



## A Survey Study of the Remedial Justification of the Nigerian Prison System: The Need to Restructure and Overhaul the Legal Regime

Igwe Onyebuchi IGWE,<sup>1</sup> Hemen Philip FAGA,<sup>2</sup> Uchechukwu UGURU<sup>3</sup>

**Abstract:** The objective of this paper was to carry out a survey of remedial justification of the Nigerian prison system with a view to proffering solutions aimed at the restructure and overhaul of the legal regime. The paper utilised both qualitative and quantitative methods of investigation. It adopted a case study and empirical review of corrective facilities available in Abakaliki, Enugu and Kuje Prisons all in Nigeria through a structured questionnaire administered to staff and inmates of these prisons for the purpose of ascertaining the adequacy of such facilities. The results showed a gross neglect of Nigerian prisons and a departure from the goal of rehabilitation and reformation of inmates. The paper however, found that the major challenges to restructuring Nigerian prisons flowed from the *lacunae* in the prisons law, unfaithfulness of the Nigerian government to promoting a viable criminal justice system through prisons reforms and public apathy. Our results in this paper will benefit researchers and policy makers, which is aimed at galvanizing opinions towards overhaul of the legal regime of the Nigerian prisons system.

**Key words:** prisons; remedial justification; restructure; legal regime

### 1. Introduction

This paper carries out a review of the remedial justification for the restructure and overhaul of legal regime in Nigerian prison system with a view to ensure that prisons in Nigeria not only contribute to the growth of economy but also serve as machineries for character remodeling instead of representing vehicles for waste of scarce resources. The agenda for the restructure and overhaul of the prisons system in Nigeria has been the subject for media and academic debates for several

---

<sup>1</sup> Lecturer, PhD, Faculty of Law, Ebonyi State University Abakaliki, Nigeria, Address: P.M.B 058, Abakaliki, Ebonyi State, Nigeria, Corresponding author: igwelaw2010@gmail.com.

<sup>2</sup> Senior Lecturer, PhD, Faculty of Law, Ebonyi State University, Abakaliki, Nigeria, Address: P.M.B 058, Abakaliki, Ebonyi State, Nigeria, E-mail: hemenfaga@gmail.com.

<sup>3</sup> Senior Lecturer, PhD, Faculty of Law, Ebonyi State University, Abakaliki, Nigeria, Address: P.M.B 058, Abakaliki, Ebonyi State, Nigeria.

decades. Prisoners in Nigeria faced years of confinement in often cramped and dirty quarters with insufficient accommodation, poor hygiene and little or no amenities to make life comfortable and resourceful, as producers rather than consumers. The prevalent rate of these conditions attracts concern and the need to address them through prisons restructuring and overhaul of the legal regime.

This paper is built on the existing works of other authors with a view to identifying gaps in knowledge aimed at filling them. In doing this, the paper outlines in details the meaning of prisons, several key historical developments in the evolution of Nigerian prisons, empirical review of corrective facilities in some prisons, and the call for restructuring and overhaul of legal regime on Nigerian prisons.

## **2. Concept of Prisons**

The conceptual analysis of a 'term' in law is not like arithmetic conclusion where issues are resolved and remained uncontroverted in perpetuity (Igwe, 2017, p. 10). In law, a term defined may create unending avenue for other scholars to search for an end to any endless hullabaloo. Tobi, (1996, p. 14) described the phenomenon thus: "Definitions by their very nature, concept and content are never accurate like mathematical solution to a problem". The definition of a concept in law may be likened to the proverbial story of blind men that went to observe the size of an elephant, and each of them describing it based on the part they felt through touch (Igwe, 2018, p. 246). For this purpose, the concept of "prisons" is not immune from the definitional storms, therefore, it is pertinent to review some literature on the concept.

