

## **FROM REFORMATION TO DEFORMATION: AN APPROACH TOWARDS SUSTAINABLE DEVELOPMENT OF THE DEFECTIVE PRISON SYSTEM IN NIGERIA**

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### **ABSTRACT**

Prison conditions in Nigeria have deteriorated over the years and ones a person is convicted by Nigeria Courts or justice system to serve a prison sentence, such person is perceived by the society to have been sent to hell on earth. The poor state of Nigeria prisons have attracted a lot of attention from all and sundry in recent times in order to advance the rights of prisoners in Nigeria and influence government policy so as to ameliorate the suffering of the prison inmates. In Nigerian prisons, many inmates sleep two to a bed or on the floor in filthy cells. Toilets are blocked and overflowing or simply non-existent, and there is no running water. Diseases are widespread and successive governments have also demonstrated less than satisfactory commitment to reforming the laws regulating Nigeria's prisons. The current Prisons Act was enacted in November 1947 (65 years ago) and is yet to undergo any fundamental reform since then. A draft Prisons Bill presented to the federal parliament in 2004 is yet to become law. It is on this premise that this article will evaluate the conditions of prisons and the faith suffered by prisoners in Nigerian Prisons. Before the conclusion of this paper, it also examined the measures to be adopted for the sustainable development of the defective prison system in Nigeria.

**Keywords:** Nigeria, Prisoners, Prisons, Punishments, Reform, Sustainable Development

### **INTRODUCTION**

A prison is supposed to be a place for reformation in behaviour of an individual whose life pattern is not in tandem with accepted norms, values or behaviors in the society or persons who by omission and commission have violated the criminal laws of the land which attract prison terms. The essence of such punishment is for reformation or correction in behavior of such offender and to also serve as a deterrent to would be offenders of such laws. Nigeria as a country is faced with the challenge of prison management considering the figure of awaiting trial persons (ATPs) which was put at 36,000, representing over 65 per cent of the estimated prisoners-population of 48,000. Indeed, a large percentage of Nigeria prison inmates have stayed for five to seven years in detention without trial under very deplorable conditions. This upsurge trend is an eye opener, and it portrays the ugly state of the Nigeria prison services (Onike 2011), this article, therefore will examine measures that will lead to the sustainability of the prisons system in Nigeria. Though before seeking solutions to the poor conditions of the prisons system, this paper will seek answer to some imperative questions that will address the subject matter

of this research such as who is a prisoner, what is a prison and then will discuss the theories of Punishments viz: transcendental theories of punishment and the penal theories of the eighteenth century and beyond before examining the main issues involved in Nigeria Prison such as the history and functions of prison system and how penal reforms will help in achieving sustainability of the prison system.

### **WHO IS A PRISONER?**

Section 19 of the Prison Act, Cap. 366. P29 Laws of the Federation of Nigeria, 2004 defines a prisoner as any person lawfully committed to custody. This means that if one is lawfully committed to prison custody he or she is a prisoner. In *Edmund Okoro and ords v. Minister of Internal Affairs* (Suit No.FHC/EN/CP/102/2000) the Court affirmed the view that a person becomes a prisoner from the date of his or her first admission into prison custody. In effect, awaiting trial inmates (ATM) are prisoners because they are normally admitted pursuant to a court order and steps in regulation 2 of the Prisoners Act are observed before they are taken into custody which provides that no person may be admitted into a prison unless by a warrant of arrest, a warrant or order of detention or a warrant of conviction or commitment and the superintendent shall verify that the person is the person named in the warrant book or order, that the crime, sentence and date of conviction are recorded therein and that the warrant or order bears the signature of the proper authority (Onike' 2011).

### **A REVIEW OF THE MEANING AND PHILOSOPHY FOR ESTABLISHMENT OF PRISONS**

McCorkle and Korn described a prison as a physical structure in a geographical location where a number of people living under highly specialized condition adjust to the alternatives presented to them by the unique kind of social environment (Obioha, 2011:95-109). Also other scholars conceived prison as where people are highly secluded from the rest of the world with entirely new order of control. (Goffman, 1961:22) The above conceptualizations as advanced by scholars are limited towards an understanding that a prison is a physical environment, and could be described geographically or spatially. Quite different from the physical conception, there are other schools of thought that are based on function, framework and label. From the functional perspective, a prison is perceived as a place to punish offenders, where criminals that are removed from the society are dumped to protect the society from further criminal activities of the offenders; and a palace to rehabilitate, and teach offenders to be law abiding and productive after their release. Prisons are also perceived as a total institution, from the perspective of framework. While Okunola sees a total institution as a place unlike free environment or community that houses those who are socially rejected, insane or mentally retarded (Okunola, 1986:16), Goffman on the other hand conceptualized total institution as where there is a basic split between a large class of individuals who are restricted contact with the outside world and stereotypical behavioural pattern where social mobility is restricted. So from these points of view it could be conceived that the prison is a place for vagrants, who may pose actual danger to social life in the larger society, which pre-supposes that every person in the prison is a vagrant and irresponsible person (Obioha, 2011:96).

