



**IMPLEMENTATION OF NON-CUSTODIAL SENTENCING UNDER THE NIGERIAN
CORRECTIONAL SERVICE ACT, 2019**

Ahmed II Jalaludeen Bala, LLB, BL, LLM, PhD

Department of Public and International Law, Faculty of Law,
Nasarawa State University, Keffi, Nigeria.

ahmedjalaludeen@nsuk.edu.ng

Abstract

Custodial sentencing creates issues of non-rehabilitation or reform of those sentenced, congestion of custodial facilities, loss of human resources who ordinarily should be made to serve their community instead of waiting away in custody. In modern times, it has been argued that other sentencing which is not custodial should be adopted by Courts in Nigeria as captured principally in the Administration of Criminal Justice Act, 2015. This dissertation focused on the need for effective implementation of non-custodial sentencing under the Administration of Criminal Justice Act of Nigeria, 2015. It adopted the doctrinal methodology in analysis of the Act which provided for several types of sentencing like community service, parole, cost, compensation, damages, restitution, fine, suspended sentencing, deportation and probation etcetera. It was found that effective implementation of non-custodial sentencing requires proper knowledge of all facets of non-custodial provisions by the Judges, ability of the Judge to act judiciously, political will by the Executive arm of government which actually enforce sentences by Courts, provision and availability of facilities for efficient implementation. The recommendations are that stakeholders in the criminal justice sector: Judges, Correctional Service Personnel, Non-Governmental Organisation should be trained and retrained or educated on their roles in non-custodial sentencing implementation. Further to the foregoing, facilities should be available for all conceived non-custodial pronouncement.

Keywords: Non-Custodial, Sentencing, Administration, Criminal, Justice.

INTRODUCTION

Background to the Study

Historically, the Nigerian criminal justice system has been characterised by a strong preference for custodial punishment which has significantly contributed to the congestion of correctional centers. Consequently, the number of inmates has surpassed the capacity of Custodial Centres across Nigeria, resulting in severe overcrowding in existing custodial facilities.¹ Statistics in 2014 involving 240 custodial centres in Nigeria revealed that the total inmates population was 50,153. Of these number, those already convicted (male and female) amounted to 17,544 which represents 32% of the total population, while awaiting trial inmates (male and female) were 39,577 which represents 68% of the total population.² By this statistics, 39,577 inmates which represents 68% of the total population, were awaiting trial inmates.

From this, it can be safely assumed that the aims of the criminal justice system have been defeated. The current statistics in 2026 is worse than that of 2014. Currently, the 244 custodial centers in Nigeria hold more than 80,000 inmates with over 64%, representing approximately 53,000 inmates, awaiting trial. The statistics shows approximately 176,000 admissions annually.³ The overcrowding of correctional centers have raised concerns regarding the protection of human rights, the effectiveness of offender rehabilitation programmes and the overall efficiency of the criminal justice system.

These challenges have prompted some jurisdictions around the world to explore alternative sentencing options that emphasizes rehabilitation, restitution, restoration and community reintegration rather than

¹ A. Enoch, "Sentencing and the Administration of Criminal Justice in Nigeria" Researchgate

² Statistics on prison population in Nigeria, available online at

<<http://www.prisons.gov.ng/about/statisticalinfo.php>> cited in M.C. Ogwezzy, A.A. Adebayo and A.I. Kekere, *ibid*, p. 75.

³ <<https://www.premiumtimesng.com/news/more-news/865034-awaiting-trial-inmates-account-for64-of-prison-population-in-nigeria-ncos-cg.html?tztc=1>> accessed 20th March 2026.

incarceration. To this end, legislations such as the Administration of Criminal Justice Act, 2015, state based Administration of Criminal Justice Laws, the Nigerian Correctional Service Act, 2019 and the Child Right's Act, 2003 have made copious provisions regard alternative sentencing options within or outside the correctional center which will ensure speedy dispensation of justice, promotion efficient management of criminal justice institutions, protect the rights of defendants and enhance the administration of criminal justice. A notable innovation of these legislations is the introduction and institutionalization of non-custodial options as alternatives to incarceration.

Evolution of Criminal Justice Reforms in Nigeria

The objective of implementing non-custodial measures is to identify effective alternatives to imprisonment for offenders. This aligns with the global movement towards utilizing alternatives to prison sentences for convicted individuals.⁴ The intention behind this shift is to provide judges and Magistrates with greater flexibility and discretion in administering appropriate and meaningful punishments that extend beyond the penalties prescribed by the statutes defining the offenses. In response to the challenges faced by the criminal justice system such as overcrowding in correctional facilities, protracted trial processes and insufficient rehabilitation initiatives for offenders, the National Assembly enacted the Administration of Criminal Justice Act⁵. This legislation introduced non-custodial sentencing as an alternative to imprisonment for specific categories of offenders. The primary aim of this law is to enhance the management of the criminal justice system and to address issues, such as non-custodial sentences. This initiative aims to prevent misuse and to promote a reasonable degree of uniformity and fairness in sentencing practices across federal courts. Many states in Nigeria have followed suit by adopting similar legislations within their states.⁶

In 2019, the Federal Government introduced the Nigerian Correctional Service Act⁷ which repealed the Prisons Act, aiming to rectify deficiencies that were conspicuously present in the former, while simultaneously delineating explicit regulations that articulate the responsibilities and aims of the service. The newly established Act aspires to modernize the penal institutions, now referred to as correctional services, by dividing the framework into custodial and non-custodial segments;⁸ thereby, unequivocally introducing humane conditions in the management of offenders under custody and fosters a collaborative relationship between the service and various components of the criminal justice system.⁹ However, these efforts have not significantly improved the efficiency and effectiveness of the system due to poor implementation of the otherwise laudable innovations introduced in these legislations.

