

AFRREV IJAH
An International Journal of Arts and Humanities
Bahir Dar, Ethiopia
Vol. 1 (3), August, 2012:208-233

ISSN: 2225-8590 (Print)

ISSN 2227-5452 (Online)

Nigeria Prisons and the Dispensation of Justice

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Abstract

Nigeria prison system was modeled by colonial prison administration with emphasis on punishment and deterrence. This contradicts the fundamental objective of prison establishment as a corrective institution, for reformation, rehabilitation and re-integration of inmates. The position of prison in criminal justice administration in Nigeria today can best be regarded as an endangered sub-sector, occupying an inferior position in government priorities. Poverty, socioeconomic and other constraints constitute bottlenecks to reformation effort. It is illogical that the difference between prison life and living in the 'free' Nigeria society today is fast closing up as the inmate in some instances feel better off in prison than outside prison. Ex-prisoners move from a life of hell typified by overcrowded cells, poor

feeding, poor healthcare, maltreatment by prison officers, life full of denials to another life outside the prison walls that tend to have some semblance of what they had gone through in prison. As it stands today, the institution is generally inefficient and ineffective means of treating and rehabilitating offenders, especially for its use as an all-purpose repressive quarantine system.

Introduction

Prisons in Nigeria are total institutions. Inmates locked within their walls are segregated from the outside world, kept under constant scrutiny and surveillance, and forced to obey a strict code of official rules to avoid facing formal sanctions. Their personal possessions are taken from them and they must conform to institutional dress and personal appearance norms. Many human functions are strictly curtailed – heterosexual activity, friendship, family relationships, society, education, and participation in groups become seriously restricted or cut-off [Senna and Siegel, 1981]. It is an institution designed to warehouse people who have been convicted of crimes. These individuals, known as prisoners or inmates, are kept in continuous custody on a long-term basis. Individuals who commit the most serious crimes are sent to prison for one or more years; the more serious the offense, the longer the prison term imposed. For certain crimes, such as murder, offenders may be sentenced to prison for the remainder of their lifetime.

When individuals are accused of violating criminal law, they are tried in a court and either convicted [found guilty] or acquitted [found not guilty]. A person who is convicted is then *sentenced*—that is, assigned a specific punishment. The sentence may involve fines, probation [supervised release], or incarceration [confinement]. Judges may sentence first-time offenders to probation instead of incarceration. Offenders convicted of more serious crimes and those who have prior criminal records may be sentenced to incarceration in either a jail or a prison, depending on the nature of the crime.

Prisons are also called penitentiaries. The word *penitentiary* was coined in the late 1700s because certain groups believed that through solitary religious study of the Bible, prisoners would become penitent [remorseful] and reform their behavior and possibly be integrated back to the society. Although prison structures existed in ancient civilizations, the widespread use of long-term confinement as a form of criminal punishment began only in the 15th century. Today every industrialized nation has prisons, and the role

of prisons throughout the world is to punish criminals by restricting their freedom. According to Tappan [1960], retribution is a major ingredient of penal law and correctional systems; he contends that the effects of retributive legal and moral tradition will persist for a longer time, though increasingly mixed with other purposes of correctional treatment¹.

In most countries, governments construct and operate prison systems. The prisons are devoted to the same general functions – administrating some punishment to lawbreakers while keeping them securely in custody². However, several countries, including the United States, also authorize private corporations to build and run prisons under contract for the government. This is yet to come up in Nigeria’s penal system despite the privatization/deregulation programs embarked upon by the federal government.

The Prison System in Nigeria

This paper outlines the conditions in Nigerian prisons and the system of administration thereof. Imprisonment in its modern form was introduced by colonial power. The local prison in Nigeria is an obvious model of the 19th century prisons still to be found in London [Coyle, 2000]. The first English type prison in the country was established in 1872 at the Broad Street Lagos designed to accommodate 300 inmates, since then the Nigerian prison system has witnessed tremendous growth [Alemika and Alemika, 1995]. Subsequently Prisons were built in Calabar, Degema, Onitsha, Benincity and Sapele. All of them were prototype of the one in Broad Street, Lagos. But today there are well over 227 prisons in Nigeria [Akeredolu, 2009]. Many reasons account for the important role prisons play in the administration of Criminal Justice in Nigeria today. The prisons are institutions of the state and are expected to serve as correction units as assigned to them by the law³.

The Nigeria Prisons Service is charged in Law with the following responsibilities:

¹ Tappan, P. W. 1960. *Crime Justice and correction*. New York: McGraw-Hill book Co.

² Gibbons, D.C. 1987. *Society Crime and Careers an Introduction to Criminology*. Virginia: Parentice Hall

³ Section 1 and 3 Prisons Act Cap. 366 Laws of the Federation [LFN] 1990

- Taking into lawful custody all those certified to be so kept by courts of competent jurisdiction;
- Identifying the cause of their anti-social dispositions;
- Setting in motion mechanisms for their treatment and training for eventual reintegration into society as normal law abiding citizens on discharge;
- Administering Prisons Farms and Industries for this purpose and in the process generate revenue for the government.

The Prison is a Federal concern which means that no state [i.e. province] has the power in Law to operate or maintain Prisons. One obvious advantage of this development is that no State can take political advantage of the prisons for the purpose of settling scores⁴. A prison therefore, is not merely a place of custody but also an institution for reforming and rehabilitating prisoners. In realistic terms, Nigeria penal philosophy seems to be based on punishment and deterrence instead of reformation and rehabilitation conversed by modern prison philosophy.

