Digitization as a Solution to the Problem of Awaiting-Trial Inmates in Ebonyi State, Nigeria

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Abstract
The problems of awaiting-trial inmates in Nigeria, particularly in Ebonyi State, have been researched and documented by many scholars. One of the obvious outcomes of these problems is overcrowding of prison facilities. 78.4% of inmates in Ebonyi State prisons identify to have awaiting-trial problems. These problems are usually as a result of delays from the time of arrest to the time of prosecution. The delays are caused by bureaucratic institutional processes involved in the arrest of suspects, transfer of cases, and the trial of suspects in the courts. This article proposes the use of digitization to automate all the bureaucratic processes and make them faster through an online portal that is accessible to all agencies involved in the Administration of Criminal Justice.

Keywords: Awaiting trial inmates, Criminal justice system, Digitization, Problem, Solution.

Introduction
In Abakiliki and Afikpo prisons in Ebonyi State, and indeed all prisons in Nigeria, the issue of awaiting-trial is popular among researchers, criminal justice administrators, political leaders, stakeholders and ordinary Nigerians within and outside Nigeria. This is so because of the huge number of inmates compared to resources available in prisons that often lead to series of gory events that barely evade notice.

A recent electronic and printed media indicated that over 80 per cent of inmates in Nigerian prisons are awaiting trial (Okeke, 2018). Quick dispensation of justice has become rarely obtainable. An unwritten tradition where suspects are presumed guilty at the instant of accusation – then arrested, imprisoned, and investigated has somehow taken hold in the Nigerian law enforcement ecosystem. Since the accused are arrested before being investigated, both the investigation and all the paperwork that successfully transfer

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cases to courts cause the noted delays in trial, while the accused suffer and overcrowd prison facilities as “awaiting-trial” inmate. It is worthy of note that assumption of guilty before proven in court is against the Nigerian law. This presumption of innocence is ingrained in section 36(5) of the 1999 Constitution of the Federal Republic of Nigeria (As Amended), which is the *fons et culmen tortios verae legis* (the fountain head and source of life) of all laws in Nigeria.

The impacts of these delays in the criminal justice system are visibly messy and continuously attract public criticisms. Alemika and Alemika (2005) called this criminal justice system disjointed. The law provides for suspects to be brought before a magistrate or a justice of the peace within forty-eight hours of arrest. The police consistently breach this law under the claim of unexpectedly long investigations. Alemika and Alemika (2005) berate both this breach of law by police and their claims to be illegal and blatant disregard to the laws they swore to enforce. They also compared the Nigerian police to other countries where the arrest of suspects is the culmination of an investigation, not the beginning (Alemika & Alemika, 2005). Ukwayi and Okpa (2017) pointed this delay in the Nigerian criminal justice system to be chiefly responsible for the problems of awaiting-trial inmates. Adegbami and Uche (2015) revealed that these delays and the congested prison environments constitute dehumanizing experiences to “awaiting-trial” inmates who might actually be innocent. A common effect of these experiences on awaiting-trial inmates is a deep-running frustration that often elicits violent outbursts from non-violent suspects, and probably innocent people, waiting to be tried. Of 1128 inmates in Abakaliki prison, 845 (75%) are awaiting trial and 168 (78%) out of the 215 inmates in Afikpo prisons are also awaiting trial (Nigerian Prisons Record, 2017).

There is wealth of research on the issue of awaiting trial inmates in Nigeria and beyond (see for instance Ajah, 2018; Duru, 2017; Ukwayi & Okpa, 2016). However, most researches and literature are based on the causes, intuitive narration, and implications of the floodgate of awaiting-trial inmates. None has taken deep empirical and theoretical studies on the use of digitization in solving these awaiting trial problems for the Nigerian criminal justice system. This article fills this gap. The absence of an easily accessible database for the criminal justice system affects flow of data. This negatively impacts policy legislation and implementation and limits success of scientific approaches to the study of the Nigerian criminal justice system. Thus, the present study is focused on unearthing the essence of digitization in solving the awaiting-trial problems, particularly in Ebonyi State.

