



PRISON REFORM IN NIGERIA

Mani Ojeah

INTRODUCTION

The abysmal state of prisons nationwide has been a decades-spanning matter of great concern. These correctional centers tell tales of dilapidated and overcrowded cells, terrible sleeping conditions, barely edible meals lacking in essential nutrients and an absence of clean flowing water. For those without a personal tale to tell, a consideration of the anecdotes of former inmates will unveil the extent of dysfunction evident in these centers. The story of Jones Abiri, for instance, rings true in this regard. A journalist and aspiring legal practitioner at the time of his arrest in 2016, it is reported that Mr. Abiri was taken into custody by State Security Service (SSS) operatives without producing an arrest warrant, let alone informing him of his rights, as stipulated by section 6 (1), (2) of the Administration of Criminal Justice Act (ACJA) 2015 . It was later disclosed that he had been arrested on suspicions of participation in terrorism, sabotage and cybercrime activities. Following pain-filled outcries from his close relations, Mr. Abiri's release was eventually secured about two years later. Sadly, the Jones Abiri presented to his family upon release paled in comparison to the man they last saw, approximately two years earlier, before his arrest. Mr. Abiri had become irreconcilably leaner and shabby looking, which is unsurprising, considering that he had undergone what must have been the worst ordeal of his life.

While disheartening, Mr. Abiri's story is a little drop in the mighty ocean of dehumanizing experiences and deplorable conditions experienced by inmates who have become conditioned to believe that human rights infringement is indeed the norm as far as it concerns life within the four walls of a prison cell.

“Our little cell rooms measured about seven feet by eight feet. We would bathe, sleep, eat, defecate, piss, play and pray in there. For us, it was our entire world” are the words of Arthur Judah Angel, a former inmate of the Enugu Prison.

What factors are responsible for the deplorable conditions inherent in these spaces?

THE INCEPTION OF THE PROBLEM

-Overcrowded Cells

The dreadful living conditions of inmates have been attributed to the paucity of infrastructures, policies, workshops and corrupt systems in Nigeria. From the findings of the United Nations Office on Drugs and Crime, it is clear that, “prison conditions in many countries do not meet the minimum requirements set out in the UN Standard Minimum Rules for the Treatment of Prisoners, as well as other international and regional standards...conditions are particularly poor in prisons which are overcrowded.”

A brief dive into history reveals that many prisons in Nigeria were built in the colonial era, with piecemeal and inconsistent reconstruction and reformation efforts ever since. In those times, cells were built to accommodate only about fifty inmates. These days, we find that several hundred inmates accommodate a single cell. The Port Harcourt prison for instance, built to accommodate 800 inmates, had over 4, 000 inmates occupying its cells as at August 2019. Similarly, Kirikiri Maximum Prisons, with the capacity to hold only 956 inmates held about 2, 600 also as at August 2019. It becomes of little wonder then, why these prisons are continuously described as “living hell.” With the centers already at full capacity, what results is a rampant shortage of bed spaces (if any at all) and unsanitary prison cells with poor air and ventilation.

Allegations of widespread corrupt practices among prison officials including the diversion of funds mean that many inmates are given the shorter end of the stick with lesser food portions to go round. This factor was said to contribute to the death of numerous prison inmates while in detention, according to an Annual Prison Report published as far back as the year 1984. Of equal relevance is the 1999 report by Human Rights Practice Commission for Prisoner’s Dignity which estimated that at least one inmate dies per day in the Kirikiri Maximum Prisons in Lagos State. The report states that dead inmates are buried in graves within the prison premises, without informing the family members of the deceased.

In 1999, a Presidential Taskforce on Prison Reforms and Decongestion yielded the release of around 8, 000 inmates. However, due to the absence of long-term planning measures geared towards the prevention of a reoccurrence, prisons began to become overcrowded again shortly after. In a statement released in 2005 by The Presidential Commission on Reform of the

Administration of Justice in Nigeria, Proposals for Reform of the Administration of Justice in Nigeria, the Commission noted: “Finding a sustainable and lasting solution to prison overcrowding should go hand in hand with the administrative and judicial release of inmates who do not have to be in prison. It cannot be fair or in compliance with our constitutional human rights guarantees and our international human rights... this is more so given the overcrowded and unsanitary situation of most of our prisons and its damaging effect on the physical and mental health of inmates.”

The establishment of several taskforces and committees indicates that the government is not unaware of the many issues that beset the system; it is rather unfortunate that real evidence of the implementation of proposed initiatives remains to be seen. To provide further context, other committees established include The Inter-Ministerial Summit on the State of Remand Inmates in Nigeria’s Prisons, Presidential Committee on Prison Reform and Rehabilitation (formed in 2006) and Committee on the Harmonization of Reports of Presidential Committees Working on Justice Sector Reform and very recently, the Presidential Committee on Correctional Service Reform and Decongestion (PCCSRD).