In a small number of countries, including the United States and Canada, the terms 'corrections' and 'correctional reform' are used in place of the 'penal system' and 'penal reform'. The term 'corrections' encompasses custody, parole and probation, but whether a state refers to its penal system as 'correctional' does not any longer correlate with the rehabilitative emphasis

of the system. UN documents, norms, standards and rules refer to the penal or prison system rather than corrections (Bastick, 2010:9).

The term 'prison' is used to define places where people are physically confined on charge of having committed a crime or after sentencing for commission of a crime. Other terms for a prison include 'remand centre', 'correctional facility', 'detention centre', 'jail/gaol', 'penal colony' and 'penitentiary'. Use of these different terms in some countries can denote whether a place of detention holds people who are awaiting trial, who have been convicted or who are subject to different conditions of security, and/or a prison under a particular jurisdiction. In the United States, for example, places which hold persons who are awaiting trial at minor courts or who have been sentenced to short sentences are usually described as 'jails'; those holding convicted prisoners are often called 'correctional institutions'(Bastick, 2010:9).

There are other places where people are deprived of their liberty that are not called prisons. These include police lock-up cells, where people are held (ideally) for short periods before being released or transferred to a prison, closed psychiatric wards and immigration detention facilities. Military prisons and prisoner-of war camps are commonly administered by military authorities quite separately from the mainstream, usually civilian, penal system.

Prisons remain one of the public institutions in Nigeria that need urgent reform. The call for the reform of the Nigeria prison services is a recurring phenomenon as successive governments have failed to do anything tangible in that direction. The major problem confronting the Nigeria prison system is congestion caused by persons awaiting trial in prisons across the country (Amnesty International, 2008:1).

Nigeria's prisons are filled with people whose human rights are often violated. Approximately 66% of the inmates are awaiting trial most of whom have been waiting for their trial for years. Most of the people in Nigeria's prisons are too poor to be able to pay lawyers. Although governmental legal aid exists, there are too few legal aid lawyers for all the cases that require representation. Living conditions in the prisons are appalling. They are damaging to the physical and mental well-being of inmates and in many cases constitute clear threats to health. Conditions such as overcrowding, poor sanitation, lack of food and medicines and denial of contact with families and friends fall short of UN standards for the treatment of prisoners. The worst conditions constitute ill-treatment. In many Nigerian prisons inmates sleep two to a bed or on the floor in filthy cells. Toilets are blocked and overflowing or simply nonexistent, and there is no running water. As a result, disease is widespread.

## **THEORIES OF PUNISHMENT**

Under this subheading issue, this paper will examine the transcendental theories of punishment and the penal theories of the eighteenth century and beyond in explaining the philosophy behind the imprisonment of criminals.

## **TRANSCENDENTAL THEORIES OF PUNISHMENT**

Transcendental theories are based upon principles supposed to transcend experience and to be especially sacred because of assumed universal validity. They are ideas spun in the dream factory of the mind, rather than induced from the fact factory of scientific research. These transcendental theories of punishment have been subdivided into the following five theories: first the theological view: Holds it a religious duty to punish criminals. Secondly, the expiatory theory of punishment: In terms of which we must punish because the nature of the mystical order of the universe is that we punish and ours not to reason why. The third theory is Kant's theory of the moral law which involves believing in an intuitive source of absolute morality, Kant insisted that there exist a categorical imperative to punish criminals who have violated this moral law. Punishment is an end in itself. The fourth theory is the theory of Hegel which provides that punishment is necessary to annual the injury produced by crime. "... Crime has to punished because it postulates punishment as its necessary logical complement". According to Quinney, the philosophies of punishment are retribution, reformation, and deterrence. Retribution philosophy assumed that convicts must "pay" for their crime: the reformist assume that the convict will be changed to prevent future criminality. Deterrence is to discourage current and potential criminals from committing crime (Tanimu, 2010: 140-141). The fifth theory explains the aesthetic behind punishment which means that our aesthetic sense rebels against the discord produced by crime (Usoh, 2010:26-27).

