

THE NIGERIAN PRISON SYSTEM AND THE FAILURE OF REHABILITATION: AN EXAMINATION OF INCARCERATION ALTERNATIVES

Moses U. Ikoh, (Ph.D)

Abstract

Against the background of prison congestion and increase rate of recidivism in Nigeria, this paper examines the failure of the Nigerian Prison Service rehabilitative model. It discovered that the “criminal label” acquired by the offenders on conviction is reinforced by prisonization and inmates’ subculture. The inmates leave the prisons worse off on release, only to face a society whose members identify them only with that label. In want of what to do to eke out a living, crime often remains the only option, and they are recycled back to prison. The paper calls for alternative incarceration model as provided by reintegration. Such reintegration techniques as work-release programmes, parole, academic-pass programmes and the use of prison volunteers offer the advantage of keeping the convicts behind bars as well as allowing them to mix frequently with members of the society, whom they will meet on completion of their imprisonment term.

Introduction

The Nigerian criminal justice system stands on three legs: the police, the courts and the prisons. The effectiveness of the criminal justice system is measured by its ability to meet the goals of deterrence, incapacitation, retribution, rehabilitation and reintegration. The realization of such goals depends on the level of coordination among the various agencies of law enforcement. At the early stage of a crime, if the police effects an arrest, the arrestee becomes a “suspect”. If eventually the “suspect” is arraigned in courts, his or her title changes to “accused”. The “accused” remains innocent until the court proofs otherwise. If the “accused” is not discharged and acquitted after trial and is sentenced, the title changes to a “convict”. The sentence may involve fines, probation (supervised release), or incarceration (confinement). At this level, the prison takes him or her in as “an inmate”. Imprisonment thus becomes an act of legally restricting, limiting or confining a person. In Dambazau’s (1999) assessment, imprisonment is one of the widely used criminal justice disposal methods in Nigeria. For the purpose of this paper, a prison is defined as any building declared by law where suspected or convicted criminals are legally kept with the intention to transform them into responsible and law abiding citizens.

Imprisonment serves several universal functions, including the protection of the society, the prevention of crime, retribution (revenge) against criminals, and the rehabilitation of inmates. Additional goals of imprisonment may include the assurance of justice based on a philosophy of just deserts (getting what one deserves) and the reintegration of inmates into the community after serving their sentences (Conklin, 2001). Locking up dangerous criminals or persistent non-violent offenders means that the society will be protected from them for the duration of their sentences. Thus, imprisoning criminals temporarily incapacitates them. Other than this, the expectation is that prisons will cause inmates to regret their criminal acts, and when they are released, will be deterred from committing further crimes (Alemika & Chukwuma, 2001). Incarceration of criminals may also deter other individuals from engaging in criminal behaviour due to the fear of punishment (Pursley, 1977). Prisons are also called penitentiaries because of the belief that through solitary religious instruction while under confinement, prisoners would become penitent (remorseful) and reform their behaviour. Different countries place different emphasis on one or more of the enumerated incarceration goals. In Nigeria, the constitutional amendment provision 366 of 1990 provides for the objectives of the Nigerian prisons thus:

(a) to keep safe custody of persons who are legally entered; (b) to identify the causes of their anti-social behaviour, treat and reform them to become disciplined and law abiding citizens of a free society; (c) to train them toward their eventual reformation, rehabilitation and re-integration to the society after their discharge; (d) to generate funds for the government through prison farms and industries (Jarma, 1999:196).

It is a package of tangible and intangible provisions directed at inmates' rehabilitation and reform so that they can pursue an independent and legally accepted way of life on discharge. Based on this philosophy, the prison system was equated with corrections. Imprisonment was therefore aimed at correcting criminals and transforming their behaviour, rather than merely penalizing them for their wrongdoing. It is debateable if that philosophy is achievable today, nor was it ever achieved in the past. Opinion differs, but several authors including Dambazau (1999), Jarma (1999), Alemika and Chukwuma (2001) and Otite and Albert (2004), argued that the prison system in Nigeria is worse today than in the days after colonial rule. The workshops that were in the prisons have been converted into makeshift centers because of congestion. Where they still exist, there are no implements, no tools and incentives to put them to use. Nigerian prisons built for a gross capacity of 25,000 inmates are today overcrowded with over 417,000 inmates, and about 70 per cent of these inmates are Awaiting Trial Inmates (ATI).

