegations of high-handedness against the Economic and Financial Crimes Commission" <Interrogating allegations of high-handedness against the Economic> accessed 14 March 2026.

[4] <EFCC Arrests Man for... - Economic and Financial Crimes Commission> accessed 14 March 2026.

related cases.[5] What is presented as transparency is, in substance, pre-trial punishment administered through public opinion.

The consequences are serious and cascading. A suspect whose photograph is splashed across newspapers and social media platforms before trial suffers reputational damage that no subsequent acquittal can fully repair. The jury of public opinion, having rendered its verdict, rarely issues corrections. The employer who saw the mugshot does not unsee it. The community that read the press release does not forget it. In this sense, publicising mugshots is not merely a procedural irregularity, it is a substantive harm inflicted on individuals whose guilt remains, in law, unproven.[6]

This article proceeds in several stages. Part II traces the doctrinal and constitutional basis for the presumption of innocence in Nigeria. Part III examines the right to a fair hearing and the ways in which pre-trial mugshot publicity undermines it. Part IV analyses the privacy and data protection dimensions of the practice under Nigerian and international law. Part V considers the ethical dimensions beyond the strictly legal, drawing on the principles of human dignity and institutional integrity. Part VI surveys comparative approaches from other jurisdictions. Part VII proposes reforms. The article concludes with a reflection on what the prevalence of this practice reveals about the broader culture of Nigerian criminal justice administration.

2. The presumption of innocence: Constitutional and doctrinal foundations

The presumption of innocence is not a technicality, invented by defence lawyers to frustrate prosecutions. It is one of the oldest and most fundamental principles of criminal jurisprudence in any legal system worthy of that name. Its roots in Nigerian constitutional law are unambiguous.[7]

Section 36(5) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) provides that every person charged with a criminal offence shall be presumed innocent until proven guilty according to law. The provision is categorical. It tolerates no qualification, no context-dependency, and no exception for cases perceived to be obvious. Guilt must be proved, and until it is, the legal status of the accused remains that of an innocent person.

The principle predates the current constitution and has deep roots in the common law tradition Nigeria inherited. In Woolmington v DPP,[8] the House of Lords affirmed that the golden thread running through the web of the English criminal law is that it is the duty of the prosecution to prove the prisoner's guilt. That golden thread, woven into Nigerian constitutional fabric, has been consistently reinforced by the Supreme Court of Nigeria. In Aoko v Fagbemi,[9] the court emphasised that the burden of proof in criminal proceedings lies with the prosecution throughout. More recently, in Udo v State,[10] the court reiterated that an accused person cannot be asked to prove his innocence at any stage of the proceedings.

[5] "Police parade 24 Cybercrime suspects including one Female" <NPF | Home> accessed 14 March 2026.

[6] S Kassin and G Gudjonsson, 'The Psychology of Confessions: A Review of the Literature and Issues" (2004) 5(2) Psychological Science in the Public Interest 33-67.

[7] Aoko v Fagbemi [1961] 1 All NLR 400. African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap A9 LFN 2004.

[8] [1935] AC 462 (HL).

[9] [1961] 1 All NLR 400.

[10] [1981] 3 SC 318.

What does this mean for the practice of publishing mugshots? The answer lies in understanding what the presumption of innocence actually requires. It is not merely a rule about who bears the burden of proof in a courtroom. Scholars and courts in numerous jurisdictions have recognised that the presumption of innocence has a broader dimension, one that governs how the state treats accused persons outside the courtroom as well.[11] The European Court of Human Rights, interpreting Article 6(2) of the European Convention on Human Rights (which is materially identical in effect to section 36(5) of the Nigerian Constitution),[12] held in Allenet de Ribemont v France that the presumption of innocence may be infringed not only by a judge or court but also by other public authorities.[13] When a government official publicly proclaims that a person who has not yet been tried is guilty of an offence, that official violates the presumption of innocence.

Nigerian law enforcement agencies are, of course, public authorities. When the EFCC posts a photograph of an arrested suspect with a caption identifying them as a fraudster or when the police parade a defendant before cameras while describing the evidence against them, these agencies are making public proclamations of guilt.[14] The fact that the proclamation is implicit, embedded in the visual narrative of handcuffs, official surroundings, and institutional gravitas, does not diminish its legal and ethical significance. It may, in fact, amplify it.