## **PENAL THEORIES OF THE EIGHTEENTH CENTURY AND BEYOND**

Eschewing authoritarian source of moral ideas, the eighteenth-century rationalist sought to drive ethical principles from more mundane sources. Jeremy Bentham, a chief expositor of the Utilitarian school of philosophy, held that since men are governed in their actions by rational assessments of the pleasures and pains to be netted by various courses of actions, punishment should be allotted in amounts just sufficient to produce a net loss for a person committing criminal act. By thus putting its thumb on the scale used by men as they choose between alternatives the state can, if justice is swift and sure, prevent crime. Aply and energetically propounded by Betham and his followers in an age whose burgeoning capitalism taught daily lesson in the principles of profit and loss, utilitarianism had an enormous appeal. The rationale for today's graduated penalties derives largely from this doctrine, and one need only observe the public's reaction to proposals to modify punishment in order to realize the extent of its grip on the popular mind (Usoh, 2010: 26-27).

The neoclassical school, including such men as Garraud, Rossi, and Joly, started with the same principles of free will as the classical school but made exceptions in the case of little children, the insane, and those whose crimes were committed under extenuating circumstances. By extenuating circumstances, it implied if the crime was committed under duress, self defence, or if '*actus reus* and *mens rea*' elements of criminal responsibility is negated. By '*actus reus*' it is meant the criminal conduct specifically, intentional or criminal negligent (reckless) action or inaction that causes harm. It can therefore be said that *actus reus* is the physical element or guilty act, and it requires proof. Where there is no *actus reus*, there is no crime. *Actus reus* can also be seen to be made up of conduct, its consequences and the circumstances in which the conduct takes place. '*Mens rea*' on the other hand refers to a criminal intent or a quality state of mind. It is the mental aspect of a crime. Here, criminal conduct is limited to intentional, purposeful or premeditated action or inaction and not the accidents. Thus punishment was to

be based upon the degree of responsibility which the individual had at the time of the crime. The importance of this school in the history of punishment lies first in the fact that the theories implied causation and secondly in that upon its philosophy is based the bulk of modern penal law and practice. Though, both have increasingly been influenced by scientific principles derived from a later period (Usoh, 2010: 26-27).

## **HISTORY OF NIGERIAN PRISONS**

Prisons began all over the world not as ultimate institutions for punishment and correction but initially as institutions for the custody of persons caught up in the criminal justice systems awaiting trial or the execution of their punishment such as whipping, banishment and death. However, in the mid-nineteenth century, the function of the prison as short-term custodial facility changed in Europe and North America to institutions for ensuring punishment, penitence and correction of the offender. By the time the first prison was built in Nigeria in 1872, the prison had assumed this new role (Alemika, 1983:137). The establishment and growth of the prisons in Nigeria is backed by various statutes from the colonial period to the present. Among these statutes are the Prisons Ordinance of 1916; Laws of Nigeria 1948 and 1958 and the Prison Act No. 9 of 1972.

The Prisons system in Nigeria is one of the most under developed institutions in the criminal justice sector. No new prison has been constructed in more than forty years and the prison population continues to grow. The Prison Act of 1945 and accompanying regulations has not been reviewed in over 50 years. It is noteworthy that most of the persons in prison custody who are primarily the cause of the overcrowding are not convicts but persons awaiting trial (Ojukwu, and Briggs, 2005:115).

### **SOME PRISONS IN NIGERIA: A BRIEF OVERVIEW**

The Kuje prison was built in 1989 with a capacity of 320 inmates with staff strength of 160 but as at 2006, it has 599 inmates, made up of 561 Awaiting Trial Inmates and 38 convicts. Facilities were over stretched, especially toilets, beds, and mattresses, among others. Similarly, Port Harcourt Central Prison was built in 1918 with a capacity of 804, however as at November 19, 2006, the prison housed 2,525 inmates, comprising 2,496 males and 29 females. Awaiting trial inmates were 2273 made up of 2248 males and 25 females. Convicted inmates were 252 made up of 248 males and 4 females. Out of these, 17 were lifers while 127 were condemned convicts. The large number of condemned prisoners was as a result of the fact that Port Harcourt Central Prison is a reception centre for condemned criminal from Zone E of the Nigerian Prisons, comprising Rivers State, Bayelsa, Akwa-Ibom, Cross Rivers, Imo and Abia States. The male inmates were separated based on their status, as awaiting trial inmates or Condemned Convicts, mentally ill inmates and Lifers. On the other hand, all the female inmates were in one cell, irrespective of their age, status and offences. Inmates were not separated on the basis of their age.