This congestion is not without consequences. It has resulted in many related health problems of unsanitary environment, poor feeding, poor clothing, over stretched facilities, insufficiency, or even non-existence of welfare rehabilitation facilities. It also poses serious management problems as can be seen in the inability to separate hardened criminals from minor offenders (Odekunle, 1978). Cases of infections ranging from scabies, asthma, tuberculosis, rashes and HIV/AIDS have been recorded (Jarma, 1996). The year 2000 "Country Report" on Human Rights Practices in Nigeria remarked that the Nigerian Prisons conditions were harsh and life threatening (Otite and Albert, 2004). These conditions are by no means different today. The penal policy of reformation and rehabilitation in Nigeria is therefore a public disguise for modernizing imprisonment from the inherited colonial system "geared toward punishment, incapacitation and deprivation of incarcerated offenders" (Alemika & Chukwuma, 2001: 11). Judging from this background, this paper examines the failure of the rehabilitation/reformative philosophy of the Nigerian prison. The paper argues that dysfunctional prisons do not only fail to deliver services, they silence the inmates through patterns of humiliation and exclusion. Since the inmates have no constructive ways of spending their time, they resort to filling the idle hours with reservoir of resentment, with the old criminals teaching the new ones new criminal tricks that they will take back to the society. The consequences are hardened criminals that come out of our prisons and the attendant high rate of recidivism. This informs the argument for alternative incarceration model.

A Brief Background of Study

In pre-colonial Nigeria, history has told us about the availability of prisons, where people who deviated from the societal norms and values were either kept for trial or punishment. Among the Yorubas, there was a prison system in *Ogboni* House. In the Tivland, a building was set aside in the chief's compound for offenders. There existed the *Ewedo* in the Bini Kingdom and the *Gidan Yari* among the Hausa-Fulanis. Individuals who sought redress from those who wronged them allowed the society to determine the type of punishment commensurate with the offence. Punishment was defended as permitting the offenders the feeling of having atoned for their actions while affirming among the law abiding members of society, the appropriateness of their noncriminal behaviour (Pursley, 1977). The advent of colonialism brought modern prisons to Nigeria. The prison system

The Nigerian Prison System And The Failure Of Rehabilitation: An Examination Of Incarceration Alternatives

became organized along the British prison model. In 1872, the Broad Street prison was opened in Lagos with a capacity of 300 inmates (Alemika & Chukwuma, 2001).

After the amalgamation of 1914, the Colonial Authority promulgated the 1916 ordinance which empowered the Director of prisons to make standing orders for organization, discipline, control and general administration of staff and inmates (Dambazau, 1999). Prisons were categorized into three types, viz., the maximum security prisons, the provincial prisons and the divisional or native authority prisons. The maximum security prisons were in Kirikiri, Enugu, Calabar and Orji River. They have high walls around them and convicts who had long sentences to serve were incarcerated there. The provincial prisons were located at Owerri, Ogoja, Makurdi and Onitsha to custody inmates whose sentences were not more than two years. The Divisional prisons were located at Nsukka, Uyo, Itu, Okitipupa, Umuahia and Kano, to take care of inmates whose sentences were less than two years. Several amendments followed in the promulgation of the Laws of Nigeria 1948 and 1958.

After independence in 1960, it became necessary to reorganize the Prison Services in the country. The Native Authority/Divisional prisons were filthy or overcrowded and under staffed (Dambazau, 1999). Some prisons in the control of the Regions were becoming instruments of political victimization (Otite & Albert, 2004). Experts from the United Kingdom were therefore commissioned to look into the reorganization of the Nigeria Prisons. The report of the commission resulted in the Federal Government White Paper of 1971 and subsequent promulgation of Decree No. 9 of 1972. The Decree which later became CAP 366 of 1970, laws of the Federal Republic of Nigeria gave legal backing for the unification and operation of Nigeria prison services.