1. Conceptualizing the problem

Nigeria has the highest number of awaiting-trial inmates in Africa (Egba, 2011); a situation where over 70 per cent of prison inmates are on the awaiting-trial list is unacceptable. In the words of Shajoji-Ibikunle (2014), the length of stay of the awaiting-trial inmates in Nigeria is between two to fifteen years before proper court trial. This also constitutes problem for the actual convicts. Due to high number of awaiting-trial inmates, they overwhelm prison facilities meant for the rehabilitation of the convicts. Despite the argument by the authorities of the prison service that their statutory function is to convicts, not to awaiting-trial inmates, they are unable to fully concentrate on the actual convicts due to the overwhelming number of awaiting trial inmates (Orakwe, 2013).
There are two prisons in Ebonyi state; Afikpo and Abakaliki Prisons. Afikpo and Abakaliki Prisons were built for inmate populations of 86 and 385 respectively; they are currently holding 215 and 1128 respectively, bringing the total number of prisoners in Ebonyi state to 1343. Of these prisoners, 1013 (78.4%) are awaiting trial, 845 (75%) in Abakaliki and 168 (78.1%) in Afikpo (Nigerian Prisons Record, 2017). These prisons are also lacking in functional facilities. Against the above observed problems, the present study takes an innovative look on how digitizing the criminal justice system would solve the problem of awaiting-trial inmates in Ebony State, Nigeria.

2. Status of awaiting trial inmates in Nigeria

Prisons in Nigeria are generally congested and facilities are overstretched. As noted, majority of these congested populations are awaiting trial. In the words of Odinkalu (2012), out of the total population of 46,000 inmates in Nigerian prisons, over 30,000 (65.2%) of them were awaiting trial for several reasons.

Duru (2017) noted that each Nigerian prison has its capacity overstretched by as much as 3 times. In more detailed research, Ajah and Nweke (2017) stated that inmates sleep two to a bed or on the floor in filthy cells. Toilets are often blocked, overflowing or simply non-existent in some cases. Most times there is no running water. Diseases, mostly communicable diseases, easily spread through one prison cell to another. Since most inmates are awaiting trial and undocumented, they are often crammed into the prison cells regardless to whether their cases are of murder, robbery or burglary. This mindless juxtaposition of inmates often leads to criminalization of non-criminalized inmates waiting to be tried, and even murder of inmates in some occasions. In addition, there are either little or no rehabilitation programs available in the prisons.

There are several reasons for the high rate of 'awaiting-trial inmates' in Nigeria. Some of these reasons are poor policing practices including arrest before investigations, poor prosecutorial practices including excessive delays in providing legal advice, delays in pre-trial proceedings, and use of holding charge to detain suspects. These factors contribute to the high number of awaiting-trial inmates and long duration of awaiting-trial detention. According to Ladapo (2016), 17.1% of prison inmates in Nigeria are awaiting trial because investigations into the allegations leveled against them are yet to be completed, 3.7% are incarcerated perpetually because their investigation case files could not be found, and 7.8% have their trials stalled because police investigators and other key witnesses have been absent in court.

3. Procedure of criminal justice administration in Nigeria

The Nigerian criminal justice administration commences with the commission of crime and continues with subsequent interventions by law enforcement agencies that have the power of arrest, arraignment, trial, sentencing, and punishment of offenders. A criminal trial involves the state and the offender who commits the crime. What makes the accused or defendant guilty of the act or omission alleged against him is the sentencing or judgment of a competent court. In some legislation, the word sentence and judgment are used interchangeably (Opara, 2014).

Accordingly, sections 34(1) and 36(5) of 1999 constitution, as amended in 2011, is predicated on the premises that the accused person’s dignity must be recognized and
respected. Also, the accused is considered innocent until proven guilty by a court of competent jurisdiction. Consequently, the provisions of section 296 of the Administration Criminal Justice Act (ACJA) (2015) stipulates that an order of remand shall not exceed a period of fourteen (14) days in the first instance which may be extended for a period not exceeding fourteen days. Upon the expiration of the 14 days extension, the court may, on application of the suspect, grant bail in accordance with section 158 to 188 of the Act. Also, at the expiration of the further order and where the suspect is still on remand, the court can “suo moto” issue a hearing notice to the Inspector General of Police, Commissioner of Police and/or Attorney-General of the Federation, or any other authority in whose custody the suspect is remanded, to show cause why the suspect should not be unconditionally released. The suspect is further remanded for another period not exceeding 14 days. Where a good cause is shown, the court may extend the remand for a final period not exceeding 14 days for the suspect to be arraigned at the appropriate court. However, where a good cause is not shown for the continued remand, the court shall with or without an application discharge the suspect and he shall be released immediately from custody. No further remand application shall be entertained by any court after the above proceedings (or procedures) have been followed (ACJA, 2015).

