



# PUBLIC- PRIVATE FRAMEWORK FOR MANAGEMENT OF NIGERIAN CORRECTIONAL SYSTEM

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## Abstract

The Federal Government has exclusive powers to own and operate correctional facilities yet increasingly, the Nigerian Penal System is inundated with sundry challenges which appears to have worsened in recent times. The poor state of the economy and worsening insecurity has not helped the funding and provision of facilities for proper management of correctional services in the nation. In sectors like aviation, higher education, formerly exclusively held by the Federal Government, private players are now actively involved and providing efficient services. This article examines the possibility of public –private partnership of the nation's prisons. Using the doctrinal method, the research examined other jurisdictions where this practice exists, and the challenges faced. It finds that conditions are ripe for change. This paper recommends private participation on two fronts: First is full scale privatization such that States and competent private firms are licensed to build, operate and maintain modern prisons. Secondly is limited private participation in aspects such as installation and operation of security facilities, health care, transportation to and fro court etc. This would require an amendment of the Nigerian Correctional Services Act and the 1999 Constitution. However, strict control, guidelines and oversight should be put in place to assure that prisoner rights, safety and security are observed. Competitive salary, welfare, training and security of the Correctional Facility staff should be rigorously provided for in a deregulated environment. The competition engendered will serve to strengthen penal punishment and proper rehabilitation of offenders as well as inculcate international best practices in correctional services in Nigeria.

**Keywords:** Correctional facilities, imprisonment, private prisons, convict, rehabilitation, privatization

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## Introduction

Prisons have existed in various forms in different civilizations since ancient times and there is no society without a prison system. Since there cannot be a society without crime and criminals, the institution of prisons is indispensable for any country (Paranjape, 2009). In Nigeria, imprisonment is one of the penal sanctions allowed under the various criminal statutes in Nigeria for various offences. The origin of modern prisons in Nigeria is 1861 when western-type prison was established in Nigeria (Orakwe, 2010). A prison is defined as an institution which keeps convicts from offending again, in a sense from 'infecting and inflecting' the society (Alabi & Alabi, 2011). Dambazau describes prisons as 'the darkest region of the apparatus of the justice system in Nigeria (Dambazau, 2007). Historically, prisons or correctional systems as

called in some jurisdictions are facilities that generally fall under the authority of national governments. But this has changed over the last few decades with private companies increasingly being brought in to manage them. In high and middle income countries, some governments have contracted out—in whole or in part—the construction and running of their correctional institutions e.g. United States, United Kingdom, Australia etc. (m. news24).

## Role of Prisons

As a penal measure, the question may then be asked as to the need for prisons at all. Indeed, why do prisons exist? What are they meant to achieve? The popular answer would be that imprisonment punishes, it deters the imprisoned from offending again, it deters others from offending and thus sharing the prisoners' fate. Indeed, this view was



aptly expressed thus, “To put people behind walls and bars and do little or nothing to change them is to win a battle but lose a war. It is wrong. It is expensive. It is stupid” (Smith v U.S, 1933). It would then follow that rehabilitation should play a major role in incarceration of offenders aside from punishment.

### Nigerian Correctional System

In 2019, the Administration of President Muhammadu Buhari changed the name, “Nigeria Prisons Service” into “Nigerian Correctional Service” by signing into law the Nigerian Correctional Service Law 2019 (Ameh, 2019). Nigeria operates a federal system based on the 1999 Constitution yet all of its prisons are owned and managed by the federal government. Prisons are listed in Item 48, in the Second Schedule, Part 1 of the Exclusive Legislative List of the 1999 Constitution as amended. Nigeria's Correctional Service currently has about 250 prisons and 73,818 inmates (Summary, 2019). Table 1 shows that by year 2000, prison population was 44,500. It fell to 40,953 in 2006 but has continued to rise since then attaining 71,522 in 2018 and currently put at 73,818.