According to Alemika and Alemika[1995], the fundamental aims of penal policy in Nigeria are punishment, deterrence, and societal protection through custodial incapacitation. No wonder then that prisons in Nigeria are used as institutions for punishment and apart from excessive use of corporal punishment against the inmates, the conditions of these prisons are so deplorable. The prisons are overcrowded, poorly ventilated, while environmental sanitation is almost none existent in most of the prisons visited. Consequently the inmates are at the mercy of diseases and epidemics which caused them poor health and even death [Igbo, 1999]. Inmates are not on good diet; they are poorly fed and poorly clothed all in the name of inflicting on them a just dessert. In view of this, critics and advocates of prisons are quick to comment that the institution is generally an inefficient and ineffective means of treating and rehabilitating offenders, especially when it is used as an all-purpose repressive quarantine system [Alemika and Alemika, 1995].

⁴ Nigerian Prisons Services Official Website. mht

Table 1: BY TYPE OF OFFENCE [1996- NIGERIA PRISONS 2005]

OFFENCES	Numbers									
	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Debt	4,515	4,200	3,501	2,104	1,572	970	1,529	853	715	684
Arson	5,864	4,810	5,405	4,201	3,560	2,146	1,466	1,968	2,425	2,146
Affray	10,040	9,450	8,619	6,334	5,200	5,604	3,575	1,161	4,000	3,812
Assault	15,190	13,170	12,146	11,002	8,905	8,100	7,900	7,825	6,819	5,700
Murder	14,500	15,140	14,900	12,142	14,604	10,450	11,868	11,615	12,918	10,250
Treason	35	40	25	-	-	10	12	27	39	36
Sedition	4	6	5	-	-	137	179	167	10	13
Abduction	1,998	2,010	1,841	1,654	1,420	1,905	2,981	1,467	1,601	1,050
Smuggling	11,342	10,140	9,415	8,415	9,006	5,192	1,356	1,865	6,142	3,916
Immigration	2,915	3,265	3,704	2,500	2,407	3,170	2,212	162	1,847	840
Stealing	102,349	100,150	89,100	71,450	53,180	51,406	34,391	46,060	48,142	50,231
Robbery	10,349	9,806	10,140	10,640	11,120	12,800	15,716	7,128	10,160	10,888
Armed Robbery	10,941	10,715	11,570	11,666	13,450	15,120	17,462	15,577	18,322	13,491
Sex Offences	5,297	5,306	6,004	4,056	6,185	3,950	4,271	3,598	4,517	5,606
Traffic offences	5,800	6,145	7,512	5,200	7,102	4,114	2,257	2,296	5,860	7,114
Currency Offences	7,500	6,110	8,495	4,170	5,200	2,102	1,401	1,529	1,514	3,645
Indian Hemp Offences	11,250	12,732	10,500	10,204	9,105	5,972	6,376	3,090	8,109	9,172
Contempt of Courts	1,925	1,899	2,840	2,450	3,260	3,100	4,772	4,146	3,117	3,619

Unlawful Possession	10,114	7,112	6,000	14,751	15,101	9,405	6,232	6,090	5,203	7,209
Forgery and Altering	1,337	1,475	1,378	2,347	2,950	5,172	4,375	7,169	4,680	5,161
Escaping from Lawful Custody	-	150	120	105	98	78	182	101	214	1,480
Offences against Native Law and Custom	-	7,889	1,880	5,700	1,470	2,450	8,000	1,274	786	1,300
Other Offences	6,170	4,244	2,000	4,073	5,677	4,795	18,225	12,782	2,000	2,059
Total	245,329	235,964	217,100	195,164	180,572	158,148	156,738	137,951	149,140	149,422

Source: Nigerian Prison Service

By law, every prisoner who is confined in a Nigerian prison is deemed to be in the legal custody of the superintendent in charge of that prison⁵. As a result he/she is subject to prison discipline and regulations, whether or not he is within the precincts of the prison. In the case of a prisoner who is under a sentence of death, the superintendent must at the time fixed by the authority on the day, which the sentence is to be carried out surrender the legal custody of the prisoner to the appropriate authority for the execution of the sentence.

Furthermore, the law confers jurisdiction and control over that portion of the prison where the prisoner is confined and over all officers to the extent necessary for the safe custody of the prisoner during that period as well for the purpose of carrying out the sentence⁶. Every police officer deployed to the prison in the capacity of escort or guard is deemed to have all the powers and privileges granted to prison officers in this regard. This is so in order to ensure the safety of the prisoner while in custody and to prevent escape of the prisoner from prison. Such police officers may use such weapons which could be a gun, baton or whip on a prisoner who applied violence to another prisoner or prison officer. In any case, due warning must be given by the officer to the prisoner that he is about to shoot.

The law also requires the government to classify prisons for the purpose of separation of prisoners, or for their training, or any other purpose. Accordingly, the federal government designated Nigerian prisons as follows⁷:

Table 2: Categories of Nigerian Prisons

Designation of Prison	Class of Prisoner
Convict Prison	All classes of prisoners including convicts with sentences of 2 years and over
Provincial and Divisional prison	All classes of prisoners but not including convicts with sentences of 2 years or over
Juvenile Prison	Male or female Nigerian children as

⁵ Section 3, Prisons Act, Cap 366, Laws of the Federation [LFN] 1990

⁶ Section 2, Prisons Act, Cap 366, Laws of the Federation [LFN] 1990

⁷ Section 2, Prison Act, Cap 366, Laws of the Federation [LFN] 1990

may be stated in any particular case, who in the opinion of medical officer were not over the age of 16 at the date of conviction

Source: Legal Defense and Association Project [LEDAP], 2006

These prisons are further broadly divided into two main categories namely: Medium Security Prisons and Maximum Security Prisons. Medium security prisons in Nigeria are prisons for minor offenders of the law; the categories of inmates kept in detention in these prisons are limited. Most times, the classes of inmates kept in these prisons are those serving jail terms for various offences other than capital offences. Awaiting trial inmates are also remanded there. In some cases, inmates facing trials for capital offences are remanded in the medium security prisons pending the conclusion of their trials. If at the end of the trial they are convicted for the offence charged and sentenced to death, they are transferred immediately to the nearest Maximum Security Prison.

