

# Increasing Cases of Prison Break in Nigeria: A Theoretical Explanation

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## Abstract:

Under the Nigerian law, prison break is an unlawful act of a prisoner forcing his or her way out of the prison. This paper examined the link between prison capture and increasing jail break in Nigeria. The specific objective of the paper was to examine the incessant prison break in Nigeria from a theoretical point of view. Using the Capture Theory of politics as our theoretical framework, and with the aid of secondary data, we therefore, argues that the Nigerian prison system has been captured by two high-stake interest groups: one, wealthy prison inmates who live like kings within the prison walls; and two, a powerful cabal within the Nigerian Prison Service authority who are involved in selling prison jobs and promotion to the highest bidders. We further argues that the capture has weakened the Nigerian prison operations and has contributed to incessant jail breaks. The paper also highlighted the way forward for the Nigerian Prison Service.

**Keywords:** Corruption, Nigerian Prison Service, Prison Break, Regulatory Capture Theory.

## 1.0 INTRODUCTION

While the federal government of Mohamadu Buhari is fighting hard to rid the nation of corruption, it may be unaware that the Nigerian Prison Service is a den of corruption. Since the advent of the Buhari administration, the Nigerian Prison Service has been rocked with, at least, three different jailbreaks as well as riots in different parts of the country (Ripples Nigeria, 2017). In August 2016, at least 15 inmates were reported to have absconded from the Nsukka prison after a jail break. A month earlier, there was also a prison break at the Koton/Karfe prison in Kogi State. And in the June of the same year, two inmates standing trial for murder, Maxwell Ajukwu and Solomon Amodu, made good their escape from the Kuje prison by scaling the prison fence. Meanwhile, what could best be described as a mutiny happened at the Mandela Prison and Federal Prison, Okekwa, both in Kwara State capital in 2017, in which seventy-six inmates from the facilities summoned the prison officials to unfold thirteen demands which must be met within twenty-four hours (Ripples Nigeria, 2017).

Despite the forewarning, prison officials were caught napping as the inmates broke loose after the expiration of the ultimatum. The incidents occurred simultaneously in the two prison yards. What many Nigerians do not know, reports

Ripples Nigeria (2017), "is that a good number of these jailbreaks and riots are known to the authorities beforehand but they do nothing to forestall them. Intelligent officers of the NPS usually report such schemes to the office of the Comptroller General at least a week or two before they usually occur, but these intelligence reports are mostly swept under the carpet". The reason, according to Ripples Nigeria (2017), is "to cover their representative who is the officer in charge of prison through whom they earn their money". The pictures of Nigerian prison cells are enough to give anyone visiting a jail house in the country a panic attack. But amidst these dingy, damp and dimly lit rooms in the prisons, overcrowded with the condemned, dying and awaiting trial inmates from all over the country, some cells kept for some wealthy inmates who live out their terms in enjoyment (Punch, 2018) Despite the congestion in different prisons across the country, affluent inmates do not have to worry about space.

A prison is responsible for taking custody of those legally detained, identifying causes of their behavior, and retraining them to become useful citizens in the society (Orakwe, 2018). Arisukwu et al (2015), argues that the relevance of prison in any society is to punish, deter, and reform convicted criminals in the society. Headed by the Comptroller General of prisons, the Nigerian Prison Services (NPS) is an agency of the government under the Ministry of Interior and is administered by the Custom, Immigration, and Prison Services Board (Jombo, 2016). The prison regulation of 1917 set standards for admission, safekeeping, treatment, and classification processes as well as staffing, dieting and dress regimes for the prisons (Orakwe, 2018). The regulations also distinguished between awaiting trial and convicted inmates and also stipulated the convict category to be found in each type of prison (Orakwe, 2018). The origin of western-type prison service in Nigeria according to Azikiwe (2013) was in the year 1861 during which the preoccupation of the colonial government was to safeguard their businesses and protect the missionaries. To this end, Orakwe (2018) states that: "by 1861, the acting governor of Lagos colony and who was then a prominent British merchant in Lagos, formed a police force of about 25 constables. This was followed in 1863 according to Nigeria Prison Service (2018) by the establishment in Lagos of four courts: a police court to resolve petty disputes, a criminal court to try the more serious cases, a slave court to try cases arising from the efforts to abolish the trade in slaves and a commercial court to resolve disputes among the merchants and traders. The functioning of these courts and the police in the

colonial setting necessarily means that prison was needed to complete the system. And it was not long in coming for in 1872, the Broad Street prison was established with an initial inmate capacity of 300 (Nigeria Prison Service, 2018)

