

Prison Decongestion and Reforms in Nigeria – Issues and Methods

By:

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1. INTRODUCTION:

To control prison population we need to control two major factors namely: the prison reception rate (i.e. the rate at which persons are received into prison) and the duration in custody (i.e. the length of time spent in custody). However, we must note that these two factors are affected by several other factors that occur before, during and after incarceration/imprisonment. Factors and activities that occur before and after incarceration thus give an impression that the bulk of the remedies to redress any problem relating to prison population lie on the hands of agencies outside the prisons. In fact it can be argued that the prison service does not determine the rate of reception into prison nor do they determine the length of time a prison inmate spends in custody. While there is a lot of truth in the above assertion, taking this position as the ultimate view mask the reality and ignores the potential and possible innovations that can be implemented by prison officer towards reduction of prison population. Also, this view point does not take into cognisance the circumstances that occur because of lapses in the management of detainees and offenders by the prison officers which consequently contributes towards increase in the prison population. Also, our understanding of the vital role played by (or should be played by) other key agencies instructs the discourse towards a multi-sectoral/multi-disciplinary approach towards the management of prison decongestion initiatives.

Given the above, we intend to examine this issue from a holistic perspective which will cast our lenses on the three major phases, namely: Before (Pre-Incarceration/Pre-Detention/Pre-Imprisonment), During (Incarceration/Detention/Imprisonment), and After

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(Post-Incarceration/Post-Detention/Post-Imprisonment) Phases. What happens during each of these phases is very critical in determining the prison population and the utility of prisons in any given society. The focus of this paper will be on prison population, congestion and decogestion issues and the factors that relate directly or indirectly to these. We will very briefly examine each of the above phases as well as the factors that occur at each of these phases which contribute to the prison population and the rate of congestion/overcrowding or otherwise.

Also, it is important to note that there are three types of persons we find in prison – The Innocent who were wrongly accused, wrongly detained, wrongly convicted and/or wrongly sentenced; The Minor Offenders who though have committed offences but those are not of the nature that should attract incarceration; and the Serious Offenders who though in prison but will someday come back into the society (unless if the person dies in prison). This discourse will be done against the above back drop.

2. WHO ARE IN THE NIGERIAN PRISONS?

A glance on the Prison Record Chart that adorn most prison (if not all prisons) gates and offices of the officers in-charge of the prisons includes the following categories of prisoners: 'Awaiting Trial Males' (ATM), 'Awaiting Trial Femals (ATF), 'Convicted Males' (CM), 'Convicted Females' (CF), 'Detained at His Excellencies Pleasure' (Underaged detainee in prison with special authorization), 'Debtors', 'Criminal Lunatics' (Mentally ill persons charged with an offence), and 'Civil Luinatics' (Mentally ill person charged with no crime), 'Condemned Convicts' (CC) – Prisoners on Death Row, Lodgers (detainees from other prisons who are currently in the particular prison for purposes such as attendance to court, hospital or for other special reasons. It is also argueable whether our prisons should hold all these categories of persons, especially with respect to the 'civil lunatic'.

One can therefore argue that the above constitute the inmates population of an average prison in Nigeria. However, it is important to state that the Nigerian prisons population has a disproportional high number as awaiting trial / remand prisoners. For example in 2000 out of a total population of 42,298 inmates nation-wide, 24,953 (59%) were awaiting trial prisoners (Agomoh et al, 2001)². This masks some of the really problem. Many of the prisons has a staggering proportion as awaiting trial, sometimes as high as

² Agomoh U, Adeyemi A and Ogbemor V (2001) , *The Prison Service And Penal Reform in Nigeria: A Synthesis Study For the Safety, Security And Access to Justice Programme of the Department for International Development (DFID)*, PRAWA: Lagos at page 13

80% - 90%. A closer look at the further breakdown of the above stated 2000 figure for five prisons indicated thus:

Table 1: Breakdown of prison population in Some Selected Nigerian Prisons (2000)

S/N	NAME OF PRISON	TOTAL INMATES POPULATION	CONVICTS	AWAITING TRIAL PERSONS	PRISON CAPACITY AS DESIGNATED
1	KANO	817	225	592	690
2	KIRIKIRI MEDIUM	2289	521	1768	704
3	IKOYI	1661	144	1517	800
4	PORT HARCOURT	1344	379	965	804
5	OWERRI	1045	100	945	630
	TOTAL	7156	1369	5787	3628