It has been argued that a general decongestion of prisons is not the particular solution to overcrowded cells. Rather, it is the fact that there are overwhelming numbers of inmates awaiting trial that ought to be given due attention. According to statistics provided by the Nigerian Correctional Service, as at 26th October 2020, the total number of convicted prisoners nationwide was 16, 662(26%) while the total number of prisoners awaiting trial was 48, 155 (74%). Based on the figures listed, it is easy to observe why an argument in this direction might indeed hold some truth.

The Criminal Justice System

The Prison system undoubtedly forms an important component of the justice system. In spite of its incontrovertible importance, prisons and the prisoners that inhabit them are seen to be at the very end of the justice system and receive minimal attention as a result. Some schools of thought suggest that justice as a concept is linked with man-made or positive laws; the proper administration of which is rendered through law enforcement officers who “apportion to every man his due or what he deserves as the law is applied to real-life cases.” Taking it further, Imera (2005) has proposed that access to justice must be regarded as an essential part of any criminal

justice system. The notions of both scholars are widely accepted as the general standard for any justice system that claims to be anchored on the twin pillars of fairness and justice. It goes without saying that every society, regardless of its extent of modernity, grapples with criminal elements perpetrated by offenders of the law. In the bid to ensure that the society is kept running peacefully with the right to life and property of citizens not only guaranteed but also protected, there is the need to ensure that criminal activities against social norms are monitored in order to take preventive and precautionary actions. In the circumstance where a criminal act has already been committed against the laws of the land, it becomes necessary to take corrective and counteractive action proportionate to the level of crime committed. According to Babalola (2014), criminal law in particular must intervene to do justice to all and sundry involved- the victim, [the alleged offender] and of course, the society at large. Similarly, Justice Oputa in commenting on the concept of justice in the case of *Josiah v. State*, stated as follows: “Justice is not a one-way traffic. It is not justice for the appellant only. Justice is not even only a two-way traffic. It is really a three-way traffic justice for the appellant accused of a heinous crime of murder; justice for the victim, the murdered man whose blood is crying to Heaven for vengeance and finally justice for the society at large, the society whose social norms and values has been desecrated and broken by the criminal act complained of.”

Unfortunately, the apparent reality of Nigeria’s criminal justice system is far from ideal. It seems to be largely ignored that any suspect in a criminal matter (who becomes the accused when charged with an offence) is bestowed with a plethora of rights. On the contrary, such individuals are, in the first instance, perceived as criminals at the point of arrest- so that what unfolds from that point onwards is a flagrant disregard of the constitutional right to be presumed innocent until proved guilty as contained in section 36(5) of the Constitution of the Federal Republic of Nigeria. In corroborating this point, Okogbule (2004) notes that from the point of arrest to investigation, arraignment in court, case hearing, verdict and execution of court verdict, the Nigerian Criminal Justice System is tainted.

Established on the foundation of the fundamental legislations in Nigeria, the prison system was set up in accordance with the Penal Code/Criminal Procedure Code, Cap 81 Laws of the Federation of Nigeria 1990; the Criminal Code/Criminal Procedure Act Cap 80 Laws of the Federation of Nigeria and the Sharia Penal Legislation as applicable in Northern states. Ideally, prisons are set

up to identify the unique challenges of each inmate that led to the commission of crime in the first place (factors such as poverty, lack of opportunities, criminal tendencies by association, mental state, etc); and devise tailor-made solutions to address these challenges. To achieve this purpose, a structural framework of activities must be devised which accommodates activities such as recreational sports, religious services, educational developmental projects and skill acquisition programs. This is predicated on the need to ensure that inmates, upon release, are able to reintegrate seamlessly into the society which is certain to have developed far beyond the expectations and skill level of inmates at the point of release. And in circumstances where they are unable to secure employment opportunities due to the stigma of being referred to as an “ex-convict” they are able to, perhaps with the support of government agencies and NGOs, establish functional businesses of their own, adopting the skills and knowledge gained while incarcerated. Yet, the overwhelming reality in some instances is that inmates are mostly locked in their cells, without requisite attention paid to their personal development. The reality of the situation can be portrayed using the rehabilitation center once located beside the Kirikiri Medium Security Prison where vocational skills such as carpentry were taught. As at the time of writing, the center appears to no longer be in a functioning state. This can imply that upon release, without the economic means to survive or familial support to lean on, former inmates are likely to return to the former lifestyles that they are most familiar with. In some cases, the lack of appropriate educational and vocational training stems from a scarcity of financial resources to invest in training and development programs for inmates. In other cases, it is the inability to view prisons as a corrective center- and not only as a punitive center where brutish labour is meted out to teach offenders hard lessons. It is equally noteworthy to mention that many inmates, if ever liberated, leave the prisons significantly more hardened than they were at the time of imprisonment. In this sense, the dismal results of prison sentences ultimately defeat the intended goal of reformation and rehabilitation of offenders. Stephannie Adinde captures the situation best in a recent article published by Stears Nigeria. She says: “the present prisoners of today are potential criminals of tomorrow.” While another scholar puts it differently, a similar message runs through: “Nigeria’s prisons have become breeding grounds for criminals instead of being corrective homes.”