Penner, (2001, p. 273) defines prison as "a place of detention in safe custody, or for punishment after conviction". This definition is somewhat narrow because prisons are not only made for safe custody or punishment but also to pursue the aim of rehabilitation and reformation of inmates to improve their lives upon release and prevent any future security challenges they may pose. Curzon's definition (1998, p. 294) seems to fall into the same definitional quagmire, when he defined prison as a "place of detention for those committed to custody under the law, which includes young offenders" institution or remand centres'. Garner (2009, p. 1314) also defined prison as a "state or federal facility of confinement for convicted criminals". However, the definition is similarly inadequate to describe prison sufficiently because all over the world, and indeed, particularly in Nigeria, a large proportion of inmates in prisons are awaiting trial rather than convicted prisoners.

In some cases, debtors and lunatics are also kept in prisons. Tajudeen(2013:780) defines prison as “a place in which people are physically confined and usually deprived of a range of freedom”. Nlerum (2007, p. 218) on the other hand says that prison is “a place in which people are confined while on trial or for punishment”. It follows from these definitions that a prison is not necessarily a house, it may be an open place designed for keeping persons accused or convicted of crime, miscreants and even lunatics. It is designed by government to ensure that offenders are kept away either temporarily or permanently in order to address the injury they inflicted on society.

### **3. History of Prisons in Nigeria**

Holmes stated thus, “to understand what is, we must understand what has been and what it tends to become” (Peak, 1998, p. 255). In view of this whimsical advice, our quest to discuss the Nigerian prison system logically must begin with the genesis of the system. Understandings of the situation in pre-colonial and colonial Nigeria is necessary to any meaningful appreciation of the need to reform and restructure the Nigerian prison system today.

It is important to point out that before the advent of western civilisation and legal system in Nigeria, different tribes that make up Nigeria today had their different ways of dealing with a person adjudged to have deviated from the agreed norms. In Igboland (South Eastern Nigeria) for instance, chiefs, elders, village heads, age grades, kindred units and individual families handled cases in accordance with native law and customs (Igwe, 2017, p. 2). Prison systems worked in pre-colonial Yoruba and Hausa/Fulani societies because of their honour to Oba and Emirate genealogy.

The current post-colonial prisons system in Nigeria is a product of the English Legal System and penal ideology. In 1914, Lord Fredrick Lugard amalgamated the Southern and Northern Protectorates and maintained a dual structure of prisons in Nigeria. In the South, there existed a Convict Prison, a Provincial Prison and a Divisional Prison. In the North, native authorities operated prisons on local level under the supervision of the Chief Warder (*Yari*), (Saleh-Hanna, 2008, p. 59). At the exit of Lugard’s administration, Sir Donald Cameron was appointed the Governor-General to captain the ship of colonial administration in Nigeria and he introduced prisons unification. However, his attempt was frustrated by the

Northern elites who viewed the unification exercise as an attempt to whittle down their power of dominion over political enemies, (Orakwe, 2015).

The enactment of the first indigenous prisons' legislation, the Prisons Act of 1960 actually paved the way for the appointment of a Nigerian as the Director of Prisons. According to Ajomo & Okagbue (1991, p. 176), the 1960 Prisons Act made provisions for the reception and treatment of prisoners, the organisation, control and constitution of the prison service, and the issue of stores and accounts. The Act was supplanted by the Prisons Act of 1972, which has remained existence until today. Section 1 of the Act provides for the office of a Comptroller-General of Prisons who shall have the general charge and superintendence of the prisons system in Nigeria. Section 16, empowers the President of the Federal Republic of Nigeria to make standing Orders for the good order, discipline and welfare of prisons. While section 2(1) of the Act provides that the Minister may, by Order in the Federal Gazette, declare any building or place in Nigeria to be a prison and by the same or a subsequent Order specify the area for which the prison is to be established. Over the years, inmates of Nigerian prisons remained consumers of the Nigerian economy due to the inability of the prisons system to formulate and implement policies that would integrate the system into the mainstay of the economy through production and a reserve of labour. For this purpose, it has become imperative that empirical examination of corrective facilities in some Nigerian prisons is done with the aim of projecting the way forward.

