



Graduate School of Development Studies

**Community Service Order as an Alternative  
To Imprisonment in Lagos State, Nigeria**

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## Dedication

I hereby dedicate my Masters Degree and thesis to God Almighty and also to my beautiful lovely wife, Ebele Perpetua Nwankwo and to my lovely daughter, Stephanie Chiamaka Nwankwo for their understanding, support and above all for their unquantifiable love. I say thank you and **I LOVE YOU!!!**

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## List of Acronyms

ATI	Awaiting Trial Inmate
BBC	British Broadcasting Corporation
CJS	Criminal Justice System
CLO	Civil Liberties Organization
CRP	Constitutional Rights Project
CSO	Community Service Order
DPP	Director Public Prosecution
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic Social and Cultural Rights
JDPC	Justice Development and Peace Commission
NGO	Non Governmental Organization
NHRC	National Human Rights Commission
PRAWA	Prison Rehabilitation and Welfare Action
UN	United Nations

## **Abstract**

This research study is on community service order as an alternative to imprisonment in Lagos State, Nigeria.

The Nigeria Criminal Justice System (CJS) was created in line with the British Colonial system when she gained her independence in October 1<sup>st</sup> 1960. Before the colonization of Nigeria, there was the traditional justice system which operates at the various ethnic groups' level.

The Nigeria criminal justice system is retributive in nature which has led to calls from NGOs, civil society organizations and some stakeholders on the need for the introduction of other forms of alternative sentence aside from fine and imprisonment with specific reference to community service order (CSO).

The Administration of Criminal Justice Law 2007, No 10, Section 350 of Lagos State made provision for community service order but in reality it's not being applied or practiced in Lagos State.

A visit to prisons in Lagos reveals a pathetic condition of prisons in Lagos State especially the problem of overcrowding, poor feeding and lack of medical facilities for inmates. Some of these inmates are either in prison for minor offences or for being accomplices to a crime, while many others are in prisons awaiting trial. Hence the call for the improvement of prison conditions and the introduction and implementation of community service order in Lagos State. This would help in solving some of the problems of overcrowding, lack of medical facilities and poor feeding for inmates.

The analysis of the study is based on the objectives and research questions which are to explore the viability of community service order and understand the perception of stakeholders on the introduction of community service order in Lagos State as against imprisonment.

The study is purely qualitative and normative whereby semi-structured interviews were conducted with stakeholders in the criminal justice system (CJS) in Lagos State.

## **Relevance to Development Studies**

Research findings shows inmates were sentenced to prison for minor offences. Stakeholders agreed that CSO should be introduced and implemented to complement existing law in Lagos. To stakeholders, punishment should be commensurate with offences committed.

It's relevant to Development Studies because findings showed that prison inmates are kept in deplorable and inhuman conditions. Despite being prisoners they still have rights as human being guaranteed under UN's Standard Minimum Rules for the Treatment of Prisoners. Furthermore, human rights are indices for measuring a country's human development index.

Also, it's relevant because it contributes academically to development studies and restorative justice discourse.

## **Keywords**

*Community Service Order, Restorative Justice, Criminal Justice System, Imprisonment, Rehabilitation.*

# Chapter 1

## Introduction

This research focuses on community service order as an Alternative to imprisonment in Lagos State Nigeria.

The topic tries to look at the feasibility of the introduction of community service order in Lagos State as against imprisonment. The criminal justice system in Lagos State and Nigeria tends to be retributive in nature due to the fact that most offenders irrespective of the offence committed if found guilty end up in prison with little or no provision for rehabilitation or reformation and that has led to an increase in the number of inmates in Lagos prisons and Nigeria generally. A visit to prisons in Lagos reveals cases of inmates that committed minor offences such as fighting or petty stealing while some offenders are charged with trumped up charges and they end up being sentenced to imprisonment. This could be as a result of the obsolete nature of the criminal justice system in Nigeria which needs reform.

There are alternative sentences to imprisonment which needed to be explored in order to address the problems being faced in the present criminal justice system in Lagos State. But this research would focus on Community Service Order (CSO).

There have been calls by local and International NGOs and other stakeholders in the Criminal Justice System (CJS) on the need for the introduction of CSO as an alternative sentence in Lagos State and Nigeria generally. Based on the calls and the premise that CSO is a form of restorative justice, the research questions that arisen are; is community service order a viable alternative as against imprisonment in Lagos State, Nigeria?, what are the prospects for the realization of community service order in Lagos State, Nigeria? Also, what are the perceptions of stakeholders on the introduction of community service order as against imprisonment in Lagos State? And finally, what factors pose a challenge or hindrance to successful introduction of community service order in Lagos State, Nigeria? I am asking these questions in order to explore the perception of stakeholders and the viability of the introduction of CSO in Lagos State Nigeria.

CSO is relatively a new concept in the world. Although, Western countries like United Kingdom and United States have being implementing it in their criminal justice system, in Africa countries like Uganda, Kenya, Zimbabwe and South Africa to mention but a few have being using this system for prosecuting some category of offenders.

Before going into details let me in a nutshell say what community service order and restorative justice is all about. Community service order is a sentence issued by a Judge or Magistrate in a law court ordering an offender to undergo given hours of unpaid labour in a community. It's a form of restorative justice whereby an offender rather than being imprisoned pays back to the community through community service. Restorative Justice according to Howard Zehr as quoted in Marshall (1999:29):

Restorative Justice is an alternative justice paradigm, opposed in all principal respects to the principles underlying legal or retributive justice. His work placed particular stress on benefits to victims and enabling offenders to assume active responsibility for putting right the harm they had caused.

Young (1979:33) as quoted in Harding and Koffman (1988: 215) “Broadly speaking, the three penal philosophies underlying the introduction of the C.S.O were punishment, reparation, and reintegration” The aim of restorative justice is to restore the offender to pre- crime status in order to be easily reintegrated back into the society. And one of the ways of reintegration back to the society is by giving back to that society through community service or unpaid labour.

The nature of Nigeria’s criminal justice system is as a result of a legacy left behind by the British colonial government. Thus, in order to punish offenders and oppositions the British colonial government came with the idea of imprisonment which is still the case till date in Nigeria’s criminal justice system.

Nigeria gained her independence on October 1<sup>st</sup> 1960 from Britain. Before independence, pre-colonial Nigeria had it own traditional justice system, which in most cases is restorative in nature. For example, in the Igbo (eastern Nigeria) traditional system, if a villager steals from the village market or from someone else, if caught, the offender could be sentenced to what in modern day is termed community service whereby the offender cleans the market or cut grasses along the road leading to the market for weeks depending on the decision of the village heads or elders.

**Map of Nigeria:**

**Showing the 36 States of the Federation and FCT (Abuja)**



Map Source: [http://www.waado.org/nigerdelta/Maps/Nigeria\\_States.html](http://www.waado.org/nigerdelta/Maps/Nigeria_States.html)

The conditions of Lagos prisons are deplorable. There is a slight improvement in the area of cleaning of prison compounds compared to the situation some 8-10 years ago, this is a result of pressures from local and international NGOs which made prison officials to give the prisons a facelift in order to give public the impression that the conditions have tremendously improved. But civil society organizations (local and international), religious groups and individuals know that such a facelift is only deceptive because there are more serious problems besides planting of flowers in these prisons and to achieve a better prison condition they have exposed these pathetic conditions especially in the areas of overcrowding, poor feeding of inmates and inadequate medical facilities and lack of respect for prisoners rights. Also, some NGOs and religious groups have contributed both financial and material resources in order to improve the conditions of Lagos prisons.

The argument here is, most inmates that are being remanded or sentenced to prison committed minor offences like snatching of mobile phones or fighting etc while some others are first-time offenders that could have been sentenced to community service rather than being imprisoned. Even though these minor or first-time offenders are alleged to have committed an offence and are eventually sentenced, they still have fundamental rights and need to be treated with respect as human being as guaranteed under the United Nations. Amnesty International (2008:4) report released in February 2008 entitled, Nigeria: Prisoners' rights systematically flouted, stated that "Government has, on several occasions in 2006 and 2007, announced that it would release considerable numbers of inmates" but till date none of these inmates have been released. The Lagos State government reformed its Administration of Criminal Justice Law in 2007 and made provision for CSO but there is no word till date on when CSO would be implemented. It is one thing to enact a law and another thing to implement the law. Thus, this research looks at the possibilities and challenges to the introduction of community service order as an alternative to Imprisonment in Lagos State.

### ***1.1 Justification of Research Topic***

There has been an outcry on the need to reform the criminal justice system (CJS) and prison system in Lagos State and Nigeria in general by local and international NGOs and from stakeholders in the CJS, this is due to the conditions of prisons in Lagos State which is in a very poor state. As a result of the poor conditions the health of the inmates in Lagos prisons is seriously at risk due to the prevalence of diseases brought about as a result of unhygienic conditions and overcrowding. I was able to visit Ikoyi prison in 2007 and I was shocked to find a prisoner lying on bare floor inside the prison compound half dead simply because he was too sick and there was no adequate medical facility in place. Also, as a human rights worker I strongly have a passion for reformation of prison system in Nigeria.

The cost of taking care of the inmates of these prisons is high. Tax payer's money could have been put to other use and those that don't need to be in prisons like minor offenders could be sentenced to community service, while

those that really need to be in prison should be given proper care and made to undergo good rehabilitation programmes.

The notion that an offender's place in prison needs to be changed. Thus, is punishment meant to be punitive in order to create fear or is it supposed to be a reformatory measure? The fact that an offender did commit a crime doesn't mean they are no longer human. They still have rights even while in prison and needed to be treated with respect as human beings as guaranteed and adopted by the first United Nations Congress on the Standard Minimum Rule for the Treatment of Prisoners.

Also, the Basic Principles for the Treatment of Prisoners adopted by the General Assembly resolution 45/111 of 14 December 1990 guarantees that the "principles under this resolution shall be applied impartially due to their inherent dignity and value as human beings" (Sepulveda, M. et al, 2004: 58 &76).

In Lagos State, if an offender is found guilty he or she is sentenced to imprisonment, but the question is, are all offenders meant to be imprisoned? Personally, I don't think every offender should be sentenced to imprisonment because there are some minor offences such as stealing in market places, anti-social behaviours etc that don't necessarily warrant imprisonment. In other words, the sentence imposed on an offender should be commensurate with the offence committed.

### ***1.2 Aim and Objective of the Study***

The main objective of the research is to explore the viability of community service order in Lagos State and to understand the perception of stakeholders in the criminal justice system on the implementation of community service order as against imprisonment in Lagos State.

Secondly, to explore what category of offenders could be sentenced to community service in Lagos State and also to explore other ways of prison decongestion in Lagos State.

To also contribute academically and have a firm understanding of conceptual frameworks vis-a-vis restorative justice and community service order as an alternative to imprisonment.

### ***1.3 Research Methodology***

Data analysis was mostly qualitative and normative. Non-Random sampling (judgmental or purposive sampling) was used. The reason for using 'Non-random sampling' was because these categories of persons are stakeholders in the criminal justice system and they provided the necessary information to achieve the objectives of the study. Hence, the stakeholders were carefully selected based on the role they play in the criminal justice system in Lagos State and in relation to the research topic.

### ***1.4 Primary Data***

Interview was semi-structured (predetermined questions). Interview method was considered the most appropriate in order to have a comprehensive responses and informations from the stakeholders. They expressed themselves freely without any hindrance in the course of the interview. Hence, responses and interactions flowed easily between the interviewer and interviewee.

Interviews were conducted with various stakeholders in the Criminal Justice System (CJS) in Lagos State. The stakeholders that were interviewed are; Two Magistrates, five lawyers. Also interviewed was a critical stakeholder in the CJS in Lagos and that was the Lagos State Police, the Public Relations Officer spoke on behalf of the Lagos State Police Command. Others include two prisoners from Ikoyi prisons, a senior prison official in Ikoyi and Kirikiri Prisons respectively. Five NGOs in Lagos were interviewed which includes; CLO, CRP, PRAWA, Legal Aid Council, Office of the Public Defender Lagos State, the chairman, House Committee on Legal Matters Lagos State House of Assembly, a senior officer in the Lagos State Ministry of Justice, lawyers and individuals living in Lagos State.

Other primary data was sourced through human rights instruments, Lagos State Administration of Criminal Justice Law 2007, Federal Republic of Nigeria Constitution 1999 and other reports.

This was a calculated attempt because some government workers were reluctant in responding to questions for fear of losing their job due to the Lagos State Civil Service Rules which forbids workers from granting interviews without permission from a senior management staff of government.

### ***1.5 Secondary Data***

Secondary information sources included reports on community service order sourced through the use of internet. Also, publications by international NGOs like Amnesty International, Human Rights Watch were used.

Information was also gotten from Nigerian Newspapers like The Punch, published books, pamphlets and journals were also utilized.

### ***1.6 Scope of Study***

Community service order was my focal point. CSO is an option of alternative sentencing that the court imposes, which requires an offender to work without pay for some hours in a community.

The reason for focusing on Community Service Order was because writing on all other forms of alternative sentences and a scope that covers the whole Nigeria would be too broad and cumbersome based on limited time in fulfilment of the Masters programme which was what informed my decision to narrow it down to CSO and Lagos State in particular.

Lagos State is one of the 36 states in Nigeria. It used to be Nigeria's capital before the nations capital was moved to Abuja. The capital of Lagos State is Ikeja. The population of Lagos State is close to 15 million people.



Lagos is located in the western part of Nigeria and it's bounded by the Atlantic Ocean to the south, Ogun State to the north and east and Benin Republic to the West.

Lagos State is arguably the richest and the most developed State in Nigeria. It has a strong economy which is why it's referred to as the nation's commercial capital. Thus, being one of the most buoyant States in Nigeria she is capable of embarking on community service sentence because she can afford to take care of the financial implication of such a reform.

I have lived in Lagos State for over 3 decades which gave me a better understanding of the terrain and better access to relevant actors in the criminal justice system in Lagos State.

As earlier mentioned, Lagos State is arguably the most populous State in Nigeria and consequently it has a high crime rate which is part of the reasons for overcrowding of prisons in Lagos, coupled with the nature of its criminal justice system.

### ***1.7 Limitations of the Study***

Civil service workers were not willing to talk without permission from superior authority for fear of losing their job due to the Nigeria civil service rule and even those that spoke were being careful with words so as not to say words that would seem offensive to the government. I tried to assure them that their identity would be protected but that didn't help either and this in a way limited the information gathered.

Prison officials at Kirikiri Prisons refused the researcher access to interview inmates according to them it's for security reasons. This limited my research because I wasn't able to get the prisoners side of the story about the conditions in the prison.

Due to the crisis in the energy sector (electricity) in Nigeria, my field trip was seriously hampered as a result of constant power failure but I managed to overcome the problem through the use of generator set and this made the researcher to spend more money in the course of the research.

Tracking other members of the Committee on Judiciary in the Lagos State House of Assembly members was difficult so I interviewed only the Chairman of the House Committee on Judicial Matters. Also, Court Judges in Lagos State were on vacation during my field trip so it wasn't possible for me to interview them but I was able to interview Magistrates in Lagos. An official of the National Human Rights Commission (NHRC) Lagos office refused to be interviewed while some other interviewees ended the interview abruptly without the researcher asking all the intended questions.