Maximum Security Prisons are the higher level of prisons in Nigeria. They accommodate all classes of inmates especially the death row inmates. It is at these prisons that executions are carried out. At all the Maximum Security Prisons visited, the inmates confirmed that gallows are always located very close to the condemned convicts' cell (cc cell) i.e. death row cells. Consequently they are always aware of all executions being carried out. Officially, this is the system and structure of prisons system in Nigeria but in practice the administration of prisons systems in Nigeria is a far cry from what the law stipulates. Some of the major problems responsible for this are the lack of funding for prisons and the congestion rate at the prisons.

The congestion rate in the prisons is so high and this to a large extent hampers an effective administration of the prisons. For instance in Ibara Prison, Abeokuta, Ogun State, at the death row cells, the congestion rate is as high as 400%. At Oko Prison, Benin City, Edo State which is a medium security prison, surprisingly death row inmates are kept there. Congestion rate at the death row cells of the prison is about 300%. Accounts of the sanitary conditions at the prisons irrespective of their geographical location have consistently painted a grim picture of grime and poor personal and environmental hygiene. Naturally, the situation is worse in the most crowded prisons. At some of the prisons like Oko Prison, Benin City, Edo State and Ibara Prison, Abeokuta, Ogun State, one becomes very uncomfortable as a

visitor-researcher with the offensive odor oozing from the inmates, which bothers on personal hygiene.

Meals times which ordinarily ought to be a happy time have been turned into a nightmare for inmates. Meal varieties according to inmates in most prisons in Nigeria have been reduced merely to processed cassava [garri] with badly cooked beans. At other times, what constitute meal is a mixed paste of processed cassava [garri] and what could pass for anything but soup. The sight of this food is enough to void one's appetite. Rice is a luxury and a scarce commodity in the prisons. In some prisons like Ibara Prison, Abeokuta, Ogun State, rice which is the most luxurious food in the prison is served only twice a week i.e. Wednesdays and Sundays. The current food situation and pattern of rationing is not ideal for the prison inmates.

The quantity of food served to the inmates is so nauseating that to talk about the quality would be to do extreme damage to language. Inmates are forced to eat food that is nutritionally unbalanced, qualitatively insufficient and prepared under the most unhygienic condition. This is in sharp contrast to the provision of the Nigerian Prison Regulation 22 which states that: *“Every prisoner shall be allowed a sufficient quantity of plain and wholesome food, [regard being had to the nature of]?? labor to be performed by him”*?? At Oko Prison, Benin City, Edo State and Maximum Security Prison, Kirikiri, Lagos, inmates confirmed that they buy their foodstuff with their money and cook their food inside their cells.

There is no gainsaying the very bad state of accommodation in the prisons. Inmates especially those on death row said that they are subjected to very horrifying accommodation. At the death row section, in many Nigerian prisons, congestion rate is as high as between 300% and 600%. At least three inmates occupy a cell ordinarily meant to accommodate one inmate. The situation is worse in some prisons like the Ibara Prison, Ogun State where at least six inmates are made to occupy a small cell. It is even alarming to know that some prisons have no conveniences and inmates have to relieve themselves right inside their cells. At the Female Prison, Kirikiri Lagos, the prison officials said that conveniences were just being built for the inmates at the time of visit. This is a bad news for a prison that has existed for a long time.

Though in many of the prisons visited in Nigeria many of the inmates looked healthy but a deeper observation revealed that some of the inmates are nursing one ailment or the other. This shows that health care delivery system

in the prisons is not adequate and effective. At Oko Prison in Benin City, Edo state, an inmate informed the researcher that he is asthmatic, another one said he had stomach ulcer. Only recently, a death row inmate at the Maximum Security Prison, Kirikiri Lagos died of protracted illness. Without doubt prison inmates do not get adequate medical care in Nigeria.

Recreational facilities and skills acquisition centers are lacking in the prisons. This is a bad news for a place that ought to be a rehabilitation and reformation centre. Although the Maximum Security Prison, Kirikiri, Lagos presents a fairly better condition, but generally the condition paints a gloomy and inhuman picture. One then begins to wonder why a fellow human being should be subjected to such a degrading treatment irrespective of his/her offence. It is disheartening to know that this is the condition that the death row inmates are subjected to in the prisons. It is even worse to know that many of these inmates have been awaiting execution for a minimum of ten years under this same condition. To proceed to execute these people after this harrowing experience coupled with the dreadful suspense of awaiting execution for a long time would be very callous and extremely inhuman.

For better appraisals of Nigerian prisons situation and condition the paragraphs below outline the specific and actual situations in some of the prisons.

Ado Ekiti Prison

The Ado Ekiti Prison is situated in the city of Ado Ekiti in Ekiti State, South-West, Nigeria. The prison is a medium security prison with a population of about 326 inmates. Out of this number, forty-seven [47] inmates have been convicted; this includes forty-six [46] male and one [1] female. There are two hundred and seventy-three [273] male inmates on awaiting trial while six [6] females are on awaiting trial. There are no death row inmates in the prison. We were informed by the prison officials that once inmates are convicted and sentenced to death, they are usually transferred to either Ibara Prison in Abeokuta, Ogun State, South-West, Nigeria or Kirikiri Prison, Lagos State, South-West Nigeria both prisons being maximum security prisons. According to the prison officials, Ado Ekiti Prison does not have the facilities to accommodate death row inmates.