Today, the modern Nigerian Prison Service derives its operational powers from the CAP P29 Laws of the Federation of Nigeria 2004. The agency has power to:

- i. take into lawful custody all those certified to be kept by courts of competent jurisdiction;
- ii. bring suspects to courts as and when due;
- iii. identify the causes of their anti-social dispositions;
- iv. fashion out means of treatment and training of inmates for their rehabilitation into society as normal law abiding citizens on discharge; and
- v. administer Prisons Farms and Industries for this purpose and in the process generate revenue for the government (www.prisons.gov.ng)

**Table 1 Showing the Nigerian Prison Inmates Population (lock up) of Convict and Awaiting Trial Inmates as at 12<sup>th</sup> November, 2018.**

Overall population	<b>Total Male &amp; Female</b>	<b>75, 544</b>
	Male	73, 980 (98%)
	Female	1, 564 (2%)
	<b>Total Convicts</b>	<b>24, 403 (32%)</b>
	Male	23, 997
	Female	406
	<b>Awaiting Trial</b>	<b>51, 141 (68%)</b>
	Males	49, 983
	Females	1, 158

Source: [www.prisons.gov.ng](http://www.prisons.gov.ng) (retrieved 12<sup>th</sup> November, 2018).

## 2.0 CORRUPTION IN THE NIGERIAN PRISON SYSTEM

While life is daily tussle between the rich and the poor in Nigeria, going to prison is another version of that struggle. According to The Punch (2018), wealthy prison inmates can live as much enjoyable life as they can afford within the walls of incarceration. Falayi and Ajayi (2018), notes that there are “apartment” in the prisons where inmates live like they are in their homes with all the privileges attached. These privileges don’t just land on the laps of inmates. It is how officials make their money on the side, while inmates without the financial muscle rub shoulders in squalor. In the Kirikiri maximum prison, Lagos, inmates with money pays anything between N70, 000 and N300, 000 to live in the V.I.P section (Falayi and Ajayi, 2018). Falayi and Ajayi further notes that, Mr. Gwamnishu Harrison, an ex-inmate who has now become a prison reforms advocate confirmed that at the maximum prison, the V.I.P units are called “apartments” rather than cells. Gwamnishu, stated that wealthy inmates lives in self-contained rooms with personal access to shower, toilet, television, and generators. “What you pay there depends on your type of case. The higher the amount of money involved in your case, the higher you pay to the official” (Gwamnishu Harrison, quoted <http://dx.doi.org/10.29322/IJSRP.9.10.2019.p9413>

in Falayi and Ajayi, 2018). Also at the Kirikiri prison, rich inmates in the V.I.P section even have personal guards. These guards are other less-privileged inmates, who have the luck of being chosen to serve the V.I.P inmates with promise of some privileges.

When allotted a cell less privileged inmates will be allowed to serve you. They protect you, clean your room and wash your cloths. You take permission from them before you go in to see the V.I.Ps (Gwamnishu Harrison, quoted in Falayi and Ajayi, 2018).