Conceptual and Theoretical Explanation

Rehabilitation is the efforts of the “new penology”. It draws its strength from Positivists’ argument that the causes of crime are present in the nature of the society, and that when these causes are identified, it would be possible to design intervention programmes for the benefit of the offenders in order to prevent further criminality (Cullen & Gilbert, 1982). Rehabilitation therefore links criminal behaviour with abnormality or some form of deficiency in the criminals. It assumes that human behaviour is the product of antecedent causes. The goal then, is to identify these antecedent conditions, understand the inadequacies, be it physical, moral, mental, social, vocational and or academic. Once the offender’s problems are diagnosed and classified for treatment, the offender can be corrected by appropriate psychological or physical therapy, counseling, education or vocational training, so that he or she can pursue an independent and legally accepted way of life on discharge (Allen, 1971). The rehabilitation model introduced three new characteristics, which include individualization, indeterminacy and discretionary power. According to the American Friends Service Committee (AFSC)(1971), individualization was needed to meet the Positivists’ treatment technique which focused on the criminal and not the law he violated. His infraction of the law was merely a manifestation of his deference from other individuals, and decision has to be tailored to the root cause of that difference to make rehabilitative treatment possible. Such consideration informed the need for indeterminate sentence system whereby the individual is released only when he or she has been cured of his or her criminality. The judges and the prisons’ administrators therefore have discretionary powers on decision making.

Pursley (1997:76) took a critical assessment of the rehabilitation model. According to him, identifying antecedent behaviours that interact to cause criminal behaviour is often misleading. For instance, “the assurance that poverty and lack of education were the causes of criminal behaviour of an offender may be misleading” when judged from the background that many well-to-do people with high level of education also commit crimes of various types. And there are many poor people with little formal education who are non-criminals. It becomes difficult, therefore, to measure in any meaningful way that the treatment programme devised will help to correct the problem that brought the offender to prison.

Adler, Mueller and Laufer (1995) criticized the therapeutic background of the rehabilitative philosophy which implies that the offender is sick because he cannot adjust to acceptable societal lives. Such assumption, they argued, is sustained by fallacious reasoning. The criminal may be well aware of what he is doing and completely rational in deciding for himself that involvement in crime has a higher pay than legitimate behaviour. A century ago Tarde (1843 – 1904) had warned that offenders pursue careers of crime and that these career criminals may engage in periods of apprenticeship that are similar to those that characterize training for entry into other professions (Curran & Rezentti, 2001).

In his observation, Park (1972:45) blamed the weakness of the rehabilitative model on its requirement for a “legally accepted way of life”. According to him, this requirement presupposes that the prisoner is a victim of the society’s capricious system of law and justice, which operate under a dual standard for the poor and the well-to-do. He thus concluded that the rehabilitative personnel are agents of government who are trying to brain wash prisoners into accepting their view of society even when their backgrounds, perception and attitude may be completely different.

In Jarma’s (1999:196) analysis, “the population of prison inmates is becoming more sophisticated and more enlightened than some officers and men that took custody of them”. For rehabilitation to take place, the officers and men of the prisons should at least, be of the same level or above the intellectual capacity of the inmates charged under their care. Petelson (1984:28) observed that “prison buildings however well arranged and well appointed, cannot by themselves effect the moral transformation and turn an idle rogue into an honest citizen”. It is a well-motivated workforce with standard vocational workshop, spiritual and moral instruction, medical facilities, guidance and counselling, and recreational activities that bring about rehabilitation.