Concept and Significance of Non-Custodial Sentencing

Sentencing refers to the act of imposing the legally prescribed punishment on a defendant by the court. At the conclusion of a trial, if the court, after careful deliberation, determines that the defendant is guilty of the offence(s) charged, the defendant will be convicted. Following this conviction, the process of sentencing occurs. Consequently, a sentence cannot exist without a prior conviction.¹⁰ Within the framework of criminal law, sentencing can be categorized as either custodial or non-custodial, depending on the severity of the offense.

A custodial sentence refers to a judicial ruling that mandates the confinement of an individual as a form of punishment, which may occur in a prison or an alternative closed therapeutic or educational facility. The term

⁴ For example, the United Nations Declaration on the Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, 1999, encourages the use of non-custodial measures in criminal matters; the United Nations Convention on the Rights of the Child, 1989 encourages non-custodial and reconciliatory approaches to juvenile justice; the United Nations Guidelines on the Role of Prosecutors, 1990 adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders offers a framework for shifting the role of prosecutors from solely retributive justice towards a more restorative and rehabilitative approach; the United Nations Economic and Social Council (ECOSOC) Resolution on the Development and Implementation of Mediation and Restorative Justice Measures in Criminal Justice, 1999 and the United Nations Economic and Social Council (ECOSOC), Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, 2002 are all geared towards the encouraging alternative measures of punishment otherwise than by incarceration.

⁵ ACJA, 2015.

⁶ Known as the Administration of Criminal Justice Law.

⁷ NCSA, 2019.

⁸ S. 1 (2) (a)(b) NCSA, 2019.

⁹ I.O. Igwe and A.K. Mgbolu, 'From Prisons to Correctional Centres: Wherein Lies the Treatment of the Inmates of Nigerian Correctional Services Facilities?' *African Journal of Law and Human Rights Review* [2020] 4(1) p. 36.

¹⁰ *Asakitipi v State* (1993) 5 NWLR (Pt. 296) 641, 657.

‘custodial’ indicates that the individual’s freedom is curtailed, and responsibility for their care and oversight is transferred to a designated institution. The predominant type of custodial sentence is imprisonment, which entails that the individual must relocate from their community residence to a state-provided facility, commonly known as a prison or custodial center. The individual is required to remain in this new location until the completion of their designated term of imprisonment.

The term ‘non-custodial’ sentencing refers to decisions made by competent courts to impose specific conditions and obligations on individuals who are suspected, accused or convicted of a criminal offence, without resorting to imprisonment. Non-custodial sentencing represents a punitive approach that emphasizes rehabilitation, restitution, community service and other alternatives that permit offenders to remain within the community while fulfilling their sentences. The primary aim of such sentencing is to alleviate pressure on the prison system, facilitate the reintegration of offenders into society and tackle the underlying factors contributing to criminal behaviour.

The successful application of non-custodial sentencing holds significant relevance for the realization of the universal rights of inmates in appropriate situations. Non-custodial measures not only aim to alleviate overcrowding in correctional facilities but also critically assess the methods of rehabilitation applied to offenders and their subsequent reintegration into society. A notable advancement introduced by the ACJA, 2015 and the NCSA, 2019 is the inclusion of provisions for non-custodial services. This development is essential for Nigeria to align with international human rights standards and best practices in the administration of criminal justice, particularly in addressing the ongoing human rights violations associated with prison overcrowding. To facilitate this, the legislature deemed it vital to allocate a considerable section of these legislations to the operation and management of non-custodial sentencing options.

Objectives of Non-Custodial Measures in Criminal Justice Administration

Over the years, various initiatives have been undertaken by both private organizations and public institutions in Nigeria to address the issue of overcrowding in correctional facilities. Notable examples include the establishment of the Correctional Center Decongestion Unit within the Federal Ministry of Justice, the formation of the Presidential Committee on Correctional Center Reforms, and the Presidential Advisory Committee on the Prerogative of Mercy. Despite these efforts, the problem of congestion in correctional centers remains unresolved. In addition to this pressing issue, the Nigerian criminal justice system also grapples with delays in trial proceedings and insufficient rehabilitation programs for offenders.

The core objectives of non-custodial measures include:

- Reduction in prison congestion: to decrease overcrowding in correctional facilities by providing alternative punishment options for offenders, especially for juveniles and those accused of committing minor offences. This is to allow correctional facilities to focus more resources on high risk-offenders.
- Rehabilitation and reintegration: this objective is at the core of restorative justice and it aims to reform the offender through community based sanctions such as probation and community service while allowing the offender to maintain family and social ties, which are essential for successful reintegration.
- Protection of human rights and human dignity of inmates: this helps avoid the negative effectives of incarceration such as stigmatization, prison violence and exposure to hardened criminals while promoting humane treatment of inmates consistent with constitutional provisions and international human rights standards.
- These core objectives of non-custodial measures can best be understood when juxtaposed with restorative justice.

