

**THE EFFICACY OF SENTENCING IN NIGERIA; A CRITICAL
EXAMINATION OF OVERCROWDING, RECIDIVISM, AND
ALTERNATIVE SENTENCING MODELS.**

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BENIN CITY.**

NOVEMBER, 2025

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**A LONG ESSAY WRITTEN AND SUBMITTED TO THE FACULTY OF LAW,
UNIVERSITY OF BENIN IN PARTIAL FULFILMENT OF THE REQUIREMENT
FOR THE AWARD OF THE DEGREE OF BACHELOR OF LAWS (LLB) OF THE
UNIVERSITY OF BENIN, BENIN CITY.**

**NOVEMBER, 2025
CERTIFICATION**

I, **Omoyeme Benedicta OZIEGBE**, with Matriculation Number **LAW2002952**, hereby certify that apart from references to other persons' works which have been duly acknowledged, the entire work is a product of my research, and this project has neither in whole nor in part been presented for another degree elsewhere.

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APPROVAL

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DEDICATION

I dedicate this project to my creator, my caretaker, the reason I am great, God Almighty for his evident presence in my life, and to my wonderful parents Mr. and Mrs. Oziegbe, for their unwavering love and support towards my LLB journey.

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I must express special thanks to God Almighty without whom I would not have been able to make it this far.

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To my biggest support, my parents, whose assistance and guidance is the cornerstone towards the success of my LLB programme

To my superb siblings, Ese, Onose, Miracle and Godfrey, thank you for your constant support, care and prayer.

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TABLE OF CONTENTS

Cover Page	-	-	-	-	-	-	-	-	-	i
Certification	-	-	-	-	-	-	-	-	-	ii
Approval	-	-	-	-	-	-	-	-	-	iii
Dedication	-	-	-	-	-	-	-	-	-	iv
Acknowledgement	-	-	-	-	-	-	-	-	-	v
Table of Contents	-	-	-	-	-	-	-	-	-	vi
Table of Cases-	-	-	-	-	-	-	-	-	-	ix
Table of Statutes	-	-	-	-	-	-	-	-	-	x
List of Abbreviations	-	-	-	-	-	-	-	-	-	xi
Abstract	-	-	-	-	-	-	-	-	-	xii

CHAPTER ONE: GENERAL INTRODUCTION

1.1 Introduction	-	-	-	-	-	-	-	-	-	1
1.2 Background to the Study	-	-	-	-	-	-	-	-	-	4
1.3 Aim and Objectives of the Study	-	-	-	-	-	-	-	-	-	6
1.4 Statement of Problem	-	-	-	-	-	-	-	-	-	6
1.5 Research Methodology	-	-	-	-	-	-	-	-	-	7
1.6 Expected Findings-	-	-	-	-	-	-	-	-	-	8
1.7 Expected Contribution to Knowledge	-	-	-	-	-	-	-	-	-	8
1.8 Chapter Analysis	-	-	-	-	-	-	-	-	-	9
1.9 Conclusion	-	-	-	-	-	-	-	-	-	11

CHAPTER TWO: CONCEPTUAL FRAMEWORK

2.1 Definition and Effects of Overcrowding, Recidivism, Restorative Justice-	12
2.2 Nigerian Laws on Sentencing- - - - -	20
2.3 Role of the courts - - - - -	26

CHAPTER THREE: LEGAL FRAMEWORK

3.1 Administration of ACJA - - - - -	31
3.2 Types of punishment in Nigerian - - - - -	37
3.3 The rights of convicts in Nigeria - - - - -	48
3.4 Statistics of Sentencing in Nigeria- - - - -	51

CHAPTER FOUR: AN INTERNATIONAL COMPARATIVE ANALYSIS OF SENTENCING MODELS WITH NIGERIA

4.1 Introduction - - - - -	55
4.2 Norway: The Norwegian Rehabilitation Model “The Normal Principle” -	56
4.3 The United State - - - - -	57
4.4 European Union States - - - - -	59
4.5 China - - - - -	61
4.6 African Jurisdictions: South Africa and Rwanda - - - - -	62

CHAPTER FIVE: CONCLUSION

5.1 Summary of findings- - - - -	67
5.2 Recommendation - - - - -	68
5.3 Conclusion - - - - -	70
Bibliography - - - - -	71

TABLE OF CASES

EDD v COP (2007) ALL FWLR(Pt.367)960 at 967 para G-B(CA) -	-	3
Usman v State (2015) LPELR-40855(CA) at pp 40 - 41 Paras D – B -	-	20
Re Daher (1969) 53, CR A.R. 490		
Adonike V The State (2015) LPELR-24281(SC) at 32	- - -	45
Nafiu Rabi'u v. The State (1990) 11 SC 130 at 177	- - -	46
Ekpo v State (1982) 6 SC 120	- - -	47
Kotoye v CBN [1989] 1 NWLR (Pt. 98) 419.	- - -	50
Alamieyeseigha vs Federal Republic of Nigeria (2006) 16 NWLR (pt. 1004)	-	31
Ali v FRN (2016) LPELR - 40472 (CA) per Abubakar, JCA	- - -	37
Adamu v Kano Native Authority (1956)1FSC 25	- - -	43

LIST OF STATUTES

Administration of Criminal Justice Act 2015

Constitution of the Federal Republic of Nigeria, 1999 (as amended).

Criminal Code Act

Criminal Procedure Act

National Correctional Service Act 2019

Nigerian Correctional Service Act 2019

Penal Code

LIST OF ABBREVIATIONS

ACJA	Administration of Criminal Justice Act
CCA	Criminal Code Act
CPA	Criminal Procedure Act
DCS	Department of Correctional Service
EFRJ	European Forum for Restorative Justice
EU	European Union
NCoS	Nigerian Correctional Service
NCSA	Nigerian Correctional Service Act
US	United States
USSC	United States sentencing commission

ABSTRACT

This Essay is centered on the efficacy of sentencing in Nigeria, it is common knowledge that the prison is used to deter certain persons that go against the law, it can be used as a means for those individuals to atone for their actions as well as protecting the society from the actions of that individual, when they are perceived as a danger to the public and themselves. The modern Nigerian prison has sadly strayed far away from its original intent. The prison system is constrained with reoccurring problems, recidivism, overcrowding, abuse on the mental and physical health of the inmates when incarcerated, these issues seem to have the Nigerian justice system at a choke hold. A clear solutions to these issues is the utilization of alternative sentencing models like, probation, parole, community service, restorative justice, fines, and the likes. The justice system does not utilize rehabilitative programs to aid character development and transformation of the inmates. This Essay goes into further explanation of these alternative sentencing models as against the overused incarceration, which yields no result but rather seems to be a counterproductive measure in countering crime and rehabilitation. This study will look into the root of the problems of sentencing in Nigeria and how to curb the plaguing issues, as well as looking into other international jurisdiction to gain insight of the use of certain punishment and the outcomes. This essay is aimed at shedding more light in these areas as well as bringing long lasting solutions to sustain and improve the implementation of alternative sentencing models in the criminal justice system.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Introduction

The prison is a place where individuals who have been convicted of a crime are imprisoned to cause a transformation in behaviour and character. The prison system was brought about as a form of correction, in hopes that when inmates serve their time as prescribed by the court, they would no longer be a danger to themselves and the public. In essence a prison can be defined as a building where suspected or convicted criminals are legally kept for a definite period of time, usually provided by the law with the discretion of the court, with the intention to transform them into responsible and law abiding citizens. It can also be described as a building in which people are legally held as a punishment for a crime they have committed or detained awaiting ongoing trials. Imprisonment can be defined as the act of putting or confining a man in prison; the restraint of a man's personal liberty, a coercion exercised upon a person to prevent the free exercise of his powers of locomotion.¹

Sadly in current times the prison system in Nigerian is not creating the desired results on inmates as it was originally designed to. There are increased rates of recidivism, inmates end up exiting the prison worse off than when they arrived. There are situations where individuals who are awaiting trial will be imprisoned with inmates that have been convicted of server offences like murder and the likes². In circumstances like this where the two inmates mingle on a day to day bases its going to be a battle of the greater evil suppressing the lesser evil, that is to say there is bound to be a form of influence due to the constant presence of socialization, which is fundamental to influence, by interaction one learns to perform certain social roles

¹ Blacks Law Dictionary 12th edition

² Immanuel Táiyéwò Fáwolé, 'Prisoners' precarious conditions and human rights in Nigeria'(guardian.ng, 2025) <https://guardian.ng/opinion/prisoners-precarious-conditions-and-human-rights-in-nigeria/>> accessed 27 October 2025.

and inculcates certain behaviour from the party with a stronger influence. In this case the stronger influence is the hardened criminal, the weaker party being the individual who was convicted for petty theft can not help being transformed In the negative because his new world is surrounded by individuals who believe that wrong actions have to be carried out for survival or dominance, when he has served his time in prison without any positive effort from the prison system to impact any positive change in the individual he will be influenced by the only atmosphere that fills his surroundings. In some instances inmates are silenced through a series of humiliation and exclusion, the inmates do not have any meaningful way of spending their time, they spend a majority of their time building up resentment. As a consequence when he get out he would becomes worse off. The system places emphasis on the punishment of offenders rather than the correction which attributes to the numerous problems that the prison system is facing.

The Nigerian criminal justice system heavily relies on the prison system as the primary form of punishment and conclusion to the wrong doings of individuals, the effectiveness of this have be greatly questioned over the years due to its inability to achieved desired results caused by its wide systemic failures; inadequate rehabilitation programs, inadequate facilities and the overburdened judiciary. Recent reports reveal that the prisons operate at an over capacity leading to the major problem of overcrowding, with a significant percentage of inmates being awaiting trial. According to statistics curated by the Nigerian prison system in the month of September 2025, the system is operating at a 163.7% for a total of 81,854 inmates 66% are awaiting trial that is a huge total of 54,153 person left without any due process, no proper investigation, no charging the case to court, no trial or conviction³. Holding this amount of inmates awaiting trial is a violation of their fundamental human rights enshrined in the 1999

³ Nigerian Correctional Service (NCoS), 'Statistics Summary' (Nigerian Correctional Service Portal, 2025) https://www.corrections.gov.ng/statistics_summary> accessed 19 september 2025.

constitution of Nigeria as amended, per Muntaka Commassier JCA stated in the case of EDD v COP⁴ that;

“it is travesty of justice to detain an accused person in custody for almost without arraigning him before a court of competent jurisdiction for his life trial. It is indeed flagrant violation of the accused person Fundamental right as enshrined in section 35(4) of the constitution of the Federal Republic of Nigeria 1999...”

This reveals the question on whether the prison sentences truly serve their transformative, corrective and deterrent functions. Hence the need for the introduction of alternative sentencing models, there are already some steps taken towards the actualization of this with the introduction of the Nigerian Correctional Service Act 2019 which looks to be a credible Correctional Service that secures, reforms, rehabilitates and reintegrates offenders into the society and aims To provide excellent custodial and Non-Custodial Services that promotes public protection in accordance with global best practices.⁵ Unfortunately, there is next to no improvement, as matter of fact there seems to be a halt in the implementation process, according to the statistics provided by the Nigerian Prison System there is only a total of 527 convicted individuals that have been given a non custodial sentence.⁶ This should not be so considering the fact that the newly created Act was established in 2019, a 6 years gap which is enough time for sufficient change.

1.2 Background to the study

Dating back to precolonial times in Nigeria, where prison like systems were used by traditional rulers to keep individuals who deviated from the norms and values for trial and punishment⁷.

⁴ (2007) ALL FWLR(Pt.367)960 at 967 para G-B(CA)

⁵ Nigerian Correctional Service (NCoS), ‘vision/mission’ (Nigerian Correctional Service Portal, 2025) https://www.corrections.gov.ng/page/about-ncos/vision/mission?menu_id=2&sub_id=17> accessed 19 september 2025.

⁶ Nigerian Correctional Service (NCoS), ‘Non Custodial Statistics Summary’ (Nigerian Correctional Service Portal, 2025) https://www.corrections.gov.ng/non_cust_statistics_summary> accessed 19 september 2025.

⁷ Moses U. Ikoh, ‘The Nigerian Prison System And The Failure Of Rehabilitation: An Examination Of Incarceration Alternatives’

For the Tivland, a building was set apart specifically for offenders, for the Yorubas there was a prison system in the Ogboni house which one of their function was to resolve disputes and to uphold traditional laws within the community. In the Bini kingdom and Hausa-Fulanis there was the existence of Ewedo and Gidan Yari respectively a place to imprison individuals as punishment. Punishments were viewed as a means for individuals to atone for their wrong doings⁸.

A lot of the laws, governance and life style currently practiced in Nigerians were inherited from the time of colonization by the British, the modern prison system in Nigeria is of no exception. It all started with the declaration of Lagos as the crown colony in the year 1861 marking the beginning of the institution of formal machinery of governance. A police team of 25 constables was formed by the then acting Governor of the Lagos Colony⁸. This was followed by the establishment of four courts in 1863, a slave court, a commercial court, a police court and a criminal court In 1872 the formal prison Broad Street Prison. The colonial prison was not designed to reform anyone, with no penal policy prisoner were used for public interest and for labour for colonial administration, there purpose was to punish those who went against their administration. The colonial interest circled around law and order, collecting tax, labour for public workers.⁹

The establishment of protectorates towards the end of the 19th century necessitated the prisons as the end of the criminal justice system, by 1910 there were prisons all over, Calabar. Onitsha, Benin, Ibadan, Sapele, Jebba, Degema and Lokoja.. However this was not the beginning of a unified Nigerian prison. There were attempts by directors of prisons to unify the prison structures for the whole country. The prisons were poorly run, there was a lot of exploitation,

⁸ Dr I. W. Orakwe with additional note by Ernest Chigbogu, 'The Origin Of Corrections In Nigeria'(National Correctional Service portal) https://www.corrections.gov.ng/page/about-ncos/history-of-ncos?menu_id=2&sub_id=3 accessed 19 september 2025.

⁹ ibid

disorganization and callousness. The colonizers were generally concerned about their interests alone, their interest circled around law and order, collecting tax, labour for public workers.¹⁰

The prisons were not fit to reform inmates. It was up until 1934 that any meaningful attempts were made to introduce modernization into the prison system but failed. Mr Dolan re-introduced a scheme for the introduction of vocational training in 1949 as a cardinal part of a penal treatment in Nigeria, making classification of prisons mandatory, creating programmes for moral and adult education, formation of an association for the care and rehabilitation of discharged prisoners and programmes for the construction and expansion of bigger convicts to adequate accommodation and classification of prisoner.¹¹

The subsequent unification of the prisons and the abolition of native authority prisons marked the beginning of Nigerian Correctional Services as a composite reality. Essentially he was concerned about the overall outcome of inmates hence the need to put certain infrastructures in place to ensure the reformation of inmates.

1.3 Aim and Objectives

The aim of this study is to critically assess and analyze the efficacy of prison sentences in Nigeria, which is going to be focusing overcrowding, recidivism and the viability of alternative dispute sentencing models as well as bringing to light the deficiency in the prison system and the effects.

This essay sets out to achieve the following objectives:

- i. To examine and assess the effects and causes of the prison overcrowding in Nigeria.
- ii. To analyze the high rates of recidivism in Nigeria in relation with prison conditions and societal stigma.

