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Ameliorating the Plight of Awaiting-trial Inmates in Ebonyi State, Nigeria Through Reasonable Bail Conditions

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ABSTRACT

Bail is a privilege granted to suspects at the discretion of a court. The court exercises this discretion to give temporary freedom to crime suspects pending the conclusion of court trial. Where the bail conditions become stringent, unattainable or out of reach for suspects, suspects overreach themselves and this defeats the moral intentions of 'bailing' and the law. This paper discusses how awaiting-trial inmates are the most victimized by the challenges of the criminal justice system in Ebonyi State and how easing bail conditions for awaiting-trial inmates could reduce suspects' costs of victimization. Using qualitative and quantitative research approaches, a sample of 1498 respondents comprising 623 awaiting-trial inmates, 617 police officers, 145 prison officers and 113 court staff was drawn from Ebonyi State. Multi-stage and purposive sampling techniques were used to reach the respondents. Questionnaire and in-depth interviews were instruments for data collection. Findings confirmed that keeping suspects in prisons longer than necessary is traumatic to suspects. Key recommendations include easing of bail conditions for awaiting-trial inmates by cutting the high bail prices to match the economic capacity of Ebonyi State's neighborhood or relaxing bail terms that could enable inmates to meet bail requirements.

Keywords: Awaiting-trial inmates, bail conditions, criminal justice system, victimization

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INTRODUCTION

The fields in criminal justice system (CJS) are vast. As a result of this vastness, it has been difficult for scholars in various fields of criminology and criminal justice sciences to agree on a single definition for the topic. Based on the emphases of each definition, patterns of schools of thoughts have evolved over time. These schools include; CJS as an aggregation of interdependent government agencies, CJS as a dispenser of punishments to law offenders and CJS as measuring metric for socio-economic stabilities. In the words of Moses (2011), the CJS is an embodiment of crime regulating techniques which represent the whole range of government agencies that function as the instrument of the state to enforce its set rules necessary for the maintenance of peace, order and tranquility. Following similar thought, Daly (2011) saw the CJS as,

> a loosely coupled collection of interdependent agencies, each having bureaucratic interests and each having specific functions (which can be in conflict with other agencies) that are subject to legal regulations, where agency workers have great discretion in making decisions when responding (or not responding) to harms defined as criminal by the state and where value conflicts exist within and across agencies and in the general population about the meaning of justice. (Daly, 2011, p. 3).

Moses and Daly subscribed to the school of thought that saw the CJS as aggregation of interdependent government agencies. This school views the CJS as a conveyor of law and order but with emphasis on the collectiveness of the government agencies that makeup this system. Ayorinde (2014) considered the CJS to be collective institutions through which an accused offender passed until the accusations were lifted or matching retributions were received. Schubert (2018) held similar definition of CJS as a maze of agencies and processes that seeked to control crime, minimize crime and impose penalties for the commission of crimes. Ayorinde and Schubert's definitions describe the school of CJS as dispenser of punishments to law offenders. This school considers the CJS as a hammer of justice that disposes penalties and retributions to law offenders. The CJS is entrusted with the responsibility of controlling criminal behaviors and punishing criminals or offenders (Anele, 2008). Osasona (2015) added that how well a country managed its CJS affects its overall performance on the governance index. He noted that a destabilized society was always avoided by both foreign and domestic investors. Nnochiri (2011) also held this view. A sound CJS in any nation is a precursor to economic growth, political stability and social equilibrium (Nnochiri, 2011). This last group subscribes to the school of CJS as measuring metric for socio-economic stabilities in a society. They consider more of the responsibilities of CJS to every nation beyond the primary role of keeping law and order. These responsibilities include social,

political and economic benefits. Each of the schools of thought is holistic and complete on its own. What differentiates or tends to classify each definition is emphasized and points stressed in the definition.

In Nigeria, the criminal justice system (CJS) starts from the moment a crime is committed, through investigations and trials to the moment a convict is rehabilitated and reintegrated into the society. It includes all the activities and agencies that are involved from the moment a law offender breaks a law to the moment when the offender is convicted, rehabilitated and reintegrated into the society (Nwune et al., 2018). The Nigerian criminal justice system (NJCS) is as old as the Nigerian state but has seen few modifications over time. These modifications are however not sufficient to be considered unique from the CJS inherited by Nigeria from the colonial era (Bowd, 2005). The effect of this outmodedness is that the CJS is incapable of identifying law offenders efficiently and swiftly adjudicating appropriate retributions/rehabilitation where necessary (Ajah & Nweke, 2017).