The Maiduguri New Prison was built in 1954 by the then Regional Government of Northern Nigeria and the prison capacity is 680 but as at November 2006, the lock up was 375 inmates. This number comprises 237 convicts, 138 awaiting trial inmates out of whom there were 134 males and four females. The prison has staff strength of 153 officers. The lock up as at November 2006 was 1,846 made up of 1,759 awaiting trial inmates and 87 convicts. The walls and the general structure of

the prison were built with blocks and cement. Some of the infrastructure is dilapidated and in need of urgent repairs and facelift due to neglect and overuse.

### **FUNCTIONS OF NIGERIAN PRISONS**

The cardinal essence of prison is reformation. It is hoped that within the time the convict passes through the prison, he or she would be reformed and be accepted back to the society. At this point, the convict is called a prisoner (Olisa Agbakoba, 2011). Prison in Nigeria and other parts of the world are established to keep in safe custody of persons legally interred to identify the causes of their inherent anti-social behaviours, treat and reform them to become law abiding citizens of a free society, to train them towards their rehabilitation on discharge and to generate revenue for government through prison farms and industries (Agomoh & Ogbozor, 2006:31). A Government White Paper in 1971 outlined the functions of the prison service to include: custody, diagnosis, correction, training and rehabilitation of incarcerated offenders. The Nigerian Prison Service Staff Duties Manual listed an additional function, which includes generation of funds for the government through prison farm and industries. Similarly, the colonial ordinance of 1916 and the Laws of Nigeria 1948 and 1958 identified the function of the prison to also include the safe custody of a prisoner. A close study of colonial and post colonial laws seem to emphasize the custodial functions of the prison while silent on correctional functions of the modern prison (Eze, 2010: 114-121). The deficiencies of the Nigerian Prisons will lead one to look into the meaning of Penal reforms and how it could be applied to see that the prisons are not turned to places of deformation instead of reformation which it is ordinarily supposed to be.

### **PRISON SITUATIONS IN NIGERIAN**

Prisons all over the world are set up by law to provide restraint and custody of individuals accused or convicted for crimes by the state. In Nigeria, like every other place, the prison system dates back to the colonial era and is modelled after the British system. It is a system that lays emphasis on punishment and deterrence. Prisons overcrowding is, without doubt, a major concern of the Nigerian criminal justice system hence the agitation to decongest them. Remand prisoners account for a substantial number leading to congestion, as a greater part of awaiting trial detainees in the nation's prisons are held under the holding charge and many have spent up to 10 years waiting to be tried. (Davidson Iriekpen and Chiemele Ezeobi, 2012:1) The continuous rise in the population of the persons awaiting trial in prisons, is traceable to ineptitude of the police and its allied agencies and office of the Director of public prosecution in the various states of the Federation; these bodies are constitutionally responsible for propelling prosecution of criminal cases in Nigeria. Also, abuse of the principle of presumption of innocence of an accused person by the police is a correlate of rise in the figure of awaiting trial persons in prisons across Nigeria. (Onike, 2011:1)

### **INHUMAN LIVING CONDITIONS**

According to Amnesty International, four out of every five Nigerian prisons were built before 1950. Many are in need of renovation: the infrastructure is old, many buildings can no longer be used, ceilings in others are about to collapse, the buildings in use as workshops are inadequate, and sanitary facilities have broken down. The prisons have problems of electricity supplies, and most with their water supplies as well. Several prisons do not have modern drainage systems, instead

using open drains that create a serious health risk for inmates and staff alike. Most cells have only small windows for ventilation.