**Table 1:** \*Nigerian Prison Population 2000-2018

S/N	Year	Total Population	Prison Population Rate
1.	2000	44,450	36
2	2002	40,048	31
3.	2004	38,999	29
4	2006	40,953	29
5	2008	41,143	27
6	2010	46,586	29
7	2012	51,560	31
8	2014	56,785	32
9	2016	63,142	34
10	2018	71,522	36

\* Nigeria / World Prison Brief.  
<https://www.prisonstudies.org/country/nigeria>

Meanwhile, as of July 2018, the official capacity of the prison system in the nation is 50,153 (world prison brief, 2019). The prison population rate (per 100,000 of national population) is based on an estimated national population of 205.35 million as at September 2019 from United Nations figures (world prison brief, 2019). The

nation's correctional system is beset with several debilitating challenges (Shajobi-Ibikunle, 2014) which call for innovative intervention. Private intervention in prison management is one of such alternatives. These challenges include:

### 1. Over-crowding

As stated earlier, the current population of inmates in the prisons is 73,818. However, the over-crowding is also due principally to the huge population of Awaiting Trial Persons (ATP's) which is 50,968 (Summary, 2019), as reflected in Table 2. This means that convict population is actually just 31% of the total prison population in the nation's correctional system (see Table 3).

**Table 2:** Summary of Inmate Population By Category\*

S/N	CATEGORY	NUMBER	Total
1	Inmate Population	Male-72,342 Female-1,476	73,815
2.	Convicts	Male-22,528 Female-322	22,850
3.	Awaiting Trial Persons	Male-49,814 Female-1,154	50,968

\* Summary of Inmate Population By Convict and Awaiting Trial Persons as at 7th October, 2019.  
<https://www.prisons.gov.ng/statistics>. Retrieved 12 October, 2019.

**Table 3:** Percentage of Inmates by Category\*

S/N	Category	Number	Percentage
1.	<b>Prisoners vs ATPs</b>		
	A. Total Prisoners	22,850	31%
	B. ATPs	50,968	69%
2.	<b>A. Prisoners</b>		
	A. Male Prisoners	72,342	98%
	B. Female Prisoners	1,476	2%

\*Summary of Inmate Population By Convict and Awaiting Trial Persons as at 7th October, 2019.  
<https://www.prisons.gov.ng/statistics>. Retrieved 12 October, 2019.

Consequently, facilities for rehabilitation are over stretched hence, largely ineffective. An attendant



fallout is the high Recidivism rates among prisoners (Dambazau,2011). The corrections system therefore is not achieving its aims. A related issue is Aftercare. Although it exists, due to large number of inmates vis a vis inadequate number of available tools of vocational trade, this scheme appears not to be making much impact. Although the number of the inmates who benefitted rose from 244 in 2009 to 791 in 2013, (a large increase no doubt) but compared to the number of 22,850 of convicted inmates, it is an ineffective tool for rehabilitation purposes. The Nigerian Prisons Correctional Service (Amendment) Act aims to address overcrowding by advocating increased use of non- custodial penal sanctions such as community service, parole and meditation between the offender and the offended. Thus, those convicted of minor or petty crimes can avoid prison. There's also an option for judges to commute death sentences to life imprisonment if an inmate sentenced to death has exhausted all appeals and 10 years have elapsed without the execution of the sentence(Oduah, 2019). Yet, it remains to be seen how far these measures would address the problem.

## 2. Poor Conditions of the Correctional Institutions.

The over- crowding of the prisons leads to unsanitary conditions and deplorable health conditions of inmates. There have been loud complaints over the years on the need for improvement in feeding of prisoners and improved transparency in contracting for prison services. In August, 2019, about 50 inmates at a prison in Keffi tried to escape, complaining of being poorly fed, forced to live in unsanitary conditions and not receiving medical attention. The prison also had a problem with sewage disposal and a severe shortage of drinking water(Oduah2019). “Monies are budgeted for feeding. Monies are budgeted for drugs, so why are inmates not getting the food that they need to get? Who is getting these contracts to feed these inmates? Can we know the people and how much is involved” (Oduah, 2019)?These are very pertinent questions indeed. Harsh prison conditions can cause tension to build up among

inmates until it manifests in the form of mass violence (Gaines et al 2001) as in the Keffi prison riot of 2019.

## 3. Unmotivated Prison staff

The Correctional staff are largely underpaid, understaffed, and undertrained; and it is often alleged corruption exists(Dambazau,2007).The author further alleged prison staff 'engage in trading in illegal substances with the inmates; receive bribes from privileged or rich inmates to allow them have access to heterosexual or other activities outside the prison; and even steal from inmates rations eventually causing shortage of food for the prisoners (Dambazau, 2007).