¹⁰ ibid

¹¹ ibid

- iii. To examine alternative sentencing models and the effectiveness of current alternative sentencing models in Nigeria.
- iv. To carry out a comparison between Nigerian and other international best practise in corrections.
- v. To propose reforms for the effective implementation of non-custodial sentencing.

1.4 Statement of the Problem

Though the prison in Nigeria aims to incapacitate and reform individuals for negative traits that are deemed harmful to themselves and the general public of the country. The prison system has failed to achieve their intended goals of deterrence, rehabilitation, reintegration and retribution.

The current system has brought about certain gaps that without an immediate evaluation and implementation the prison system in Nigeria will be stuck in a constant loop. Some of the gaps identifiable are as follows. Overcrowding, this has brought about many issues within the facilities of the prison system, due to the over congestion of prison cells inmates are forced to be living in inhumane conditions which increases the risk of contacting diseases from other inmates or poor environment leading to human rights abuse. There is an over reliance on custodial sentences even for offence that are minor in nature, this act with time gradually put a strain on already limited resources. There is a low rate of rehabilitation programs, despite initial efforts put towards the reformation of the prison system with the introduction of the Nigerian Correctional Service Act of 2019, not much changes has taken place. This contributes to the high rates of recidivism, ex-convicts mostly often return to crime either due to influence from prison, stigma from the society or limited economic opportunities to aid incorporation back into the society.

This essay examines these previously stated challenges and the outcomes of proper incorporation and implementation of alternative sentencing models.

1.5 Research Methodology

The methodology of this long essay refers to the process, principles, techniques that will be used in to assemble, evaluate and support the findings, data and creates a guide on how conclusions were gotten in this long essay. There is the doctrinal and non doctrinal method of legal research. The doctrinal legal research method deals with the incorporation of related cases, existing laws and matters specifically relative to the essay. This essay will adopt a doctrinal legal research method which will involve a comparative analysis because of the need to review laws, policies and cases that are related to the essay also the need to compare the current state of the Nigerian prison system that seems to failing In certain areas with other countries that have been able to achieve low rates of recidivism and the successful implementation of alternative sentencing

The primary sources will include Nigerian statutes; The Constitution, Administration of Criminal Justice Act (ACJA)2015, The Prison Act, Nigerian Correctional service Act (NCSA) 2019 and case law.

1.6 Expected Findings

It is expected that the research will find:

1. That the innovative provisions of the ACJA 2015 and the Correctional Service Act 2019 are not being fully utilized by judges and lawyers.
2. That prison overcrowding continues to undermine the rehabilitation goals of the correctional system and is a key driver of recidivism.
3. That there is a significant lack of infrastructure and funding for the effective implementation of non-custodial sentencing options across Nigeria.
4. That a cultural preference for punitive sentencing over restorative justice persists within the judiciary and the wider society.

1.7 Expected Contributions to Knowledge

This part explains the value and original input of the research to the field of law. This research is expected to contribute in the following ways:

1. **Policy Reform:** It will provide a structured analysis of the implementation challenges of recent penal reforms, offering concrete recommendations to policymakers, the judiciary, and the Nigerian Correctional Service. It contributes to the ongoing discourse of penal reforms, advocating for humane and efficient alternatives that is able to bring about a desired outcome and to promote a fairer criminal justice system.
2. **Legal Scholarship:** It will synthesize the current legal framework with recent data and case law, providing a up-to-date resource for students and scholars interested in Nigerian criminal justice and sentencing reform. This research serves as a source of light into the harshness of the Nigerian's prison system, essentially it provides a critical evaluation of Nigeria's sentencing policies as well as highlighting the systemic failures.
3. **Practical Application:** By highlighting the benefits and challenges of alternative sentencing, the study will serve as a reference point for legal practitioners seeking to advocate for more effective and proportionate sentences for their clients.

1.8 Chapter Analysis

CHAPTER ONE INTRODUCTION

1.1 Introduction

1.2 Background

1.3 Aims and Objectives

1.4 Statement of Problem

1.5 Research Methodology

1.6 Expected Findings

1.7 Expected Contribution to Knowledge

1.8 Chapter Analysis

1.9 Conclusion

CHAPTER TWO: CONCEPTUAL FRAMEWORK

2.1 Definition and Effects of Overcrowding, Recidivism, Restorative Justice

2.2 Nigerian Laws on Sentencing

2.3 Role of the courts

CHAPTER THREE: LEGAL FRAMEWORK

3.1 Administration of ACJA

3.2 Types of punishment in Nigerian

3.3 The rights of convicts in Nigeria

3.4 Statistics of Sentencing in Nigeria

CHAPTER FOUR: AN INTERNATIONAL COMPARATIVE ANALYSIS OF SENTENCING MODELS WITH NIGERIA

4.1 Introduction

4.2 Norway: The Norwegian Rehabilitation Model “The Normal Principle”

4.3 The United State

4.4 European Union States

4.5 Chin.6 African Jurisdictions: South Africa and Rwanda

CHAPTER FIVE: CONCLUSION

5.1 Summary of findings

5.2 Recommendation

5.3 Conclusion

1.9 Conclusion

This chapter has established the foundation for this research. It has outlined the significant challenges facing the Nigerian prison system and justified the need for a critical examination of sentencing efficacy. The following chapters will build on this foundation, delving into a detailed review of literature, a critical analysis of the legal framework, and a discussion of the way forward.

CHAPTER TWO

CONCEPTUAL FRAMEWORK

2.1 Definition and Effects of Overcrowding, Recidivism, Restorative Justice

This section explores three core concepts that are ever present in the Nigerian prison system. These concepts, overcrowding, recidivism, restorative Justice are examined with current context, legal authority and relevant sources.

2.1.1 Overcrowding

Prison overcrowding is not a new concept to occur over the recent years but there is a cause for alarm when the overcrowding becomes a growing occurrence. Overcrowding in prisons occurs when the inmate population exceeds the threshold that the correctional facilities were designed to hold which consequentially has a negative impact on the physical and mental health of those incarcerated and undermining sanitation and rehabilitation.

Most Nigerian correctional facilities are being used two to three times beyond their designed capacity, in such prisons cells there is hardly enough room for prison inmates to move body and limbs freely¹². For instance the Kirikiri maximum security prison, one of the most popular, complex facilities in Nigeria located in Kirikiri community, west Apapa, Lagos state, is listed as one of the worst prisons in Africa¹³. This prison was built for a capacity of 1056 but has inmates and detainees that are well over 2000, the Ikoyi Custodial Centre has 2665 as against its capacity of 800¹⁴ and many other facilities like the Kuje prison in Abuja, Ado-Ekiti Correctional Center, Benue State Makurdi Medium Security Prison and many more.

¹² A.A. Olabamiji Prison, 'Overcrowding in the Nigerian Correctional System: Implications for Offender Rehabilitation at The Ado-Ekiti Correctional Center' (2025) 13(2) Global Journal of Arts, Humanities and Social Sciences.

¹³ Daniel Ojukwu, 'Kirikiri Takes 'Worst Prison in Africa' Title' (fij.ng, 2025) <https://fij.ng/article/kirikiri-takes-worst-prison-in-africa-title/> accessed 23 2025.

¹⁴ 'Kirikiri Maximum has over 2,000 Prisoners Instead of 1,056; Ikoyi Houses 2,665 Instead of 800' (vanguardngr, 2022) <https://www.vanguardngr.com/2022/02/kirikiri-maximum-has-over-2000-prisoners-instead-of-1056-ikoyi-houses-2665-instead-of-800/> accessed 27 October 2025.

Recent data from the Nigerian Correctional Service shows the dangerous exceeding capacity of most Nigerian prisons. In the NCoS portal statistics show the total inmate population is 80,619, with a total of 27,460 inmates convicted and a gaping number of 53,159 person awaiting trial, that is 66% of the total number¹⁵. It is disheartening to see that a larger number of the occupants in the prisons are persons awaiting trial, this represents a systemic failure with a consequence of infringed human rights, health and the very goal of the correctional facilities are not met.

Southern Nigeria even though reduced in population and prison capacity compared to the Northern Nigeria, accounts for 55% of the lock-up as at 2016. Also, Northern Nigeria Prison is 3% overcrowded while the Southern Prisons is 81% overcrowded as at 2016¹⁶. These dire conditions led to inhumane living conditions characterized by inhumane treatment, no provision of basic amenities, insufficient space, exposure to diseases, poor level of sanitation, limited medical facilities and infringement on rights of the inmates.

Prison overcrowding is a breeding ground for numerous negative effects which in turn reduces the effectiveness of the correctional facilities mandate which seeks reformation, rehabilitation and reintegration¹⁷. Effects like;

Deterioration of living conditions, due to how tightly packed the facilities are it makes living next to impossible. The cells are so tightly packed that one is not able to move limbs freely for even a proper stretch¹⁸. When the living conditions are this bad one can not have an adequate sleeping environment. Insufficient sanitation facilities which creates a breeding ground for the evolution, outbreak and spread of common diseases and other diseases that some inmates would have like infections, tuberculosis and other diseases that can be easily contracted by air,

¹⁵ Nigerian Correctional Service, 'Inmate's Statistics'(NCoS,2025) https://www.corrections.gov.ng/statistics_summary> accessed 27 October 2025.

¹⁶ 'Prison Overcrowding Trend in Nigeria and Policy Implications on Health' (tandfonline, 2021) <https://www.tandfonline.com/doi/full/10.1080/23311886.2021.1956035>> accessed 27 October 2025.

¹⁷ Ibid n 12

¹⁸ Ibid n 12

physical contact and the likes. The guardian paper reported that the Nigerian prison is substandard, dangerous, and inhumane for inmates. Premium Times reported that 20 inmates lost their lives due to tuberculosis contracted while imprisoned and other hundred inmates continue to battle with the infection and other infections due to overcrowding and poor care of the disease by the prison management¹⁹.

Though these individuals are criminal they are entitled to certain human rights still, According to the United Nations, a prison should be built with basic facilities to foster the well-being and human dignity of inmates²⁰, but these conditions they are subjected to are deemed to be cruel and inhumane and according to section 34 of the constitution it goes against the right to dignity²¹; Every individual is entitled to respect for the dignity of his person, and accordingly

- (a) no person shall be subject to torture or to inhuman or degrading treatment;
- (b) no person shall be held in slavery or servitude; and
- (c) no person shall be required to perform forced or compulsory labour.

This also brings a strain on resources and management. Overcrowding overwhelms the available resources for food, water, healthcare, and recreation. It renders the provision of meaningful rehabilitation, vocational training, and educational programs nearly impossible, as resources are diverted for mere survival and this results to them giving inmates barely enough to survive, some are not even able to have the little because the limited resources do not reach their end at the end those unfortunate lose their lives.

There is the presence of heightened harm both physically and mentally. Places like this naturally work with a system of hierarchy, with inmates trying to be the top-dog, who controls the lives of other inmates and dictates what goes on in the inmate community and inmates try to dominate to make sure they are not leached on or bullied which will undoubtedly occur. The

¹⁹ Ibid n 2

²⁰ Ibid

²¹ Section 34(1)(a)-(c) of the Constitution of the Federal Republic of Nigeria 1999

constant tension, idleness, and competition for scarce resources in a congested space lead to increased aggression and violence.

Mental health issues such as depression, anxiety, and post-traumatic stress disorder among inmates is not uncommon. A cross-sectional survey and analysis was carried out with a 381 prison inmates of Benue State Makurdi Medium Security Prison. Survey included; a structured questionnaire on participants' experiences in prison and the Patient Health Questionnaire (PHQ-9), a screening tool for depression. The results held that most participants were young men (95.5%, mean age 27.95) and had completed secondary school (63.5%). While prison authorities had identified only 27 participants as having a mental disorder, 144 (37.8%) screened positive for depression. Twenty six had received professional counseling while in prison. Of the six participants who were already taking a psychotropic medication at the time of imprisonment, four received medication after being imprisoned. Approximately half, (52%) of participants were dissatisfied with prison health care.²²

Contributing factors to overcrowding include prolonged pre-trial detentions, with approximately 66% of inmates awaiting trial as of early 2025,²³ judicial system delays, ineffective bail practices, and limited application of alternative non-custodial sentences. The high percentage of awaiting-trial inmates is a primary driver of overcrowding in Nigeria. This group is often held in the same conditions as convicted persons, contrary to international standards, for periods that sometimes exceed the maximum sentence for the alleged offence. The reliance on incarceration even for minor offenses exacerbates challenges to correctional administration and public safety.²⁴

²² Nwefoh, E., Aguocha, C.M., Ryan, G. et al. Depression and experience of incarceration in North Central Nigeria: a situation analysis at Makurdi medium security prison. *Int J Ment Health Syst* 14, 76 (2020). <https://doi.org/10.1186/s13033-020-00408-0> accessed 27 October 2025.

²³ Nigerian Correctional Service, 'Inmate's Statistics'(NCoS, 2025) https://www.corrections.gov.ng/statistics_summary> accessed 27 October 2025.

²⁴ 'Total Inmate Population by Convicted and Awaiting Trial Persons as of march 2025'(intelpoint.co,2025) <https://intelpoint.co/insights/total-inmate-population-by-convicted-and-awaiting-trial-persons-as-of-march-2025/>> accessed 27 October 2025.

2.1.2 Recidivism

Recidivism is generally understood as the relapse into criminal behavior by individuals who have previously been convicted and sanctioned for similar or different offenses. It refers to the tendency of persons who have been convicted of a crime to re-offend and go back to the criminal justice system after release.

Nigerian Correctional Service Act 2019 underscores the necessity to implement comprehensive rehabilitation and reintegration programs aimed at reducing recidivism and preparing offenders for productive societal participation.²⁵

High recidivism rates in Nigeria come as a result of systemic inadequacies in rehabilitation, societal rehabilitation and reintegrating offenders. Systemic failures within the criminal justice and correctional systems negatively affect inmates' psychological well-being, rehabilitation prospects, and ultimately, their likelihood of recidivism.²⁶ Inmates subjected to abuse exhibit higher levels of anxiety, depression, and post-traumatic stress, which reduce their motivation and capacity to engage in rehabilitation programs. Over 75% of respondents had been in custody for over a year, with many lacking access to legal representation or vocational training which are key factors in reducing recidivism and severe mistreatment and extended confinement makes them even more vulnerable. These people are at a significant risk of re-offending in the absence of appropriate mental health care, job training, or post-release support, which in turn feeds the cycle of incarceration and social exclusion.²⁷ The cycle of crime is fueled by a lack of rehabilitation infrastructure. Jail facilities lack sufficient educational, vocational, and mental health services. Inmates are most times not prepared for reintegration without these resources, which raises the possibility that they may resume criminal activities

²⁵ National Correctional Service Act 2019

²⁶ O. Hendris, O.C Edefe, 'Behind the Bars: A Critical Analysis of Prison Overcrowding, Justice Delays, and Human Rights Abuse in Nigerian Correctional Facilities: A Study of Delta State Centres' (2025) 2(5) International Journal of Science, Architecture, Technology, and Environment.

²⁷ *ibid*

as they go back into the society, most times they can not be blamed because they are programmed to do the things they know how to which is a hardened version of themselves before they entered prison that is because the hostile, dehumanizing prison environment eats away at their self-worth and social skills.