Restorative Justice Theory

Restorative justice theory represents a transformative approach to addressing crime and conflict, diverging sharply from the conventional punitive framework of criminal justice. At its core, restorative justice views crime not just as a violation of the law, but as a breach of relationships and community harmony.¹¹ It emphasizes the need to repair the harm caused to victims, hold offenders accountable in meaningful ways and involve the broader community in the resolution process. This theory forms the philosophical foundation for a more humane and reconciliatory form of justice that prioritizes healing over punishment. One of the central principles of restorative justice is active participation by all stakeholders. Unlike traditional systems where the state prosecutes offenders on behalf of victims, restorative justice allows victims, offenders and affected community members to engage in dialogue and charting a cause towards both victim and communal healing thus fosters mutual understanding and empathy, helping victims express their pain and needs while giving

¹¹ H. Zehr and A. Gohar, *The Little Book of Restorative Justice* (Good Books, 2002) 17.

offenders the opportunity to take responsibility and make amends.¹² This participatory element not only restores relationships but also empowers those most affected by the crime¹³.

Restorative justice theory is grounded in three key pillars: harm and needs, obligations and engagement. First, it identifies the harm caused by a criminal act and seeks to understand its impact on victims and the community. Second, it establishes the offender's obligation to repair that harm, either through apologies, restitution or community service. Lastly, it stresses the importance of dialogue and collaboration, where all parties collectively determine the path to justice. These components make restorative justice not only a method of dispute resolution but also a tool for community healing and transformation. In the context of Nigeria, restorative justice holds significant potential for addressing systemic flaws within the criminal justice system. Overcrowded prisons, slow judicial processes and lack of victim satisfaction are some of the critical challenges plaguing Nigeria's justice system. Restorative justice offers an alternative that can reduce recidivism, provide quicker resolution of cases and restore social harmony particularly in cases involving youth offenders, minor crimes and community-level disputes. The model resonates with indigenous African justice practices which historically focused on restoration and reconciliation.

Restorative justice is now a global social movement advocating transformation of the criminal justice system. It is a paradigm shift from the conventional retributive justice system, focusing instead on healing the harm caused by criminal behavior¹⁴ rather than punishment. Unlike traditional court processes that emphasize punishment and legal formalities, restorative justice seeks to bring together the offender, the victim and the community in a process that fosters accountability, reconciliation and reintegration.¹⁵ Healing relationships, as opposed to balancing hurt with hurt, is one core value of restorative justice.¹⁶ In Nigeria, where court dockets are often overwhelmed and the criminal justice system is plagued with delays, corruption and high incarceration rates, restorative justice offers a promising alternative.¹⁷

The effectiveness of restorative justice can be measured through various lenses such as reduction in recidivism, satisfaction of stakeholders and restoration of relationships. Empirical studies have shown that victims involved in restorative processes report higher satisfaction levels compared to those who go through the adversarial court system¹⁸. Offenders, in turn, often experience greater understanding of the consequences of their actions, leading to genuine remorse and behavioral change. These outcomes are less common in the traditional court process, which can alienate both victims and offenders from the resolution process¹⁹.

However, restorative justice is not without its challenges. In Nigeria, its application remains limited due to lack of awareness, inadequate legal framework and skepticism from legal practitioners. There are concerns about the voluntariness of participation, especially in cases involving power imbalances or gender-based violence.²⁰ Moreover, there is a risk of trivializing serious crimes if restorative justice is applied without clear guidelines or oversight mechanisms. Therefore, for restorative justice to be effective, it must be integrated into the formal justice system with appropriate safeguards and this is what the NCSA, 2019 aims to achieve with its non-custodial alternative.

The Nigerian Correctional Service Act, 2019

The Nigerian Correctional Service Act of 2019 establishes a framework for restorative justice initiatives, as well as regulations concerning parole, probation, community service, and other alternative measures mandated by the court for the Correctional Service.²¹ Under the Act, the Controller General is primarily responsible for the administration of non-custodial measures and the formulation of an annual plan for

¹² Ibid., 4-9.

¹³ Ibid, 4.

¹⁴ J. Braithwaite, 'Restorative Justice and Social Justice.' *Saskatchewan Law Review* [2000] (65), 187.

¹⁵ H. Zehr and A. Gohar, (n 131) 54.

¹⁶ J. Braithwaite, (n 134) 187.

¹⁷ I.A. Chukwudebelu, 'Reconciling Cultural Values with Legal Principles: Traditional African Justice Systems in Contemporary Context.' *Journal of Legal Subjects* [2024] 4(44): 12. Available at <https://www.researchgate.net/publication/382158613_Reconciling_Cultural_Values_with_Legal_Principles_Traditional_African_Justice_Systems_in_Contemporary_Context> accessed on 18 April 2025 at 07:11 pm.