## 4. Prison Life

Imprisonment creates a completely new experience for many, in a unique kind of context. Prisoners are completely under the control of other people, who on a daily basis influence their most basic human activities and concerns. This includes regulation of access to medical facilities, work, education, feeding and performance of bodily functions, as well as rights to religious practice and contact with the outside world(Sarkin 2008). At the same time, prisoners are expected to reform their ways and return to society as better people. Inmates have needs that vary from poor psychological and mental health, physical ill health and sexual needs; and for those who stay in prison for long, there is erosion of existing knowledge, information, and skills. There is weariness and fear of what one will or will not be able to do when they leave prison, and how they will be able to cope in the mainstream society. (Sarkin 2008).This is why effort must be made to ensure basic conditions for prison life. This is why the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) provides for these rules. It includes rules for work(Rule76-100) Education & Recreation (Rule 104 &105) social relation and after care (Rule 106 & 107). Of note is Rule 99 to wit”

The organization and methods of work in prison shall resemble as closely as possible those of similar work outside of prisons, so as to prepare



prisoners for the conditions of normal occupational life.

Therefore, when prison conditions are unhealthy and demoralizing they set the tone for hardening of criminal tendencies and recidivism.

### 5. Prison Breaks

The Nigerian Correctional service has been grappling with increasing number of prison breaks of recent. Although prison breaks is a worldwide phenomenon, it is assuming a worrisome dimension due to its increased number and attendant consequences in the nations' prisons. It is estimated that a total number of 2255 prisoners escaped across Nigerian prisons recently (Daily hunt, 2015). A prison break is when a prisoner tries to force his/her way out of prison (Wikipedia, 2019). Consider a few of such recent events (Wikipedia, 2019):

- i. Bauchi prison break-7 September, 2010 was allegedly orchestrated by the Boko Haram terrorist group in which 721 inmates escaped, 5 deaths were recorded and 6 injured.
- ii. Koton –karfe, Kogi State prison break- 2<sup>nd</sup> November 2014. Gunmen suspected to be Boko Haram attacked Kotonkarfe federal minimum security prison 144 prisoners were freed and one inmate killed. Most ATP's were being held on robbery charges. 12 inmates returned to serve out their sentence whilst forty-five were recaptured. Ado –Ekiti, Ekiti State prison break-30<sup>th</sup> November 2014. Sixty gunmen attacked Ado –Ekiti prison and 341 prisoners escaped. One warder was killed and 20 dogs. Sixty-seven were re-arrested and one inmate returned to serve out his sentence.
- iii. Olokuta, Akure, Ondo State prison break- 30<sup>th</sup> June 2013 involved an attack by about fifty unknown gun men on the Olokuta Medium Security Prison, Akure. 175 prisoners escaped, two inmates died with one warder injured. Fifty-four escaped inmates were rearrested but one hundred and twenty-one escaped.

- iv. Kirikiri, Lagos State prison break-this occurred on 10 October, 2014 though unsuccessful. In this case the attack was by the inmates. This resulted in the death of twenty inmates, eighty sustained injuries but twelve prisoners escaped.
- v. Sagamu, Ogun State prison break- occurred on 4<sup>th</sup> January 2013. Twenty inmates escaped. There were no deaths but officials and inmates were injured. Four escapees were re-arrested by the armed squad of the Correctional service and one escapee returned to serve out his sentence.
- vi. Minna prison break-On 6 December, 2014 about a week after the Ekiti prison break, Minna medium security prison was again attacked by 3 unknown gunmen suspected to be armed robbers. This resulted in the escape of 270 prisoners leaving one official injured but no deaths.

It is apparent that incidents of prison breaks are increasing with fatalities both of inmates and officials. Whilst some were orchestrated from outside like the kotonkarfe, Bauchi and Minna breaks, some were from within the prisons itself. Prison breaks in Nigeria may be “adduced to corruption, poor funding of the prison services, poor prison facilities, inadequate security features such as CCTV, motion sensors, high wall made up of barbed wire and sometimes electric fencing of the wall” (Wikipedia, 2019). It is advocated that for maximum security prisons and strategic medium security where armed robbers and Boko haram fighters are kept, the security should be seriously improved by contracting them out to private security providers. Government may be hard pressed due to competing needs on its resources.

### 6. Dwindling Government Resources

The poor state of the nation's economy has ensured that scarce resources are distributed unevenly with vital sectors receiving insufficient funding. Thus, funding of the prisons has witnessed steady decline which in turn adversely affects facilities, feeding, medical attention etc available to inmates. It is expensive to lock up offenders, (Samaha, 2003) therefore, this is an





opportune moment to consider how government can divest itself of some functions while retaining control by effective oversight thereby ensuring correctional high standards.

