

THE WHITE COLLAR

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Nigerian Prisons and the Travesty of Justice

Sitting in a courtroom somewhere in Lagos, on a hot busy weekday a case of Murder and Armed Robbery was announced. Some nine or so young men who had been in court squashed up against each other, were shuffled to the front of a small tight courtroom where some were squeezed into the Defendant's Box. Only two had lawyers and of these the younger lawyer, informed the court that she was sent by her boss out of courtesy because he could not attend, it was a first appearance and they sought an adjournment.

To our surprise the court insisted that the Prosecution open their case and these two Defending Counsel cross-examine the Prosecution's witness. After about twenty minutes of cross-examination and the court recording evidence vigorously, we all realised that in the haste to open the case none of the Defendants had been given a chance to plead guilty or not, they had not even been arraigned!

Failing Numbers in a Failing System

These kinds of miscarriages of justice occur unfortunately all too many times in our Criminal Justice system and as much as law reforms like the Administration of Criminal Justices Act 2015 attempt to remedy them institutional maladies exist that continue to ensure that they remain the status quo. In the Nigerian Prison System there are 63,142 inmates under remand. Of these 45,626- that is more than 72% of inmates are waiting for their trial and are therefore being held without having been found guilty of committing a crime.

In some cases the time spent on remand is more than the sentence allocated for the offence they have been charged with. For one such case a young man was imprisoned for two years because he was found with a "Nokia" mobile phone, the same brand a Complainant said was stolen from him, and when he was finally brought to court and the phone shown to the Complainant, the Complainant said, "This is not the phone that was stolen from me".

The Underbelly of Society

Many, if not virtually all the 240 Prisons complexes in Nigeria are at breaking capacity. Human beings become nothing more than bags of bones as men and women, Nigerians no less, are packed, squashed together and treated worse than animals, with the added ignominy that they cannot speak up or complain. Anyone that has ever visited a Prison will know that the cells Prisoners are kept in have no ventilation, the air in there quickly becomes stale and humidity brings the thick pungent smell of sweat, urine and worse. Beatings, extortion and even sodomy become commonplace occurrence. They become less than nothing, they are no longer Nigerians, they have no rights, they are simply prisoners.

What of the Prison staff that guard them? When I visited a Medium Security Prison in Benin City some years ago I remember the distinct feeling that one Prison warder seeing my group looked



almost imploring at us for any type of help. They had little or no supplies, I remember wondering how these warders with nothing would feed all the people locked up. They have no medical supplies and rely on the generosity of Nigerians who donate to them.

While we fight over disappearing budgets and padded allocations the real men and women serving our country suffer the irresponsibility of those who ought to know and plan for the building complexes, supplies and amenities they need.

Symptoms of a Greater Ailment

In the past three months there have been an equal amount of Prison breaks- Kogi, Kuje and Nsukka that all saw Prisoners flee Prison complexes after explosions or break outs through perimeter walls and so on. Nsukka's jailbreak coming even as recently as August 9th and with these staggering statistics should we not expect more? All of which begs the question "What are our elected officials doing about this?"

As far back as 2012 "the Nigerian Prisons and Correctional Services bill" had been before the National Assembly. In fact it is reported to have sailed through three readings before the House of Representatives, but for some reason, it unfortunately has not since then managed to become law. Nonetheless this is a good opportunity to remind ourselves of what the bill seeks to reform and why it is ever so important at this time.

The Nigerian Prisons and Correctional Services Bill

Firstly the bill seeks to repeal the Nigerian Prisons Act (NPA), currently the legislation regulating the operation and administration of Nigerian Prisons by the Nigerian Prisons Service. Since 1972 when the NPA was passed, legal theory has shifted in favour of reformatory justice and the need to rehabilitate prisoners rather than a wholly punitive focus on the incarceration of offenders, which may shed light on the renamed "Nigerian Prisons and Correctional Services" in

section 1. Section 2(3) and (4) stipulates that classes of prisoners must be created and prisons be designated for specific classes of prisoners, this presumably to apprehend the problem of prisoners awaiting trial being kept with prisoners already convicted.

Worryingly though section 4(c) gives the Minister charged with the responsibility of Prisons the power to make an Order published in a Federal Gazette that:

"any prisoner of a class to which any prison or part of a prison has been appropriated under the provisions of this section may lawfully be imprisoned therein, whether or not the warrant or the order for his imprisonment has been issued by a court having jurisdiction in the place where the prison is situated."

While we will be tempted to give the benefit of the doubt to a Minister of the Federal Republic, should we not also consider the arbitrariness of the power to remand merely based on the "appropriation" of a class of prisoner for a designated prison without the scrutiny and transparency of referral to the courts?

Section 10 also attempts to remedy the situation where Prisoner files or reports are missing by requiring that such be obtained as soon as practicable on each Prisoner. Section 14 refers to Prisoners who appear to be of Unsound Mind, it makes stipulations as to how they are to be treated and insinuates the appointment of a Prison Medical Officer who is to make a report on such conditions of Unsound Mind (Section 20 then substantively creates the position). Section 15 then speaks to the conditions in which a Prisoner may be removed from the Prison and taken to Hospital because of an emergency.

Section 16 perhaps makes the farthest reaching changes in the remand of Prisoners awaiting trial. It stipulates that:

"No person Awaiting Trial shall be remanded in prison for more than 3 months if a prima facie case is established against an accused person"

(1) The offence is a bailable offence (2) The accused can provide competent surety (3) The accused is already known to police."

Section 23 creates specific government allocations for Prisons Services, under which the cost of feeding prisoners will be reviewed every 5 years. Considering the conditions the entire country has experienced just this year alone, perhaps this section could go further and secure the practical reality of managing feeding of the prison population with a more frequent review. Still, notwithstanding any perceived limitations the bill may appear to have, it is clear that the time to act to reform Nigerian Prisons is now.

A Reflection of Who We Are

You may be tempted to ask, "Why should we make all this fuss about people serving punishment for the crimes they committed?" "How can we spend money lacking for infrastructural development on people who have rejected the norms of society?" These are real questions we must contemplate seriously and decide to answer as a nation.

Still, the achievements of a society are not judged by how well the richest do, or most law-abiding citizens are treated. Our strength as a people is not in how well taken care of those at the top are but rather by how well we treat those that have nothing to offer us in return, those who are vulnerable, weak and yes even those who reject our way of life. It is in how well off the worst of us are that we see the fairness and equity of our way of life. And that is without the consideration that when you refuse to feed a man locked up you cannot blame him for whatever he does.

So how are we treating those we have put behind bars? Well enough that when they come out they can join us peacefully? We can pretend like this is not my problem, we may think so poorly of prisoners that we believe everything they experience is well deserved. "I'm not a criminal, I pay my taxes" of course, comfortable thoughts, until the day you or someone you know sees the inside of a cell. Then all too quickly we will know who the animal is, the person caged in or the people locking the cage.