The presumption of innocence, properly understood, requires the state to refrain from treating an accused person as guilty until conviction. Publicising mugshots is inconsistent with that requirement. The photograph is released not to serve any adjudicative purpose but to signal to the public that the state has caught a wrongdoer. That signal, coming from institutions clothed in official authority, carries enormous weight. It is submitted that it is a signal that the law prohibits the state from sending.

3. Fair Hearing and the right not to be prejudged: The Judicial dimension

The right to a fair hearing is the cornerstone of procedural justice. Section 36(1) of the 1999 Constitution guarantees every person's entitlement to have their civil rights and obligations, or any criminal charge against them, determined by a court or tribunal established by law and constituted in such a manner as to secure its independence and impartiality.[15] The right to an impartial tribunal is not an aspiration, it is a constitutional imperative.

Pre-trial mugshot publicity threatens this right in at least two distinct ways. First, it creates the conditions for a contaminated trial environment.[16] Although Nigeria operates a bench trial system rather than a jury system, the risk of judicial contamination cannot be dismissed entirely. Judges are human beings who consume media. The sustained repetition of a narrative of guilt, reinforced

[11] A Adeyemi, 'Criminal Justice Administration in Nigeria in Relation to the Standard Minimum Rules for the Treatment of Prisoners' in A Adeyemi (edition), 'Criminal Justice in Nigeria' Faculty of Law, University of Lagos (1990).

[12] "Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law." See <European Convention on Human Rights - Article 6 | European Union Agency for Fundamental Rights> accessed 21 February 2026.

[13] <ALLENET DE RIBEMONT v. FRANCE> accessed 21 February 2026.

[14] Constitution of the Federal Republic of Nigeria 1999 (as amended).

[15] Section 36(1) of the 1999 Constitution of the Federal Republic of Nigeria provides thus "In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality."

[16] African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap A9 LFN 2004.

by photographic images of an accused person in a posture of arrest, may influence, even unconsciously, a judge's assessment of credibility and culpability. The psychological research on this point is substantial. Kassin and Gudjonsson, among others, have documented the phenomenon of confirmation bias in legal decision-making, demonstrating that prior exposure to evidence of guilt, even evidence that would be inadmissible in court, colours subsequent judgment.[17]

Second, and perhaps more significantly in the Nigerian context, pre-trial mugshot publicity prejudices the accused's ability to participate meaningfully in their own defence. An accused person whose reputation has been destroyed by media coverage before trial faces enormous social pressures that can distort the process. Witnesses may be less willing to testify on their behalf; employers may terminate their contracts; community standing collapses; and family members suffer collateral reputational damage. All of this impairs the equality of arms that a fair trial requires.

The African Charter on Human and Peoples' Rights, to which Nigeria is a party and which has been domesticated by the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, reinforces these protections.[18] Article 7 of the Charter guarantees the right to have one's cause heard, the right to be presumed innocent until proven guilty by a competent court, and the right to be tried within a reasonable time by an impartial court or tribunal.[19] These rights are interdependent. Pre-trial publicity that effectively convicts an accused person before they reach the dock strikes at all three simultaneously.

There is also the specific question of identification evidence. In many criminal cases, particularly those involving robbery, fraud, or other offences where visual identification is material, the publication of a suspect's photograph before trial can irrevocably contaminate any subsequent identification process.[20] A witness who has seen the accused's photograph in the media cannot give untainted identification testimony. The publication of mugshots may, in such cases, not only prejudice the accused but also undermine the prosecution's own case, presenting a self-defeating outcome that underscores the irrationality of the practice.

4. Privacy, data protection, and the Mugshot as personal data

Beyond the right to a fair trial, the publication of mugshots implicates a distinct body of rights concerned with privacy and the protection of personal data. The enactment of the Nigeria Data Protection Act 2023 (NDPA) marks a significant moment in the evolution of Nigerian privacy law, and its provisions bear directly on the lawfulness of publishing arrest photographs.

A mugshot is, unambiguously, personal data.[21] It is an image of a living, identifiable individual captured in a specific context. Under the NDPA, personal data may only be processed, and

[17] S Kassin and G Gudjonsson, 'The Psychology of Confessions: A Review of the Literature and Issues" *Psychological Science in the Public Interest* Vol. 5 No. 2, 2004, 33-67.

[18] African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap A9 LFN 2004.

[19] A Okene and B Otabor-Olubor, 'Presumption of Innocence and Fair Trial in Nigeria' (2013) 7 *African Journal of Legal Studies* 45, 50–52.

[20] R v Turnbull [1977] QB 224 (CA).