Ajah (2019) and Alemika (2005) called the Nigerian criminal justice system disjointed and further berated law enforcement agencies for keeping suspects beyond the constitutionally allowed time. According to Alemika (2005), no reason should justify such cruel acts from Nigerian law enforcement agencies. All suspects should be forwarded to trials upon arrest or treated according to constitutional provisions when not immediately possible. The reality is that when trials are delayed, evidences degrade, witnesses disappear and suspects spend long years in prison than is constitutionally allowed ("Nigeria justice forgotten", 2015). In Ebonyi State, an observation of the criminal justice administration in the state shows that the justice system is pervaded with factors that victimized awaiting-trial inmates and their dependents. This is because many a time, courts ask for a certificate of occupancy (C of O), as a condition prerequisite for bail in an area where most buildings are according to customary and family ownership, this makes it difficult for suspects to meet such conditions. Furthermore, the challenge is compounded by courts insistence on wealthy sureties in the midst of mass poverty (Aduba & Alemika, 2010). Notwithstanding, this paper is aimed at suggesting more efficient means of addressing awaiting-trial problems in Ebonyi State prisons by easing bail conditions through legislation.

Scholars have also pondered how these conditions could be improved through rehabilitation of awaiting-trial inmates (see for example, Adelani, 2018; Ajah, 2018a, 2019; Ajah & Nweke, 2017; Ajah & Ugwuoke, 2018; Alo et al., 2015; Nweke & Ajah, 2017; Nwune et al., 2018; Ukwayi & Okpa, 2017). For years, these discussions have been around massive improvement in prison facilities like advanced toilet systems, installation of modern prison housing, disbursement of proper prison vehicles to commute inmates to courts, and many more. There is little or no in-depth research technique that includes the key justice agencies in the study process.

This paper fills this gap by taking Ebonyi State's criminal justice system as study area. The paper is divided into four sections. The first section starts with the police and criminal justice administration. The second section introduces the court and criminal justice administration. The third section discusses the prison and criminal justice administration. The fourth section introduces in detail the methodology adopted in the study. The fifth section presents and discusses the results of the study. The sixth and last section concludes and discusses how legislative easing bail condition is a key to safeguarding awaiting-trial inmates in Ebonyi State, Nigeria.

The Police and Criminal Justice Administration in Nigeria

The police is the first contact point in Nigerian criminal justice administration. It is the first point of call whenever and wherever a crime occurs. Reports about crimes are lodged with the police who, after necessary investigation and apprehension, charge suspected offenders to courts of law (Dambazau, 2007; Igbo, 2007; Ugwuoke et al., 2020). Dambazau (2009) asserted that

> The police are the biggest, most visible and important subsystem of the criminal justice system. The police provide the entry point into the criminal justice system either through crime reports from the public or its own discovery. The police organization is the main institution which provides regular direct contact with the public, a situation that makes it unique among the other components of the criminal justice system. The uniqueness of the police borders on the fact that the decision of a policeman on the street is as important as the existence of criminal justice system. The policeman is the gatekeeper of the criminal justice system as he decides who goes into the system components. The policeman lubricates the system through the arrest of suspects, who are essentially the inputs into the criminal justice system. (Dambazau, 2009, p. 178).

In view of the foregoing, the police need to be given mental, physical, emotional, educational and analytical trainings for the effective and efficient performance of their roles in the criminal justice system. Obidimma (2004), Ajah and Okpa (2019) termed the roles played by police as vital in the administration of justice. In fact, one wonders what the polity would be without the police. The role of the police, which is predicated on constitutional and statutory provisions, include the maintenance of law and order through the prevention and detection of crime, apprehension of offenders, investigation of persons alleged to have committed an offence as well as through the exercise of the power to grant bail to suspects under police custody. The police also participate positively in the administration of justice by conducting prosecutions in court. The police are also engaged in the execution or enforcement of court orders and judgments. In doing so, they enhance the honour, respect and integrity accorded to court by compelling

the performance and obedience to orders made by the court. It can therefore be said that no criminal justice system can operate effectively without the participation of the police. This is so even with the obvious and flagrant abuses committed by members of the police force (Ajah & Okpa, 2019; Obidimma, 2004).