¹⁸ A.M. Nascimento, et al., 'The Psychological Impact of Restorative Justice Practices in Victims of Crimes – A Systematic Review.' Available at <<https://pubmed.ncbi.nlm.nih.gov/35466823/>> accessed 18 April 2025 at 06:17 pm.

¹⁹ N. Christie, 'Conflicts as Property.' *British Journal of Criminology*, [1977] 17(1), 5.

²⁰ N.E. Nwafor and O.C. Aduma, 'Problems of the Administration of Criminal Justice System in Nigeria and the Applicability of Alternative Dispute Resolution.' *NAU.JCPL* [2020] 7(2), 141.

²¹ The Nigeria Lawyer "Non-Custodial Punishment In Nigeria" <https://thenigerialawyer.com/non-custodialpunishment-in-nigeria/> accessed 23 July 2026.

non-custodial service programs. Part II of the Act is entirely dedicated to Non-Custodial Measures, which encompasses community service, probation, parole, restorative justice initiatives, and any other non-custodial penalties assigned to the Correctional Service by a competent court.²² This provision empowers the courts to determine the appropriate non-custodial sentence for an offender based on specific circumstances, indicating that the range of non-custodial measures is not fixed and that the courts possess considerable flexibility to ensure that numerous minor offenders are not subjected to confinement.²³ Additionally, the Act mandates the State Controller to notify relevant authorities within one month if a custodial facility exceeds its capacity, with penalties imposed for non-compliance. The authorities to be informed include: (i) the Chief Judge of the State; (ii) the Attorney-General of the State; (iii) the Prerogative of Mercy Committee; (iv) the State Criminal Justice Monitoring Council; and (v) any other pertinent entity.²⁴ However, the implementation of this provision remains a question of fact.

The Controller is tasked with evaluating the possibility of transferring or releasing inmates to Non-Custodial Centers. In such instances, individuals who are currently incarcerated in custodial facilities may be relocated to fulfil the remainder of their sentences in non-custodial environments. The criteria for inmate eligibility for diversion include: (a) individuals serving sentences of three years or more with six months or less remaining; (b) those found guilty of minor or uncomplicated offenses; (c) cases that involve civil matters; and (d) any additional criteria established by the Prerogative of Mercy Committee or the chief judge.²⁵ Notably, this provision represents the sole explicit diversionary strategy outlined within Nigeria's criminal justice framework, which remains ineffective without the existence of non-custodial centers. The Act grants authority to the President of the Federal Republic of Nigeria and the National Assembly to form and appoint a body known as the National Committee on Non-Custodial Measures. Additionally, the Controller-General is responsible for establishing analogous committees at the state level, which will perform functions equivalent to those of the National Committee.²⁶

The Controller-General is responsible for overseeing the effective administration of processes related to parole, probation, community service and other restorative measures.²⁷ On a global level, the United Nations Standard Minimum Rules for Non-custodial Measures, commonly referred to as the Tokyo Rules,²⁸ delineate essential principles and minimum protections aimed at fostering the implementation of non-custodial measures for individuals eligible for alternatives to incarceration. These guidelines encourage Member States to enhance the development of non-custodial options, thereby minimizing reliance on confinement. Furthermore, the rules advocate for the avoidance of unnecessary imprisonment through the application of various non-custodial measures, applicable from pre-trial stages to post-sentencing outcomes.²⁹ They also suggest that efforts should be made to address offenders within the community, thereby reducing dependence on formal judicial processes or court trials, all while adhering to legal safeguards and the principles of the rule of law.³⁰

Non-Custodial Measures under the Act

Non-custodial measures under the Act refers to decisions made by authorized entities to impose specific conditions and/or obligations on individuals who are suspected, accused or convicted of committing an offence, without resorting to imprisonment. In simple language, it is a form of punishment imposed by or recommended to the court with respect to a person accused of committing a crime which punishment will not involve the accused person going to prison (correctional center), rather, the accused person serves his punishment (sentence) while leaving in the community subject to certain conditions that may be imposed by the court.

The limitations of the adversarial criminal justice system in Nigeria which is characterized by long trial delays, prison overcrowding and minimal victim participation, etc., have prompted the recognition of alternative measures in addressing some of the challenges of Nigerian's of the criminal justice sector especially the Nigerian Correctional Service. Viewed from a restorative justice angle, non-custodial options aim to address the damage caused by criminal conduct through participatory processes that involve victims, offenders and the wider community. In Nigeria, non-custodial sentencing gained prominence with the introduction of the

²² s 37(1) NCSA, 2019.

²³ s. 12(7) NCSA.

²⁴ s. 12(4) NCSA.

²⁵ s. 12(10) NCSA.

²⁶ s. 38 NCSA.

²⁷ Adopted by General Assembly Resolution 45/110 of 14th December 1990.

²⁸ The UN Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) Article 1.5

²⁹ Art. 2.3.

³⁰ Art. 2.5.