#### **4. Empirical Examination of Corrective Facilities in Abakaliki, Enugu and Kuje Prisons**

##### **4.1. Areas of Study**

This study covers three prisons in Nigeria, which are, the Federal Prison Abakaliki, Ebonyi State, the Enugu Maximum Security Prison, Enugu State and Kuje Prison, Abuja. The Federal Prison Abakaliki, Ebonyi State is located beside Police Command Headquarters in Abakaliki, the capital city of Ebonyi State of Southeastern Nigeria. At the time of the research, Abakaliki prison housed 894 inmates, Enugu Maximum Security Prison, Enugu State housed 1800 inmates while Kuje Prison housed 852 inmates.

## 4.2. Methods of Data Collection

In the course of the empirical investigation of the discourse, 350 structured questionnaires were distributed to selected inmates of the three prisons under investigation in July 2018. The questions sought information with respect to corrective/vocational facilities in the three prisons. Out of the said 350 copies of questionnaires distributed, 336 copies of the questionnaires were successfully retrieved from the respondents. 10 copies of the questionnaires were not recovered while 4 copies were not properly filled, making it a total of 14 questionnaires that were lost. Hence, 96.0% recovery rate was achieved which we considered very impressive. This impressive result in the collection of data was made possible due to the assistance offered us by staff of the prisons. The researchers made use of descriptive statistics to analyse the questionnaires, the frequency tables and simple percentage was used in presenting and interpreting the quantitative data.

## 4.3. Data Analysis and Discussions

The result of the data collected in the three sample prisons: Federal Prison Abakaliki; Enugu Maximum Security Prison and Kuje Prison, are analysed hereunder. For this purpose, quash empirical study was adopted. This is a method where a sample is used to represent the whole. Hence, the percentage average in the above three prisons is mathematically computed as

$\frac{x}{y} \times \frac{z}{1}$ . X = number of respondents on each item. Y = total population of the respondents in a particular prison. Z = 100%. Example:  $\frac{45}{102} \times \frac{100}{1} = 49.0\%$

### 4.3.1. Federal Prison Abakaliki, Ebonyi State

At the Federal Prison Abakaliki, Ebonyi State, 102 respondents were recorded.

**Table 1. Vocational Facilities**

Vocational facilities	Adequate	Not adequate	Available for convicts only	Available for both prisoners
Prison Farm	0	0	0	0
Shoe making	32	70	98	4
Welding	2	100	101	1
Tailoring	30	72	96	6
Carpentry	6	96	88	14
Electrical	4	98	100	2
Phone Handset Repairs	0	0	0	0
Radio technician	0	0	0	0
Bricklaying & block molding	0	0	0	0
Hair dressing	2	100	99	3
Aluminum Window & Door Artwork	0	0	0	0
Computer Repairs	3	99	101	1

Table 1 shows that prison farm is not available in Abakaliki prison. Vocations like phone handset repairs, radio technician, bricklaying, aluminum window and door artwork and bricklaying/molding are not available in Abakaliki prison. Shoe making, welding workshop, tailoring workshop, carpentry workshop and hairdressing are available but not adequate for the use of inmates of Abakaliki prisons

#### 4.3.2. Maximum Security Prison Enugu, Enugu State

**Table 2. Vocational Facilities**

Vocational facilities	Adequate	Not adequate	Available for convicts only	Available for both prisoners
Prison Farm	0	0	0	0
Shoe	5	120	123	2
Welding	17	118	99	26
Tailoring	40	85	88	37
Carpentry	25	100	111	14
Electrical	35	90	84	41
Phone Handset Repairs	0	0	0	0
Radio Technician	19	106	122	3
Bricklaying & block molding	0	0	0	0
Hair dressing	12	113	95	30
Aluminum Window & Door Artwork	0	0	0	0
Computer Repairs	18	107	99	26

Table 2 shows that prison farm and vocations like phone handset repairs, bricklaying, aluminum window and door artwork and bricklaying/molding are not available in Enugu Maximum Security Prison. Shoe making workshop, welding workshop, tailoring workshop, carpentry workshop and computer repairs are available but not adequate for the inmates of Enugu prison. Radio technician is adequate.