It has been argued by officials of the Nigerian Prison Service that many of the cases of congestion occur amongst prisons located in urban area. Analysing the statistics from 30 (out of the over 200) Nigerian prisons, it was observed that 30 prisons accounted for 22,609 (about 50%) of the national prison inmates population and 16,422,609 of this number were awaiting trials (Agomoh U et al 2001)³. Of this number, the percentage of awaiting trial for some of the prisons were as follows: Akure Prisons (98%), Ikoyi prison (92%), Owerri Prison (89%), Kirikiri Medium (86%); Port Harcourt (83%), Onitsha Prison (83%), Aba (82%), Kaduna Prison (78%), and Madiguri New Prison (74%). See Appendix 1 for the full chart for more information on the other prisons.

In a 2008/2009 Baseline and Impact Assessment of the Prison Decongestion and Re-entry Scheme carried out by PRAWA it was observed that in Enugu State that of the four prisons located in the state, all the three prisons holding awaiting trials had very high proportion of awaiting population (PRAWA, 2009)⁴ as follows:

Table 2: Awaiting Trial Prison Population in Enugu State Prisons (2008/9)

NAME OF PRISON	TOTAL INMATE POPULATION	NO. CONVICTED PRISONERS	NO. OF AWAITING TRIAL PRISONERS
Enugu Prison	860	157 (18.3%)	708 (82%)
Nsukka Prison	338	25 (7.4%)	313 (92.6%)
Oji River Prison	87	14 (16%)	73 (84%)

³ Ibid at pages 8 - 9

⁴ Nweze A et al (2009), *Baseline & Impact Assessment of the Prison Decongestion and RE-entry Scheme (PDRS) – A Project funded by Security, Justice and Growth (SJG) Programme/DFID* PRAWA: Enugu at page 4

The above therefore suggest that one need to be careful in assuming that only prisons located in urban areas are congested in Nigeria. Though it may also be argued that both Nsukka and Oji River are not rural areas but it is clearly understandable that Enugu is certainly a more cosmopolitan/urban city than Nsukka and Oji River. If this is the case, one may then ask why is the proportion of awaiting trials higher in Nsukka and Oji River than Enugu? This suggest that more rigorous examination need to be undertaken on other intervening factors such as distance and nature of the court attending to the cases, availability of vehicles for the transportation of inmates to courts, frequency of adjournments, frequency of oversight and review mechanisms such as jail delivery process, availability/quality of legal representation for the inmates, etc.

Also, there are instances where significant number of persons remanded in prison are designated as 'civil or criminal lunatic'. For example in 2008, out of a total prison population of 860 in Enugu Prison, 157 were convicted prisoners, 598 Awaiting Trial Prisoners and 105 Mentally ill prisoners (PRAWA, 2009). This indicates that mentally ill prisoners accounted for 12.2% of the total prison population in this particular prison. If One adds the number of mentally ill prisoners to the awaiting trial figure (given that most of them are awaiting trial/remand prisoners), we will have a total of 703 out the total population of 860 as awaiting trial persons with mentally ill persons accounting for 14.9% of the total number of non-convicted persons in the prison. When one considers the fact that most of the mentally ill persons are 'civil lunatics' - who are detained primarily for the mental state and not because of their commission of any crime, it leaves much to be desired. This is often because their family members are either ashamed or their state or unable or unwilling to pay for their proper treatment in a psychiatric hospital/therapeutic setting. They reason, by incarcinating/detaining them in prison, this consequently gets the government/Nigerian Prison service to provide free food, accommodation, and (if they are lucky) even medication for these persons. In addition, this removes the persons from circulation in the community/public and thus shields their family from shame and stigma. The question therefore is whether these persons should not be diverted to proper therapeutic settings and decongest the Nigerian Prisons from this undeserved load/burden. Writing on protecting the human rights of people with mental health disabilities in african prisons, Agomoh (2008) noted that:

'The practice of imprisoning mentally disabled persons raises critical questions. The rationale for imprisonment comes into question. Such practices also challenges both the human rights posture and the quality of health care delivery of the state in question'⁵.