The Court and Criminal Justice Administration in Nigeria

The court plays catalytic role in administration of justice and also acts as important machinery to the smooth running of the criminal justice system in any civilized nation. Indeed, the wheel of criminal justice cannot run without the court. Aina et al. (2010) predicated the quality of any judicial output on the competence, incorruptibility, efficiency and dependable judicial administrations of the court. Osasona (2015) asserted that the court system was the second most important component in the triangulated relationship of the criminal justice system involving laws, courts and enforcement agencies. The court system is the only formal institution through which legal actions against accused persons are channeled. The decisions and dispositions of the court system bear important marks on other components of the criminal justice system, such as the investigative and the imprisonment stages of the process. The foundational system of courts in Nigeria is in the constitution of the federation. The constitution not only establishes the courts but also defines the scope of judicial powers. This is found in section 6 of the 1999 constitution (Adekunle et al., 2015; Ugwuoke et al., 2020).

Magistrate courts in Nigeria are the most important courts when considering the criminal justice system, more than 90% of criminal cases that get tried commence in the Magistrate courts (Pedro, 2012) and 80% or more of those cases terminate in the magistrate courts (Ali, 2016). Punishments and sentences imposed by the courts are not reflective of any institutional design aimed at achieving specific set ends across social classes and groupings. Although the sanctions in the criminal and penal codes infer deterrence, retribution, and humiliation as the goal of these legislations, judgments do not uniformly and comprehensively reflect this for the same classes of offences (Osasona, 2015).

The Prison and Criminal Justice Administration in Nigeria

The final circle of the Nigerian criminal justice system is the prison system. The prison is perceived to be the darkest region of the apparatus of the criminal justice system in Nigeria (Dambazau, 2007). It is in this regard that Adebisi and Oyewo (2015) saw the prison as the stomach of the state. This is because the institution is expected to serve as the melting point for the activities of the security agencies. Prison/correctional service is one of the key tripod agencies in criminal justice system. It is responsible for the custody of the final product in the criminal justice process (Nwolise, 2010).

The prison system is set up in Nigeria with the primary aim of holding convicts. The Nigerian prison system is expected to function in line with United Nations approved standards for the treatment of inmates, by providing assistance to offenders in their reformation and rehabilitation and to facilitate their social reintegration into the society.

Unfortunately, Nigerian prison system has failed in this regard. Despite Nigeria's progress on economic and political reforms; Nigerian prisons are yet to make appreciable impact on the welfare of the inmates (Obioha, 2011). More worrisome is the reality that inmates get hardened after experiencing prison and subsequently frustrate efforts to contain crime in the society. The aims of the prisons are defeated by this reality (Nweke & Ajah, 2017). Most of the nation's prisons are a lot older than the nation. The facilities are outmoded and inmate populations are larger than installed capacities thereby overstretching existing facilities. Every inmate's humanity is vilified and threatened by horrible conditions like congestion and over-filled toilets that ease spread of diseases (Ajah & Nweke, 2017). The condition of prison staff is not different. Their salary structure is one of the worst in Africa. Their conditions are so terrible that they are often mistaken to be prisoners. Most of the prison branches or sections around the country find it difficult to maintain prisons' official vehicles due to poor revenue allocations to the prison agency. The prison system in Nigeria is one of the most underdeveloped institutions in the criminal justice sector (Ojukwu & Briggs, 2005).

METHODOLOGY

Study Design and Location

The study adopted a cross-sectional survey research design. This design is considered appropriate for this study because it has the capacity to accurately gather necessary information within a limited timeframe on large sample. The design is economical and focuses on studying large and small populations with emphasis on relative incidence, distribution and interrelations of sociological and psychological variables (Isangedeghi et al., 2014). The study was conducted in Police Command Headquarters, courts and prisons (Abakaliki and Afikpo prisons) located in Ebonyi state, Nigeria.

Participants and Procedures

The population for this study was 4032 which comprised awaiting-trial inmates, police officers, court officers and prison officers in the study area. Of this population, 1013 (25.1%) were awaiting-trial inmates in two prisons, 312 (7.7%) were prison officers (see "Nigerian Prison Records", 2018), 118 (2.9%) were court officers (see Ajah, 2018b; "Ebonyi State Judicial Records", 2018) and 2,589 (64.2%) were police officers (see "Nigerian Police Records", 2018). Using Yamane (1967) method of sample size determination, with a 95% confidence level and level of maximum variability (P = 0.02),

a sample of 1551 was computed—out which involved 646 awaiting trial inmates, 149 prison officers, 638 police officers and 118 court officers; of which—1498 respondents were finally used after data collation, gleaning, cleansing and analysis.