### 4.3.3. Kuje Prison Abuja

**Table 3. Vocational Facilities**

Vocational facilities	Adequate	Not adequate	Available for convicts on	Available for both prisoners
Prison Farm	0	0	0	0
Shoe	19	90	98	11
Welding	28	81	71	38
Tailoring	7	102	105	4
Carpentry	9	100	102	7
Electrical	15	94	106	3
Phone Handset Repair	0	0	0	0
Radio Technician	1	108	107	2
Bricklaying & block	0	0	0	0
Hair dressing	5	104	50	59
Aluminum Window & Door Artwork	0	0	0	0
Computer Repairs	31	78	10	99

Table 3 shows that prison farm; vocations like Phone handset repairs, bricklaying/molding and aluminum window & door artwork are not available in Kuje Prison, Abuja. Shoe making workshop, welding workshop, tailoring workshop, carpentry workshop, electrical workshop, radio technician, hair dressing vocation and computer repairs are available but not adequate for the inmates of Kuje prison.

## 5. Findings on Entrepreneurship of Nigerian Prisons

The result of the empirical investigation carried out in Abakaliki, Enugu and Kuje prisons in Nigeria showed that facilities for trades like carpentry, shoe making, welding, tailoring, electrical works, computer repair, hairdressing among others exist in prisons but are not adequate for the vocational needs of the prisoners. Moreover, majority of the respondents agreed that the available facilities are meant only for use of convicted inmates, leaving the majority of inmates who are awaiting trial idle. This is against the purpose and intentment of the United

Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules, 2015), which makes provisions for the vocational training of prisoners in useful trades.

As far as Nigerian economy is concerned, the poor utilisation of able bodied inmates in the prisons is counterproductive and a waste of much needed human resources. On the other hand, it is quite appalling that the Nigerian prisons system still depend on old methods of skill acquisitions and vocational services for inmates in the 21<sup>st</sup> century where viable economic options such as mobile phone repair technology, aluminum window & door artwork technology and computer repairs technology are available.

## **6. Why Overhaul of the Legal Regime will Introduce Remedial Justification in Nigerian Prison**

For many years now, there have been calls for restructure and overhaul of the legal regime for Nigerian prison to contribute to the growth of Nigerian economy. It is true that for any meaningful transformation of a system, not only the policy thrust but also the legal framework establishing such system must change. This is particularly valid for the restructure and repositioning of the Nigerian prisons system for optimal effectiveness to achieve the dual purpose of correction and productiveness. The call to restructure and overhaul the legal regime of Nigerian Prison System is not a call to downsize the staff or command structure but a call to make it more viable through entrepreneurship. If vocation facilities are made available for services such as cosmetics production, shoe making, tailoring, barbing, laundry, mobile phone repairs, aluminum window & door artwork and computer repairs, taxpayers money will not only be saved but the prison system itself will generate income to the government while achieving the goal of rehabilitation. Our empirical investigation also revealed the fact that there are no farms in any of the three prisons of Abakaliki, Enugu and Abuja; this fact completely defeats the diversification agenda of the Nigerian economy through agriculture promoted by successive Nigerian governments. (Adams, 2016, p. 106; Suberu, et al 2015, p. 110).

## **7. Possible Challenges to the Restructure and Overhaul of Nigerian Prisons System**

The effectiveness of the restructuring and overhaul of the legal regime of Nigerian prison system lie in the fact that a change of *statusquo* has to be made to tailor the system towards income generation rather than income consumption. This necessity however, faces many challenges ranging from administrative hurdles, harmonisation of interest groups relating to the media, political parties, prison administrators, prisons' food contractors, uniform contractors and the Nigerian political oligarchs. Thus, to achieve effective restructuring of the system, there is need to embark on nationwide sensitization programme to educate the public and these varied groups of interest on the benefits of overhauling the legal regime for the Prisons System. The importance of this cannot be overemphasized to garner a national consensus around the discourse for an effective prison system that would not only contribute to the growth of the Nigerian economy but also remodel prisoners to live productive and law-abiding lives for national security.