⁵ Agomoh U (2008), 'Protecting the Human Rights of People with Mental Health Disabilities in African Prisons', In: Viviane Saleh – Hanna, Chris Afor and Uju Agomoh et al, *Colonial Systems of Control: Criminal Justice in Nigeria*, Les Presses del' Universite D' Ottawa: Ottawa at page 268.

3. WHY ARE THE NIGERIAN PRISONS CONGESTED?

Other questions may be as follows: Why are the people in Nigerian Prisons Incarcerated in the first instance? What are the people in the Nigerian Prisons Incarcerated for? Why are the people in the Nigerian Prison incarcerated for the length of time they are incarcerated / detained for? As stated in the Introductory part of this lecture, it will be too naive or simplistic to assume that all the people incarcerated in the Nigerian prisons are there because they all committed some kind(s) of crime/offences - i.e. The '*Just Desert*' argument will not suffice. It will also be an error to believe that because the high number of those in prison are awaiting trial/remand prisoners, that *ad hoc* interventions to remove these categories of prisoners from prison or any intervention to quickly convert them as sentenced or convicted prisoners are the only *panacea* we need. Doing the above will only result to an unending circle of same problem. No wonder all past attempts at decongesting the awaiting trial/remand population in Nigeria had been so unsuccessful.

A close examination of the processing of persons within the Nigerian Criminal Justice System and the various stages/phases will give some indication as to the reasons why Nigerian Prisons are congested, namely:

- a. Phase One: Pre-Incarceration/Imprisonment Phase - What happens before a person gets into prison – Why the imprisonment and how was the person processed into the prison; What is the rate of incarceration/reception into the prison?
 - b. Phase Two: Incarceration/Imprisonment Phase – What determines the length of period a person is incarcerated in prison either as an awaiting trial / remand or convicted / sentenced prisoner? What is the criteria for determining whether to utilise prison or other non-custodial measures in any given case? What are the conditions of imprisonment and the treatment of persons in prison and what are the effect/consequences of this?
 - c. Phase Three: Post Incarceration/Imprisonment Phase – What is the nature of the re-entry (Rehabilitation, resettlement and reintegration) adopted and how effective are these? What are the rates of recidivism/re-offending behaviour and
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the factors that contributes to this and how does this affect future prison population?

Several factors have been identified as contributing to prison overcrowding else where (Coyle, 2002; Penal Reform International, 2003) and in Nigeria. For example, Agomoh et al (2001)⁶ listed the following: high remand / awaiting trial population; congestion and lack of speedy trial; overuse of imprisonment by the courts; Abuse of arrest powers and bail conditions by the police; Inadequate legal aid facilities; Logistics problem relating to transportation of defendants to court; Inadequacy in prison structures; Inadequate utilization of non-custodial disposition measure; and Corruption. Also, the authors discussed the effects of the following on prison population and reforms: Poor treatment of prisoners (including health and welfare facilities); Lack of adequate juvenile justice system; Poor treatment of women; Poor treatment of mentally ill prisoners; Lack of adequate coordination and planning with the justice sector; Inadequate funding and other administrative set backs; and Inadequate community involvement in the dispesation of justice.

4. WHY DECONGEST THE NIGERIAN PRISON POPULATION

One may argue that the problem in Nigeria is not decongestion of the Nigeria prison population rather the decongestion of the country's awaiting trial / remand prison population. Justifying this position, the proponent of this arguement may point to the fact that the statistics seem to be suggessting that Nigeria is 'under-imprisoning' given that the prison population is very small in relation to the population of the country which is estimated at over 150 million. For some, the arguement may be to build more prisons or privatize the existing ones or some of the existing ones. What seem to be often forgotten in these arguements is that there are a significant high number of persons detained in several police stations and detention facilities accross the country that are not accounted for in the total prison / detention population's figure(s). Also, beyond this, is the fact that a disproportional number of those in prison are awaiting trial persons, an equally high number of these are detained for long period before the completion of their trial process. In some instance, this ranges as high as 4 year to 10 years or even more. The situation was worse pre 1999 (during the military era and its aftermath) with many cases ranging from 10 years to 15 years or more (See Ehonwa and Odinkalu, 1991; Agomoh 2007).