In examining the failure of the rehabilitative model to prevent reoffending and hence, decongest our prisons, we adopt the argument of the labelling theory. According to the theory, continued deviant behaviour is caused by the way people who initially violate the laws of the society are treated by the criminal justice system and all others who have the power to affix the label, deviant (Shur, 1969, cited in Concklin, 2001). People first violate a norm by chance or for unexplained reasons. This initial act of deviance, called primary deviation, sometime elicits reaction from others. Those reactions often take the form of stereotyping and rejecting deviants. These stereotyping and rejection create a self concept that may lead to secondary deviation. If the person is eventually arrested by the police and tried in the courts, the conception of the self is altered and he/she comes to think of himself/herself as a criminal (Concklin, 2001).

Court appearances have been called “status degradation ceremony” in which people accused of violating the laws are recast as unworthy persons (Garfinkel, 1956, cited in Concklin 2001). These people reject other people and become hostile to society in order to maintain their self esteem. Being labeled criminal or delinquent in court can thus produce a self fulfilling prophecy, so that people behave in ways consistent with their altered self-concept. Even out of prison, the status of “ex-convict” alone invokes lack of trust and confidence as well as discrimination in job recruitment. The ex-convict only feels welcome by his comrade in crime. And soon after the “label of criminal” assigned him by the police, the court and the prison, seeks for fulfillment.

The Nigerian Prison and Prisoners

Nigeria is a member of the United Nations and a signatory to the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMRTP), which justifies imprisonment thus:

A sentence or a similar measure deprivative of liberty is ultimately to protect society against crime. The end can only be achieved if the period of imprisonment is used to ensure so far as possible that upon the inmates

return to society, the offender is not only but able to lead a law abiding and self-supporting life (Petelson, 1984: 57).

Empirical observation suggests that Nigerian prisons' service has not been able to meet these objectives. Most of the facilities that were built several years ago are now overcrowded. Prison workers are poorly uniformed, poorly paid, while prisons lack the resources needed to promote the welfare of inmates (Erinosho, 1999). The Prisons' Authorities adhere to the idea that deterrence requires strict discipline, regimentation, and punishment, all in an atmosphere of impersonality and quasi-military rigidity. Mails are censored, visitation privileges are closely controlled, privacy is virtually nonexistent, and inmate distance is maintained through mass handling of prisoners. Such conditions influence Alemika's (1987) conclusion that Nigerian prisons are human warehouses.

Since inmates spend extensive time together under the circumscribed environment of regimentation and confinement, they are drawn together on the basis of similar perceptions and interests. This bond results in the formation of inmate subculture. The rewards of such inmate subculture include protection from the actions of the prison officials and other inmates. The groups exert influence over its members as well as restraining non-members. The leaders' knowledge of prison life is used to manipulate official policies and custodial personnel so that they can be used for the benefit of the group. "The 'old con' instruct the new inmates" (Clemmer, 1958:59). This subculture has its own status structure and hierarchy of authority. In many prisons, inmates fear the informal prison subculture and its reprisals for rule violations more than formal administrative rules and punishments (Adler, et. al., 1995). If the prison subculture rejects the goals of the institution (such as rehabilitation), inmates are less likely to accept those goals. The existence of the inmates' subculture explains the mistrust between the prison official and inmates, incessant jail break in the country and hardened criminals that come out of our prisons as well as the increase rate of recidivism. "For them, prisons have become trade schools, and they come out worse" (Awake, 2001:5), only to be recycled back to prison by the police and the judiciary.

Reflecting on his experiences and lack of recreational facilities at the Kano prison, Effiong (2001:17) argued thus:

I engaged in morning and evening jogging on a small space in front of our cell immediately after being open out in the morning and before being locked up in the evening. Sometime a few prison officials would frown at my exercise, suspecting that I was rehearsing a jail-break.

Sleep is the cheapest commodity in the prison. In the absence of sleep, "we found time to chat about ourselves, our families, our fears and sometime our future plans, new inmates, prison conditions and administration". Ex-convicts keep on returning to prison with fresh conviction to "the joy and embrace of those they left behind" (Yishau, 2005:36).

