

**THE APPRAISAL OF THE STRUCTURE AND OPERATION OF THE CRIMINAL
JUSTICE SYSTEM IN NIGERIA**

BY

**PETER UCHECHI PRECIOUS
GOU/U21/LAW/405**

JULY 2026

TITLE PAGE

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**BEING A LONG ESSAY PRESENTED TO THE FACULTY OF LAW, GODFREY OKOYE
UNIVERSITY, ENUGU STATE, IN PARTIAL FULFILMENT OF THE REQUIREMENTS
FOR THE AWARD FO THE BACHELOR OF LAWS (LL.B) DEGREE**

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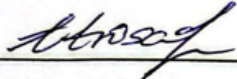
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JULY 2026



DECLARATION

I, Peter Uchechi Precious, with the Registration Number GOU/U21/Law/405, hereby affirm that this work was duly and diligently carried out by me. The primary and secondary sources used to carry out this legal research, are acknowledged appropriately and referenced herein, within this project. This work is an original and has not been submitted in part or in full for the award of any degree in this or any other Faculty of Law within and outside Nigeria.



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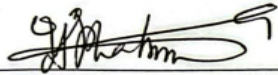
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APPROVAL PAGE

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Apart from the references made and acknowledged herein within this research work, this research work is an original work and has not been presented in part or in full, for any degree of this University or any other University.



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DEDICATION

I would like to dedicate this work first to God Almighty, who has brought me this far; to myself, for persevering and believing in me; and to my parents, for their overwhelming love, prayers, guidance and support.

ACKNOWLEDGEMENTS

I would like to express my heartfelt gratitude to God almighty for giving me the strength and patience to complete this project. A special thanks to my project supervisor, Dr. Josephat Emmanuel Okika, whose insight and expertise assisted the progress of my work.

To my parents, HRH EZE CP Peter W Wagbara Rtd and Dr. Mrs Chinyere Wagbara for their unfailing love and unconditional support throughout my academic journey. They Comforted me and held my hands even when I didn't believe in myself. A special gratitude goes to my father who has been my biggest supporter, a true example of a father figure that all men should emulate. From funding all my goals to being an inspiration to me. To my mother, the woman I love the most, my emotional support, thank you for the discipline you've instilled in me and for being with me till the end. I also extend my appreciation to my sisters, Dr. Chioma, who has become my best friend, my comforter, my adviser and my backbone. To Anruchi, for her motherly advice and encouragement and Chinasa who has supported me and cheered me on. Thank you all for always praying for me and offering me financial comfort. To Honourable Justice Danagogo Monina for being an inspiration and encouraging me to be diligent in my academics. To Barrister Duchess for serving as a young role model who has shaped my thinking and certain point of views. To Mr. Chika Nwaozuzu for always encouraging me and ensuring that I do not fall short of the standard.

I would like to appreciate all my law lecturers, especially my family law lecturer, Mrs. Florence, who served as an inspiration to me. To my one in-a-million friends, Chiamaka Alozie, Amamchukwu Chisom, Unah Olaedo, Ugwuanyi Ogechi, Nnadi Helen, Asika Condoleza, Mom Bembe, Obi-Johnson Excel, and Ndibiuzu Chukwuma, thank you for bringing laughter in the midst of chaos, for your support and joyful companionship which encouraged me every day and for taking care of me when I had an accident.

Finally, this wouldn't be complete without acknowledging the Holy Spirit for guiding me through this process. Now it's time for me to spread my wings and fly.

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LIST OF ABBREVIATIONS

ACJA	Administration of Criminal Justice Act
ACJAL	Administration of Criminal Justice Act and Administration of Criminal Justice Laws
ACJL	Administration of Criminal Justice Law
ACJMC	Administration of Criminal Justice Monitoring Committee
AFJCLJ	African Journal of Criminal Law and Jurisprudence
AGF	Attorney-General of the Federation
AWJAI	Association of Women Judges in Nigeria
CCTV	Closed-Circuit Television
CFRN	Constitution of the Federal Republic of Nigeria
CID	Criminal Investigation Department
CJS	Criminal Justice System
CPA	Criminal Procedure Act
CPC	Criminal Procedure Code
CRA	Child Rights Act
DPP	Director of Public Prosecutions
ECOWAS	Economic Community of West African States
EFCC	Economic and Financial Crimes Commission
FCT	Federal Capital Territory
FIDA	International Federation of Women Lawyers
FRN	Federal Republic of Nigeria
FUOYE	Federal University Oye-Ekiti
HRCRC	Human Rights and Conflict Resolution Centre
ICPC	Independent Corrupt Practices and Other Related Offences Commission
IGP	Inspector-General of Police
LASJURE	Law and Social Justice Review
LFN	Laws of the Federation of Nigeria
LPELR	Law Pavilion Electronic Law Report
NCoS	Nigerian Correctional Service
NCSA	Nigerian Correctional Service Act
NDLEA	National Drug Law Enforcement Agency
NHRC	National Human Rights Commission
NLR	Nigerian Law Reports
NPF	Nigeria Police Force
NSCQR	Nigerian Supreme Court Quarterly Reports
NWLR	Nigerian Weekly Law Reports
PCRRU	Police Complaint Rapid Response Unit
PCRU	Police Complaints Response Unit
PSC	Police Service Commission
RCT	Rational Choice Theory
RJ	Restorative Justice
SARS	Special Anti-Robbery Squad
SC	Supreme Court
SCID	State Criminal Investigation Department
SCNLR	Supreme Court of Nigeria Law Reports
SMS	Short Message Service
SSRN	Social Science Research Network
UNODC	United Nations Office on Drugs and Crime
WACA	West African Court of Appeal

ABSTRACT

The criminal justice system maintains law, order, public security as well as protects individual rights. In Nigeria, the criminal justice system is built around three major institutions: the police, the courts and the correctional service. These institutions are supported by numerous legislations. Even so, the criminal justice system continues to face operational difficulties. Therefore, this research examines the structure and operation of the criminal justice system in Nigeria with a view to identifying the extent to which its institutions and legal frameworks promote justice and social order. This research adopts a doctrinal methodology and it finds that there is an extensive framework for criminal justice in Nigeria. However, it is weakened by unlawful arrests, prolonged detention, torture, corruption, poor investigation, delay in criminal trials, congestion of court dockets, abuse of remand orders, prison overcrowding, inadequate rehabilitation programmes and weak coordination among institutions. Furthermore, this research finds that reforms such as the ACJA, Police Act and Nigerian Correctional Service Act are progressive. However, they are not implemented adequately. In the light of the above, it is recommended that there should be procedural safeguards in the criminal justice system in Nigeria; the police should become more accountable; there should be better funding for the court and correctional institution; non-custodial measures should be adopted more often; there should be coordination among agencies; the processes in the criminal justice should be digitised; there is need for public education. This project concludes that criminal justice system in Nigeria would be more efficient where legal reforms are matched with institutional implementation.

CHAPTER ONE

INTRODUCTION

1.1 Background to the Study

The Criminal Justice System in Nigeria is a network of institutions and procedures established by law for the prevention, investigation, adjudication, punishment, and correction of criminal conduct and it involves law enforcement agencies, courts, and correctional services.¹ The criminal justice system (CJS) in Nigeria has undergone considerable reform. It founded on the English common law.

Over time, the administration of criminal justice has undergone significant changes. However, it still rests on three core institutions. Each perform a distinct but interdependent function. First is the law enforcement and prosecutorial institutions. This is led by the Nigeria Police Force, which is established under section 214 of the Constitution of the Federal Republic of Nigeria² (as amended). There also other investigating agencies and prosecutorial authorities³ and they are responsible for crime detection, arrest, investigation, and the initiation of criminal proceedings. Next is the judiciary. Accordingly, Section 6 of the constitution⁴ vests judicial powers in the courts. The judiciary determines criminal responsibility through fair hearing, adjudicates disputes, and imposes lawful sentences. The third institution is the Nigerian Correctional Service. It derives its constitutional footing from the legislative competence of the National Assembly over prisons/correctional services under Item

¹ AB Dambazau, *Criminology and Criminal Justice* (2nd edn, Spectrum Books Limited 2011)

² Constitution of the Federal Republic of Nigeria 1999 (as amended), s 214.

³ See generally the constitutional and statutory powers of the Attorney-General and Directors of Public Prosecution.

⁴ CFRN (n 2) s 6.

48 of the Exclusive Legislative List (Part I, Second Schedule) of the Constitution (as amended). This institution is established and regulated by the Nigerian Correctional Service Act.⁵

The Administration of Criminal Justice Act (ACJA)⁶ was enacted to modernise criminal procedure as well as to address systemic dysfunction. The ACJA introduced numerous innovations: *speedier trial (daily trial scheduling, limits on adjournments); reforms to bail and arrests; plea bargaining; electronic recording of confessions; non-custodial sentencing; and oversight committees.*⁷ Likewise, the Nigeria Police Act⁸ overhauled police duties. (e.g. arrest in lieu of suspects was prohibited).⁹ The Correctional Service Act revamped Prison administration. It introduced non-custodial measures (probation; community service) to reduce overcrowding.¹⁰

However, there are significant challenges in criminal justice system.¹¹ This is an *Egregious miscarriages of justice*. This regularly captures public attention and it erodes confidence. For instance, the ACJA prohibited lengthy adjournments. However, many criminal cases still drag on for years. Most times, the families of victims do not get closure.¹² Legislative reforms are not enough. There is need for practical implementation. It is against this backdrop that the present study undertakes a critical appraisal of the structure and operation of the criminal justice

⁵ Nigerian Correctional Service Act 2019, s 1.

⁶ Administration of Criminal Justice Act 2015.

⁷ *ibid.*

⁸ Police Act 2020, s 4.

⁹ *ibid* s 36.

¹⁰ NCSA (n 5) ss 2(2)(c) and 37-45.

¹¹ SA Ogunode, 'Criminal Justice System in Nigeria: For the Rich or the Poor?' [2015] 4(1) *Humanities and Soc. Sc. Rev.* 27-39

<<https://www.universitypublications.net/hssr/0401/pdf/DE4C318.pdf>> accessed 25 June 2026.

¹² CA Olaifa, 'Nine (9) Years On: Assessing the Impact of the Administration of Criminal Justice Act (ACJA) on Nigeria's Criminal Justice System and Proposing Reform' [17 March 2025] Mondaq <<https://www.mondaq.com/nigeria/crime/1598676/nine-9-years-on-assessing-the-impact-of-the-administration-of-criminal-justice-act-acja-on-nigerias-criminal-justice-system-and-proposing-reform>> accessed 2 December 2025.

system in Nigeria

1.2 Statement of the Problem

The problem which motivates this research is the persistent gulf between law and practice in the administration of Criminal Justice in Nigeria. On paper, Nigeria now possesses a robust framework of laws and institutions. Yet in practice, the system remains dysfunctional in many respects. Court dockets are clogged with backlogs and trials suffer inordinate delays. More so, many accused persons endure prolonged pre-trial detention.¹³ The police routinely flout procedural safeguards, engaging in unlawful arrests or coercive interrogations. Corruption persists as well as abuse of power by judiciary.¹⁴

There is a disconnect between reformist laws and on-the-ground outcomes and this suggests that there are deeper structural and operational issues which mere legislative changes have not fully resolved. The rate of crime remains high. In Nigeria, the crime index in 2025 was measured at 66.6. This places it 11th position globally.¹⁵ More so, public trust in law enforcement and courts is low. Victims frequently feel alienated and also denied justice. Conversely, many offenders go unpunished.¹⁶ This research intends to identify the root causes of the shortcomings in the criminal justice system. It would also assess whether ongoing reforms are addressing those

¹³ IA Olubiyi and HE Okoeguale, 'Nigerian Criminal Justice System: Prospects and Challenges of the ACJA 2015' [2016] 1 *African Journal of Criminal Law and Jurisprudence* 68-86 <<https://ezenwaohaetorc.org/journals/index.php/AFJCLJ/article/viewFile/480/432>> accessed 2 December 2025.

¹⁴ *ibid.*

¹⁵ Adekunle Agbetiloye, 'Top 10 African Countries with the Highest Crime Index at the Start of 2025' [6 January 2025] *Business Insider Africa* <<https://africa.businessinsider.com/local/lifestyle/top-10-african-countries-with-the-highest-crime-index-at-the-start-of-2025/92pzmft>> accessed 2 December 2025.

¹⁶ Olaifa (n 12)

causes or if further changes are required.

1.3 Research Questions

- i. *What is the extant legislative and institutional framework of the Nigerian criminal justice system?*
- ii. *How is the criminal justice system in Nigeria structured?*
- iii. *How does the criminal justice system operate in practice in Nigeria?*
- iv. *What are the challenges which affect the legislative and institutional framework in the administration of criminal justice in Nigeria?*

1.4 Aim and Objectives of the Research

The aim of this research is to evaluate the structure and operation of the justice system in Nigeria. The limitation is that the research confines itself to only the criminal justice system in Nigeria.

1.5 Research Methodology

This study adopts a Doctrinal research methodology. Doctrinal research (also known as “library-based” or theoretical research) is appropriate here because legal texts (statutes, case law, and scholarly commentary) are primary sources of information. The researcher extensively reviewed Nigerian legislation, judicial decisions, academic literature as well as scholarly commentary to understand and critique the structure and operations of the criminal justice system. This study critically analyses legal provisions. Then, it compares what the law stipulates ‘versus’ what happens in reality, contradictions between different laws or between law and practice are identified. In addition, it formulates arguments for reform.