#### 7. Need for Construction of Modern Prisons

It is acknowledged that in the last ten years no less than 12 new satellite prisons and 3 prison hospitals have been built (Orakwe, 2019). The purpose was to modernize and create the enabling environment for proper treatment and training of offenders. The reality is that the federal government cannot meet the needs of constructing more modern prisons necessary for proper correctional care of convicts due to economic constraints. There is need for construction of modern prisons that meet international standards for effective prisoner care and management. Most of the nation's prisons are old. The United Kingdom at a time sought to transfer 3,700 Nigerian prisoners back home by building a new wing at Kirikiriprison ([www.reuters.com](http://www.reuters.com), 2018). However, one of the main reasons the venture failed was the abysmal state of the nation's prisons and prisoner welfare facilities such that even the Nigerian prisoners preferred to serve out their prison sentence in the United Kingdom. In October 2019, 228 inmates escaped from KotonKarfe prison after the building collapsed due to flooding caused by torrential rainfall. Kotonkarfe is a medium security prison. The flood submerged the prisons. 100 escapees were later rearrested ([tvnews](http://tvnews.com), 2019). Therefore, there is need to construct modern prisons especially maximum security prisons. Security should be a key consideration in locking up offenders-security against escape, harm to staff and other prisoners (Samaha, 2003). This is one of the compelling reasons to bring in private sector players.

#### 8. Private Sector Participation in Other Economic Sectors

The Nigerian economy has moved from a period of full government control & dominance in critical sectors of the economy over the years. An example is aviation which previously was under full government control but has witnessed the emergence of vibrant private sector players like

Air Peace airline founded in 2013 now flying the West African and Middle East countries(Wikipedia). There is also Arik Airlines which has been flying since 2006 to international routes in United States and London([arikair.com](http://arikair.com)).

#### Private Prison(For-ProfitPrison)

A private prison or for-profitprison, is a place where people are imprisoned by a third party that is contracted by a government agency. Private prison companies typically enter into contractual agreements with governments that commit prisoners and then pay a per diem or monthly rate, either for each prisoner in the facility, or for each place available, whether occupied or not. Such contracts may be for the operation only of a facility, or for design, construction and operation(Private Prison, 2019). As of date, there are no private prisons in Nigerian correctional system. In answer to the question if private prisons work, Samaha submits that we must first define what is meant by the phrase 'work'. A prison that "works" is one where prisoners don't leave prison in worse shape than when they arrived(Samaha 2003). Therefore, private prisons must balance need to run disciplined efficient penal institution with facilities for rehabilitation to those who desire it. The rationale for involving private sector players in correctional system is said to be: To increase prison capacity; cut costs; and introduce innovation through better management and new technology (news24). However, Allen submits that these aims have seldom, if ever, been achieved in full. Instead, pressures to cut costs and boost profit can mean there are insufficient staff to run safe and successful prisons(news24 *ibid*). If, one of the effects of imprisonment on inmates is to strengthen their connection into gangs and the criminal underworld whilst in prison (Hagan & Dinovitzer, 1999), then, private firms must not pursue profit or discipline to the detriment of rehabilitation. Privatization is said to be all about profit making. Jurisdictions who have allowed privatization are accused of reducing punishment to accumulation of profit at the expense of programmatic and humanitarian ideals(Welch, p. 444). This position by opponents is understandable if punishment and imprisonment



is seen largely through the prism of rehabilitation. Yet, though punishment is as ancient as recorded history, until 1700's prisons weren't really used for punishment (Samaha, 2003). In response, proponents of privatization state that government has generally failed at establishing a correctional system which meets even its most basic objectives. This is seen by the over-crowding and inadequate programs in the system.

It is important that the right approach to offender management be practiced. This is why strict oversight is necessary if private players would participate. The ends of discipline should not be sacrificed for rehabilitation and vice versa. Generally, two main prison management theories are available (Samaha, 2003). First, is the Control Model of Management which was exemplified by Dr. George Beto, of Elmira Reformatory, Texas, former director of Texas Department of Corrections. It emphasizes prisoner obedience, work and acquiring education, work skill. Order is the main focus. The problem with this model is that since it relies on prisoners to help officers manage cell blocks, it leaves the system wide open to growth of prison gangs, violence, fear and consequently disruptions. At the other end of the spectrum is the Responsibility Management Approach based on the Michigan State prison model. This model stressed responsibility of prisoners for their own actions instead of an administrative control of prisoners' behavior. All the prisoners—even those in maximum security prison—get a significant degree of freedom and are then held accountable for their actions. The downside to this approach is the complaint that “the system deprives inmates of the right to safety in the name of giving them other rights” (Harding, 2001). Suffice to state that whatever is the style adopted, result should be in tandem with the goal of penal sanctions.

