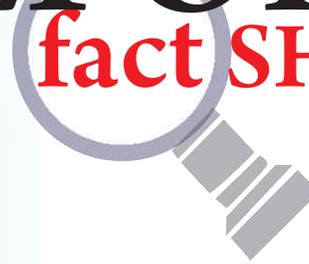


# PENAL REFORM fact SHEET

December 2017



 Funded by  
UK Government



This is a publication of Prisoners' Rehabilitation and Welfare Action (PRAWA) in partnership with the Nigerian Prisons Service (NPS) and published as part of the Prison Reform Project of the Security and Justice Reform Programme (SJRP) with the support of UK Aid.



PRAWA.INFO



*My prison experience started after a 3-day retreat organized by The Nigeria Police Force with PRAWA as technical partner and supported by GIZ - on the Planning of the Human Rights Training for the Nigeria Police Force Special Anti-Robbery Squad (SARS) and the Police Mobile Force (PMF).*

*I have been corrected by those who should know that it is not called "Mobile Police" but Police Mobile Force. So I stand corrected and hope you have learnt something new today.*

*Yes, back to my one-day prison experience which came immediately after the retreat that was attended by high-ranking police officers with the Inspector General of Police, Ibrahim K. Idris NPM, mni ably represented by DIG HM Dagala psc, fdc was declared closed. It was a very tiring one as we had to work all through day and night to come up with an agreeable communique to be endorsed by all participants. I must say we did our best and the result or recommendation is there for all to see.*

*It was the last day of the retreat and next on PRAWA's agenda was a visit to a Medium Security Prison for the screening of the "IF" Project – a well-produced and touching documentary of prison reform intervention by an NGO. It was this film*

*screening that took me to a prison environment for the first time in my life and it made quite an impression on me.*

*It was Kirikiri Medium Security Prison, Lagos where we were warmly received by officials of the "correctional" facility. My emphasis on the word correctional, speaks volumes – is it truly correctional? Are we doing all we should to ensure the much needed reformation of individuals that find themselves on the other side of the law? Are we locking them away because we think they are and will always remain a menace to the "civilized" society? Are we really giving them that much needed second chance that a true correctional facility ought to provide for offenders?*

*As soon as the gates were "thrown" opened to usher us into the facility, my mind was riotous. For a few seconds, I was transfixed. Was it out of fear from seeing so many people in an enclosure without the required capacity?*

*For the very first time, I saw life from a different perspective. I saw life from the eyes of people who wished they didn't have to be there. I saw pain, anguish and resignation to fate. I saw life from the point of something we all take for granted – freedom.*

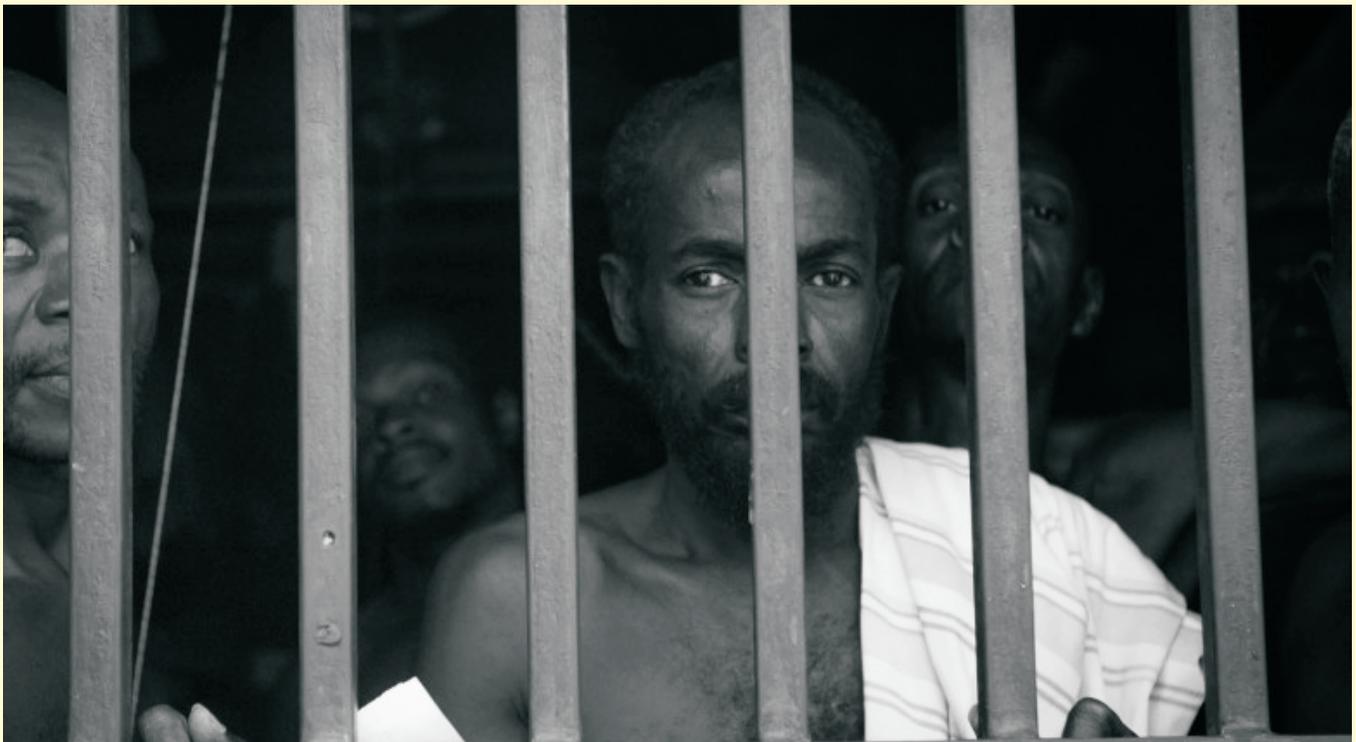
*It dawned on me that life is meaningless without the right to choices – when to sleep, wake, eat, play, visit friends, make calls, hang out, throw banter, take walks...just think of anything. I guess the word that sums it all up is freedom. Something these individuals have had to give up for finding themselves in such a restrictive enclosure.*