Unsurprisingly, Oshodi (2010) comments that Nigerian prisons are the worst in the world; While clear evidence of this is yet to be established, what remains unarguable is that the current standards obtainable are a far cry from the requirements of international standards.

The Police Force, another essential element of the Criminal Justice System is not left out of the equation. Recent End SARS protests in the country have opened the Pandora box of the ills of the police system. In some cases, friends and relatives of suspects are arrested in lieu of a suspect that has absconded. In the hope of baiting said suspect, his/her relatives are taken into custody with absolute disregard of the requirement no person should be arrested in lieu of another. See section 7 of the Administration of Criminal Justice Act 2015.

According to research undertaken and released by Amnesty International, many inmates are unable to afford the services of a lawyer. Although the government provides access to pro bono lawyers (for example, through the Office of the Public Defender, an agency of the Lagos State Government and the Legal Aid Council at the federal level) it is clear that the proportion of available lawyers compared to that of inmates awaiting trial is underwhelming.

The overload of cases in conjunction with cumbersome judicial processes also contributes to the dismal numbers of inmates awaiting trial. These factors jointly manifest in the inordinate delays experienced in concluding the justice process and in turn, lead to the filling of prison cells with an influx of inmates awaiting trial. It is regrettable to note that some prisoners remain oblivious to the status of their matters in court. And for those who make any headway, bail conditions are set so high, that they are left with only one option: to continue to endure the harsh conditions of a prison cell. Many inmates awaiting trial go on to spend even more years than would be applicable if their matter had in fact been heard and they had been sentenced following a guilty verdict. If they are lucky, the incumbent government of their state may decide to grant release to prisoners who have spent a certain number of years incarcerated based on a prerogative of mercy.

The recent jail break in Benin City which made news rounds showcased many of the absconding prisoners stating that they had been imprisoned between seven to nine years while awaiting trial for various offences.

What then is the solution to this cankerworm eating deep into the fabric of criminal justice?

WHAT IS PRISON REFORM?

Prison Reform generally encompasses many layers; as such, a single, universally-acceptable definition is largely difficult to ascertain. Nonetheless, Joseph P. Byers in his article offers a

convincing description: “Prison Reform to most of us is something that concerns the improvement of our penal and correctional institutions. It is this, to be sure, but it is much more. It embraces the criminal, who he is, what he is, why he is. It covers the question of our laws and their enforcement, and penalties and their adjustment to the offender. It goes even further than this; for the final object of Prison Reform is to prevent crime, stop the production of criminals, and abolish prisons.” The clamor for Prison Reform has been ongoing for centuries. In fact, Prison Reform groups were operational in the United States as far back as 1787. One of the foremost of such groups- called Philadelphia Society for Alleviating the Miseries of Public Prisons - was formed in that year. Today, many such groups such as the Prisoners Rehabilitation and Welfare Action (PRAWA) are fully operational in Nigeria, doing great work and evoking change in their respective rights. The United Nations equally has a number of legislative instruments significant to prison reform- a few of which are binding on Nigeria, including: Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights and The Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

HOW CRUCIAL IS PRISON REFORM?

Given the many ways in which they interrelate, the need for prison reform is as pressing as the need to reform the Nigerian Criminal Justice System. While the United Nations Office on Drugs and Crime proposes that the human rights argument is central to the need to promote reforms, it further stresses that this argument stands insufficient in the context of countries with “scarce human and financial resources.” It is believed that the urgent need for prison reform stretches to encompass the families of the imprisoned populace as well as other economic factors.

It is sometimes the case that the only bread-winner of an already impoverished family is imprisoned. Where this happens, the family is forced to not only re-adjust to a lower standard of living, but it also becomes inevitable that it must take on new responsibilities and expenses that will include securing the services of a lawyer, preparing meals to take on visitation to the imprisoned as well as transport costs to and from the prison. In more developed countries, mechanisms have been put in place to intervene and provide upkeep allowances for such family members. Unfortunately, Nigeria is yet to attain that level of development. As such, there is a likelihood that the family might remain in poverty, without the aid of well wishers or extended family members who are able to assist in one way or another. Prison reform therefore becomes

crucial in this regard to ensure that multiple means through which inmates can take on income-yielding engagements are developed and offered to inmates in custody.