A key requirement in a correctional system, aside from construction of secure fortresses, is the quality of correctional staff to run the prisons. Guarding and watching prisoners is dangerous work (Samaha, 2003). On a normal day, a prisoner may assault a warden. The recent murder of a prison guard by a prisoner serving a 10-year jail

term for murder in Loro prison in Uganda is a case in point (Sunday Vision, 2019). Prior to this, the guard had complained about the conduct of the convict and requested to either be transferred or the prisoner be moved. Sometimes, during riots, prisoners take staff hostage, beat them, rape or even kill them (Ross, 1987). It is imperative that clear guidelines on staffing, (ratio and mix) be provided for corporations who desire to operate prisons. Equally germane should be conditions of staff salary and emoluments. Indeed, the single greatest cost of any prison operation is officer wages. Unsurprisingly, then, in the US wages are significantly higher for officers working in public prisons compared to those working in private ones. In Australia, the situation differs in different states (Alizzi, 2015). When private companies cut costs by reducing staff and training, they make both staff and inmates in prisons vulnerable (politics.co.uk, 2015). Therefore, staffing is important.

### **Contextualizing Private Sector Role in Correctional Systems**

It is necessary to state that the discussions for private prisons should be situated in two contexts:

- A. Wholesale Privatization- This is full scale privatized process such that private firms build, maintain and operate prisons for and on behalf of the state receiving payment per prisoner on agreed terms.
- B. Private sector Participation- This is where private firms run key aspects of corrections such as security especially for maximum security prisons, transportation of Awaiting trial persons to and fro court, feeding or rehabilitation ventures.

With regard to Wholesale Privatization, i.e. full privatization, the arguments for and against engagement of the private sector in correctional sector are quite engaging. Welch states that critics of privatization of prisons allege that the right to punish offenders rests solely with the State. Thus, abdicating this authority to the lowest bidder runs counter to the fundamental principles of the administration of Justice since criminal punishment is a public and not private



matter(Welch, 1996). In support, Professor Dilulio argues that “To remain legitimate and morally significant, the authority to govern behind bars, to deprive citizens of their liberty, to coerce (and even kill) them must remain in the hands of government authorities (Harding,2001). In response, privatization proponents say that law and traditions testify to the fact that privatization has been and continues to be an acceptable alternative to conventional government discharge of public responsibilities. Further, that “the state does not *own* the right to punish: it merely *administers* in trust on behalf of the people and under the rule of Law, because the authority does not originate with the state, it does not attach inherently or uniquely to it, and can be passed along to private agencies (Mcdonald,1992). It is submitted that the latter view is more plausible.

A far more fundamental issue relates to who has legal liability for fractions of private sector correctional agencies. Issues such as violation of prisoner rights or inability to maintain standard facilities leading to aggravated injuries or death are potential land mines which must be resolved in contracts with private sector (Welch,1996).A serious issue raised by critics of privatizing prisons is the contention that privatized prisons will breed government dependency, a dangerous proposition(Welch,1996) but this author differs. A reverse argument is that improved facilities and well run prisons may lead to excessive use of incarceration by judges. No doubt, the points canvassed for and against privatization of prisons are compelling with strong advocates on either side.

Birmingham prison in England run by G45 has been taken back into public hands following a disastrous inspection report highlighting shocking levels of violence and drugs(Independent,2018). The same company also lost control of a South African prison in 2013 following concerns over deteriorating safety and security. Nevertheless, it must be conceded that the same firm also had plenty successes such that it was reported a G45 prison in Liverpool did receive positive reports(independent, 2018). Therefore, this author asserts that it is not so much

the concept of privatization as much as lack of rigorous oversight that may have led to excesses of private prison operators.

A note of concern however is the fact that it appears private corrections has major players globally who dominate the sector. In the US, the main firms are Corrections Corporation of America which controls 55% of the market, followed by Wackenhurst Corrections corporation with 21.73%, In the United Kingdom, the dominant firms are GEO Group and Serco (based in the United Kingdom). In Australia GEO Group, Serco, G45 dominate the market: G45 based in Florida, USA is the largest private correction corporation in the world(Alizzi, 2012).G45 also runs the private prisons in South Africa. Whilst this may be salutary, in that considerable expertise has been built sector, nonetheless, it can be a potentially dangerous situation to the security of any nation should the relationship with a government be mismanaged, a distinct possibility in developing countries.

