

PENAL REFORM fact SHEET

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AWAITING TRIAL PERSONS: CONGESTING NIGERIA PRISONS

The justice sector in Nigeria is due for a swift revolution; this is as a result of slow access to justice; long trial periods, over capacity of detention centers, ineffective administrative management, and access to effective legal representation and some bail conditions are too severe. All the above issues and more are the focus of a recent study conducted in three of the 242 prisons in Nigeria, specifically across three geopolitical zones namely Enugu, Kano central and Ikoyi prisons respectively.



The survey reports that there are many challenges confronting the Nigerian Prisons Service, many issues requiring intervention, many needs of the service and indeed many aspirations. These include the need to address the following: quick and easy access to justice, quality of facilities and infrastructure, conditions of imprisonment/treatment of prisoners, staff capacity, inadequate resources, high number of awaiting trial prisoners, etc. These issues/challenges affect the effective discharge of the mandate of the Nigerian Prison Service. The question therefore is

whether the prison service is enabled to keep safe custody of all those legally interned in its facilities? Is the prison service enabled to effectively reform, rehabilitate and reintegrate offenders? Is the prison service enabled to train its inmates and generate adequate revenue from its prison farms and industries?

Background of the study

As stated above, one of the critical challenges faced by the Nigerian Prison Service relates mostly to the large number of ATPs in its prisons, the long period they spend in prison and the attendant congestion/overcrowding of the prison facilities. In May 1999, the prison population was 40,797. Of this number 21,579

(52.8%) were awaiting trial prisoners. In November 2000, the figures were 42,298 (total inmate population), 24,953 (59%) of this awaiting trial prisoners. In some prisons the number/percentage of ATPs are higher. To demonstrate this point, see for the same November 2000, the statistics below for five prisons in Nigeria:

Prison: Kano

Inmate Population 817, Convicts 225, ATPs 592, Prison capacity 690

Prison: Kirikiri (Medium)

Inmate Population 2289, Convicts 521, ATPs 1768, Prison capacity 704

Prison: Ikoyi

Inmate Population 1661, Convicts 144, ATPs 1517, Prison capacity 800

Prison: Port Harcourt

Inmate Population 1344, Convicts 379, ATPs



965, Prison capacity 804

Prison: Owerri

Inmate Population 1045, Convicts 100, ATPs 945, Prison capacity 630

This situation has worsened in recent times. As at end of 2013, awaiting trial prisoners consisted of 68.9%. As at the end of January 2013, 79% of those in Kuje prison were ATPs. Speaking of the long duration in prison custody by ATPs, in 2014 PRAWA facilitated the release

from Nsukka prison of an ATP who had stayed 17 years awaiting trial through the pro bono Clearing House project. Many stay up to 5 years or more in prison awaiting conclusion of their trial. There are about 19 institutions in Nigeria with detention facilities which keep in custody pre-trial detainees for varying duration.

Perhaps in a bid to address this problem especially in relation to awaiting trial prison population, the Government utilizes periodic amnesties to reduce the inmate population.

Imprisonment is a measure which results in cutting off an offender from the outside world. The purpose of imprisonment is to protect the society and reform those who are involved. However the Nigerian Criminal Justice System denies this reform due to the long delay of trials and slow access to justice. The detainees stay so long in prison formations that they often outstay what would have been their normal jail term if they were convicted.

The term ATPs is broadly used to indicate prisoners who are yet to be convicted or sentenced. It includes awaiting trial, those whose trial is ongoing, those awaiting judgment/conviction or sentence. The recent study revealed three key areas namely: category of persons in pre - trial detention, why they are in prison custody, and the impact of their being there.

The data established which categories of persons were in prison custody, showing that the prisons studied were overcrowded with a very high number of unconvicted prisoners. It was discovered that the three prisons were overpopulated in excess of about 200 percent compared to their capacities at the time of establishment. Awaiting Trial Prisoners represented the bulk of the prisoners representing 76% as at December 2016, 74% as at March 2017 and 79% as at September 2017.

As at September 2017 in Ikoyi and Enugu prisons, more than 80% of the inmates are awaiting trial persons whereas 70.5% of the inmates are awaiting trial persons in Kano central prison. Only 13.3%, 29.4% and 18% of

the total inmates in Enugu, Kano central and Ikoyi prisons respectively are convicts. This means 8 out of 10 inmates are awaiting trials persons.

The distribution of the prison population for the entire country as at August 2016 which shows that out of 67,626 prisoners in the 242 prisons in Nigeria, 47,953 were not convicted whereas 19,671 were convicted and the percentage of ATPs was 71% of the total prison population.