The Social Implications of imprisonment presents another striking argument for prison reform. The family is an important unit of the society. It is typically the first environment in which relationships are intimately formed before contact with the external world. Every inmate, regardless of the nature of their crime, would in a prevalent number of cases have a place that they call home and a group of people they regard as family. When sentenced, there is a potential for these familial ties to be cut. It is not uncommon to hear of cases where some inmates are deprived of contact with their family members. Elsewhere, a bribe is required to be given in order for prison visits to be completed. Under an ideal prison system, such ills are non-existent. Family bonds can still be maintained with children able to visit a parent who is in custody for example. This can be observed from the practice of more developed countries such as the United States where children are permitted to visit prisons alongside a legal guardian. In Nigeria, while such visits are not expressly prohibited, the unspoken rule seems to be that “prison is not a place for children.” And the reason for this is not difficult to ascertain given the horrible conditions which prisoners face. It therefore becomes a dangerous mission to take children, as impressionable as they are, for visits. However, if prisons are built with family visitation in mind and contact is permitted to be made, there is a chance that familial relations can be maintained. This way, a father, fresh out of prison, is not a stranger to his child upon release.

THE NIGERIAN PRISON SERVICE ACT 2019

On the 14th of August 2019, President Muhammadu Buhari signed the *Nigerian Prison Service* Bill into law. Hailed as a crucial component of his administration’s milestones, the law, amongst other reforms, rechristens the Nigerian Prison Service as *Nigerian Correctional Service (NCS)*. In a similar vein, the body of law is intended to place greater emphasis on the welfare and psychological wellness of inmates at correctional centers nationwide. As specifically stated in the Act itself, the law intends to “ensure compliance with international human rights standards and good correctional practices; enhance the focus on corrections and promotion of reformation, rehabilitation and reintegration of offenders.”¹ In spite of this, many still question its

¹ Section 2 (1) (a), (c)

appropriateness and effectiveness, with a large number citing the famous words of Dee Hock, “substance is enduring, form is ephemeral.” In essence, it is not enough to merely change the name or form of a thing. If the intricate issues fail to be addressed inside-out, the old challenges will resurface, albeit in new forms. In addition, the implementation of the lofty reforms presented in the novel Act will require huge fiscal investments by the government as well as the thorough training and redirection of the minds of prison officials to ensure that the human rights of prisoners continue to be respected at all times. The question remains if the government of the day is willing to commit fully to these implementations.

RECOMMENDATIONS FOR REFORM

It is often said that the journey of a thousand miles begins with a single step. While the efforts of past and current administrations to curb the pressing issues are duly acknowledged, there is still so much that can be done. It is with this in mind that the author wishes to propose the following recommendations that may prove useful in reforming prisons and elevating them to standards accordant with constitutional guarantees and international human rights provisions.

1. Sensitize the public
2. Give opportunity to sue when released
3. It is advised that the government of the day continues to take the crucial steps necessary to kick start the implementation of provisions of the Nigerian Prison Service Act 2019. In particular, urgent attention needs to be paid to prisoners and their current standards of living while imprisoned.
4. Develop a strategic planning process, ideally integrated to the planning for the development and reengineering of the criminal justice system as a whole. Based on the analysis of data, policies should be developed that will make it compulsory to regularly review the files of all inmates awaiting trial in Nigerian prisons.
5. The shifting of ideologies from a punitive system towards the acceptance of restorative justice is strongly encouraged.

6. Make all necessary legal and administrative provisions to ensure all suspects are charged with a recognizable criminal offence or released.
7. Actively create programs and policies geared towards the reintegration of inmates back to society.
8. Support and partner with Non-Governmental Organizations focused on the welfare and wellness of prisoners.

CONCLUSION

It is generally accepted that the commission of crime warrants appropriate punishment that corresponds with the extent of crime. In the same vein, it must be strongly noted that a prison sentence only deprives a citizen of his right to freedom and liberty. All other human and constitutional rights as they pertain to him remain in place.

Just as a vehicle, regardless of its level of sophistication, will be of no use if any of its components are incomplete, so will prison reform be unsuccessful if efforts are not put in motion to ensure that all machineries of the criminal justice and prison systems work effectively.

With the recent burning down of the Igbosere High Court as well as the arrest of suspected looters, one wonders what the manifestation of this setback will inflict on the future of current inmates who may not only have to deal with further delay in the proceedings of their cases, but must be prepared to share cell spaces with the influx of new inmates that will likely occur.

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Written by

Mani Ojeah

Managing Partner

Manifold Solicitors

Immanioj@manifieldsolicitors.com

www.manifieldsolicitors.com