*I am careful not to use the word crime or criminals here because from privileged information, majority of them are Awaiting Trial Persons (ATPs). When I say majority, I mean that out of a crowd of...yes “crowd” because of the fact that the Kirikiri Medium Security Prison with a capacity of 1,700 inmates, currently plays host to 3,278 inmates. So you see why I chose the word “crowd” and out of this number, only 355 are*

*convicted inmates. That leaves 2,923 individuals as ATPs. What are we doing to our society? Is this the best way to serve justice?*

*PRAWA has continued in partnership with the Nigerian Prisons Service (NPS) with the support from Foreign and Commonwealth Office (FCO) to push forward penal reform structured as a baseline research and a core exercise to inform the reform process.*

*The study aims at identifying the root causes, trends and other dynamics that help to explain the high levels of inflow of ATPs as well as document the status and condition of the sampled prisons across three geopolitical zones in Nigeria.*



## A Research on Pre Trial Detention in Nigeria

The specific objectives of this research are to determine the nature and demographic features of the selected prison population including their pre – trial detention population; examine the extent of the pre-trial detainee's inflow in prison, their duration of stay in prison custody and access to justice; and examine some of the impact of the demographic characteristics of the prison population, and the inflow and duration of custody of the pre - trial prison population. The study aims at identifying the root causes, trends and other dynamics that help to explain the high levels of inflow of ATPs as well as document the status and condition of the sampled prisons across three geopolitical zones in Nigeria.

Three key questions were addressed in the research, namely: who are the persons in pre - trial detention, why they are in prison custody, and what is the impact of their being there? Specifically, this is aimed at providing some information that will help identify strategies for effectively reducing the number of persons in custody awaiting trial and their length/duration of stay in custody awaiting trial as well as promote good prison/correctional practices and justice sector reforms in general.

The data were collected through Prison Records and administration of Self Report Questionnaires to prisoners. Both data sets were analyzed and a further validation/verification exercise conducted which showed that the data were consistent and reliable.

## The findings:

### Who are those in Prison Custody?

The prisons studied were overcrowded with very of high number of unconvicted prisoners.

The study found that the three prisons were overpopulated in excess of about 200 percent compared to their capacities at the time of establishment. Awaiting Trial Prisoners represented the bulk of the prisoners representing 76% as at December 2016, 74% as at March 2017 and 79% as at September 2017. As at September 2017 in Ikoyi and Enugu prisons, more than 80% of the inmates are awaiting trial persons whereas 70.5% of the inmates are awaiting trial persons in Kano central prison. Only 13.3%, 29.4% and 18% of the total inmates in Enugu, Kano central and Ikoyi prisons respectively are convicts. This means 8 out of 10 inmates are awaiting trials persons.