1.6 Scope and Limitation of the Study

This research focuses on the criminal justice system in Nigeria. It examines the laws and institutions at both federal and state levels. It covers substantive criminal law and procedure. The time frame is contemporary. Hence, it focuses on the current framework up to 2026. Geographically, it focuses on Nigeria. However, there are occasional comparisons to other common law jurisdictions like UK, US, among others only where necessary.

1.7 Significance of the Study

This study is significant on several fronts. Academically, it provides knowledge on criminal justice in Nigeria. It also critique its structures and operations. It is a consolidated reference on the state of CJS in Nigeria for legal scholars and law students. For law makers, the findings of the study would inform reforms. For, government bodies who seek to improve the delivery of justice, this work would guide them in fine-tuning laws or strategies for implementation. Stakeholders in the justice system would benefit from this research. The study is also significant for the general public and civil society. It is written clearly and logically. Hence, the research would explain how the justice system works and why it sometimes doesn't.

1.8 Literature Review

Many learned authors have contributed immensely in the subject of this research.

*Yunus*¹⁷ assessed the impact of the Administration of Criminal Justice Act (ACJA)¹⁸

¹⁷ AK Yunus, 'Ten Years of ACJA: Evaluating the Impact of the ACJA 2015 in Nigeria' [2025] *SSRN Electronic Journal* <<https://ssrn.com/abstract=5599215>> accessed 2 December 2025.

¹⁸ ACJA (n 6)

over a decade determining whether its innovations have improved the criminal justice in Nigeria. Yunus **found** that the ACJA has indeed introduced critical reforms (e.g., *bail reforms, ban on stay of proceedings, electronic recording of confessions, and non-custodial sentencing*) This collectively **improved due process**. However, the study also identified challenges. Firstly, there are problematic practices (abuse of remand orders). There are also jurisdictional conflicts (this is because some states have not adopted ACJA). Yunus's¹⁹ work is strong in diagnosing issues and suggesting legislative refinements (amend arrest/remand rules, mandate electronic confessions, among others). However, it somewhat underplays the cultural and resource barriers. For instance, it notes that there is "lack of consistent political will"²⁰ Nonetheless it doesn't deeply explore why that political will is lacking.

Okoro²¹ examined the newly enacted Correctional Service Act and also evaluated how well it addresses the chronic issues of the prison system in Nigeria (now "correctional" system). She found that the Act explicitly shifted focus to rehabilitation. Crucially, it created *non-custodial service* options; this includes community service, probation, parole, and restorative justice measure. Okoro²² notes that the Act mandates measures to curb overcrowding. She found that these provisions *conform to international best practices*. However, Okoro²³ **critiques** the prospects of implementation. It was found that there are limited resources as well as institutional barriers. Hence, the effect of the Act is uncertain. Indeed, three years later, non-custodial measures have only been implemented partially. This is because of the lack of infrastructure (an issue Okoro anticipated but could not verify at the

¹⁹ Yunus (n 17)

²⁰ *ibid.*

²¹ CO Okoro, 'The Nigeria Correctional Service Act 2019' Human Rights and Conflict Resolution Centre [28 April 2020] <<https://hrcrc.ng/2020/04/28/the-nigeria-correctional-service-act-2019-by-chioma-okoro-esq/>> accessed 2 December 2025.

²² *ibid.*

²³ *ibid.*

time). This study indicates that legal reforms can be visionary (the law “looks good on paper”); however, it can remain a “myth” without concrete implementation

Oaihimire and Aidonojie²⁴ focused on one of the key “innovations” under ACJA and the Nigerian Correctional Service Act (NCSA). They examined the legal framework for non-custodial sentences in Nigeria (under ACJA and NCSA). They also assessed how far these innovations have actually improved the criminal justice system. They found that one of the major innovations is the non-custodial measures. They include the following: plea bargaining,²⁵ cost/compensation and restitution orders,²⁶ probation, parole, suspended sentences and community service,²⁷ fines. There are also restorative justice mechanisms; they include: victim–offender mediation and community conferencing. Ultimately, they found that legal innovation does not automatically translate into practice. There is a persistent gap between what ACJA/NCSA allow and what actually happens in courts. In essence, the ACJA and NCSA have created innovative tools like non-custodial sentences and restorative justice. However, these are undermined by institutional conservatism and under-resourcing.

²⁴ IE Oaihimire and PA Aidonojie, 'The Innovative Concept and Issues Concerning the Non-Custodial Sentence in Nigerian Criminal Justice System' [2023] 5(3) *Law Development Journal* 358-379.

²⁵ ACJA (n 6) s 270.

²⁶ *ibid* ss 319-322.

²⁷ *ibid* ss 460-468; NCSA (n 5) ss 37-43.

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1 Conceptual Framework

2.1.1 Meaning of Criminal Justice

The term “Criminal Justice” refer broadly to the **system** by which crimes are detected, prosecuted, adjudicated, and punished. In our context, **the criminal justice system** means the collective institutions through which an accused offender passes until a case is resolved. (typically the police (investigation, arrest), the prosecution service, the courts, and the correctional institutions (prisons, probation, among others)).²⁸

In a narrow definitional sense: “The criminal justice system consists of the police, the courts, and corrections.”²⁹ The Nigerian criminal justice system involves, per one description, “the Judiciary (courts), the Correctional Service, the prosecutorial agencies (Police and other law enforcement agencies, Customs, EFCC, ICPC, Ministries of Justice, among others) and the Bar (Lawyers)” This highlights that the criminal justice system includes specialized law enforcement (like EFCC for financial crimes), administrative bodies (Ministry of Justice coordinating prosecutions), and even private actors (the Bar, since defense lawyers play a crucial role in justice) beyond core agencies like police and courts.

Criminal justice as a process encompasses several stages: **investigation** of a crime, **arrest** of suspects, **charging (prosecution decision)**, **trial** (adjudication of guilt or innocence) in a court, if guilty **sentencing**, and **corrections** (carrying out the sentence,

²⁸ Ogunode (n 11) 27-39.

²⁹ *ibid.*

whether imprisonment or non-custodial measures, and possibly rehabilitation).³⁰ It may also include **appeal** if the conviction or sentence is challenged.

In Nigeria, one must also note that there is a dual system due to federalism. There is one overall criminal justice system. However, jurisdiction is split between federal and state systems. The federal system handles federal offences (often specialized crimes like drug trafficking, terrorism, among others) in federal courts. On the other hand, states handle most conventional crimes under their criminal codes in state courts. But they share the same foundational structure and often overlap.

2.1.2 Evolution of the Criminal Justice System in Nigeria

The Nigerian criminal justice system has evolved through **pre-colonial, colonial, and post-colonial phases**. Hence, there is a current hybrid of customary influences and English common-law-based structures.

2.1.2.1 Pre-Colonial Era

In **pre-colonial Nigeria**, there wasn't a single unified system. Various ethnic communities had their own customary laws and mechanisms. In the North, Islamic Sharia (Maliki school) had significant influence. This was evident in the Sokoto Caliphate and Kanem-Bornu Empire areas. They treated certain crimes as sins. In the South, different kingdoms and communities used customary tribunals or chiefs' courts. They focused on reconciliation or spiritual cleansing in many cases.³¹

2.1.2.2 The colonial Era

The **colonial period** (1860s – 1960) introduced English law and a formal police and

³⁰ *ibid.*

³¹ MT Ladan, *Introduction to Nigerian Legal System* (Ahmadu Bello University Press 2010), 27-50.

court system. Between 1861-1914, as Britain expanded control it gradually implemented English-style courts and ordinances. A consular guard and local constabularies (e.g., Hausa Constabulary in 1879) were precursors to formal police. Early criminal laws consisted of imported statutes and local proclamations. North and South were amalgamated in 1914. Before and after amalgamation, British authorities felt a need for a unified criminal code because common law (judge-made) was seen as too complex and unwritten for easy application. Lord Lugard had introduced a *Criminal Code* for the protectorate in 1904 by proclamation. After amalgamation, in 1916, this code was extended to the Southern provinces. Hence, there was a virtually nationwide Criminal Code. However, it was not applied widely. Many areas continued with customary law especially in the North.³²

Thus, by the 1920s-30s, there were parallel systems: the criminal code in colonial courts and customary/Sharia law in native courts. This duality caused conflicts. For instance, Provocation existed in the code (and could reduce murder to manslaughter). However, it does not in Maliki Sharia. British authorities adopted gradual change to avoid upsetting locals. They didn't fully impose the code in the North immediately. In 1933, criminal code ordinance was amended to abolish "unwritten" customary criminal law. In *Gubba v Gwandu Native Authority*,³³ a court held that this "swept away" most native criminal laws except those not in the code. But commissions in 1949-52 found customary law still being applied by native courts for local offences. This means the abolition was not absolute.

In the 1950s, the British recognised the northern sensibilities. Hence, they did not enforce the southern Criminal Code on the North wholesale. Instead, they developed

³² *ibid.*

³³ *Tsofo Gubba v Gwandu Native Authority* [1947] 12 WACA 141.

a separate Penal Code for Northern Nigeria. This was enacted in **1959** by the Northern Region legislature. It covered offences and punishments in the North. It was a compromise between English law and Sharia (for instance, it codified Islamic offences like zina (adultery) under certain conditions). At independence conference in 1958, it was decided to eliminate customary criminal law across Nigeria. This was constitutionalised in the constitutions.³⁴ It forbade any conviction for a non-written law offence. Thus by independence, customary criminal law (aside from what was incorporated in Penal Code) ceased to have official force.³⁵

2.1.2.3 Post Independence Era

The Nigeria Police Force was also consolidated. In 1930, the Northern and Southern police were merged into one Nigeria Police Force (NPF). During early post-independence, there were regional police in the First Republic.³⁶ However, the police were unified under federal control by 1970. The police evolved from a colonial instrument focused on control to a more complex agency which is tasked with modern policing. After the independence, the South used the Criminal Procedure Act (CPA). The North used the Criminal Procedure Code (an adjunct to the Penal Code). These remained until the Administration of Criminal Justice Act (ACJA) in 2015. This effectively merged and updated them for federal courts. States enacted their own CPA/CPC equivalents. Various **Military Decrees** in the 1970s-90s impacted criminal justice (lik special tribunals for robbery, corruption, among others, which sometimes ousted regular courts). These existed parallel to regular courts. The tribunals (e.g., Robbery and Firearms Tribunals) introduced in the 1970s added another layer.

³⁴ Constitution of the Federation of Nigeria 1960; Constitution of the Federal Republic of Nigeria 1963.

³⁵ Ladan (n 31)

³⁶ FA Daniels, 'A Historical Survey of Amalgamation of the Northern and Southern Police Departments of Nigeria in 1930' [2012] 8(18) *European Scientific Journal* 205-216.

However, many were scrapped by the Constitution. The Constitution re-established democratic governance.³⁷ It reinforced fundamental rights and an independent judiciary. It also reorganised courts.

There has been a wave of reforms in response to persistent issues (delays, abuses). The **ACJA** replaced the federal CPA/CPC. It has a unified procedure which focused on speedy trials and human rights. States have been adopting similar Administration of Criminal Justice Laws (ACJLs). By 2023, most states have ACJL mirroring ACJA. The Evidence Act modernised evidential rules in Nigeria. It recognised computer-generated evidence under section 84.³⁸ Going further, the Evidence (Amendment) Act³⁹ expanded the law because it introduced and amended provisions on electronic records, digital signatures, electronic authentication and technology-based evidence-taking.⁴⁰ The Police Act modernised the legal framework for policing in Nigeria. It repealed the old Police Act and it introduced provisions on the duties of police,⁴¹ search and arrest as well as rights of suspect⁴² community policing⁴³ and accountability of the police.⁴⁴ The Nigerian Correctional Service Act marked a shift from a prison-centred model to a correctional model. This is focused on custody, rehabilitation, reformation, reintegration and non-custodial measures.⁴⁵

2.2 Theoretical Framework

This section examines key theories that have influenced criminal justice policies. These theories are not mutually exclusive; often, a criminal justice system embodies

³⁷ CFRN (n 2)

³⁸ Evidence Act 2011, s 84.

³⁹ Evidence (Amendment) Act 2023.

⁴⁰ *ibid* ss 84A-84D and amendments to ss 93, 108, 109, 110, 119, 255 and 258.

⁴¹ Police Act (n 8) ss 3 and 4.

⁴² *ibid* ss 31-60.

⁴³ *ibid* ss 113-119.

⁴⁴ *ibid* ss 131-134.

⁴⁵ NCSA (n 5) s 1.

elements of several theories simultaneously. By understanding these theories, we can better assess the aims of the system. Then we critique whether those aims are being met in practice.