⁶ Agomoh U.R et al (2001) opcit at pages 12-25

Making a case in support of decongestion of the Nigerian Awaiting Trial / Remand Population, Agomoh (1996) stated thus:

'It is important to mention that having a high proportion of remand prisoners leads to several administrative and practical problems for both the prison establishment, the police, the judiciary, (the ministry of justice), the prisoners, and their families and the society in general. For the prison establishment, these include: overcrowding, high cost of maintenance, increased staff stress and work load, non-qualitative prison regime, poor management and discipline. For the judiciary (ministry of justice) and the police, it raises a lot of philosophical and credibility questions. For instance, remand in prison have been linked to poor outcome of trial. Evidence suggests that the probability of conviction is higher among those remanded in custody than those remanded on bail. Also, among those convicted, the probability of a custodial sentence is higher for those remanded in custody than those granted bail. Various reasons have been attributed to these which include viz: the lower rate of pleading not guilty by defendants who have been remanded in custody, their disadvantages in preparing their cases for trial and their higher likelihood of receiving custodial sentence. Furthermore, the problems faced by the remand prisoners and their families are numerous. In fact, they have been found to suffer the worst conditions in prisons than any other category of prisoners. Such problems relate to physical, psychological, medical and economic conditions'⁷.

The point about awaiting trial prisoners suffering the worst conditions in prisons has been affirmed by many (See Ehonwa and Odinkalu, 1991)⁸. Agomoh (1996) further asserts that 'There is so much that can be gained by reducing our remand population listing the benefits to the Prison Service and the individual remand prisoners as follows:

Benefits to the Prison Service:

- Reduction in Monetary Expenses
- Reduction of Staff Workload and Stress
- Manageability of the Prisons/Improved Prison Regime
- Reduction in Prison Overcrowding Rate
- Improved Sanitary and Living Conditions in Prisons
- Reduction of lack of discipline, disturbances and aggression inprison

⁷ Agomoh U (1996), *Decongersting The Nigerian Prisons And Police Cells: A Handbook of Practical Strategies for the Remand Population*, PRAWA: Lagos at pages 2 - 3

⁸Ehonwa O.L and Odinkalu A.C (1991), *Behind the Wall: A Report on Prison Conditions in Nigeria and the Nigerian Prison System*, CLO: Lagos

Benefit to the Individual Remand Prisoner:

- Reduction of unnecessary violation of the individual's right to liberty
- Prevention of the negative effects of incarceration such as psychological stress to the prison; financial, psychological and social stress faced by the families
- Opportunity for better preparation of their cases
- Prevention of criminal socialisation of those innocent by the more serious and sophisticated offenders

5. REMEDIES / RECOMMENDATIONS:

What are the practical, effective and sustainable solutions to the problem of prison (or the awaiting trial prison) congestion in Nigeria ?

Discussing the remedies that can be adopted at the various stages of the criminal justice delivery system, Agomoh 1996 listed the following:

1. At the Police Stage: Good Investigating and preventive policing initiative including surveillance, improved criteria and practice of police bail procedure, independent lay visit and other monitoring mechanisms, improved transportation of suspects to courts, and adoption of pre-trial diversion measures.
2. At the judiciary stage: improved court bail criteria and practice, efficiency of court/law officers (including speedy recording of court proceedings, and appointment of more judges and magistrates) improved legal aid criteria and practice, introduction of bail information scheme to improve bail decisions, supervision and support scheme for those on bail, use of bail hostels, alternative to pre-trial detention (including introduction of pre-trial victim-offender mediation, etc).
3. At the prison stage: improvement of communication and information on awaiting trial/remand prisoners, independent lay visits and other monitoring mechanisms, regular utilisation of the decongestion committees at the state level, transportation of defendants to courts. Attempting to articulate a Draft Nigerian Remand Prisoners Decongestion Declaration and Platform for Action, the author called for strategic action in the following critical areas of concern, namely: Indiscriminate Arrest; Inadequate Investigation before Arrest; Abuse of the right to bail and the bail procedure; Lack of (quality) Legal Representation; Long

Detention without Trial, Prison Congestion and Prolonged Trial; Transportation of defendants from prison/police cells to court; Over utilization of incarceration (remand in custody; and Under utilization of non-custodial (alternatives to imprisonment) measures⁹.