### ***1.8 Organization of the Study***

For easy understanding of the study, the research has been organized into five chapters: Chapter one introduces the research topic. It also includes the

objectives of the study, justification and limitations of the study and also the methodology used in carrying out the research. This chapter basically looked at community service order as an alternative to imprisonment in Lagos State and the criminal justice system in Nigeria.

Chapter two is on conceptual framework. Concepts such as restorative and retributive justices, community service order were used, while the legal framework to the study was on Nigeria's obligations to national and international instruments. In this chapter, arguments were made on the need for the use of restorative justice as against the retributive nature of the criminal justice system in Nigeria. Also, respect for prisoner's rights by the Government was explored vis-a-vis the researcher's visits to prisons in Lagos State.

Chapter three looked at the historical background of criminal laws in Nigeria. Also, a presentation based on my recent visit to both Kirikiri and Ikoyi Prisons in Lagos State was done. Other reports by local NGOs like CLO, PRAWA, CRP etc and International NGOs like Amnesty International and Human Rights Watch were also presented in this chapter.

Chapter four talks about the feasibility and challenges of the introduction of community service order in Lagos State. Findings from visits to Lagos prisons and interviews conducted with stakeholders were analyzed in this chapter.

Chapter five is the conclusion and recommendations. In this chapter, the issues that were raised in the introduction and other chapters is logically summarized with a conclusion drawn and possible recommendations made to government.

## Chapter 2

# Conceptual and Legal Frameworks

### 2.0 Introduction

Concepts like restorative and retributive theories were used to analyze and justify the research topic and questions as stated earlier in the introduction. Also, concepts like community service order, rehabilitation and reparation were also used. Various works of proponents of these theories were cited to buttress my claim for the need of introduction of CSO in Lagos State Nigeria. Apart from the citations, the research this chapter also looked at Nigeria's national and international obligations on respect of prisoner's rights.

### 2.1 Conceptual Framework

#### *2.1.1 Restorative Vs Retributive Theories*

Restorative Justice is a relatively new concept. Many scholars and advocates have attempted defining it. According to Tony Marshall (1999:29) the first writer to create a comprehensive model of Restorative Justice was Howard Zehr, in a pamphlet Zehr called "Retributive Justice" (1985) and in his book called "Changing Lenses" (1990).

The most widely accepted definition of restorative justice was by Tony Marshall (1999:5) as quoted in Dignan (2005:2) "a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of that offence and its implication for the future." Critically looking at the process of reconciliation, Marshall's definition only looked at the futuristic implications of the offence i.e. the after effect rather than the possible root causes of the offence in order to prevent recidivism. My position is that, due to the nature of Nigeria's criminal justice system an offender is perceived to have offended the State and the only perceived justice is for the offender to be punished severely by being imprisoned or sentenced to death depending on the gravity of the offence. What Marshall's definition fails to address is that, what could have led the offender to commit the crime before talking of how to resolve and its implication for the future.

Though, Marshall's definition cannot be completely ignored. In line with Marshall's definition is an advocate of Restorative Justice, Nils Christie (1977, 1982) as quoted in Zernova (2007:36) Christie criticizes the traditional criminal justice system, "where the main actors on the criminal justice stage are legal and other professionals and ordinary people who are directly affected by the crime are excluded from participation in their own conflict." For instance, in Nigeria's criminal justice system (CJS) neither the victim nor the offender have a say in the prosecution of the offender rather it's the prosecutor and the lawyers that controls the proceedings, but what Marshall is saying is that parties

with a stake in a specific offence have to collectively resolve the problem. Hence the questions, would imprisonment of an offender serve as rehabilitation and subsequently reintegrates him back into the society? What would be the benefit of the community from the imprisonment of an offender? The answer is, if all parties involved in the dispute collectively decide how to resolve the dispute with the offender assuming responsibility for his or her action by giving back to the community through unpaid labour, it will encourage the community to easily reintegrate the offender back into the community and there won't be the need for imprisonment. According to Archbishop Desmond Tutu in a document entitled Principles of Sentencing- the aims of sentencing

A criminal offence has caused a breach in relationship and the purpose of the penal process is to heal the breach, to restore good relationships and to redress the balance . . . the fundamental purpose of the entire exercise is to heal ... (Desmond Tutu, 2000-2008)

Retributive justice system on the other hand is mostly centred on punishing the offender which is contrastingly different from restorative justice system that focuses not only on the offender but also on the victim and the community and it also tries to restore the relationship of all party to the dispute.

Bazemore and Umbreit (1995:302) as quoted in John Howard Society of Alberta (1997:5) 'retributive justice focuses on determining guilt and delivering appropriate punishment while restorative justice is concerned with the broader relationship between offender, victim and the community'. Due to the retributive nature of the Lagos State criminal justice system, Judges and Magistrates sentence most offenders if found guilty to imprisonment irrespective of the nature of offence committed. Although, there is the provision of fine as an option of sentence but in most cases it is not often used. Proponents of retributive justice are of the idea of 'an eye for an eye'. In other words, to these proponents revenge against the offender is the only perceived justice for the victim. According to Gardener as quoted in Rabie (1972: 2)

The desire to make the offender suffer is not because it is good for him or her, not because suffering might deter him from further crime but simply because it is felt that he or she deserves to suffer and the suffering is thus the essence of retribution.

There is the general perception that a sentence imposed by a Judge/ Magistrate should be commensurate with the offence committed. In other words, the question is who benefits from sentencing a minor offender to imprisonment. The idea of sentencing a minor offender to imprisonment is like causing more harm to the offender and the already estranged relationship

because from interviews that were conducted by the researcher showed some of the inmates are either remanded or sentenced for minor offences and most of these offenders go into prison and get mixed up with hardened convicts where they get groomed for more serious offences. But with CSO minor offenders are saved from mixing up with serious offenders in prison and they put in services to the community through unpaid labour. Hence, all parties in the dispute benefit including the government.

Another Restorative Justice theorist, Mirsky (2003:2) as quoted in Gavrielides (2007:21) claimed that restorative justice theory provides a “deliberate opportunity for offender and victim to restore their relationship, along with a chance for the offender to come up with a means to repair the harm done to the victim”. From interviews carried out with stakeholders, it shows that the introduction of community service order would reconcile the offender with the society. The society seeing what the offender is contributing in terms of unpaid labour to the community would appreciate the work done and this can easily lead to reintegration back into the community that had initially rejected him or her.

Although, there is a growing debate on the applicability of Restorative Justice, while some proponents are of the view that it should be incorporated into the existing criminal justice system, others are of the radical view that it should stand parallel or independent of the system. The Lagos State Government has taken a step forward on this issue by incorporating community service order in its newly reformed criminal law i.e. The Administration of Criminal Justice Law 2007 though its yet to kick off. Some people perceive ‘Restorative Justice’ as a “softer option” but in actual sense according to Duff (1992) as quoted in Gavrielides (2007:41) restorative justice is not an “alternative to punishment”, but “alternative punishment”. The notion that an offender should be punished and imprisoned for an offence committed doesn’t seem to reverse the harm already done to the victim or the community. How can the society have a feeling that justice had been restored if the society is not a partaker or beneficiary of the perceived justice?

According to Wright (1996:112) as quoted in Gavrielides (2007:23) restorative justice can create a new model of justice where “the response to crime would be, not to add to the harm caused, by imposing further harm on the offender, but to do as much as possible to restore the situation”. The researcher shares the same view with Wright to a certain extent, the area of agreement is that, the fact that a first-time offender or an offender did commit a minor offence, putting him or her in prison with hardened convicted criminals is like imposing further harm or like arming the offender for greater crime in future because rather than being rehabilitated, he or she goes to prison to learn from the hardened criminals and get hardened themselves. Hence, that vicious circle of crime (recidivism) continues and both government and the society would be at the receiving end. But personally I disagree with Wright in some aspect because his model of justice would create or pay too much emphasis on the offender without providing justice for the victim. Also, the model emphasizes on the restoration of the situation between the offender and the victim without looking at the process or how much can be done in restoring the situation.

Furthermore, Braithwaite (1997) as quoted in Gavrielides (2007: 24) stated that “the criminal justice system creates shame that is stigmatizing.” “Stigmatizing shame (imprisonment) disintegrates the moral bonds between offender and the community while re-integrative shame strengthens the moral bonds between the offender and the community.” (Ibid. 25) In other words, referring to an ex-inmate as ‘ex-prisoner’ would be far more stigmatizing and negative than calling an individual that was sentenced to community service, the society might not frown because he or she rendered unpaid labour to the community. According to an ex-convict turned pastor, Pastor Kayode Williams, in a BBC (2006) report entitled: The 'notorious' jails of Nigeria

Many were coming back to prison, because they were not properly rehabilitated. They had no where to go. Society had rejected them, their family had rejected them. When I came out people were very hostile. No one would receive me or walk with me. So I tell them, don't expect society to roll out the red carpet - but don't get discouraged. But for those inside, the struggle to survive is the main concern.

Wright (2004:247) as quoted in Zernova (2007:41) argued his position by stating “since many victims want the offender to do something to make it less likely that he or she will offend again, taking part in a rehabilitative programme may be a way of making reparation” In addition to Wright’s argument, some persons with anti-social behaviours could easily learn new labour skills while under community service sentence and at the same time gets rehabilitated and if need be, seek medical or psychological help in overcoming the anti- social behaviour. In support of Wright’s argument, Johnstone (2007:111) as quoted in Zernova (2007:42) said “it has been proposed that the restorative goal of offender reintegration would be more likely to be achieved if the methods of restorative and therapeutic interventions were combined”

The bottom-line of the restorative justice system is to reduce crime and protection of the society through rehabilitation and reintegration of the offender and prevent recidivism and also not forgetting reparation to the victims. The researcher feel that therapeutic intervention if applied doesn’t make the process of rehabilitation less productive because there are some offences that could be as result of mental or psychological stress and not just as a result of peer influence.

### ***2.1.2 Prisoners Rights***

Prisoner’s rights to an ordinary Nigerian in the street may sound strange due to the perception that since they have committed an offence hence they deserve to be punished severely by putting them in prison so that they suffer.

The fact that a prisoner did commit a crime he or she still have rights and needed to be treated with respect as human being as guaranteed under the Standard Minimum Rules for the Treatment of Prisoners and as adopted by

the first United Nations Congress on the prevention of Crime and the Treatment of Offenders, Geneva, 1955. (Sepulveda, M. et al: 2004: 58)

Rules 5(2) of the Standard Minimum Rules for the Treatment of Prisoners stipulate that young persons should not be sentenced to imprisonment. But in Lagos prisons I saw inmates below the age of 18 years i.e. based on what the inmates told the researcher. The rights of prisoners are flagrantly flouted with impunity by government officials and its agents (prison officials).

Also, Rule 8 states “the different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment.” Furthermore, Rule 8(b) clearly stated that “untried prisoners shall be kept separate from convicted prisoners.” (Ibid.) But in Lagos State prisons the reverse is the case because minor offenders are kept with serious offenders likewise, other inmates awaiting trial and are being kept alongside convicts.

Rule 9 (1) of UN’s standard treatment for prisoners stipulates that “one or two prisoners or inmate as the case may be shall occupy a cell or room by himself”, while sub-section 2 states “a situation whereby dormitories are used, the prisoners or inmate should be carefully selected.” One of the major problems prisons in Lagos State are facing is the problem of overcrowding. According to Amnesty International report released on 15<sup>th</sup> August 2007 entitled “Nigeria: Prison conditions appalling” the report says three out of every five persons in Nigeria’s prison are awaiting trial. Also, the two inmates interviewed at Ikoyi Prison by the researcher, claimed that each of them (inmate) has over 70 inmates in their cells, the researcher wasn’t allowed to visit the cells.

Apart from the already mentioned rules, there are other rules, up to Rule 95 in all which guarantees the rights and treatment of prisoners in terms of Medicare, educational rights, personal hygiene (prison environment) and recreational facilities amongst others. Due to lack of time and space the researcher would refer readers to see other Rules which protect the rights of prisoners under the UN Standard Minimum Rules for the Treatment of Prisoners and the UN Basic Principles for the Treatment of Prisoners. (Ibid: 58, 76).

Furthermore, Article 5 of UN Universal Declaration of Human Rights: “No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.” (Ibid.) This is a right which the Nigerian Government and Lagos State Government in particular should strive to uphold because from comments made by inmates shows that prison official do torture or use other inmates to manhandle fellow inmates that are disobedient.

## **2.2 Community Service Order**

Community Service Order is a sentence given to offenders by court. The order may vary depending on the degree or gravity of the offence committed and depending on the Magistrate. Some people may look at CSO as a soft option while to others there is no difference with custodial sentence because the offenders are made to face the consequences of their action by working for the

community without pay. The duration of the sentence is based on the discretion of the presiding judge. But it could normally be between 40 to 240 hours of labour.

Community service order is an alternative form of punishment and not an alternative to punishment. Community service order gives the victim (individual or the community) an opportunity to partake in the judicial process, and at the same time the offender pays back either to the community as a form of reparation. Offenders can be sent to prison if they try to abscond.

Community Service Order is a form of restorative justice which could be used to reform/ rehabilitates an offender that commits a crime associated with anti-social behaviour. Thus, in the course of undergoing community service the individual could acquire some skills which could be beneficial to them and the community at large.

Some of the interviewed stakeholders in the criminal justice system in Lagos said that despite the fact that the Lagos State Government made provision for community service order in the newly reformed Administration of Criminal Justice Law 2007, which is yet to kick off, but if implemented the interviewees believes that CSO would afford offenders the opportunity of realising that they can still be useful to the society by regaining their self esteem.

Community Service Order according to the United Kingdom Home Office (2005:10) in a document entitled, Crime, sentencing and your community: sentencing explained, the document stated that CSO

makes the offenders face up to and deal with problems that might be causing them to commit crime like drug abuse and challenge them to change their behaviour. A rehabilitated criminal is less likely to offend again. This all means that sentences can be tailored to respond to individual offences and offenders, increasing the chances of them developing a life away from crime.

Prisons in Lagos State though have rehabilitation programmes where inmates are supposed to learn technical skills but very few of these inmates get the opportunity of participating in such skill training programme. Even the skill acquisition workshops inside these prisons are seriously ill-equipped for any meaningful rehabilitation to take place and subsequent reintegration into society.

Prison officials in Lagos State actually said most of the inmates in Lagos prisons are either sentenced or are being remanded for minor offences. But with community service sentence, it would help in alleviating prison conditions and overcrowding of these prisons.

As earlier said CSO is not a soft option neither is it an alternative to punishment but rather it is a form of punishment with the aim of preventing recidivism and rehabilitating the offender for reintegration back to the society. Although some opponents of restorative justice would say community service order is not punishment simply because pain is not inflicted on the offender, but what they (opponents) fail to realise is that CSO is a more humane way of



punishing an offender in order not to create more harm but to try and bridge the relationship between the offender and the community.

The fact that offenders on community service are deprived of their leisure, time and freedom of movement and at the same time they are working for the community without defaulting and without being paid shows that the offender can still be rehabilitated and become useful to the society.