[21] A Ashworth and M Redmayne, "The Criminal Process" 5th edition, *Oxford University Press* (2010) 305–310.

publication is a form of processing, where there is a lawful basis for doing so.[22] The Act identifies several lawful bases, including the consent of the data subject, the necessity of processing for the performance of a contract, compliance with a legal obligation, protection of vital interests, performance of a task in the public interest, and the legitimate interests of the controller or a third party.[23]

None of these bases straightforwardly supports the routine publication of mugshots by law enforcement agencies. Consent is obviously absent, as no suspect consents to having their arrest photograph shared with the general public. There is no contract at issue. The publication of a mugshot is not required by any specific legal obligation; indeed, no Nigerian statute explicitly mandates that arrested persons' photographs be made public before trial. The claim of public interest merits closer examination, but it is ultimately unpersuasive as a general justification.

Some will argue that the publication of mugshots serves a public interest in crime prevention, witness identification, or transparency in law enforcement.[24] These arguments carry limited weight when examined critically. Crime prevention is not meaningfully served by the routine publication of photographs of all arrested persons, particularly those accused of white-collar offences. Witness identification might justify a targeted, limited disclosure to potential witnesses, but it does not justify broadcasting photographs to millions of social media followers. Transparency in law enforcement is a legitimate objective, but transparency about the fact of arrest does not require the visual humiliation of the arrested person.[25] The name of an arrested suspect may be disclosed without their image; and the fact of an investigation may be reported without displaying the suspect in a posture of custody.

The NDPA also enshrines the principle of data minimisation, which requires that personal data be adequate, relevant, and limited to what is necessary in relation to the purposes for which it is processed. Even accepting that some disclosure of information about arrests is appropriate, the publication of high-resolution photographs of suspects goes beyond what is necessary for any legitimate law enforcement purpose. The principle of proportionality, embedded in data protection law as in constitutional law, condemns the practice.[26]

The right to privacy, independently guaranteed under section 37 of the 1999 Constitution, reinforces this analysis.[27] Section 37 provides that the privacy of citizens, their homes, correspondence, telephone conversations, and telegraphic communications is inviolable and accordingly guarantees their protection. Although the provision does not enumerate photographic images explicitly, the courts have consistently interpreted constitutional rights broadly in line with their underlying values. The right to control one's image - one's visual representation- is a core component of the right to privacy, recognised in international human rights instruments and, by extension, cognisable under Nigerian constitutional law.[28]

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[22] I Olatunji, 'Data Protection and Privacy in Nigeria: The Emerging Legal Framework' (2021) 5 *Nigerian Journal of Technology Law* 67, 72–75.

[23] Nigeria Data Protection Act 2023, s 24(1)(a)–(f).

[24] A A Olowofoyeku, 'Media, Privacy and the Public Interest in Nigeria' (2015) 9 *Nigerian Journal of Public Law* 120, 125–130.

[25] Section 34(1) of the1999 Nigerian Constitution

[26] J Rivers, 'Proportionality and Human Rights' (2006) 65 *Cambridge Law Journal* 175, 180–185.

[27] Section (37) of the 1999 Nigerian Constitution.

[28] AR Mowbray, *Cases and Materials on the European Convention on Human Rights* 4th edition, *Oxford University Press* (2019) 450–455.

5. Ethics, Dignity, and Institutional Integrity

The legal analysis, compelling as it is, captures only part of what is wrong with publicising mugshots before trial. There are deeper ethical dimensions that deserve independent examination, dimensions rooted in the concept of human dignity and the obligations of institutions that exercise public power.

Human dignity is not a concept that lends itself to easy definition, but its core meaning is clear enough. Every human being possesses intrinsic worth that must not be instrumentalised for others.[29] The Kantian formulation, which posits that persons must be treated as ends in themselves and never merely as means,[30] resonates across philosophical traditions and has found expression in numerous human rights instruments, including the African Charter. To publicise a mugshot before trial is to instrumentalise the accused person. Their image is deployed not for their benefit but for the benefit of the state's public relations exercise or the media's appetite for spectacle. The accused becomes a prop in a performance of institutional effectiveness. That is, by any serious ethical standard, a violation of their dignity.

The institutional dimension is equally important. Law enforcement agencies that routinely publicise mugshots are not merely committing individual acts of injustice; they are cultivating a culture of presumptive guilt that corrodes the integrity of the criminal justice system as a whole. When the EFCC presents itself as an institution that catches criminals, rather than an institution that investigates suspected offences and presents evidence for judicial determination, it distorts its own constitutional mandate. The investigative and prosecutorial functions of law enforcement are radically different from the adjudicative function of courts. Agencies that conflate the two undermine both.