The distribution of the prison population for the entire country as at August 2016 which shows that out of 67,626 prisoners in the 242 prisons in Nigeria, 47,953 were not convicted whereas 19,671 were convicted and the percentage of ATPs was 71% of the total prison population.

The breakdown of the total population in each of the targeted prisons in August 2016 and September 2017 respectively show that ATPs population in Enugu remained the same between the two time periods; 84% in August 2016 against 85% in September 2017. The situation with Kano Central and Ikoyi prisons were different. Kano Central prison recorded an increase from 60% in August 2016 to 71% in September 2017. Conversely, Ikoyi prisons showed a decrease from 85% in August 2016 to 81% in September 2017. The result confirms that high ATP population is a major feature of the three targeted prisons - Kano Central, Enugu and Ikoyi Prisons located in Kano, Enugu and Lagos States respectively. It is also a major problem for the country in general.

Most of the Awaiting Trial Prisoners are males. Female prisoners are few and constitute a minority in the prison population:

On the sex distribution of respondents, more males populate the prisons sampled for the study. Apart from Ikoyi prisons which is exclusively for male inmates, in Enugu Maximum and

Kano Central over 96 percent of inmates are males. Female prisoners are minorities within the prison population and this fact clearly calls for closer examination of how they are treated within the criminal justice system and whether in fact the criminal justice system in general and the prison service in particular can be said to be gender sensitive or not.

Of the respondents only eighty five (85) inmates which represented 2% are females and four thousand one hundred and thirty one (4,131) making up 98% are males. This is consistent with the figure for the whole prison. As at August 2016, out of 67624 total inmates in the 242 prisons in Nigeria, only 1416 were females representing 2.09%. Of this numbers, 1043 were awaiting trials while 372 were convicted across the countries. With respect to the target prison for this research, their total of female prisoners' population was 89 with the convicted and awaiting trial female prisoners' population being 24 (28.24%) and 65 (73.03%) respectively.

As at September 2017 during the data validation exercise, Enugu prison had 5 pregnant female detainees but there were no female prisoner(s) with a child/children as shown in figure above while Kano central prison has 11 pregnant women and 12 women with children in the prison custody.

CAPACITY 1,700		MEDIUM SECURITY PRISON		
INMATES LOCK-UP	MALE	FEMALE	TOTAL	INMATES MOV
OPEN OUT	3278			
CONVICTED	355			
AWAITING TRIAL	2923			
DEBTOR	R.F.P			
LUNATIC	CT ORDER			
LIFER	TRANSFER			
C.C	DISCHARGE			
DETAINEES	ADMISSION			
LODGERS	ACQUIT			
HOSPITAL	DEATH			
TOTAL				
FINAL LOCK-UP	3278			
REMARKS				



*A Cross-section of inmates at the IF Project screening*

Many of the Prisoners fall within the Youthful ages. There are also evidence of under aged persons in the prisons.

Results also showed that most of the inmates in the study prisons belong to age category 18-39 years.

The result from the Self Report Questionnaires (SRQ) indicate that going by the number of respondents that responded to the SRQ as at March 2017 that Enugu prison has more prisoners (35 representing 43.2%) whose ages were below 18 years than the other two prisons (21 (25.9%) and 25 (30.9) for Kano Central and Ikoyi respectively. Kano Central prison has 22 out of the 43 prisoners whose ages are 65 years and above; in fact more than half the total number of this age group are in the Kano Central prison relative to others. The number of prisoners within the ages of 18 and 35 years are almost the same in Enugu (953 representing 36%) and Lagos (955 representing 36.2%). The average age of the inmates in the three sampled prisons is 31 years. During the data validation exercise carried out in September 2017 observed that from prison records it was observed that the following number of juveniles were found in the following prisons: Enugu 1 (age 12) and Ikoyi 31 (20 aged 17, 7 aged 18 and 4 aged 16). With the exception of the juvenile detained in Enugu prison (at the

order of court) who was charged with murder, the type of offences that the juveniles were charged with are: Breach of peace, stealing and conspiracy, breaking and entering, stealing and assault.