### ***2.2.1 Rehabilitation***

Rehabilitative sentences aims specifically at imposing sentence on an offender in order to reform the offender's anti-social behaviour. This could be actualized through the use of psychological therapy, technical training, education and leisure because the offender is perceived to be sick and needs treatment. Cullen and Gendreau (2000) as quoted in Sarkin (2008:156) defined rehabilitation in a broader sense "social relations with others, education and vocational skills, and employment. The intervention is intended to make the offender less likely to break the law in the future or to reduce recidivism"

I strongly believe that CSO would be an effective way of rehabilitating offenders especially in Lagos State because from visits to Lagos prisons by the researcher, most of the technical workshops lack the basic tools for training inmates and very few inmates have the opportunity to partake in the training. The educational facilities in these prisons are nothing to write home about, there were no chairs and the tutors were fellow inmates. Leisure inside these prisons is non- existing. At Ikoyi prison inmates don't even have good football to play, they approached the researcher begging him to buy a new football for them.

With CSO, offenders could easily learn new labour skills which would be beneficial to them after they have finished their sentence. Also, offenders would have the opportunity to continue with their education or job uninterrupted while serving the community and save his or her family the trauma and shame if sentenced to imprisonment.

### ***2.2.2 Reparation***

The aim of reparation is to compensate the victim for the crime committed. Reparation is a way of restoring the relationship between the offender and the victim to its pre-crime state. But usually reparation is made to the society as a whole by passing a Community Service Order on the offender. The length of the community service usually depends on the discretion of the Judge or Magistrate and the gravity of the offence.

## **2.3 Legal Framework**

### ***2.3.1 Nigeria's International Obligations***

Nigeria is a member of United Nations and the African Union. She had ratified most of the international and regional organization's instruments.

Based on the ratification she is expected to comply with the tenets of these international and regional human rights instruments. Respect for prisoner's rights is at low ebb in Lagos State and Nigeria as a whole.

The United Nations have developed standard rules which guarantee the rights of every person whether in detention or not. In this context, Rule 95 of Standard Minimum Rule for the Treatment of Prisoners states that the rules are applicable not only to convicted prisoners but also to people in pre-trial detention and people held without charge which is also stated in Article 9 of ICCPR (Sepulveda, M. et al, 2004: 62).

Under the International Bill of Human Rights, Nigeria ratified the International Covenant on Civil and Political Rights (ICCPR) on 29<sup>th</sup> October, 1993. Haven ratified this covenant she is obliged to respect the dignity and inalienable rights of all human whether prisoner or non-prisoner as also enshrined in Article 10 of ICCPR which states:

(1) All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

(2a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons (Ibid.8).

Article 7 of ICCPR: "No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment" (Ibid.) Torture still exist in Lagos and Nigeria prisons. Following the researchers visit to prisons in Lagos, it shows that the conditions in which prisoners are kept is more than cruel and inhumane.

Nigeria also ratified the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) on 28<sup>th</sup> July 2001. Based on its ratification, Nigeria is expected to protect its entire citizenry including prisoners from both physical and mental torture either for obtaining information or a confession, or for the purpose of punishment. Although, the researcher did not receive any complaint of physical torture from the inmates but the fact that the inmate are left in a deplorable condition shows the high level of mental torture they face on a daily basis.

Also, the Basic Principles for the Treatment of Prisoners adopted by the General Assembly resolution 45/111 of 14 December 1990 in which Nigeria is a State Party guarantees that "the principles under this resolution shall be applied impartially due to their inherent dignity and value as human being" (Ibid:76).

### ***2.3.2 Regional Obligations***

Nigeria ratified the African Charter on Human and Peoples Rights, on 22<sup>nd</sup> June, 1983. Nigeria is expected to adhere to the principles based on the fact that she is a party to the Charter which according to Article 1 calls on Member States of the Organization of African Unity (OAU) now called African Union

to “recognize the rights, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them” (Ibid: 126)

Other Articles of the Charter that protects the interest of prisoners includes; Article 5 guarantees the right to dignity, prohibition of torture and slavery. Article 16 is on right to health. The government owes it a duty to provide good Medicare for its citizenry which also includes prisoners which unfortunately are under the care of the Federal Government of Nigeria.

### ***2.3.3 Nigeria’s National Obligations***

The Federal Republic of Nigeria Constitution 1999 guarantees fundamental rights of every person in the country including prisoners. The Nigeria Government is expected to adhere to the Constitution, but some of the Sections in relation to prisoners rights are being violated with impunity.

Under the 1999 Nigeria Federal Constitution, Section 34 (1) states that “every individual is entitled to respect for the dignity of his person, and accordingly – (a) no person shall be subject to torture or to inhuman or degrading treatment.” The conditions of Lagos prisons is far worse than inhuman and degrading considering the mental torture and psychological trauma inmates had to face on a daily basis for years while in prisons.

### ***2.3.4 Summary***

The fact that Lagos and Nigerian prisoner’s are being faced with serious problems like overcrowding, lack of medical care, poor feeding and staying in unhygienic conditions shows Nigeria’s lack of adherence to international human rights instruments. In other words, she doesn’t respect the rights of prisoners. A look at the various UN instruments like the Standard Minimum Rules for the Treatment of Prisoners, The Basic Principles for the Treatment of Prisoners, the Convention Against Torture, ICCPR, and the African Charter on Human and Peoples Rights were all being violated in one way or the other by the Government of Nigeria and its agents.

The Nigeria Constitution of 1999 did not make any specific provision for respect of prisoner’s rights in the constitution. Both convicted prisoners and awaiting trial inmates alike are experiencing the same trauma in Lagos prisons, interestingly Section 35(4) guarantees that “any person who is arrested or detained in accordance with subsection (1c) of this section shall be brought before a court of law within a reasonable time...” (Ibid.) but that is not the case in Lagos State and Nigeria generally because inmates are in prison for years without trial and most of the offenders in prison are minor offenders which normally should have been sentenced to community service.

# Chapter 3

## Historical Background on Nigeria's Legal System and Prison Conditions in Lagos State

### 3.0 Historical Background on Nigeria's Legal System

Pre-Colonial Nigerians lived in emirates, empires, kingdoms, etc. And these traditional settings operate traditional system of government that heavily depends on their socio-cultural and religious background.

The first contact between the British and Nigerians was when British trade merchants and indigenes living in the coastal areas in the 18<sup>th</sup> century met to transact trade. As a result of the huge volume of trade, the British government appointed a Consul to act and regulate the trading on behalf of the government.

Before the arrival of the British, the entity now referred to as Nigeria had its own laws which tends to punish or imposes sanction on offenders. In other words, each kingdom or ethnic group had its own traditional laws or norms guiding them.

According to Okonkwo and Naish (1980:4), the Southern Nigeria had relatively "simple system of social norms" based on family unit, the village or communities as against Northern Nigerian which is "highly systematized and sophisticated Muslim law of crimes." Based on the diversity of culture and religion, each tribe or ethnic nation had its own customary law.

Ayo Ajomo and Isabella Okagbue (1991:25) stated

by 1863, the rules of English common law, including the common law of crime, were introduced in the then colony of Lagos and in 1906 a criminal code was introduced to the then Northern protectorate.

In 1878, the criminal code was drafted to replace the English common law of crimes by Sir James Fitzstephen. The code was never enacted into law by the British parliament but was subsequently exported to its colonies, this goes to show the intent of the colonial government which is to exploit resources from its colonies

There were complexity in the applicability of the Criminal Code in the Southern and especially in Northern Nigeria because in the Southern Nigeria there was the existence of the customary law and courts which is based on the custom and tradition of the people while in the Northern Nigeria the situation was even more complicated as a result of its legal background in the Maliki law which is a codified Islamic law and very different from the British criminal code. For example, "under the Maliki Law, women were not allowed to testify

in any criminal proceedings, whereas they could do so under the Criminal Procedure Act of 1945 which governed criminal procedure in the English Courts.” (Ibid.)

In 1904, Lord Lugard introduced the Criminal Code to the Northern Protectorate of Nigeria modelled in accordance with the State of Queensland in Australia but little did he know that the situations in Northern Nigeria are quite different from Southern Nigeria and in order for easy administration of the colonies, the Northern and Southern Protectorates were amalgamated in 1914 and by 1916 the criminal code was extended to the whole country. The extension of the code created internal conflicts as a result of the operationalization of the dual systems of criminal law. In 1933, following the amendment of the Criminal Code Ordinance that provides that,

no person should be tried or punished except under the provisions of the code. Initially, the perception of the generality of Nigerians was that, with the amendment of the code, it had abolished a greater part of the customary criminal law but the interpretation seems to be different because the native court could only impose punishments in accordance with the criminal code i.e. if the offence could also be tried at the Criminals Courts. In other words, the native courts are forced to apply two sets of laws (Ibid.)

The conflict brought about due to the introduction of two sets of criminal laws led to the abolition of the customary law in 1959 following series of constitutional conferences prior to independence of Nigeria in 1960. The resultant effect and subsequently amendment as stated in:

paragraphs (10) of the Nigerian (constitution) (Amendment No. 3) Order in Council 1959 no person shall be convicted of a criminal offence unless that offence is defined and the penalty therefore is prescribed in a written law. As later entrenched as section 22 (10) of the 1960 constitution and is now section 33 (12) of the 1979 constitution and included in the 1989 Constitutions. (Ibid)

### ***3.1.1 Penal Code***

Prior to independence in 1960, reformist groups in the northern part of Nigeria started clamouring for reform of the criminal justice system which to them was unsuitable based on their religious background. The penal code is applied only in northern Nigeria and its applicable only to Muslims living in northern Nigeria. The clamour paid off and a panel was put in place by the Northern Regional Government to look into the relationship between the Islamic and English laws. On October 1<sup>st</sup>, 1960, the penal and criminal procedure codes were introduced to replace the criminal code in the Northern Region of Nigeria.

Following the doctrines of Islamic laws, “the penal code also forbids alcohol drinking, adultery and indecent exposure of women’s body” (Ibid.) amongst others. Thus, the criminal procedure code applies to the Northern Region while, Criminal Procedure Act applies to the Southern Region of Nigeria.

Nigeria being a Federal State means it operates a three-tier of government i.e. the federal, states and local governments. It also operates a tripartite system of law i.e. the penal code, the criminal code and the customary law. There is separation of power in government i.e. the legislative arm, the judiciary and the executive; all are quite distinct from each other and acting independently as a check against the excesses of the other arms of government for smooth and effective governance.

Both the federal and state governments have the legislative rights to enact criminal laws inline with the jurisdictions of the states in the criminal code i.e. for the Southern states of Nigeria. The penal code was adopted by the Northern states; hence, “offences not within the legislative competence of Northern Nigeria were embodied in the penal code Federal Provisions Act, No. 25 of 1960”. (Ibid)

Under the current criminal prosecution process in Nigeria, the responsibility of prosecution of offenders lies with the Federal or a State Attorney General respectively. The Attorney-General exercises its power through the Director of Public Prosecutions (DPP) in the Ministry of Justice of either at the Federal or State level respectively. At the State level, criminal jurisdiction is vested on High Courts, Magistrates’ Courts, and Customary Courts etc. Most of the criminal prosecutions in the Southern Nigerian states are done before the Magistrate Courts while in the Northern States, the Area Courts handle most of the Criminal prosecutions.

The police initiate prosecution proceedings in the Magistrate Courts. Section 19 of the Police Act confers such powers on them. According to Obi Ebbe “crimes in Nigeria are classified by the severity of the offense into felonies (very serious) and misdemeanours (less serious)” (Obi Ebbe, World Factbook of Criminal Justice Systems: Nigeria). In serious cases like murder, manslaughter etc the police on conclusion of investigation refers the case to the DPP for advice on what charges the offender should face in court. The gravity of the offence would determine the type of punishment an offender should get.

### ***3.1.2 Summary***

Going through the legal framework of the Nigerian Criminal Justice System it shows that the British colonial governments were only interested in protecting its own interest in Nigeria. In order to actualize its exploitative tendencies she had to put in place a machinery of legislative or criminal laws for easy administration. Thus, these gave birth to a dual codes system for Northern and Southern states of Nigeria making criminal prosecution very complex and un-unified. In other words, the Nigerian nationalists fought these draconian laws by going to court and clamouring for greater participation in governance. Due to the lack of uniformity in the legal system during the colonial period

each State Government in Nigeria today is able to enact its own criminal law for the State Nigeria has done very little to reform its criminal law in order to move with the changing tide.

Out of the 48 years history of Nigeria as a country, the military have ruled the country through decrees for 29 years and used military tribunals alongside the courts in the prosecution of crimes. Hence, this seriously hindered democracy, respect for human rights and rule of law following the suspension of the constitution on many occasions. As a result of the many years of military rule, it has affected the psychic (mentality) of the various armed forces including the Nigerian Police Force which sees an offender as enemy of the State. Thus, this resulted in the way offenders are being treated without respect of their fundamental rights.

Hence, there is the need for a re-think (reform) of the criminal justice system and the introduction and implementation of community service order in Lagos State would lead to solving so many societal problems and control the rate of criminal activities because minor offenders could be easily rehabilitated or reformed. Also, it will help in solving overcrowding of prisons in Lagos State and complement the existing criminal justice system.

### **3.1 Prison Conditions in Lagos State**

The prison system in Nigeria was introduced by the British colonial government between 1861- 1900. Prison administration in Nigeria is centralized. In other words, all prisons in Nigeria are under the control of the Ministry of Internal Affairs which is one of the Federal Ministries in Nigeria.

There are three prisons in Lagos State, these include: Ikoyi prison, Badagry prison and Kirikiri prisons. Kirikiri prison is the largest prison in Nigeria and it comprises of Kirikiri Medium Prison, Kirikiri Female Prison and Kirikiri Maximum Prison.

The condition of prisons in Lagos State is definitely far below the United Nations standard for the treatment of prisoners. Various reports from local and international NGOs show that there is much more that needs to be done in terms of improving the conditions of prisons in Lagos State.

The researcher visited Ikoyi and Kirikiri Medium Prisons in Lagos on 12<sup>th</sup> and 20<sup>th</sup> August, 2008 respectively. In the two visits the researcher met with senior officers of both prisons. At Ikoyi prison the researcher was taken round the prison by the senior officer while at Kirikiri Prison the senior officer directed a junior officer to take me round the prison complex.

The first impression a visitor to Kirikiri Medium Prisons would get right from the entrance gate is that the conditions of prisons in Lagos have improved probably because of the beautiful flowers planted in the complex and the well maintained football pitch inside the prison. This tends to give people the wrong impression that prison conditions have improved. But a closer look at conditions inside these prisons would reveal the horror inmates are going through on a daily basis.

At Ikoyi Prison I had the opportunity of interviewing two inmates. Although I didn't have the opportunity of visiting the cells of the inmates but after interviewing the senior prison officer and correlating it with the interview of two prison inmates, I discovered a big lacuna in both interviewee's claim. It revealed to me the sufferings and trauma these inmates go through. Thus, the rights of these inmates are systematically being violated with impunity without some of the inmates knowing.

Some inmates are unduly favoured while in prison and some others are not. Although it is not allowed in Nigerian prisons but the researcher saw an inmate at Kirikiri Medium Prison using a mobile phone in his cell, the first question that crossed my mind was how did he get it into prison? Before the researcher could enter inside the prison complex he was seriously searched by prison guards with his phone and other metal items taken away from him. In other words, the only way for them (inmates) to have taken the phone into the prison is to bribe prison officials. Another possibility is that prison officials use some convicted prisoners for administrative work which they (officials) are supposed to do, for example, at Kirikiri Medium Prison; offenders that were newly brought to the prisons were being searched and being read the prison rules by convicted inmates that are still serving their term in prison before they (new inmates) were taken into their different cells.