The multi-stage sampling technique that involves successive random sampling was adopted in the selection of respondents from the Local Government Areas (LGAs), prisons, police stations and courts. Multi-stage method is relevant to this study because the population is made up of several clusters: prisons, police stations and courts. The researchers clustered Ebonyi State into its 13 LGAs which were further grouped into urban and rural LGAs. From this categorization, five LGAs were purposively selected. In this light, Ebonyi, Abakaliki and Afikpo North LGAs were purposively selected from the urban LGAs, while Ezza South and Afikpo South LGAs were purposively selected from the rural LGAs. The essence of choosing these LGAs is because the only two existing prisons in Ebonyi State are located within the selected LGAs, precisely in Abakaliki and Afikpo North LGAs. Also, a greater number of courts and police stations in Ebonyi State with sufficient manpower, from where the researchers drawn their respondents, are also located in these LGAs.

Data Collection and Procedures

This study adopted mixed methods of scientific enquiries, following quantitative and qualitative approaches in its data collection. The instruments for data collection were structured questionnaire and unstructured 'In-Depth Interview (IDI).' The research instruments were self and order administered by four researchers. Participation in the research was risk-free, anonymous, voluntary, confidential and based on informed consent of all participants. Ethical clearance was obtained from police, court and prison authorities. Of the 1551 questionnaires distributed, 1518 were returned with 20 not properly completed and thus were rejected while 13 were not returned and thereby leaving us with a total of 1498 copies for analysis. In order to complement data generated through the questionnaire instrument, in-depth interviews were conducted on eight inmates and four police officers, prison officers and court officials, respectively—totally 20 interviewees. Each respondent's interview lasted between 35 and 90 minutes. The interviewees disapproved of our attempts to record their responses in audiotape, so only handwritten notes were taken.

Data Analysis

Both qualitative and quantitative components of the data collected were subjected to scrutiny before cleansing, coding and analysis. The quantitative data analysis was performed using International Business Machine (IBM) Statistical Packages for Social Sciences (SPSS) version 20. Utilizing descriptive statistics, the results of IBM SPSS were further analyzed, interpreted and organized using tables, frequencies and charts. The qualitative data were analyzed using manual thematic method,

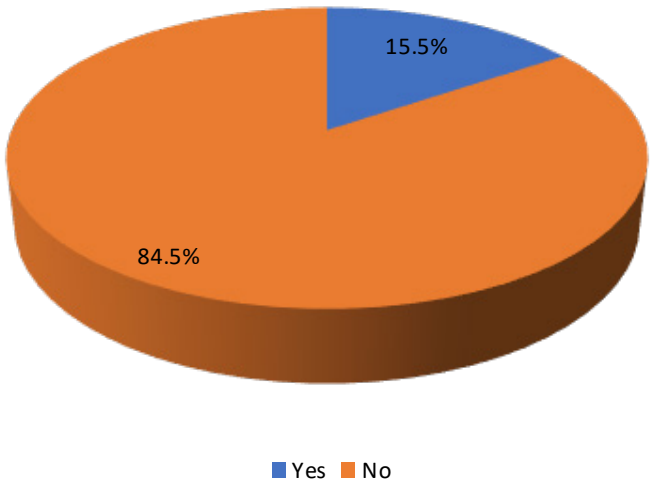
where the responses were transcribed with some catchy phrases retained in their original versions and contexts in the form of extracts or excerpts (see the result section for details).

RESULTS AND DISCUSSION

In order to ascertain whether the awaiting-trial inmates have been given bail since they came into custody, questions were asked, and their responses are presented in Figure 1 below.

Figure 1 presents awaiting trial inmates' (ATI) opinions on whether they have been given bail since their arrival in prison. The data shows that 15.5% of the ATIs affirmed yes that they had been given bail since arrival to prison while 84.5% affirmed no that they had not been given bail since they came into custody. This indicates that majority (84.5%) of the ATIs had not been given bail since they came into custody.

The awaiting-trial inmates who were given bails were asked whether they fulfilled their bail conditions. Their responses are presented in Table 1 below.