Ex-offenders encounter severe social stigma upon their release, which prevents them from finding work, housing, and social acceptance. They frequently turn to crime as a way to survive as a result of this marginalization. Inadequate rehabilitation and congested facilities are unable to provide appropriate rehabilitation. An offender is ill-prepared to live a lawful, productive life after release if they do not get counseling, education, or vocational training while incarcerated. Due to the lack of organized post-release supervision, assistance, and aftercare programs in Nigeria, ex-offenders are frequently forced to handle the difficulties of reintegration on their own, which raises the risk of failure. Unemployment, a lack of vocational skills, and inadequate psychological therapy are also factors that hinder successful reintegration and frequently encourage released convicts to engage in criminal activity again.²⁸

2.1.3 Restorative Justice

An essential substitute for the prevalent retributive and punitive notions of justice is restorative justice. It redefines crime as harm done to individuals and relationships rather than just a transgression of the law. Its concept is essential to comprehending various sentencing models' justifications. In contrast to traditional punitive approaches, restorative justice aims to promote offender accountability, victim empowerment, and community healing through inclusive processes involving victims, offenders, and the larger community. In Nigeria, the Administration of Criminal Justice Act 2015 formally incorporates restorative measures like victim-offender mediation, community service, and compensation as alternatives or complements to incarceration. These approaches help reduce overall prison populations by

²⁸ *ibid*

reducing the reliance on custodial sentences while emphasizing reconciliation and constructive resolution. Measurable accomplishments demonstrating fair justice outcomes for victims, offenders, and all other parties involved should serve as evidence of sufficient and successful restorative justice initiatives. In cases where this is deficient, it indicates the need for policy evaluation and reforms that prioritize the application of law and policy, which in this case equates to the proper application of the ACJA and NCSA in relation to restorative justice as well as the creation of structures that support restorative justice.²⁹

Promising legal and social remedies are provided by restorative justice. Restorative justice minimizes the number of people incarcerated by promoting victim satisfaction and offender responsibility while facilitating non-custodial remedies for eligible instances. Nigeria's continued efforts to humanize the legal system and reduce overcrowding and recidivism are seen in the gradual inclusion of restorative techniques in ACJA and state-level sentencing practice guidelines.

It prioritizes in healing processes and relationships, trust and accountability. Some initiatives of restorative justice would be saddled with the responsibility to connect practitioners with inmates to aid with their case, a medium to achieve this can be law clinics, they provide practical experience for law students as well as offering legal services to a vast majority of these inmates who lack access to representation and whose case has been forgotten in the system, its for public service and legal practise.³⁰ Also ADR, alternative dispute resolution, it's a method of resolving dispute, it serves as a platform for dialogue between victims and offenders, promoting understanding and empathy. This method reduces the need for one to wait on the courts in settling disputes, especially for minor offences, thereby reducing the inmates that are awaiting trial.

²⁹ LaUra Chioma Nnamdi, 'Strengthening The Practice Of Restorative Justice In Nigeria' (celsir.org,2024) <https://celsir.org/wp-content/uploads/2024/11/RJ-Policy-Brief.pdf>> accessed 29 October 2025.

³⁰ 'What Are Law Clinics and How Do They Work' (legalclarity.org,2025) <https://legalclarity.org/what-are-law-clinics-and-how-do-they-work/>> accessed 4 November 2025.

2.2 Nigerian Laws on Sentencing

The legal foundation for the entire critique of the Nigerian prison system is provided in this section. Nigeria's sentencing system is a complicated and conflicting, it is made up of laws from the colonial era, post-independence modifications, Sharia law in the northern states, and judges' discretion. This section will contend that the systemic flaws this essay aims to remedy are mostly caused by this intricate legal framework.

Nigerian sentencing rules are a cornerstone of the country's criminal justice system, influencing how judges punish criminals and having an immediate impact on the effectiveness of jail terms.

Sentencing was defined in the case of *Usman V. State*³¹, Habeeb Adewale Olumuyiwa Abiru, JCA, defined sentencing as "the judicial determination of a legal sanction to be imposed on a person found guilty of an offence". The word "determination" has been defined as "final decision by a court".

A comprehensive analysis shows the need to addresses the urgent problems of overcrowding and recidivism in Nigerian prisons while striking a balance between rehabilitative and restorative goals and retributive justice. Without first comprehending the statutory and judicial principles that regulate the administration of punishment in Nigeria, it is impossible to critically assessing the efficacy of jail terms and the possibility of alternative sentencing models.

2.2.1 The Legal Framework and Statutory Provisions

This is the Bedrock of Sentencing Discretion. The power to sentence is derived from specific laws that define crimes and prescribe their punishments.³²

Nigerian sentencing laws are primarily derived from the Administration of Criminal Justice Act (ACJA) 2015, the Criminal Procedure Act (CPA), Nigerian Correctional Service Act

³¹ (2015) LPELR-40855(CA) at pp 40 - 41 Paras D – B,

³² Section 416 (1) of the Administration of Criminal Justice Act 2015

(NCSA) 2019, Criminal Code Act (CCA), Penal Code , several state and federal sentence guidelines, and constitutional requirements.

The Criminal Code Act, which is mostly based on English common law, is applicable in Southern states. It divides crimes into felonies, misdemeanors, and simple infractions, each of which has a commensurate penalty. The Penal Code was created to take into account the sociocultural and Islamic religious sensibilities of the area, even if it is applicable in the Northern states. In the states where they have been enacted, it functions in tandem with Sharia Penal Codes. Particularly, the ACJA in Sections 310, 311³³, and 416³⁴ stress the need of fairness, proportionality, and considering non-custodial sanctions before incarceration when directing courts in sentencing proceedings. The ACJA's statutory mandate seeks to prevent arbitrary imprisonment and encourage alternatives to reduce prison population strain as provided for in part 44 of the ACJA. This is complemented by the Criminal Procedure Act

³³ (1) Where the provisions of section 310 of this Act have been complied with, the court may pass sentence on the convict or adjourn to consider and determine the sentence and shall then announce the sentence in open court. (2) The court shall, in pronouncing sentence, consider the following factors in addition to sections 239 and 240 of this Act.

- (a) The objectives of sentencing, including the principles of reformation and deterrence;
- (b) The interest of the victim, the convict and the community;
- (c) Appropriateness of non-custodial sentence or treatment in lieu of imprisonment; and
- (d) Previous conviction of the convict.

³⁴ (2) In exercising its discretion of sentencing or review of sentence, the court shall take into consideration the following factors, in addition to the provisions of section 401 of this Act:

- (a) Each case shall be treated on his own merit;
- (b) The objectives of sentencing, including the principles of reformation, shall be borne in mind in sentencing a convict;
- (c) An appeal court may, in a proper case, reduce the sentence imposed by the trial court, especially where it is excessive or based on wrong principles, or an appeal court may increase the sentence imposed by the trial court especially where it is inadequate;
- (d) A trial court shall not pass the maximum sentence on a first offender
- (e) The period spent in prison custody awaiting or undergoing trial shall be considered and computed in sentencing a convict;
- (f) Trial court shall conduct an inquiry into the convict's antecedents before sentencing;
- (g) It may be desirable to adjourn or sentencing in order to have time to consider any evidence adduced at the sentencing hearing in accordance with section 311 of this Act;
- (h) Where there is doubt as to whether the defendant or convict has attained the age of 18, the court should resolve the doubt in his favour;
- (i) A defendant may not be given consecutive sentences for two or more offences committed in the same transaction;
- (j) An appeal court may not increase the sentence of a lower court beyond the maximum number of years the lower court has power to impose; and
- (k) Sentencing to a term of imprisonment shall apply only to those offenders who should be isolated from society and with whom other forms of punishment have failed or is likely to fail

(CPA), which provides thorough procedural protections to ensure that sentences are carried out within the boundaries of the law while giving particular attention to the ideas of fairness and due process.

A key component of the essay's thesis is how sentencing rules relate to overcrowding and prison sentence effectiveness. Judges are deprived of discretion by mandatory sentences, which compel them to impose harsh penalties even in cases when there are mitigating circumstances. By guaranteeing a constant stream of prisoners serving lengthy, non-negotiable sentences, regardless of the particulars of each case or their prospects for rehabilitation, this directly contributes to prison overpopulation. It reflects a legislative preference for punishment over rehabilitation, which is a fundamental aspect of the efficacy argument.

2.2.2 Limitations of Criminal Code and penal Code

Nigeria's basic criminal laws, the Nigerian Criminal Code and Penal Code, include significant sentencing restrictions from the previous regime that have affected the responsiveness, efficiency, and fairness of the criminal justice system. Their significant dependence on custodial sentences, incarceration, and the death penalty for a variety of offenses, which directly contributed to prison overcrowding, is one of their main disadvantages, according to a critical analysis.

Both the Penal Code, which is mostly applicable in Northern Nigeria, and the Criminal Code, which is primarily applicable in Southern Nigeria, were enacted during the colonial era. Their sentencing guidelines are based on outdated and old fashioned legal principles that are incompatible with the current socio-legal conditions in Nigeria. The laws have little room for rehabilitation or alternative sentencing, are strict and rigid, and heavily rely on punitive measures like incarceration and corporal punishment.³⁵

³⁵ Criminal Code Act

There are few options for sentencing and an excessive focus on custodial sentences. The old Codes prioritize imprisonment, caning, fines, or the death penalty as primary sentences, with insufficient provisions for contemporary alternatives like probation, community service, or restorative justice. This over-reliance on custodial sentences is a major factor in Nigeria's ongoing prison overcrowding problems, which neither Code sufficiently addresses.³⁶

One of the limitation of the criminal code and the penal code is the inflexibility and lack of sentencing guidelines. The Codes provide little guidance on sentencing discretion or on balancing mitigating and aggravating factors, resulting in inconsistency and arbitrariness in judicial sentencing. The absence of structured sentencing guidelines hampers judicial ability to tailor punishments to individual circumstances, undermining fairness and proportionality.

Another limiting element is the legal diversity and regional fragmentation. Nigeria's dual system causes legal fragmentation, which results in disparities in sentence between areas. The aspects of Islamic law that are incorporated into the Penal Code are very different from the common law foundations of the Criminal Code. This heterogeneity makes sentencing reform more difficult and restricts national uniformity.³⁷

Conclusively, In order to modernize sentencing, encourage alternatives to incarceration, safeguard vulnerable groups, harmonize the system, and adhere to human rights, Nigeria has implemented reforms, most notably the Administration of Criminal Justice Act (ACJA) 2015 and state-level sentencing guidelines.

The basis for current sentencing reforms in Nigeria is explained by this critical analysis of the

³⁶ Bright E. Oniha, 'Effective implementation of non-custodial sentencing provisions in administration of criminal justice law of edo state: need for synergy amongst stakeholders' (edojudiciary, 2023) <https://edojudiciary.gov.ng/wp-content/uploads/2023/11/HURISLAW-EFFECTIVE-IMPLEMENTATION-OF-NON-CUSTODIAL-SENTENCING.pdf> accessed 28 October 2025.

³⁷ V. L.K Essien, 'The Northern Nigerian Penal Code: A Reflection of Diverse Values in Penal Legislation' (1983) 5(1) NYLS Journal of International and Comparative Law 85.

shortcomings of the previous Criminal and Penal Codes, which is backed by legal texts and Nigerian authorities.

2.2.3 Innovations of the Administration of Criminal Justice Act (ACJA) 2015

A modernized approach to justice was provided by the Administration of Criminal Justice Act (ACJA) 2015, which brought revolutionary changes to Nigerian criminal law, especially in the area of sentence. Significant passages like section 1, 297, and 460 to 470 of the Act show how extensive these changes are.

The objective and scope of the ACJA are summarized in Section 1.³⁸ The main goal of the Act is outlined in this section, which highlights the need for a capable and effective framework for Nigeria's criminal justice system. It seeks to prevent crime, respect the rights of victims and suspects, expedite the administration of justice, and encourage alternatives to incarceration. Section 1 signifies a change from punitive to rehabilitative and restorative justice approaches by codifying procedures that put justice and human dignity first.³⁹

Plea bargaining is discussed as an innovative sentencing tool in Section 297. It makes the plea bargaining procedure official and essential to Nigerian criminal justice by codifying it. This invention speeds up case resolution, cutting down on backlogs and delays. It balances the interests of the state, the accused, and the victim by incorporating victim participation. Plea bargaining encourages defendants to collaborate and make amends, which advances restorative justice in addition to relieving congestion in courts and jails.⁴⁰

Alternative punishment and non-custodial options are covered in Sections 460 to 470. The introduction and regulation of non-custodial penalties in these areas represents a groundbreaking official acknowledgement of alternatives to incarceration, including fines,

³⁸ Administration of Criminal Justice Act 2015

³⁹ Yemi Akinseye-George, 'ACJA 2015/ACJLs Principles, Innovations & Prospects' (Nigerian Maritime Services) <https://www.nms.ng/files/PIP.pdf> accessed 28 2025.

⁴⁰ W.W Longpoe, S. Oguiche, 'Novelties and Perplexities of Plea Bargain in Nigerian Criminal Justice: In Defence of Human Rights' (2019) 3(2) Kampala International University Law Journal.

community service, probation, and restorative justice practices. The provisions greatly alleviate Nigeria's ongoing jail overcrowding issue by limiting needless incarceration sentences. In order to provide equitable and compassionate sentencing procedures that prioritize offender rehabilitation and social reintegration, they require courts to take these options into account first.⁴¹

The ACJA has received recognition from academic and judicial institutions for incorporating restorative justice principles and codifying contemporary sentencing guidelines. The ACJA's potential to address consistent insufficiency and delays in Nigeria's criminal justice system was recognized by the country's Chief Justice at the time. However, challenges remain in enforcement, judicial training, and public awareness to fully realize the ACJA's promise.

2.3 Roles of Courts

The Role of the Court in Sentencing and the application of alternatives is the analysis of the judiciary's discretionary power in sentencing and its willingness or reluctance to use new laws. The judiciary is a key component of Nigeria's criminal justice system, acting as gatekeepers to the penal system as well as judges of guilt or innocence. Courts have substantial authority that directly affects jail populations, rehabilitation results, and the general effectiveness of custodial sentences. Section 36 of the Federal Republic of Nigeria 1999 Constitution, which ensures that everyone accused of a crime has the right to a fair trial within a reasonable time, provides the constitutional basis for the judiciary's sentencing authority. With a focus on how court rulings either exacerbate or lessen the problems of overcrowding and recidivism, this section analyzes the many functions that Nigerian courts carry out in connection to sentencing and prison administration.

⁴¹ Federal Capital Territory Courts (Custodial And Non-Custodial Sentencing) Practice Directions, 2020

2.3.1 Adjudicative Role and Judicial Discretion

With the authority to render verdicts and impose sentences after conviction, courts serve as arbiters of guilt and sentencing. Judicial discretion is important in Nigerian law; courts consider things including the type of offense, the offender's background, aggravating and mitigating circumstances. Mitigating factors include youth, lack of previous convictions, good character, remorse, and circumstances that diminish moral blameworthiness. Aggravating factors, such as premeditation, use of violence, and previous convictions, justify more severe sentences, and the interests of society. Although the law specifies the maximum and minimum sentences for crimes, judges use their discretion to adjust penalties appropriately. Although this discretion is essential for individualized justice, it has occasionally led to inconsistent punishment in circumstances that are comparable.⁴²

2.3.2 The Sentencing Function: Imposition of Appropriate Punishment

The Administration of Criminal Justice Act and various sentencing guidelines shape how courts exercise their sentencing powers. The Act and guidelines emphasize fairness, proportionality, and the use of non-custodial sentencing alternatives, reflecting an evolving role for courts beyond traditional imprisonment.⁴³

The Principles of Sentencing Nigerian courts have established guiding principles, which they are expected to consider. These include:

Retribution is the idea that the offender must pay for the crime committed.