Furthermore, while the researcher was going round the prison compound there were convicted inmates who were assigned the duties by prison wardens to 'deal' with inmates that come near the visitors gate. The assigned convicted inmate goes about with a "cane" in his hand (long tiny stick) which he uses in flogging fellow inmates that refuses to move away from the gate entrance. He also rings the bell for other fellow inmates to enter back into their various cells after their 'lock-out time' (the time they move freely inside the prison complex). Thus, this idea needs to be changed.

NGOs and civil society groups have been organizing workshops and seminars on the need for prison reform and reform in the criminal justice system and in some cases training of prison official on the need to respect the rights of prisoners and observance of international rules and instruments on the treatment of prisoners. PRAWA has been campaigning for prison reforms based on its thematic focus which is on prison systems and prisoners rehabilitation. NGOs such as CRP, Office of the Public Defender Lagos State, NHRC and CLO amongst others have all released a considerable number of inmates on their own from Lagos prisons through pro-bono (free legal aid) services rendered by these organizations.

Apart from filing and arguing cases in court challenging the government's continued illegal incarceration of inmates in prison, NGOs have been publishing books, journals etc calling on government to reform the criminal justice system. Examples are books published by CLO entitled 'Behind the Wall' which exposes the bizarre conditions of Nigeria prisons; and also a book by CRP which talks about juvenile justice entitled as 'Research Findings of Juvenile Justice Administration in Nigeria.'

NGOs in Lagos have been partnering with international NGOs such as Amnesty International and Human Rights Watch amongst others in the area of advocacy in order to call the attention of the Nigerian government and the



international community on the state of Nigeria prisons. Other faith based NGOs like JDPC and Prison Fellowships Ministries have been very active in their own way in trying to improve the conditions of prisons through renovating dilapidated prison structures, providing food and clothes for inmates, providing technical tools such as computers, sewing machines, electrical tools and furniture making tools in the skill acquisition workshops for inmates in these prisons. According to prison officials of Ikoyi and Kirikiri Medium Prisons, 80% of materials received to improve the welfare and learning skills of inmates in these prisons are received from religious (NGOs) bodies. They also help in rehabilitating and reintegrating ex-convicts back into the society since the Government through its criminal justice system have failed in rehabilitating inmates and tackling recidivism.

There are various problems being faced by prisons in Lagos State, some of the most serious problems include; overcrowding, poor feeding and medical care, use and selling of drugs in prison amongst others.

### ***3.2.1 Overcrowding In Lagos Prisons***

The issue of overcrowding is one problem that is seriously affecting conditions in Lagos prisons. One of the reasons for overcrowding of these prisons is as a result of sentencing of minor offenders to prison and also the failure to bring to trial of offenders within reasonable time and this is due to the nature of the criminal justice system. According to an Amnesty International (AI) (2008:22) report released in February 2008 entitled, Nigeria: Prisoners’ rights systematically flouted stated “The most overcrowded prison visited by Amnesty International is Ikoyi prison which, at the time of the visit, incarcerated almost 250 per cent of its official capacity of inmates.” Also, the report says that 94% of inmates at Ikoyi prison are awaiting trial. In July 2007, Amnesty International visited some prisons in Nigeria including Lagos prisons, “none of the inmates whose release had been announced in May 2007 had actually been released. The prison authorities said that this was “due to an administrative procedure.” It is not clear how many prisoners – if any-were in fact released.” (Amnesty International Index: AFR 44/001/2008).

In addition to Amnesty International’s report, I was opportune to visit Ikoyi prison in the course of carrying out this research on 12<sup>th</sup> of August 2008. Below is the breakdown of the number of inmates awaiting trial and for those convicted.

**Table 1**  
**Breakdown of Inmates in Ikoyi prison as at 12<sup>th</sup> August 2008**

Convicted Inmates	91
Awaiting Trial Persons	1,507
Open Out (Total Inmates)	1,598
Prison Capacity	800

According to the two inmates interviewed by the researcher one inmate claimed that in his cell alone there were 72 inmates while the other inmate said there are 71 inmates in his cell. This is in violation of the rights of prisoners as guaranteed by Rules 9 &10 of UN Standard Minimum Rules for the Treatment of Prisoners.

The story is not too different from the situation at Kirikiri Medium prison. Out of the total 1,186 inmates in the prison, 1,032 persons are awaiting trial.

**Table 2**

***Breakdown of inmates in Kirikiri Medium Prison as at 19<sup>th</sup> August 2008***

Awaiting Trial Persons (Male)	1,032
Convicts that have spent under 6 months	28
Convicts that have spent under 2 years	80
Convicts that have spent above 2 years	42
Convicts on Life sentence	4
Total	1,186

Overcrowding in these prisons has resulted in the spread of communicable diseases due to poor ventilation and poor hygiene condition as a result of it.

Also, the problem could be attributed to the nature of the criminal justice system because some of these offenders committed minor offences or some are first time offenders which normally shouldn't have spent the number of years they have already spent if sentenced but with the introduction of community service order it would help in decongesting the prisons. Like a prison official that was interviewed by the researcher said "community service order would do a whole lot of good because it would allow them (prison officials) to concentrate on those that really need to be in prison rather than being distracted by minor offenders.

### ***3.2.2 Health Care***

To compound the issue of overcrowding is the problem of poor medical care. The researcher visited Ikoyi prison sometime in 2007 and was amazed to see an inmate that was seriously sick lying on the floor in the prison compound helpless. He was looking seriously frail and too weak to even walk.

Also, one of the inmates I interviewed during my field trip for this research to Ikoyi prison had rashes (skin disease) all over him, when I asked why he hasn't gone to the prison clinic for treatment he said, some months back he was there to complain of gastro-intestinal disorder and the only drug he was given at the clinic was paracetamol, that's why he doesn't want to go there again because according to him there is no drug to dispense that's why he prefer to buy his drugs if he has money to do so.

The medical care at Kirikiri Medium prison is slightly better but the conditions and lack of drugs still fall short of Article 12 of the ICESCR which is the right to health, the Standard Minimum Rule for the Treatment of Prisoners as guaranteed by the United Nations and Article 16 of African Charter of Human and Peoples Rights which guarantees the right to health. Although, there were sick inmates that were being kept in a separate ward from other inmates unfortunately there is no provision of mosquito nets. I was shocked to see an inmate being kept in a very dirty isolated cell because he had developed mental disorder in prison and nobody seems to care about him and this is in violation of Rule 44(1) of the UN Standard Minimum Rules for the Treatment of Prisoners.

### ***3.3.3 Feeding***

According to prison officials, the daily allowance allocated by the Federal Government for each inmate is a paltry #150 naira which is less than 1 euro. Cooking in Kirikiri prison is done in an untidy environment, under a shield and foods are cooked in big pot with firewood. The foods are being prepared by the inmates themselves but some of the inmates find it difficult eating the food they themselves prepare while others don't have any choice but to eat it. According to Amnesty International report (2008: 25) entitled Nigeria: Prisoners' rights systematically flouted "The food we eat is not the food that a human being will eat." the report went further to state "Even a dog cannot eat the food." Some inmates at Kirikiri Medium prison do roast their own fish or prepare their food as long as they have the money to buy the necessary ingredients like palm oil, salt, maggi etc all are being sold inside the prison by inmates.

### ***3.3.4 Religious/ Educational Activities***

Religious activities were going on in both prisons visited by the researcher; there is a church and a mosque inside both prisons and attendance is not mandatory. Most of the equipments, tools, clothes and foods are being donated by religious bodies but that doesn't mean NGOs and individuals don't donate items to prisoners. According to a prison official 80% of the donations like computers, sewing machines, carpentry tools and other technical tools comes from religious bodies who visit the prisons on a daily basis. They even go as far as renovating structures for learning inside the prison; unfortunately there are no qualified teachers to teach the inmates, the teaching is being done by fellow inmates.

At Ikoyi prison, there is a skill acquisition workshop for inmates to learn shoemaking, dress making, electronic repairing and furniture making but few inmates have such opportunity to learn these skills because according to one inmate you have to bribe the official in charge in order to participate.

### ***3.3.5 Separation of Categories***

At Kirikiri Medium prison, I was shocked to see juveniles below 18 years inside the prison and these young offenders are being mixed up with adult

offenders. Also, inmates awaiting trial mix up freely inside the prison with convicted prisoners. Same goes for minor offenders being mixed up hardened or violent offenders. All these contradict Rules 8, 8(b-d) of the UN Standard Minimum Rule for the Treatment of Prisoners. The researcher was told by some inmates when he visited some prisons in Lagos in August 2008 that they were less than 18 years old.

### ***3.3.6 Summary***

From the interviews conducted, most of the interviewees categorically stated that the introduction of community service order would alleviate the problem of prison congestion because most inmates in Lagos prisons are not suppose to be in prison in the first instance because majority are minor offenders.

The prison officer at Kirikiri Medium prison further stated that there is the need build more prisons at Epe and Ikorodu area in Lagos State due to the population in Lagos State which is close to 15 million people. The truth is that can only be a temporary solution because with time the same problem would rear its ugly head again, rather the lasting solution is for the Lagos State government to implement its newly introduced community service order.

In the course of carrying out this research, the researcher met with an ex-inmate that was released the same day the researcher visited Kirikiri Medium prison and the ex-inmate claimed that he was sentenced for stealing a mobile phone. The ex-inmate told the researcher that it was a terrible experience for him while in prison and that it's by the "grace of God" he was able to survive the ordeal in prison. The issue is, what benefit would the society or government derive from incarceration of the offender? Rather community service sentence which is a form of restorative justice could have benefitted the society because the offender would have rendered unpaid labour to the community which would in turn benefit the victim and at the same time prevent the offender from learning new criminal acts and becoming hardened offender. Also, it would have saved the government of fund used in catering for inmates in prisons.

Before the researcher left the prison compound, some of the inmates were pleading to the researcher for assistance in getting them out of prison because according to them, they don't have hope and no person to help them get out of prison.

# **Chapter 4**

## **Feasibility of Community Service Order in Lagos State**

### **4.0 Introduction**

There has been clamour by local and international NGOs on the need to reform Nigeria's criminal justice system and a complete overhauling of the prison system in Nigeria. This is apparent going by the pathetic condition of prisons across Lagos State and the perceived failure of the criminal justice system in Nigeria.

This chapter looked at the feasibility of community service order in Lagos State specifically in relation to the activities and roles played by the Lagos State government and the Federal Government of Nigeria vis-a-vis the criminal justice system, prison conditions and also the introduction of CSO in Lagos. Factors that would pose a challenge to introduction of CSO, perception of stakeholders on CSO as against imprisonment in Lagos State and also the cost-benefit of introduction of CSO in Lagos State.

Community service order as an alternative to imprisonment is one aspect of justice system that has attracted a lot of debates both locally and at the international scene on the need for restorative justice.

The present state of prison condition in Nigeria rest squarely on the Federal Government of Nigeria because all prisons in Nigeria are under its control. There are other actors besides the Federal Government involved in prison related issues but let's look at the roles played by the Lagos State Government and Federal Government of Nigeria on issues related to prisons across the country.

### **4.1 The Role and Political Will of Government**

The Federal Government of Nigeria has always promised to reform the criminal justice system in order to ameliorate the sufferings and strengthen the respect for prisoner's rights and also to improve the conditions of prisons nationwide. In order to actualize its dreams, the government did setup various Commissions or Committees to tackle these problems. Some of these Commissions are stated below:

According to Amnesty International (2008: 3) report released in February 2008 entitled, "Nigeria: prisoners' rights systematically flouted" stated that in 1999, the Nigeria Government established a Presidential Taskforce on Prison Reforms and Decongestion and this led to the release of 8,000 prisoners in the year 1999.

National Working Group on Prison Reform and Decongestion: The committee

reviewed 144 prisons and revealed in its 2005 report that the population of Nigerian prisons over the previous 10 years had totalled between 40,000 and 45,000 inmates, most of them concentrated in the state capitals. Of those, 65 per cent were awaiting trial (Ibid.)

The Inter-ministerial Summit on the State of Remand Inmates in Nigeria's Prisons: This Committee was established in 2005 to review the work done by the previous Committee. According to Amnesty International (2008:3), the report recommends the appointment of Chief Inspector of prisons and a Board of Visitors. Also, that Government should address the issue of awaiting trial inmates and the shortage of defence counsel. The Committee acknowledged that government needs to pay attention to prisoners rehabilitation knowing fully well that prisons across the country has failed in rehabilitating inmates, which is one of the tenets and advantages of the introduction of CSO.

In 2006 yet another Committee was established, this time its was the Presidential Committee on Prison Reform and Rehabilitation: The main task of the committee was not different from other previous Committees, its task was to look into the problems of Prison congestion and awaiting trial inmates and to improve prison conditions generally including the working conditions of prison officials and the Nigeria Police Force. A BBC (2006) news report entitled: Nigeria to free half its inmates, the then Justice Minister, Mr. Bayo Ojo said "government will build six half-way houses to provide those being freed with education and training" the Justice Minister went further to state that "By the time the process is completed, we hope to have reduced the inmates to between 15,000 and 20,000". Also the Minister claimed in the report that "up to 25,000 people, including the sick, the elderly and those with HIV will be freed." Furthermore, inmates awaiting trial for longer than the sentences they face and those whose case files are missing will also benefit from the reform (BBC website:2006).

The Nigeria Government also established the Presidential Commission on the Reform of the Administration of Justice in March 2006. The task of the Commission was to review the administration of justice and the overuse of imprisonment in Nigeria.

Yet another committee was formed by the Federal Government in April 2007, this time it's the Committee on the Harmonization of Reports of Presidential Committees Working on Justice Sector Reform. According to the Committee on the Harmonization of Reports of Presidential Committees Working on Justice Sector Reform (2007:2- 4) the task of the Committee was to harmonize all the reports and recommendations of all previous Committees in relation to the prisons and criminal justice system in Nigeria. The tasks of the Committee include, to audit case by case certain categories of prison inmates such as; Awaiting Trial Inmates (ATI) who have spent over ten years in prison, ATI whose case files are lost, ATI with life threatening diseases, ATI of 60 years of age and above, ATI on death row for upwards of ten years. At the end of the Committees task, the Committee recommends the following to the government for implementation and these includes; establishment of a

Prison Service Commission, review of the salary and allowances of prison officials, the establishment of the office of a Chief Visitor of Prisons, as well as the appointment of Voluntary Prisons Visitors for all prisons in Nigeria. Also recommended was the introduction of Prison Act Amendment Bill and the Community Service Bill for appropriate legal framework for prison administration in Nigeria.

Amnesty International's (2008:4) report entitled Nigeria: Prisoners' rights systematically flouted stated that the Federal Ministry of Internal Affairs would establish yet another Committee to monitor the activities of inmates and prison officers in order to ensure the Standards Minimum Rules on Treatment of Prisoners are met.

Although, the Lagos State Government on its part has taken a step by reforming its criminal law, i.e. the Administration of Criminal Justice Law which was reformed in 2007, in that reform the State Government made provision for CSO under Section 350 of the Law but till date it hasn't implemented it.

The Federal Government of Nigeria continues to state its intention to ameliorate and improve prison conditions and reform the criminal justice system in Nigeria but it lacks the political will to implement recommendations made by the countless Committees or Commissions that were established till date. In other words, according to an interviewee, the Federal Government lacks the 'sincerity of purpose' of reforming prison condition following its failure to implement recommendations made by the various Committees that were established. Thus some consider it to be another cheap political talk that will score points only on paper and not practical.