When the interns visited the prison, some inmates were seen cooking with a big pot on the fire in an area that appeared to be the prison kitchen. There

were prison wardens standing close to them supervising their activities. All the inmates wear the same uniform of blue shirts and short knickers.

Ibara Prison, Abeokuta

Ibara Prison is situated in the heart of Abeokuta town Ogun State precisely the State capital and has all categories of inmates ranging from awaiting trial to death row inmates. The prison is made up of very old and dilapidated structures, which have been in existence for many decades. The prison has a total population of six hundred and thirty-five [635] inmates, ninety-nine [99] of these inmates are on death row and only one of these death row inmates is a female. We were only able to interview twelve [12] of the inmates on our visits because of time constraint.

The entire environment of the prison is a small one and has limited facilities. There are no recreational facilities and skill acquisition centers. On enquiry, the inmates complained bitterly about their accommodation. At least, 6 inmates are made to occupy a small cell, which has no ventilation and poorly lit. The inmates also told the story of how they had great fears at night anytime there was total darkness. Feeding in the prison is a bad experience. Inmates are fed mainly with processed cassava and beans. Inmates are fed with rice only two days of the week, i.e. Wednesdays and Sundays. In this prison also a small room with an inscription on the door reading “Primary Health Care Centre” was found. The inmates said the prison has a medical facility where one of the inmates interviewed was on admission as at the time of the visit.

Ikoyi Prison

The prison is a medium security prison and is situated in the heart of Lagos State. There is lack of adequate funding for the prison to facilitate the provision of some necessary equipment. For instance, the copies of Notices of Appeal of the death row inmates in Oko Prison, Benin City, Edo State could not be obtained. This is because there were no photocopy machines in the prison to make photocopies. At Ibara Prison, Abeokuta, Ogun State, the prison officers went to Business Centres in the town to make photocopies on demand. Some of the death row inmates were convicted by the former military tribunals; consequently they cannot appeal against their judgment. This is because the decree that established these tribunals in Nigeria does not give right to people convicted by the military tribunals to appeal against the judgment. There is need for government to urgently come to the rescue of

these inmates who were convicted by the military tribunals. This could be done through setting up Committees on the Prerogative of Mercy, and granting amnesty to inmates who have stayed so long in detention.

There is need for the federal government to constantly organize training programs for prison officers in Nigeria. This will enlighten and educate them on the proper treatment to be given to the prison inmates and respect of their fundamental human rights and courtesy to other visitors to the prisons. This is because in some cases, the attitude of some of the prison officers was not accommodating. For instance, at Oko prison, Benin City Edo state, the officer who heads the Welfare Department of the prison denied us access to death row inmates after repeated visit.

Generally, there is lack of funds to prosecute the appeals of the indigent death row inmates and carry on with the cases of the awaiting trial inmates. The cost of prosecuting the appeals of the death row inmates is so exorbitant. This is coupled with the unnecessary delay of cases in the courts. Consequently, it may be difficult for any concerned non-governmental agency to take up all the cases because of the financial outlay.

Prisons and Jails

Prisons differ from jails. Jails are facilities operated by local authorities and used to confine adult criminal offenders who receive short-term sentences [in the United States, sentences of less than one year]. In addition, jails are used to temporarily house individuals awaiting trial, witnesses in protective custody, offenders charged with crimes in other jurisdictions, probation and parole violators, and juveniles awaiting transfer to juvenile facilities.

Prisons differ from jails in ways besides the duration of confinement. Prisons have a distinctive inmate culture and jargon, whereas most jail populations constantly change due to turnover among jail inmates. Thus, little opportunity exists for jail inmates to develop a culture that is perpetuated over time. Because prisons house long-term offenders, they frequently offer vocational and educational programs for inmate rehabilitation and self-improvement. Most jails do not have such programs. Jails also lack other inmate amenities that exist in prisons, such as exercise facilities, small stores, and physicians, counselors, and other professionals on staff who treat or assist inmates in diverse ways.

The majority of jails in the United States are small, consisting of a single building with several tiers of cells and cell blocks [horizontal groupings of

cells]. Prison facilities, by contrast, usually spread out over several acres, with high walls surrounding the perimeter. Prisons are also divided into a complex arrangement of custody levels, where more-dangerous inmates are separated from less dangerous ones. In most prisons, sophisticated equipment is used to track inmate movements and promote compliance with prison rules. Armed guards occupy strategic positions in towers in an overlapping security arrangement to deter prisoners from escape attempts. Prisons and most jails in Nigeria segregate male and female inmates and juveniles. However, some jails—known as lock-ups—consist of one or two large cells into which all arrested individuals are placed.

Purposes of Imprisonment

Imprisonment serves several universal functions, including the protection of society, the prevention of crime, retribution [revenge] against criminals, and the rehabilitation of inmates. Additional goals of imprisonment may include the assurance of justice based on a philosophy of just dessert [getting what one deserves] and the reintegration of inmates into the community following their sentences. Different countries place greater emphasis on one or more of these goals than others. For example, prisons in the Scandinavian countries stress rehabilitation and offender reintegration. Although prisons in Nigeria also include rehabilitation and reintegration programs, but penal philosophy emphasizes societal protection, crime deterrence, and just-desserts justice.