4. Causes of awaiting trial problems in Nigeria

In a study by Emeka, Achu, Dien, and Uyang (2016), the study revealed that good number of awaiting-trial inmates was not charged to court because they were unable to hire lawyers to defend them. It pointed to lack of money as cause of their inability to hire lawyers. Justice for All (J4A) (2014) explained that this inability to afford legal services applies to most inmates, which puts them at high risks of not receiving bail or expedited hearing. There exists legislation for the provision of lawyers to people who cannot afford legal supports, but this rarely happens as too many of such cases usually overwhelm the one or two lawyers provided. For example, only 23 lawyers attend to the cases of all the 1013 awaiting-trial inmates in Ebonyi State. Onyekwere (2018) bemoaned that many of the awaiting-trial inmates provided with legal representations are unsatisfied with the quality of service rendered to them by these lawyers.

For Olusegun (2012), over the years, the Nigerian police have systematically sent suspects of capital offences, such as armed robbers or murderers, to a Magistrate Court instead of following the statutory procedure of sending such cases to the prosecutor of the Ministry of Justice for a decision whether or not to take the case to the High Court. Once received, Magistrate Courts usually do not refer the cases to High Court but remand the suspects in prison pending completion of police investigation. In many cases, this takes several years. Schönteich (2014) blamed suspects’ lack of education, skills or knowledge necessary to protect their rights of presumption of innocence as key contributor to the awaiting-trial problems.

5. Theoretical framework

Marxist theory serves as the framework for this study. The Marxist theory was propounded by Karl Marx (1843) in his critique of Hegel's philosophy of right. "The thrust of Marxist theory is on the deficiencies of the capitalist economic system which is..."
seen as inherently contradictory and, therefore, conflict-ridden” (Igbo, 2007:54). Accordingly, Karl Marx stated that the conflicts in the society were a result of the scarcity of the resources which was why the rich tried to hold onto what they had even if it meant suppressing the poor. Marx had studied the conflict between the rich and poor classes over the control of resources. He had termed the rich as the Bourgeoisie who were the minority but wield a lot of power. They were the capitalists, landowners, and industrialists and they controlled the resources in the society. On the other hand, the Proletariat made up the majority of the population in society but they were oppressed. These individuals put in a lot of effort to create resources but they receive little or none in return (Jane, 2017).

Consequently, Marx viewed the state as a creation of the bourgeois economic interest. Accordingly, the executive of the modern state is nothing but a committee for managing the common affairs of the whole bourgeoisie. The forces of production determine peoples’ productive relations; their productive relations determine all other relations, including the political. Some reciprocity of action is admitted. The bourgeoisie control the economy; and thus, they control the state resources. The state, in this theory, is an instrument of class rule. It is hard to understand the state and its laws of motion. This is a reflection of the trend in African countries where the common notions of the empirical referents of the state do not appear to apply.

In this context, it is the duty of the state to make sure that laws are enacted to protect the welfare and interest of its citizens. The state regulates the criminal justice institutions to restore sanity to the society. Indeed, the state ensures the efficient management of criminal justice agencies and makes sure justice is dispensed without fear or favour. It is in line with the aforementioned that the Criminal Justice Act 2015 was enacted for smooth running of the Nigerian society. However, despite the intentions for enacting the Criminal Justice Act 2015, quick justice delivery remains elusive in Ebonyi State. The criminal justice institutions in the State have become the instrument of exploitation and subjugation of the weak and poor masses. The high rate of awaiting-trial inmates underscores the above assertions. Orakwe (2008) lamented that the delay in justice delivery and long stay of the inmates in prisons is an indication of an inefficient and inefficient criminal justice system, which dehumanizes suspects and convicts.