Amnesty International (2008:5) report claimed that "the recommendations of all government Committees and Commissions appear to be little more than words, which have left the real situation in Nigeria's prisons unchanged". The mandate given to the Committee on the Harmonization of Reports of Presidential Committees Working on Justice Sector Reform in 2007 and the report submitted by the Committee recommended the passage of Community Service Bill for a proper legal framework to the introduction of CSO. This is a clear indication that imprisonment has been overused in Nigeria's criminal justice system on offenders that commits the slightest offence. Also, the Inter-Ministerial Summit on the State of Remand Inmates in Nigeria's Prisons acknowledged and recommended that government needs to pay attention to prisoners' rehabilitation because they found out that custodial sentence has not succeeded in rehabilitating offenders in Nigeria.

The Government through the Attorney General and Minister of Justice always claim after each Committee's work that government would release thousands of inmates but it never happened. Till date there is no word to confirm either from the media, Federal Government or prison officials that these prisoners have been released. Meanwhile, millions of dollars (US\$) have been spent on the reform committees which always comes up with almost the same recommendations. Meanwhile prison inmates continue to go through hell while they wait endlessly for a day the government would finally implement these committee's reports.

My view is that, there is no doubt that the introduction of CSO in Lagos State would face some resistance from some Lagosians on the street but for there to be any meaningful success in relation to CSO both the Lagos State Government and the Federal Government of Nigeria need to be sincere and committed in implementing reforms or recommendations made by the Committees and Commissions established by the government. Apart from the fact that millions of US dollars were wasted on these Committees, it also makes a mockery of the Government at the international scene. But with community service order in place the government would need fewer committees because the idea of sentencing minor offenders to imprisonment will put to a halt the problem of overcrowding and subsequent spread of diseases in Lagos prisons.

## **4.2 Corruption and Enforcing Community Service Order**

One of the research questions posed to stakeholders was on, what could pose a challenge to the introduction of CSO? All the respondents agreed that enforcing CSO could pose a serious challenge. Lagos State Government did introduce CSO as an alternative to imprisonment for minor offences in its statute books but ever since its introduction there is no word yet on its implementation. There were divergent of responses as to who should enforce CSO in Lagos State. In an interview with the Lagos State Special Assistant to the Attorney General and Commissioner for Justice, he stated that special community service officers would be recruited to enforce CSO, some other respondents like some NGOs were of the view that if an enforcing agency is to be established it should comprise bodies like the Police, NGOs and Local Government workers. Yet some other NGOs believes there is no need for the Lagos State Government to set up a special enforcing body rather the State Government should make use of existing body such as court Bailiffs and Sheriff.

But whichever agency that will be responsible for enforcing CSO could be faced with the problem of corruption. That was the fear raised when I interviewed one of the Magistrates in Lagos State; the respondent's fear was that the agency that would enforce CSO might end up compromising its position or being corrupt if stringent measures are not put in place to tackle such a problem. In other words, the Magistrate would not be there to know if the sentence handed to the offender is being carried out or not. There is no hiding the fact that some disgruntled enforcement officers might compromise their duty but would it be wise to say that simply because some police or prison officers are corrupt so the entire agency should be scraped? The answer is definitely no, am not trying to justify corruption or encourage it but I feel to address that particular problem government needs to pay the would-be CSO enforcers or enforcing agency a reasonable salary package and also put in place a system of checking the excesses of its officers, Apart from putting in place a check mechanism, the victim (community) would also be monitoring the offender to see if he or she is actually serving the sentence. I strongly believe that they (enforcers) would be ready to do the job diligently and the problem of corruption wouldn't arise.



### **4.3 Perception of Stakeholders on CSO as Against Imprisonment**

Stakeholders in the criminal justice system of Lagos State that were interviewed were in support of the introduction of CSO. In Lagos State an offender that commits an offence, under the criminal justice system the offender is perceived to have committed a crime against the State and should be punished severely for the crime committed. What then is the essence of punishment if it's just to inflict pain and sorrow without a corresponding reform or rehabilitation of the offender? Punishment should be able to prevent recidivism and it should be commensurate with the offence committed.

According to stakeholders interviewed CSO should be for minor and first-time offenders. Although some Lagosians (persons residing in Lagos) might feel that CSO is not a punishment, only one individual amongst those interviewed felt CSO is a soft option of punishment, he is of the view that offenders should be put in prison.

Civil society organizations in Lagos State have been at the fore-front in the campaign for prison reform and reform in the criminal justice system in Nigeria. All the stakeholders interviewed agreed that the country and indeed Lagos State needs community service order to complement and provide an alternative to the present custodial sentence. Apart from PRAWA none of the other organizations interviewed had actually campaigned for CSO but other organizations such as Legal Aid Council, Office of the Public Defender, Lagos State, Constitutional Rights Project (CRP), Nigerian Bar Association (NBA), Civil Liberties Organization (CLO), Catholic's Justice Development and Peace Commission (JDPC) and Prison Fellowship Ministries amongst others have all been involved in the campaign for prison and criminal justice system reforms in Nigeria. Although, some civil society groups have been partnering with the Government in the area of prison decongestion by being a member of some of the Government reform committees' setup to reform the criminal justice system and decongestion of prisons in Nigeria. Definitely, there would be some Lagosians that would feel just like the respondent that felt CSO is a soft option, but what they really need to look at is not the severity of the punishment inflicted but what would be the cost-benefit of sentencing offenders that commits a minor offence to imprisonment. In other words, does the offender gets reformed in prison comes out a better person or is the reverse the case.

### **4.4 What Category of Offenders for CSO**

One of the objectives of this research is to determine what category of offenders could get a community service sentence. In response to this question, some respondents said it should be for first time or minor offenders. The Respondent for Lagos State Ministry of justice said community service order should be for public order offences i.e. victimless offences such as vandalisation of public property, traffic offence, anti-social behaviours and sanitation offences etc.

Prison statistics presented earlier from the two visits to Ikoyi and Kirikiri Medium prisons by the researcher shows that over 75% of inmates as at 12<sup>th</sup>

and 19<sup>th</sup> August 2008 are awaiting trial and some of these inmates were minor offenders.

Amnesty International (2008:1) report entitled Nigeria: Prisoner's rights systematically flouted, "approximately 65 per cent of inmates are awaiting trial most of whom have been waiting for their trial for years." Some would have finished serving their term if they had been sentenced.

Prison officials of both prisons visited claimed that most of the inmates are minor offenders and to buttress this claim, during my visit to Kirikiri Medium Prison one freed inmate was telling the new batch of inmates that he stole a mobile phone that was why he was sentenced to imprisonment. It is believed that the punishment meted out to offenders should be proportional with the offence committed. Thus, CSO would be a viable alternative to imprisonment because imposing a stiffer punishment to a minor offender may not be logically or morally justified. Also, the introduction of community service order will afford judges (Magistrates) other options of sentencing and also give Judges enough time to concentrate on more serious cases of crime.

#### **4.5 Can CSO Reconcile the Offender with the Community?**

According to Tony Marshall (1999:6) as quoted in Gavrielides (2007:44) the primary objectives of Restorative justice are;

to attend fully to victims' needs; to prevent re-offending by re-integrating offenders into the community; to enable offenders to assume active responsibility for their actions; to create a working community that supports rehabilitations of offenders and victims and prevention of crimes; and also to provide a means of avoiding escalation of legal justice and the associated costs and delays.

Most respondents interviewed believe that CSO would reconcile the offender with the victim only for minor offences. They feel that the offender working for the community without being paid and at the same time learning new labour skills while serving his or her sentence is attestation that he or she would likely not commit the same or similar offence because at the end of the sentence he would have been able to empower and fend for him or herself. Furthermore, righting the wrong done is the main idea behind restorative justice, according to Zehr (1990) as quoted in Zernova (2007:8) he said that "the emphasis is placed on reconciliation, assisting victims in the aftermath of an offence, helping offenders to change their lives and, more generally, humanizing the criminal justice system". But some other respondents in the NGO sector feel that besides serving community service sentence the offender should go a step further by tendering an apology one on one either to the victim or community.

There were other respondents that felt that CSO would not reconcile an offender with the victim, to them CSO is too soft a punishment for the offender to pay because to them having done harm to the victim there is no justification for the offender to be sentenced to CSO which they considered

not to be punishment. The Senior Special Assistant to Lagos State Attorney General and Commissioner for Justice said that CSO should be for minor offenders and also for victimless offences i.e. offences against the Lagos State Government rather than against individuals.

An inmate that was interviewed at Ikoyi prison in Lagos said he would prefer to be sentenced to community service than to be imprisoned. But when asked if he thinks CSO is a soft punishment he responded that he doesn't think so because working through unpaid labour for the community which an offender offended is very difficult and involves the use of strength. It would be a shameful thing to experience because the whole community would see you work in that community as punishment for the crime committed and that would make the offender not to commit such crime again but it's better than imprisonment.

I feel that community service order would be a viable form of restorative justice and it reconciles all parties involved in a dispute because the offender and victim would have the opportunity of coming together not only to look at the root cause of the dispute but parties in the dispute would also have a say in how the dispute could be amicably resolved and what can be done in order for the offender not to reoffend again. Although, I am of the opinion that CSO should be for minor offenders. Some minor offences could be against individuals and not against the State. But in such a situation, the offender should pay reparation to the community through CSO rather than paying reparation to the individual because the individual would also benefit from the offender's serving the community through unpaid labour because if sentenced to imprisonment the individual or community doesn't get reparation from the offender's imprisonment rather they would be at risk after the offender is out from prison.

#### **4.6 Who benefits from custodial sentence?**

To the researcher, neither the government, victim, offender or the community benefits from custodial sentence. The prison is like an academy of crime because there is the tendency that these minor offenders if sentenced to imprisonment could easily learn new crimes from other convicted hardened offenders. They could be influenced easily and make new criminal contacts while in prison and by the time they come out from prison they have become hardened themselves and would want to try out the new skills learnt, it's the same community and government that would be at the receiving end from the released hardened criminal.

Also, if sentence to imprisonment, it's still the same government that would use the country's tax payer's money to take care of these inmates while in prison and in fighting crime in the State. In other words, community service order would afford an opportunity whereby all parties affected in the dispute would benefit from the prosecution of the offender because offenders would give back to the society they stole from through CSO. The offender would be free from the negative stigmatization of being called an ex-prisoner. Also, the offender would have the opportunity to continue with his job or schooling uninterrupted and save his or her family the trauma if the offender is

imprisoned. According to an ex-convict turned pastor, Pastor Kayode Williams he said former inmates were branded outcasts in Nigerian society.

According to the Executive Director of CRP, and the Programme Officer of PRAWA both respondents stated that custodial sentences have not really helped in preventing recidivism especially for minor offences. Hence the State Government needs to redirect its effort in introducing and implement CSO. The researcher is in support of what they have said by making a reference to a report in a Nigerian newspaper, The Punch newspaper which reported that on Monday September 1<sup>st</sup> 2008 an Abuja Magistrate Court in Nigeria sentenced a 31 year old man, Sulaiman Audu, to one month imprisonment for theft. According to News Agency of Nigeria (NAN), Mr. Audu was convicted for stealing flowers from a garden at Wuse Zone 3, in Abuja Nigeria. Magistrate Aminu Abdullahi in his ruling sentenced the offender to a one month imprisonment with an option of #1,000 (one thousand naira) fine. (The Punch, 2008:7)

This case buttresses my argument which I am trying to make; sentencing such minor offender to imprisonment is not the best because the offender might go into the prison and gets influenced and also learn new skills from hardened prisoners and comes out more harmful to the society. Even the issue of fine in some circumstance might not be the best because for such an offender to steal flowers maybe he doesn't even have hope of eating for that day, so how would such an offender have one thousand naira to pay for fine, even if relatives should pay the fine for him they have not helped him either because the issue of recidivism might still occur. There is an adage that goes: Give a man fish and he will come for more but teach him how to fish and he will feed himself for ever. In other words, with community service order whether he has money or not he should be able to give back to the community through unpaid labour which would be beneficial to him and the government and also save the family the trauma of having a relative in prison. Also, it would lead to prison decongestion in Lagos State.

#### **4.7 Lack of Data Keeping**

According to the House Chairman on Judiciary, Lagos State House of Assembly he said one of the challenges community service order could face is the problem of lack of data base of all offenders in Lagos because how would the Magistrate know if a particular offender is a first time offender or not or what type of crime he or she had committed in the past.

Prisons and Police stations lack data base where records of offenders are kept and can easily be recalled for references. I don't know what the situation is in the courts, i.e. if there is a central control unit where computerized records are stored and recalled or being referenced in order to check for criminal records of offenders in Lagos State.

## 4.8 Can CSO Rehabilitate Offenders?

Rehabilitation of offenders and paying reparation are some of the central issues restorative justice seeks to address. According to Zernova (2007:65):

rehabilitation paradigm focuses on identifying and meeting offender's needs, assigns offenders a passive role in the treatment process, views sanctioning offenders as irrelevant and inappropriate and ignores the needs of victims. The aim of the criminal justice intervention becomes to meet offender's needs and promote their welfare. In contrast, restorative justice holds offenders accountable, requires them to make amends for their actions and views needs and interests of victims as central. Other restorative justice proponents, however, see restorative justice and rehabilitation as mutually supportive and wish to combine them.

Prisons in Lagos State lack the necessary items in rehabilitating an offender. For instance, during my visit to Lagos prisons, the tutors in Kirikiri Medium prison are fellow inmates. Most of the technical workshops inside the prisons lack tools which inmates will use for learning. Also, very few of the inmates get the opportunity of partaking the skill acquisition training. Furthermore, most of the available tools in the workshops at both Ikoyi and Kirikiri Medium prisons were provided by faith-based organizations, religious bodies and Individuals.

According to the respondents for prisons in Lagos they claimed that most of the inmates are minor offenders and putting them in prison is like inflicting more harm to the damage already done by keeping the offender in prison because having these minor offenders coming in contact with hardened offenders is like breeding new hardened criminals and a call for recidivism.

Respondents from NGOs, Lagos State Police Command and the Lagos State Ministry for Justice said CSO can rehabilitate offenders and reduce the chances of recidivism because an offender could learn new skills in the course of undergoing community service sentence. For instance, some of the prisoners in Lagos prisons are "area boys" (hoodlums) that are jobless, they could learn new skills like private refuse disposal i.e. while cleaning roads with Government agency like Lagos Waste Management Authority (LAWMA) in the course of CSO or Lagos Metropolitan Area Transport Authority (LAMATA) while undergoing road reconstruction etc, they can learn constructing or bricklaying jobs and at the end of the sentence they would be able to have a job with either the agency or be able to fend for themselves rather than restore to stealing.

Offenders undergoing CSO is a way of reparation to the community for the offence they committed. Although, some victims would want reparation paid to them directly but the fact that an offender is serving CSO to the community the victim indirectly benefits from the sentence because he or she is part of that community and this could lead to reduction of crime and development in that community.

# Chapter 5

## Conclusions and Recommendations

### 5.1 Conclusion

Community service order (CSO) is one form of restorative justice that is sweeping across the world from Europe to Americas and to some part of Africa.