Deterrence is aimed at discouraging the offender from future criminal conduct. Courts must exercise caution when imposing excessively punitive sentences for the sole goal of deterrence,

⁴² S.A Afolabi and L.O Aboderin, 'An Appraisal Of The Concept Of Sentencing Under The Nigerian Criminal Justice System' (2023) 5(2) Public Policy and International Affair Academic Journal.

⁴³ Justice, conflict and security in Nigeria,'Sentencing guidelines to ensure uniformity and fairness in courts' (justice-security.ng,2019) <https://www.justice-security.ng/sentencing-guidelines-ensure-uniformity-and-fairness-courts>> accessed 28 October 2025.

especially for minor offenses, as this may result in overcrowding and unnecessary incarceration without necessarily having the intended deterrent impact.

Rehabilitation is the reformation and re-integration of the offender into society. The rehabilitative objective acknowledges that the goal of punishment should be to help the criminal change and become a law-abiding member of society again. This idea is embodied in Section 401 of ACJA, which states that incarceration is only appropriate for offenders who should be kept apart from society and for whom other kinds of punishment have failed or are likely to fail. This clause mandates that courts take into account non-custodial alternatives when appropriate and designates incarceration as a measure of last resort.

Protection of the Public which is incapacitating the offender to prevent further crimes, Proportionality requires that the punishment imposed should be commensurate with the gravity of the offence committed and the culpability of the offender. the purpose of the AJCA is to ensure efficient management of criminal justice institutions, speedy dispensation of justice, protection of society from crime, and protection of the rights and interests of suspects, defendants, and victims.⁴⁴

Courts now routinely consider options such as community service, probation, and fines, especially in line with Section 470(2)(c) of the ACJA, where the Act ensures an administration of criminal justice committee is saddled with the responsibility of ensuring the congestion of criminal cases in court is drastically reduced, persons awaiting trial are not detained in prison and ensuring the congestion in prison is reduced, and the Nigerian Correctional Service, aiming to reduce prison congestion and promote rehabilitation.⁴⁵

⁴⁴ Section 1(1) of the Administration of criminal justice Act 2015

⁴⁵ P.ChIbueze Okorie Esq, 'SeNtencing Guidelines: Principles, Practice And Procedure' (nji.gov.ng, 2024) <https://nji.gov.ng/assets/publication/SENTENCING-GUIDELINE.pdf>> accessed 28 October 2025.

Mandatory and Discretionary Sentences

Depending on the type of offense charged, courts have a wide range of sentencing discretion. While courts have the authority to impose penalties within predetermined bounds for minor offenses, statutes mandate mandatory punishments for some serious crimes, leaving little space for judicial discretion.

Knowing the distinction between obligatory and discretionary punishment is essential. When a statute defines an obligatory sentence in clear, unambiguous language, typically using the word "shall", courts are powerless to impose a punishment different than that authorized by law. For instance, section 319(1) of the Penal Code stipulates that the compulsory sentence for murder is death. In a similar vein, Section 1(2)(a) of the Robbery and Firearms Act stipulates that the required penalty in cases of armed robbery using firearms is death.

However, for crimes for which sentence is voluntary rather than mandatory, judges have considerable latitude in determining the appropriate punishment.

The ACJA provides a crucial guideline⁴⁶: courts shall not pass the maximum sentence prescribed for any offence on a first offender, except in cases where the sentence is mandatory. This provision recognizes that courts must exercise their sentencing discretion with due regard to mitigating factors, including the offender's status as a first-time offender, age, character, antecedents, and the circumstances surrounding the commission of the offence. The rehabilitative goal of criminal punishment and the understanding that first-time offenders may be more receptive to reformation than seasoned recidivists serve as the foundation for this idea. Prison population numbers and recidivism rates are directly impacted by the sentence decisions made by the courts. Courts help reduce recidivism and manage prison overcrowding by judiciously imposing proportionate sentences and alternative punishments. On the other hand, systemic problems are made worse by failure in this position. The courts' obligation to address

⁴⁶ Section 416(2)(d) of the Administration of Criminal Justice Act 2015

these larger social challenges within their legal mandate is emphasized in sentencing reform training.⁴⁷

Courts have a crucial role in putting alternative sentencing procedures like probation, restorative justice, and plea bargaining into practice in accordance with contemporary penal policy. By diverting criminals from prison, this judicial duty lessens overcrowding and lowers recidivism. Through these options, training and reform programs expound on courts as change agents in the Nigerian legal system.⁴⁸

Conclusively, Nigerian courts have a variety of functions that are essential to the effectiveness of prison terms. Nigeria's ability to manage congestion, lower recidivism, and implement efficient, just sentencing systems is influenced by its adjudicative discretion, application of statutory guidelines, promotion of alternatives, rights protection, and supervision functions. This thorough analysis highlights the courts' crucial role in the Nigerian criminal justice system's reform initiatives and can be skillfully included into your thesis to further explore the effectiveness of sentence.

⁴⁷ F.O Agbo, 'Sentencing Guidelines and Prison Congestion in Nigeria: Challenges and Prospects for Decongestion' (2022) 10(6) Global Journal of Politics and Law Research.

⁴⁸ *ibid*

CHAPTER THREE

LEGAL FRAMEWORK

3.1 Administration of the ACJA

The Administration of Criminal Justice Act 2015 (ACJA) represents a fundamental turning point in Nigeria's approach to criminal justice. The Act was enacted in May 2025 to provide for the administration of criminal justice system in Nigeria which promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crimes and protection of the rights and interest of the suspect, the defendant and victims in Nigeria.⁴⁹ This marked a deliberate legislative attempt to correct deep-rooted inefficiencies in the administration of justice that had long contributed to prison congestion, delayed trials and human rights abuses. The objectives of the act is supported by section 36(4) of the Nigerian constitution 1999, Whenever any person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing in public within a reasonable time by a court or tribunal. The Court of Appeal also held, in *Alamiyeseigha vs Federal Republic of Nigeria*,⁵⁰ “ Since in criminal trial or proceeding as in the instant case, the courts are guided by public policy and the need for a speedy trial and fair hearing within a reasonable time as enjoined in section 36 (4) of the Constitution of the Federal Republic of Nigeria, 1999, it is the duty of all parties (including the Appellant) and the court to ensure that justice and the proceeding are not unnecessarily delayed in the present case.” The unified law is applicable in the Federal Capital Territory, in all federal courts and with respect to offences contained in Federal Legislation but it does not apply to a Court Martial⁵¹

⁴⁹ Section 1(1) of the Administration of Criminal Justice Act 2015.

⁵⁰ (2006) 16 NWLR (pt. 1004)

⁵¹ Section 2 of the ACJA

Prior to the enactment of the ACJA the criminal justice system rested on two major legal regimes, the Criminal Procedure Act for Southern Nigeria and the Criminal Procedure Code for Northern Nigeria. Nigeria's criminal justice system was extremely unfair, full of delays, slow, leading to prolonged detention of suspects. Correctional institutions were frequently overcrowded as a result of lengthy pre-trial detentions.⁵² In order to promote restorative justice and lessen the over-reliance on incarceration as the primary form of punishment, the ACJA was developed in addition to being a procedural reform. The Act sought to change the criminal justice system to one that prioritizes both public safety and individual dignity by combining efficiency, fairness, and rights protection.

The ACJA enacted key innovations like the recognition of non custodial sentencing. For instance sections like, section 460 provides for community service orders, this is where and offender is put to work, performing unpaid services for the community instead of imprisonment and upon completion he would be deemed to have paid his debt and completed his sentence. Section 453 to 459 of the Act deals with probation, its is charged upon the courts discretion, as regards age, health, mental condition, the trivial nature of the offence or the extenuating circumstances under which the offence was committed. Section 468 makes establishes of parole which allows qualified inmates to serve part of their sentence outside prison under supervision, and so on.

With these provisions it can be seen that the Act deliberately encourages judicial discretion in favour of rehabilitative rather than purely punitive responses, especially for minor offences. Judges are empowered to consider the circumstances of each case, the offender's background

⁵² Chukwu Amari Omaka (SAN), Caroline U. Agom, Mathew E. Nwocha, Ogah C. Constance and Kenechukwu Agwu, 'AdMinistration Of Criminal Justice Act 2015: Its Relevance To The Law Clinics In Nigeria' (Open Univ, 2020) <https://law-school.open.ac.uk/sites/law-school.open.ac.uk/files/files/JCLLE/spring-2020/administration-of-criminal-justice-act-2015.pdf>> accessed 4 November 2025.

and the potential for rehabilitation. Courts are encouraged by Section 401 to issue sentences that are both socially productive and is equal with the offense.

The Act made provision to hasten trial, requiring courts to review remand orders periodically to avoid indefinite detention which address one of the main drivers of overcrowding in Nigerian prisons, prolonged pre trial incarceration. Uwa, JCA stated in *FRN V Lawan*, ‘the essence of the Administration of Criminal Justice Act, 2015 was to ensure amongst others, speedy trial and quick disposal of criminal cases in the interest and as of right, of a suspect, the defendant, the victim and in fact the society at large. Section 98 (2) of the ACJA was put there to ensure that part heard criminal matters do not suffer unnecessary transfers from one court to the other for whatever reason, where an unsatisfied party has the option of an appeal if not satisfied with the outcome of the trial. I would add the popular saying that, justice delayed is justice denied or no justice at all. In some cases, some of the accused persons do not live to see the end of their trials for offences alleged to have been committed by them, due to long and unending trials. To curb this trend is the essence of the ACJA.’

The Act provides that an application for stay of proceedings in respect of criminal matter before the court shall not be entertained.⁵³ this prevents the delays on a cases that suspends any further legal development.

There is also the introduction of day to day trial,⁵⁴ trials shall proceed from day to day to the conclusion after arraignment. The provision creates specific windows for for the trial to continue in situations where a day to day is not possible, Each party is only allowed five adjournments, and each adjournment cannot go longer than fourteen days. Where this does not end the trial, each adjournment period will be shortened to seven days. Any objection as to the

⁵³ Section 306 of ACJA

⁵⁴ Section 396 of ACJA

validity of the charge or information raised by the defendant shall only be considered along with the substantive issues and a ruling therein made at the time of delivery of judgment.⁵⁵

The Act has also incorporated systems in place for offices and centers to keep adequate records and reports for up to date data. They are mandated to keep central criminal record registry at the Nigerian Police Force⁵⁶, when a suspect has been arrested the officer incharge is expected to create a record of the suspect in a form prescribed by the section.⁵⁷ This and others create a procedural safeguards designed to prevent arbitrary detention.

There is clearly a deliberate effort of the Act to transform the criminal justice system by ensuring incarcerated persons are treated with dignity and fairness ,as should any human, with the change of the term, ‘prisons’ to ‘correctional centers’, ‘defendant’ instead of the term ‘accused’, the introduction of alternative sentencing, to the provisions that prevents the inhumane treatment during arrest as well as the many provisions for speedy trials and so on.

Nevertheless, despite ACJA's progressive design, there have been numerous obstacles to its widespread implementation in Nigeria. Institutional limitations, lack of awareness among judges and prosecutors, and inadequate infrastructure have slowed down the uptake of its non-custodial provisions. Nigerian courts have not uniformly applied this judicial discretion the act provides they still send offenders to prison when commit petty crime, which is how it has always been under the repealed CPA, while community service centres and probation departments remain largely underdeveloped, with only a few non custodial sentences. There is a serious need for funding to support the ACJA reforms like a functioning case management base to bring about improvements to the criminal justice system and manpower shortages further constraining the effective enforcement of non-custodial orders.⁵⁸ there is no training

⁵⁵ Section 396(2) of ACJA

⁵⁶ Section 16 of ACJA

⁵⁷ Section 15 of ACJA

⁵⁸ Hon. Justice Bright E. Oniha, ‘NoN-Custodial Sentencing In Nigeria: Contemporary Incarceration Without Walls’ (edojudiciary.gov.ng, 2025) <https://edojudiciary.gov.ng/wp-content/uploads/2025/07/NON->

for stakeholders, personnel implementing the law, the bar and the bench should be at the forefront spearheading this in order to achieve the objectives of the Act.

Esan Wolemi SAN brought to light in a paper, expressed concerns over the poor implementation of the ACJA. He mentioned although the ACJA introduced key reforms like recording of extra-judicial statements through audio-visual means to ensure transparency, compliance has been poor and often ignored by law enforcement and judicial officers. The law is clear but enforcement remains weak, with little to no sanctions for non compliance. Different states have not uniformly domesticated or implemented the ACJA which creates inconsistency across the federal system. Also enforcers still resort to force to source out information regardless of the ACJA's provision against it, the inhumane method and brutality is of suspects or accused persons was frowned upon in section 8 of ACJA, there are cases of accused persons being tortured to death This archaic and inhumane practise is being held unto be the police force and there is a major reluctance by the force to adopt new means of interrogation and general treatment of accused persons, when this is present there can be no growth reason being the force is that the forefront of the enforcement of the ACJA.⁵⁹

There is a lack of technological alteration and a continual use of manual processes,. Technology as commonly known was brought about to ease the stress of work while increasing efficiency. There has been a reluctance by the system to adapt to these technological advancements, even in court proceedings manual recording is still being used. The awareness of the benefits of the innovations of the ACJA remains quite low, there is a low understanding of the innovations by the public, even amongst the law enforcers, who are persons that are supposed to be adequately enlightened to grasp the need for the Act. There needs to be a spread of awareness across the state, it can be done through non governmental organizations, national

CUSTODIAL-SENTENCING-IN-NIGERIA-CONTEMPORARY-INCARCERATION-WITHOUT-WALLS.pdf> accessed 4 November 2025.

⁵⁹ The Nation, 'The holes in ACJA' (thenationline.ng, 2018) <https://thenationonlineng.net/the-holes-in-acja/>> accessed 5 November 2025.

orientation agencies and many more agencies, this should be backed up by adequate enforcers as well. The ACJA offers a legal foundation for achieving sentencing efficacy, the Nigerian justice system's ability to translate this promise into measurable outcomes remains a continuing challenge.

3.2 Types of Punishment in Nigeria

Under Nigerian law, punishment plays a crucial role in the criminal justice system as a tool of public policy as well as a formal response to misconduct. Nigerian punishment consists of traditional custodial sentences and a growing range of non-custodial measures. The effectiveness of punishment in achieving its goals which can be for, deterrence, retaliation, rehabilitation, or restoration, is determined by the combination of the structure of punitive options, sentencing procedures, and judicial discretion.

3.2.1 Traditional Custodial Sentences

Custodial Sentence is a court order that places a convicted person in custody for a mandatory period of time, usually through incarceration or another type of institution, the prisoner shall stay there until the expiration of the term of imprisonment.⁶⁰ Custodial sentences is provided for in Part I of the Nigerian Correctional Service Act and section 10 specifically provided for the function of custodial sentences.

Similarly in *Ali v FRN*⁶¹, the court held that;

The essence of imprisonment is to meet the legitimate expectation of society of retribution, where the society strikes back at the offender as to deter potential offenders and make the commission of crime unattractive, protect the public and society by ensuring that dare devil criminals and recalcitrant offenders are taken out of circulation.