2.2.1 Rational Choice Theory

Rational Choice Theory (RCT) posits that individuals are rational actors who commit crimes after a cost-benefit analysis. They weigh the potential gains of the crime against the likelihood and severity of punishment (costs). It emerged from **classical criminology** (18th-century Enlightenment thought, notably Cesare Beccaria and Jeremy Bentham). It was revitalized in the 1970s by right-realist criminologists (James Q. Wilson). The core assumption is free will. Criminals make a conscious, rational decision to offend.⁴⁶ Therefore, crime can be deterred by which influence that decision-making calculus. The utilitarian philosophy undergirds RCT. Human actions are guided by the pursuit of pleasure and avoidance of pain. Thus, a rational person will abstain from crime if the pain (punishment) of crime outweighs the pleasure (reward). For instance, a would-be burglar might weigh the potential loot against the risk of arrest or being shot by a homeowner. If the homeowner increases security or if police presence is high (increasing risk), the rational actor might decide it's not "worth it."

In the context of Nigeria's criminal justice system: policies that follow rational choice logic emphasize *swift, certain, and appropriate punishment* to tip the cost-benefit scales. For example, there are stringents penalties for kidnapping in some states

⁴⁶ JQ Wilson, *Thinking About Crime* (rev edn, Basic Books 1983)

(like death or life imprisonment, and demolition of houses used for holding victims). This stems from an assumption that harsh punishment will dissuade rational actors from that crime. The Rational Choice perspective would evaluate the criminal justice by how well it *increases the perceived costs of crime or reduces the benefits*. RCT has its critique. It assumes a level of rational calculation that may not exist in crimes of passion or with offenders impaired by drugs or extreme need. Moreover, offenders must be aware of the penalties and their likelihood for RCT to work.

2.2.2 Deterrence Theory

Deterrence Theory is closely linked to Rational Choice. Here, punishment is used dissuade individuals (and the public at large) from committing crimes. It originated comes from Cesare Beccaria (1764), who argued that punishments should be proportionate, swift, and certain to effectively deter crime. The theory distinguishes between specific deterrence (deterring the punished offender from re-offending) and general deterrence (deterring others in society by making an example of the offender).⁴⁷ According to deterrence theory, people refrain from crime if they fear the likely punishment. Three key elements are often cited (from Beccaria and later theorists): (i) **Certainty** of punishment (probability of being caught and punished). (ii) **Severity** of punishment (how harsh the penalty is). (iii) **Celerity** (swiftness with which punishment is inflicted). All three must be present in reasonable measure. It may not deter if punishment is too lenient. It also fails if it's severe but very unlikely to occur (low certainty). It fails if it's certain but delayed.⁴⁸

The Nigerian criminal justice system historically leaned on deterrence in its punitive

⁴⁷ FE Zimring and GJ Hawkins, *Deterrence: The Legal Threat in Crime Control* (University of Chicago Press 1973)

⁴⁸ *ibid.*

outlook for instance, capital punishment was utilised for armed robbery. In addition, public executions was carried out in the 1970s-80s with the expectation that it would scare others (famously, 43 robbers were executed by firing squad publicly in 1995 in Lagos. However, pickpockets in the watching crowd continued stealing. This indicate that –deterrence failed practice). The ACJA 2015 focused on speed (“day-to-day trials”). This improves **celerity**. The Police Act ensure that enforcement is more certain (e.g., better reporting of crimes, community policing to increase detection). This ties to **certainty** of punishment. Deterrence theory has its critiques: overly severe punishments can be counterproductive. For instance, death penalty might not deter terrorists willing to die. Also, social factors and irrational drivers of crime (like drug addiction or passion) may not respond to deterrence.

2.2.3 Retributive Theory

Retributive theory is the idea that punishment is justified to be a morally appropriate response to wrongdoing by the society. Essentially, criminals *deserve* to be punished because they have knowingly done wrong. It emphasis on just deserts. This means to the offender their due, proportional to the offence. Retribution is often captured in the phrase “an eye for an eye.”⁴⁹ They Key tenets of retributivism include:

- i. Moral Responsibility
- ii. Proportionality
- iii. Backward-looking justification.
- iv. Punishment is intrinsically good (or necessary)

In Nigeria, retributive ideas resonate with public sentiments. The desire for punitive

⁴⁹ MS Moore, *Placing Blame: A Theory of the Criminal Law* (Oxford University Press 1997)

justice is strong. This is evidenced in part by phenomena like mob justice (though extrajudicial, it is driven by a retributive impulse when formal systems are perceived to fail). Formally, many aspects of Nigerian law align with retributivism. Capital punishment is utilised for murder, armed robbery. Courts often phrase it as “paying the supreme price” for taking life. The existence of punishment even when deterrence might not clearly be served indicates retribution. A potential excess of retribution is vengeance. The retributivists argue that punishment must be measured and administered by the state under rule of law to avoid unbridled vengeance. A *rational retributivism* is part of legal systems to channel that desire for justice into formal punishment.⁵⁰

The Nigerian system in practice sometimes struggles with proportionality. Retributive theory would criticize that disparity strongly. Justice means everyone gets their deserved punishment without favor or discrimination. Retribution also provides a limit. It opposes excessively utilitarian punishments which are disproportionate. The 1999 constitution forbids inhumane or degrading punishment. This implies that there is implying there is a moral boundary. Interestingly, Islamic criminal law (Sharia) in the North for serious offences like homicide incorporates Qisas (retaliatory justice) and *Diyyah* (compensation) which are retributive in nature (life for life unless forgiven). The formal law is Penal Code now. However, there is the option of settlement (forgiveness by victim’s family) in murder cases in the North in practice and this hints at blending retributive and restorative elements.

2.2.4 Utilitarian Theory

Utilitarian theory of punishment justifies punishment by its utility or benefit to society.

⁵⁰ *ibid.*

It is not by desert. It is rooted in the works of Bentham. He posits that the aim of punishment should be the *greater good for the greater number* typically. In other words, punishment is not an end in itself (as retribution would hold). It is a means to an end (the end being social welfare, security, crime prevention).⁵¹ The justification for Utilitarian include:

- i. Deterrence
- ii. Incapacitation
- iii. Rehabilitation/Reformation
- iv. Restitution

The Nigerian criminal justice system historically was heavy on deterrence and incapacitation (utilitarian goals). It was also light on rehabilitation. Prisons were called “penal institutions” and focused on custody. However, with the 2019 Correctional Service Act, there’s an explicit shift to utilitarian goals of rehabilitation. Even the name “Correctional” implies reform. This aligns with utilitarian thinking that the purpose is to correct behaviour for the future.

ACJA incorporated some rehabilitative/utilitarian measures. For instance plea bargaining can be a utilitarian pragmatism (efficiently resolving cases, perhaps requiring offenders to do some restitution quickly). Non-custodial sentences (community service, probation) reduce reoffending by not throwing minor offenders into prison (which might harden them).⁵² Utilitarian logic is also invoked in debates about abolishing death penalty. Utilitarians may argue if it doesn’t deter more than

⁵¹ Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (Clarendon Press 1907)

⁵² Okoro (n 21)

life imprisonment, then its extra harshness has no utility. Conversely if life imprisonment sufficiently incapacitates, execution isn't necessary.

2.2.5 Restorative Justice Theory

Restorative Justice (RJ) Theory offers an alternative paradigm. It posits that crime is not just a violation of law. It is a breakdown in relationships which cause harm to victims, offenders, and the community. The aim of justice, then, is to repair the harm and restore relationships. Restorative justice theory makes the *victim central* to the process. It focuses on healing and reconciliation.⁵³ Key principles of RJ:

- i. Inclusive dialogue:
- ii. Repairing harm
- iii. Reintegration
- iv. Voluntary participation

Restorative justice has roots in traditional practices. Indeed, many pre-colonial Nigerian communities practiced various forms of reconciliation and compensation. The RJ theory is in a sense a modern formalisation of these practices. As Adeyemo notes, *"indigenous African practices on dispute settlement reflect restorative justice ideals of reconciliation and making the victim whole again"*⁵⁴

Restorative Justice is not mainstream in the contemporary system in Nigeria. However, signs of adoption are emerging. The ACJA provides for *compensation to victims*.⁵⁵ This is an elements of restorative philosophy. The Correctional Service Act

⁵³ H Zehr, *Changing Lenses: Restorative Justice for Our Times* (3rd edn, Herald Press 2015)

⁵⁴ DD Adeyemo, 'Restorative Justice Ideals and Victims of Crime in Nigeria: Towards a Reparative Justice Approach' [2021] 2(2) *Law and Social Justice Review* 120-140.

⁵⁵ ACJA (n 6) ss 314(1)-(2) and 319(1)(a)-(c)

2019 explicitly includes restorative justice for non-custodial measures.⁵⁶ Restorative Justice has its critique: Serious crimes (like armed robbery, rape) may be less amenable to RJ because of their severity. Victims might not want to reconcile. Society might demand incarceration. In the context of this research, RJ theory provides a lens to critique whether the criminal system is too offender-focused or state-focused; hence neglects victims. Are we doing enough to implement Restorative Justice? Could it mitigate prison overcrowding (through alternative resolutions) and community distrust (since RJ involves the community more)?

CHAPTER THREE

LEGISLATIVE AND INSTITUTIONAL FRAMEWORK FOR CRIMINAL JUSTICE IN NIGERIA

3.1 The Legislative Framework for Criminal Justice in Nigeria

⁵⁶ NCSA (n 5) s 37(1)

3.1.1 The Constitution⁵⁷

The Constitution (as amended) is the foundation of criminal justice system in Nigeria. It establishes fundamental principles and rights and this shapes all criminal legislation and procedure. Chapter IV of the Constitution is relevant to the criminal justice system as it protects human rights. Section 35(1) affirms the every individual has the right to personal liberty.⁵⁸ It further provides that any person arrested on suspicion of an offence must be brought before a court within a “reasonable time,” (depending on court proximity), or be released on bail. Section 36(1) guarantees every person a fair hearing within a reasonable time by an independent and impartial court in the determination of criminal charges.⁵⁹ Crucially, the Constitution presumes that every accused person is innocent until proven guilty.

Furthermore, section 34(1) upholds the dignity of the person. It prohibits torture or inhuman or degrading treatment.⁶⁰ This is relevant to policing and detention practices. The Constitution also delineates institutional powers. Section 174 of the constitution vests the Attorney-General of the Federation (AGF) with the authority to institute, take over, or discontinue criminal proceedings. Analogous powers are also granted to the State Attorneys-General in section 211.⁶¹ These constitutional powers of the Attorney-General are broad and discretionary. The Supreme Court in *State v Ilori*⁶² held that the Attorney-General is “a master unto himself” whose decisions to initiate or discontinue prosecutions are not subject to judicial review. Although this power must be exercised “in the public interest, interest of justice and to prevent abuse of legal process,” in practice it remains unfettered essentially. The

⁵⁷ CFRN (n 2)

⁵⁸ *ibid* s 35(1)

⁵⁹ *ibid* s 36(1)

⁶⁰ *ibid* s 34(1)

⁶¹ *ibid* ss 174 and 211.

⁶² *State v SO Ilori and Others* [1983] 1 SCNLR 94.

constitution established the Police, the Court and the Correctional Centres and all Enactment relating to administration of Criminal Justice in Nigeria.

3.1.2 The Nigerian Police Act

The Nigeria Police Act⁶³ is a landmark legislation and it repealed the old Police Act.⁶⁴ It introduced comprehensive reforms to policing in Nigeria. The Act redefines the functions, powers, and governance of the Nigeria Police Force (NPF). It impacts the criminal justice system and it shapes how arrests, investigations, and prosecutions are conducted at the entry point of the system. The new Police Act sets a progressive tone. The Act enumerates duties of police officers and it includes not just prevention and detection of crime; it also includes protecting “the rights and freedoms of every person.” The police act has some identical provisions with the ACJA. Section 36 of the Police Act prohibits arrest in lieu and this means that no person may be arrested or detained as a substitute for the actual suspect. Section 35 of the Act states that an arresting officer must inform the suspect of their rights to remain silent, to consult a lawyer, and to free legal representation by the Legal Aid Council if needed. The Act also requires that next of kin of the suspect must be notified upon arrest.⁶⁵ It also insists that suspects must be treated humanely and this prohibits torture or degrading treatment effectively.⁶⁶

Importantly, the Act tackles the problem of arbitrary detention. It introduces a robust oversight mechanism. Section 64 obliges the police to notify a court if a suspect is detained beyond 24 hours for a non-capital offence and Section 64(2)-(3) allows such notification to be made orally or in writing. Moreover, Section 69 compels every

⁶³ Police Act (n 8)

⁶⁴ Police Act Cap P19 *LFN* 2004.

⁶⁵ Police Act (n 8) s 35(3)

⁶⁶ *ibid* s 37.

police station officer in charge to report monthly to the nearest magistrate the cases of all persons arrested without warrant and still in custody (unbailed). Magistrates are then expected to review these reports to curb excessive detention (this is akin to the requirement for jail visits by magistrates and oversight of detentions under Section 34 of the ACJA). The new Act also provided for the prosecutorial powers of the power. Section 66 declares that any prosecution by a police officer who is not a lawyer is null and void. Beyond these, the Act institutionalises oversight and community engagement measures. It establishes the Police Complaints Response Unit (PCRU) in law⁶⁷ and this handles public complaints against police misconduct. It also formally allows for the licensing of private detectives.⁶⁸

3.1.3 Nigerian Correctional Service Act

The Nigerian Correctional Service Act⁶⁹ repealed the antiquated Prisons Act⁷⁰ and it fundamentally reformed the prison law in Nigeria. It renames the Prisons Service to “Correctional Service” and it provided for rehabilitation and non-custodial sentencing. The aim of the act is to align the penal system with modern correctional practices and reduce overcrowding. It also ensures that punishment goes hand in hand with reformation of offenders. The NCSA Act establishes two main faculties within the Service: the Custodial Service⁷¹ and the Non-Custodial Service (Part II of the Act).⁷² The Custodial Service covers traditional prisons (now called custodial centres). They are responsible for safe custody of offenders and awaiting-trial persons and implementing sentences. The act provides that where a custodial facility is filled beyond capacity, the State Controller must notify the relevant judge/magistrate and

⁶⁷ *ibid* s 131.