Of great concern is the evidence of under 18 years in prisons and the fact that there are no process of documenting and tracking these especially those that the prison refuse to admit based on the fact that they are under aged. There are few Young Offenders' institutions in the country. There are three Borstal Institutions in the country located in Kakuri (Kaduna State), Abeokuta (Ogun State) and Ilorin (Kwara State). Some States such as Lagos and Kano States have Remand Homes for Juveniles. There is no operational young Offenders institution in Enugu State.

During the Data Validation/Verification Exercise when the explanation was sort concerning the number of juveniles in prisons as indicated in the Enugu prison official record it was explained that all under aged persons brought to the prison were rejected by the prison authority and that there was a court order issued for the detention of the one person currently in the prison. When requested to have the data as to how many of such cases rejected were, the team was informed that the prison currently do(es) not keep such

records. This was also the case in all the other prisons (Kano Central and Ikoyi prisons).

Many of the prisoners are poor with low education and employment level.

The educational level of most inmates in the study sites was relatively low considering that about 2 out of 10 had never received any form of formal education and a large majority had Senior Secondary as their highest level of education. This certainly will have implication for their level of skills, income/earnings. For instance, in the three prisons sampled for the survey, respondents who had Senior Secondary Education constituted the highest number indicating 35%, 27% and 38% in Enugu Maximum, Kano Central and Ikoyi prisons respectively. Similarly, for the three prisons, the

monthly income of 50,000 naira or less. Inmates who earned a monthly income of over N500,000 constituted only 1.67 percent of the total respondents. In fact, 16.7% earned 10,000 naira or less per month which is 333 naira per day or less (0.9 cents per day using the September 2017 exchange rate and 0.6 cents using January 2017 exchange rate). This explains the reason majority of the inmates were unable to employ lawyers as indicated in their responses. Thus, the majority of the inmates can be described as poor.

Most of the prisoners are breadwinners in their families, a high proportion are single, and some with children.

Most respondents were self-employed, breadwinners and earned very little which could explain the pressure that some of the inmates had to go through to make ends meet. The



second highest frequencies were recorded against respondents with Primary School education. In addition, the lowest frequencies were among respondents with Tertiary School education including post-graduate degrees

The issue of low educational level have implication for income earnings, employment, and reintegration. Regrettably as we have come to observe, poverty level of the inmates may impact on their access to justice including especially access to effective legal representation.

The monthly income of the respondents indicates that a large majority of the sampled inmates had low income. Of the prisoners interviewed in the census, about 76 percent had a

study also found that amongst those who have children, the average number of children each detainee has is 4. Specifically, the average number(s) of children among those having children are 3.6, 5 and 3.4 for Enugu, Kano Central and Ikoyi prisons respectively. In Ikoyi and Enugu maximum prisons about 77.1% and 73.2% of the detainees with children reported that they had between 1 to 4 children. Those that have 9 children and above seem to be more in Kano Central with about 17.9% compared to Ikoyi (2.2%) and Enugu (2.7%). The detainee-child ratio is 1:2 which implies that on the average every detainee has two children to cater for.

The marital status of about 72 percent of the respondents in



CP Tunde Ladipo in a welcome address during IF Project screening

Enugu Maximum prison was Single at the time of data collection. The majority of respondents in Kano Central and Ikoyi prisons were also single but not as high as was reported in Enugu. About 54 percent and 53 percent of sampled inmates reported their marital status as single in Kano Central and Ikoyi respectively. Over 40 percent of the respondents in Kano Central and Ikoyi reported being married and approximately 2 percent were either separated or divorced in both Enugu Maximum and Kano Central, while in Ikoyi about 4 percent of the sampled inmates were either separated or divorced.

#### **Why are the ATPs in Custody?**

Most of the prisoners are charged for property and property related crimes (economic and economic related crimes).

The study found that property/economic (property/economic related offences).for example, armed robbery and stealing/theft ranked high among offences for which a large number of the inmates were charged for.

The prisons records show that armed robbery top the offence charged in Enugu prison in line with the report from SRQ. From the Enugu prison record, 50.25% of the ATPs were charged for armed robbery followed by rape (10.13%) and murder (9.68%). Similarly, in Ikoyi prison, the official record

shows that 46.5% of the ATPs were charged for armed robbery while 22.6% and 14.6% were charged for murder and stealing respectively. In like manner, report from official record shows that armed robbery offence top the table with 25.3% followed by rape and defilement (24.6%) and murder (12.7%) in that order. When all economic and economic related (property and property-related) offences are clustered differently from the non-economic (non-property) related, the figure for the economic/property related offences tops the chart. For example, for those charged for armed robbery (46.5%) and stealing (14.6%) Ikoyi prison that will give 61.1%.

