

POLICY BRIEF

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THE NIGERIAN CRIMINAL JUSTICE SYSTEM

MEASURING PERFORMANCE

The perception of the criminal justice system in Nigeria is overwhelmingly negative. Amnesty International tagged the criminal justice system in Nigeria a “conveyor belt of injustice, from beginning to end”. (AI, 2011) The President of the Nigerian Bar Association is of the opinion that “the criminal justice system has failed to respond to the increasing needs and demands of the Nigerian society” (NAN, 2013) and the Speaker of the House of representative once stated that “our criminal procedure has remained largely old and unresponsive to the quick dispensation of justice.” (Punch, 2013) President Muhammadu Buhari referred to the Nigerian judiciary as “his main headache”, while promising to overhaul the judicial system. (Vanguard, 2016)

CURRENT SITUATION

Three out of the five major legislative pieces that collectively regulate criminal justice in Nigeria- the Penal Code, the Criminal Code, the Prison Act are all substantially relics of colonial culture and all part amendments have failed to effect a unique Nigerian-specific agenda on criminal Legislation.

The same can be said of the Police Act (1943), which was reenacted by a decree in 1967 with only cosmetic changes. The judiciary in terms of speed and quality of justice does not fare better, as it takes an average of 5.9years to dispose off a contested case (Lagos State Ministry of Justice). Also, the

EXECUTIVE SUMMARY

The Nigerian criminal justice system is fundamentally flawed and the problem is represented at every processing point on the entire criminal justice system line - from the failure of governance institutions to design a suitable criminal justice policy that serves the current need of the country, to the inability of the legislature to appropriately transform policies into laws, from an oddly designed judicial system plagued by massive corruption, incompetence and crippling bureaucratic bottlenecks to an outdated and counterproductive style of policing and a correctional services that inhumanely warehouses those considered ‘innocent’ by the very law of the society.

Criminal justice, because it addresses behavioral issues, must be dynamic, proactive and culturally relevant and more importantly, criminal justice system because of its centrality to governance, has a far reaching effect on economic productivity, social cohesion and the rule of law

Judiciary is hobbled by corruption, inconsistency and outdated governance structures.

The Prisons are nothing but overwhelmed human warehouses, the actual capacity of the Nigerian prisons is about 47,284 but the prison currently holds 56,718 inmates. 68% (39,032) of the total prison inmates are awaiting trial inmates. (Leadership - 08/10/2015)

“[...] some of you have just been languishing here without appearing in court or being charged with any offence”- Chief Judge of Lagos State(Punch, 01/10/2013)

- 70% of Nigeria's Prison Population are awaiting trial inmates (NHRC, 2015)
- The cost of feeding awaiting trial inmates stand at over N5.5 billion a year
- Population of Prison personnel in Nigeria is 28,065 (Leadership Newspapers-08/10/2015)
- It will take an average of 15 years to successfully prosecute a criminal case from high court to supreme court (Davidson Iriekpen)
- 80% of criminal cases in Nigeria terminate at the magistrate court (Yusuf Ali)

POLICY RECOMMENDATIONS

- There is the need for a national forum of experts to facilitate the design of a criminal justice system policy
- There is a need for criminal codes that countenances Nigeria's unique cultural differences and talks to the current problems of incomprehensible and inaccessible legal regimes
- A holistic review of the management and funding of court systems in Nigeria
- There is the need to find alternatives to imprisonment as it is being done in other systems
- The management and control of prisons should be removed from the exclusive legislative list to the concurrent legislative list in order that state governors and the Chief Judges of the states will have input in the entire criminal justice process in their states.

IS THE ADMINISTRATION OF CRIMINAL JUSTICE ACT (2015) ENOUGH?

While the Administration of Criminal Justice Act (2015) thankfully and for the first time defines the aim of the criminal justice system in Nigeria and makes innovations in the areas of supervision of security services, arrest procedure, rights of victims of crime, plea bargaining and remand practices, it is only the first step in a long line of processes and agencies long due for reform.

The basic law dealing with crime in southern states of Nigeria is the antiquated Criminal Code and the Penal Code, which operates in the Northern states. These pieces of legislation were originally enacted in 1902 and 1960 respectively and are more reflective of British colonial interests than Nigeria's current social needs.

The court system which is the second most important component in a triangulated relationship of the criminal justice system involving laws, courts and enforcement agencies needs urgent reform. Bureaucratic bottlenecks, inconsistent and discriminatory sentencing practices, corruption and opaque appointment practices have all affected public confidence in the ability of courts to effectively and efficiently dispense justice.

The police and prison services equally require massive restructuring. To effectively reform the criminal justice system in Nigeria, every component is essential, so reform must be holistic, concurrent and well thought-out.