Differences among prison policies in various countries depend upon the society's experience with managing criminals, as well as its experiments with different ways of correcting and improving prisoner behavior. Some countries' programs foster changes among inmates better than others. Cultural differences also help explain why countries emphasize one imprisonment objective over others. For example, the prison system of Germany emphasizes strict discipline, reflecting a trait commonly ascribed to German culture. The administration of German prisons is military-like and rule-oriented. Consequently, inmates in German prisons experience a more highly regimented routine than inmates in most other prison systems in the world. For instance, until recently German prisons did not permit inmates any visitors. [What is the situation in Nigeria??]

Societal Protection and Crime Deterrence

Locking up dangerous criminals or persistent nonviolent offenders means that society will be protected from them for the duration of their sentences. Thus, imprisoning criminals temporarily incapacitates them. Additionally,

people expect that prisons will cause inmates to regret their criminal acts, and that when most prisoners are released they will be deterred from committing future crimes. Incarceration of criminals may also deter other individuals from engaging in criminal behavior due to the fear of punishment.

However, it is not possible to lock up all offenders who deserve to be incarcerated. Some criminals are never captured. Due to space and budget constraints, even those who are caught cannot all be imprisoned. Experts disagree about the relationship between the amount of people imprisoned and the amount of crime that occurs. Changes in the number of people imprisoned may reflect actual fluctuations in the amount of crime being committed. However, both figures may also be influenced by independent factors. To some degree, rates of imprisonment indicate how much space is available to accommodate offenders, rather than how much crime is being committed. The United States has one of the world's highest crime rates as well as the world's highest rate of incarceration. In 2004 the United States incarcerated 724 out of every 100,000 people—25 percent higher than any other nation.

At the present rate of incarceration, more than five times the number of existing prisons [and those currently under construction] would be required to incarcerate all those convicted of crimes in the United States. Under a process known as *selective incapacitation*, the criminal justice system attempts to decide which offenders are most in need of incarceration. Legal factors—such as prior record, type of crime committed, and whether the crime involved injuries or death to victims—help to determine the appropriate sentence length or other punishment. However, different state and federal laws and practices create sentencing disparities. For example, some nonviolent and unthreatening offenders are incarcerated, whereas some dangerous offenders are placed on probation.

Furthermore, experts disagree about whether imprisoning criminals actually prevents further crime. Some critics charge that Nigerian prisons simply warehouse violence—meaning that Nigeria prison inmates are confined and incapacitated in large numbers, with little or no effort made to rehabilitate them. Critics have labeled the result of this process *turnstile justice*, referring to the fact that most inmates are chronic and persistent offenders and return to prison following conviction for new crimes.

Retribution, Rehabilitation and Reintegration

Punishing those who violate society's rules satisfies a desire for vengeance or retribution. Conventional punishment for criminal conduct includes confining inmates in cells, restricting their freedom, and obligating them to follow rigid behavioral codes. People consider imprisonment an appropriate form of punishment for committing crimes, and believe that convicted offenders should receive their just desserts in accordance with societal rules. In Nigeria, the guarantee of due process requires that governments imprison offenders only in accordance with the rule of law [*See Due Process of Law*].

Prisons attempt to rehabilitate inmates so they will avoid future criminal behavior. Most prisons have vocational and educational programs, psychological counselors, and an array of services available to assist inmates to improve their skills, education, and self-concept. Most prisons provide programs designed to reintegrate the prisoner into the community. In work-release and study-release programs, prisoners may participate in work or educational activities outside of prison. As prisoners near their parole or release dates, some are permitted unescorted leaves or furloughs to visit with their families on weekends. This involvement with the community may help inmates readjust to society after they have been released.

The social structure of prisons and prison practices can actually impede rehabilitation and reintegration. For example, inmates acquire attitudes and knowledge from other inmates that may strengthen their desire to engage in criminal behavior and improve their criminal skills. The isolation of inmates from society also hinders attempts to rehabilitate them. Prison environments are unique and distinct from other populations. Nigeria prisons can be described as *total institutions*—that is, self-contained, self-sufficient social systems that are unique and distinct. Isolated within a total institution, inmates are cut off from the rights and responsibilities of society. This lack of connection with societal norms can prevent successful reintegration into society when inmates are released.

Although prisoners must abide by institutional rules, they also establish their own rules for themselves. Thus, a culture within a culture, or *prison subculture*, exists. This subculture has its own status structure and hierarchy of authority. In many prisons, inmates fear the informal prison subculture and its reprisals for rule violations more than formal administrative rules and punishments. If the prison subculture rejects the goals of the institution [such as rehabilitation], inmates are less likely to accept those goals.

TABLE 3: TOTAL NUMBER OF PRISONS, INMATE POPULATION AND CAPACITY BY STATE 2001-2005

STATES	No of Prisons	2001		2002		2003		2005	
		Total	capacity	Total	Capacity	Total	capacity	Total	Capacity
Abia	3	774	1,080	802	1,080	1,005	1,080	1,065	1,080
Adamawa	17	1,330	2,120	1,615	1,760	1,637	1,760	1,843	1,760
Akwa Ibom	5	1,341	1,626	1,514	1,566	1,431	1,566	1,285	1,566
Anambra	2	1,097	526	1,034	424	1,048	424	920	424
Bauchi	13	951	1,037	923	997	832	997	1,008	997
Bayelsa	--	--	--	--	--	--	--	--	--
Benue	4	849	1,527	988	1,279	860	1,279	777	1,279
Borno	16	1,250	2,970	1,216	2,000	1,247	2,000	1,157	2,000
Cross River	6	805	1,226	715	1,076	804	1,076	767	1,076
Delta	5	1,465	921	1,370	771	1,268	771	1,175	771
Ebonyi	2	557	500	469	480	540	480	77	480
Edo	6	1,514	1,310	1,372	1,190	1,366	1,190	1,471	1,190
Ekiti	1	385	200	398	200	400	200	272	200
Enugu	4	1,179	1,024	1,229	1,024	1,159	1,024	1,197	1,024
Gombe	5	605	559	664	458	593	458	719	458
Imo	3	1,265	1,152	1,260	1,017	1,275	1,017	1,363	1,017
Jigawa	11	851	1,320	601	830	886	830	626	830
Kaduna	16	2,130	1,979	2,354	1,979	2,118	1,979	2,363	1,979