The police is the institution that was reported to be responsible for most of the arrest of the detainees.

About 75.9%, 76.5% and 78.2% of the respondents in Enugu, Kano Central and Ikoyi prisons reported they were arrested by the police. When added the number arrested by SARS to this, percentage of inmates arrested by the police to 86.4%, 78.8% and 80% for Enugu, Kano central and Ikoyi prisons respectively. The second top arresting agency in the three sampled prisons is NDLEA.

Many cases were reported to either stalled or taking time to conclude.

This research showed that over 8 percent of the inmates

sampled had not appeared in court for more than 5 years for the offences they were charged some of which could attract 6 months imprisonment or less upon conviction. On the average, 2 percent of those sampled for this study had spent over 10 years in prison custody without conclusion of their trial.

In September 2017 during the data validation exercise it was observed that in Enugu prison 17.12% are reported to be stalled. In the case of Kano central prison, 24.65% are reported as stalled while in Ikoyi prison, 6.68% reported that their cases were stalled. This report even showed a higher proportion of stalled cases than that reported in the self-report questionnaires (SRQs) collected in March 2017. This suggested that either most of the awaiting trial persons whose cases are stalled did not respond to the question or had no knowledge whether their cases are stalled or not as the number of stalled cases from the official record exceeds those from the SRQs. When the operationally define criteria used to extract information from records is used to cross-classify responses in the SRQ. 35.6% in Enugu prisons have their cases stalled. The figures for Kano Central and Ikoyi prisons 10.2% and 10.1% respectively. Data from the BRQ (March 2017) showed that in Enugu prison 41.6% had their cases stalled. The figures for Kano Central and Ikoyi prisons were 29% and 20.5% respectively.

The result as reported in the figure above shows that most of the stalled cases are capital offences ranging from Armed Robbery, Murder/Homicide, Kidnapping/Abduction and Rape/Defilement. In Enugu prison, 61.4% of the stalled cases are charged for armed robbery while 21.57% and 3.92% cases are charged for murder and kidnapping respectively. In Kano central prison, 44.38% out of the stalled cases are charged for armed robbery while 35.89% and 18.63% cases are charged for rape and murder respectively. In the case of Ikoyi prison, 98 inmates out of the 155 stalled cases are charged for murder while 43 representing 27.74% are charged for armed robbery. On the duration of stalled cases in the three prisons. In Enugu prison, 99 inmates had been in prison for about one year without going to court while 119 inmates out of 306 had not appeared before court for 2 to 3 years. Four (4) inmates had

not been to court for about 6 to 7 years from the time of this report. Sadly, one of the inmates who had been in custody for about 7 years without going to court was charged for assault. The result further shows that 43.87% of the inmates with stalled cases had not been to court for between 1 to 3 years. Three (3) inmates had not appeared in court for the past five (5) years. In Kano 71.5% had not been to court for about 6 months to one year while those who had not been to court between 2 to 4 years were 27.1% of the stalled cases. Three inmates had not appeared in court for the past 5 years as at the record time. Some inmates had been in prison custody for 8 years without going to court. This result equally showed that over 8 percent of the inmates sampled had not appeared in court for more than 5 years for the offences they were charged some of which could attract 6 months imprisonment or less upon conviction. On the average, 2 percent of those sampled for this study had spent over 10 years in prison custody without conclusion of their trial.

A further investigation on the reason why cases are stalled was carried out and the report from the official record shows that all the stalled cases in both Enugu and Kano central prisons are awaiting DPPs advice while in Ikoyi prison 91% are equally awaiting DPPs advice. 7% of the stalled cases are as a result of 'adjoined sine die' while 3 cases are yet to assigned or charged to court.

There were evidence of some ATPs not knowing the status of their cases.

41.9%, 21.4% and 17.7% of the inmates in Enugu, Kano and Ikoyi prisons respectively indicated that they are not aware of the current status of their case. When asked about their bail status of those that responded to this question about 27.7% , 13% and 23.3% in Enugu, Kano and Ikoyi prisons respectively said that they did not know if they were granted bail or not. This response was verified in the official record in Enugu prison. Out of the 25 inmates that were granted bail in Enugu prison based on official record, only 5 inmates know that they had been granted bail while the remaining 20 inmates representing 80% of those granted bail did not know they had been granted bail.