The whole idea of community service order as an alternative to imprisonment is to not to replace the criminal justice system as a model but to complement it. According to Austin and Krisberg (1982) as quoted in John Howard Society of Alberta (1997) they argued that “through the use of various techniques, the victim, the offender and the community can be restored to their pre-crime status”

Findings from visits to prisons in Lagos State by me showed that the conditions hasn't really improved as prison and Government officials would want Nigerians and the international community to believe. Also, most inmates in Lagos State prisons are minor offenders which normally shouldn't be in prison but due to the nature of Nigeria's criminal justice system the situation is quite different. Thus, most respondents agreed that community service sentence would help in reconciling all parties involved in the dispute and restore the relationship to a greater extent to pre-crime status with all parties in the dispute benefiting from the offender's sentence.

Based on interviews with stakeholders in the criminal justice system in Lagos State, I found out that stakeholders agreed that there is the need for reforms in the criminal justice system. Also, respondents were of the view that CSO should be introduced and implemented in Lagos State. Though few respondents were skeptical on the success of the introduction of community service order as an alternative to imprisonment in Lagos State but they still feel it should be tried out. Although, the Lagos State Government did reform its criminal justice law but surprisingly I found out that very few of the stakeholders interviewed were aware of CSO introduction in the new reformed law because there is nothing being put in place to indicate or enlighten the public that the Lagos State government is seriously ready to implement it (i.e. as at the time of writing this research). The issue is not just for government to reform its laws and have it in its Statute books but to ensure its implementation.

One of the sub-research questions of this research was; what are the prospects for the realization of community service order in Lagos State? And from interviews conducted and results from findings it shows that the prospects for the realization of CSO in Lagos State is enormous and for the State Government to succeed she needs to embark on an aggressive campaign to enlighten the generality of Lagosian through radio, television, newspaper and other mode of communication on the need for community service sentence as a way of restoring justice and to disabuse the notion that

community service order is a soft option or a way out for offenders. Also, the perceptions of stakeholders on the issue of CSO as an alternative to imprisonment ranges from what categories of offenders could warrant CSO. But finding from interviews reveal that some Lagosians looked at CSO as a soft option or punishment while stakeholders said it's not an alternative to punishment rather it's an alternative form of punishment. Though, CSO is bound to have some challenges just like what stakeholders called "teething problems". Such challenges according to stakeholders includes; lack of proper keeping of data (records) of offenders, the issue of which agency should be responsible in implementing CSO and lack of political will of the government both at the State and Federal levels amongst others.

In conclusion, based on the findings and responses from stakeholders in the criminal justice system in Lagos State, I can state confidently and categorically that community service order as a form of restorative justice is and would be a viable alternative to imprisonment in Lagos State Nigeria that is if both the Lagos State government and the Federal government implement the recommendations stated in this research.

## **5.2 Recommendations**

The success or failure of the introduction of community service order depends on how discipline the enforcing agency is and the level of training of the enforcing officers. In other words, corruption may be one of the challenges. And to tackle the problem of corruption the Lagos State Government needs to pay salaries of officers the enforcing agency promptly and put in place a mechanism for check-mating the excesses of the enforcement agency.

Also as part of my recommendations the Federal Government of Nigeria needs to implement recommendations by Committees and Commissions established by the Federal Government to look into prison conditions and systems and the criminal justice system as a whole. Likewise, there is the need for the Lagos State government to implement the newly reformed Administration of Criminal Justice Law of 2007 which made provision of CSO in the State, rather than having it as decoration in its statute books for cheap political gain.

It's not enough for the Lagos State government to introduce it but it also needs to exhibit the political will to ensure that CSO succeed in the State. And to do that the State government needs to embark on massive media campaign to enlighten Lagosians that CSO is not a soft option or punishment for offenders rather it's a way of rehabilitating and restoring offenders back to the community in order to prevent recidivism and also for offenders to pay reparation to the victim through CSO.

Finally, I would recommend that CSO should be for minor offenders and for first time offenders that did commit minor offence.

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# APPENDIXES

## Appendix 1: Plan of Activity

Activity	J UN	J UL	AUG	S EP	OC T	NO V
Final design of methods	•					
Field work		•	•	•		
Final draft of conceptual framework		•	•			
Analysis of Data			•	•		
Writing the findings			•	•		
Presentation of first draft finding				•		
Details conceptual analysis				•	•	
Writing of conclusions					•	•
Final editing						•
Final submission						•

## Appendix 2: Interview Questions – CSOs

### **Research Topic: Community Service Order as an Alternative to Imprisonment in Lagos State, Nigeria.**

Institute of Social Studies (ISS) 2007/ 2008 Batch

#### **Research Paper Interview Questions: Civil Societies Organizations**

**Researcher: Kelechi Sylver Nwankwo**

1. Name: ..... optional
2. Date ..... / / 2008
3. Which Sector do you belong? .....
  - Magistrate/ Judge
  - Lawyer
  - Police
  - NGO/ Civil Society
  - Organization
  - Prisoner
  - Prison Official
  - Member, Lagos State
  - House of Assembly
  - Justice
  - Lagos State Ministry of
  - Commission
  - National Human rights
  - Individuals living in Lagos.
4. How is your NGO involved with issues related to prisons in Lagos State?
5. Have you visited any prison in Lagos State?
6. What do you think of the condition of prisons in Lagos State?
7. Has your organization handled any case where an offender is sentenced to community service in Lagos State? If yes, when?

8. Has your organization played any role in the promotion of Community Service in Lagos State? If yes, please explain how and at what level?
9. What category of crime do you think warrant Community Service? Give examples and why?
10. What type of labour do you think would be appropriate for offenders on community service?
11. Do you think the introduction of community service would be a viable alternative to imprisonment in Lagos State? Give reason for your answer.
12. Do you think Community Service would reconcile the community with the offender? How?
13. What in your view would pose challenges to the introduction of Community Service in Lagos State?
14. Do you think Community Service would deter offenders from committing similar offence and restore him/her back to the society?
15. Do you think the introduction of Community Service would lead to prison decongestion in Lagos State? Explain.
16. Do you have any other suggestions, comments or recommendations you would like to share?

Thank You for your response!!

### Appendix 3: Interview Questions – Judges/Magistrates

**Research Topic: Community Service Order as an Alternative to Imprisonment in Lagos State, Nigeria.**

**Institute of Social Studies (ISS) 2007/ 2008 Batch**

#### Research Paper Interview Questions: Judges/Magistrates

1. Name: ..... optional
2. Date ..... / / 2008
3. Which Sector do you belong? ..... Magistrate/ Judge  
Lawyer  
Police  
NGO/ Civil Society  
Prisoner  
Prison Official  
Member, Lagos State House of  
Assembly  
Lagos State Ministry of  
Justice  
National Human rights  
Commission  
Individuals living in Lagos
4. Have you visited any of the prisons in Lagos State?
5. What do you think of the condition of prisons in Lagos State?
6. Do you think the criminal justice system needs reform in Lagos State?
7. Is community sentence available in Lagos State?
8. Do you think the criminal justice system in Lagos State needs reform?
9. Have you ever sentenced an offender to community service in Lagos State? If yes, for what kind of crime?
10. What is your perception of the introduction of Community Service as an alternative to imprisonment in Lagos State?

11. What category of crime warrants Community Service? Could you please give examples and reasons?
12. What kind of labour does an offender needs to do in the case of community sentence?
13. In some cases minor offenders after imprisonment, they come out more hardened in committing crime. Do you think that community service could avert such situations?
14. Do you see Community Service reconciling the community and the offender? How?
15. What do you think could pose challenges to the introduction of Community Service in Lagos State?
16. Do you think the introduction of Community Service would lead to prison decongestion?
17. As a Judge/ magistrate would the introduction of community service lead to decongestion of case files on your table? How
18. Do you have other comments, suggestions or recommendations you would like to share?

Thank You for your time and response!!!

## Appendix 4: Interview Questions – Lawyers

### Research Topic: Community Service Order as an Alternative to Imprisonment in Lagos State, Nigeria.

Institute of Social Studies (ISS) 2007/ 2008 Batch

#### Research Paper Interview Questions: Lawyers

1. Name: ..... optional
2. Date ..... / / 2008
3. Which Sector do you belong? ..... Magistrate/ Judge  
Lawyer  
Police  
NGO/ Civil Society  
Prisoner  
Prison Official  
Member, Lagos State House of  
Assembly  
Justice  
Commission  
Lagos State Ministry of  
National Human rights  
Individuals living in Lagos
4. Have you visited any of the prisons in Lagos State?
5. What do you think of the condition of prisons in Lagos State?
6. Do you think the criminal justice system needs reform in Lagos State?
7. As a lawyer have you handled any case that involves your client being sentenced to community service in Lagos State?
8. What is your take on the introduction of Community Service as an alternative to imprisonment in Lagos State?
9. What category of offence do you think warrant Community Service? Give examples and reasons?



10. What kind of labour do you think an offender needs to put into the community?
11. Do you think a victim have a say or should be involved in the prosecution offenders in Lagos State? (Restorative Justice)
12. There are cases where offenders after imprisonment come out more hardened and deadlier in committing crime. Do you think that community service could avert such situations?
13. Do you think community Service could reconcile the community and the offender? How?
14. What do you think could pose challenges to the introduction of Community Service in Lagos State?
15. Do you think the introduction of Community Service would lead to prison decongestion?
16. As a lawyer would the introduction of community service in Lagos State lead to decongestion of cases in courts? How.
17. Do you have any other suggestions or recommendations you would like to share?

Thank You for your time and response!

## Appendix 5: Interview Questions – Prisoners

### Research Topic: Community Service Order as an Alternative to Imprisonment in Lagos State, Nigeria.

Institute of Social studies (ISS) 2007/ 2008 Batch

#### Interview Questions: Prisoners

1. Name: ..... optional
2. Which Sector do you belong? .... Magistrate/ Judge  
Lawyer  
Police  
NGO/ Civil Society  
Organization  
Prisoner  
Prison Official  
Member, Lagos State House of  
Assembly  
Justice  
Lagos State Ministry of  
Commission  
National Human rights  
Individuals living in Lagos
3. What offence did you commit? Why?
4. What do you understand by Community Service sentence? Please Explain.
5. Have you ever done Community Service sentence before? If Yes, when and Where?
6. What's your opinion about community service sentence for offenders as against imprisonment in Lagos State?
7. Which would affect you more in terms of societal attitude towards you? Community Service sentence or Imprisonment? Please Explain.
8. Do you think Community Service could reconcile the offender with the community? How?

9. What kind of offences in your view does deserves Community Service?
10. How possible is the applicability of Community Service in Lagos State?
11. What in your view are the advantages and disadvantages of Community Service in Lagos State?
12. Do you think Community Service Order would deter you from committing similar offence? How?
13. Do you have any other suggestions or recommendations you would like to share?

Thank You for your cooperation!!!

## **Appendix 6: Responses from Interviews I**

### **Prisoners Rehabilitation and Welfare Action (PRAWA)**

Date visited: 7<sup>th</sup> August, 2008

Officer interviewed: Programme Officer, Lagos.

Prisoners Rehabilitation and Welfare Action (PRAWA) is one of the NGO's in Lagos State which I visited.

PRAWA is one of the foremost NGOs on prison related issues in Lagos State. The NGO engages in the training of prison officials and Training of Trainers (TOT) workshops. Besides that, the organization engages in prisoners' rehabilitation and reintegration back into the society.

In the course of fulfilling its thematic focus, the NGO pays regular visits to Ikoyi and Kirikiri prisons.

According to PRAWA Officer interviewed, "the conditions in the prisons in Lagos state are deplorable". Thus, no matter the number of infrastructure put in place, the attitude of the prison officials is far below expectation and to compound the situation, Medicare is non-existence for example during one of the organization's regular visits to one of the prisons, a prisoner complained that he had stomach ulcer and on getting to the clinic inside the prison he was administered paracetamol tablet which is meant for the relief of aches, pains and colds.

Apart from the Kirikiri prisons, other prisons have little or nothing like recreational facilities.

On whether the prisons are rehabilitating or have served as a deterrent to the inmates or other criminals, his response was, the prisons in Lagos are grounds for breeding and grooming offenders to become hardened criminals when they eventually come out from prison. Apart from the fact that it's a place (prison) where some offenders' especially minor offenders learn more advanced criminal skills, there is the problem of stigmatization of freed prisoners. In other words, the society, family and the government dissociates itself from such freed prisoners and this creates the problem of reintegration of ex-prisoners back into the society because outside the prison there is no job for them to survive on.

The organizations have never handled any case whereby an offender had been sentenced to Community Service despite the fact that there is a provision in the statute books. According to the organisation the only other alternative to custodial sentence being implemented is 'fine'. Some Nigerians according to the respondent would feel community service sentence would not work in Nigeria because they feel the offender would abscond, while some feel it's an easy way out or a softer punishment for offenders. In response to that the respondent stated that, such people fail to realize that if such offenders especially minor offender should learn new criminal skills and comes out of prison hardened the society would be at the receiving end of such crimes learned in prison.

He stated that community service sentence could be one of the best things that could have to the society and the government at large because the

community benefits from labour work done, also, it would lessen the financial burden of the government. Thus, if countries like Uganda, Zimbabwe and South Africa could introduce and implement Community Service Order why shouldn't Nigeria do it?

According to the respondent, PRAWA have not really done much in terms of promoting the introduction of community service sentence in Lagos State but at the national level the organisation have done workshops, seminars in Abuja in year 2000 and 2001 in conjunction with Penal Reform International (PRI).

Furthermore, the respondent stated that Community Service sentence should be offences like burglary, pilfering, impersonation and some other minor offences like traffic and environmental sanitation offence etc. Thus, in the course of undergoing community service sentence, the offender could still engage in other private businesses.

On whether community service sentence could reconcile the offender and the country, the respondent said that it would go a long way to reconcile both parties because with custodial sentence it doesn't revert the harm already done rather custodial sentence inflicts more financial, psychological and emotional trauma for both the offender and the family and the government without the community (victim) benefiting from the custodial sentence. But with community service sentence, the offender compensates the community (victim) for offence committed through serving the community voluntarily e.g. offenders could be useful in working for home of the aged or motherless babies home, cleaning drainages, cutting grasses, cleaning of roads or hospitals, etc.

The respondent believes community service order sentence would be a viable alternative to imprisonment because all parties benefit from the sentence in the course of the offender undergoing community service.

To the respondent, what could pose a challenge to the introduction of community sentence includes the perception of Lagosians i.e. some people feel that if offenders are sentenced to community service, they would abscond. Also, non-implementation of sentence i.e. the affluent in the society would manipulate the system. In other words, corruption would be a major challenge because offenders may bribe the enforcers of such order.

There is no need setting up a new body or enforcing organisation to curb this fears allayed rather the state already have parastatals or agencies already on ground that can enforce these laws e.g. the police, the Welfare Officers in the various Local Government Authorities in the state, civil society organizations, etc.

The respondent believes country service sentence would definitely lead to prison decongestion should it be introduced.

Finally, the respondent gave a general comment by stating that, people should not say community service won't work because we (Lagos State Government) have to give it a try. Thus, custodial sentence is not all that community friendly because government seems all out on a vengeance mission to inflict pain on the offender rather than restoring the offender and

reintegration back into the community. Hence, offenders would be grateful to the government and be willing to do community service sentence rather than his or her freedom taken away.

## Appendix 7: Responses from Interviews II

### **CIVIL LIBERTIES ORGANISATION (CLO)**

Date visited: 4<sup>th</sup> August, 2008

Respondent

Respondent: Head, Law Enforcement Project, CLO

Civil Liberties Organisation is one of the first non-governmental human rights organizations in Nigeria. Below are responses to the NGO Civil Society Organizations' interview questions. Although, other questions asked were not listed in the questionnaire, same applies to other respondents as well.

