

West Africa Insight: You'll agree that independent monitoring of prisons and police custodies (by established National Human Rights Commissions), is essential.

Professor Odinkalu: Independent monitoring is essential, but works best where the criminal justice system itself is fairly well-administered, possesses elements of internal control, and has well trained and equipped officers (male and female). However, no amount of independent monitoring or external oversight can correct or improve any criminal justice system saddled with inherent institutional deficits and deformities.

Prison facilities are overpopulated and unhygienic; and inmates are malnourished.

For the most part, prison conditions are bad in West Africa. For example, there are about 48,000 inmates in Nigeria's prison systems, out of which over 30,000 are awaiting trial. Pre-trial detainees therefore constitute 77 percent of the prison population! By way of contrast, in Ghana, only 24 percent of the prison inmates are pre-trial detainees. Efficient use of budgeted funds for the management of prisons might improve quality of diet for the incarcerated.

Many countries in the region have not officially abolished the death penalty, though no executions have been carried out in recent times.

That's true for most parts of the world; there seems to be unofficial moratorium on executions. Speaking specifically about West Africa, I personally think that having death penalty within a criminal justice system as we have in much of West Africa which relies on confessions to secure conviction is clearly impermissible and unhelpful and should not be encouraged. However in the region, maternal mortality is high, young girls are dying due to Vesico-vaginal fistula (VVF) and we have reports of rampant extra-judicial killings by law enforcement officers – it seems to me that we are all living under an unofficial death sentence already. Therefore, efforts should not be devoted exclusively to abolishing death penalty without addressing these problems.

How might one explain a rise in the phenomena of torture and extra-judicial killings?

The phenomena denote a rise in impunity among law enforcement agencies. I think that part of the explanation for these rather extreme forms of abuse (torture and extra-judicial killing) can be found in the explosive and prolonged civil wars that dominated much of the political history of countries such as Nigeria, Liberia, Sierra Leone, Cote D'Ivoire, among others. I strongly suggest that countries making the transition from war to peace should design and implement targeted programs to disarm, recruit, and re-train law enforcement agents. In fact, across the region, all criminal justice institutions need be re-furbished to ensure discipline and high levels of professionalism among the cadres and officers.

In Liberia the campaign to separate adult and children detainees within prisons has been successful. Why is separation important and necessary?

The prison is not a place for a child. Expert studies offer a wide range of reasons why persons below the age of 12 should not be considered criminally responsible for their

actions; and why even offenders between 12 and 18 years must not be placed in prison along with adults. For purposes of rehabilitating juveniles, we need to establish and consolidate specialised institutions such as borstals that can provide them adequate and appropriate care and value re-orientation. Sadly, existing borstals in many West African countries are not well equipped and most are poorly staffed.

Looking at the activities of multilateral and regional institutions like the African Court on Human and Peoples' Rights and the ECOWAS Community Court of Justice over the years, would you say they have contributed to the promotion of human rights in the region?

Although these institutions are not doing as much as they could, they should not be disbanded but strengthened. There is latitude for these institutions to do more than they are currently doing; they should be more popular and accessible to the people especially using the ECOWAS Court for example which receive applications even when local remedies have not been exhausted. In many countries of the region, we have leaders who are able to instruct and manipulate their judiciary, so how do you get governments who do not respect the independence and decisions of their national courts to respect and obey the decisions of the regional courts?