Several others have made strong cases for the need to improve the bail criteria and process to facilitate criminal justice reforms elsewhere (Burrow et al, 1994), and in Nigeria (Atsenwa, 2007; Ibidapo – Obe and Nwankwo C, 1992; and Ehonwa and Odinkalu, 1991). In a more recent publication, Agomoh et al (2009) noted that utilisation of the jail delivery process in a more creative and regular manner will also aid the decongestion of awaiting trial prison population in Nigeria. This position was further proved by the result/trend observed during the Baseline and Impact Assessment of the Prison Decongestion and Re-entry Scheme (Nweze et al, 2009). A similar call was made in the report of the National Needs Assessment for the Justice Sector where it was states that:

‘The Criminal Justice Committees should be compelled to be more effective in utilising their powers of jail delivery to at least, a minimum of four times per year’ (Nigeria Bar Association, 2007)¹⁰.

Other recommendations contained in the report on prisons and penal institutions includes the following: Please note the comments in italics are the additional suggestion made in this paper towards each of the recommendation:

- Awaiting Trial Prisoners (ATPs) should be separated as much as possible from convicted prisoners by designating certain prisons as either remand or convict prisons, and high, medium and low security prisons, in those states with more than one prison in their jurisdiction. In this way, the report argued, their peculiar problems could be addressed more effectively.

The challenges with this is that no operational exigencies, the prison service usually mix diffent type of inmate in every given prison as they argue that due to security monitoring and control needs, the service will for example use only low risk convicted prisoners especially those about to be released to carryout required prison duties such as ‘water gangs’ (those that will go out of the prisons

⁹ Agomoh (1996), Op cit at pages 51 -65

¹⁰ Nigeria Bar Association (2007), National Needs Assessment for the Justice Sector, Nigeria BarAssociation: Lagos at page 42

to fetch water), cleaning of the environment and other required services including work carried out on gardens, farms and houses of prison officers, etc.

- Allowances should be made that avail them (ATPs) educational, vocational and recreational activities in prison, which facilities are not available to them, presently.
- Adequate provision should be made for them (ATPs) to enjoy the minimum comforts that convicted prisoners currently enjoy, as in mattresses, sufficient space and ventilation in their cells, and longer 'open up' periods.
- An officer of the State High Courts, should be designated as 'Prison Coordinating Officer', with duties to liaise with the DPP's office, the Nigerian Police Force and the Welfare Department of the Prisons should be appointed, with a view to protecting and promoting the rights of the ATP's in the Courts, and speeding up their trials, generally.

The term 'Court – Prison Liaison Officer' or 'Court – Prison Link Officer' rather than the suggested 'Prison Coordinating Officer' may be a more appropriate designation for such an officer to perform the prescribe role.

- Members of the Nigerian Bar Association, the Legal Aid Council of the Federal Republic of Nigeria and Members of the Civil Society should be encouraged to actively participate in offering free legal aid to ATPs.
- The physical structures in prisons and police detention centers should be reconstructed and their facilities upgraded with a view to ensuring sufficient ventilation and space for the inmates.
- Alternatives to imprisonment (non-custodial) measures should be explored and utilised extensively for the commission of stipulated lesser offences.

Though this often applicable to convicted prisoners, it is recommended that creative application of non-custodial measures and other diversion measures should be adopted for minor offenders, first offenders and juveniles where possible. This will ofcourse meet certain preconditions before being applied/ For example, acceptance of guilt by the offender, interest and agreement by the victim(s), public safety etc). This recommendation is been made against the back drop of the current crisis with the awaiting trial population which requires radical, holistic and sustainable intervention. There has also been similar diversion

measure applied in South Africa with respect to Juveniles (See Muntingh, 1995; Muntingh and Shapiro, 1994).