Despite the promises of the rehabilitative model, periodic evaluations by scholars have consistently revealed performance failure (Alemika & chukwuma, 2001). Recent government consideration for the execution of all convicts on death roll to decongest prisons in the country confirms the failure of the rehabilitative model. There is need for the Nigerian Prison Service to examine alternative incarceration model.

Alternative Incarceration: The Reintegration Model

The reintegration model is a more realistic extension of the rehabilitative philosophy. It compensates for the weaknesses of the rehabilitation models in that it sees and views crime and corrective effort along two dimensions. Like the rehabilitative model, it recognizes that the offender needs help. Other than this, it views criminal behaviour as a disjunction between the offender and the society. While the rehabilitative model sees the offender as an isolated entity and looks for the cause

of criminal behaviour as emanating from within the individual, the reintegration model regards the offender and the society as inseparable because of the influence of the society on the offender. For the inmates to be helped, they must be able to cope with the forces and expectation of the society, to which he will return upon his release from prison. Reintegration model therefore emphasizes community ties.

Increase contact with non-criminal ways of life is expected to lead to the assimilation of more appropriate values by the inmates. As a necessary step, proponents of the reintegration model suggest the involvement of the inmates in programme designed for their benefit (Livinson & Gerald, 1973). The following reintegration models are therefore suggested, viz: work-release programme, academic-programme, parole and the use of prison volunteers.

Work-release programme: The work-release programme designed by Busher (1973) suggests that selected inmates should be released from prison during the day to work in the community while spending after-work hours and weekends in confinement. The work-release programme has several advantages. It permits the inmates to develop contact and work experience that are not available in the prison. By establishing himself in a job while still in the prison, the offender can have immediate employment upon release. The work-release programme has other advantages. It can enable the inmates to earn income while in prison. From such income, they can be charged for feeding and accommodation, and can also provide for their family. This is done by taking out a certain portion of their earnings in order to purchase necessities. The remainder is put into a fund which the offender receives upon release. This can compensate adequately for the skills acquisition programmes in the prisons which the inmates undergo but lack the tools to practice after their release.

Academic-pass programme: This is similar to the work-release programme in that inmates are permitted to leave the institution to attend schools and return to prison after class. The purpose is to enable deserving interested inmates to obtain the education and job skills necessary to lead legitimate and productive lives upon their return to society. Through education, it is hoped that they can assimilate more appropriate values and become contributing members of the society. The difference between the “academic-pass programme” and education offered in the prison is that it enables the inmates to meet with students in the society with whom they can exchange ideas and opinion. They can thus make friends who can exert positive influence in their lives.

Parole: This is a conditional release of an offender from prison. The offender returns to the community, but he must abide by certain rules of conduct, which are specified by the parole authority and enforced by a parole officer. These rules are in effect, until the expiration of the offender’s sentence. If the offender breaks the rules, the parole is revoked and he/she returns to the prison. It is a kind of mentoring role that epitomizes treatment-punishment mixture. The parolee is expected to obey special rules of conduct, while the parole agent protects the parolee from slipping back into harmful behaviour patterns by giving him or her counseling, moral support and some concrete help, such as securing employment.

The use of prison volunteers: Prison volunteers include Non-governmental organizations (NGOs), Religious Missionaries and other volunteers who visit the prisons always for the purpose of assisting the prisoners. Apart from providing supplementary services in prison, they serve as community contacts with the inmates. In the reintegration model, these voluntary activities are encouraged.

Conclusion

Differences in incarceration models adopted by different countries depend upon the society’s experience with managing criminals as well as its experiments with different ways of correcting and improving prisoners’ behavior. The rehabilitative techniques in Nigerian prison’s service have not

yielded the desired fruits: reduce recidivist rate and decongest the prison. The prolonged idleness of the inmates in a highly diverse groups cut off from communication with the society provides an opportunity for idle talks. It enforces inmates' subculture that encourages old criminals mostly committed to crime to brainwash the inexperienced ones to convert initial feeling of guilt or shame into smug rationalizations for crime. Such development reinforced the "criminal label" earned by the offender on conviction. So even after he or she must have served the sentence, the "ex-convict" label serve to identify his/her criminal antecedence. In an effort to earn a living in a competitive society, the ex-convict resort to the old habit: crime. In no time he or she is recycled back into prison. Based on this observation, the paper suggests reintegration model as alternative incarceration techniques that would enables offenders to interact frequently with people outside the prisons. These techniques include work release programmes, parole, academic-pass programme and the use of prison volunteers.