Kano	10	1,558	1,590	1,661	1,540	1,682	1,540	1,699	1,540
Katsina	11	841	748	825	588	817	588	1,019	588
Kebbi	10	1,026	940	1,042	1,120	927	1,120	963	1,120
Kogi	6	514	439	448	365	452	365	420	365
Kwara	2	300	154	269	316	297	316	347	316
Lagos	5	5,158	2,795	5,060	2,795	4,780	2,795	4,077	2,795
Nassarawa	4	787	509	739	509	698	509	568	509
Niger	8	987	618	1,153	474	966	474	951	474
Ogun	5	854	1,106	1,128	1,028	935	1,028	970	1,028
Ondo	4	674	485	748	482	680	482	989	482
Osun	2	431	586	489	640	521	640	475	640
Oyo	3	751	496	666	496	681	496	731	496
Plateau	6	1,063	1,840	1,103	1,670	1,068	1,670	1,060	1,670
Rivers	4	1,966	1,312	2,156	1,312	2,257	1,312	2,536	1,312
Sokoto	5	390	786	929	766	951	766	1,058	766
Taraba	12	988	1,400	997	1,810	967	1,810	969	1,810
Yobe	9	692	713	747	863	809	863	661	863
Zamfara	6	543	1,744	542	1,144	684	1,144	699	1,144
FCT	2	663	330	822	330	730	330	784	330
Total	233	38,534	38,588	40,048	35,299	39,371	36,379	39,061	36,379

Source: Nigerian Prison Service

Dispensation of Justice

The Nigeria prison dispensation of justice is fraught with so many problems. Among the myriad of problems it faces as shown in Table 3 is over congestion of its prisons. The pain and suffering being experienced by detainees inside Nigerian prisons are untold and without measure. It is now at a level that when a Judge is sending an accused person to prison custody pending his trial, is like indirectly sentencing him to death. Looking carefully at Table 3, it can be seen that the most congested prisons in Nigeria are in Anambra, Lagos, Delta, Edo, Enugu, Kaduna, Katsina, Rivers States and FCT. Just three examples will suffice to show the level of congestion in Nigeria Prisons. For instance in Anambra State in 2001 the total number of inmates was 1,097 in prisons that have a total capacity for 526 inmates, in 2005 the capacity of the prisons was 424 but there were 920 inmates. The congestion here can make life terribly unbearable for the inmates; in this condition their health will be highly jeopardized. In the Federal Capital Territory [FCT] the total capacity of prisons was 330 in 2001 but there were 663 inmates in them, Lagos prisons have a total capacity of 2,795 whereas there were 5,158 inmates in 2001. Even though the congestion in Lagos prisons was slightly reduced in 2005 the level was still high as there were 4,077 inmates in prisons that have a total capacity of 2795. The congestion of the prisons in Nigeria calls for serious concern. It is very quite unsound that prisoners experience a life of hell, full of denials, typified by overcrowded cells, poor feeding, poor healthcare and maltreatment by prison officers. No wonder then critics and advocates of prisons agree that the institution is generally an inefficient and ineffective means of treating and rehabilitating offenders, especially when it is used as an all-purpose repressive quarantine system.

The inevitable agonies and mental torture the detainee is going to face as a result of the terrible condition of the prisons have rubbished the presumption of his innocence before guilt and will surely reduce his life span if he is lucky to ever come out alive. The pitiable aspect of it is that many Nigerian detainees find themselves in those dingy dungeons called prison custody for offences they may know nothing about but because they were at a wrong place at a wrong time. What do you say of somebody who was charged for wandering and ended up spending two years in prison custody for an offence that is either not known to law or which may attract a maximum term of three months in prison if found guilty? The problem of prison congestion in Nigeria appears to be intractable because it seems the leaders like the way the

prisons are. In Nigeria development has been very slow because most of the time, attention tends to be focused on solutions to societal problems without first looking at the cause[s] of those problems.

The congestion in Nigerian prisons can be pigeon-holed in undue delay in criminal trial: To be fair to the poor awaiting trial detainees, their cases ought to be disposed off in good time but the opposite is the case in Nigeria [See Table 4]. This is because the judges/magistrates write in long hand, some of them sometime may not sit on time may be as a result of personal or family problem. The prosecution of criminal cases in the Magistrate Courts is done mostly by police officers. Most of the time, they don't have their witnesses in court and as such will ask for adjournment. Where they need advice from the Director of Public Prosecution, it may take months or even years to obtain because of the bureaucratic bottleneck in the administration of justice and general administration in Nigeria.