- Remand homes and borstal institutions should be rehabilitated, built and equipped, in every State, to cater for the youth and children who fall foul of the law. These children should also be afforded access to appropriate and well-trained service providers in many areas, including reading materials, educational and developmental programmes, and adequate safeguards should be introduced to protect them from all manner of abuse.
- The item of 'Prisons' should be relocated from the Exclusive Legislative list to the Concurrent list in the (1999) Constitution of the Federal Republic of Nigeria, to enable the State Governments to exercise some measure of discretion in the handling of inmates, thereby enhancing the efficiency of policy implementation at that level, but without deviating from the powers of the Federal Government to lay down common and minimum standards for all prisons in Nigeria.
- Prison Monitoring Teams should be established without delay to monitor and supervise on regular basis inmates' food, hygien/sanitation, congestion, and the (general) treatment to ensure observance of the United Nations Standard Minimum Rule for the Treatment of Prisoners. This team should comprise representatives of the Nigeria Medical Association, national Human Rights Commission, NGOs whose activities relate specifically to the reformation and rehabilitation of prisons and prisoners' welfare, Religious Bodies and the Legal Aid Council.
- The development of training programmes on human rights norms and the Standard Minimum Rules, and general capacity development for prison officers.

We argue here, that this training should also be made available for other related agencies whose activities directly or indirectly affects the prisons and conditions of prisoners (including ATPs).

- The encouragement of active participation of the community in the rehabilitation of inmates with the view to successfully integrating the inmates into the society after incarceration.

This support should be provided for both released convicted prisoners as well as discharged/released ATPs/remand prisoners. Also, activities in support of

prisoners' re-entry (i.e rehabilitation, resettlement and reintegration should commence in prison and through to the community starting from the day of his/her reception in prison.

- The enactment of appropriate legal framework in respect of procedural reform, bail, prison regulations etc, to bring them into conformity with international standards¹¹.

Writing on different ways to reduce prison numbers, OEC DAC Handbook on Security System Reform states thus:

'There are several ways of reducing prison numbers. One is to accept only those persons into detention for whom there is a legal warrant authorising imprisonment. Speeding up the trial process so that detainees spend less time in pre-trial detention can be effective. Criminal procedure codes can be adapted, so that judges rather than prosecutors make the decision about pre-trial detention. Judges or Magistrates can visit prisons and release those held long or unlawfully'¹².

Some Examples:

In **Mozambique**: Commissions are established to regularly review the legality of detention by touring the prisons and checking prisoners' files. This is similar to the use of the Jail Delivery Process in Nigeria (See Agomoh et al, 2009).

Time-limits on pre-trial detention can also be introduced by legislation. This need to be effectively enforced. Section 35 (4) of the 1999 Constitution of the Federal Republic of Nigeria contains specific limits. In practice, this is rarely observed.

As is the case in **Malawi**, para-legals can visit prisons and help detainees prepare their bail application. There are instances of similiar initiative carried out by lawyers from the Nigeria Legal Aid Council and many Nigeria NGOs as well as Ministries of Justice at Federal and State Levels such as through the Office of Public Defender (Lagos State), Other States such as Rivers State, Enugu and Plateau State also attempted to establish similar initiatives to promote Citizen's Rights and Mediation though each recorded varying degrees of success.

¹¹ Ibid at 41 -44

¹² OECD (2007), *OECD DAC Handbook on Security System Reform – Supporting Security and Justice*, OECD: Paris at page 205

In Bihar, **India** makeshift courts are held in prisons to deal with minor cases on the spot. In Nigeria, similar activities are carried out through the use of the Jail Delivery Process. Building of Court near prison as is the case of Kirikiri Medium Prison Lagos which has a magistrate court located directly in front of it. Speaking of building/erecting court near prisons, in **Sierra Leone**, a court is erected next to the Pademba Road Central Prison with a tunnel connecting the prison and the court so that prisoners who are taken to court need not leave the prison gate.

It will be an error to be narrow minded in relation to implementing prison decongestion and reform interventions in Nigeria or any where else. As was argued else where: *'...the reforms that are likely to impact criminal justice administration in the specific areas of bail, remand and sentencing are not necessarily directed at those stages in the criminal process....incidental factors such as poor state of judges' welfare, poor infrastructure, corruption, lack of requisite knowledge and skills, etc all impact the system'* (Atsenuwa, 2007)¹³.

What affects the prisons directly or/and indirectly affects other agencies within the criminal justice system. To redress the problem, remedies need to flow from all the relevant sectors. The reform of the police, ministry of justice, the judiciary etc will conversely affect the prisons and vice-versa. Also, intra, inter and multi-agency coordination and cooperation is key to actualising and sustaining the proposed reforms. It is also important to state here that there are broader linkages between the justice sector and other sectors. For example, the activities and effectiveness of the ministries responsible for health, education, youths, employment etc have direct and indirect impact on determining the *'clientele'* of the prisons. These should also play active role in contributing to the services and treatment conditions of the prisoners while in prison and the ex-prisoners in the community upon their release. For example, the ministry of education should be responsible for the establishment and furnishing of schools in all prisons within their respective jurisdictions and at different levels of education.