There is, too, the problem of selectivity. Lesser-known individuals accused of petty offences, politicians that have fallen out of favour with the ruling political party, businesspersons, entertainers have their photographs published with particular alacrity and enthusiasm. High-profile suspects, especially politicians that are still in favour with the ruling party, may attract less attention. This selectivity exposes the practice for what it is: not a principled policy of transparency but a strategic exercise in narrative management. The state publicises the arrest of those whose humiliation serves political or institutional purposes. That calculation has nothing to do with justice.[31]

Professional ethical standards for journalists and media organisations compound the analysis. The Nigerian Press Council Act and the Code of Ethics of the Nigerian Union of Journalists place obligations on media practitioners to respect the rights of individuals and to report responsibly.[32] The wholesale reproduction of law enforcement press releases, complete with mugshots and narratives of guilt, falls short of the standards of responsible journalism that these instruments envision. Media organisations have independent ethical obligations not to function as conduits for state-sponsored pre-trial convictions.

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[29] "Kant's Moral Philosophy"
<Kant's Moral Philosophy (Stanford Encyclopedia of Philosophy)> accessed 11 February 2026.

[30] *Ibid.*

[31] AR Mowbray, "Cases and Materials on the European Convention on Human Rights" 4th edition, *Oxford University Press* (2019) 320–325.

[32] Nigerian Press Council Act 1992 (Cap N128 LFN 2004). See "Code of Ethics for Nigerian Journalists" <CODE OF ETHICS FOR NIGERIAN JOURNALISTS – Nigeria Union of Journalists> accessed 21 March 2026.

Finally, there is the question of what psychologists and criminologists call the labelling effect. Research in criminology, most famously associated with Howard Becker's concept of the 'moral career' of the deviant, has long demonstrated that being publicly labelled a criminal, irrespective of actual guilt, increases the likelihood of subsequent offending.[33] This is because the label, once applied, reshapes identity, social relationships, and economic opportunities in ways that make conventional life harder and criminal activity more accessible. The publication of mugshots thus carries the risk not only of injustice to the individual but of social harm in the aggregate. A criminal justice system that inadvertently increases recidivism through punitive labelling before conviction is a system that has lost sight of its own purposes.

6. Comparative Perspectives: How other Jurisdictions Approach the Problem

Nigeria is not alone in grappling with the tension between law enforcement transparency and the rights of accused persons, but a comparative survey reveals that many jurisdictions have developed more sophisticated responses to this tension.

In the United Kingdom, the Metropolitan Police Service and Crown Prosecution Service operate under guidance that discourages the publication of suspects' photographs before charge and conviction except in narrowly defined circumstances, typically, where a suspect is at large and identification is necessary for public safety, or where a court has specifically authorised disclosure.[34] The relevant framework draws on the Data Protection Act 2018 (which implements the Law Enforcement Directive for law enforcement purposes), the Human Rights Act 1998, and longstanding common law principles of contempt of court.[35] Publications that create a substantial risk of prejudicing active legal proceedings are subject to criminal sanction under the Contempt of Court Act 1981.

Germany offers perhaps the most robust framework. The German Basic Law's guarantee of Menschenwürde as enshrined in Article 1 of the German Basic Law, stipulates that "Human dignity shall be inviolable. To respect and protect it shall be the duty of all public authority".[36] This inviolable foundational right has generated a rich jurisprudence restricting the publication of identifying information about accused persons.[37] The Bundesdatenschutzgesetz (Federal Data Protection Act)[38] and the Rundfunkstaatsvertrag (Interstate Broadcasting Agreement)[39] both contain provisions that limit the media's ability to name and identify suspects before conviction. German courts have consistently held that the right to informational self-determination, derived

[33] HS Becker, *"*Outsiders: Studies in the Sociology of Deviance*" Free Press* (1963) 9-18.

[34] "Policy on releasing mugshots and body camera footage to the public" <Policy on releasing mugshots and body camera footage to the public | Metropolitan Police> accessed 21 March 2026.

[35] D Feldman, "Civil Liberties and Human Rights in England and Wales" 2nd edition, *Oxford University Press* (2002) 910–915.