⁶⁰ Ibid n 58

⁶¹ (2016) LPELR - 40472 (CA) per Abubakar, JCA

It is a commonly known fact that imprisonment remains the most used type of sanction in Nigeria even for less serious offences. This does not mean that incapacitation is a bad form of sanction, after all the purpose of a prison is confining certain persons that violate the law, to prevent further harm they can cause to the society or themselves. It aims to protect the society and confining them to prison help prevents further offence from being committed.

Unfortunately in the Nigerian criminal system the prison does not achieve that goal anymore. It has become a confinement that is responsible for the hardened criminals we have today, prisoners do not go in and come out refined for the better, rather they either cut off from civilization like cancer to the society or they when they have eventually let into the society again they are unable to properly mix with the society.

This is the empirical reality of the custodial sentences in Nigeria, they raise concern like, overcrowded cells, insufficient rehabilitation programmes, prolonged pre trial periods, result to prison sentences failure to achieve their rehabilitative and deterrent aims, the use of custody as a routine sentence for minor offences contributes to the systemic problem of prison congestion.

3.1.3 Non-Custodial Sentence and Alternative Sentences

Recognizing the limitations of sole reliance on imprisonment, laws have gradually incorporated to contain non-custodial sentencing options. Laws like the Administration of Criminal Justice Act 2015, Nigerian Correctional Service Act 2019 and related state laws explicitly provide for non custodial sentencing options like, community service orders, probation, suspended sentences, parole and other restorative justice mechanisms. These measures reflect a shift toward punishments that preserve liberty, promote reintegration and reduce prison burdens. Here are some of the alternatives to imprisonment.

Community Service

Community service is provided for in section 460 of the ACJA, it stipulates that the court may, with or without conditions, sentence the convict to perform specified service in his community or such community or place as the court may direct. Here offenders may be required to perform some certain unpaid task for the community, these task may include, the collection of trash from the streets, sweeping or cleaning of public roads, toilets or old people's homes for instance the The Administration of Criminal Justice Law of Lagos state section 347(3), a Community Service Order shall be in the nature of environmental sanitation assisting in the care of children and the elderly in Government approved homes and any other type of service which in the opinion of the court would have a beneficial and salutary effect on the character of the offender. Though a convict shall not be sentenced to community service for an offence involving the use of arms, offensive weapon, sexual offences or for any offence which the punishment exceeds imprisonment for a term of 3 years.⁶²

Before passing a community service order, the court shall consider the circumstances, character, antecedents of the convict and other factors such as the age of the convict that may be brought to its attention by the Registrar of the Community Service.⁶³ A Community Service Order shall be performed for a period of not more than six months and the convict shall not work for more than five hours a day.⁶⁴

In the execution of a sentence of community service, the convict shall be under the supervision of a supervising officer and the ACJA requires that the Chief Judge shall establish in every judicial division, a Community Service Centre to be headed by a Registrar, to be assisted by suitable personnel, who shall be responsible for overseeing and supervision of the execution of a Community Service Order in that Division.⁶⁵

⁶² Section 460(3) of ACJA

⁶³ Section 461(6) of ACJA

⁶⁴ Section 462(1) of ACJA

⁶⁵ Section 461(1) of ACJA

Fine

Fine can be seen as a sum of money charged by a court to an offender who is required to pay to the necessary authority, as a penalty of an offence committed by him. The method is cost-effective since it requires little administrative expenditures and generates revenue that may be utilized to offset the expenses of maintaining the justice system. Aside from this, the fine does not cause the offender to lose his job or be stigmatized. Similarly, in situations where imprisonment is not possible, such when a business violates the law or commits an offense, a fine may be charged.⁶⁶

Section 420 of the ACJA, gives courts discretionary powers to impose fine in lieu of imprisonment where it has authority to do so and where term of imprisonment imposed in default of payment of the fine shall not exceed two years. The maximum imposed by the court should not exceed that of the authorized amount in the act.⁶⁷

If the court is imposing a sentence of fine, the court is to be guided by the fact that the offender would have the financial ability to pay the fine. It should be emphasized that fines imposed should be within the means of the offender to pay. But this does not mean that a rich man should be made to pay exorbitant fine or buy himself out of prison with a substantial fine because he has the means to pay. the ACJA in various provisions including sections 327, 422, 424, 434 and 437 confers wide discretion on the court to impose, vary or alternate a sentence of fine.

Parole

Parole is one of the mechanisms set in place to relief offenders from being incarcerated, it can be seen as a post sentence measure where an offender is let out of prison before the completion of his prison sentence. This is a conditional release where the prisoner gives and assurance that

⁶⁶ Onuigbo and Nkolo, 'The Necessity of Non-Custodial Sentencing and Restorative Justice in the Administration of Criminal Justice System in Nigeria' (2024) 8(2) African Journal of Law and Human Rights

⁶⁷ Section 420(2) of ACJA

he would abide by certain conditions set by the parole board and is placed under a parole officer, which he would have to be reporting to on a consistent basis.

Section 468 of the ACJA provides for parole, a prisoner can be considered for parole where a comptroller General of prisons make a report to the court recommending that the prisoner was of good behaviour and he has served at least one third of his prison term where he was sentenced to a prison term of at least 15 years. The court may order the the remaining term of his imprisonment be suspended with or without conditions, as the court may deem fit. This prisoner, if released, may undergo a rehabilitation programme in a government facility to proper reintegrate him into society.

Probation/ Suspended Sentence

The concept behind probation is to help reintegrate prisoners into the society as well as shorten their sentences. Probation is provided for in section 454 of the ACJA, it is a court imposed period of correctional supervision which entails the release of an offender back to the society under certain conditions instead of imprisonment as a way of decongesting the prison. The court can give a probation without there being a conviction, where a defendant is charged before a court with an offence that is punishable by law with the court having regard to, character, age, health, mental condition, trivial nature of the offence, circumstance which the offence was committed.⁶⁸ An offender will only subsequently be convicted and sentenced of his original offence, where he fails to observe any of the conditions of his recognizance.⁶⁹

The prisoner would be under the supervision of a probation officer.⁷⁰ the duty of the officer is contained in section 457 of the Act.

Haddi Lashing/ Flogging

⁶⁸ Section 454(1) of t ACJA

⁶⁹ Section 459(5) of ACJA

⁷⁰ Section 455 of ACJA.

This type of punishment is most commonly practised amongst the Muslims located in the Northern States of Nigeria. The aim of this offence is to disgrace the offender by giving a certain amount of strokes of a cane as a punish for an offence. Offences like, adultery, defamation, injuries falsehood. In Haddi lashing the public is permitted to watch as it is a form of disgrace, It is required that the person giving the lashing be moderate and use their third, fourth, and fifth fingers to grip the whip. He or she is unable to raise their hand above their shoulder or utilize their thumb. Though this act may not seem modern, most alkali or area courts still practise this form of punishment. This form of punishment is not carried out on females, persons above the age of 45 years, only a juvenile can be caned in the Eastern State of Nigeria.⁷¹

Compensation

This is a from of restitution. Sections 267 to 270 of Nigeria's Criminal Procedure Act provide for restitution. However, Section 14(2) of the Economic and Financial Crime Commission Act 2004, which says that: The commission may compound any offence punishable under this Act by accepting such sums of money as it thinks fit, exceeding the maximum amount that that person would have been liable if he had been convicted of that offence, gives this particular mode of sentence an extra push. Additionally, the ACJA in Section 319 gives the Court the authority to issue compensation orders as needed.⁷²

3.2.3 Sentencing Principles

Regardless of the type of punishment being used punishment in Nigeria must be guided by the foundational principle of sentencing, proportionality, achieving justice, deterrence, rehabilitation, and incapacitation.

⁷¹ Udosen Jacob Idem and Nkokom Eyo Udofia, ‘ Sentencing and the Administration of Criminal Justice in Nigeria’ (2018) 4(1) Donnish Journal of Law and Conflict Resolution.

⁷² *ibid*

Proportionality

This is also known as retribution, is a concept that the punishment should be equally matched to the crime or offence. A minor offence should not be not be matched with a punishment that is disproportionately harsh. The goal is to make the offender suffer in the decree of his crime. For instance a criminal should be killed for committing murder, his death is the only this that is satisfactory and proportionate to his crime. In the case of *Adamu v Kano Native Authority*⁷³ the Appellant stabbed the deceased twice in the stomach and once at the back. The deceased died two days later. There was no medical evidence of the cause of death but the trial court inferred from the circumstances that the cause of death was the fatal acts of stabbing and sentence the accused to death by hanging. Being aggrieved by his conviction and sentence, the Appellant appealed to Court of Appeal. The Court of Appeal confirmed the death sentence imposed on the Appellant and dismissed the appeal.

It is possible for a court to give punishment that is disproportionate to the crime, if the intention of the court is to protect the society from the criminal⁷⁴, as was stated in the case of *Re Daher*⁷⁵ by Salmon L.J, “It is of the greatest importance in the public interest that crime such as this should be severely deterred. The sentence of 3 years is a severe sentence, having regard to the boy’s circumstances but this trade of smuggling drugs into the country and peddling them to people is a terrible and dangerous trade and it is the duty of court to do all that it can to stamp it out.”

Deterrence

Some sentences serve as a deterrent to both the offender and other in the society. One of the objectives of sentencing serves as a deterrence to others not to commit an offence by making an example of the convict. Where the punishment is really low, it does not serve the objective

⁷³ (1956)1FSC 25

⁷⁴ *ibid*

⁷⁵ (1969) 53, CR A.R. 490

that is to deterrent such an act, it can even encourage other to commit such a crime reason being the punishment assigned to that act would be light.⁷⁶ It could be specialized or general. While general deterrence attempts to prevent potential offenders from engaging in unlawful action by threatening them with punishment, specific deterrence aims to discourage crime by penalizing offenders for their crime and therefore communicating to them that crime does not pay.

In the case of *Boniface Adonike V The State*⁷⁷, the appellant defiled a girl of 5 years and was sentenced to 6 years imprisonment and 6 strokes of cane for an offence that carries life imprisonment. The Supreme Court, per Inyang Okoro, JSC held,

"The appellant herein was sentenced to six years imprisonment with hard labour and six strokes of the cane. I wish it was more than this and unfortunately, there is no appeal against the sentence. This type of case should be an opportunity for sentencing authorities to really come out vehemently to show that society abhors the type of conduct exhibited by the appellant on this innocent young girl of just five (5) years. Imagine the trauma (both physical and mental) the young girl was subjected to as a result of the insatiable urge of the appellant for mischief which he has invoked from the pit of hell. Violating a girl of just five years by the appellant in the manner he did is condemnable, barbaric, immoral and is devoid of any reasoning whatsoever. I wish I have the power to increase his punishment. I could have done it in order to serve as a deterrence to would be rapists. Be that as it may, if he does not repent, he may not be as lucky as he was in this case."

Also this case was similar to *Nafiu Rabi v. The State*⁷⁸, where a man who strangled his own wife to death was sentenced for 4 years imprisonment.

⁷⁶ Unini Chioma, 'Sentencing Guidelines: Practice And Procedure' (thenigerianlawyer, 2022) <https://thenigerianlawyer.com/sentencing-guidelines-practice-and-procedure/>> accessed 6 November 2025.

⁷⁷ (2015) LPELR-24281(SC) at 32

⁷⁸ (1990) 11 SC 130 at 177

Rehabilitation

In a lot of cases the justice system is supposed to prioritize reforming offenders over punitive options especially for the likes of young and first time offenders. The word rehabilitation can be used interchangeably with the word reformation, they aim to do the same, To reform a prisoner is to aid them in turning a new leaf and following a path that is different from the path they once followed, it's a doing over to bring a different and better result.⁷⁹

They are provided with an opportunity to receive education and treatment to help eliminate criminal tendencies so they can become better members of the society.⁸⁰ in the case of *Ekpo v State*⁸¹ where a young man of 18 years was convicted for being in possession of counterfeit bank notes contrary to the law, and was sentenced to 21 years imprisonment. On appeal, the Supreme Court per Anyagbolu J.S.C. stated, "I wish to place it on record that I have much sympathy for the appellant on the severity of sentence passed on him. He is a young man of 18 years of age and a first offender, and if the principle of reformation of criminals had any place in the sentencing policy of our courts, the salvaging of this young man from the direction of crime to the rectitude should be our paramount pre-occupation."

From the case above it can be deduced that a lesser sentence could have been more appropriate for the young man rather than the 21 years sentence as mentioned by the learned Justice of the Supreme Court.

Incapacitation

Incapacitation aims at restraining an offender from repeating a crime he carried out by incapacitating him through death penalty, long term imprisonment, amputation, exile and the likes, these acts are carried out for societal protection. Hence the target is to protect the society and prevent the criminal from carrying out such act again, some of the types of incapacitation

⁷⁹Ibid n 71

⁸⁰ ibid

⁸¹ (1982) 6 SC 120

are not being performed in modern times due to its barbaric nature, such as amputation but the death penalty is still being carried out for certain crimes.

From an analytical perspective, Nigeria's distinction between custodial and non-custodial sentencing reflects global trends, developed nations increasingly using community-based punishments for less serious crimes, saving prison for serious or high-risk offenders. Nigeria's legal framework is trying catch up, however, the sentencing principles, probation services, restorative justice infrastructure, monitoring systems remains developing. what this means is that in order to assess the effectiveness of sentencing, it is necessary to look beyond prison sentences and consider how well alternative penalties are being used, supervised and incorporated into the offender reintegration system. It is only then can one assess whether punishment in Nigeria is applied effectively and proportionately.

In summary, the types of punishment available under Nigerian law are diverse and falling in line with what is appropriate. Non-custodial alternatives are becoming legally recognized, but custodial sentences continue to be the most common. The current challenges include bridging the gap between legislative desires and practical reality, equipping judges, building supervision infrastructure, implementing restorative initiatives, building public trust, making sure that sanctions help reduce crime, prevent recidivism, and address the need for rehabilitation programs for offenders. For the efficacy of sentencing to be truly realized, punishment must become part of a system that includes credible non-custodial options not simply the default of confinement.

3.3 Rights of Convicts in Nigeria

The sentencing of offenders in Nigeria is intended to achieve multiple goals, including deterrence, retribution, rehabilitation, and incapacitation. However, the actual effectiveness of sentencing must be examined in light of convicts' rights and how those rights are upheld or violated in the justice system. This will critically analyze the efficacy of sentencing, focusing

on the rights of convicts as enshrined in Nigerian laws and their practical application, statutes like the Nigerian Correctional Service Act, the Prisons Act, and administration of Criminal Justice Act. However, these rights often faces significant challenges due to systemic issues within Nigerian system.

The legal framework protecting these rights is enshrined in the Nigerian Constitution, they retain fundamental rights, such as the right to life, dignity, personal liberty, a fair hearing, freedom of religion, and protection from inhuman or degrading treatment. These constitutional provisions align with Nigeria's obligations under the African Charter on Human and Peoples' Rights.⁸²Nigeria is a signatory to international human rights treaties like the African Charter on Human and Peoples' Rights, which further obligate the state to ensure prisoners' rights and welfare are respected.

The Nigerian Prisons Act and Nigerian Prisons Service Standing Orders regulate the conditions of imprisonment and the rights of prisoners. These rights include:

Right to sufficient legal representation, the right to legal representation is tied to the right to fair hearing, is a fundamental and essential right that every citizen of the society is entitled to without fair hearing the principles of natural justice would be abandoned, legal representation must be adequate Without legal counsel, a suspect is vulnerable to unforeseen circumstances⁸³.