Death row inmates and prisoners awaiting trial face conditions that are even worse. Those on death row are held in cells that are tiny, dark and filthy, with almost no ventilation. They are allowed outside their cells during the day, along with other convicted inmates. The same is true for most prisoners awaiting trial, who are generally held in much more overcrowded quarters. In *Peter Nemi v. Attorney General of Lagos State & Ords* (1996) 6 NWLR (Pt.452) at 42 Uwaifor JCA (as he then was) in a judgment he delivered at the Court of Appeal stated that Prisoners still have their rights intact, except those deprived them by law. Even a condemned prisoner awaiting execution still has his rights until properly executed by the due process of law. Prisons register the date of entry and exit of each prisoner. The administration of inmates is very outdated: each day, prison directors register who has been locked up on a blackboard near the prison gate and report to the zonal offices who, in turn, report to the headquarters in Abuja. Few computers are used. Amnesty International observed that the prison headquarters were unable to provide data on the prison population. It is estimated that there are almost 45,000 inmates in Nigeria's 144 prisons and 98 additional specialized facilities. Approximately 25,000 are awaiting trial, and some 784 are on death row. The total number of staff is almost 25,000.

#### **PROBLEMS OF OVERCROWDING, VIOLENCE AND JAIL BREAKS**

The problems within Nigeria's judicial system contribute to the problems within the prisons. Overcrowding of prisons is a serious problem both in Nigeria and world over (Amnesty International, 2008:24-26).

Overcrowding of prisons is caused mainly by the high number of inmates awaiting trial. In addition, many prisoners remain in prison because they cannot meet the bail conditions set by the courts or because their bail application has not been handled. Large numbers of convicted inmates are serving long prison terms in lieu of fines. Overcrowding and substandard living conditions increase the likelihood of violence among inmates and can lead to riots. In Kuje prison, for instance, a riot on 28 March, 2007 resulted in the death of two inmates and left many others injured. Inmates narrated...that the riot was provoked by shortages of food and water. "Before they gave the water, it was late in the evening. It was also claimed that the problem is the judiciary," referring to the slow pace of court cases and the resulting increase in the prison population. Similar circumstances led to at least two other riots in 2007, one in Kano Central prison on 31 August, 2007 and the other in Ibadan's Agodi Federal Prison on 11 September 2007, resulting in the death of almost 20 inmates. Records show that the Kirikiri Maximum Security Prison in Lagos, for instance, is overcrowded by 250 per cent. The prison, which was built for 956 inmates, is, today occupied by over 2,600 inmates. Most of these inmates are awaiting trial. (Davidson Iriekpen and Chiemele Ezeobi, 2012:1)

It is pertinent to note that as of December 2008, more than 10.65 million people were being held in penal institutions throughout the world, either as pre-trial detainees (remand prisoners), having been convicted and sentenced or in some form of 'administrative detention'. More than half of these were in three countries: the United States, Russia and China. The

overall world prison population rate was 158 prisoners per 100,000 people. The overuse of imprisonment is of particular concern where people are detained before they have been tried, or when juveniles or parents of young children are detained. In 40 countries in the world, the *majority* of people in prison have not yet been tried. Many pre-trial detainees have little or no access to adequate legal assistance, or to treatment or rehabilitation programmes within the prison. Prison systems all over the world have been described by penal reformers as being in a state of ‘crisis’ Goyer reflects the views of many in the penal reform community in contending that ‘experience in rich and poor countries alike has shown that prisons are not sustainable. They are expensive and ineffective.’ In many countries with high incarceration rates, most prisoners have been to prison before, often for technical breaches of community orders, and many will reoffend after release. Recidivism rates should not be the primary indicator of the success of penal policy: the negative impacts of imprisonment on prisoners’ families, the impact of massive public spending on prisons on other public services and how penal policy builds or undermines community safety should all be considered. However, the failure of prisons to rehabilitate offenders, twinned with the enthusiastic use of imprisonment, is perhaps the most pervasive challenge to penal reform (Bastick, 2010:29-32).

### **LACK OF BASIC NEEDS: BEDS, FOOD AND SANITATION**

According to the UN Standard Minimum Rules for the Treatment of Prisoners (SMR),

Rule 10: “ *All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.*” As a result of rampant overcrowding, inmates routinely share beds or sleep on the floor. Sometimes inmates sleep for some time wake up with their back painning them.” Mattresses and bedding are uncommon. In most prison there are dirty, tattered foam mattresses. Others slept on mats. Many had nothing at all. It was reported that the lack of bedding is as a result that the supplies come from Abuja. And they only supply the number of the prison capacity.” Consequently, in prisons that incarcerate double their official capacity, half of the inmates do not have beds. In Enugu prison, the cells for inmates awaiting trial have no beds at all; as a result, up to 100 men and children per cell were sleeping on the bare floor. The Prison Service Headquarters provides every prison with a daily budget for each inmate, to cover the cost of food. Official caterers, with the help of inmates, provide the food and the sanitary facilities in all prisons are in urgent need of renovation because few cells have running water, and toilets are broken and usually blocked. In some cells up to 100 inmates share a single toilet, which is often little more than a hole in the ground. In other cells buckets are used as toilets. The overcrowding of the cells combined with the inadequate sanitary facilities makes it virtually impossible to keep the cells clean or to enable the prisoners to maintain their dignity.