TABLE 4: PRISON ADMISSION BY TERMS OF IMPRISONMENT

TERMS OF IMPRISONMENT	Remand and awaiting Trial	Short Terms	Long Terms	Condemned	Detainees	Others	Total
1996	120,140	30,750	42,125	100	12,035	40,000	245,150
1997	135,701	29,147	30,600	75	13,385	26,996	235,904
1998	125,167	27,185	29,147	61	9,500	26,040	217,100
1999	110,850	23,417	25,500	89	10,900	24,408	195,164
2000	105,750	24,607	28,790	75	5,132	16,188	180,542
2001	83,714	34,917	21,850	95	9,760	7,806	158,142
2002	81,831	39,606	20,490	136	8,575	6,000	156,638
2003	71,005	28,095	23,732	89	9,100	5,770	137,791
2004	75,123	24,750	30,814	20	3,817	8,616	143,140
2005	84,051	26,171	27,104	36	6,025	6,035	149,422
Total	993,332	288,645	280,152	776	88229	167859	1,818,993

SOURCE: Nigerian Prison Service

From table 4 the number of inmates awaiting trial every year from 1997-2005 have been more than half of the total number of people imprisoned. Though Nigeria has been experiencing a gradual fall in the percentage, for instance in 1997 the percentage of people awaiting trial was 57.7% in 1998 it was 57.5% and in 2005 it was 56.3% nevertheless there were some variations in-between 1999 and 2004.

Surprisingly, forty nine years after independence, Nigeria still applies most of the laws inherited from Britain. In fact, it is embarrassing too that the names of some of the streets in Britain are still found in some of our codes and laws. Those laws are so old that they are no longer useful in this age. Apart from this, there is inadequate number of Judges and Magistrates to try cases. In developed countries and where federalism is truly practiced, all the tiers of government, that is, federal, state and local government have the right to appoint Judges and Magistrates to try cases.

In fact, most of the cases in the United States are tried by County/District Courts. In Nigeria, the local government can only appoint Customary Court Judges who are all laymen and cannot try criminal cases. Even at the federal and state levels, it is the same Judge or Magistrate that handles both criminal and civil cases. Vehicles conveying awaiting trial detainees to Courts are not enough. It is a breach of detainee's right to fair hearing to adjourn his case behind him because there is no vehicle to take him from prison custody to court to answer to his charge or the only available vehicle breaks down. In addition there is the constant strike by the Judiciary workers which can keep detainees in custody for many months without calling their case at all.

Since 2000, a number of Nigerian presidential commissions and working groups have been established to study the justice, police and prison sectors. All concluded that urgent reforms in the police and justice sector were needed to address the situation in Nigeria's prisons, where inmates await trial for up to five or even ten years in extremely overcrowded cells. The government has promised time after time to implement the recommendations by the commissions and working groups, but little has been done to reform the justice sector and many of the recommendations are yet to be implemented. One can not but agree with Alemika and Alemika view that the position of prison in criminal justice administration in Nigeria today can best be regarded as an endangered sub-sector, occupying an inferior position in government priorities.

In July 2007 Amnesty International visited ten Nigerian prisons in the Federal Capital Territory and Enugu, Kano and Lagos States and concluded that the recommendations of all those committees and commissions and the promises of the government have not changed Nigeria's prisons: they are still overcrowded, prison authorities do not have enough funds to improve the living conditions, four out of five inmates are awaiting trial, approximately 80 percent of the awaiting trial inmates are indigent and cannot afford a lawyer and they wait for years without being tried. The case of an inmate illustrates the situation of many awaiting trials:

After almost forty days in police and State CID detention, Sunday (24) was first brought before a magistrate on 27 December 1999. He was at that time seventeen years old, a minor, and arrested on suspicion of culpable homicide. The magistrate did not have the jurisdiction to handle his case and remanded him to prison, pending the police investigation. At the time of the Amnesty International visit, seven years and eight months had passed and he was still awaiting trial. The last time he was in court was in September 2006 - his case was adjourned once more. The magistrate court continued to use the holding charge to keep him imprisoned. Sunday, who is 25 now, said, "I have no lawyer. Nothing was offered to me." He denies that he had anything to do with the murder case. According to him, "There was a fight in my village between two gangs and one gang member was killed. Two days later, the police came and arrested me and eleven other persons."

People's Right to liberty

Everyone has the right to liberty. Article 35 of the Nigerian constitution confirms this right. According to the constitution a person can be imprisoned "in execution of the sentence or order of a court," "upon reasonable suspicion of his having committed a criminal offence" or "to prevent him committing a criminal offence."

In practice, most suspects of crimes wait for their trial in pre-trial detention, even if the accused person poses little or no risk to society; and even if the crime is not considered a serious one. As a general rule, people awaiting trial should not be remanded to prison. International standards do recognize specific circumstances under which someone could await trial in prison,

either to prevent the suspect from fleeing, interfering with witnesses, or when the suspect poses a serious risk. The International Covenant on Civil and Political Rights [ICCPR] states that deciding to release a suspect could depend on certain guarantees.

Due process is often not followed in Nigeria, many awaiting trial inmates explained that it is difficult to meet the conditions set by the courts and that although they do go to court; their case is adjourned time after time. According to one inmate, "I have been here three years. No progress, no bail. They just keep adjourning. I cannot see what is happening in my case." Another inmate cannot afford to pay the bail. He said: "The bail is too high; the less privileged stay in prison." According to an audit of the National Working Group on Prison Reforms and Decongestion, around 15 percent of the awaiting trial inmates remain in prison because they can not meet the demand for their bail [See Table 4].

Holding Charge

Over the years, the Nigerian police have systematically sent suspects of capital offences, such as armed robbers or murderers, to a Magistrate Court instead of following the statutory procedure of sending the case to the prosecutor of the Ministry of Justice for a decision whether or not to take the case to the High Court.