The supreme court stated in *Kotoye v CBN*⁸⁴ the right of fair hearing is not a technical doctrine. It is one of substance. So, the bloodline of fair hearing is adequate and quality legal representation. The constitution in section 36(6)(c) provides that every person who is charged of a criminal offence shall be entitled to defence himself in person or through a legal practitioner of his choice. After conducting an investigation, the Court may set up a suspect's

⁸² Abayomi Oyebola, 'Fundamental rights of prisoners: A perspective' (nigerianlawguru,2024) <https://nigerianlawguru.com/wp-content/uploads/2024/11/FUNDAMENTAL-RIGHTS-OF-PRISONERS-A-PERSPECTIVE.pdf>> accessed 6 November 2025.

⁸³ L.E Effiong, 'Examining the rights of suspects under the constitution and administration of criminal justice act: The role of legal aid council' (2021) 1(2) International Journal of Criminal, Common and Statutory Law

⁸⁴ [1989] 1 NWLR (Pt. 98) 419.

defense unless the suspect rejects the plans or wishes to defend himself, which is subject to the probed by the court. The ACJA ensures convicted individuals are guaranteed the right to a fair trial, legal representation, and the chance to appeal their convictions. Until proven guilty beyond a reasonable doubt, the accused are deemed innocent and must be tried in a timely manner. Section 267(2) of ACJA states that where the defendant is in custody or on remand, he shall be allowed access to his legal practitioner at all reasonable times.

Right to a speedy trial, section 36(4) of the 1999 Constitution provides that whenever a person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair trial in public within a reasonable time by a court or tribunal. As well as section 259 of ACJA.

Right to bail, according to Section 158 of the ACJA, a person who is suspected or accused of a crime may be granted bail at three instances in time: during the police investigation, during the trial, and while an appeal is ongoing. This right is both constitutional and statutory, the rationale is the accused right to liberty is restricted by keeping him in custody, which is comparable to incarceration as a punishment. Hence, it is possible for him to be released throughout his trial if his attendance in court is assured. Unless there is a severe accusation, bail is a right.⁸⁵

Right against double jeopardy, section 238(1) of ACJA and Section 36(9) of the Constitution protect against being tried twice for the same offence. it says a defendant charged with an offence is not liable to be tried for that offence where it is shown that he has previously been, convicted or acquitted of the same offence by a competent court, convicted or acquitted by a competent court on a charge on which he might have been convicted of the offence charged or convicted for or acquitted of an offence by a competent court other than the offence charged,

⁸⁵ Ibid n 83

being an offence for which, apart from this section, he might be convicted by virtue of being charged with the offence charged.

Right to an interpreter, provided for in section 36(6)(e) of the 1999 Constitution and Section 17(5) of ACJA provide for free interpreter assistance if the suspect cannot understand the language used at trial.

Right to silence, section 36(11) of the 1999 Constitution provides that an accused cannot be compelled to give evidence during trial. An accused person may choose to be quiet during his trial. The accused is not required to help the prosecution prove its accusations against him. He cannot be forced to testify during the trial. The prosecution has the duty to present evidence. The prosecution and the court may comment on the accused silence, but they must not imply that he is guilty.

Right to examine and cross-examine witnesses, section 36(6)(d) of the 1999 Constitution entitles suspects to call witnesses and cross-examine prosecution witnesses.

Right against retrospective laws, section 36(8) and 36(12) of the 1999 Constitution prohibit conviction for acts that were not offences when committed and require offences to be defined in written law. An accused can not be retroactively punished for an act that at the time it was carried out it was not an offence in the eyes of the law.

Right to reasonable time and facilities for defence, section 36(6)(b) of the 1999 Constitution guarantees adequate time and facilities for preparing a defense, including access to legal advisers against an allegation.

Right to notice of the offence, the accused must be given full notice of offence he allegedly committed, the document that contains this information is called a charge. section 196(1) of ACJA requires that charges contain sufficient particulars of time, place, and nature of the alleged offence. Section 36(6)(a) of the Constitution requires prompt information in a language the suspect understands.

While there is adequate framework the rights of convicts in Nigeria, the problem lies with the terrible implementation by the enforcers which seriously affects the efficacy of sentencing.

3.4 Statistics of Sentencing in Nigeria

The sentencing statistics and data in Nigeria give important insight into the country's criminal justice system and highlight various shortcomings, lack of implementation and results that affect the efficacy of sentencing. The effectiveness of sentencing in Nigeria can be better understood by looking at sentencing statistics, which reflect not only the scope of criminal justice operations but also the systemic difficulties that affect justice results. As established Nigeria is dealing with serious difficulties like as prison congestion, a large number of pre-trial detainees, and developing tendencies in non-custodial sentencing.

According to recent official figures from the Nigerian Correctional Service, as of November 10th, 2025, Nigeria's inmate population is approximated 80,405 inmates spread across multiple prisons nationwide. A large proportion of this population, over 67% or nearly 53,734, are pre-trial detainees or remand offenders who have not yet been convicted. This statistic offers an unsettling reality, almost two-thirds of detainees in Nigerian jails are still awaiting trial, some for extended periods of time. Over the course of several months, the number of individuals awaiting trial has increased, reaching 53,100 in August 2025, a 2% increase. Such delays result in serious congestion and create human rights concerns regarding prolonged detention without conviction.⁸⁶

These population figures is not a new thing, based of statistics collated in 2015, the state with the highest number of inmates awaiting trial is Lagos State, with a number of about 5,603 are pre-trial detainees out of a prison population of 6,522. while places like River State with 3,625

⁸⁶ Nigerian Correctional Service, 'Statistics Summary' (NCoS, 2025) https://www.corrections.gov.ng/statistics_summary> accessed 15 Novemeber, 2025.

with a population of 4,054 persons and Edo State with 2,434 persons. Other states have lesser pre-trial detainees, with Yobe having 163 and Borno with 216 person.⁸⁷

The Nigerian prison system is strongly male dominated, with males accounting for about 98% of the convict population with a number of 78,511, leaving females at 1,894 out of a total population of 80,405. Women convicts constitute a small proportion, revealing a huge gender imbalance in sentencing and incarceration. The gap could reflect larger social patterns in crime, law enforcement procedures, and sentencing preferences.⁸⁸ Only around 33% of the jail population is made up of convicted criminals serving out their terms. According to figures from the Nigerian Correctional Service for the year 2025, only 26,671 out of approximately 80,405 convicts were convicted, while the others remaining awaiting trial. This emphasizes the judicial delays and effect on sentencing efficacy.⁸⁹

The importance of non-custodial sentences, which aim to lower inmate populations and the social and financial costs of incarceration, is becoming more widely acknowledged. Over 64,000 prisoners were given non-custodial terms as an alternative to incarceration, according to recent data from 2021 to 2025. A study revealed that 54,523 prisoners nationwide were sentenced to non-custodial terms between 2021 and 2024. These actions give convicts chances for rehabilitation outside of prison and aid in the reduction of prison overcrowding. However, because of judicial attitudes, insufficient personnel, and a lack of infrastructure to support probation and parole systems, courts keep applying it inconsistently. States vary in their capacity as well, like Kebbi, with a number of 131 correctional officers, while others, like Imo

⁸⁷ National Bureau of Statistics, 'Number Of Unsented Detainees And Overall Prison Population By State And Year 2011 - 2015'(nigerianstat.gov.ng, 2015) <https://www.nigerianstat.gov.ng/elibrary/read/498>> accessed 15 November, 2025.

⁸⁸ Ibid n 86

⁸⁹ ibid

State, have fewer staff available for adequate implementation. This has an impact on efficient sentence administration and rehabilitation.⁹⁰

According to the NCoS statistics the summary of inmate convicted for non custodial measures is a total number of 780, which is very disheartening and disappointing to see. From the total number 564 of the convicts are given community service, 157 are given restorative justice, 7 are given parole, 39 inmates are charged with probation, while the remaining 3 were given other non custodial sentences.⁹¹

The sentencing statistics highlight a number of major problems which hinder Nigeria's sentencing efficacy. Prisons are overcrowded well above their designed capacity due to a large proportion of pre-trial inmates, which worsens living conditions and raises risks to health. The large number of pre-trial detainees confirms judicial delays, which result in lengthy detention without conviction. Due to judicial strictness and a lack of adequate detention facilities, non-custodial sentencing is still underutilized and used inconsistently. There is a limitation on resources, effective prison administration and rehabilitation initiatives are hampered by a lack of staff and an unequal allocation of correctional staff. The presence of a clear gender gap, the almost complete lack of female inmates raises the possibility of bias or social factors influencing arrest, prosecution, and punishment.

In conclusion, the practical reality of Nigeria's criminal justice system can be gotten from the country's sentence data. Gradual improvements have been achieved by the Nigerian Correctional Service and court authorities progress in tracking criminal case results and increasing non-custodial punishments. To speed up case processing, increase judicial recognition and use of alternative sentencing, and increase the capacity of correctional services, significant structural changes are necessary. In order to ensure that sentencing accomplishes

⁹⁰ Gift Habib, 'Over 64,000 get non-custodial sentences in five years — NCoS' (punchng, 2025) <https://punchng.com/over-64000-get-non-custodial-sentences-in-five-years-ncos/> accessed 15 November, 2025.

⁹¹ Nigerian Correctional Service, 'Non Custodial Statistics Summary' (NCoS, 2025) https://www.corrections.gov.ng/non_cust_statistics_summary accessed 15 November, 2025.

its intended goals of justice, deterrence, and social reintegration, accurate and easily available statistics will continue to be an important tool for review of policies.

CHAPTER FOUR

AN INTERNATIONAL COMPARATIVE ANALYSIS OF SENTENCING MODELS WITH NIGERIA

4.1 Introduction

Nigeria is not the only country facing problems with its criminal justice system, including jail congestion, high recidivism rates, and the ineffectiveness of custodial punishments. Similar problems have affected nations all around the world, and some have created alternative sentencing strategies that put public safety, community reintegration, and rehabilitation before strictly punitive tactics. This chapter conducts a thorough comparative examination of alternative sentencing models and actual methods used in different jurisdictions, looking at their efficacy, practical applications, and results in relation to Nigeria. The purpose of this is to learn lessons, identify potential problems, and provide workable alternatives for sentencing reform in Nigeria, this chapter compares these foreign models with the Nigerian system. It will evaluate closely what might be effective in Nigeria, particularly the social and legal setting. In this chapter, sentencing patterns in a number of jurisdiction such as Norway, the US, EU member states, China, African countries like South Africa and Rwanda are closely compared. the goal is to find alternative approaches, operational difficulties, and measurable outcomes. Delving into a brief summary of these Jurisdictions. Norway is one of the most effective and compassionate countries in the world when it comes to rehabilitation for correction. Despite being an advanced country, the United States struggles with mass incarceration and offers lessons regarding limitations of punitive measures. European Union States provide a variety of models that, within a human rights framework, they find a balance between retribution and rehabilitation. China offers an Asian perspective, they blend traditional ideals with modern methods of correction. Given their similar legal traditions of Rwanda and South Africa, they provide a useful comparison.

4.2 Norway: The Norwegian Rehabilitation Model “The Normal Principle”

The Norwegian Correctional Service uses the guiding principle of normality. This principle aims to keep the prison conditions similar to that of life outside prison as much as possible, the punishment of incarceration is used only for restriction of liberty and no other right is removed like the right to vote, access to public service and the like, the import model where public services like education and healthcare are provided, it is used to keep life in prison as similar to the outside. The purpose of this principle is to recognize prisoners as full citizens and to reduce recidivism rates.⁹²

They are known for being the most humane prison in the world, as at 2014 incarceration rate was 75 per 100,000 people⁹³, they are known for having the lowest rate of recidivism, at 20% with roughly 3,933 inmates with a prison capacity of 4,000 cells, compared to other jurisdictions where convicts are arrested again at the rate is between 60% and 70%. They also focus on helping prisoners become better members of society. The maximum custodial sentences are typically limited to 21 years; extensions of 5 years can be granted if rehabilitation is not completed; and inmates may be eligible for parole after completing one-third of their sentence; however, for some serious offenses, parole is only possible after ten years in prison.⁹⁴ Norway also eliminated life sentence as a type of punishment.⁹⁵

Norway’s model prioritizes restorative justice practices, engaging offenders in repairing harm and fostering accountability beyond mere punishment. Norway's approach demonstrates successful decongestion of prisons through the principled application of alternatives and rehabilitation.

⁹² Tranquil Earth Alliance, ‘The Principle of Normality in Norway’ (tranquilearthalliance, 2025) <https://tranquilearthalliance.com/normalcy/#:~:text=The%20principle%20of%20normality%20is%20a%20guiding%20principle,as%20possible%2C%20while%20still%20maintaining%20necessary%20security%20measures> .> accessed 11 November, 2025.

⁹³ The Borgen Project, Norway’s Prison System Benefits its Economy’ (borgenproject.org, 2020) <https://borgenproject.org/norways-prison-system/>> accessed 11 November, 2025.

⁹⁴ Living in Norway, ‘Prisons in Norway: Inside a Norwegian Jail’ (lifeinnorway.net, 2022) <https://www.lifeinnorway.net/prisons/>> accessed 11 November, 2025.

⁹⁵ Ibid n 93

4.3 The United States

While the criminal justice system in the United States is complicated and varied, it employs a range of sentencing alternatives, including probation, community service, electronic monitoring, and diversion programs, all of which attempt to reduce incarceration. Particularly sentencing models like, electronic monitoring is aimed at reducing the overbearing reliance on incarceration.

Electronic monitoring relies on straightforward GPS devices in order to track the movements of offenders, bracelets can be used for this purpose, with a variety of implementation strategies. This switch from real time monitoring has increased the level of efficiency. Overall effectiveness has enhanced as a result of this change from continuous monitoring in real time. The law establishes restrictions on the application of this punishment model, guaranteeing the protection of offenders' rights and ensuring that it complies with constitutional and human rights standards that is, inspection processes to avoid abuse. Some of the advantages of using this is the reduced rates of recidivism by monitoring offenders and ensuring their reintegration into society, an alternative to incarceration by decreasing the need for imprisonment as punishment for certain cases, this mode of punishment is also inexpensive and the resources can be allocated more efficiently. It has gained widespread use in places like the U.S, Australia, Argentina, and EU countries, like Wales, Belgium, Ireland, to reduce prison numbers while maintaining public safety.⁹⁶ Around the world, electronic monitoring is applied at various stages within the adult criminal justice process. These applications include, serving as a substitute for pre-trial custodial detention to enable surveillance, ensure compliance, and manage risks, refacilitating early release from incarceration and addressing other specific needs, such as monitoring prisoners during hospital visits. In Portugal and the US electronic monitoring is used for cases of domestic violence.

⁹⁶ Lawfina Editorial Team, 'The Role of Electronic Monitoring in Modern Sentencing Practices' (lawfina, 2024) <https://lawfina.com/electronic-monitoring-in-sentencing/>> accessed 10 November.