⁶⁸ *ibid* s 4(i)

⁶⁹ NCSA (n 5)

⁷⁰ Prisons Act Cap P29 *LFN* 2004.

⁷¹ NCSA (n 5) s 2.

⁷² *ibid* s 3.

they must request measures to decongest: this includes non-custodial sentencing or early release of minor offenders.⁷³ This addresses prison overcrowding and it involves the judiciary in remedial action.

The Act most groundbreaking aspect is that it created the Non-Custodial Service.⁷⁴ This service is responsible for administering non-custodial measures nationwide: this includes community service, probation, parole, and restorative justice programs. Prior to this Act, these concepts had limited or pilot application in Nigeria. Community service was in some state laws (Lagos pioneered community service for minor offences). However, they are not available uniformly. In addition, parole did not exist under Nigerian law formally. Under Section 37(1), the Act lists Probation, Parole, Restorative Justice, and any other non-custodial measures as part of the mandate of the Correctional Service. It establishes National and State Committees on Non-Custodial Measures⁷⁵ and they oversee these programs.

In addition, the Act incorporates approaches for *restorative justice*. It encourages victim-offender mediation and reconciliation as part of the rehabilitation process⁷⁶ and it even allows for suspended sentencing or deferment while restorative processes occur, in appropriate cases (especially minor offences or where victim and offender reach an accord). Another critical reform is that it provides skills acquisition and rehabilitation programs for inmates.⁷⁷ It charges the Correctional Service to institute educational and vocational training for inmates and indeed Nigeria's Correctional Service now runs farms, workshops, and training centres.⁷⁸

⁷³ ibid s 12.

⁷⁴ ibid ss 37-46.

⁷⁵ ibid ss 38-39.

⁷⁶ ibid s 41.

⁷⁷ ibid s 27.

⁷⁸ ibid s 28.

3.1.4 Administration of Criminal Justice Act⁷⁹

ACJA is a flagship federal statute. It revolutionised criminal procedure in Nigeria and it was enacted to mitigate the longstanding ills in existing procedural law. It was also enacted to unify and reform criminal procedure across federal courts. Hence, the ACJA incorporates innovative provisions and this expedites trials and protects the rights of defendants. It repealed the old Criminal Procedure Code (CPC, northern states) and Criminal Procedure Act (CPA, southern states) for federal courts.⁸⁰ It harmonised the procedural law and it provided a template for states to adopt in their own jurisdictions. The ACJA addresses each stage of the criminal process. Section 7 of ACJA prohibits arresting anyone in lieu of a suspect. This is a response to the notorious practice of detaining innocent relatives to compel fugitives to surrender.⁸¹ To expedite trials, ACJA Section 396 imposes a duty on courts to conduct day-to-day trial once a case begins and it limits adjournments to no more than five per party in criminal cases.⁸² It also allows certain preliminary objections to be taken only at the end of trial (this avoids interlocutory appeals stalling proceedings).

Furthermore, the Act institutionalises plea bargaining.⁸³ Under ACJA, defendants and prosecutors may enter plea agreements to judicial approval. This creates an avenue for the swift resolution of cases in return for agreed lesser sentences or restitution. ACJA stipulates that any person prosecuting (even a police officer) must be a *qualified legal practitioner*. This overruled the Supreme Court decision in *FRN v. Osahon*,⁸⁴ which had permitted non-lawyer police officers to prosecute in any court. Finally, ACJA coordinates implementation through mechanisms like the

⁷⁹ ACJA (n 6)

⁸⁰ *ibid* s 493.

⁸¹ *ibid* s 7.

⁸² *ibid* s 396.

⁸³ *ibid* s 270.

⁸⁴ *FRN v Osahon* [2006] 1 All NLR 374.

Administration of Criminal Justice Monitoring Committee (ACJMC).⁸⁵

3.1.5 Criminal Code Act

The Criminal Code Act is the principal penal legislation in Southern Nigeria. It codifies a wide array of offences and punishments and it is rooted in English common law. The Nigerian Criminal Code was first introduced during the colonial era through the Criminal Code Ordinance⁸⁶ and it was later incorporated into the Laws of the Federation. It draws heavily from the Queensland (Australia) Criminal Code and English common law principles. The Code is comprehensive and it covers classic common-law crimes such as murder,⁸⁷ manslaughter,⁸⁸ assault,⁸⁹ theft,⁹⁰ robbery,⁹¹ rape,⁹² and treason,⁹³ as well as a host of minor offences and regulatory infractions. Offences are categorized by severity (felonies, misdemeanours, among others) with corresponding penalties.

The Criminal Code also prescribes general principles of criminal responsibility. It contains provisions on intention, provocation, self-defence, and the insanity defence. However, it is not applied uniformly nationwide. By design, the Criminal Code's reach is historically limited to the Southern states. This is because the Northern region adopted a different code (the Penal Code) at independence. Notably, Lagos State in 2011 enacted its own Criminal Law and it repealed the Criminal Code of the federation within Lagos. Other southern states largely still rely on the federal Code. A critical examination of the Criminal Code reveals several archaic or problematic

⁸⁵ ACJA (n 6) s 469.

⁸⁶ Criminal Code Ordinance 1916.

⁸⁷ Criminal Code Act Cap C38 *LFN* 2004, s 316.

⁸⁸ *ibid* s 319.

⁸⁹ *ibid* ss 351-356.

⁹⁰ *ibid* s 383.

⁹¹ *ibid* s 401.

⁹² *ibid* s 357.

⁹³ *ibid* s 37.

provisions. For example, the offence of “idle and disorderly persons”⁹⁴ and broad vagrancy-type provisions exist⁹⁵ and this allow police to arrest those who have no “ostensible means of subsistence” This is a social control measures of the colonial era and it sit with modern human right uneasily.

3.1.6 Penal Code

The Penal Code is the substantive criminal law operative in Northern Nigeria. It was enacted in 1959 (just before independence) for the Northern Region and it incorporated principles of Islamic law and native customs alongside English law. The Penal Code⁹⁶ defines offences and penalties much like the Criminal Code. However, there are notable differences in content and orientation. In structure, the Penal Code is arranged by categories of offences and it is similar to the Criminal Code: crimes against the person (e.g. homicide, assaults, hurt),⁹⁷ against property (theft, robbery, mischief),⁹⁸ against public order,⁹⁹ against morality,¹⁰⁰ and against the State.¹⁰¹ However, it also codifies offences rooted in Islamic moral teachings. *Zina* (adultery) is criminalised under the Penal Code.¹⁰² Conversely, the Criminal Code did not criminalise simple adultery. Similarly, the Penal Code includes “*offences against religion*.” It specifies certain punishments and these are drawn from Islamic law, like *diya* (blood-money compensation) concepts in homicide cases. It also differs in the area of *hudud*-type punishments. When Northern Nigeria’s twelve Sharia-implementing states expanded their criminal law in the early 2000s, some introduced

⁹⁴ *ibid* s 249.

⁹⁵ *ibid* s 250.

⁹⁶ The Penal Code applies in the nineteen northern states and the Federal Capital Territory, subject to the relevant local adoption laws.

⁹⁷ Penal Code Act Cap P3 Laws of the Federation of Nigeria 2004, Chapter XXXVII, ss 308-328.

⁹⁸ *ibid* Chapters XXXVIII-XXXIX, ss 378-415.

⁹⁹ *ibid* Chapter XL, ss 417-433.

¹⁰⁰ *ibid* ss 222-247.

¹⁰¹ *ibid* Chapter XXX, ss 121-133.

¹⁰² *ibid* ss 387-388.

Sharia Penal Codes and these operate alongside the Penal Code and it prescribe hudud punishments: amputation for theft, stoning for adultery.

The Penal Code allows corporal punishment for certain offences. A key feature of the Penal Code is that it accommodates Islamic rules of evidence for certain offences. For instance, it requires a higher burden of proof or particular types of witnesses for zina. Human Rights Watch and other observers have scrutinised the northern penal system especially after Sharia re-enactment. They affirmed that punishments such as amputation for theft or the evidentiary requirement of four male witnesses to prove rape/adultery exists and they noted that it leads to gender injustice and violate international standards.¹⁰³ Under Sharia incorporated in some states, a woman who alleges rape could risk being prosecuted for adultery if she is unable to produce four male eyewitnesses.

3.1.7 Evidence Act

The Evidence Act¹⁰⁴ provides the legal framework for proof of facts in Nigerian courts, including criminal trials. It replaced the archaic Evidence Act.¹⁰⁵ The Act stipulates what evidence is admissible, the standard and burden of proof as well as methods for presenting evidence. The Act was a wholesale reform and, among other things, it liberalised the admissibility of electronic and computer-generated evidence. Section 84 of the Act permits the admissibility of electronic records (such as emails, SMS, computer printouts), subject to certain conditions of authenticity.¹⁰⁶ This was a significant departure from the old law, under which Nigerian courts struggled with whether electronic documents were “documents” at all.

¹⁰³ AWJAI, 'The Nigerian Penal Code: Implementation and Challenges' AWJAI Resource Library <<https://awjai.org/the-nigerian-penal-code/>> accessed 8 January 2026.

¹⁰⁴ Evidence Act (n 38)

¹⁰⁵ Evidence Act 1945.

¹⁰⁶ Evidence Act (n 38) s 84.

The provisions of the Act have been further bolstered by the Evidence (Amendment) Act¹⁰⁷ and this expanded and clarified these aspects. Electronic records stored or copied in optical, magnetic, or digital form (cloud databases, among others.) are deemed documents unequivocally and they are admissible without production of an original, once conditions are met. The amendment inserted new sections 84A–84D and this introduced definitions for “electronic records.” It also recognises digital signatures and other methods of authentication. A digital signature on an electronic document is now legally valid and it is proved in the same way as a traditional signature. These changes facilitate the use of modern evidence like CCTV footage, ATM transaction logs, phone call records, and social media prints in criminal trials and these are critical in cybercrime and financial crime cases.

Beyond technology, the Evidence Act¹⁰⁸ reinforced principles that uphold the right to fair trial. Section 135(1) codifies that the prosecution in a criminal trial bears the burden to prove the guilt of the accused *beyond reasonable doubt*.¹⁰⁹ The Act retained or clarified rules on confessions. It states that confessions are generally admissible if voluntary.¹¹⁰ However, courts must be satisfied of voluntariness and on corroboration where required by law. The Act abolished some rigid common-law rules. It relaxed the rule against hearsay in certain circumstances and it provides detailed exceptions. It allows *written statements on oath (affidavits)* for certain preliminary matters and this speeds up proceedings.¹¹¹ The amendments in 2023 further modernised procedures. They permit remote sworn testimony through audio-visual link and electronic affidavits. Under the new regime, a witness can depose an

¹⁰⁷ Evidence (Amendment) Act (n 39)

¹⁰⁸ Evidence Act (n 38)

¹⁰⁹ *ibid* s 135(1)

¹¹⁰ *ibid* s 29.

¹¹¹ *ibid* s 115.

affidavit remotely and it will be accepted in court. In addition, and oath-taking may occur through video conferencing. In addition, the amendment recognises electronic official gazettes and this means that official regulations or notices published online have the same legal effect as paper gazettes.

3.1.8 Complementary Legislation

The criminal justice system in Nigeria is supported by a range of other laws and they address specific needs or sectors. The Legal Aid Council Act¹¹² creates and empowers the Legal Aid Council of Nigeria to provide free legal services to citizens who cannot afford representation in criminal (and some civil) matters. This Act operationalises the constitutional right to counsel and it ensures that indigent accused persons have access to defence lawyers at state expense. The Act establishes eligibility criteria and a network of legal aid offices. Another set of relevant laws are those that establish special enforcement agencies to handle particular categories of crime. The Economic and Financial Crimes Commission (EFCC) Establishment Act¹¹³ created the EFCC and it granted it powers to investigate and prosecute economic and financial crimes such as fraud, money laundering, and corruption. Under Section 6(c) of that Act, the EFCC is empowered to “investigate and prosecute” financial crimes. Section 19 gives its legal officers authority to initiate prosecutions in any court of competent jurisdiction (usually High Courts). Similarly, the Independent Corrupt Practices and Other Related Offences Commission (ICPC) Act¹¹⁴ establishes the ICPC and it focuses on corruption in the public sector. Under the act, the ICPC is granted powers to arrest, investigate and

¹¹² Legal Aid Council Act 2011.

¹¹³ EFCC (Establishment) Act 2004.