[36] "Basic Law for the Federal Republic of German" <Basic Law for the Federal Republic of Germany> accessed 25 March 2026. G Lübbe-Wolff "Doing justice: The Basic Law – Germany's constitution – at 70" <Germany's constitution: The Basic Law> accessed 25 March 2026.

[37] C Calliess and M Renner, "German Constitutional Law: The Protection of Human Dignity" *Oxford University Press* (2014) 55–60.

[38] S. 64(3)(8) Federal Data Protection Act of 30 June 2017 (Federal Law Gazette I p. 2097), as last amended by Article 10 of the Act of 23 June 2021 (Federal Law Gazette I, p. 1858; 2022 I p. 1045).

[39] Article 1(3) Interstate Broadcasting Agreement.

from the dignity guarantee, prohibits the publication of photographs of arrested persons save in the most exceptional circumstances.[40]

The United States presents a more complicated picture. American jurisdictions have historically permitted, and through the First Amendment, actively protected the publication of mugshots.[41] Many states maintain public databases of arrest photographs, and a cottage industry of websites that publish and then demand payment for removal has flourished.[42] However, a significant regulatory response has developed. By 2023, at least a dozen US states had enacted laws restricting or prohibiting the operation of so-called mugshot extortion websites, and several law enforcement agencies have adopted voluntary policies restricting pre-trial mugshot releases.[43]

In South Africa, the Constitutional Court's expansive interpretation of the right to dignity under section 10 of the Constitution of the Republic of South Africa, 1996, has produced a jurisprudence that would be highly receptive to challenges against routine mugshot publication. The court's decision in NM v Smith[44] affirmed the importance of informational privacy and dignity in relation to personal information held by the state, and the Protection of Personal Information Act (POPIA) provides a comprehensive data protection framework that restricts the processing of personal information, including photographs, without lawful basis.[45]

What these comparative examples illustrate is a convergence of two approaches - constitutional rights protection and data protection regulation, in producing restrictions on pre-trial mugshot publication. Nigeria has the constitutional and legislative framework to achieve similar outcomes. The question is one of political will and institutional culture.[46]

7. Towards Reform: Legal and Institutional Proposals

The foregoing analysis points towards a reform agenda that operates simultaneously at the legislative, institutional, and cultural levels. Each level requires distinct but complementary interventions.

At the legislative level, the National Assembly should consider enacting legislation specifically addressing the publication of suspects' personal information before conviction. Such legislation should establish a clear prohibition on the publication of arrest photographs by law enforcement agencies, state officials, and media organisations, subject to narrow, judicially supervised exceptions.[47] The exceptions should be genuinely exceptional: limited to cases where a suspect

[40] A Erdősová "The Right to Informational Self-Determination in the Context of Selected Judicial Decisions and Practical Background" Public Governance, Administration and Finances Law Review Vol. 4. No. 2. (2019) 16–29.

[41] EK Lee "Monetizing Shame: Mugshots, Privacy, and the Right to Access" Rutgers University Law Review Vol. 70 No.3, 557-645.

[42] J Grasse, 'Mugshot Websites and the Right to Be Forgotten in the United States' (2018) 45 *American Journal of Criminal Law* 1, 10–15.

[43] O Solon "Haunted by a mugshot: how predatory websites exploit the shame of arrest" <Haunted by a mugshot: how predatory websites exploit the shame of arrest | Technology | The Guardian> accessed 23 March 2026.

[44] (24948/02) [2005] ZAGPHC 133 (22 August 2005).

[45] Protection of Personal Information Act 4 of 2013 (South Africa), s 11.

[46] J Hatchard, M Ndulo and P Slinn, "Comparative Constitutionalism and Good Governance in the Commonwealth" *Cambridge University Press* (2004) 210–215.

[47] A Ashworth and M Redmayne, "The Criminal Process" 5th edition, *Oxford University Press* (2010) 40–45.

poses an imminent danger to the public, is at large and poses an active risk, or where a court has made a specific disclosure order on public safety grounds. Any other publication should require the explicit, informed consent of the arrested person, which, in practice, will rarely be forthcoming.[48]

The Nigeria Data Protection Commission (NDPC), established under the NDPA, should issue binding guidance making clear that the publication of arrest photographs constitutes the processing of sensitive personal data requiring a high standard of justification. The guidance should specify that law enforcement agencies are not exempt from data protection obligations merely by virtue of their law enforcement function, and that the NDPA's provisions apply to information published on social media as much as to information held in official databases.