The United States has one of the highest incarceration rates in the world, breaking up families and causing former inmates to become unemployed thereby increasing the unemployment rate to 20%.⁹⁷ They frequently prioritize punishment and retaliation over rehabilitation, with over 200,000 prisoners serving life sentences while 2,500 prisoners received the death penalty and are sitting on death row.⁹⁸ Studies on recidivism by the United States Sentencing Commission (USSC) show more than 25,000 of federal offenders over an 8-year period were rearrested. According to their research, the recidivism rate was 11.7% lower for offenders who had never interacted with the criminal justice system than those who had prior contact with the justice system.⁹⁹ They also have overcrowding problems though not as severe as Nigeria. California, for example, has a prison capacity of 100,000 but they are holding about 170,000 inmates; the incarceration system seems to be slowly getting out of hand.¹⁰⁰ The reality is, structural problems still exist, such as racial and economic bias-related sentencing unfairness that damage efficacy and fairness. In order to reduce bias and ensure the fair implementation of alternatives, the US experience emphasizes the important role of organized sentencing frameworks together with strict court supervision and training.

4.4 European Union States

The member states of the European Union prioritize non-custodial punishments as a crucial component of sentencing reform. Community punishments, probation, curfews, and electronic supervision have become established as effective alternatives to imprisonment in nations like

⁹⁷ ABUAD Law Review, 'Reducing Crimes And The Recidivism Rate: A Comparative Study Of The Nigerian, Norwegian And United States Prison Systems' (djetlawyer, 2020) <https://djetlawyer.com/reducing-crimes-and-the-recidivism-rate-a-comparative-study-of-the-nigerian-norwegian-and-united-states-prison-systems/> accessed 13 November, 2025.

⁹⁸ T. Truelock, 'A Comparative Analysis Of Criminal Justice Systems In a Comparative Analysis Of Criminal Justice Systems In The United States And Scandinavia The United States And Scandinavia' (2023) 1(6) Ohio Northern University International Law Journal.

⁹⁹ Drew Kann, '5 facts behind America's high incarceration rate' (edition.cnn, 2019) <https://edition.cnn.com/2018/06/28/us/mass-incarceration-five-key-facts/index.html> accessed 13 November, 2025.

¹⁰⁰ Ibid n 97

France and Spain. The legal frameworks incorporate these approaches, prioritize reducing the use of incarceration, reintegration offenders into the society, and rehabilitation of offenders. By promoting restorative and rehabilitative justice, the EU model enables member states to reduced jail congestion while maintaining public safety. This model gives Nigeria real-world examples of how consistent policies and legislative clarity in alternative sentencing might result in better criminal justice outcomes. Almost every member state of the European Union has integrated some of restorative justice.

For victims or offender places like Wales focus on restorative justice, Reductions in reoffending and direct improvements to victims wellbeing were among the benefits of restorative justice that were modeled. The European Forum for Restorative Justice (EFRJ) was created to primarily focus on the application of restorative justice in Europe. The Victims' Directive provides an adequate definition of restorative justice services, requires Member States to inform victims and facilitate referrals, and offers safeguards for victims of crime. The Directive acknowledges a wide range of restorative justice programs, such as victim-offender mediation, family group conferencing, and sentencing circles.¹⁰¹

Latvia, a country located in Northern Europe recorded notable reduction in prison numbers, with a drop of about 38% in the past between the year 2003 and 2013. A comprehensive criminal law amendment was aimed at reforming Latvia's penal policy bring down an estimated 30%. The reform includes, several offenses were decriminalized, community based sanctions were expanded to cover a broader range of crimes, including extending the availability of community service to 150 offenses, minimum and maximum sanction criteria

¹⁰¹ Brunilda Pali, 'Briefing Paper about the Regulation of Restorative Justice in the Directive 2012/29/EU' (euforumrj.org, 2016) <https://www.euforumrj.org/sites/default/files/2020-01/efrj-briefing-paper-rj-in-the-victims-directive.pdf#:~:text=The%20Victims%E2%80%99%20Directive%20provides%20an%20adequate%20definiti on%20of,victims%20of%20crime%20in%20relation%20to%20restorative%20justice.>> accessed 14 november,2025.

were lowered for a wide range of crimes, particularly property crimes that did not endanger life or injury, and mandatory minimum sentences were abolished in some instances.¹⁰²

In Poland, they decided to replace short term imprisonment when suspended sentence is breached, courts can now impose a community penalty instead of imprisoning someone who violated a suspended sentence of up to one year. The penalty must be at least twice as long as the initial suspended sentence. Currently, only community service can be used as a penalty, rather than electronic monitoring.¹⁰³

In Italy, they utilize a pre-trial probation which can subsequently extinguish the offence of the offender. Probation suspends prosecution and, if the probation is complete, it removes the offense from the record, preventing more criminal proceedings. Adults are only charged with offenses punishable by four years in jail. Individuals can only receive this offer once and adults must request it to ensure consent. Initially, social workers do a social investigation to assess the individual's situation. If granted, the order will include probationary periods and social worker-supervised programs. With this there has been a constant noticeable increase in both the number of people subject to the measure and those who require prior social inquiry.¹⁰⁴

4.5 China

China's sentencing reforms represent a change away from labor-based re-education and toward community prisons that combine supervision and rehabilitative programs. Despite favorable frameworks, China faces problems such as legislative vagueness and inconsistent implementation, emphasizing the importance of clear statutory requirements and institutional ability for alternatives to succeed. Community corrections focuses on supervising offenders in society, combining surveillance with educational and rehabilitation programs. This concept

¹⁰² Catherine Heard, 'Alternatives to imprisonment in Europe: A handbook of good practice' (prisonobservatory.org, 2016)<https://www.prisonobservatory.org/upload/Good%20practice%20handbook%20AS.pdf>> accessed 14 November, 2025.

¹⁰³ *ibid*

¹⁰⁴ *ibid*

seeks to strike a balance between social control and offender reform outside the prison setting. Such problems reflect the possible obstacles Nigeria may face in transitioning from custodial to non-custodial sentencing options. China's current government, based on the Combining leniency with severity penal policy, aims to address public security concerns in a more methodical and focused manner, compared to the country's previous practice of imposing harsher penalties. It is viewed that way because China's 1997 Penal Code still imposes the death penalty for 68 types of offenses. The number decreased to 55 in 2011. China has the highest execution rate in the world, with 2,000 to 15,000 convicts executed each year. In 2010, China carried out at least 5,000 killings, accounting for 85.6% of all executions worldwide.¹⁰⁵ Since 2003, prison overpopulation has created an urgent need for cost effectiveness, and a shift toward a more civilized approach to reforming offenders has increased China's usage of community corrections. China's community corrections system includes five different kinds of sanctions: public monitoring, probation, parole, temporary execution of a sentence outside a confinement institution, and suppression of political rights.¹⁰⁶ The 8th Amendment states that a convict released on parole is subject to community correction under parole supervision and management.¹⁰⁷ The rate of release on parole in the province appears to be roughly consistent with that of the whole country, and it has been in a state of stagnation.

4.6 African Jurisdictions: South Africa and Rwanda

Rwanda and South Africa offer significant case studies of alternative sentencing initiatives in the African environment. In light of the country's experience with reconstruction after a conflict and legislative reform, Rwanda has embraced the use of community service as a non-custodial sanction that complements restorative justice ideas. Similar integration of community

¹⁰⁵ Jianhong Liu, Ruohui Zhao, Haiyan Xiong, Jinlin Gong, 'Chinese Legal Traditions: Punitiveness versus Mercy' (2012) 9(1) *Asia Pacific Journal Of Police & Criminal Justice*.

¹⁰⁶ Tun Xu, Ling Tang, Xifen Lin, 'The predictors of decisions to grant parole in China: Evidence from four prisons in Z province' (2022) volume 71 *International Journal of Law, Crime and Justice*.

¹⁰⁷ Jiang, S., Xiang, D., Chen, Q., Huang, C., Yang, S., Zhang, D., & Zhao, A, 'Community Corrections in China: Development and Challenges' (2013) 94(1) *The Prison Journal*.

corrections is seen in South Africa, where probation and community service are frequently used to lessen the dependency on incarceration. However, many jurisdictions have obstacles that hinder the full implementation of alternative sentencing programs, including a lack of administrative resources, problems with governance, and insufficient judicial training. Furthermore, in order to increase support for alternatives, it is necessary to carefully navigate public ideas of justice. The experiences of South Africa and Rwanda highlight the significance of community involvement, funding, and political will in incorporating efficient sentencing options.

The transitional emphasis on human dignity, constitutional rights, and the transformation of institutions that were once tools of oppression reflects South Africa's choice of a human rights based approach to the management of correctional facilities rather than a harsh law enforcement punitive approach. The emphasis on human rights in corrections represents not just hopeful messages but a fundamental change of the purpose and operation of the correctional system. The mandate of the Department of Correctional Service (DCS) is to put offenders in a secure and humane environment which ensure their rehabilitation and reintegration programmes are being implemented. The core of the activities to be carried out are done in security operation, remand detention and offender management sub programmes in the incarceration programme.¹⁰⁸ Committal to an institution, fines, community service orders, correctional supervision, caution and discharge, compensating orders, and suspended sentences are among the sentencing alternatives available in South Africa. there is a problem of overcrowding with South Africa's ever increasing population, Options for sentencing will reduce overcrowding. However, the absence of alternative sentencing choices is not the cause of the current prison situation. it is the delayed administration of justice, which causes a high

¹⁰⁸ 'Correctional Service' (gov.za, 2025) <https://www.gov.za/about-government/government-system/justice-system/correctional-services>> accessed 14 November, 2025.

number of people awaiting trial, and the tendency of South African courts to impose lengthy prison sentences are the causes of prison overcrowding.

Rwanda's Criminal Procedure Code and Penal Code, as well as changing criminal justice policies aimed at improving fairness, promptness, and rehabilitative focus, influence the country's sentencing structure. In 2022, the government enacted a broad criminal justice policy that prioritizes offender reintegration and restorative justice while lowering reliance on incarceration.¹⁰⁹ In keeping with this objective, 2025 changes seek to provide judges greater discretion in sentencing, permitting alternatives to severe jail while protecting against corruption issues.

Rwanda places a high priority on finding a balance between punishment and reform. In an attempt to protect detainee rights and lessen overcrowding, criminal cases are handled with the goal of avoiding unnecessary pre-trial imprisonment; many accused remain free on bail pending trial.¹¹⁰

Rwanda employs a combination of custodial and non-custodial sentences within its criminal justice system, adapting to offense severity and offender profiles.

Imprisonment: Reserved for serious offenses, imprisonment terms vary according to the crime severity. Post-genocide, Rwanda has made efforts to ensure imprisonment terms serve not only retributive purposes but also rehabilitation through education and vocational training within prisons.

Sentence reduction and plea bargains was just introduced, it enables criminals to enter an early guilty plea, which lessens the length or severity of punishments, easing the burden on the courts

¹⁰⁹ Minijust, 'The Proposed Amendments To The Criminal Procedure Do Not Pose a Risk Of Corruption Within The Judiciary' (minijust.gov.rw, 2025) <https://www.minijust.gov.rw/news-detail/the-proposed-amendments-to-the-criminal-procedure-do-not-pose-a-risk-of-corruption-within-the-judiciary>> accessed 15 November, 2025.

¹¹⁰ Rwanda Law Reform Commission, 'Rwanda Law Reform Commission holds Consultative Meeting on Legislative Development' (rlrc, 2025) <https://www.rlrc.gov.rw/news-details/rwanda-law-reform-commission-holds-consultative-meeting-on-legislative-development>> accessed 15 November, 2025.

and speeding up the conclusion of cases. Plea bargaining during investigation phases has recently benefited over 10,000 people, speeding justice and lowering pre-trial imprisonment.¹¹¹

Rwanda is investigating and increasingly employing community service orders and electronic monitoring to supervise offenders outside of prison in an effort to reduce dependency on incarceration. These actions support global developments that encourage restorative justice and lower the number of people incarcerated.¹¹²

Rwanda incorporates victim-offender mediation and reconciliation forums into its sentencing for restorative justice initiatives, emphasizing societal restoration and healing in addition to punitive measures.¹¹³

Conclusively, through the study of other international jurisdiction there is a lot that Nigeria can take note of as regards the implementation of alternative sentencing models.

The US as mighty as it is portrayed, it still suffers from excess use of incarceration but Nigeria can also implement the use of other types of non custodial sentencing, like the electronic monitoring. The EU States Nigeria can note the continuous use of non custodial measures and efficient implementation to community based sanctions, suspended sentence, restorative justice and many more. The South African approach emphasizes the need for a mix of judicial discretion and mandatory requirements. This suggests that Nigeria's sentencing rules should be adjusted to provide flexibility without compromising justice. South Africa's difficulties underscore the need for capacity building in correctional services and judicial training to improve sentencing effectiveness. Nigeria may significantly improve the effectiveness of sentencing and criminal justice outcomes by learning from Rwanda and boosting judicial

¹¹¹ Taarifa Rwanda, 'Reforming Rwanda's criminal justice system' (furtherafrica, 2024) <https://furtherafrica.com/2024/09/05/reforming-rwandas-criminal-justice-system/> accessed 15 November, 2025.

¹¹² *ibid*

¹¹³ 'Justice After Genocide: Rwanda's Journey Towards Accountability and Healing' (law.marquette.edu, 2025) <https://law.marquette.edu/facultyblog/2025/01/justice-after-genocide-rwandas-journey-towards-accountability-and-healing/> accessed 15 November 2025.

discretion, expanding non-custodial sentencing, reducing case backlogs, and emphasizing rehabilitation.

In Essence, alternative models from Norway, the US, EU states, China, Rwanda, and South Africa can assist address the many issues with Nigeria's strict sentencing policy. Reducing congestion, lowering recidivism, and improving the fairness and efficacy of sentence are all possible with a shift toward rehabilitation focused sentencing that is supported by institutions and framed by clear legislative frameworks.

CHAPTER FIVE

CONCLUSION

5.1 Summary of Findings

This study analysis the effectiveness of sentencing in Nigeria, with an emphasis on the conflict between custodial and non-custodial sentence choices. A thorough examination of legal frameworks, judicial procedures, systemic issues, and international standards has produced a number of important conclusions that show the potential and persistent shortcomings of Nigeria's current sentencing system.

Custodial penalties are a major component of Nigeria's criminal justice system, even for minor offenses. Most jurisdictions still use jail as the default punishment option, even after the ACJA and NCSA were established, with the introduction of alternative sentencing models into the criminal justice system. Prison overcrowding resulted from this. Approximately 80,405 people were incarcerated in Nigeria as of November 2025, with 53,734 of them awaiting trial. In violation of Section 36(4) of the 1999 Constitution, which ensures a fair and prompt trial, several of these detainees have been detained for longer than the maximum term their alleged crimes would carry if found guilty. This number indicates serious structural problems with pre-trial procedures, bail administration, and case management in addition to being a reflection of administrative errors. Systemic flaws frequently end up in violations of the ACJA and NCSA. Detainees frequently endure inhumane conditions such as inadequate food, unhygienic facilities, restricted access to medical care, and exposure to illness and violence.