## **8. Conclusion**

What emerged from the above discussion is that Nigerian prisons presently represent waste of human and economic resources. If the Nigerian prison still upholds the goal of rehabilitation and reformation, it is imperative to re-organise the system to empower inmates to acquire the necessary skills to lead productive and law-abiding lives. The straightening of skill acquisitions in prisons is a clarion call that must be urgently answered if the system is to ensure a better tomorrow. Restructuring of Nigerian prisons will never be a threat to those who benefit in one way or the other from the current order rather; rather, it will pave way for more jobs and income for both the prisoners and the country.

## **9. Bibliography**

Adams, O.K. (2016). Diversification of Nigeria Economy through Agricultural Production. *IOSR Journal of Economics and Finance*, Vol. 7(6), pp. 104-107.

Ajomo, M.A. & Okagbue, I.E. (1991). *Human Rights and the Administration of Criminal Justice in Nigeria*. Lagos: University of Lagos.

Curzon, L.B. (1996). *Dictionary of Law*. 5<sup>th</sup> Edition. Great Britain: Redwood Books, 1998.

- Garner, B.A. (2009). *Black's Law Dictionary*. 9<sup>th</sup> Edition. USA: Thomson West Group.
- Hornsby, S.A. (2000). *Oxford Advanced Learners Dictionary of Current English*. 6<sup>th</sup> Edition. London: Oxford University Press.
- Igwe, I.O. (2017). *Prisoners' Rights in Nigeria: Challenges and Remedies*. Enugu: Ecce Homes and Pioneers Nig. Ltd.
- Igwe, O.I. (2011). An Appraisal of the Provision of Order XIII of the Fundamental Rights (Enforcement Procedure) Rules, 2009', Vol. 4(1) *Ebonyi State University Law Journal*, pp. 239-257.
- Nlerum, F.E. (2007). *Rights of Prisoners*. In O. Okpara ed., *Human Right Law & Practice in Nigeria*, Vol. 2. Abakaliki: Nwamazi Press.
- Okpara, O. (2007). *Human Right Law & Practice in Nigeria*, Vol. 2. Abakaliki: Nwamazi Press.
- Orakwe, I.W. (2015). *The Origin of Prisons in Nigeria*. Available at: [http://www.prisons.gov.ng/history\\_of\\_nps](http://www.prisons.gov.ng/history_of_nps) (retrieved 2/8/2019)
- Peak, K.J. (1998). *Justice Administration*. 2<sup>nd</sup> Edition. New Jersey: Prentice Hall Incorp.
- Penner, J.E. (2001). *Mozley Whitley's Law Dictionary*. 12<sup>th</sup> Edition. London: Edinburg, Dublin.
- Saleh-Hanna, V. & Ume, C. (2008). *An Evolution of the Penal System: Criminal Justice in Nigeria*. In VivianneSaleh-Hanna, ed. *Colonial Systems of Control Criminal Justice in Nigeria*. Ottawa: University of Ottawa Press, pp. 55-68.
- Suberu O.J.; Ajala O.A.; Akande M.O. & Olure-Bank, Adeyinka (2015). Diversification of the Nigerian Economy towards a Sustainable Growth and Economic Development. *International Journal of Economics, Finance and Management Sciences*, Vol. 3(2), pp. 107-114.
- Tajudeen, I.O. (2013). Behind the Prison Walls: Rights or No Rights. *International Journal of Innovative Research & Development*, pp. 779-799.
- Tobi, N. (1996). *Sources of Nigerian Law*. Lagos: MIJ Professional Publishers Ltd.

### Legislations

Prisons Act, Cap P 29 Laws of the Federation of Nigeria, 2004.

United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules, 2015), available at: [https://www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E-book.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf) (retrieved 2/8/2019).