References

- Adler, F., Mueller, G.O.W. & Laufer, W.S. (1995). *Criminology 2nd Ed.* New York: McCraw-Hill, Inc.
- Alemika, E. E. O. (1987). Professionalism in the Nigerian prison service. In *The Nigerian prison service and the public*. Abuja: Nigerian Prison Service
- Alemika, E. E. O. & Chukwuma, I. C. (2001). *Juvenile justice administration in Nigeria: Philosophy and practice*. Lagos: Center for Law Enforcement Education.
- Allen, F. A. (1971). A criminal justice, legal values and the rehabilitation ideal. In E.G. Stanley (ed.). *Theories of punishment* (pp.: 309 – 330). Bloomington: Indiana University Press.
- American Friends Service Committee (1971). *Struggle for justice: A report on crime and punishment in America*. New York: Hill and Wang.
- Awake Magazine* (2001, May 8). Can prisoners be reformed? Columbia Height, Brooklyn: Watch tower Bible and tract Society.
- Busher, W. H. (1973). *Ordering time saves prisoner*. Washington DC: Balyn Press
- Conklin, J. E. (2001). *Criminology 7th ed.* Boston: Allyn and Bacon
- Clemmer, D. (1958). *The prison community*. New York: Community Press.
- Cullen, F & Gilbert, K. E (1982). *Reaffirming rehabilitation*. Cincinnati, Ohio: Anderson.
- Curran, D. J. & Renzetti, C. M. (2001). *Theories of crime*. Boston: Allyn & Bacon.
- Dambazau, A. B. (1999). The growth of crime, its prevention and control in Nigeria. In A. B. Dambazau, M. M. Jumare & A. M. Yakubu (Eds.). *Issues in crime prevention and control in Nigeria* (pp.1 - 9). Kaduna: Baraka Press.
- Effiong, M. (2001, May). The Vatsa's coup: Another testament. *Vanguard Documentary Series*, Pp.17-18, 21.
- Erinosho, L. (1999). Socio economic problem and crime. In A. B. Dambazau, M. M. Jumare & A. M. Yakubu (Eds.), *Issues in crime prevention and control in Nigeria* (pp. 13 – 24). Kaduna: Barake Press.

- Gouldner, A. W. (1977). *The coming crisis of western sociology*. London: Heinemann.
- Jarma, I. M. (1999). Prison and reformation of offenders. In A. B. Dambazau, M. M. Jumare & A. M. Yakubu (Eds.), *Issues in crime prevention and control in Nigeria* (pp. 196 – 207). Kaduna: Baraka Press.
- Livinson, R. B & Gerald, R. E. (1973). *Functional unit: A different correctional approach*. New York: Federal Publication.
- Odekunle, F. (1978). Juvenile delinquency and adult crime. In E. O. Akereolu (Ed.), *Social problems and criminality in Nigeria* (pp. 32 – 54). Lagos: Federal Ministry of Health and Social Welfare.
- Otite, O & Albert, I. O. (2004). *Community conflicts in Nigeria: Management, resolution and transformation*. Ibadan: Spectrum Books.
- Park, J. N. L. (1992). What is political prisoners? *American Journal of Correction*. 3 (7): 54 – 96.
- Pursley, R.D. (1977). *Introduction to criminal justice*. California: Glencoe Press.
- Petelson, A. (1984). *Standard minimum rule for the treatment of prisoners: An assessment*. New York: UN Press.
- Yishau, O. (2005). *Armed robbery or charm robbery: Violent crime in Nigeria*. Ibadan: Spectrum Books.