In the Kirikiri medium prison’s V.I.P section, the situation is not so different, notes The Punch, March 3, 2018. Block built by former governor Orji Uzor Kalu called Abia Hall, is reserved for lower class V.I.Ps. There, an inmate who pays between fifty thousand naira and one hundred and fifty thousand naira enjoys the privilege of personal room and toilet with shower and fan. Also, one of the most important privileges of being an inmate residing in the V.I.P section, testified Harrison, in Falayi and Ajayi (2018), is that you have access to mobile phones. They bribe Prison Staff so that they can use phones in the V.I.P section of the prison. At the Ikoyi prison, there is a cell block called booster which was originally meant to house underage inmates. Today, the block is used by the V.I.P inmates and foreigners who has enough money to spend. As reported by the Saturday Punch (March 3, 2018), the building is a block of flats. It has its own fence and gate separated from the main yard. Each room is also self-contained and has flowers around them. All the inmates there use phones. Most of them use DVD players. They don’t eat regular prison food but take care of their feeding as arranged with Prison Officials (Falayi and Ajayi, 2018)

A Lagos Lawyer, Chief Gabriel Giwa-Amu cited in Falayi and Ajayi (2018) stated that he came to learn about how corrupt prison officials creates privilege sections in the prison over the years through his work. According to him, corruption is at play. Giwa-Amu states that:

*Some cells are christened “Aso Rock” in Kirikiri prison, the British council built as a donation to the Nigerian Prison Service. The facility is so well-maintained with many amenities that officials now use it as an opportunity to make money. This system has been going on for a long time. There is also a corrupt system in the prison where those who are convicted are given medical certificates and are not kept in the prison yard but in the military hospital. (Falayi and Ajayi, 2018).*

### 2.1 Inmates organizing high profile fraud with mobile phones

In May, 2017, an Ikeja High Court sentenced a prisoner, Ikechukwu Ogbu, to eighteen years imprisonment for defrauding a banker, Patrick Edetchukwu, of a sum of N12. 3million while serving a ten-year sentence at Kirikiri prison. Also In October, 2017, an inmate of the Kuje prison, Ifeanyi Ezenwa, was accused of operating a fake bank alert fraud while in jail. He was accused of defrauding an orthopedic medical store of two wheel chairs and N50, 000, and also scammed Elizade Motors into handing over a vehicle, which

his accomplice, Dahaltu Yahaya, sold for N12million (Falayi and Ajayi, 2018).

## 2.2 Prison job and promotion racketeering in NPS

Apart from money-for-good-life corruption in Nigerian prisons, there is also a thriving payment-for-jobs racketeering within the Nigerian prison service that is largely responsible for periodic jailbreaks, mass violation of prison rules and regulations, extortion of prisoners and drug dealing right within the prison walls (The Paradigm, July 26, 2015). According to The Paradigm, "senior officials brazenly sell job opportunities for amounts such as N1million, N700, 000, and N350, 000/N400, 000 to desperate unemployed degree holders, HND holders, and School Certificate holders respectively through periodic recruitment exercises". The Paradigm further reports that posting of senior officers of the prisons to man sensitive positions across the country were also influenced by how much money the prospective officer would pay and not by merit, a practice that was reported to have corrupted most of the Deputy Comptrollers of Prison, Chief Warders, and Yard Masters who man prison yards and has resulted in the poor quality of food being served to inmates, reckless extortion of money from prisoners, poor maintenance of facilities and gross abuse of prison rules (The Paradigm, July 26, 2015). The corruption in the service trickles down to the inmates. Many inmates who are awaiting trial or jailed for serious offences like armed robbery, kidnapping, murder, drug abuse, human trafficking, etc. are found right inside the prison yards smoking and trading in Indian hemp with the connivances of officers in charge of the yards. Other extortions within the prison yards, according to The Paradigm (July 26, 2015), are the payment of N50, N100, and N300 to warders before they would allow inmates to engage in sporting activities the perimeter of the prison yard. Inmates pay money to get mattresses and are incessantly harassed and dehumanized. They are served poor quality food that even dogs cannot eat". Corroborating the above report, Akinloye (2017), states that Nigerian Prison Service charges Higher National Diploma holders N550, 000 each, while School Certificate holders pay between N350, 000 and N400, 000. According to him, degree holders are charged N650, 000. Akinloye reported further that bribe-for- posting and promotion scheme ensures that high profile inmates enjoy uncommon privileges. "They have fixed price tags for posting, promotions, and entry-level jobs" Akinloye also states that the promotion of uncooperative officers are being delayed for refusing to jump on the band wagon of dubious officers who exchange money for promotion. He concluded thus:

*Even the deployment of officers to prisons nationwide is often influenced by how much you get to pay and not by merit. I am specifically talking about sensitive positions like that of Deputy Comptrollers of prison, Chief Warder and Yard Masters. These are normally those who not only divert funds and food stuffs meant for inmates, but also use their fronts to extort money from inmates and their relations. This is massively responsible for frequent complains of poor welfare of inmates, poor maintenance of facilities and gross abuse of prison rules, and of course, jail breaks (Akinloye, 2017).*

The extant literatures narrates the incident of jail breaks in Nigeria as a result of poor quality and quantity of prison food, lack of rehabilitation and correctional facilities, corruption in

the Nigerian Prison Service, among others. While these analyses are relevant, they essentially accord inadequate attention to the fact that the NPS has actually been captured. Let us take a further at this relying on the Capture Theory of Politics as our theoretical framework.

Debunking the allegations Mr. Emmanuel Enaobre the Nigerian Prisons Public Relation Officer, responded that the Nigeria Correction Centre across the country do not encourage inmates to have access to any illegal material while in custody such as phones and drugs, as they have a mechanism that they use to carry out random search on cells to weed out of anything illegal material found in their cells. He also added that their staff are also checked against any act of compromise to their duties and those found wanting are dealt with in line with the Act establishing the Service. In an interview he granted to Ray Power FM (2019) the Prison image maker in response to alleged VIP Cells existing in their facilities stated thus

*All over the world prisoners go through what he called classification which is a process that the inmates are profiled and classified and separated according to their offences or their status.*

He stated that it is common practice not to keep a someone like a former governor, or a person of high status whose stay in their facility lasts for days, weeks or months with hardened criminals; armed robbers, kidnappers, murders among others who may put such person in danger. Furthermore Mr. Enaobre further added that:

*Those hardened criminals do regard those high profile individuals as the people stealing their commonwealth which they are deprived of and which make them to in turn make them to resort to criminality. The consequence of this is that they will put the life of the high profile individuals to jeopardy.*

## 3.0 THE REGULATORY CAPTURE THEORY

The capture theory was developed by Nobel laureate George Stigler (Onuoha, 2008). Other often cited articles in the development of the theory includes Onuoha (2008), Bernstein (1955), Huntington (1952) cited in Levi-Faur (2011), Black (1958) cited in Ordeshook (1993) Levine and Florence (1990), among others. There arises the need to search for a theory to explain the ineffective prison administration and incessant jailbreaks in Nigeria, because, suitable theories have not been employed to analyze the problem at hand. For instance, Jombo (2016), blamed it on prison congestion, lack of rehabilitation and correctional equipment in Nigerian prisons. Anisukwu *et al.* (2015), argued that it is as a result of poor quality and quantity of prison food, overcrowding, lack of medical facilities and personnel, poor sanitation and incessant death among inmates. While these views are relevant, our position is that the NPS has actually been captured by two powerful groups, namely: the wealthy prisoners and a cabal within the NPS itself. Therefore, our humble submission is that the Capture Theory of Politics is best suitable to explain the corruption in Nigerian Prison Service. Regulatory capture theory is about the state regulatory bodies, how certain interests tend to influence and shape state regulations, and implications of the policies adopted on the economy (Amobi *et al.* 2018) It occurs when a regulatory agency, created to act in

public interest, instead, advances the commercial or political concerns of groups that control the sector put in their control. (Kenton, 2019). To capture means to seize by force or get possession of something by superior power (Onuoha, 2008). Therefore, capture theory is a set of interrelated assumption employed to explain and understand how regulatory agencies are captured by the regulated concerns or interests, thereby distorting the original intention of government for creating the agencies. When a special interest seizes regulatory agencies to further their own interest against the public interests for which they are established, the regulatory agencies are said to have been captured (Onuoha, 2008).