Civil Liberties Organisation is involved with issues related to prisons in Lagos State by engaging in prison monitoring and decongestion through court representation and rendering of pro-bono services of 'Awaiting Trial Inmates (ATI) and prison reform advocacy (penal reform).

The organisation does visit the prisons in Lagos State and in other states. He had personally visited Ikoyi and Kirikiri prisons both in Lagos State.

According to the respondent, like every other prison in Nigeria the prison condition in Lagos State is an eye-sore and in sub-human condition. The prisons are over-crowded and prison inmates are underfed and malnourished, though he didn't see brutality. He went further to say that it was obvious the prisons were meant for punishment in the spirit of vengeance rather than for rehabilitation.

The organisation has not handled any case whereby an offender is being tried and sentenced to community service in Lagos or Nigeria generally. Although, the organization haven't played any role in the promotion of introduction of community service order sentence in Lagos but it have been in the forefront in the campaign for improved prison condition.

He said the Nigerian prisons are not reformatory rather they are breeding grounds for criminality because some minor offenders in prison tends to learn new acts of crime and by the time they are released they are hardened as a result of indoctrination they receive from fellow inmates while some make new gang mates that are more hardened for more serious offences. Based on that, minor offender such as burglary, assault, etc should be sentenced to community service. On the type of labour to be carried out, offenders could be made to help the Lagos State government through agencies like Lagos State Waste Rehabilitation Agency, cleaning of schools, hospitals and other types of labour depending on the discretion of the judge or magistrate.

The respondent said the introduction of community service sentence would be a viable alternative to imprisonment in Lagos and indeed Nigeria because apart from the fact that it would help curb recruitment of minor offenders to become hardened, it would save the government of funds of taking care (feeding and medical) of inmates while under custodial sentence, hence the decongestion of the prisons.

According to the respondent, community service order would help reconcile the offender with the community. Although, it depends on how it would be implemented. Furthermore, there should be a platform for formal apology to be made by the offender.

Another way is to make community service not look like an easy way out (Softer punishment) for offenders so that they don't go back to criminal activity.

Also, there is the need to look at the culture of the people (Lagos) before country service sentence should be introduced. The introduction of community service would deter the offender or potential offenders as a result of shaming which he/she would face.

According to the respondent, some of the factors that could pose a challenge to the introduction of community service order would include:

- The issue of political will of the government (Lagos) to introduce and implement it. Hence, if the government is determined and willing to implement it, it could be achieved.
- Policy makers may not have adequate information on C.S.
- Lagosians may be reluctant in accepting such law because anything short of punishing (incarceration) may be resisted based on the perception that community service sentence is a softer punishment.

Community service sentence according to the respondent would definitely lead to prison decongestion because if first time (minor) offenders are imprisoned the number of inmates would definitely increase leading to congestion.

Finally, on the whole idea of the introduction and implementation of community service order in the criminal justice system in Lagos State needs to be looked at holistically. In other words, the culture of the people of Lagos needs to be put into consideration vis-à-vis the complementarities of the international law and the domestic law in Lagos on respect for prisoners and crime offenders.



## **Appendix 8: Responses from Interviews III**

### **Constitutional Rights Project (CRP)**

Interview Date: 22<sup>nd</sup> August, 2008

Respondent: Executive Director, CRP

Constitutional Rights Project (CRP) is one of the leading human rights NGOs in Nigeria. It engages in advocacy and strengthening of rule of law and human rights in Nigeria.

The interview with the respondent was brief but it tends to reiterate other NGOs position on the need for the introduction of community service order.

CRP has always been involved in issues related to prisons in Lagos State and Nigeria generally and due to the nature of its work; lawyers working for CRP pay regular visits to prisons not only in Lagos State but across the country. Hence, the organization renders pro-bono services to prison inmates that have spent years in prison awaiting trial and other indigent persons.

According to the respondent, the situation in the prisons is not what is expected. Although, it's gradually improving following outcry by NGOs but there is still room for greater improvement.

The respondent stated that CRP has not handled any case where an offender is being sentenced to community service in Lagos, but it has filed and handled cases of fundamental rights of inmates who were in prison for years without trial and subsequently has been able to secure the release of considerable number inmates in prisons across the country.

Although, the organization have not played any role in the introduction of community service order in Lagos but it's looking along that line according to the respondent.

On what categories of offenders would warrant community service, the respondent said that minor offences needs to be sentenced to community service and not every offender needed to be put in prison. Also, the Judge or Magistrate should be able to use his or her discretion to sentence an offender to the kind of labour that would suit the offender.

Introduction of community service order would save the government of funds of taking care of inmates and it will save the community also because some fresh inmates learn criminal act from hardened criminals while in prison and comes hardened which is not good for the society at the long run. With community service sentence it will reconcile the offender with the community because the offender is paying back to the society through unpaid labour and it helps in rehabilitation and reintegration back to the society.

According to the respondent CSO would lead to prison decongestion and reduction of crime because minor offenders will be cut off from hardened criminals. The interview ended because the respondent had a meeting at that point in time.

## Appendix 9: Responses from Interviews IV

### Office of the Public Defender, Lagos State Ministry of Justice

Date visited: 12<sup>th</sup> August, 2008

Respondent: Senior State Counsel

The office of the Public Defender is an agency under the Lagos State Ministry of Justice beset with the responsibility of providing pro-bono services for indigent Lagosians and persons living in Lagos State.

The way agency has been involved with issues related to Prisons in Lagos State is that some prison inmates are referred to the agency for assistance.

He has personally visited Ikoyi and Kirikiri (medium) prisons. According to him the conditions in these prisons are ‘deplorable and not something to expect in this age, because the facilities are nothing to write about.’

On whether the agency have handled any case where an offender is sentenced to community service, his response was, only one of such case have been handled and that was in the year 2004 where the court ordered the offender to clean the court buildings and premises. This was based on the discretion of the magistrate haven realised the trivialness of the offence. In carrying out the court order the Court Registrar supervised the implementation of the court order.

Apart from that singular incident, the organisation has never been involved in the promotion of community service sentence.

Minor offenders should be made to undergo community service rather than being thrown into prison. Also, some inmate that did commit capital offence, after serving long years in prison could be made to do community service because it could save them of that psychological trauma of remaining in prison and maybe waiting endlessly for the day he would die. Thus, after serving long years in prison and having done community service he could be released and that could help in reintegration back into society.

Furthermore, the kind of labour an offender should do has to depend what would solve the community’s pressing needs and benefit that community in which the crime was committed. E.g. in Lagos, there is the problem of blocked drainages and refuse along Lagos roads. Thus, offenders could be made to clean up the roads and drainages.

According to the respondent, community service order would be a viable alternative to imprisonment because some offenders that should have gone on community service ended up becoming hardened criminals when sentenced to confinement and when they are released from confinement they tend to commit more terrible crimes.

He further stated that community service order could help in reconciling the offender and the society but not necessarily in all cases. It depends on the attitude or character of the individual because some persons or person within the community might find it difficult to forgive.

Some of the factors that could pose challenge to the success of the introduction and implementation of community service order include:

- Lagosians might not welcome such laws, hence, there is the need to educate the populace on the need for its introduction.
- The bureaucratic nature of the Lagos State Civil Service which would be charged with the responsibility of formulating and implementing the law.
- Another challenge is the “sincerity of purpose” i.e. those charged with the responsibility of implementing the law should be sincere in carrying out their responsibilities and shouldn’t allow corruption to influence them in carrying out their duties.

The introduction of community service order would definitely lead to prison decongestion because some inmates don’t deserve to be there based on the nature of their offence. Some are in prison due to the so-called “Holden charge.” Hence, some spend as much as 10-11 years in prison without trial.

Finally, the respondent said it’s a laudable idea that should be pursued with all vigour and sincerity. Also, there’s no need to create a new body in the implementation of the law rather the office of the public defender, the Lagos State Ministry of Justice, the court sheriffs and some civil society organizations should be equal to the task of implementing the law.

## **Appendix 10: Responses from Interviews V**

### **Ikoyi and Kirikiri Prisons**

Date Visited: 12<sup>th</sup> and 20<sup>th</sup> August, 2008

Respondents: Deputy Controller of Prisons Ikoyi and Asst. Deputy Controller of Prisons, Kirikiri Medium Prisons.

The prison conditions have improved at least to some extent. At Ikoyi prison the compound is clean although I didn't have the opportunity of going into the various cells, the situation at Kirikiri Medium Prison was even better compared to what I saw at Ikoyi prison. Although, these are physical structures that were easily visible, I wouldn't know much about other administrative activities and how prisoners were being treated.

Both prisons visited had social activities such as good football pitch with inmates having a prison club. Also, religious activities (church and mosque) are also available for both Christians and Muslims that are interested in both prisons visited.

Apart from social and religious activities going on in these prisons, educational activities are going on as well. At Kirikiri and Ikoyi Prisons there is a building set aside for learning. Also, there is availability of a computer school for inmates to learn the basics in computer applications. At both prisons there are technical workshops for inmates to learn some skills in tailoring, Shoe making, furniture making etc. All these were made available due to donations from charitable organizations, churches and Muslim members who visit the prisons on a daily basis with most of these items. Actually, the Welfare office of both prisons said that 80% of the facilities (equipments) in the prisons were provided by these religious bodies. They even go as far as renovating or erecting new structures in the prisons for inmates.

From interviews conducted feeding and Medicare still remains a big problem in these prisons. Also, I was shocked to see juveniles (14-16 years) at Kirikiri Medium Prison.

The researcher was opportune to interview inmates at Ikoyi Prison but wasn't allowed to do same at Kirikiri Prison. The responses of the inmates were quite different from what the prison officials were saying. Some of the responses of the inmates would be looked at later in the prison report.

Some of the questions posed to officials of both prisons got the following response:

When asked what they think of the introduction of Community Service Order as an alternative to imprisonment. Both prisons officials agreed that the prison system has failed in Nigeria based on the nature of its criminal justice system because nothing good has come out of it. According to the officers prisons are meant to be for reformation and rehabilitation of offenders but the reverse is the case in Lagos (Nigeria). Thus, the introduction of community service order sentence would be a welcome development because some of these inmates (ex-convicts) when they are released from prison, their families, society and the government all rejects them and in most cases they don't have

anyone to turn to for help but with community service sentence it would help in reintegrating them back into the society.

According to the respondents, the category of offenders that should be made to undergo community service should be minor or first time offenders that have committed offences like traffic offences, sanitation offenders, pick-pockets, assault, fighting etc because putting them in prison would only hardened them up due to the grooming they would get from hardened criminals in prison. Also, offenders could be made to clean the streets, clear drainages, clean markets, hospitals or be made to work in motherless babies' home etc.

The prison officer at Ikoyi prisons said when officers of Lagos Prisons met with the immediate past Governor of the State, ex-Governor, Bola Tinubu while he was still the Governor; they made him to see the importance of the introduction of community service order in Lagos State.

The respondents were asked whether the society would not frown or see introduction of community service as a softer punishment or an easy way out of punishment as against imprisonment. Their response was that, community service order is not a way out for offenders rather the offender goes through shaming, labour for the community without pay and at the same time learning new skills in order to become a better person.

Both officers have contrary idea on whether there is community service order in the statute book of Lagos State. According to one of the officers, if its there then it needs to be dusted and implemented because its getting rusty just like the recent rejuvenated Corona's Law in Lagos State whereby autopsy needed to be carried out on every suspicious death in Lagos state. Likewise, community service order should be introduced. Although, initial reaction would be negative but with time Lagosians would embrace it.

Furthermore, they both stated that what could pose challenges to the introduction of C.S.O in Lagos would be seriousness on the part of Lagos government. Some of the challenges mentioned include:

- Funding of the project
- Implementation
- Sincerity on the part of the government
- Lack of cooperation amongst stakeholders in the criminal justice system in Lagos State especially between the police, lawyers, Lagos State Ministry of Justice and prison officials.
- Corrupting community service order implementation officers

Thus, the onus is on the Lagos State government to coordinate and put effective machinery in place for it to be a success.

They both agreed that CSO would go a long way to reconcile the community with the offender because people living in the community seeing the offenders paying back to the victim or the community which they stole from through unpaid labour would appreciate and welcome them back rather than the stigmatization being attached to prisoners.

The respondents categorically stated that community service order would led to prison decongestion because most inmates in both prisons are not suppose to be in prison because majority are awaiting trial persons that have

committed minor offences even if sentenced for the offence committed they would not spend more than 3 months in prison but most of them have spent years in prison without trial. Some of these offences ordinarily are bail-able offences. According to the official at Kirikiri Prison what baffles him was how do these juveniles pass through the courts and yet the judges still remand them in prison. The bitter truth is that in some cases the police either falsify or compel the offender to falsify his/her age.

**Table 3**

***Statistical Breakdown of inmates in Ikoji Prison as at 12<sup>th</sup> August 2008***

Convicted Inmates	91
Awaiting Trial Persons	1,507
Open Out (Total Inmates)	1,598
Prison Capacity	800

**Table 4**

***Statistical Breakdown of inmates in Kirikiri Medium Prison as at 19<sup>th</sup> August 2008***

Awaiting Trial Persons (Male)	1,032
Convicts that have spent under 6 months	28
Convicts that have spent under 2 years	80
Convicts that have spent above 2 years	42
Convicts on Life sentence	4
Total	1,186

With minor offenders on community service efforts of prison officials could be redirected to others like the hardened criminals that really needs rehabilitation fast. Also, community service order would save the government funds that would have been used in taking care of the inmates especially minor offenders.

There is the need build more prisons in Lagos i.e. at Epe and Ikorodu areas because the prisons in Lagos were built long ago, coupled with the population of Lagos that is over 15million people, hence the reason for the congestion.

They also complained of lack of vehicles and the vehicles that are available are in bad condition which has led to availability of suspects being brought to court as at when due. The police need to carry out proper investigation as well.

Both prison officials said that Lagos prisons and Nigeria prisons generally needs community service order. If countries like Uganda, Zimbabwe and South Africa are having such they see no reason why it won't work in Nigeria.

Coincidentally, as I was leaving the street leading to Kirikiri Prisons, I saw some convicted inmates doing manual labour job along the street packing sand to be used for building a house but funny enough it wasn't the court that ordered such community service, rather it was the prison officials that used these inmates for such projects outside the prison. Thus, this confirms that community service order is possible and can work in Lagos State.

## **Appendix 11: Responses from Interviews VI**

### **Surulere and Apapa Magistrate Courts, Lagos State**

Date visited: 10<sup>th</sup> August, 2008

The interview started after I had introduced myself.

The magistrate started by saying that the issue of community service order as an alternative is a good idea in the criminal justice system.

According to the magistrate, the issue of community service order has always been there in the statute books of Lagos State but its not being practiced.

There is no social welfare officer or security officer assigned to her court or any magistrate court known to her. Hence, if she should sentence an offender to community service there is no official or officer in charge to implement her order and she as a magistrate would not be on ground to know if such order is being carried out or not.

She has actually sentenced a young offender on community service based on her own discretion because according to her the offence was trivial and a first time offender and if sentenced to prison it wouldn't do the offender any good. Thus, she sentenced the offender to clean-up the court premises for a whole day and warned the offender not to engage in crime anymore.