For the Private Sector Participation in Correctional Services, this is the alternate form of private sector participation in which only selected aspects of correctional services is provided. This is what obtains in France whereby specific functions such as provision of food for prisoners and maintenance and repair of buildings are outsourced(news 24). Across Europe, the trend has been towards the outsourcing of health care to private contractors; prison industry, counseling, education and food services(Harding, 2001). Private sector is also increasingly involved in providing employment opportunities for prisoners while they are in jail. This can be in factories, farms and other productive activities. Such activities are common place in Europe(news24).Ethiopia's Mekelle prison created more than 30 active cooperatives that provide work for prisoners before and after release(news24). Rule 100, paragraph 1 (Nelson Mandela Rules, 2015) expresses a preference that 'institutional industries and farms should be operated directly by prison administration and not by private contractors'. The reason may be due to concerns that prisoner's vocational training may



be subordinated to the purpose of making financial profit for an industry in the prison. However, the Rules also state that where prisoners are employed to work not controlled by the prison administration, they shall be under the supervision of prison staff(Rule 100, paragraph 2). As has been rightly pointed out (independent. 2018):

Steps need to be taken that prisoners are not exploited. Compelling prisoners to work for the private sector is prohibited by the Forced Labor Convention and wages and conditions should be close to normal labor. While it is legitimate for prison to retain a proportion of income generated from work conducted by prisoners, the system needs to be transparent and accountable. Measures must be taken to minimize corrupt practice.

Therefore, such guidelines must be incorporated into operating guidelines for private sector players.

## **Privatization of Corrections in Other Jurisdictions**

### ***The United States***

As at June 1999, private correctional facilities were already in operation in Australia, England, the Netherlands, New Zealand and England(Scmallenger,2001). Private prisons in the United States incarcerated 128,063 people in 2016, representing 8.5% of the total state and federal prison population (sentencing project 2018). Since 2000, the number of people housed in private prisons has increased 47%. States show significant variation in their use of private correctional facilities. For example, New Mexico incarcerates over 40% of its prison population in private facilities, while 23 states do not employ any for-profit prisons. Research on data compiled by the Bureau of Justice Statistics (BJS) and interviews with corrections officials find that in 2016, 27 states and the federal government incarcerated people in private facilities run by corporations including GEO Group, Core Civic (formerly Corrections Corporation of America),

and Management and Training Corporation. (sentencing project ibid)

According to BJS data, 19 of the states with private prison contracts incarcerate more than 500 people in for-profit prisons. Texas, the first state to adopt private prisons in 1985, incarcerated the largest number of people under state jurisdiction, 13,692(sentencing ibid). Since 2000, the number of people in private prisons has increased 47%, compared to an overall rise in the prison population of 9%. In six states, the private prison population has more than doubled during this period. The federal prison system experienced a 120% increase in use of private prisons since 2000, reaching 34,159 people in private facilities in 2016. It would appear that private correctional centres are used to house immigrant detention population. Among the immigrant detention population, 26,249 people – 73% of the detained population – were confined in privately run facilities in 2017, and the number grew to 442% since 2002(sentencing ibid). The private prison population reached its peak in 2012 with 137,220 people. The population then declined for three years before increasing again in 2016.

### ***The United Kingdom***

In 1992, Wolds Prison in Yorkshire was the first modern European prison to be run by the private sector(we-own-it, 2019). G4S Justice Services, the company who ran Wolds Prison, has now been stripped of this contract but at present there are 14 private prisons contractually managed by private companies such as Sodexo Justice Services, Serco and G4S Justice Services(Contracted-out prisons). All private prisons have a 'Controller' linking them to the National Offender Management Service, and the governors of private prisons are called Directors. Privatized prisons house 15% of United Kingdom prison population, yet the government spends 23% of its p r i s o n b u d g e t o n p r i v a t e prisons(telegraph.co.uk,2017). This has elicited calls for a re-think of the scheme(we-own-it, 2019). First, that private companies running prisons aim for around 8-10% profit margins, meaning less money for the prisons and more money for them(huffington post). It was alleged





that to do this, private companies hired less well-trained staff and reduce wages – which are around 23% lower than in public prisons (huffington post). Meanwhile, it is also alleged companies like G4S encourage prisoners to work 40 hour weeks yet can pay them as little as £2 a day, and that despite all this cost-cutting, privatised prisons actually cost more each year than those in the public sector (www.telegraph 2017). Second, is the allegation that overcrowding of prisoners still happen: that over one third of people in private prisons were held in overcrowded accommodation in 2014-2015. Third, fewer and less well-trained staff means that private prisons also do worse in terms of security than prisons in the public sector. Serco, G4S and Sodexo – the three international, multi-billion pound corporations currently running UK prisons – have all had problems with security (politics.com 2015).