The Standard Minimum Rules require that sanitary installations be “adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner” and provide that “adequate bathing and shower installations shall be provided.” Conditions in most prisons in Nigeria are far short of standards, and prisoners receive three meals a day at cost of NGN150 a day per inmate for food. In most prisons, the kitchens with gas cookers are no longer in use, so food is cooked in large pots on wood fires, sometimes in the open air or under a shelter. The Standard Minimum Rules states that “every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate



for health and strength, of wholesome quality and well prepared and served. Drinking water shall be available to every prisoner whenever he needs it.”

## **POOR MEDICAL FACILITIES/SERVICES**

Many Nigerian prisons have small clinics, and most of the bigger prisons have hospitals though most of these hospitals do not have mosquito nets to protect the ill inmates from malaria. Inmates suffering from tuberculosis are, where possible, quarantined in special cells, but the smaller prisons do not have such facilities. The prison authorities transfer seriously ill inmates to prisons with hospitals. In most prisons they are able to visit the clinic but often they cannot afford to pay for the medicines they need. In some prisons inmates are only allowed to visit the clinic after paying a bribe to the warden; those who cannot afford the bribe remain in their cells. This cruel measure has a discriminating effect as it singles out the poor inmates who cannot afford the bribes. Most inmates in Nigeria prisons are suffering from skin problems, malaria, mental illness, diabetes, infections, asthma or lice while some have HIV/AIDS, Tuberculosis or wounds. As a result of the appalling sanitary conditions in the cells, it is very easy for inmates to infect each other. The prison authorities simply cannot guarantee cleanliness inside the cells. Most Nigerian prisons do not uphold the right to health, even though bigger prisons do have medical facilities. Article 25(1) of the Universal Declaration of Human Rights, 1948 guarantees the right to a standard of living adequate for the health. The right to health is also guaranteed in Article 12 of the ICESCR of January, 1976 and Article 16(1) of the African Charter of October, 1986.

## **MEANING OF PENAL REFORM**

By 'penal reform' is meant reform of the penal system of a country or part of a country (Ahire. 1990:12). 'Penal' means 'of or relating to punishment', the penal system thus includes prisons, but also alternatives to custody, such as systems for bail and community service orders, as well as elements such as parole boards, probationary services and inspectorates, and traditional and informal sanctions systems.

In any discussion of penal reforms in Nigeria, should appreciate that the western notion of the centrality of prisons within a penal system is not a universal one. Coyle suggests that many developing countries that were formerly dominated by colonial powers have no indigenous concept of imprisonment: The notion of taking a large number of able bodied young men, who should be contributing to the economic and social good of the nation, and depriving them of their liberty in private places, where they become a burden on society and give little or no satisfaction to the victims of crime, is seen as very odd in these cultures (Coyle, 2004:826). According to Albrecht, the penalty of imprisonment was not known in Asia, South America or Africa before colonial times. Nonetheless, prisons have spread and are today pillars of criminal-law-based social control in most world regions. As such, they are an important area of attention within any penal reform agenda. Penal systems pursue a number of aims simultaneously through their particular sentencing philosophy. In most countries, although terminology may differ, these are a combination of retribution, deterrence, exclusion/isolation and rehabilitation (Terrill, 1999:75-76). The relative weight afforded to the different rationales varies between countries (even within the same region), and changes over time. *Retribution*, in its modern sense, rests on the belief that courts have an obligation to display society's collective disapproval of crime. On this basis, penal sanctions punish offenders in proportion to their culpability for criminal activity (at times represented as the 'proportionality' approach). *Exclusion* or *isolation* aims to protect mainstream society from dangerous and violent offenders. *Deterrence* aims to deter people from violating the law, on the premise that if

the public know about the sanctions imposed for committing a particular offence, they will be discouraged from doing so. The concept of *rehabilitation* is much contested, but implies reestablishment or restoration of the person who has offended to normal, noncriminal life. It can generally be understood as striving to prepare the offender for his or her reintegration into the community, seeing criminal sanctions as an opportunity to transform the offender. Each country tends to have its own traditions shaping how these different values are reflected in sentencing, in the types of punishments and programmes available and in prison regimes.

