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## **EFFECTIVE AND EFFICIENTLY RUN CORRECTIONAL SERVICE IN NIGERIA: AN URGENT CALL FOR SUSTAINED MECHANISMS FOR THE DECONGESTION OF CUSTODIAL CENTERS.**

PRAWA identifies with the Hon Minister of Interior, Rauf Aregbesola on his recent call for urgent decongestion of 'Jails' in Nigeria and recommends that as a matter of urgency, all stakeholders in the criminal justice administration both at state and federal levels partner on the development of sustainable mechanisms aimed at ensuring reduction and control of the population of Awaiting trial persons in custody. It is also highly recommended that proposed interventions to address congestion in custody are not on Adhoc basis but should be sustained using various available oversight mechanisms .

For about three decades now, PRAWA has followed Prison reform efforts and trends in Nigeria and has noted that the major challenges of administration of corrections in Nigeria include issues of slow grinding wheels of the criminal justice trials and the resultant huge population of awaiting trial persons causing congestion, especially of custodial centers in metropolitan cities in Nigeria. Unfortunately, these identified challenges have grave implications of delayed justice, gross human rights abuse and torture. Some experts have also connected high number of awaiting trial population and the complications of congestion to the increased cases of jail breaks and growing dangerous trends of insecurity in the country.

The Nigerian Correctional Service Portal daily records of inmate population speaks to the challenges at hand. A summary of inmate population by convict and awaiting trial persons provided on the portal as at October 3rd, 2022 is as follows: Total Inmate Population-75,635; Total Male Inmates-74,029; Total Female Inmates- 1,606; Total Convicted Inmates- 22,488; Convicted Male Inmates -22,488; Convicted Female Inmates - 402; Total Awaiting Trial Inmates-52,745; Awaiting Trial Male-51,541; Awaiting Trial Female- 1,204; Convicted Inmates 30%; Awaiting Trial Inmates-70%; Male Inmates -98%; Female Inmates- 2%.

It is important to note that the percentage of awaiting trial persons reflected here is the statistics for all the correctional centers in Nigeria and the percentage is higher for some custodial centers especially those in urban areas. Some of these

centers have up to 85% of inmates awaiting trial. This calls for urgent action. PRAWA wishes to call our collective attention to the grave implications of having such huge number of awaiting trial persons in custody. It is also important to note that some of these persons have their cases stalled for many years. There are cases of persons that have been on awaiting trial list for 10 to 15 years. Some of them spend time awaiting trial way beyond the period they would have been given as punishment if tried timeously and sentenced. Situations like this cast huge doubt on the entire processes of our justice system and does not augur well for any of the parties in a case, as it is said, justice delayed is justice denied. A healthy criminal justice system is that which the people have confidence in. Loss of confidence in the justice system has grave security implications, example is the common occurrence of jungle justice and undermining of rule of law. High population of persons awaiting trial also undermines the actualization of the key targets of corrections- reformation, rehabilitation and reintegration of inmates.

We also acknowledge with commendation some of the executive and legislative steps taken by Nigeria to address these issues. Standing out is the enactment of Nigerian Correctional Service Act 2019 with several innovative provisions to address most of the identified challenges of management of Corrections in Nigeria. Acknowledged also are the jail delivery efforts of many state judiciaries in Nigeria and many other ad hoc attempts at reduction of number of persons awaiting trial in custody through intervention programs and initiatives of different non-governmental organizations providing

pro-bono and paralegal services to indigent awaiting trial persons in custody.

However, considering the persistence of the challenge of awaiting trial population, in spite of all these efforts there is need to look beyond reduction of number of persons already in custody and focus more on efforts that would help reduce inflow into these centers. This is important considering the fact that months of efforts at releasing few inmates from custody can be countered and frustrated by heavy inflow in one day.

Having identified the issues, PRAWA believes that there is need for urgent, sincere and intentional collective action towards addressing them. This is the time to put in place sustainable mechanisms to ensure effective and efficient implementation of the innovative provisions of the Nigerian Correctional Service Act 2019. The Nigerian Correctional Service should strengthen its strategies at partnering with relevant security / justice sector institutions and other stakeholders towards actualization of the objectives of the NCoS Act.

Effect should be given to the implementation Section 2 (1) (d) of the Act by ensuring the establishment of institutional, systemic and sustainable mechanisms to address the high number of persons awaiting trial.