Magistrate Courts usually do not refer the case to the High Court, but remand the suspects to prison pending police investigation. In many cases this takes several years. This practice has been declared unconstitutional and is often referred to as the main reason for the high level of awaiting trial detainees resulting in overcrowding of detentions and prisons in Nigeria. It deprives the suspects of their right to challenge the lawfulness of their detention. Interviews with inmates reveal that this practice is widely used. There was a case of a young man suspected of murder who was a minor when he was arrested and remanded to prison by a Magistrate Court. He had not been to court for almost six years. According to the prison audit, almost 40 percent of inmates awaiting trial were remanded to prison on a holding charge.

Torture

Many inmates interviewed gave consistent reports of having been tortured in order to force them to confess [Amnesty International]. In some cases, injuries on inmates were viewed to confirm the accounts. Not only men

claimed this, women also reported that they had been tortured and in some cases raped by police officers while in police custody.

A male inmate who had been tortured in police custody said, "The police used rubber to tie my hands and arms. They said I had committed robbery." His palms were blistered and peeling and his arms were crisscrossed with dark lines as a result of the wounds. His left hand hung limp. He was not treated for his injuries. "Many inmates arrive with injuries and wounds they got from arrest," a prison director explained. Lawyers emphasized that by the time suspects go to court, their injuries have often become marks and "that makes it hard to prove it was torture."

The use of torture by the police in order to extract a confession should always be questioned in court. If a suspect made a statement under pressure, threat or torture, it must not be used as evidence in court. The prosecutor has a responsibility to prove that the statement was made voluntarily. Section 28 of the Evidence Act, Laws of the Federal Republic of Nigeria is clear on the prohibition of using information extracted from the suspect by means of threats, promises or force: "A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the court to have been caused by any inducement, threat or promise..."

Centralization of the Management of Nigerian Prisons

The management of the Nigerian prisons is placed under the exclusive legislative list and therefore being controlled solely by the federal government. Most of the criminal cases emanate and are tried in the states. The states are mostly the one sending accused persons to prison or prison custody. They are the one that have the statistics or the number of people they send to jail or prison custody, so, centralizing the management of the prisons is a big problem. In the developed countries, prison facilities are built and managed by the federal, state and local governments. In fact, there are some prison facilities being managed privately in the United States.

Even though there are about 227 prisons in Nigeria which accommodate over 40,000 inmates. The number of prisons is still grossly inadequate because if the facilities are adequate in number and in size, there will be no over congestion. Prison alternatives like probation or suspended sentence, plea-bargaining, community service, parole and etc. are absent in Nigerian Criminal Justice System as regards misdemeanor or non-violent offences. Here, very serious offences like murder, armed robbery and treason are still

out of consideration. Even in those very serious offences including manslaughter, a convict who was sentenced to life or a number of years imprisonment may be entitled to parole by being of good behavior. Surprisingly enough it may be difficult to introduce the above stated diversionary programs in Nigeria because the level of development is low.

Lack of basic and non-functional structures like I.D. card, I.T/Connectivity, electricity, not knowing the population and accountability for assets surrendered are some of the challenges the programs will face. The programs may also not work if there is no effective monitoring, if the society does not value the dignity of the human person or if there is apprehension that the programs if given a chance can be compromised by the rich. Plea-bargaining will be abused in a corrupt society.

Near Absence of *Pro-Bono* Services by Lawyers

If you are facing a fresh charge in a Court in Nigeria, you can both plead guilty and go straight to serve prison sentence or plead not guilty and go to prison custody if you are poor and having no body to put you on bail. The two choices facing the poor here do not relieve the prison of heavy traffic since they both will lead him there and so, he needs a lawyer to assist him. In America, an active or practicing attorney has a number of pro-bono cases he must do in a year and which he must report to the Bar Association. Pro-bono service by a lawyer is designed to assist an indigent litigant or accused person to pursue his case so that he is not on his own. This is not readily available in Nigeria although it is now being proposed by the Human Right Institute of the Nigerian Bar Association. The Legal Aid Council that would have been doing this has not been effective because of poor logistics and inadequate human resources. Very little help or none at all is coming the way of poor accused persons in Nigeria, they are mostly on their own and so, will continue to congest the prisons.

Action Point

In a nutshell, the reformation of Criminal Justice System that will ensure faster judicial procedure, decentralizing the prison system from exclusive to concurrent legislative list, deterrence, societal positive mind-set to ex-convicts, victim's interest, corruption free society, free legal services by lawyers to assist the poor, good I.T/Connectivity, building of more prisons and renovating the existing ones, enhancing the welfare of prisoners/detainees, respecting the rights, privileges and dignity of

prisoners/detainees, improving the quality of management of the prison and judicial machineries would be required to achieve prison decongestion in Nigeria.

Conclusion

This report presents a picture of what the Nigerian prison system and its administration look like. It is loathsome and disheartening to know that fellow human beings are subjected to inhumane treatment. Every prisoner regardless of his or her offence deserves a better treatment in whatever prison environment he or she finds himself or herself. Enough of seeing the prisons as mere warehouse for the criminal and as instrument for administering cruelty and settling scores with subversive elements. It is time the Nigerian government faces up to its responsibilities for those in its prisons. The prisoners deserve humane and just treatment in order to reform, remold and reintegrate them back to the society.

Improving the situation of inmates in the Nigerian prisons requires an effective and functioning judiciary. Without this, the practice of keeping large numbers of inmates awaiting trial in Nigerian prisons for extended periods of time will continue. The judiciary should endeavor to follow due process in accordance with Nigeria's national, regional and international obligations of fair trial. It is hoped that this paper will provoke the necessary actions from the concerned authorities to salvage the very bad conditions of Nigerian prisons and the inmates there in.

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