Journal of Law, Policy and Globalization
ISSN 2224-3240 (Paper) ISSN 2224-3259 (Online)
Vol.153, 2026

Beyond Legislative Aspiration: A Comparative Critique of Nigeria's Correctional Service Act, 2019 And Lessons from The United Kingdom

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Abstract

The Nigerian Correctional Service Act, 2019, enacted to replace the obsolete Prisons Act and introduce rehabilitative, non-custodial corrections aligned with international human rights standards, has failed to achieve its progressive objectives more than six years after its enactment. This article undertakes a doctrinal comparative analysis of the Nigerian and United Kingdom correctional legal frameworks, arguing that the persistent failures of overcrowding (60% above capacity with 67% awaiting trial), corruption, rights violations, and the near-complete non-implementation of non-custodial measures are directly attributable to fundamental drafting deficiencies in the NCS Act rather than merely resource constraints. These deficiencies include lack of purposive clarity, structural incoherence, definitional inadequacy (key terms such as "rehabilitation" and "restorative justice" undefined), weak articulation of inmate rights as administrative duties without enforceable remedies, excessive delegation of core policy matters to unguided subsidiary legislation using permissive language, and inadequate enforcement provisions creating no offences for abuse of power by correctional officers. The comparative analysis reveals that the UK framework through exhaustive definitions, structured discretion, enforceable rights, and multiple independent oversight mechanisms, respects the principle of legality and ensures accountability. The article recommends fundamental legislative redrafting to convert duties into rights, exhaustive definition of non-custodial measures, mandatory regulation-making timelines, and the establishment of an independent inspectorate, ombudsman, and sentencing council.

Keywords: Correctional Reform, Legislative Drafting Deficiencies, Nigerian Correctional Service Act 2019, Non-Custodial Measures, Principle of Legality, Comparative Law

DOI: 10.7176/JLPG/153-05
Publication date: June 28th 2026

1. Introduction

The global criminal justice discourse has witnessed a paradigmatic shift from retributive justice, which emphasises punishment and incapacitation, to restorative and rehabilitative justice, which focuses on reformation, reintegration, and the reduction of recidivism.[1] This shift is reflected in various international

[1] N Christie, *Crime Control as Industry: Towards Gulags, Western Style* (3rd edn, Routledge 2000) 15-30; D Garland, *The Culture of Control: Crime and Social Order in Contemporary Society* (Oxford University Press 2001) 8-20.

instruments, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules), and the Bangkok Rules for the treatment of female prisoners. These instruments collectively underscore the principle that imprisonment should be a measure of last resort and that non-custodial measures should be preferred where appropriate.[1]

Nigeria, as a signatory to these international instruments and a member of the United Nations, has been under increasing pressure to align its correctional system with international human rights standards.[2] For over four decades, the Nigerian correctional system was governed by the Prisons Act, Cap P29, Laws of the Federation of Nigeria, 2004, which was originally enacted in 1972.[3] This legislation was fundamentally oriented towards punitive custody rather than correctional rehabilitation. Its primary focus was the secure detention of persons charged with or convicted of criminal offences, with minimal attention to reformation, rehabilitation, or the rights of inmates.[4]

The inadequacies of the Prisons Act became increasingly apparent over time. Nigerian prisons, now called custodial centres, became notorious for severe overcrowding, and widespread human rights violations.[5] As at August 2018, the Port Harcourt prison, built in 1918 and designed to shelter 800 inmates, accommodated approximately 5,000 inmates, while the Kirikiri Maximum Prison in Lagos, built to hold 956 inmates, housed over 2,600.[6] These conditions attracted sustained criticisms. In response, the Nigerian government enacted the Nigerian Correctional Service Act, 2019 ("the NCS Act"), which was signed into law on 14 August 2019. The Act repealed the Prisons Act and introduced a new legal framework for the administration of corrections in Nigeria. The Explanatory Memorandum to the Act identifies its objectives to include ensuring compliance with international human rights standards; providing an enabling platform for the implementation of non-custodial measures; enhancing the focus on corrections and the promotion of reformation, rehabilitation, and reintegration of offenders; and establishing mechanisms to address the high number of persons awaiting trial.[7]

One of the most significant innovations of the NCS Act is the establishment of the Nigerian Non-Custodial Service, which is responsible for the administration of non-custodial measures including community service, probation, parole, and restorative justice measures. This represents a fundamental departure from the punitive orientation of the repealed Prisons Act and aligns Nigeria with contemporary international best practices in correctional administration.