Administration of Criminal Justice Act, 2015³¹ and other state-level criminal procedure laws and the NSCA, 2019.³²

Some of the prominent non-custodial alternatives under the Act include:

Parole

This represents a type of non-custodial relief granted to an individual previously sentenced to a term of imprisonment, allowing them to complete the remainder of their sentence outside of a correctional facility.³³ Such a measure may be allowed when the Comptroller-General of Prisons submits a report to the court, recommending that an inmate has demonstrated good behavior while incarcerated, and has served at least one-third of their sentence if the term is fifteen years or longer, or in cases of life imprisonment.³⁴ Upon considering the prosecutor's input and that of the inmate or their counsel, the court may decide to suspend the remaining portion of the sentence, with or without specific conditions deemed appropriate, leading to the inmate's release. Released inmates are required to participate in a rehabilitation program at a government or suitable facility to facilitate their successful reintegration into society.³⁵ The Act makes provision for the administration of parole in Nigeria, the appointment of the members of the National Parole Board, supervision and rehabilitation of parolees and the administration of designated parole facilities.³⁶

Probation

Probation³⁷ is a substitute for punishment wherein the convicted defendant, rather than being imprisoned, is allowed to serve his sentence within the community but under supervision by either an appointee of the state or under the custody of a volunteer who may be a person or an institution. Rather than punishment, probation focuses at reforming the offender through supervising the offender in the community by a community member designated to undertake the task of supervising and reforming the offender and usually called a probation officer.³⁸ It is characterized as a form of recognizance mandated by a competent judicial authority, which stipulates various conditions under which a convicted individual must operate. Specifically, the defendant is placed under the oversight of designated individuals, known as probation officers.³⁹

The court may impose probation without a formal conviction if it deems that imposing a punishment would be an unnecessary use of resources or if a reasonable alternative is warranted.⁴⁰ Consequently, the court may issue an order that either dismisses the charges or discharges the defendant contingent upon their agreement to enter into a recognizance, with or without sureties, to maintain good behavior and to be available for appearances during a specified period not exceeding three years.⁴¹ Additionally, the court may mandate that the defendant compensate the victim(s) for the harm caused by their criminal actions, with such payments being made directly or through a representative.⁴²

Community Service

Community Service is an alternative punishment to incarceration which is most suitably imposed for minor and nonviolent offenses.⁴³ A Community Service Order is a judicial directive that allows an offender to make amends to society for their crime by engaging in community-beneficial work rather than serving time in prison.⁴⁴ This method of punishment also aims to leverage community shaming to its fullest potential.⁴⁵

³¹ See Ss. 14, 270 and 319 of the Administration of Criminal Justice Act, 2015.

³² Part II, NSCA, 2019, s. 37 thereof.

³³ D.J. Ayinde, 'An Appraisal of the Legal Framework on Parole in Nigeria.' *Potchefstroom Electronic Law Journal (PELJ)* [27] (1) 2022. <<https://doi.org/10.17159/1727-37-81/2022/v25ia11456>> accessed 02nd May 2026 at 02: 16 pm.

³⁴ S. 40(1) NCSA, 2019. To this end, the National Parole Board established in the FCT has delineated the Board's responsibilities in line with this section of the Act.

³⁵ Ibid.

³⁶ S. 40 NSCA, 2019.

³⁷ S. 41 NSCA, 2019.

³⁸ A.O. Yekini, and M. Salisu, 'Probation as a Non-Custodial Measure in Nigeria: Making a Case for Adult Probation Service.' *African Journal of Criminology and Justice Studies: AJCJS*, [2013] 7 (No. 1 and 2), p. 105.

³⁹ s.453, ACJA.

⁴⁰ s. 454 (2) ACJA.

⁴¹ s. 454 (3) ACJA.

⁴² s. 454 (3)(b) ACJA.

⁴³ See s. 42 NCSA, 2019 and s. 460 – 463 of the ACJA, 2015.

⁴⁴ D.J. Ayinde, 'An Appraisal of the Legal Framework on Parole in Nigeria.' *Potchefstroom Electronic Law Journal (PELJ)* [27] (1) 2022. <<https://doi.org/10.17159/1727-37-81/2022/v25ia11456>> accessed 02nd May 2026 at 02: 16 pm.

Examples of community service that a convicted individual may be mandated to perform include environmental sanitation tasks such as grass cutting, drainage cleaning and maintaining public spaces; contributing to agricultural production, construction or mining activities; and any other service deemed by the court to have a positive and rehabilitative impact on the offender's character.

Community service is typically imposed for offences such as petty theft, minor assault, traffic violations and other non-violent misdemeanours. The aim is to ensure proportionality in sentencing and reduce the burden on correctional facilities, which are often overcrowded and under-resourced.⁴⁶

Restorative Justice Measures

The Act under s. 43 provides for restorative justice mechanisms aimed at repairing the harm caused to victims, hold offenders accountable in meaningful ways and involving the broader community in the resolution process. Some of these restorative models provided under the Act include:

Victim/Offender Mediation

Among the prominent mechanisms under the broader umbrella of restitutive or restorative justice is the victim/offender mediation.⁴⁷ This process brings the offender and the victim face-to-face in a safe, structured setting under the supervision of a trained mediator⁴⁸. The parties are afforded the opportunity to discuss the impact of the crime and agree on a form of remedy which may include formal apologies, restitution (financial or material), community service or agreed-upon behavior changes.⁴⁹ However, these outcomes are only legally enforceable when ratified by a court. The process not only helps in healing the emotional trauma suffered by the victim but also allows the offender to understand the consequences of their actions and actively contribute to repairing the harm caused. At the same time, it allows the victim to express their thoughts and feelings directly to the person responsible, which can support their healing process.⁵⁰ The process helps reduce the burden on the judicial system by diverting less serious cases away from trial and may also contribute to decongesting correctional facilities and accelerating the pace of justice delivery while guaranteeing access to justice.