5.2 Recommendations

To tackle these challenges, the following are recommended in an effort to close the gap between the governmental aspirations and practical reality, and to improve the effectiveness of punishment in Nigeria:

1. **Strengthen Institutional Capacity for Non-Custodial Sentencing:** In order for community service centers, probation offices, and parole supervision units to function, the Nigerian Correctional Service must have sufficient funding and personnel. The Community Service Centers ought to be well-established and run by capable registrants with support staff. Training programmes for probation officers and community supervisors should be developed.
2. **Mandatory Training on ACJA Provisions:** Judges, magistrates, and prosecutors should be required to receive regular training on the use of non-custodial sentencing options under the ACJA. As demonstrated in places like EU member states, sentencing guidelines should be established to encourage uniformity and reduce inconsistency.
3. **Enforce Existing Legal Provisions on Speedy Trial and Bail:** In order to avoid intentional delays, Section 306 of the ACJA forbids applications for a stay of proceedings in criminal cases. This must be strictly enforced by judicial officers. Likewise, bail should be given as a right, not a privilege, for non-capital offences, in line with Section 158 of the ACJA. Regular review of detention should be mandated by the judiciary.
4. **Launch Public Awareness Programmes on Restorative Justice:** Nationwide efforts to inform the public about the advantages of restorative and non-custodial justice should be carried out in conjunction with civil society organizations.
5. **Improve Data Collection and Transparency:** Real-time data on sentencing outcomes, such as the quantity and kinds of non-custodial sentences issued, compliance rates, and recidivism, shall be maintained and published by the Nigerian Correctional Service and the judiciary. Evidence based management and accountability are made possible by transparent data.

6. **Expand Access to Legal Aid and Law Clinic Interventions:** Resources must be made available to the Legal Aid Council of Nigeria so that it can represent underprivileged suspects, particularly those who are awaiting trial. In order to help with case tracking, bail applications, and ADR for minor offenses, university law clinics ought to be formally incorporated into the criminal justice system. This would help lower the number of inmates in incarceration.
7. **Ratify International Best Practices:** To keep track of hearings, adjournments, and remand times, a digital case management system should be implemented nationally. Nigeria should also experiment with electronic monitoring, such as GPS equipped ankle bands, for low-risk offenders on parole, probation, or bail, following successful models in Norway and other EU countries. This would lessen prison congestion.

5.3 Conclusion

Nigeria's criminal justice system is at an important moment. Though , it is supported by progressive laws such as the NCSA 2019 and the ACJA 2015, which uphold the values of efficiency, human dignity, fairness, and restorative justice. However, it is burdened by a deeply rooted punitive culture that equates justice with jail, years of institutional neglect, procedural delays, and overcrowded correctional institutions. The results of this study show that for thousands of suspects, defendants, and convicts nationwide, there is an obvious difference between the law and its actual application.

Nigeria has the resources, constitutional protections, and international models required to change its sentencing policy to one that genuinely strikes a balance between punishment and rehabilitation as well as public safety and individual rights. The low use of non-custodial punishments is an implementation issue rather than a legal one. Political will, judicial leadership, agency cooperation, and public involvement can all help close this gap.

In the end, the effectiveness of sentencing should be assessed based on whether justice is administered in a fair, timely, and humane manner, and whether individuals who successfully navigate the system become rehabilitated citizens rather than hardened criminals. It is then will Nigeria be able to say that its criminal justice system benefits society at large as well as the state. In essence a reform is needed now.

BIBLIOGRAPHY

Articles in Journal

A Afolabi and L.O Aboderin, 'An Appraisal Of The Concept Of Sentencing Under The Nigerian Criminal Justice System' (2023) 5(2) Public Policy and International Affair Academic Journal.

A. Olabamiji Prison, 'Overcrowding in the Nigerian Correctional System: Implications for Offender Rehabilitation at The Ado-Ekiti Correctional Center' (2025) 13(2) Global Journal of Arts, Humanities and Social Sciences.

F. O Agbo, 'Sentencing Guidelines and Prison Congestion in Nigeria: Challenges and Prospects for Decongestion' (2022) 10(6) Global Journal of Politics and Law Research.

Jiang, S., Xiang, D., Chen, Q., Huang, C., Yang, S., Zhang, D., & Zhao, A, 'Community Corrections in China: Development and Challenges' (2013) 94(1) The Prison Journal.

Jianhong Liu, Ruohui Zhao, Haiyan Xiong, Jinlin Gong, 'Chinese Legal Traditions: Punitiveness versus Mercy' (2012) 9(1) AsIa Pacific Journal Of Police & Criminal Justice.

L. E Effiong, 'Examining the rights of suspects under the constitution and administration of criminal justice act: The role of legal aid council' (2021) 1(2) International Journal of Criminal, Common and Statutory Law

O. Hendris, O.C Edafe, 'Behind the Bars: A Critical Analysis of Prison Overcrowding, Justice Delays, and Human Rights Abuse in Nigerian Correctional Facilities: A Study of Delta State Centres' (2025) 2(5) International Journal of Science, Architecture, Technology, and Environment.

Onuigbo and Nkolo, 'The Necessity of Non-Custodial Sentencing and Restorative Justice in the Administration of Criminal Justice System in Nigeria' (2024) 8(2) African Journal of Law and Human Rights

T. Truelock, 'A Comparative Analysis Of Criminal Justice Systems In a Comparative Analysis Of Criminal Justice Systems In The United States And Scandinavia The United States And Scandinavia' (2023) 1(6) Ohio Northern University International Law Journal.

Tun Xu, Ling Tang, Xifen Lin, 'The predictors of decisions to grant parole in China: Evidence from four prisons in Z province' (2022) vloume 71 International Journal of Law, Crime and Justice.

Udosen Jacob Idem and Nkokom Eyo Udofia, ' Sentencing and the Administration of Criminal Justice in Nigeria' (2018) 4(1) Donnish Journal of Law and Conflict Resolution.

U. L.K Essien, 'The Northern Nigerian Penal Code: A Reflection of Diverse Values in Penal Legislation' (1983) 5(1) NYLS Journal of International and Comparative Law 85.

W.W Longpoe,S. Oguche, 'Novelties and Perplexities of Plea Bargain in Nigerian Criminal Justice: In Defence of Human Rights' (2019) 3(2) Kampala International University Law Journal.

Project and Thesis

FeDerAl Capital Territory Courts (Custodial And Non-Custodial Sentencing) Practice Directions, 2020

Moses U. Ikoh,'The Nigerian Prison System And The Failure Of Rehabilitation: An Examination Of Incarceration Alternatives'

Websites

'Correctional Service' (gov.za, 2025) <https://www.gov.za/about-government/government-system/justice-system/correctional-services>> accessed 14 November, 2025.

'Justice After Genocide: Rwanda's Journey Towards Accountability and Healing' (law.marquette.edu, 2025) <https://law.marquette.edu/facultyblog/2025/01/justice-after-genocide-rwandas-journey-towards-accountability-and-healing/>> accessed 15 November 2025.

'Kirikiri Maximum has over 2,000 Prisoners Instead of 1,056; Ikoyi Houses 2,665 Instead of 800' (vanguardngr, 2022) <https://www.vanguardngr.com/2022/02/kirikiri-maximum-has-over-2000-prisoners-instead-of-1056-ikoyi-houses-2665-instead-of-800/>> accessed 27 October 2025

'Prison Overcrowding Trend in Nigeria and Policy Implications on Health' (tandfonline, 2021) <https://www.tandfonline.com/doi/full/10.1080/23311886.2021.1956035>> accessed 27 October 2025.

'Total Inmate Population by Convicted and Awaiting Trial Persons as of march 2025'(intelpoint.co,2025) <https://intelpoint.co/insights/total-inmate-population-by-convicted-and-awaiting-trial-persons-as-of-march-2025/>> accessed 27 October 2025.

'What Are Law Clinics and How Do They Work' (legalclarity.org,2025) <https://legalclarity.org/what-are-law-clinics-and-how-do-they-work/>> accessed 4 November 2025.

Abayomi Oyebola, 'Fundamental rights of prisoners: A perspective' (nigerianlawguru,2024) <https://nigerianlawguru.com/wp-content/uploads/2024/11/FUNDAMENTAL-RIGHTS-OF-PRISONERS-A-PERSPECTIVE.pdf>> accessed 6 November 2025.

ABUAD Law Review, 'Reducing Crimes And The Recidivism Ratel a Comparative Study Of The Nigerian, Norwegian And United States Prison Systems' (djetlawyer, 2020) <https://djetlawyer.com/reducing-crimes-and-the-recidivism-rate-a-comparative-study-of-the-nigerian-norweigian-and-united-states-prison-systems/>> accessed 13 Novemeber, 2025.

Bright E. Oniha, 'Effective implementation of non-custodial sentencing provisions in administration of criminal justice law of edo state: need for synergy amongst stakeholders'(edojudiciary,2023)<https://edojudiciary.gov.ng/wp-content/uploads/2023/11/HURISLAW-EFFECTIVE-IMPLEMENTATION-OF-NON-CUSTODIAL-SENTENCING.pdf>> accessed 28 October 2025.

Brunilda Pali, 'Briefing Paper about the Regulation of Restorative Justice in the Directive 2012/29/EU' (euforumrj.org, 2016) <https://www.euforumrj.org/sites/default/files/2020-01/efrj-briefing-paper-rj-in-the-victims-directive.pdf#:~:text=The%20Victims%E2%80%99%20Directive%20provides%20an%20adequate%20definition%20of,victims%20of%20crime%20in%20relation%20to%20restorative%20justice.>> accessed 14 november,2025.

Catherine Heard, 'Alternatives to imprisonment in Europe: A handbook of good practice' (prisonobservatory.org, 2016) <https://www.prisonobservatory.org/upload/Good%20practice%20handbook%20AS.pdf>> accessed 14 November, 2025.

Chukwu Amari Omaka (SAN), Caroline U. Agom, Mathew E. Nwocha, Ogah C. Constance and Kenechukwu Agwu, 'AdMinistration Of Criminal Justice Act 2015: Its Relevance To The Law Clinics In Nigeria' (Open Univ, 2020) <https://law-school.open.ac.uk/sites/law-school.open.ac.uk/files/files/JCLLE/spring-2020/administration-of-criminal-justice-act-2015.pdf>> accessed 4 November 2025.

Daniel Ojukwu, 'Kirikiri Takes 'Worst Prison in Africa' Title' (fij.ng ,2025) <https://fij.ng/article/kirikiri-takes-worst-prison-in-africa-title/>> accessed 23 2025

Dr I. W. Orakwe with additional note by Ernest Chigbogu, 'The Origin Of Corrections In Nigeria'(National Correctional Service portal) https://www.corrections.gov.ng/page/about-ncos/history-of-ncos?menu_id=2&sub_id=3> accessed 19 september 2025.

Drew Kann, '5 facts behind America's high incarceration rate' (edition.cnn, 2019) <https://edition.cnn.com/2018/06/28/us/mass-incarceration-five-key-facts/index.html>> accessed 13 November, 2025.

Gift Habib, 'Over 64,000 get non-custodial sentences in five years — NCoS' (punchng, 2025) <https://punchng.com/over-64000-get-non-custodial-sentences-in-five-years-ncos/>> accessed 15 November, 2025.

Hon. Justice Bright E. Oniha, 'NoN-Custodial Sentencing In Nigeria: Contemporary Incarceration Without Walls' (edojudiciary.gov.ng, 2025) <https://edojudiciary.gov.ng/wp-content/uploads/2025/07/NON-CUSTODIAL-SENTENCING-IN-NIGERIA-CONTEMPORARY-INCARCERATION-WITHOUT-WALLS.pdf>> accessed 4 November 2025.

Immanuel Táiyéwò Fáwolé, 'Prisoners' precarious conditions and human rights in Nigeria'(guardian.ng, 2025) <https://guardian.ng/opinion/prisoners-precarious-conditions-and-human-rights-in-nigeria/>> accessed 27 October 2025.

Justice, conflict and security in Nigeria,'Sentencing guidelines to ensure uniformity and fairness in courts' (justice-security.ng,2019) <https://www.justice-security.ng/sentencing-guidelines-ensure-uniformity-and-fairness-courts>> accessed 28 October 2025.

LaUra Chioma Nnamdi,'StRenghtening The Practice Of Restorative Justice In Nigeria' (celsir.org,2024) <https://celsir.org/wp-content/uploads/2024/11/RJ-Policy-Brief.pdf>> accessed 29 October 2025.

Lawfina Editorial Team, 'The Role of Electronic Monitoring in Modern Sentencing Practices' (lawfina, 2024) <https://lawfina.com/electronic-monitoring-in-sentencing/>> accessed 10 November.

Living in Norway, 'Prisons in Norway: Inside a Norwegian Jail' (lifeinnorway.net, 2022) <https://www.lifeinnorway.net/prisons/>> accessed 11 November, 2025.

Minijust, 'The Proposed Amendments To The Criminal Procedure Do Not Pose a Risk Of Corruption Within The Judiciary' (minijust.gov.rw, 2025) <https://www.minijust.gov.rw/news-detail/the-proposed-amendments-to-the-criminal-procedure-do-not-pose-a-risk-of-corruption-within-the-judiciary>> accessed 15 November, 2025.

Nigerian Correctional Service (NCoS), 'Non Custodial Statistics Summary' (Nigerian Correctional Service Portal, 2025) https://www.corrections.gov.ng/non_cust_statistics_summary> accessed 19 september 2025.

Nigerian Correctional Service (NCoS), 'Statistics Summary' (Nigerian Correctional Service Portal, 2025) https://www.corrections.gov.ng/statistics_summary> accessed 19 september 2025.

Nigerian Correctional Service (NCoS), 'vision/mission' (Nigerian Correctional Service Portal, 2025) https://www.corrections.gov.ng/page/about-ncos/vision/mission?menu_id=2&sub_id=17> accessed 19 september 2025.

Nigerian Correctional Service, 'Inmate's Statistics'(NCoS,2025) https://www.corrections.gov.ng/statistics_summary> accessed 27 October 2025.

P. ChIbueze Okorie Esq, 'SeNtencing Guidelines: Principles, Practice And Procedure' (nji.gov.ng, 2024) <https://nji.gov.ng/assets/publication/SENTENCING-GUIDELINE.pdf>> accessed 28 October 2025.

Rwanda Law ReformCommission, 'Rwanda Law Reform Commission holds Consultative Meeting on Legislative Development' (rlrc, 2025) <https://www.rlrc.gov.rw/news-details/rwanda-law-reform-commission-holds-consultative-meeting-on-legislative-development>> accessed 15 November, 2025.

Taarifa Rwanda,'Reforming Rwanda's criminal justice system' (furtherafrica, 2024)<https://furtherafrica.com/2024/09/05/reforming-rwandas-criminal-justice-system/>> accessed 15 November, 2025.

The Borgen Project, Norway's Prison System Benefits its Economy' (borgenproject.org, 2020) <https://borgenproject.org/norways-prison-system/>> accessed 11 November, 2025.

The Nation, 'The holes in ACJA' (thenationline.ng, 2018) <https://thenationonline.ng.net/the-holes-in-acja/>> accessed 5 November 2025.

Tranquil Earth Alliance, 'The Principle of Normality in Norway' (tranquilearthalliance, 2025) <https://tranquilearthalliance.com/normalcy/#:~:text=The%20principle%20of%20normality%20is%20a%20guiding%20principle,as%20possible%2C%20while%20still%20maintaining%20necessary%20security%20measures.>> accessed 11 November, 2025.

Unini Chioma, 'Sentencing Guidelines: Practice And Procedure' (thenigerianlawyer, 2022) <https://thenigerianlawyer.com/sentencing-guidelines-practice-and-procedure/>> accessed 6 November 2025.

Yemi Akinseye-George, 'ACJA 2015/ACJLs Principles, Innovations & Prospects' (Nigerian Maritime Services) <https://www.nms.ng/files/PIP.pdf>> accessed 28 2025.