Fourth, it would appear private prisons also contend with drug infestation, violence and gang warfare. A 2015 report revealed that prison staff at a G4S youth prison (who were high on illegal drugs) had treated the children in their care in a racist and degrading way (the guardian, , 2017). Also, that in 2016, there was drug-fuelled violence at Sodexo's Forest Bank prison and riots at a G4S prison in Birmingham. Violence at a Doncaster prison run by Serco was revealed to be four times higher than at other similar sized prisons. These are powerful arguments against private firms operating correctional services. However, the bottom line of the position of those against privatization in the United Kingdom is therefore that it is fundamentally wrong in principle for private companies to run our prisons. Arguably, where there's a need to manage force and violence, it should be the state that is in charge - rather than private companies or individuals. 'Private companies shouldn't be responsible for the detention and discipline of people. They're not democratically accountable or transparent in the way government is. So we should put prisons back into the hands of the public'. (weownit.org).

On the other side of the divide, in the United Kingdom, the proponents say in response that

nearly two-fifths of government owned jails are assessed as “of concern” or “serious concern”, the lowest of four ratings, in the latest prison data report dated 25<sup>th</sup> July 2019, none are privately run. (emphasis mine). Although acknowledged that overcrowding is at its lowest for a decade, thanks to a drop in prisoner numbers, but this has not spread calm. Incidents of self-harm are up about a quarter on 2018, as are instances of inmates making barricades. Assaults on staff jumped by 15%. In the ten prisons surveyed in the report, drug use was down in half of them, but the overall number of assaults has risen (www.economist.com, 2019). The issue that remains unaddressed is where and how the government is to find more funds to devote to running public prison, for it is the author's submission that it is utterly unfair to further raise tax burden of law abiding honest citizens.

### **Australia**

In Australia, whether the various trials of private prisons in the last 20 years will give way to sweeping privatisation, remain as is, or revert back to full public stewardship is unclear. Referring to *The Economist* report in 2010, Alizzi opined that the incentives of private prison companies can easily become opposed to the aims of the humane containment and rehabilitation of prisoners – the very purposes of corrective services (Alizzi, 2012). The larger the prison population, the longer the sentences, the larger the payout under government contracts; the more prisoners, the more prisons, the more growth. Cheaper facilities and fewer services mean more profit. These tug – and – pull relationships are the source of the potential conflict of interest, a choice between the objectives of corrective services – to “provide a safe, secure and humane custodial environment” and “program interventions to reduce the risk of re-offending” – and those of a maximum profit and growth (Alizzi, 2012). Private prisons currently operate in five jurisdictions in Australia: New South Wales, Queensland, South Australia, Victoria and Western Australia. As elsewhere, they are managed under contract with the governments that own the prisons; in other words, it is not the private companies that own the prisons.



### ***The African Experience***

South Africa is the only African country with private prisons. There are two privately run prisons: the Kutama-Sinthumule correctional center run by the American private corrections company GEO Group built with a capacity for 3,024 and the Mangaung Corrections centre with a capacity for 2,928 run by the British security firm G45. However, allegations of torture, including electrocuting inmates have been made against G45 prison workers in the past (Prisoner Insider 2017). By 2004, these two facilities had been filled to capacity with combined population of 5,953 representing 3% of the total correctional population of 158,790. By 2011, four percent of SA prison population were in private hands (Annual Report, 2011/12).

Therefore, it would appear the South African experience with private firms running prisons is not too pleasant. Allegations of torture also throw up one of the objections raised by critics of privatization, that is, where does liability lie for infringement of prisoner rights such as the allegations of torture raised against officials of G45 in South Africa. This author is of the view that such firms should be held firmly liable and pay compensations (amongst other penalties) to victims of torture, or other forms of abuse in prison, even though it is said that conditions in these prisons are generally viewed as being better than public prisons. This may be due to the fact that specifications like accommodation and activities in the prisons were based on those obtainable in UK prisons. Still, prison conditions and inmate rights must be protected for prisoner rights have come a long way from the 'hands off doctrine' by the courts when they refused to recognize prisoner rights. There have been significant strides by the United Supreme Courts in recognizing and enforcing prisoner rights under section 1883 Civil Rights Act of 1971 (nciardi, 2004). This is aside from the rule that all prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from torture and other cruel, inhuman or degrading treatment or punishment, for which the circumstances

whatsoever may be invoked as a justification (Nelson Mandela Rules, 2015).