Family Group Conferencing

Family Group Conferencing⁵¹ is a mechanism that brings together the offender, the victim, their respective families and other relevant community members to discuss the harm caused by a criminal act and determine an appropriate resolution. The system has gained international recognition as a valuable tool in resolving criminal matters in a way that promotes healing, responsibility and reintegration. In Nigeria, the growing disillusionment with the traditional adjudication system under criminal law has provided a fertile ground for integrating FGC into the legal framework for criminal justice reform. FGC differs from other ADR processes like victim offender mediation in that it involves a wider circle of support, including family and community members. The idea is that crime affects not only the victim and offender but also their broader social environment. Through FGC, all stakeholders engage in a structured dialogue to assess the impact of the offence and jointly develop a plan to repair the harm and prevent reoffending. This makes the process more holistic and community-centred.

Community Mediation

Community mediation⁵² otherwise called community-based crime prevention is a critical component of modern justice system and is particularly relevant within the framework of Alternative Dispute Resolution in criminal jurisprudence. These programs aim to address the root causes of crime at the community level through education, engagement, social support and empowerment, thereby reducing reliance on formal punitive systems and promoting restorative justice outcomes. Within the Nigerian context, Community Mediation programs function as proactive tools that complement ADR mechanisms. While ADR addresses conflicts after they occur, community-based crime prevention works to reduce the conditions that give rise to criminal behavior in the first place. This preventive approach aligns with restorative and rehabilitative justice values found in Nigeria's

⁴⁵ J. Braithwaite, *Crime, Shame and Reintegration* (1989)

⁴⁶ S. 42 NCSA, 2019.

⁴⁷ S. 42 (1) (a) NCSA, 2019.

⁴⁸ In jurisdictions such as Nigeria where the practice has not gained sufficient legal and practical footing, most dialogues between the offender and victim are held at community level by community heads or at the police station under the supervision of the Investigating Police Officer.

⁴⁹ J. Latimer, C. Dowden and D. Muise, 'The Effectiveness of Restorative Justice Practices: A Meta-Analysis'. *Prison Journal*. [2005] 85 (2), pp. 127–144.

⁵⁰ B.U. Odoh, *Alternative Dispute Resolution in Nigeria* (LAM Lambert Academic Pub., 2014), p. 160

⁵¹ S. 42 (1) (b) NCSA, 2019.

⁵² S. 42 (1) (c) NCSA, 2019.

CONCLUSION

Non-custodial sentencing is deeply rooted in the philosophy of restorative justice. Restorative justice is a form of ADR which offers a more human-centered approach to criminal justice. It seeks not only to punish wrongdoing but to heal relationships and reintegrate offenders into society⁵³. This is particularly important in Nigeria, where social cohesion and communal living are deeply valued. When implemented with proper safeguards and legal oversight, restorative justice through non-custodial sentencing can enhance the justice system by making it more inclusive and responsive to the needs of the people⁵⁴. While non-custodial measures through restorative justice mechanisms cannot entirely replace the traditional criminal justice system of punishment and just desert, it serves as a valuable complement. Its effectiveness lies in its adaptability, cultural relevance, human right considerations and emphasis on healing rather than punishment. A hybrid model that incorporates the strengths of both restorative justice and traditional courts could offer a more balanced, effective and people-centered approach to criminal justice in Nigeria. Continued policy support, legal reforms and public sensitization will be key to unlocking its full potential⁵⁵.

RECOMMENDATIONS

Adequate funding: adequate funding of all the key players in the justice sector especially the Correctional Service is critical in strengthening the Nigerian criminal justice sector as it will enable the development of adequate infrastructure and setting up the needed facilities to effectively undertake the onerous responsibilities of ensuring the implementation of non-custodial measures. Further, adequate funding will guarantee the availability and provision of personnel, their remuneration, the training and retraining of all the key players in the criminal justice sector, particularly the probation and parole officers and the members of the specialized Committees to oversee the general effectiveness of non-custodial measures.⁵⁶

Reforming correctional facilities through encouraging non-custodial measures such as probation, fines and community service for minor offences. The Nigerian Correctional Service should place greater emphasis on rehabilitation through vocational training, education, counselling and reintegration programmes that prepare offenders to return to society as productive citizens.

Judicial reform: through adopting stricter timelines for criminal proceedings that eschew unnecessary adjournments and poor case management, expanding the number of judges and Magistrates and making greater use of technology such as electronic filing systems and virtual hearings. The full implementation of the ACJA, 2015 and other state Laws is also necessary to ensure speedy trials, protect the rights of suspects and reduce prolonged detention without trial.