Source: Field survey (2019)

Figure 1. A pie chart showing awaiting trial inmates opinions on whether they have been given bail

Table 1

ATIs' responses on whether they fulfilled their bail conditions when they were given bail

Fulfilled bail conditions	**Frequency**	**Percentage (%)**
Yes	9	9.8
No	83	90.2
Total	**92**	**100**

Source: Field survey (2019)

Table 1 presents ATIs' responses on whether they fulfilled their bail conditions when they were given bail. A percentage of 9.8 of the ATIs said yes that they fulfilled their bail conditions when they were given bail while 90.2% of the ATIs said no that they were not able to fulfill their bail conditions. This is an indication that majority (90.2%) of the ATIs did not fulfill their bail conditions. The above finding could be buttressed by the fact that bail conditions are often not easy to meet especially by the ATIs. This is mostly because huge sums of payments are often included in the bail conditions. Aside the monetary conditions, getting persons to sign surety for suspects is difficult. This is because sureties will be held responsible for any failure of the suspects to appear either in court or prison as at when required. The above finding is in consonance with the quantitative findings as most of the ATIs who were interviewed affirmed that they did not meet their bail conditions. One of the ATIs interviewed shared his opinion as below:

> I could not meet my bail conditions because it was very difficult. I was told to bring two sureties who must be top civil servants with 250,000 naira each and I was not able to get such money or such person. Police refused to grant me bail because I don't have money. And I don't have people who are in higher places like a top civil servant. (Male/ATI/B.Sc. holder/In-custody as ATI for 4years/IDI/Afikpo prison/July 2019).

The above assertion from one of the ATIs shows that most of them could not meet their bail conditions as the conditions are too difficult than they could afford. The above finding is in line with the assertions of Aduba and Alemika (2010) who revealed that many a time, courts asked for a certificate of occupancy (C of O) as a condition prerequisite for bail in an area where most buildings are accustomed to customary and family ownership. This makes it difficult for suspects to meet such conditions. Further, the challenge is compounded by courts insistence on wealthy sureties in the midst of mass poverty (Aduba & Alemika, 2010). Most awaiting-trial inmates cannot meet-up with such demanding bail conditions.

In order to ascertain whether bail conditions are easy to be met, the awaiting-trial inmates were asked questions and responses are presented in Table 2 below.

Table 2 presents ATIs' opinions on whether bail conditions are easy to fulfill, the table shows that 1.1% of the ATIs opined that bail conditions were much easy to fulfill, 5.6% of the ATIs stated that bail conditions were easy to fulfill, 22.3% of the ATIs stated that bail conditions were less easy to meet while 70.9% of the ATIs opined that bail conditions were not easy to meet. This is an indication that majority (70.9%) of the ATIs were of the opinion that bail conditions were not easy to meet. This could be as a result of the financial requirements and need for surety to secure bail. The above findings are in tandem with the qualitative data as one of the interviewees made the below comments on easy of meeting bail conditions:

Table 2

ATIs' opinions on whether bail conditions are easy to fulfill

Bail conditions	Frequency	Percentage (%)
Much easy	7	1.1
Easy	35	5.6
Less easy	139	22.3
Not easy	442	70.9
Total	**623**	**100**

Source: Field survey (2019)

> Difficulty in bail condition na (is) common problem we dey (do) face here. Dey (They) suppose (to) stop this thing (trend) because many innocent people dey (do) spend too much time here for (in) prison. (Male ATI/15months in custody as awaiting trial inmate/Afikpo prison/IDI/July 2019).

From the above narration, it is obvious that bail conditions are very difficult to meet in most cases and this has made the suspects to remain in custody for a very long time.

The criminal justice agents were also asked question concerning bail conditions and their responses are presented in Table 3 below.