At the institutional level, law enforcement agencies must revise their internal policies and standard operating procedures to prohibit the routine publication of suspects' photographs. The EFCC, in particular, should adopt a communications policy that permits disclosure of the fact of an arrest and the nature of the alleged offence, where there is a legitimate public interest in such disclosure, without the publication of identifying images.[49] Training programmes for investigators and public communications officers must embed the presumption of innocence as a lived institutional value, not a theoretical aspiration.

The judiciary has an important role to play as well. Courts should be willing to grant injunctions restraining the publication of mugshots where an applicant demonstrates that publication would prejudice a fair trial or constitute an unjustified interference with their right to dignity and privacy. Where publication has already occurred, courts should be willing to award damages, including aggravated damages, against law enforcement agencies and media organisations that have participated in unlawful pre-trial exposure.[50] The availability of meaningful remedies is essential to changing behaviour.

Media regulatory bodies, including the Nigerian Press Council and the National Broadcasting Commission, should revise their codes of practice to address the specific harm of mugshot publication. The current framework, focused primarily on accuracy and balance in reporting, does not adequately address the specific harm caused by image publication before conviction. A targeted provision, clearly articulating that the publication of arrest photographs of unconvicted persons is presumptively unethical absent exceptional justification, would significantly alter the culture of media compliance.[51]

Civil society organisations and the legal profession also bear responsibility. The Nigerian Bar Association should issue a formal position statement condemning the routine publication of mugshots by law enforcement agencies and committing to provide pro bono legal support to individuals whose rights have been violated by such publication.[52] Law clinics and human rights organisations should develop strategic litigation programmes designed to produce precedent-setting decisions from Nigerian courts.

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[48] AR Mowbray, *"*Cases and Materials on the European Convention on Human Rights" 4th edition, *Oxford University Press* (2019) 450–455.

[49] Nigeria Data Protection Act 2023, s 24(1)(e)–(f).

[50] A Ashworth and M Redmayne, "The Criminal Process" 5th edition, *Oxford University Press* (2010) 45–48

[51] Nigerian Union of Journalists (NUJ), *Code of Ethics for Nigerian Journalists* (1998).

[52] Nigerian Bar Association (NBA), Rules of Professional Conduct for Legal Practitioners 2023, r 1–2.

8. Conclusion: What the Mugshot Reveals About Criminal Justice in Nigeria

The mugshot is a small thing in one sense - a photograph, a social media post, a brief flicker of publicity in a news cycle that moves quickly onwards. But it is a large thing in another sense. It reveals, with unusual clarity, the values that actually animate a criminal justice system as opposed to the values that adorn its constitutional texts.[53]

A system that presumes innocence does not photograph the accused and parade them before the public before guilt is established. A system that respects dignity does not instrumentalise the arrested person for institutional self-promotion. A system committed to fair hearings does not saturate the public sphere with narratives of guilt before a court has heard the evidence.[54] The routine publication of mugshots in Nigeria tells a story about a criminal justice culture that remains deeply uncomfortable with the implications of the rights it formally guarantees.

This discomfort is not unique to Nigeria. Across the world, criminal justice systems struggle to internalise the presumption of innocence as a substantive value rather than a procedural formality. But the struggle is especially acute in systems that have experienced corruption, impunity, and institutional dysfunction. In such systems, the spectacle of arrest serves as a substitute for the substance of accountability, a visible performance of enforcement in lieu of the harder, less photogenic work of building cases that can withstand judicial scrutiny.

The legal case against publishing mugshots before trial in Nigeria is strong.[55] The constitutional provisions are clear. The data protection framework is increasingly robust. The comparative evidence points in a consistent direction. The ethical arguments are compelling. What remains is the political and institutional will to act, to internalise, at last, that the presumption of innocence is not a privilege of the accused but a commitment of the state, one that must be honoured not just in courtrooms but in press releases, on social media pages, and in every encounter between the instruments of state power and the citizens those instruments are meant to serve.

Reform in this area is not merely desirable, it is constitutionally required. The longer Nigerian law enforcement agencies continue to publish mugshots as a matter of routine, the longer they perpetuate a form of injustice that their own founding instruments forbid.[56] That contradiction cannot be indefinitely sustained in a legal order that takes its own values seriously

[53] Roscoe Pound, 'Law in Books and Law in Action' (1910) 44 *American Law Review* 12, 15 –17.

[54] European Convention on Human Rights (ECHR), art 6(2)

[55] Constitution of the Federal Republic of Nigeria 1999 (as amended), ss 34(1), 36(5) and 37.

[56] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 1(3).