Synergy between stakeholders: police investigators should function hand-in-hand with the office of the Attorney General, particularly the Directorate of Public Prosecutions throughout the duration of the investigation, particularly in the early stages in order to obtain guidance on procedure.

Criminal justice reform: the Nigerian government should reform the criminal justice system by adopting a more balanced and restorative approach to justice administration that emphasizes reconciliation, victim participation, offender rehabilitation and community involvement alongside punishment and prosecution. This can be achieved through the integration of restorative justice mechanisms and ADR processes into the formal criminal justice framework, particularly in minor and non-violent offences.

References

A. Enoch, "Sentencing and the Administration of Criminal Justice in Nigeria" Researchgate.

A.M. Nascimento, et al., (2025). The Psychological Impact of Restorative Justice Practices in Victims of Crimes

⁵³ Rule 10.4 of the United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules, 1990) available in the United Nations Office on Drugs and Crime, Handbook on Restorative Justice Programmes, 2nd Ed. (Criminal Justice Handbook Series, 2020) 26.

⁵⁴ National Policy on Justice, 2017, objective no. 3 thereof which aims to promote correctional and restorative justice and Alternative Dispute Resolution.

⁵⁵ Nigeria's Restorative Justice Policy (2022), developed by the Federal Ministry of Justice in collaboration with development partners.

⁵⁶ K.B. Omodanisi, 'Evaluating the Application of Probation as a Non-Custodial Sentence under the Nigerian Administration of Criminal Justice Act: Lessons from Kenya.' *Journal of African Law*. [2015] 69 (2) p. 307. Kwara State, for instance, has enacted the Probation of Offenders Law, Kaduna State recently established the Non-Custodial Sentencing Sub-Committee, while Lagos State has the Criminal Justice Sector Reform Committee (CJSRC). Ogun and Oyo States have the Administration of Criminal Justice Monitoring Committee (ACJMC), etc.

- A Systematic Review. Available at <<https://pubmed.ncbi.nlm.nih.gov/35466823/>> accessed 18 April 2025 at 06:17 pm.
- A.O. Yekini, & M. Salisu, (2013). ‘Probation as a Non-Custodial Measure in Nigeria: Making a Case for Adult Probation Service.’ *African Journal of Criminology and Justice Studies: AJCJS*, 7 (No. 1 and 2), p. 105.
- ACJA, 2015.
- Adopted by General Assembly Resolution 45/110 of 14th December 1990.
- Agoma, A. (2023). Old Stand-up Comedy, Orality, Subject Matter and the New Media: A Study of Alibaba’s 2016 January 1st Concert Performance. *Ama: Journal Of Theatre And Cultural Studies*, 14(1).
- Agoma, A. (2023). SOLO PERFORMANCE AND THE RESTRUCTURING OF THE THEATRE CURRICULUM: A STUDY OF TUNJI SOTIMIRIN’S PERFORMANCE IN SOLO AFRICA. *Ama: Journal Of Theatre And Cultural Studies*, 15(1).
- Agoma, A. (2025). Writing Solo Plays in Nigerian Theatre: Using Sotimirin’s *Molue*, Mbajiorgu’s *The Prime Minister’s Son*, and Binebai’s *Karina’s Cross* as Paradigms. *Abuja Journal of Humanities*, 6(2), 370-384.
- Agoma, A. (2026). Solo Performance and the Superfluity of Facial Make-Up: A Study of Ipe, as Performed by Daniel Olamide, and Molue, as Performed by Tunji Sotimirin. *Abuja Journal of Humanities*, 7(1), 211-223.
- Art. 2.3.
- Art. 2.5.
- Asakitipi v State (1993). 5 NWLR (Pt. 296) 641, 657.
- Awaritoma, A. (2009). Stand-up Comedy in Nigeria.
- B.U. Odoh, (2014). *Alternative Dispute Resolution in Nigeria* (LAM Lambert Academic Pub.), p. 160
- Baba, A. A. Current Development.
- D.J. Ayinde, (2022). ‘An Appraisal of the Legal Framework on Parole in Nigeria.’ *Potchefstroom Electronic Law Journal (PELJ)* [27] (1). <<https://doi.org/10.17159/1727-37-81/2022/v25ia11456>> accessed 02nd May 2026 at 02: 16 pm.
- D.J. Ayinde, (2022). ‘An Appraisal of the Legal Framework on Parole in Nigeria.’ *Potchefstroom Electronic Law Journal (PELJ)* [27] (1). <<https://doi.org/10.17159/1727-37-81/2022/v25ia11456>> accessed 02nd May 2026 at 02: 16 pm.
- H. Zehr & A. Gohar, (2002). *The Little Book of Restorative Justice* (Good Books) 17.
- H. Zehr & A. Gohar, (n 131) 54.
- I.A. Chukwudebelu, (2024). Reconciling Cultural Values with Legal Principles: Traditional African Justice Systems in Contemporary Context.’ *Journal of Legal Subjects* 4(44): 12. Available at <https://www.researchgate.net/publication/382158613_Reconciling_Cultural_Values_with_Legal_Principles_Traditional_African_Justice_Systems_in_Contemporary_Context> accessed on 18 April 2025 at 07:11 pm.
- I.O. Igwe & A.K. Mgbolu, (2020). ‘From Prisons to Correctional Centres: Wherein Lies the Treatment of the Inmates of Nigerian Correctional Services Facilities?’ *African Journal of Law and Human Rights Review* 4(1) p. 36.
- Ibid, 4.
- Ibid.
- Ibid., 4-9.
- Ismail, N. A., & Ali, B. A. (2026). Teaching Classical Arabic (Fuṣḥā) Beyond Grammar: Language, Culture, and Pedagogical Meaning-Making in Nigeria. *Abuja Journal of Humanities*, 7(1), 161-176.
- J. Braithwaite, (2000). ‘Restorative Justice and Social Justice.’ *Saskatchewan Law Review* (65), 187.
- J. Braithwaite, (n 134) 187.
- J. Braithwaite, *Crime, Shame and Reintegration* (1989).