¹¹⁴ ICPC Act 2000.

prosecute corrupt officials.¹¹⁵ The National Drug Law Enforcement Agency (NDLEA) Act¹¹⁶ sets up the NDLEA¹¹⁷ and it combats drug trafficking and abuse.¹¹⁸ The NDLEA also has prosecutorial powers for drug offences.¹¹⁹

The Terrorism (Prevention and Prohibition) Act (as amended)¹²⁰ deals with terrorism offences and it provides special procedures (like protection of witnesses, in-camera trials for terrorism cases, extended detention periods with court oversight for terror suspects, among others). These special regimes often modify general criminal procedure to meet the exigencies of those offences. The Terrorism Act allows the federal High Court to proscribe terrorist organisations¹²¹ and it permits holding suspects for longer periods pre-charge with a judge's approval¹²² and this diverges from the normal limits of ACJA due to security concerns. The Cybercrimes (Prohibition, Prevention, etc.) Act¹²³ criminalises various cyber offences (hacking, identity theft, cyberstalking) and it provides procedural tools for investigation: this includes permitted interception of communications under judicial warrant. Juvenile justice is another specialised area. The Child Rights Act (CRA)¹²⁴ provides for separate treatment of children (persons under 18) who are in conflict with the law.¹²⁵ It prohibits the sentencing of children to death or life imprisonment¹²⁶ and it prescribes borstal training or probation and rehabilitation for juvenile offenders.¹²⁷ It also creates Child Justice Courts (Family Courts) to handle such cases and this

¹¹⁵ *ibid* ss 6-8.

¹¹⁶ NDLEA ct Cap N30 *LFN* 2004.

¹¹⁷ *ibid* s 1.

¹¹⁸ *ibid* s 4.

¹¹⁹ *ibid* s 6.

¹²⁰ Terrorism (Prevention and Prohibition) Act 2022.

¹²¹ *ibid* s 48(1)

¹²² *ibid* s 66(1)

¹²³ Cybercrimes (Prohibition, Prevention, etc) Act 2015.

¹²⁴ Child Rights Act 2003.

¹²⁵ *ibid* ss 207(1)-(2)

¹²⁶ *ibid* ss 262(1)-(2)

¹²⁷ *ibid* s 264.

removes children from the regular criminal process that adults face.¹²⁸ Procedural instruments like the Fundamental Rights (Enforcement Procedure) Rules¹²⁹ (issued by the Chief Justice under the Constitution) are relevant. This is because they provide an expeditious method for enforcing the violation of rights by criminal justice agencies. A person detained unlawfully may bring a fundamental rights application for release and compensation under these Rules.

3.2 The Institutional Framework for Criminal Justice in Nigeria

3.2.1 The Police

The Nigeria Police Force (NPF) is established under section 214 of the constitution.¹³⁰ It is the principal law enforcement and investigative agency in the country and it has a constitutional mandate to maintain public order and security. It is the most visible arm of the criminal justice system. Hence, it determines whether crimes are investigated effectively and whether suspects are brought to justice in accordance with the law. The NPF is a single national police force with jurisdiction throughout Nigeria.¹³¹ It is structured in a hierarchical manner and the Inspector-General of Police (IGP) sits at the top. This is followed by Deputy Inspectors-General, Assistant Inspectors-General, Commissioners of Police for each state command, down to Divisional Police Officers (DPOs) heading local police divisions.¹³² Evidently, this is unified structure and it facilitates coordination and standardisation across the country. The Police Act reiterates that the police are responsible for the preventing, detecting and apprehending offenders. The functions of the NPF in the administration of criminal just include the following:

¹²⁸ *ibid* ss 207(3)-(4)

¹²⁹ Fundamental Rights (Enforcement Procedure) Rules 2009.

¹³⁰ CFRN (n 2) s 214.

¹³¹ *ibid* s 214.

¹³² *ibid* s 215(2); Police Act (n 8) ss 5-8 and 12.

i. Arrest

A criminal case begins with the police. Upon receiving a complaint or observing a crime, they carry out arrests (with or without warrant, depending on the circumstance). The law empowers them to arrest on reasonable suspicion of an offence.¹³³ They must inform the suspect of the reason for arrest and his rights. The arrest must be in line with the protection of human rights against arbitrary arrest.

ii. Investigation

After arrest, the police conduct investigations. This includes taking witness statements, searching for physical evidence, interrogating suspects (now under reforms required to be without coercion and ideally recorded), and liaising with forensic or technical experts if available (though Nigeria's forensic capacity is still developing). The police have specialised units for certain crimes. The branch of the police that handles investigation in Criminal Investigation Department (CID) and it has many divisions. For example, homicide divisions, anti-robbery squads, anti-fraud units, cybercrime units, among others. Each state Police Command has a State Criminal Investigation Department (SCID) and they handle serious crimes and complex investigations beyond the capacity of regular divisional offices. Units like the recently disbanded Special Anti-Robbery Squad (SARS) which was not for investigation but it was created to combat specific issues (armed robbery, kidnapping). However, SARS became infamous abuse of rights and this led to the #EndSARS movement in 2020.¹³⁴

iii. Detention and Bail

¹³³ *ibid* s 35(1)(c); Police Act (n 8) s 4.

¹³⁴ VC Iwuoha and ET Aniche, 'Protests and Blood on the Streets: Repressive State, Police Brutality and #EndSARS Protest in Nigeria' [2021] *Security Journal* <<https://doi.org/10.1057/s41284-021-00316-z>> accessed 25 June 2026.

This another function of the police. Police grant bail to suspects in minor offences pending charge as required by law since the Constitution envisions that if not brought to court within 24-48 hours the person should be released on bail. Section 64(1) of the Police Act aids this. It allows lawyers or relatives to notify a court if police keep someone beyond 24 hours without cause, to which the court may order a release on bail. Illegal or prolonged police detention (often called “awaiting trial” at police cells or “holding charge” practices) remains an issue in practice, albeit this is improving with oversight from magistrates.¹³⁵

iv. Prosecution

The police also handle the initial prosecutions in magistrate courts for most minor offences. Historically, any officer could prosecute in a court. In *FRN v Osahon*,¹³⁶ the court held that a police officer could prosecute criminal cases, including before superior courts. The Court rejected the argument that police prosecutors needed separate authority from the Attorney-General before prosecuting. However, with the Police Act, only qualified officers are permitted to do so.¹³⁷ In practice, there are still police prosecutor (often a rank-and-file officer or an inspector) at many magistrates presenting cases. Nonetheless, the trend is shifting towards MoJ prosecutors. The police are also charged with keeping the peace and they have broad powers under various laws (Criminal Procedure laws, Police Act). Hence, they issue directives or take preventive actions (like dispersing unlawful assemblies, among others).

Importantly, The Police Service Commission (PSC) is also relevant. It is not part of the police per se; it is a civilian oversight body for appointments, promotions, and

¹³⁵ ACJA (n 6) s 34; Police Act (n 8) s 69.

¹³⁶ *FRN v Osahon* (n 84)

¹³⁷ Police Act (n 8) s 66.

discipline of police (except for the IGP who is appointed by the President). In recent times, The PSC has tussled with the NPF over recruitment. The Supreme Court held that the aspects of the Police Act that gave the IGP power over recruitment infringed the constitutional role of the PSC.¹³⁸ The quality of recruitment and discipline are foundational to police performance in criminal investigations. Hence, there would be officers who engage in torture or extortion if the PSC cannot effectively vet or discipline officers. The police have undergone modernisation. It establishes a forensics unit. They police now utilise digital databases (fingerprint and criminal records). More recently, they integrate technology such as the PCRRU (complaint response unit leveraging social media and hotlines). However, there are constraints in resources.

3.2.2 The Court

The courts are the adjudicative core of the criminal justice system. They interpret the law and determine guilt or innocence and also determine appropriate sentencing. The court system is hierarchical and it consists of both federal and state courts; each has defined criminal jurisdictions. The Constitution establishes the hierarchy of courts. At the apex is the Supreme Court of Nigeria, which is the final court of appeal for criminal (and civil) matters.¹³⁹ Below it is the Court of Appeal with multiple divisions across the country.¹⁴⁰ It hears appeals from the High Courts (federal and state) and certain tribunals.¹⁴¹ For trial matters, the principal courts of first instance for serious offences are the State High Courts and the Federal High Court. Every state has a High Court and they are vested with unlimited jurisdiction in law and

¹³⁸ Nigeria Police Force and Others v Police Service Commission and Another [2023] SC/CV/773/2020; LPELR-60782(SC)

¹³⁹ CFRN (n 2) s 230.

¹⁴⁰ ibid s 236.

¹⁴¹ ibid ss 237-238.

equity: this includes criminal matters (except those expressly within federal exclusive jurisdiction).¹⁴² In addition, the Federal Capital Territory (FCT) has its own High Court.¹⁴³ On the other hand, the Federal High Court has limited but exclusive jurisdiction over specific federal crimes and matters: this includes terrorism, treason, drug trafficking, firearms offences, financial crimes under federal statutes, and other matters on the Exclusive Legislative List (like customs and excise or immigration offences).¹⁴⁴ Most conventional crimes (murder, robbery, assault, theft among others) are tried in State High Courts or Magistrate courts of the states.

Magistrate Courts (and District Courts in some northern states) represent the lower tier of trial courts for criminal cases.¹⁴⁵ They handle criminal cases (petty thefts, assaults, among others) and they conduct preliminary inquiries for more serious offences that will go up to the High Court. The Magistrates' sentencing powers are limited by statute. A Chief Magistrate might have power to impose up to 5 or 7 years imprisonment. Conversely, lower magistrates less. Capital offences (like murder or armed robbery) and other offences carrying very high penalties are outside the jurisdiction of the magistrate and they must be tried in the High Court. In the North, there are also Area Courts and Sharia Courts and they deal with minor offences and infractions under customary or Islamic law (e.g. petty disputes, religious offences in Sharia states).¹⁴⁶ Nigeria also has a Customary Court of Appeal in some states for customary law issues. Nonetheless, criminal cases from customary courts (which handle minor offences under customary law, where applicable) may be appealed into the regular system.

¹⁴² *ibid* ss 271 and 274.

¹⁴³ *ibid* s 276.

¹⁴⁴ *ibid* ss 249 and 251.

¹⁴⁵ *ibid* ss 270 and 272.

¹⁴⁶ *ibid* s 274(1)(b)

The criminal jurisdiction of courts is determined by the Constitution, enabling statutes as well as the nature of the offence charged. The State High Court has the widest criminal jurisdiction within a State. Under section 272 of the 1999 Constitution, it may hear criminal proceedings which involves any penalty, forfeiture, punishment or liability in respect of offences committed by any person, subject only to matters reserved for other courts. Therefore, its jurisdiction is unlimited and it may impose any lawful sentence, including imprisonment, fine, forfeiture and capital punishment such as the death penalty where the offence and law permit it. On the other hand, the Federal High Court has a specialised criminal jurisdiction. By section 251(2) of the Constitution, it has jurisdiction over treason, treasonable felony and allied offences. It also exercises criminal jurisdiction over offences connected with matters within its constitutional competence, such as customs, immigration, taxation, drugs, banking, money laundering, cybercrime, economic crimes and offences which involve federal agencies, where the enabling statute confers jurisdiction on it.

The Court of Appeal does not try criminal cases at first instance. Its criminal jurisdiction is appellate. It hears appeals from the State High Court, Federal High Court, High Court of the Federal Capital Territory, Sharia Court of Appeal, Customary Court of Appeal and courts martial, where the appeal concerns conviction, sentence, jurisdiction or fair hearing. Section 241 allows appeals as of right in final decisions from the Federal High Court or a High Court. The Supreme Court is the final appellate court in criminal matters. Under section 233 of the Constitution, it hears appeals from the Court of Appeal. Its decisions are final and binding on all lower courts. In that sense, the Court of Appeal and Supreme Court perform supervisory and appellate functions in criminal justice.

The National Industrial Court deals with labour matters and it is not involved in criminal trials (though disobedience of its orders could lead to contempt proceedings which maybe an offence). It is important to note that courts not only conduct trials; it conducts oversights. The Magistrates in the FCT and many states are empowered to supervise police conduct regarding detentions statutorily. Under ACJA or state laws, they receive periodic reports on arrests and they visit police stations or prisons to ensure that no person is held unlawfully. The Constitution guarantees the independence and impartiality of courts.¹⁴⁷ Section 36 of the Constitution stipulates that only courts established by law should try criminal charges and they must be properly constituted. This means the judiciary, in structure, is designed to be a check on executive excess in criminal matters. Moreover, The Supreme Court has, in numerous cases, overturned convictions where lower courts violated the right to fair hearing rights or where evidence was insufficient.¹⁴⁸ The Supreme Court also sets binding precedents. For appeals, criminal appeals from Magistrate Courts go to the High Court of the state first (as appellate jurisdiction) or to the Federal High Court if it was a magistrate under federal authority (like in FCT). Appeals from High Court judgments (state or federal) lie to the Court of Appeal, and then to the Supreme Court (with leave in certain cases).