Also, some cases involving show biz stars could be used to deter other potential offenders. Citing example is a case involving a prominent film star that was sentenced to payment of fine for. The magistrate said such cases should have attracted a sentence of community service order by either the offender to go round all secondary or higher institutions or to some across the country to address students on the dangers of drug abuse and trafficking. To the magistrate that would have a greater impact than paying fine. Thus, the offender and the enforcing organ or officer should reach an agreement on how to carry out the order specifying the number of hours to put in a day or week.

If an offender should default in carrying out the sentence, he/she would then be arrested and sentenced to imprisonment.

In the course of the interview, the magistrate was asked: some people would look at Community Service Order (C.S.O) as an easy way out or a softer punishment, what would be your reaction to that? The magistrate responded by saying that community service order is not a softer punishment but a way of restoring and reintegrating the offender back into the society. Furthermore, if every minor offender is thrown into prison, the society would be the one to suffer or pay for the repercussion because if thrown into prison they come out hardened in some cases because they learn new criminal acts while in prison which is even more dangerous to the community.

Also, the respondent said that community service order would lead to prison decongestion. According to the magistrate some of the problems that could pose a challenge to the introduction of community service orders include:



- Shortage of personnel: Attachment of an officer to the courts or the district courts that would implement community service order.
- The question of which authority should be the community service officer be responsible to?
- There is no data-base of offenders. Hence, it could be a problem because some offenders don't have place of residence so how would she release such people. Hence, she sends them to prison.
- Monitoring: The sincerity of the monitoring team in carrying out the courts' order.

The respondent said community service would reconcile the offender with the community.

Apart from the nature of criminal justice system in Nigeria which has led to congestion of the prison, another contributing factor is that some times offenders are not being brought to court and whenever she enquire about the suspects (offenders) the prison officials always give excuse that they don't have vehicles to bring them to court.

Another reason why she always remand offenders in prisons for example, she handled six (6) fresh arraignments and she has only one prosecutor in her court and the prosecutor cannot verify all the addresses of all the offenders in one day and still do his/her office duties. Hence, she has no choice but to remand the offenders in prison. Some can't even fulfill their bail conditions.

Finally, the respondent made a general comment by saying that its introduction would be a welcome development but care needs to be taken in the formulation and fine-tuning of the law to suit the purpose it was meant for.

## **Appendix 12: Responses from Interviews VII**

### ***Legal Aid Council of Nigeria (Lagos Office)***

Date visited- 12<sup>th</sup> August, 2008

The Legal Aid Council is a natural body charged with the responsibility of providing pro-bono services to Nigerians and non-Nigerians nationwide.

The council has very much been involved in issues related to prisons in Nigeria generally. In fact, they visit the prison at least 3-5 times in a month. Apart from visiting the prisons, they go further in providing free-legal services (pro-bono).

From the numerous visits the council have conducted the condition in Lagos prisons (Ikoyi, Kirikiri and Badagry prisons) is getting better but there could be room for improvement. Although, the council have not handled any case whereby an offender is being sentenced to community service.

When asked; what's her perception on the introduction of community service order as an alternative to imprisonment, the respondent said "introduction is not going to be effective." According to her, what is needed is somewhere where offenders (minor) could be rehabilitated and reformed.

Introduction would be a good idea and it should be meant for minor offences because it could reconcile the community with the offender. At the individual level, the victim or the victims' family may not find the application of such law 'funny'. Hence, they would not welcome its introduction.

According to the respondent what would pose a challenge to the introduction of community service order in Lagos State includes; training of prison wardens on the use of information, communication technology and respect of prisoners rights. Also, the prisons should be equipped. Another major problem could be due to the fact that the "system" (administrative lacuna) in Nigeria is not organized.

Community Service Order according to the respondent would lead to prison decongestion. The Court Sheriffs could be used in implementing such orders without creating a special body or agency. Also, minor offenders such as traffic offenders, sanitation offenders, domestic violence, etc should be made to undergo community service.

On a final note, the respondent said that the idea of introduction of community service order as an alternative to imprisonment is a very good idea but the Lagos State government and magistrates needs to be very careful who gets sentenced to community service. The respondent opposes community service sentence for a capital offence.

## Appendix 13: Responses from Interviews VIII

### *Lagos State Police Command, Ikeja Lagos.*

Respondent: Public Relations Officer (PRO), Lagos State Police Command.

After hours of waiting for the PRO, the interview was finally granted. The PRO started by saying he has visited Kirikiri Prison but stated that the conditions of prisons are outside the confines of the responsibility as police officers so he would not be in a position to comment on the condition of the prisons. Although the police, prisons and the court are stakeholders in the criminal justice system. Thus, he would not comment on prison conditions i.e. the state of Lagos Prisons.

According to the PRO, Community Service Order if eventually adopted, it should be for minor offences. Hence, it would go a long way in decongestion of Lagos prisons and save the government the cost of taking care of inmates in prisons.

He went further to state that the whole idea of community service sentence is good and would be a welcome development in Lagos State because offenders would be giving back to the society they stole from.

When asked if community service order sentence would reconcile the community with the offender. His response was, before the introduction of criminal justice system in Nigeria, there were traditional ways of settling and reconciling disputes in pre-colonial Nigeria even up till date. For example, in villages in the eastern part of Nigeria where he (respondent) came from, offenders in some cases are made to pay fine or bring kegs of wine depending on the gravity of the offence and decision of the village elders. Also, offenders could be made to clear bush-paths or clean the market square for a week or two. All these are alternatives to imprisonment, so according to the respondent, there's no reason why it shouldn't be embraced because for offenders rendering labour to the community they offended with wages would help to reconcile both parties.

When asked (respondent) what could pose challenges to the successful introduction and implementation of community service order in Lagos State? The PRO said the institutional and legal framework would pose challenges. In other words, if the government hasn't got the willingness to embark and implement such a law it would be difficult. Also, the role of the media cannot be overemphasized because it's through media publicity and public enlightenments that the people of Lagos could be able to understand and appreciate the benefits of the introduction of community service sentence.

On what kind of labour offenders should undergo, the PRO said offenders could be made to work in government agencies or institutions like National Agency for the Control of AIDS (NACA), Lagos Metropolitan Area Transport Authority (LAMATA), and Lagos Waste Management Authority (LAWMA) etc and as a result of working in the community without pay, it's a way of naming and shaming offenders which would eventually deter others likely offenders.

One of the reasons that have led to prison congestion is the problem of “Holden Charge”. In other words, most inmates in Lagos prisons are awaiting trial based on the fact that the police would claim that it’s waiting for Director of Public Prosecution’s (DPP) advice. What would be your response since police is involved here? His response was, the DPP’s advice might be slow but it’s always better for justice to go slowly than for it to be rushed and denied.

When asked what’s his perception on claims that imprisoned minor offenders comes out of prison more hardened due to grooming they had received from hardened criminals while in prison. The PRO said he wouldn’t want to react to it. Hence he hurriedly ended the interview and asked me to come back the following week that he was busy.

## Appendix 14: Responses from Interviews IX

### Ikoyi and Kirikiri Inmates

Date Visited Respectively 12<sup>th</sup> and 19<sup>th</sup> August 2008

For safety of the inmates I wouldn't want to use the real names of those prisoners interviewed at Ikoyi prisons. I was not permitted to interview inmates in Kirikiri Medium Prisons.

The researcher was able to interview two (2) inmates of Ikoyi Prison, their names are Ojoda.G and Onuso. N (both are not real names).

Mr. Ojoda is a 32 years old male with children. Before being brought to the prison he was a driver. His sorrow according to him started when one of his relatives fought with someone else which eventually led to the death of the person at some few days. Mr. Ojoda was subsequently arrested because his relative that fought with the deceased ran away. Since he was the person that sheltered the relative the police then arrested him. He was taken to police station and was detained there for 2 years before he was taken to court once. He was subsequently remanded at Ikoyi prisons and has spent another 2 years at Ikoyi Prison making it 4 years, ever since then he hasn't been taken to court again.

The second inmate interviewed is Mr. Onuso, is a 22 year old male. His case is that of fighting following a disagreement which eventually led to the death of the victim. According to him he has since spent 4 years in prison awaiting DPP's advice (without trial). According to him, there are 72 inmates in his cell that is meant for 12 persons. Also, Mr. Ojoda buttressed Mr. Onuso's claim by saying that in his cell there are 71 persons.

According to both inmates feeding is one of the major problems they are facing in prison. The kind of food they are being given is not good for human consumption, Mr. Ojoda claims he eats once a day depending on the quality of the food and he drinks garri (local food) whenever he feels the food is terrible.

Apart from the feeding aspect, Medicare especially in Ikoyi prison is terrible. He went further to state that he fell sick and went to the clinic inside the prison what they gave him was just paracetamol. A look at his frail skinny body reveals that he is starving and was seriously sick and needed urgent medical attention because rashes (skin disease) has covered all parts of his body.

Both inmates don't know what community service order is all about and after explaining to them and I asked them what they think about, their response was that they really like it even if it won't be meant for them but that they wouldn't want any one to experience what they are going through in prison.

At Ikoyi Prison I didn't see any juvenile in there but Mr. Ojoda claimed there are 14/15 year olds in there. The case is different in Kirikiri Medium Prison where I personally saw juveniles some of them that I asked told me they were 15/ 16 years but the police would force them to declare that they are either 19 or 20 years.

Also at Kirikiri Medium Prison, there was an inmate that was just being released and I overheard him telling the new sets of inmates that were just brought to the prison still at the prison counter that he wouldn't want anyone to visit there because it's like hell on earth. He told them he stole a handset (GSM phone). Later outside the prison I saw him and asked him if he would have preferred doing community service his response was that he would have prefer doing it because according to him, there are so many of his type that have committed such minor offences in prison and it takes the "grace of God to survive in there, if not for the church inside there it would have been a different story because different groups (gangs) would so torture you in order to learn new crimes." Also, at Ikoyi Mr. Onuso claimed that there are gangs in the prison and there is also a torture chamber being used by prison officials but such claims could not be confirmed by the researcher.

At Ikoyi Prison, both inmates interviewed said community service would help reduce congestion and that with community service they would not be seen as ex- prisoners (stigmatization). According to the inmates they are ready to do any kind of labour either for the community or for the victim rather than being in prison.

The prison officer had to end the interview because it was almost time (evening) for all inmates to return back to there cells.

## **Appendix 15: Responses from Interviews X**

### **Lagos State House of Assembly, Alausa Ikeja, Lagos State**

*Respondent: Chairman, House Committee on Judiciary*

The respondent said that by virtue of his profession as a lawyer he has visited Ikoyi, Kirikiri and Badagry Prisons in Lagos State. He further said that the conditions of these prisons were deplorable and not reformatory.

According to the Chairman, the Lagos State criminal justice system went through some reforms in 2007 which led to introduction of community service order and has already been put to use. As a lawyer he has never handled any case where an offender is being sentenced to community service.

The use of community service is long overdue not only in Lagos State but in Nigeria generally because if you visit the prisons in Lagos State you would discover that there are offenders that have committed minor offences. Thus, they are not supposed to be there (prison) because the prisons are not reformatory. It will save the government the cost of taking care of them.

Psychologically some of the inmates would become more traumatized, criminalized and bitter and they will come out on the offensive but when on community service they will be exposed to counselling and while they also go through other endeavours' in live. The Western countries have kind of overcome the issue of stigmatization of being called ex-prisoner but in Africa once you are called former prisoner everybody run away from you.

Another problem is the problem of records. There is no proper record keeping of inmates and offenders. Before taking offenders for community service there is the need to take the bio-data of the offenders so as to know whether to be fined or where they would be useful to the society and also enhance his skills should they be sentenced to community service.

There should be a form of restorative justice whereby the victim or community is not left out of justice. In other words, the offender needs to pay back by way of working for the society and that would go a long way to reconcile the offender with the community. Also, domestic issues could be settled through the use of community service.

According to the respondent, what could pose a challenge to its introduction and implementation would be lack of data base or record keeping and also the political will of the government in order to see that such a law succeeds.

Community service order would certainly lead to prison decongestion and allow prison officials to redirect the efforts to where it's mostly needed.

## Appendix 16: Responses from Interviews XI

### Lagos State Ministry of Justice, Alausa Ikeja Lagos

*Respondent: Senior Special Assistant to the Commissioner for Justice*

The respondent started by saying that community service is a way of non-custodial sentence and that it's a provision which the Lagos State government has already introduced in the administration of criminal justice system in the State.

According to the Ministry's spokesperson, the prisons condition is in bad shape and congestion is one of the major problems affecting prisons in Lagos State. And to address that problem, the Lagos State government reformed its Administration of Criminal Justices Law in 2007 by incorporating community service order into its criminal justice laws. The rules governing community service provision is on Section 350 of the reformed law.

The Lagos State Administration of Criminal Justice Law, section 350 (1) states that

where the court has made an order committing the offender to render community service, such community service shall be in the nature of: Environmental sanitation, assisting in the care of children and the elderly in Government approved homes and any other type of service which in the opinion of the court would have a beneficial and salutary effect on the character of the offenders.

According to the respondent, the provision is structured in such a way that allows for the community service officer and the offender to reach an agreement on how to carry out the sentence so that it doesn't affect the offenders other activities like schooling or working. Also, most of the offences that would fall under community service order would be 'Public Order Offences' i.e. victimless offences (societal offences).

On what could pose a challenge to the implementation of community service order, the respondent said that the State Government is trying to develop rules and regulations that would govern and guild community service order. Also, employing community service officers who would supervise it and deal with other challenges as the problems arises.

Its introduction would address so many problems like prison congestion, stigmatization and save government fund. Apart from the problems, the society would stand to gain from such policy through labour work done by offenders.



## **Appendix 17: Responses from Interviews XII**

### **Lawyers and Individuals in Lagos**

Other stakeholders interviewed that is lawyers and individuals were in favour of the introduction of community service order as an alternative to imprisonment.

Some Individuals that were of the opinion that community service order would reconcile the offender with the community while one person said he cannot forgive an offender that tries to take his life but if its just stealing of minor item he should be made to return the stolen item and do hard labour rather than being put in prison.

One respondent feels community service sentence is a softer punishment and that offenders would always go back and commit more crime because they will always look at it like a child play or like normal domestic job which they are used to doing.

All lawyers interviewed said that there is nothing civil in Lagos prisons and indeed Nigerian prisons. Although two (2) lawyers claimed that the Lagos State government has shown intension of improving the situation through its criminal justice system reform in 2007.

One lawyer said any offence that would warrant custodial sentence period between 3 days to 3 years should be placed or transformed to a community service sentence. And with that it would definitely lead to prison decongestion.

According to a lawyer, if community service is properly managed it could work. Apart from proper management most respondents interviewed said other factors that could pose a challenge to its success are the issue of financial backing and political will of the government to make it work.

A lawyer said there should be dignity of human life. Thus, the fact that an offender commits a minor offence is not enough reason to subject that person to sub-human conditions. All the lawyers interviewed said community service order should be for first time offenders and minor crime offenders which are easier to be rehabilitated and reintegrated back to the society.

## **Appendix 18: Responses from Interviews XIII**

### **National Human Rights Commission (Lagos office)**

An officer of the commission refused being interviewed claiming that the commission is not a stakeholder in the Criminal Justice System in Lagos State and directed that I should go to the Lagos State Ministry of Justice that they would be in a better position to answer my questions.