- J. Latimer, C. Dowden & D. Muise, (2005). 'The Effectiveness of Restorative Justice Practices: A Meta-Analysis'. *Prison Journal*. 85 (2), pp. 127–144.
- Jajere, Z. M. (2009). Family Planning and Abortion in the Face of the Shari'ah. *Unimaid Journal of Women Studies*, 2, 85.
- Jajere, Z. M. (2026). FAITH-BASED RESOURCES AND DURABLE SOLUTIONS: ISLAMIC SOCIAL FINANCE AND THE PROTECTION OF INTERNALLY DISPLACED WOMEN AND CHILDREN IN BORNO STATE, NIGERIA. *Multi-Disciplinary Research and Development Journals Int'l*, 8(2), 1-36.
- Jajere, Z. M. (2026). Gender Inequality in Maiduguri: An Islamic Perspective. *Spanish Journal of Innovation and Integrity*, 51, 23-29.
- Jajere, Z. M., & Abdullahi, A. S. (2025). Muslim Women in Environmental Stewardship: Afforestation Initiatives and Socioeconomic Impact in Muslim-Majority Regions Sahel Region of Africa. *African Journal of Earth and Environmental Science*, 7(1).
- Jajere, Z. M., & ISHAQ, R. N. (2024). ISLAMIC VIEW ON ORPHANS, WIDOWS AND LESS PRIVILEGE IN ECONOMIC HARDSHIP. *EKERE JOURNAL OF RELIGION (EJR)*, 2(1), 71-86.
- Jajere, Z. M., & ISHAQ, R. N. ISLAMIC VIEW ON ORPHANS, WIDOWS AND LESS PRIVILEGE IN ECONOMIC HARDSHIP. *EKERE JOURNAL OF RELIGION (EJR)*, 85.
- K.B. Omodanisi, (2015). 'Evaluating the Application of Probation as a Non-Custodial Sentence under the Nigerian Administration of Criminal Justice Act: Lessons from Kenya.' *Journal of African Law*. 69 (2) p. 307.
- N. Christie, (1977). 'Conflicts as Property.' *British Journal of Criminology*, 17(1), 5.
- N.E. Nwafor & O.C. Aduma, (2020). 'Problems of the Administration of Criminal Justice System in Nigeria and the Applicability of Alternative Dispute Resolution.' *NAU.JCPL* 7(2), 141.
- National Policy on Justice, 2017, objective no. 3 thereof which aims to promote correctional and restorative justice and Alternative Dispute Resolution.
- NCSA, 2019.
- Nigeria's Restorative Justice Policy (2022). developed by the Federal Ministry of Justice in collaboration with development partners.
- Part II, NSCA, 2019, s. 37 thereof.
- Rule 10.4 of the United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules, 1990) available in the United Nations Office on Drugs and Crime, Handbook on Restorative Justice Programmes, 2nd Ed. (Criminal Justice Handbook Series, 2020) 26.
- s 37(1) NCSA, 2019.
- S. 1 (2) (a)(b) NCSA, 2019.
- s. 12(10) NCSA.
- s. 12(4) NCSA.
- s. 12(7) NCSA.
- s. 38 NCSA.
- S. 40 NSCA, 2019.
- S. 40(1) NCSA, 2019. To this end, the National Parole Board established in the FCT has delineated the Board's responsibilities in line with this section of the Act.
- S. 41 NSCA, 2019.
- S. 42 (1) (a) NCSA, 2019.
- S. 42 (1) (b) NCSA, 2019.
- S. 42 (1) (c) NCSA, 2019.
- S. 42 NCSA, 2019.
- s. 454 (2) ACJA.

s. 454 (3) (b) ACJA.

s. 454 (3) ACJA.

s.453, ACJA.

See s. 42 NCSA, 2019 and s. 460 – 463 of the ACJA, 2015.

See Ss. 14, 270 and 319 of the Administration of Criminal Justice Act, 2015.

Statistics on prison population in Nigeria, available online at
<<http://www.prisons.gov.ng/about/statisticalinfo.php>> cited in M.C. Ogwezzy, A.A. Adebayo and
A.I. Kekere, *ibid*, p. 75.

The Nigeria Lawyer “Non-Custodial Punishment In Nigeria” <https://thenigerialawyer.com/non-custodialpunishment-in-nigeria/> accessed 23 July 2026.

The UN Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) Article 1.5