The argument being made here is that there is need for a more systematic approach in addressing the problem of prison decongestion and any other prison/penal and justice sector needs. These should including the following steps:

¹³ Atsenwa A (2007), 'Criminal Justice Reforms in Areas of Bail, Remand and Sentencing', In: *Reforming for Justice: A Review of Justice Sector Reforms in Nigeria 1999 – 2007*, Access to Justice: Lagos at page 107

Step 1: Building Understanding, Dialogue and Political Will

Step 2: Holistic Assessment of the Problems, Process and Effects of past and on-going activities/initiatives at both macro and micro levels

Step 3: Programme Design (which includes identifying local drivers of reform, spoilers and also flexible enough to support local ownership as it emerges and reflecting sector-wide approach and whole-of-government approach)

Step 4: Pre-Testing & Demonstration Exercises

Step 5: Harmonisation & Joint Planning (including building sectoral and state vs regional or federal synergies)

Step 6: Choosing the Right Entry-Point(s) leading to broader System-Wide Reforms

Step 7: Programme Implementation – Full Implementation or/and Strategic Roll-Out (which should avoid *ad hoc*, short-term approach but emphasis strategic approach which are effective and sustainable).

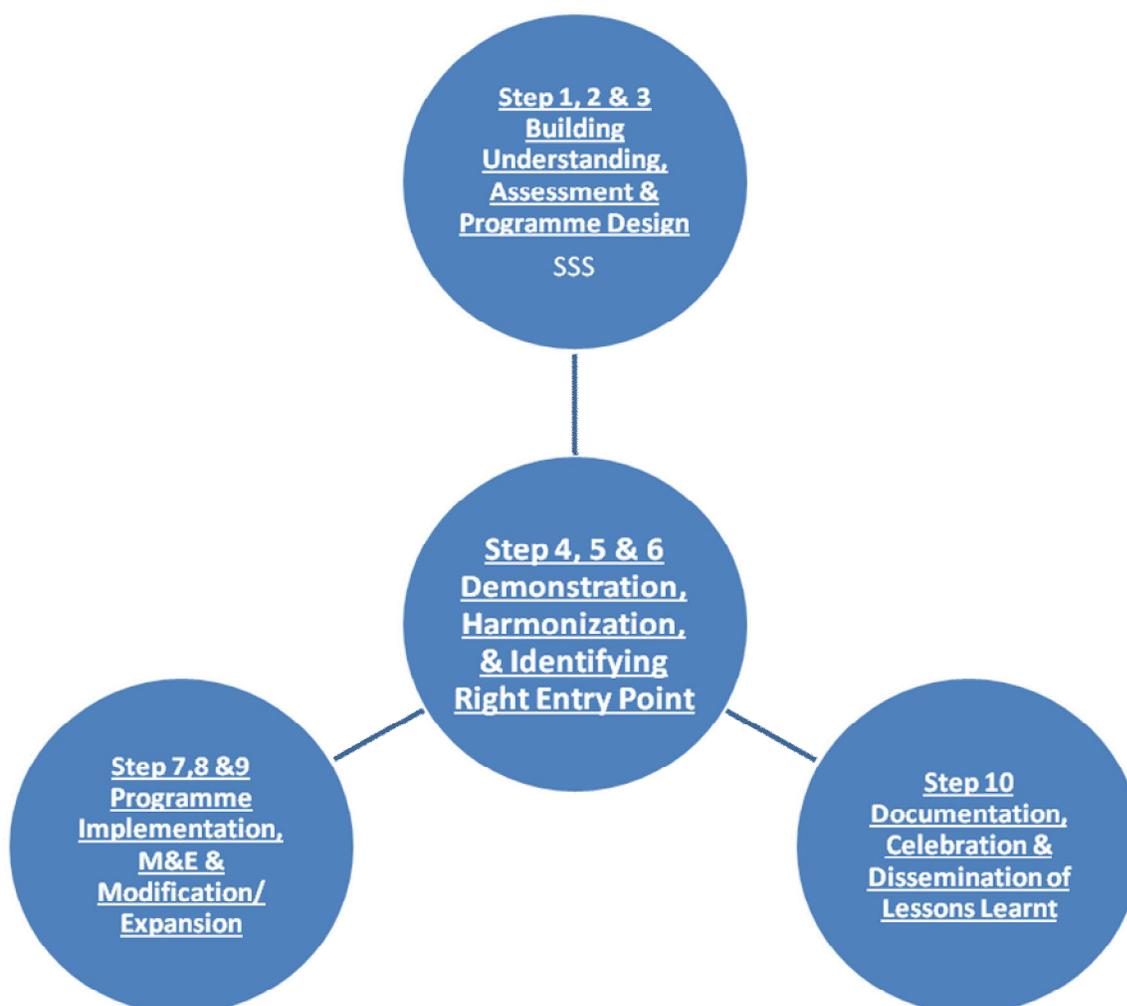
Step 8: Reviews, Monitoring & Evaluation