The breakdown of the total population in each of the targeted prisons in August 2016 and September 2017 respectively show that ATPs population in Enugu remained the same between the two time periods; 84% in August 2016 against 85% in September 2017. The situations with Kano Central and Ikoyi prisons were different. Kano Central prison recorded an increase from 60% in August 2016 to 71% in September 2017. Conversely, Ikoyi prisons showed a decrease from 85% in August 2016 to 81% in September 2017. The result confirms that high ATP population is a major feature of the three targeted prisons - Kano Central, Enugu and Ikoyi Prisons located in Kano, Enugu and Lagos States respectively. It is also a major problem for the country in general.

RECOMMENDATIONS:

The following recommendations are made:

Legal & Policy Implementation:

1. Implementation of legal provisions and operational policies aimed at speeding up trial process including provision of institutional and individual incentives aimed at encouraging greater compliance on these. These include the Administration of Criminal Justice Act 2105, Administration of Criminal Justice Laws, Legal Aid Act 2011 and the National Legal Aid Strategy 2017-2022.
2. Promotion of legislative reforms aimed at institutionalization of processes aimed at enhancing access to justice (including provision of legal aid fund, certification of paralegals and database clearing house for pro bono lawyers, etc.) and correctional

best practices.

Operational & Service Delivery:

3. There is need to ensure speedy and quality dispensation of justice. Secondly, there is need to explore alternatives to imprisonment measures. The over utilization of pre - trial detention is an issue that requires urgent intervention. Some may argue that the reason for the increase in prison population well above the designated capacities of targeted prisons can be traceable to the fact that crime is on the increase and that this growth have not be met with corresponding increase in building of more prisons, etc. However, given that the increase is mainly observed amongst the ATP population. This clearly suggests that administration of justice in the country is quite slow. Hence, it is important to identify the factors that necessitate needless delays in the criminal justice procedure and apply appropriate interventions to dismantle these bottlenecks that clog the wheel of justice administration in Nigeria. Focus should also be on the reception rate of ATPs into prisons and the duration ATPs stay in prison (or in other words speed at which their cases are determined/concluded).
4. Provision of enhanced paralegal and pro bono legal services and other related support to pre – trial detainees all through the trial process to ensure that free and quality legal representation are provided for those in need of these. Steps should be taken to professionalize and strengthen the work of the paralegal ensuring also that their services are rendered in prison, courts, prosecution agencies, family links and where possible at the police level. In addition, the Legal Aid Council of Nigeria

(LACON) should be support to implement its mandate, the Legal Aid Act, National Legal Aid Strategy, and promote strong collaboration and synergy between LACON, the Nigerian Bar Association, Office of the Public Defender, and other relevant stakeholders.

5. Encourage less use of pre - trial detention and increased utilization of alternatives to imprisonment measures especially for minor offenders. It should also include diversion from prison custody of special needs offenders including young offenders and mentally ill prisoners to appropriate facilities.
6. Establishment of case management system to promptly track all ATP cases and their status (including special focus on stalled cases, cases granted bail, adjournment of cases, time frame for provision of advice/legal opinion by the prosecution, etc.), as well as establishment of effective mechanisms to ensure that proper documentation and reflection in prison records of all cases relating to the following are carried out: all juveniles brought into prison and all cases granted bail by the court, etc.
7. There should be a continuous process to review and address factors that encourage excessive and arbitrary detention including political, economic and legal incentives. Support should also be given for replication of good practices in other prisons/States.
8. The development and utilization of bail information scheme and other programmes to encourage better application of bail including those involving the judiciary and the prosecution.

Oversight & Accountability:

9. Promotion of Oversight and Accountability of the Criminal Justice Process: This include through effective monitoring of all ATP

cases at the various stages, capacity building for prison and justice sector oversight mechanisms. Efforts should also be made to ensure that members of each of these mechanisms understand their mandates and how to effectively discharge these mandates, and how to coordinate with each other for enhanced impact.

10. Effective engagement with executive, legislative and judicial mechanisms to ensure adequate resourcing, budgetary and operational oversights of prisons/correctional services.
11. Establishment of effective centralized mechanism for documentation of all pretrial detainees in prisons and all places of detention and utilization of this data for effective planning, oversight and to ensure compliance with international and regional human rights standards.

Coordination

12. Encourage development of practical and sustainable interventions which encourage intra-agency, inter-agency and multi-sectorial coordination aimed at speedy up trial process, reduction of the number and duration in custody of pre – trial detainees.
13. Involve various government agencies, the private sector and civil society organization including the media in supporting prison and justice sector reforms and replication of good practices.

Resource Mobilization:

The government is encouraged to make adequate budgetary provisions and disburse same to enable the implementation of the above and other related interventions.

Nigeria Prison Service, Statistics Unit (May 1999), Nigeria Prisons Headquarters: Abuja

Nigeria Prison Service, Statistics Unit (November 2000), Nigeria Prisons Headquarters: Abuja

Nigeria Prison Service, Annual Statistics Report 2013, Statistics Unit, Nigeria Prisons Headquarters: Abuja, page vi

See PRAWA NPS Case Management System Statistics Report (January 2013).