Kenya is said to be planning a limited type of privatization, although more comprehensive private sector involvement was proposed. (news24).

### **The Nigerian Correctional System**

In the United States, from where Nigeria's federalism is purportedly modeled, prison facilities exist in all three levels of federal Government-Federal, State and Local. (Bohm, Haley 2002). Federal prisons are administered by the Federal Bureau of Prisons (BOP) established in 1930 with six regional offices; three staff training centers and twenty-nine community corrections offices. Each state has institutional corrections with their department of corrections to coordinate adult prisons. Though claiming to be a federation, Nigeria runs more of a 'unitary federalism'. This can be attributed to long years of military rule in the nation's governance. If indeed it is a federal structure that is being run, there should be more devolvement of powers to State governments in areas exclusively reserved for Federal government such as State Police (Shajobi-Ibikunle, 2015) and establishment and running of State prisons. Ideally, this would have been a logical conclusion to creation of State Police as they would handle investigation, arrest etc of certain offences designated as state offences and therefore under state jurisdiction, while prosecution is undertaken at Magistrate/State High Courts. State governments that have the expertise and capacity should be allowed to provide services for a fee. The federal government cannot keep feeding fat on 'largesse' of states for free supplementation of police expenditure yet denying states right to run state police or state prisons. Table 4 illustrates this. Some states may be willing to take over existing prisons in their domain for modest fees.

Table 4\*:



\*Suspects sit on a bus taking them to prison after a hearing at the Federal High Court in Lagos, March 7, 2011 <https://media.voltron.voanews.com/Drupal/01live-166/styles/sourced/>

### Conclusion

Indeed, experience of wholesale privatization across the world has been mixed. There are strong contentions that there is really no clear cut evidence that private sector involvement in correctional systems provides better value for money or improves standards.(News24), Nevertheless the model of limited involvement in correctional facility management also exists side by side with success and it has worked successfully in some jurisdictions. The general appeal of privatization is via an appeal to “efficiency”. Privatization in general offers an incentive to remain responsive, flexible and therefore efficient(Alizzi, 2012). Whether full-scale privatization or private sector involvement in certain aspects of correctional services, it is a path which inevitably, Nigeria must confront due to the present-day realities although truly, “it is a risky path to take”. (independent, ibid).

### Recommendations

1. It is unsustainable for the federal government to continue running the entire correctional systems of the nation alone. The sheer number, variety, location and age of the present prisons and staff spread across the nation inhibits true efficiency in correctional services and resources needed for purposes of full rehabilitation of

convicts. Therefore, some form of involvement of private sector is required.

2. State Governments who indicate capability and capacity should be allowed in the spirit of true federalism to be involved in either owning or running corrections. This would require amendment to the 1995 constitution and the Nigerian Correctional Services Act.
3. For full-scale privatization, private sector firms with track record of corrections and facility management may be contracted to build, operate and manage modern purpose built prisons. Very stringent guidelines that encodes international guidelines like the Nelson Mandela Rules, would be required to guide the management of such facilities. It is fundamental that the issue of liability for injuries, torture or other forms of prisoner abuse be well defined. Correctional staff wages, staff welfare and training should be provided for at competitive levels with what obtains internationally. Needless to state that staff unionism should be allowed.
4. In the alternative, private sector involvement in certain aspects of correctional care of convicts by non-governmental organizations and religious institutions may be considered. Their operations should be under strict supervision and oversight to ensure strict adherence to prisoner rights, norms and conventions and international best practices in prisoner care and rehabilitation also.
5. A pertinent area is the provision of up-to-date security and technological devices for safety and security of inmates and correctional staff. This is pertinent for the nations' maximum security prisons or any correctional centers where hardened criminals and Boko haram insurgents, kidnappers and bandits are detained and other aspects as may create work opportunities and update skills of convicts to ease re-integration to society upon release.
6. A new agency with powers of oversight be legislated with powers to superintend and oversight powers over the new prisons





including those of the Nigerian Correctional Services should be put in place. The competition engendered therewith will serve to ensure over all efficient management of prisons and ultimately ensure proper rehabilitation of offenders.

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