Thus, a government agency suffering regulatory capture is called captured agency (Kenton, 2019). Regulatory capture occurs because groups or individuals with a high-stake interest in the outcome of policy or regulatory decisions can be expected to focus their resources and energies in attempting to gain policy outcomes they prefer (Lee, 2006), and this can happen by successfully capturing influence with the staff or commission members of the regulatory agency, so that the preferred policy outcome of the interest group is implemented. These scholars are critical of conceptualization of governmental regulatory intervention as being motivated to protect public interest. There is always likelihood of regulatory capture. Alternative is not to create the agency at all lest the agency become a victim, in which case it may serve its regulated subjects rather than those it was designed to protect.

### 3.0 THE WAY FORWARD

1. There is need to sanitize the recruitment process in the prison service. The recruitment should be based purely on merit devoid of political consideration. Same with deployment and posting of the officers.
2. Since the relevance of prison in any society is to reform and rehabilitate inmates/prisoners, the preferential treatment given to the affluence inmates should be across board. The rich inmates and the poor ones are supposed to be integrated so the poor will benefit from the rich while the rich feel the pains of the poor ones. However, where VIP treatment is necessary, such should not be done with any monetary attachment.
3. Use of mobile phone by the prisoners should be banned and strictly enforced by the authority as a measure to reduce prison jail break.
4. Proper training and retraining of the staff on modern correctional techniques are also important and should be made compulsory in prisons.
5. Speedy trial of the awaiting-trial inmates are also necessary in other to decongest the population
6. Alternative method of sentencing should be maintained explored by the court to reduce over congestion in prisons.
7. The provisions of the new Administration of Criminal Justice Act (2015) on speedy trial and number of adjournments a case should undergo must be adhered to by the courts while Human Right bodies should step up measures to monitor non-compliance by any court as it is inhuman for an inmate to be kept awaiting trial for years against the express provisions of the new Administration of Justice Act

### 4.0 CONCLUSION

This paper so far points to the fact that one of the central reason behind the increasing prison break in Nigeria is because the Nigerian Prisons have been captured by the inmates, as well as a cabal within the NPS authority who are involved in prison job racketeering. Members of the first group are wealthy and influential prison inmates. They don't eat regular prison food. Their food are prepared by the poor inmates who serve them as servants. They give money to those servants to get food stuff and with the help of prison officials, they buy frozen chicken, turkey and other good things of life that even free men on the street cannot afford. The second group are high-ranking prison officers within the ranks of Assistant Comptroller of Prisons, Deputy Comptrollers of Prison, Chief Warders and Yard Masters. Prisons officials do collect gratification during recruitment, also posting of senior officers of the prisons to man sensitive positions across the country were also influenced by how much money the prospective officer would pay to the cabal and not by merit.

The organized corruption by the cabal and their lieutenants trickles down to the prisoners. Many inmates jailed for serious offences like armed robbery, kidnapping, murder, drug abuse, human trafficking are found right inside the prison yards smoking and trading in Indian Hempt. Many of them have also been convicted a second time for organizing high-profile internet scams from the prison yards. Again, posting of senior officers of the prisons to man sensitive positions across the country is also influenced by how much money the prospective officer will pay and not by merit. a practice that have corrupted most of staff who man prison yards and has resulted in the poor quality of food being served to inmates, reckless extortion of money from prisoners, poor maintenance of facilities and gross abuse of prison rules. All these have contributed to weaken the Nigerian prison service operations and administration, and have contributed to jail breaks. We arrived at these conclusions using the Regulatory Capture theory as our explanation tool. Therefore, we recommends that there is needs to sanitize the recruitment process in the prison service. The recruitment should be based purely on merit devoid of political consideration. Same with deployment and posting of the officers. Also, preferential treatment given to the affluence inmates should be stopped henceforth, while the ban on use of mobile phone by the prisoners should be strictly enforced by the authority.

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