### **APPROACHES TO PRISON REFORMS IN NIGERIA**

Since 2008 a Bill for an Act to repeal the Prisons Act in order to provide a legal framework for the comprehensive reform of the Nigerian prison system has been pending before the Senate but no action has been taken on it till date. Though according to Amnesty International Report of 2008 on Prisons Rights in Nigeria, it was stated that since the year 2000 (Amnesty International, 2008:3-4), several working groups and committees on prison reforms have been established and among them are, *the National Working Group on Prison Reform and Decongestion* reviewed 144 prisons and revealed in its 2005 report that the population of Nigerian prisons over the previous 10 years had totaled between 40,000 and 45,000 inmates, most of them concentrated in the state capitals. Of those, 65 per cent were awaiting trial. (National Working Group on Prison Reforms and Decongestion 2005). Though recent reports shows that the current population of prisoners in Nigeria is 48,000 out of which 36,000 are awaiting trial persons (Davidson Iriekpen and Chiemele Ezeobi, 2012:1).

*The Inter-Ministerial Summit on the State of Remand Inmates in Nigeria's Prisons* was established in 2005 to review the report of the previous Working Group on Prison Reform. It recommended the Federal Government respond to the problem of inmates awaiting trial, pay more attention to rehabilitation, and address the issue of the large number of inmates awaiting trial due to the shortage of defence counsel. In addition, it recommended the appointment of a Chief Inspector of Prisons and a Board of Visitors. Following these recommendations, the Minister of Justice stated in October 2005 stated that the Federal Executive Council was considering the appointment of an independent Chief Inspector of Prisons. In 2006, the *Presidential Committee on Prison Reform and Rehabilitation* was established. This committee recommended improving the conditions of service of prison and police officials, and addressing the issues of prison congestion and the large number of prisoners awaiting trial. When then President Obasanjo received the committee's report, he said that the Federal Government would implement its recommendations. The *Presidential Commission on the Reform of the Administration of Justice* (PCRAJ), established on 16 March 2006 to review the administration of justice in Nigeria and propose sustainable reforms, expressed concern that imprisonment was being overused, including in cases of the non-violent persons suspected of minor offences. The President's response was to ask the Commission to carry out further research this time a case-by-case audit of the categories of inmates. Following this request, the PCRAJ published a categorized list of 552 inmates recommended for release. The *Committee on the Harmonization of Reports of Presidential Committees Working on Justice Sector Reform* reiterated in April 2007 the recommendations of the PCRAJ. In January 2008 the Federal Minister of Interior stated that a committee would be established to monitor the activities of inmates and prison officers in order to ensure international standards are met. On several occasions the Nigerian government stated its intention to release inmates. On 4 January 2006

the government announced that it was going to speed up the trials of and/or unconditionally release up to 25,000 prisoners. At the end of August 2006, the Minister of Justice stated that 10,000 inmates would be released, saying: “We have embarked on a massive decongestion of prisons, and 10,000 prisoners have been cleared for release. Some are already out.” The government did not make public whether any prisoners were, in fact, released, and the number of inmates awaiting trial did not diminish. After all the recommendations made by these Presidential Commissions and Committees, on 17 May 2007 Nigeria’s Information Minister announced that Nigeria had granted an amnesty to all prisoners over 70 and to those aged 60 or over who had been on death row for 10 years or more. According to the Minister they would be released before the inauguration of the new president. The government, however, did not announce whether this had been acted upon.

According to Eze, the National Prison Service reform is part of the Nigerian criminal justice system’s reform policies that is in line with the global trend to shift prisons service from a punitive and retributive penal system, to a reformatory and rehabilitative system whereby the welfare of offenders is given a pride of place (Eze, 2010:116, and Odekunle, 2007). A major issue that affects offenders’ welfare is the respect for the rights of inmates despite their incarceration. Some of these violations include; provision or insufficient treatment for serious medical conditions; lack of adequate health education on disease control; and denial of conjugal visits, denial of access to education just to mention but a few. Thus, the employment of specialists like psychologists, social workers, and medical doctors as prison officers was a significant symbolic step in many countries towards the provision of inmate balanced needs.

## **MEASURES FOR SUSTAINABLE DEVELOPMENT AND SUSTAINABILITY OF THE PRISON SYSTEM IN NIGERIA**

Under this subheading, this paper intends to suggest the following measures for the sustainable development of the Nigerian prison system in such a manner that it will serve its purpose as a correctional facility and prisoners will have the worth of human beings as they serve their prison terms.