6. Digitization and the criminal justice system in Ebonyi State

With advances in technology, most aspects of human engagement have been digitized and automated. Business deals, cash withdrawals, payments, information dissemination, and meetings among others can now be completed with the click of a button. This has made human activities fast and seamless. While it is true that these initiatives have been led by the private sector, government has incorporated ICT into many of its processes to make them efficient. Some government initiatives introduced in the past decade in Nigeria include the Integrated Payroll and Personnel Information System (IPPIS) for centralized payment of all federal government employees, this has made salary payments faster and eliminated ghost workers from the payroll while eliminating huge overheads associated with the former decentralized payment system. The introduction of Remitta in Nigeria plugged revenue leakages as all payments due to the federal government are made through the Remitta platform. Bank Verification Numbers (BVN), and Voter’s Card
Readers are also other initiatives that were introduced by the government which have so far improved processes relating to Banking/Fraud and Electioneering respectively.

Similarly, ICT can be deployed in the criminal justice system in Ebonyi state to curb the menace of awaiting-trial inmates. Delays in charging cases to court by law enforcement agents, trying cases in the wrong courts, delays in transferring case files to relevant courts of competent jurisdiction, and loss of case files among others have been identified as the major causes of the awaiting trial problem in Ebonyi state in particular and Nigeria at large as enumerated above. These challenges can be eliminated by the introduction of a digital system accessible by all actors in the Administration of Criminal Justice process to speed up trial processes.

The backbone of this system will be a central digital database (repository) where all cases will be uploaded. Access to this repository will be given to law enforcement agents, relevant prosecution agencies, and the courts. When cases are uploaded in the system by law enforcement agents, they can then be transferred to the nearest court of competent jurisdiction with a click of the button from where the trial will continue. As the case progresses, the digital case file can then be updated accordingly until judgment is passed after which the case is marked closed.

This system presents a lot of advantages apart from the very obvious, which is the reduction of awaiting-trial inmates and the speedy dispensation of justice in line with the Administration of Criminal Justice Act (2015). Judges can view a list of cases queued up for them to try, see the status of cases, and transfer cases (if necessary) in split seconds with the click of a button. There will also be no incident of lost case files, and there will be a huge reduction of costs associated with the Administration of Criminal Justice process.

In the words of Ismail (2017), “digitization provides the opportunity to re-build the processes of the justice system around the citizen.” Pilot initiatives such as the digital case file and online plea submissions have begun to prove the concept in practice, showing how digitization can increase access to justice whilst reducing costs, streamlining processes and improving quality. Also, digitization offers significant opportunities to radically improve services, while increasing cost-efficiency and transparency. This, in turn, will deliver improved outcomes for victims, witnesses, defendants and offenders.”

Digitization ensures proper functioning of the criminal justice system and provides an enabling environment in terms of responding to crimes and facilitates expeditious hearing and trial of criminal cases. While making reference to law enforcement, Andrews (2017) observed that digitization moves law enforcement away from stand-alone and stove-pipe solutions and toward a unified enterprise public safety approach that can join employees, processes, data and devices via digital tools to empower them with new capabilities and increased operational efficiencies.

Indeed, digitization of the criminal justice system would remove bottlenecks associated with the adjudication of criminal matters and encourage clampdown on lawyers who deploy delay tactics in criminal matters before them. To prevent the instances where cases pending in courts are stagnated and unduly delayed, digitization of the criminal justice system would free up judges from other responsibilities in view of the fact that most judges are overloaded with different cases. Apparently, digitization of the criminal justice system will transform the future of justice delivery and public safety when effectively deployed.
Conclusion

Quick dispensation of justice is necessity for every democratic society to succeed. It is encouraging to see concerns and active agitations from people on promotion of quick justice in Nigeria. Unfortunately, these agitations have not yielded any concrete results. Facts have proven that administration of criminal justice in Ebonyi State, and in Nigeria entirely, is swiftly deteriorating. Nigerian citizens are losing faith in the justice system. The present approach in criminal justice administration in Ebonyi State is a product of this failed system. These failures result from bureaucratic institutional processes which produce the delays, criminalization of inmates, and other key factors discussed above.

In view of the aforementioned, this article urges urgent adoption of digitization in the administration of criminal justice system to remove the redundancies noted and restore Nigerians confidence in the justice system. This introduction of digital technologies will effectively reduce the number of inmates awaiting trial in Ebonyi state.

References