Similar to the regular court is the court martial which is a specialised military tribunal established for the enforcement of discipline, obedience and order within the Armed Forces. It tries service offences committed by military personnel, including offences relating to insubordination, desertion, mutiny, disobedience to lawful command and other acts considered prejudicial to military discipline. A court martial operates within the military justice system. However, it is not detached from the ordinary legal

¹⁴⁷ *ibid* s 17(2)(e)

¹⁴⁸ *Oseni v The State* [2012] 49 NSCQR 1190 (SC)

order because its proceedings must still comply with the principles of fair hearing, due process and natural justice. Because the decisions of the court martial may affect the liberty, rank, career and reputation of an accused officer, the law provides safeguards against arbitrariness. One of such safeguards is the right of appeal. Section 240 of the Constitution¹⁴⁹ provides for appeals from decisions of a court martial to the Court of Appeal. Indeed, the proceedings of the court martial are military in character. However, they remain subject to review by the regular judicial system.

3.2.3 The Correctional Centres

The Nigerian Correctional Service (NCoS) which is established by the NCSA is the institution responsible for the custody and rehabilitation of persons who are legally detained.¹⁵⁰ It is an integral component of the criminal justice system in Nigeria. This is because it oversees the execution of judicial penalties and it prevents recidivism through correctional programs. The Service is structured under a Controller-General at the headquarters¹⁵¹ and it has state commands with correctional centres (prisons) of varying security levels (minimum, medium, maximum).¹⁵² There are presently 240+ custodial centres across Nigeria. The Correctional Service operates under the Federal Government and there are no state-run prisons. Incarceration is exclusively a federal function in even for state offences. Within the NCoS, there are two main directorates as established by the Act: the Custodial Service Directorate and the Non-Custodial Service Directorate.¹⁵³

i. The Custodial Service Directorate

¹⁴⁹ CFRN (n 2) s 240.

¹⁵⁰ NCSA (n 5) s 2(a)-(c)

¹⁵¹ *ibid* ss 3-4.

¹⁵² *ibid* s 5(1)

¹⁵³ *ibid* s 1(2)(b)

The Custodial Directorate manages all facilities where inmates are kept. Their duties include admitting and classifying inmates, ensuring security and order in the facilities, providing necessities (food, clothing, healthcare), and facilitating visits and communication for inmates. The law obliges that inmates be treated humanely and their rights (save for freedom of movement and such rights restricted by incarceration) be respected. Convicts have the right to access to legal counsel and to practice their religion. They must also be kept in conditions that meet minimum health and sanitation standards. The Correctional Service Act and regulations specify these standards. However, conditions often fall short due to overcrowding and limited resources.¹⁵⁴ Hence, a statutory mechanism is that if a custodial centre is overcrowded beyond its capacity, the State Controller must notify the Chief Judge of the state and other relevant bodies.¹⁵⁵ This triggers possible decongestion measures (such as release on bail of some awaiting trial persons or non-custodial sentencing for convicts of minor offences). Statistics show that there about 77,500 inmates nationwide and around 54,000 (about 70%) are Awaiting Trial Inmates (detainees not yet convicted).¹⁵⁶ Evidently, there is a high percentage of pre-trial detention and this has been a chronic issue. In terms of staffing, correctional officers guard and manage inmates. In addition, there are specialists (welfare officers, psychologists, medical staff) who provide services.

ii. The Non-Custodial Service Directorate

The Act bolstered the Non-Custodial Directorate and it supervises community

¹⁵⁴ *ibid* ss 10, 12 and 34.

¹⁵⁵ *ibid* s 12(3)

¹⁵⁶ AWJAI, 'Transforming Lives: A Journey Through Nigeria's Correctional Services (NCoS)' [26 March 2024] AWJAI Feature Stories <<https://awjai.org/transforming-lives-a-journey-through-nigerias-correctional-services-ncos/>> accessed 15 January 2026.

service orders, probation orders, parole, and restorative justice processes.¹⁵⁷ Non-custodial measures are implemented collaboratively. The courts impose such orders and the NCoS (non-custodial staff) ensure compliance. Probation officers (now under NCoS) prepare pre-sentencing reports in some cases and supervise probationers. For parole, NCoS prepare cases of eligible inmates for consideration by a Parole Board, and if granted, they would supervise the parolee in the community until the sentence expires. However, parole boards are still being set up and as of yet parole has not been widely implemented.

The Correctional Service also coordinates training and rehabilitation programs. Many prisons have conducts workshops for skill acquisition. Educational programs exist too. Inmates are allowed sit for secondary school exams and even enroll in tertiary education. The Correctional Service partner with National Open University of Nigeria and it has study centres in some prisons. As per NCoS, thousands of inmates are engaged in formal or vocational training.¹⁵⁸ For juvenile offenders (under 18), they prohibited from imprisonment. Instead, there are Borstal Institutions (in Kaduna, Ilorin, and Abeokuta) governed by the Borstal Institutions Act, and they are now complemented by the Child Rights Act in states that adopted it. The Correctional Service liaises with this institution and transfers any juvenile in adult custody to these facilities or separate juvenile wings.

¹⁵⁷ NCSA (n 5) s 1(2)(b)
¹⁵⁸ AWJAI (n 156)

CHAPTER FOUR

THE CHALLENGES WHICH AFFECT THE LEGISLATIVE AND INSTITUTIONAL FRAMEWORK IN THE ADMINISTRATION OF CRIMINAL JUSTICE IN NIGERIA

4.1 The Police

4.1.1 Unlawful arrest and arrest in lieu of suspects

Arrest in lieu occurs where the police arrest a person who is not the actual suspect, usually a parent, spouse, sibling, friend or associate, where the real suspect cannot be found. This practice is illegal. Section 7 of the Administration of Criminal Justice Act provides that a person shall not be arrested in place of a suspect. Section 36 of the Police Act also prohibits arrest in lieu. In that sense, no person should be punished, detained or pressured because of the alleged offence of another person. The courts have condemned the misuse of police powers in this regard. In *Jim-Jaja v Commissioner of Police, Rivers State*,¹⁵⁹ the appellant borrowed money from a moneylender and deposited his Certificate of Occupancy as security. When he failed to repay the loan, the creditor used the police to arrest and detain him over a civil debt. The Supreme Court held that his detention violated his right to personal liberty. In addition, the court affirmed that compensation is available for unlawful arrest and detention. Studies indicate that unlawful arrest weakens the criminal justice system. This is because it turns policing into oppression. It also discourages citizens from cooperating with the police. In addition, it makes the public perceive police stations as centres of intimidation. It also leads to unnecessary detention, overcrowded police cells and avoidable fundamental-rights litigation.¹⁶⁰

¹⁵⁹ *Jim-Jaja v Commissioner of Police, Rivers State* [2013] 6 NWLR (Pt 1350) 225, 256-257 (SC)

¹⁶⁰ RA Aborisade, 'Systematic Brutality, Torture and Abuse of Human Rights by the Nigerian Police:

4.1.2 Detention of suspects beyond constitutional limits

Section 35 of the Constitution protects the right to personal liberty. It requires any person who is arrested to be brought before a court within a reasonable time. In normal circumstances, reasonable time means within twenty-four hours where a court is within forty kilometres, and within forty-eight hours or such longer period as the court considers reasonable where a court is not within that distance. However, studies indicate that the police still detains suspect beyond the constitutional limit.¹⁶¹ The decision of the ECOWAS Court in *Alade v Federal Republic of Nigeria*¹⁶² is instructive. The applicant was detained for a prolonged period without trial. The ECOWAS Court held that the prolonged detention was unlawful and violated the African Charter and ECOWAS human rights obligations.¹⁶³ Arbitrary detention increases the number of persons on awaiting-trial and pressures correctional centres. It also creates resentment against the state and it undermines the presumption of innocence because a person who has not been convicted may spend months or years in custody.¹⁶⁴

4.1.3 Torture and inhuman treatment of suspects

In Nigeria, some police officers still rely on force, threats and intimidation to extract confessional statements. This is caused by poor capacity to investigate.¹⁶⁵ Where there is no forensic equipment, CCTV, digital evidence handling, fingerprint database or trained interrogation system, some officers resort to brutality as a shortcut. The

Narratives of Inmates in Ogun State Prisons' [2017] 15(1) Nigerian Journal of Sociology and Anthropology 1-16 <[https://doi.org/10.36108/NJSA/7102/51\(0110\)](https://doi.org/10.36108/NJSA/7102/51(0110))> accessed 25 June 2026.

¹⁶¹ CFRN (n 2) ss 35(4)-(5); ACJA (n 6) ss 32 and 35.

¹⁶² Sikiru Alade v Federal Republic of Nigeria ECW/CCJ/JUD/10/12, paras 43-49.

¹⁶³ *ibid* paras 49-52.

¹⁶⁴ Institute for Crime and Justice Policy Research, 'Nigeria: World Prison Brief Data' [4 May 2026] <<https://www.prisonstudies.org/country/nigeria>> accessed 4 June 2026.

¹⁶⁵ Y Aminu and BA Mohammed, 'Police Interrogation and the Use of Torture on Alleged Offenders in the Custody of the Nigeria Police' [2023] 1(1) FUOYE Journal of Criminology and Security Studies 145-161 <<https://fjcss.fuoye.edu.ng/index.php/fjcss/article/view/49>> accessed 25 June 2026.

#EndSARS protests exposed the public anger against police brutality in Nigeria.¹⁶⁶ SARS was created to combat robbery and violent crime. However, it allegedly carried out torture, extortion, profiling and extrajudicial conduct.¹⁶⁷ Torture damages both the accused and society. It may lead to false confessions and wrongful convictions. It also allows the offender to escape because the police may stop investigating once a forced confession has been obtained.¹⁶⁸

4.1.4 Corruption and abuse of police powers

Corruption appears in different forms. They include demanding money before recording complaints, demanding money for bail, collecting money from suspects or complainants, suppressing evidence, manipulating case files, or using police powers to settle civil disputes.¹⁶⁹ Corruption also affects the quality of criminal prosecution.¹⁷⁰ The court may never receive the true facts if the police collect money to weaken a case file, refuse to arrest an influential suspect, or intimidate a poor complainant. In such circumstances, the criminal justice system becomes unequal. The poor face the full force of the law. On the other hand, the rich and connected manipulate the process.¹⁷¹ Hence, the rule of law is undermined when police powers are abused. The maxim *ubi jus ibi remedium* means that where there is a right, there should be a remedy. However, where corruption prevents victims from accessing

¹⁶⁶ Iwuoha and Aniche (n 134)

¹⁶⁷ Amnesty International, 'Nigeria: Time to End Impunity: Torture and Other Violations by the Special Anti-Robbery Squad' (June 2020) <<https://www.amnesty.org/en/documents/afr44/9505/2020/en/>> accessed 4 June 2026, 18-31.

¹⁶⁸ Evidence Act (n 38) ss 29(2), 30 and 31; Anti-Torture Act 2017, ss 2-4.

¹⁶⁹ OO Ani, CE Okoye and CO Ugwu, 'Socio-Economic Implications of Police Corruption on Crime Prevention and Control in Awka South Local Government Area' [2020] (6)(1) *Interdisciplinary Journal of African and Asian Studies* 1-14 <<https://nigerianjournalsonline.org/index.php/IJAAS/article/view/3250>> accessed 25 June 2026.

¹⁷⁰ *ibid* 5-9.

¹⁷¹ *ibid* 9-12.

justice, rights become theoretical.¹⁷²

4.1.5 Lack of resources

Many police stations lack patrol vehicles, fuel, computers, forensic facilities, protective equipment, communication devices and proper detention facilities.¹⁷³ This weakens investigation. Hence, complaints are left to fund investigations. Where a complainant pays for transport, feeding or logistics, the investigation may become biased in favour of the person who funds it. The criminal justice depends on evidence.¹⁷⁴ However, if the police lack the tools and training to collect, preserve and present such evidence, the law would be ineffective in practice. For instance, the cases on murder may proceed without forensic evidence. The cases on cybercrime may fail because digital devices were not preserved properly. The cases on Robbery may depend on confessional statements. The cases on corruption may collapse because documents were handled poorly. Therefore, lack of resources affects not only police welfare. It also affect the outcome of criminal trials.¹⁷⁵

4.1.6 Poor training and Lack of professionalism among police officers

Police officers require knowledge of constitutional rights, procedures for arrest, rules for bail, search, statement-taking, preserving evidence, protecting victim and courtroom testimony. The Police Act contains provisions on arrest, rights of suspects and humane treatment.¹⁷⁶ However, many officers still operate with outdated habits. Hence, this results to poor record-keeping, illegal parading of suspects, failure to inform suspects of their rights, poor case diaries, forced

¹⁷² CFRN (n 2) ss 35(6) and 46(1); Jim-Jaja (n 159) 256-257.

¹⁷³ United Nations Office on Drugs and Crime, *Handbook on Police Accountability, Oversight and Integrity* (United Nations 2011), 13-18 and 35-42.

¹⁷⁴ Evidence Act (n 38) ss 83, 84, 101 and 258; ACJA (n 6) ss 15, 17 and 376.

¹⁷⁵ UNODC (n 173) 87-96.

¹⁷⁶ Police Act (n 8) ss 34-37, 60 and 66.

confessions and weak courtroom testimony.¹⁷⁷ For example, if a confessional statement is obtained improperly, it may be rejected by the court. If exhibits are not labelled and preserved properly, the chain of custody may be challenged.