1. Government should implement past reports of Commissions particularly those that recommended measures to reduce prison population and improvement in the standards of living and human rights conditions in the prisons.
2. New sentencing guidelines and alternatives to custodial sentencing should be adopted and implemented to reduce overcrowding of inmates in prisons.
3. The executive and legislative arms of government should expedite action on the new Prisons Bill and ensure passage as soon as possible and it should take care issues such as a reduction in the annual admissions to prisons by: increasing the use of alternatives to prison and pre-trial detention, ensuring all individuals have legal representation and providing oversight of arrests and police trainings on due process law (Uhaa, 2011:1-3).
4. There should be a reduction in pre-trial detention and prison overcrowding by reducing pre-trial waits, and setting a maximum allowable wait time, implements a population capacity for all prisons based on design capacity. Prison infrastructure should be rehabilitated and new facilities built.
5. There should be assurance that the Ministry of Health takes responsibility for health in prisoners and that prisons are included in all public health programs.

6. The government should endeavour to reduce recidivism by developing standards to ensure basic needs of prisoners are met, make programmes available to prisoners that provide useful job-training and skill building, as well as rehabilitation. There should be a reduction in prisoner's abuse and there should be developed a relationship between reform advocates and correctional officers in Nigeria.
7. Make prisons accessible to people with disabilities by providing them with necessary equipment and materials. Remove all those with mental disabilities from prisons to appropriate treatment facilities
8. Government should be held accountable for prison conditions by developing oversight mechanisms that have access to prisoners and power to implement recommended improvements and allowing independent experts to monitor conditions of confinement.
9. Abolish the death penalty as most condemned prisoners stay longer than necessary before their execution there by constituting overcrowding of the prisons. Furthermore, there is usually delays characterized with Appeals on matters that concerns death penalty thereby keeping the condemned person in prison cell for too long before his appeal is concluded hence the need for the abolition of death penalty.
10. Build and maintain relationships between prisoner advocates and correctional officers so that they may work together to uphold the human rights of prisoners. The Police Duty Solicitors Scheme should be replicated in all states to obviate the danger of long-term incarceration in police custody.
11. Create facilities specific for women inmates and provide appropriate programs for them, as well as training for the staff, develop policies to protect the special needs of women including: Prohibition of shackling late-term pregnant prisoners and during labor and delivery.
12. Prevent torture, as well as cruel inhuman and degrading treatment, and punishment in our prison cells and centers of detention. Implementing fully the provisions of the United Nations Convention against Torture and the optional Protocol to the United Nations Convention Against Torture. Provide avenues for redress including rehabilitations for persons tortured within our police, prisons and other detention facilities and also there should be established mechanisms that will effectively document all cases of torture and effect appropriate sanctions on the perpetrators.

## CONCLUSION

Research have revealed that that in countries whose penal philosophy is motivated by the rehabilitative philosophy, inmates are treated first as citizens with certain inalienable rights despite being in prison and not just as criminals who the society is better without. The introduction of specialists like psychologists, social workers, and medical doctors as prison officers was a significant symbolic step in this direction, underscoring the point that inmates are human beings in contrast to the prevailing policy of identifying inmates by numbers. Consequently, if the role of the prison officers could change from being a guard or "strict disciplinarian" to being a reformer and a change agent, the prison situation in Nigeria will change for good. Again the Prison authorities also had to change their recruitment policies as the right people had to be employed to do the job. In Nigeria however, the prison system is changing gradually as demonstrated by the several reform policies the institution has been subjected to over the years. But these changes are more pronounced on papers than in actions. Again for the proper functioning and sustainable development of the prison system in Nigeria, efforts to be made require the involvement of health,

education, training and welfare services within prisons and in non-custodial programmes. Poor health conditions in prisons undermine public health in the entire community. Overuse of imprisonment has a dire impact upon families, its adverse effects affecting the development of children long after a parent's prison term is served. The amounts spent on penal services and their success in rehabilitating criminals' impact upon a Nigeria's economic productivity. On the other hand, it should be acknowledged that the contributions of the sustainable development of the penal system in Nigeria in other to ensure a safer society is limited: reducing crime and other forms of insecurity requires investment in social measures that address the causes of crime, as well as constructive investment in her penal system (Bastick, 2010:18).

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