Table 3 presents agents of CJS opinions on whether bail conditions are always stringent. The table shows that higher percentage (44.4%) of police officers agreed that bail conditions were always stringent,

Table 3

Agents of CJS opinions on whether bail conditions are always stringent

Opinions	Police	Prisons	Court
Strongly disagree	0 (0%)	0 (0%)	63 (55.8%)
Disagree	126 (20.4%)	7 (4.8%)	50 (44.2%)
Somewhat disagree	35 (5.7%)	0 (0%)	0 (0%)
Somewhat agree	158 (25.6%)	102 (70.4%)	0 (0%)
Agree	274 (44.4%)	8 (5.5%)	0 (0%)
Strongly agree	24 (3.9%)	28 (19.3%)	0 (0%)
Total	**617 (100%)**	**145 (100%)**	**113 (100%)**

Source: Field survey (2019)

majority (70.3%) of prison officials somewhat agreed that bail conditions were always stringent. Majority (55.8%) of court officials strongly disagreed that bail conditions were always stringent. This indicates that both police and prison officials stated that bail conditions were always stringent while the court officials strongly disagreed that bail conditions were always stringent. One would argue that the insinuation of court officials on bail conditions not being stringent is because they prepare and give bail conditions to inmates. The findings are in tandem with qualitative data as most of the officials of criminal justice agencies interviewed affirmed that bail conditions are stringent. One of the agents interviewed had this to say:

> Bail conditions are dispensed based on nature of offence. Without doubt, serious offences like armed robbery or kidnapping tend to incur more stringent conditions for bail. If, for instance, such bail condition requires an ex-senator who must own landed property in a juicy area within Ebonyi State – not most inmates could meet such requirement. Comprehending this modus operandi is important in understanding stringency of bail conditions. (Male/Court official/ 6years experience as a judge/Afikpo / August 2019).

Another respondent had this to say:

> Most of the bail conditions dey (are) very stringent for inmates. For instance, a high court in Abakiliki give (gave) one of the suspects bail condition and one of the terms is that the surety must be (own) property that worth N25, 000,000 within Abakaliki town, but you hardly get such person here that is willing. And because of that the suspect is still in the prison till now waiting for a motion to be filed. (Male/Prison staff/ 9years in service as a staff in in Afikpo prison/ July 2019)

The above narrative shows that bail conditions are given depending on the nature of the offence and that is one of the determinants of type of bail condition that an individual could be given. For serious offences and felonies like armed robbery, murder, kidnapping and others, aside the huge amount of money that will be required, top politicians who must have landed properties in designated areas in a city will be required to surety the bail. Unfortunately, most of the politicians may not be willing to meddle in criminal matters or become a suspect in a criminal case. The above findings are in corroboration with the findings of Nnamdi and Alemika (2016) who asserted that there could be other reasons making bail conditions stringent or refusing bail for suspects because of the nature and gravity of the offences committed by the suspects. Most times, bail could be refused on the basis that the suspects may likely jump bails. There is also the fear that the accused may tamper with investigations thus forcing magistrates to make bail conditions stringent or totally refuse bail. Moreover, refusal to grant bail directly or indirectly

by making bail conditions stringent could also be linked to the perceived risks that the suspect may commit other offenses if released from custody. The gravity of the offence is only one of many factors that are relevant in determining whether the accused is likely to appear to stand trial or not, if granted bail. By distinguishing between the nature and gravity of the offence and the likelihood of the accused jumping bail, the courts have in practice elevated the former consideration to one of primary importance on its own merits. In other words, the nature and gravity of the offence are often determinants in granting bail, no matter what other factors might preclude the likelihood of flight.

CONCLUSION AND RECOMMENDATION

Bailing suspects is an integral part of the criminal justice systems around the globe. The process usually requires a suspect or offender to meet certain conditions before release from custody. While bailing has many goals and benefits, it will fundamentally decongests prison facilities and sets affected people on path to freedom or rehabilitation. In Ebonyi State, these goals and benefits are defeated particularly the fundamental benefits of prison decongestion and recalibration of inmates to better behaviors. This is due to stringent bail conditions that are often too high or totally unattainable for suspects. Ebonyi State is a largely subsistence farming neighborhood with few investments in commercial farming by politicians, business corporations and other private citizens. Over 70% of awaiting-trial inmates in Abakiliki and Afikpo prisons are subsistence farmers who have difficulties in both feeding and supporting their families and other dependents. High-cost bail-conditions are naturally difficult or unattainable for inmates in the neighborhood – thus leading to overstay of suspects in custody and consequently result in congestion of prison facilities. In addition to prison congestion, the awaiting-trial inmates continuously get negatively affected by prison environments which are filled by hardened criminals – further making it impossible for innocent suspects to recover from prison experience. Thus, easing bail conditions for suspects by bringing down the high-prices to match the economic capacity of the neighborhood or relaxing the bail terms would enable inmates to meet bail terms and reduce congestions in prison facilities – thus, improving the criminal justice system in the state.

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