4.1.7 Over-centralisation of the Nigeria Police Force

The Nigeria Police Force is highly centralised. Section 214 of the Constitution establishes one police force for Nigeria. In addition, section 215 provides for the command structure under the Inspector-General of Police.¹⁷⁸ The Nigeria Police Force is a single national police force with jurisdiction throughout Nigeria and it is structured hierarchically from the Inspector-General down to state commands and divisional officers. The problem is that Nigeria is a large federation with different security realities. Crimes do not occur in the same way across the country. These include banditry, kidnapping, oil theft, insurgency, cult violence, cybercrime, communal conflicts and urban robbery. A Central structure is too distant from local realities.¹⁷⁹ For instance, officers posted to communities they do not understand may lack knowledge of language, geography, customs and local intelligence networks. Therefore, the argument for state police is strong.¹⁸⁰ State police could improve local intelligence, faster response and community accountability. However, the concern is also valid that state governors may abuse state police against political opponents. More so, state police cannot be achieved considering that the constitution explicitly provides for a single police for the whole federation.¹⁸¹

4.2 The Court

¹⁷⁷ Amnesty International (n 167) 18-31.

¹⁷⁸ CFRN (n 2) ss 214(1)-(2) and 215(1)-(3)

¹⁷⁹ PK Dadem, 'Police Federalism in Nigeria: State, Community Policing and the Nigeria Police Act 2020' [2021] (3)(2) *International Review of Law and Jurisprudence* 1-10.

¹⁸⁰ I Onwudiwe, 'The Future of State Police in Nigeria: A Focus on Community Policing' [2024] (14)(1) *African Journal of Criminology and Justice Studies* 1-20.

¹⁸¹ CFRN (n 2) ss 214 and 215.

4.2.1 Delay in criminal trials

Section 36(1) of the Constitution guarantees fair hearing within a reasonable time.¹⁸²

The ACJA attempts to solve delay. It requires that trial should be conducted day-to-day after arraignment. In addition, adjournments should be limited. Section 396 of the ACJA provides for day-to-day trial and regulates adjournments in criminal proceedings. However, studies indicate that many criminal trials still last for years.¹⁸³

These results from frequent adjournments, absence of witnesses, transfer or elevation of judges, poor prosecution, delay in legal advice, non-production of defendants from correctional centres, interlocutory applications and congested court lists.¹⁸⁴ These affect both defendants and victims. A defendant may remain in custody for years without conviction. Victims and their families may lose confidence in the process. Delay may cause witnesses to forget facts. Exhibits may be lost. Police officers involved in investigation may be transferred. Victims may become frustrated. Hence, the truth becomes harder to establish as time passes.

4.2.2 Congestion of court dockets and backlog of cases

The courts in Nigeria handle a plethora of cases. In many states, the number of judges is not enough to handle these cases. This produces backlog. Backlog affects criminal justice directly. Where courts are congested, criminal cases are adjourned repeatedly. Prosecutors become overburdened. Defence lawyers lose track of files. Victims lose faith. Then, the correctional centres become congested because many inmates are not convicts but persons whose trials have not been concluded. Evidence from the Nigerian Correctional Service indicate there it has a inmate

¹⁸² *ibid* ss 36(1) and (4)

¹⁸³ MF Chichezum, 'Delays in the Nigerian Criminal Justice System: Causes, Consequences and the Way Forward' [2025] (11)(6) *International Journal of Social Sciences and Management Research* 351-359.

¹⁸⁴ *ibid* 354-357.

population of 80,380.¹⁸⁵ The World Prison Brief also reported that pre-trial detainees and remand prisoners formed 65.4% of the prison population in Nigeria.¹⁸⁶ These figures indicate that backlog produce overcrowding in correctional centres.

4.2.3 Poor court infrastructure

Many courts lack proper recording equipment, electricity, access to internet, digital filing systems, libraries, secure archives, functional courtrooms, witness waiting areas and facilities for vulnerable witnesses. Some proceedings are still recorded manually by judges. This slows the pace of trial. The Evidence (Amendment) Act¹⁸⁷ has modernised the law. It recognises electronic records, digital signatures, electronic gazettes and remote testimony. However, where there is no stable power supply, the access to internet and technology cannot properly benefit from these reforms. Poor infrastructure also affects the dignity of the process. Witnesses wait in unsafe or overcrowded spaces. Defendants are transported from correctional centres without proper holding facilities. Lawyers and prosecutors struggle to organise files in cramped courtrooms. Judges are overburdened by manual processes.¹⁸⁸

4.2.4 Abuse of remand orders and holding charge.

Holding charge occurs where a suspect is brought before a magistrate court for an offence the magistrate has no jurisdiction to try (usually a capital offence or serious felony). Then, the suspect is remanded pending legal advice or proper arraignment

¹⁸⁵ Nigerian Correctional Service, 'Inmate Statistics: Statistics Summary' <https://www.corrections.gov.ng/statistics_summary> accessed 4 June 2026.

¹⁸⁶ World Prison Brief (n 164)

¹⁸⁷ Evidence (Amendment) Act (n 39)

¹⁸⁸ CJ Ubanyionwu, 'Solving the Problem of Delay in Adjudication of Cases in Nigeria through Artificial Intelligence' [2025] (2)(1) *Journal of Customary and Religious Law* 136-150.

before a competent court. In *Lufadeju v Johnson*,¹⁸⁹ the appellants challenged remand proceedings made by a magistrate. The Supreme Court held that remand proceedings could be valid where authorised by law, even though the magistrate had no jurisdiction to try the substantive offence. However, this decision has often been used to justify long and repeated remands, even where police investigation is incomplete. The ACJA now regulates remand proceedings under sections 293–299. These provisions require judicial scrutiny and time limits. However, in practice, these provisions are not enforced.¹⁹⁰

4.2.5 Corruption and unethical conduct within the judiciary

This includes bribery, manipulating case files, inducing court officials, disappearance of records, improper influence over bail, or unethical conduct by counsel. Even where judges are honest, corrupt conduct by registrars, clerks, prosecutors, police officers or lawyers distort justice. Corruption is dangerous because the court is supposed to be the last hope of the common man. If citizens believe that justice can be bought, they may resort to self-help, mob action or private retaliation. Corruption also affects bail and the speed of trial. For instance, a poor defendant may remain in custody because he cannot satisfy bail conditions or pay informal fees. On the other hand, an influential defendant may manipulate delay. Therefore, corruption produces inequality before the law.

4.2.6 Inconsistent adoption and implementation of ACJA/ACJL across states

The ACJA applies mainly to federal courts and the Federal Capital Territory. States are expected to enact their own Administration of Criminal Justice Laws. Many

¹⁸⁹ *Lufadeju and Another v Johnson* [2007] 8 NWLR (Pt 1037) 535, 562-569 (SC)

¹⁹⁰ ACJA (n 6) ss 293-299.

states have done so, but implementation differs across jurisdictions.¹⁹¹ This creates inequality in criminal procedure. For instance, a defendant in one state may benefit from electronic recording of confessions, plea bargaining, non-custodial sentencing and strict adjournment control. Another defendant in a different state may face older and slower procedures. Where states do not implement similar reforms, the criminal justice system remains uneven.

4.3 The Correctional Centre

4.3.1 Overcrowding of correctional centres

Many facilities hold more inmates than their intended capacity. This is because there is a high number of awaiting-trial inmates. Current statistics confirm this problem. Evidence indicates that there are about 80,380 inmates in correctional facilities as at 4 May 2026. In addition, the World Prison Brief reported that 65.4% of the prison population in Nigeria were pre-trial detainees or remand prisoners as at 4 May 2026.¹⁹² Earlier in February 2026, the Controller-General of Corrections disclosed that 51,955 out of 80,812 inmates were awaiting trial. This represents about 64% of the custodial population.¹⁹³ Many inmates on awaiting trial spend years in custody under harsh conditions.¹⁹⁴ In effect, the system punishes people before conviction.

4.3.2 Poor living conditions and health facilities

¹⁹¹ International Federation of Women Lawyers Nigeria, National Research on the Implementation and Challenges of the Administration of Criminal Justice Act and Administration of Criminal Justice Laws in Nigeria (FIDA Nigeria 2024) <<https://fida.org.ng/wp-content/uploads/2024/07/ACJAL-National-Research-PM-Updated-1-1.pdf>> accessed 4 June 2026, 12-28 and 71-96.

¹⁹² World Prison Brief (n 164)

¹⁹³ PRNigeria, 'NCoS: Awaiting-Trial Inmates Form 64% of Prison Population' (12 February 2026) <<https://prnigeria.com/2026/02/12/ncos-awaiting-trial-inmates/>> accessed 4 June 2026.

¹⁹⁴ CT Orjiakor, N Eze, OC Eze and C Nweze, 'Prolonged Incarceration and Prisoners' Wellbeing: Lived Experiences of Awaiting-Trial Prisoners in Nigeria' [2018] 62(7) *International Journal of Offender Therapy and Comp. Crim.* 1891-1908.

These include overcrowded cells, poor ventilation, inadequate sanitation, insufficient bedding, poor feeding and limited healthcare affect many correctional centres. These may amount to inhuman and degrading treatment, contrary to section 34 of the Constitution. The Nigerian Correctional Service Act is intended to provide humane custody and rehabilitation.¹⁹⁵ However, where facilities are overcrowded and underfunded, the correctional purpose becomes difficult to achieve. In addition, inmates suffer from infectious diseases, mental health conditions, untreated injuries and poor nutrition.¹⁹⁶

4.3.3 Inadequate rehabilitation and reformation programmes

The NCSA places emphasis on rehabilitation and reformation. However, many correctional centres do not have adequate programmes for rehabilitation.¹⁹⁷ This is a serious defect because imprisonment without rehabilitation produces more crime.¹⁹⁸ For instance, if an inmate enters custody without education, skill or counselling and leaves in the same or worse condition, the correctional system has failed. Recidivism becomes likely because the person returns to society without a means of survival.¹⁹⁹

4.3.4 Weak implementation of non-custodial measures

The NCSA provides for non-custodial measures. These include probation, parole, community service and restorative justice.²⁰⁰ The ACJA also contains provisions on non-custodial measures, including community service and suspended sentences. However, implementation remains weak. Many courts rely on imprisonment, even for

¹⁹⁵ NCSA (n 5) ss 2(1), 10(1)-(3), 12 and 14; CFRN (n 2) s 34(1)(a)

¹⁹⁶ Orjiakor and Others (n 194) 1897-1904.

¹⁹⁷ VV Tarhule and JT Iyortyom, 'A Synoptic Appraisal of the Nigerian Correctional Service Act 2019' [2020] 9 Benue State University Law Journal 1-31.

¹⁹⁸ MK Salami and YA Mohammed, 'The Impact of Rehabilitation Programmes on Recidivism in Kuje Custodial Centre, Abuja, Nigeria' [2025] 1(1) *Nigerian Journal of Criminology and Security Studies* 217-234.

¹⁹⁹ *ibid* 227-232.

²⁰⁰ NCSA (n 5) ss 37-44.

minor offences.²⁰¹ If minor offenders, first offenders and low-risk offenders are sent to custody instead of community-based sanctions, correctional centres will remain congested.²⁰²

4.3.5 Lack of resources

Correctional centres require funding for food, healthcare, welfare for staff, security, transportation, rehabilitation, education, workshops and infrastructure. Where funding is inadequate, correctional officers become overburdened and inmates suffer poor living conditions. The NCSA grants the Service wide responsibilities, including custody, rehabilitation and administration of non-custodial measures.²⁰³ However, these responsibilities require funding. There are also security risks where resources are scarce. For instance, overcrowded facilities are vulnerable to escapes and disease outbreaks. Correctional officers working under poor conditions may become demoralised and this affects discipline and professionalism.

4.3.6 Poor coordination between correctional centres, courts and police authorities

Criminal justice is a chain. If one institution fails to communicate, the whole process suffers. For example, the police may delay sending duplicate case files to the Ministry of Justice. The Director of Public Prosecutions may delay legal advice. The court may adjourn because the defendant was not produced from custody. The correctional centre may lack transport or fuel to bring inmates to court. These contribute to prolonged detention. Studies indicate that coordination remains weak

²⁰¹ O Olubunmi, A Sulaimon, K Bakare, A Jimoh and E Oni, 'Non-Custodial Measures under the Nigerian Criminal Justice System: An Exploratory Analysis' [2025] *SSRN Electronic Journal* <<https://doi.org/10.2139/ssrn.5847363>> accessed 4 June 2026.

²⁰² *ibid* 10-16.

²⁰³ NCSA (n 5) ss 2, 10, 23, 37 and 44.

among this institution because they operate in silos.²⁰⁴ In addition, they often do not share records. This makes it difficult to track how long suspects have been detained or whether legal advice has been issued. It is also difficult to determine whether a charge has been filed or whether a remand order has expired.

²⁰⁴ UNODC and National Human Rights Commission, 'Pretrial Detention Drops to 66% in Nigeria's Custodial Centres, Says New Findings from UNODC and National Human Rights Commission' [17 July 2025] <<https://www.unodc.org/conig/en/stories/pretrial-detention-drops-to-66-in-nigerias-custodial-centers--says-new-findings-from-unodc-and-national-human-rights-commission.html>> accessed 4 June 2026.