Step 9: Modification of Approach & Developing Other Linkages and Expansion Activities

Step 10: Documenting, Celebrating and Disseminating Lessons Learnt.

See below:

Diagram1:



6. CONCLUSION:

In summary, one can argue that simply put, we need to decongest the Nigerian prison population because it is the right thing to do and it will make the Nigerian Criminal Justice System function better. It is not only the awaiting trial prison population that need to be decongested but rather every attempt must be made to ensure that imprisonment is only used as a last resort, utilising it for only cases that this is the best / most appropriate sanction that can be applied. The huge expenses incurred by the state in feeding and maintaining the prisoners, the cost to national productivity and development of incarcerating high number of the

population as well as the lack of effectiveness of imprisonment towards reduction of recidivism/re-offending rate need to be taken into serious account.

We have not attempted to exhaust all possible initiatives that can help reduce the prison population rather few of these initiatives have been discussed in this in this paper with the hope of eliciting further thoughts regarding other possible initiatives that can be adopted. There has been a conscious effort not to highlight strategies that are too expensive, cumbersome or short-term. For example, we did not recommend the building of more prisons because apart from being too expensive, this approach may even result in more people being locked up, though in the short – run this may alleviate to some extent the problem of prison congestion and overcrowding.

The argument being made here is that a coordinated, sustainable and holistic approach is what is needed. This speaks more to the need for political will and an effective process driven approach rather than requirement of a massive funds injection into the system. Prison Decongestion and reform has implications for development and therefore it should be seen as a developmental issue requiring urgent solutions which are cost-effective, achievable and efficient reflecting system-wide / sector-wide and involving whole-of-government and civil society.

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Appendix 1: Breakdown of Prison Population of the 30 Most Populated Prisons In Nigeria

S/N	NAME OF PRISON	TOTAL INMATE POPULATION	AWAITING TRIAL POPULATION (ATP)	PERCENTAGE (%) OF ATPs
1	KIRIKIRI MEDIUM (LAGOS)	2618	2256	86%
2	IKOYI (LAGOS)	1771	1631	92%
3	PORT HARCOURT	1444	1201	83%
4	KIRIKIRI MAXIMUM (LAGOS)	1274	904	71%
5	ONITSHA	1167	969	83%
6	OWERRI	1012	906	89%
7	ENUGU	943	702	74%
8	KANO	883	554	63%
9	KADUNA	778	611	78%
10	ABA	722	593	82%
11	MAIDUGURI (NEW)	665	493	74%
12	SOKOTO	620	350	57%
13	BAUCHI	654	280	42%
14	ABAKALIKI	583	413	70%
15	WARRI	561	395	70%
16	JOS	555	212	38%
17	BENIN CITY	553	324	58%
18	UYO	544	38	64%
19	OKO (EDO STATE)	519	443	85%
20	GOMBE	495	197	39%
21	ABEOKUTA	488	293	60%
22	AKURE	472	433	98%
23	KATSINA	452	333	74%
24	AWKA	444	368	82%
25	YOLA	426	294	69%
26	ILESHA	421	224	54%
27	GUSAU MAXIMUM	420	183	43%
28	CALABAR	391	280	71%
29	GORON DUTSE	367	100	27%
30	ADO EKITI	355	171	48%
	TOTAL	22,609	16,461	