It is also time to garner all available human and material support to ensure the effective and efficient implementation of non-custodial measures as captured in Part 2 of the Act. Commendable efforts have been recorded by the Correctional Service with the technical support of PRAWA and funding of European Union, British Council and Rule of Law and Anti-corruption program (RoLAC) towards activating the Non-custodial Directorate of the Service. However, to ensure that this is sustained, much more is needed to be done especially from the government to ensure that the directorate receives necessary funding to deliver on its mandate.

Acting on Section 2 (1) (d) will go a long way in reduction of congestion in custody whilst effective implementation of all the components of Non-custodial Measures as provided for in Part 2 will go a long way in addressing the remote cause of congestion by reducing inflow into custody. The benefits of non-custodial alternatives was evident during the COVID 19 Pandemic when such sentencing option as community service was used

to divert over 23, 000 offenders from custody in the FCT alone. This saved Nigeria from the crisis of managing COVID Pandemic in custody.

PRAWA strongly believes that the desire of the Hon Minister for decongestion of correctional centers can receive prompt actualization with immediate implementation of Section 12 (4-12) of the Act. Sections 12 (4-6) require the controller to notify the requisite security and justice institutions within a period not exceeding one week in a case where a custodial center exceeds its capacity. Section 12 (7) requires the notified body to take steps within a period not exceeding three months of receiving the notification to rectify the over-crowding. Section 12 (8) empowers the State Controller of Correctional Service in conjunction with the Superintendent to reject more intakes of inmates where the Correctional Centre is filled to capacity. Section 12 (9) provides for due documentation and return of the records of a custodial center by the superintendent in -charge of a custodial center. Section 12 (10) provides for the criteria to be considered for the release of inmates or diversion of inmates to Non-Custodial Centre. Failure to comply with the requirements of notification of relevant bodies and non-compliance with refusal to accept inmates after the expiration of the notification timeline attract sanctions under section 12 (11-12).

Implementation of Sections 21 and 22 of the NCoS Act is also critical to sustained decongestion of custodial centers. Section 21 provides for Official Custodial Center visitors whose responsibilities as captured in section 22 includes inspection of the journals , registers and books of the custodial center and conditions of treatment of the inmates.

Compliance with section 111 of the Administration of Criminal Justice Act 2015 would go a long way in decongestion of custodial centers. The section provides for returns by Controller General of Prisons ( now of Corrections) to the Judiciary at

both federal and state levels in which a prison is situate and to the Attorney General of the federation of all awaiting trial held in custody in Nigerian prisons for a period beyond one hundred and eighty days from the date of arraignment.

The effective implementation of the mandates of the Legal Aid Council of Nigeria as provided in the Legal Aid Act of 2011 especially regarding sustained provision of legal representation for indigent inmates.

PRAWA therefore recommends as follows:

1. Development of sustainable strategies for the implementation of sections 2 (1) (d) ; 21 & 22; 12 (4-12) and Part 2 of the Nigerian Correctional Service Act 2019 ; Section 111 of the Administration of Criminal Justice Act 2015; relevant sections of the Legal Aid Act 2011 and other relevant legislations, regulations and rules.
2. Audit all custodial centers and comply with provisions of section 12(8) of the Nigerian Correctional Service Act, for facilities that are interning above their capacity.
3. As a matter of urgency and with the support of the Ministry, all administrative and legislative bottlenecks hampering the activation of the Special Non-custodial Funds should be addressed and other channels of funding to the non-custodial service activated to ensure resources are provided for the service to do its work.
4. Immediate development of criteria for the release of inmates or diversion of inmates to non-custodial center ; the Judiciary should also be encouraged to increase its use of Non-custodial measures and a system developed for the tracking of utilization of non-custodial measures by the judiciary; generally imprisonment should be used as a measure of last resort.
5. Advocacy to relevant stakeholders to support effective implementation of non-custodial measures and diversion of befitting cases to non-custodial Directorate of the Nigerian Correctional Service.
6. Strengthen strategies for the implementation of restorative justice at pre-trial stage.
7. Ensure oversight of detention facilities of other arresting agencies in the country not just correctional centers and police cells. Pre trial diversion programmes should also apply at this stage.

8. National database of all persons in detention in all places of detention should be established in line with the recommendation to Nigeria on its last universal period review.

9. Effective utilization of Jail Delivery and Prerogative of Mercy programmes and the newly established Parole system in Nigeria.

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