CHAPTER FIVE

SUMMARY OF FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 Summary of Findings

This project has evaluated the structure and operation of the justice system in Nigeria. Firstly, it examined the extant legislative and institutional framework of the Nigerian criminal justice system. It was found that the Constitution (as amended) is the foundation of criminal justice system in Nigeria. It establishes fundamental principles and rights and this shapes all criminal legislation and procedure. Section 35(1) affirms the every individual has the right to personal liberty. Section 36(1) guarantees every person a fair hearing within a reasonable time by an independent and impartial court in the determination of criminal charges. Crucially, the Constitution presumes that every accused person is innocent until proven guilty. The constitution established the Police, the Court and the Correctional Centres and all Enactment relating to administration of Criminal Justice in Nigeria. The Nigeria Police Force (NPF) is the principal law enforcement and investigative agency in the country and it has a constitutional mandate to maintain public order and security. It is the most visible arm of the criminal justice system. The Nigeria Police Act is a landmark legislation and it repealed the old Police Act. The Act redefines the functions, powers, and governance of the Nigeria Police Force (NPF). The courts are the adjudicative core of the criminal justice system. They interpret the law and determine guilt or innocence and also determine appropriate sentencing. The court system is hierarchical and it consists of both federal and state courts; each has defined criminal jurisdictions. The Nigerian Correctional Service (NCoS) is the institution responsible for the custody and rehabilitation of persons who are legally

detained. The Nigerian Correctional Service Act repealed the antiquated Prisons Act and it fundamentally reformed the prison law in Nigeria. It renames the Prisons Service to “Correctional Service” and it provided for rehabilitation and non-custodial sentencing. ACJA is a flagship federal statute. It revolutionised criminal procedure in Nigeria and it was enacted to mitigate the longstanding ills in existing procedural law. It was also enacted to unify and reform criminal procedure across federal courts. Hence, the ACJA incorporates innovative provisions and this expedites trials and protects the rights of defendants. It harmonised the procedural law and it provided a template for states to adopt in their own jurisdictions. The Criminal Code Act is the principal penal legislation in Southern Nigeria. The Penal Code is the substantive criminal law operative in Northern Nigeria. The Evidence Act provides the legal framework for proof of facts in Nigerian courts, including criminal trials.

Secondly, it assessed how the criminal justice system in Nigeria structured. It was found that the Nigeria Police Force (NPF) is the principal law enforcement and investigative agency in the country and it has a constitutional mandate to maintain public order and security. The NPF is a single national police force with jurisdiction throughout Nigeria. It is structured in a hierarchical manner and the Inspector-General of Police (IGP) sits at the top. This is followed by Deputy Inspectors-General, Assistant Inspectors-General, Commissioners of Police for each state command, down to Divisional Police Officers (DPOs) heading local police divisions. The courts are the adjudicative core of the criminal justice system. They interpret the law and determine guilt or innocence and also determine appropriate sentencing. The court system is hierarchical and it consists of both federal and state courts; each has defined criminal jurisdictions. At the apex is the Supreme Court of Nigeria, which is the final court of appeal for criminal (and civil) matters. Below it is the Court of

Appeal with multiple divisions across the country. For trial matters, the principal courts of first instance for serious offences are the State High Courts and the Federal High Court. Magistrate Courts (and District Courts in some northern states) represent the lower tier of trial courts for criminal cases. The Nigerian Correctional Service (NCoS) is the institution responsible for the custody and rehabilitation of persons who are legally detained. The Service is structured under a Controller-General at the headquarters and it has state commands with correctional centres (prisons) of varying security levels (minimum, medium, maximum). Within the NCoS, there are two main directorates as established by the Act: the Custodial Service Directorate and the Non-Custodial Service Directorate.

Thirdly, it assessed how the criminal justice system operate in practice in Nigeria. It was found that Criminal justice as a process encompasses several stages: investigation of a crime, arrest of suspects, charging (prosecution decision), trial (adjudication of guilt or innocence) in a court, if guilty sentencing, and corrections (carrying out the sentence, whether imprisonment or non-custodial measures, and possibly rehabilitation). It may also include appeal if the conviction or sentence is challenged. A criminal case begins with the police. Upon receiving a complaint or observing a crime, they carry out arrests (with or without warrant, depending on the circumstance). After arrest, the police conduct investigations. This includes taking witness statements, searching for physical evidence, interrogating suspects (now under reforms required to be without coercion and ideally recorded), and liaising with forensic or technical experts if available (though Nigeria's forensic capacity is still developing). The police also handle the initial prosecutions in magistrate courts for most minor offences. Police grant bail to suspects in minor offences pending charge as required by law since the Constitution envisions that if not brought to court within

24-48 hours the person should be released on bail. The courts are the adjudicative core of the criminal justice system. They interpret the law and determine guilt or innocence and also determine appropriate sentencing. Most conventional crimes (murder, robbery, assault, theft among others) are tried in State High Courts or Magistrate courts of the states. Magistrate Courts (and District Courts in some northern states) represent the lower tier of trial courts for criminal cases. They handle criminal cases (petty thefts, assaults, among others) and they conduct preliminary inquiries for more serious offences that will go up to the High Court. The Custodial Service covers traditional prisons (now called custodial centres). They are responsible for safe custody of offenders and awaiting-trial persons and implementing sentences. The Act bolstered the Non-Custodial Directorate and it supervises community service orders, probation orders, parole, and restorative justice processes. Non-custodial measures are implemented collaboratively. The courts impose such orders and the NCoS (non-custodial staff) ensure compliance. The Correctional Service also coordinates training and rehabilitation programs. Many prisons have conducts workshops for skill acquisition. Educational programs exist too.

Fourthly, it examined the challenges that affect the structure and operation of the Criminal Justice System in Nigeria. It was found that unlawful arrest weakens the criminal justice system. This is because it turns policing into oppression. Even so, the police still detains suspect beyond the constitutional limit. Arbitrary detention increases the number of persons on awaiting-trial. Going further, some police officers rely on force, threats and intimidation to extract confessional statements. This is caused by poor capacity to investigate. Corruption also affects the quality of criminal prosecution. In addition, many police stations lack patrol vehicles, fuel,

computers, forensic facilities, protective equipment, communication devices and proper detention facilities. Therefore, lack of resources affects not only police welfare. It also affects the outcome of criminal trials. It was also found that many criminal trials still last for years. These results from frequent adjournments, absence of witnesses, transfer or elevation of judges, poor prosecution, delay in legal advice, non-production of defendants from correctional centres, interlocutory applications and congested court lists. Many courts lack proper facilities. For correctional centres, many facilities hold more inmates than their capacity. This is because there is a high number of awaiting-trial inmates. In effect, the system punishes people before conviction. However, many correctional centres do not have adequate programmes for rehabilitation. Lastly, coordination remains weak among this institution because they operate in silos.

5.2 Recommendations

i. Strengthen the Implementation of Existing Criminal Justice Laws

The study found that Nigeria has a broad framework of laws. This includes the Constitution, the ACJA, the Evidence Act, the Police Act and the NCSA. However, these legislations are not implemented effectively. Therefore, the Federal Government, State Governments, Ministries of Justice, the judiciary, police authorities and correctional authorities should ensure that these laws are enforced efficiently. The Administration of Criminal Justice Act should be enforced in all jurisdictions. States which have not adopted or domesticated the principles of the ACJA should do so without delay. Where states have already enacted their Administration of Criminal Justice Laws, such laws should not remain symbolic. Compliance should also be monitored.

ii. Improve the Investigation of the Police

The study found that investigation is a critical stage in the administration of criminal justice because it determines the quality of prosecution. It also found that the criminal trials in Nigeria revolve around confessional statements.. Therefore, there is need to improve the investigative capacity of the Nigeria Police Force and other agencies. The investigation of the police should be evidence-led and it should be conducted professionally. Government should invest in forensic laboratories, facilities for digital evidence, crime databases, fingerprint technology, DNA, CCTV and tools for cybercrime investigation. Police officers should also receive regular training on how to gather evidence, chain of custody as well as interrogation.

iii. Protect Human Rights at the Point of Arrest and Detention

The Police Act and the Constitution recognise the rights of suspects. However, the study found that there remain challenges in enforcing this right. This includes unlawful arrest, coercive interrogation, prolonged detention and violation of rights. Therefore, human right should be enforced at the point of arrest and detention. Police officers should document the time, place and reason for every arrest. Police stations should also maintain a register for detention. This should be inspected by relevant authorities.²⁰⁵ Where a suspect is detained beyond reasonable time without being charged to court, the officers in charge should face disciplinary sanctions.

iv. Establishment of State Police

The Constitution should be ammended to permit the establishment of state police.

²⁰⁵ See generally the Magistrates, the Legal Aid Council, the National Human Rights Commission and other designated oversight bodies.

The present structure is often too remote from local security realities.²⁰⁶ State police would enable officers to understand the language, geography, culture and security patterns of the communities in which they serve. However, state police should be safeguarded from political abuse. Recruitment, promotion and discipline should be supervised by independent State Police Service Commissions. It should not be controlled by state governors exclusively. The law should prohibit the deployment of state police against political opponents. In addition, it should provide judicial oversight where fundamental rights are violated. There should also be uniform standards on training, human rights, use of force, record-keeping and accountability nationwide.

v. Reduce Delay through Effective Case Management

It was found that delay is a challenge in the administration of criminal justice in Nigeria. It affects defendants, victims, witnesses and the society at large. Therefore, the judiciary should adopt better practices for case management in criminal proceedings. Judges and magistrates should discourage unnecessary adjournments and tactics which frustrate criminal trials. In practical terms, Chief Judges should conduct periodic reviews of old criminal cases, (especially cases which involve defendants who are in custody). Virtual hearings should also be expanded for bail applications, remand reviews, interlocutory applications and other proceedings where physical presence is not necessary.

vi. Tackle Corruption within the Criminal Justice System

Corruption undermines the legitimacy of the criminal justice system. It affects arrest, investigation, prosecution, trial and corrections. Therefore, anti-corruption measures

²⁰⁶ This is especially relevant to kidnapping, banditry, cult violence, communal conflicts and other offences requiring local intelligence.

should be strengthened within the police, courts, departments for prosecution and correctional institutions. There should also be measures to reduce the opportunities for corruption. For example, bail processes should be transparent. Court filing and warrants should be digitised so that files would not be manipulated. Police stations and correctional centres should display information on the rights of suspects and detainees publicly. The Police Complaints Response Unit and other oversight mechanisms should be strengthened. In addition, judicial officers and court staff should be trained on ethics and accountability.

vii. Decongest Correctional Centres through Non-Custodial Measures

It was found that the Nigerian Correctional Service Act introduced a new approach and this is focused on rehabilitation, reintegration and non-custodial measures. However, correctional centres remain congested because many inmates are awaiting trial. Therefore, non-custodial measures should be utilised for minor offences and for non-violent offenders. Where appropriate, the courts should utilise community service, probation, parole, restorative justice, compensation and suspended sentences. This would reduce overcrowding and it would also allow correctional centres to focus on serious offenders who require custody. The Nigerian Correctional Service should also improve rehabilitation programmes. This includes vocational training, education, counselling and reintegration support. In that sense, imprisonment does not punish but also reforms. This aligns with the objective of rehabilitation, not mere confinement.

viii. Improve Inter-Agency Coordination

The criminal justice system involves the police, prosecutors, courts, correctional institutions and other specialised agencies. Therefore, reform cannot succeed if

each institution operates in isolation. There should be coordination among the Nigeria Police Force, Ministry of Justice, judiciary, Nigerian Correctional Service, Legal Aid Council, National Human Rights Commission, EFCC, ICPC and NDLEA. Each state should establish a committee to coordinate the administration of criminal justice. Such committee should review delays, awaiting-trial, police investigation, bottlenecks in prosecution and congestion in correctional facilities. It should also produce periodic reports and make recommendations to the Chief Judge, Attorney-General and heads of enforcement agencies.

ix. Public Legal Education and Confidence Building

Finally, legal education should be provided to the public. Many citizens do not understand their rights during arrest, detention and trial. This makes them vulnerable to abuse. Relevant agencies²⁰⁷ should carry out campaigns on public enlightenment about the rights and procedures in the administration of criminal justice. Citizens should know that bail is not a police commodity and arrest in lieu is unlawful. They should also know that torture is prohibited and every accused person is presumed innocent until proven guilty. Public confidence would improve where the criminal justice system becomes fair, accessible, efficient and accountable.

5.3 Conclusion

This project appraised the structure and operation of the criminal justice system in Nigeria. It established that the system is supported by an extensive body of constitutional, statutory and institutional arrangements. The Constitution provides the foundation for personal liberty, human dignity, fair hearing and the presumption of innocence. Other significant enactments include the ACJA, Police Act, NCSA,

²⁰⁷ Government agencies, civil society organisations, the National Orientation Agency and the Nigerian Bar Association are relevant to public legal education.

Evidence Act, Evidence (Amendment) Act 3, Criminal Code Act, Penal Code and Legal Aid Act. Going further, the research established that the system is organised around interdependent institutions. The police²⁰⁸ detect offences and arrest suspects. In addition, they conduct investigations. The Attorneys-General and Directors of Public Prosecutions present criminal charges. The courts conduct trials and this leads to sentencing. The Correctional Service administers custodial and non-custodial measures. Even so, the study found that there is disparity between the law and practice. In light of the above, it is pertinent that the recommendations from this project should be taken in consideration.

²⁰⁸ See generally the relevant justice-sector agencies discussed in this chapter.

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