Notwithstanding the progressive objectives of the NCS Act, 2019, the Nigerian correctional system continues to be plagued by challenges that the Act was designed to address. As at April 2025, Nigeria's custodial centres housed a total of 79,555 inmates against a designed capacity of approximately 50,000, representing an overcrowding rate of nearly 60 per cent.[8] More significantly, approximately 52,937 individuals (67 per cent) of this population are awaiting trial, many for periods exceeding the constitutionally mandated limits.[9]

The persistence of these challenges, more than six years after the enactment of the NCS Act, raises fundamental questions about the effectiveness of the legislation. If the Act was designed to address overcrowding, promote rehabilitation, and protect the rights of inmates, why have these problems persisted? Why have non-custodial measures, which the Act recognises as alternatives to imprisonment, remained virtually non-existent in practice? Why has there been no significant improvement in the conditions of custodial centres or in the treatment of inmates?

This article posits that the answer to these questions lies not merely in resource constraints or implementation failures, but fundamentally in the **drafting deficiencies** of the NCS Act itself. It is argued that the Act suffers from significant structural, definitional, and substantive flaws that render its progressive objectives largely

[1] Nelson Mandela Rules, Rule 4; Tokyo Rules, Rule 2.6.
[2] E Duru, 'Nigeria's Compliance with International Human Rights Standards in Prison Administration' *African Journal of Legal Studies* (2018) (10) (2) 145, 150-155; see the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9 LFN 2004
[3] C Ezeilo and P Akinseye-George, 'A Review of the Nigerian Correctional Service Act 2019' *UNILAG Law Review* (2020) (4) (1) 135, 138-140
[4] E E Obioha, 'Challenges and Reforms in the Nigerian Prisons System' *Journal of Social Sciences* (2011) (27) (2) 97-99.
[5] ibid 98 – 102.
[6] Ezeilo and Akinseye-George (n 4) 138).
[7] NCS Act 2019, Explanatory Memorandum and s 2(1)(a)-(d).
[8] B Ayenigba and T Ajao, 'The Impact of Awaiting Trial Persons on Correctional Centres in Nigeria' *African Journal of Criminology and Justice Studies* (2023) (15) (4) 820-821.
[9] ibid.

unattainable. Furthermore, there is a significant disconnect between the NCS Act and the Administration of Criminal Justice Act, 2015 (ACJA), which contains related provisions on non-custodial sentencing.[1] The failure to coordinate these two statutes has created legal uncertainty, institutional overlap, and implementation paralysis.[2]

This article seeks to demonstrate that these drafting deficiencies are not merely technical flaws but substantive weaknesses that undermine the rule of law, violate the constitutional principle of legality, and impede the realisation of the Act's reform objectives. It further argues that Nigeria can learn valuable lessons from the United Kingdom's correctional legal framework, which is characterised by precision, structured discretion, rights-oriented drafting, and robust accountability mechanisms.

This article adopts a doctrinal legal research methodology, which involves the critical analysis of legal texts, including statutes, case law, and international instruments.[3] The primary sources examined include: the Constitution of the Federal Republic of Nigeria, 1999 (as amended); the Nigerian Correctional Service Act, 2019; the Administration of Criminal Justice Act, 2015; the Prisons Act, Cap P29 LFN 2004 (repealed); and the Borstal Institutions and Remand Centres Act.

The comparative analysis focuses on the United Kingdom, specifically the legal framework for corrections in England and Wales, with references to Scotland and Northern Ireland where relevant. The UK sources examined include: the Prison Act 1952; the Criminal Justice Act 2003; the Sentencing Act 2020; the Human Rights Act 1998; the Prison Rules 1999; and relevant case law and official publications from the Ministry of Justice, HM Inspectorate of Prisons, and the Prison Reform Trust.

The choice of the United Kingdom as a comparator is justified on several grounds. First, Nigeria and the United Kingdom share a common legal heritage, with Nigeria having inherited the English common law system through colonialism. Second, the UK has undergone similar challenges of overcrowding, recidivism, and correctional reform, offering valuable lessons from both successes and failures.[4] Third, the UK's correctional legal framework is widely regarded as a model of legislative drafting precision and structured discretion.[5]

The article also draws on secondary sources, including peer-reviewed journal articles, books on legislative drafting and correctional law, reports from human rights organisations, and official government publications. The research is primarily qualitative and analytical, focusing on the interpretation, critique, and comparison of legal provisions.

Following this introduction, the structured of this article is as followed by **a** conceptual clarification of key terms and the theoretical framework, integrating classical theories of law (Natural Law, Legal Positivism, and Classical Criminology) and modern theories (the Principle of Legality as a Rule of Law requirement, Penal Populism, and Institutional Theory of Legislative Implementation). **Section 3** examines the legal framework for corrections in Nigeria, including the constitutional provisions, the NCS Act 2019, the ACJA 2015, and relevant international instruments. **Section 4** presents a systematic critique of the drafting style of the NCS Act, identifying specific deficiencies across multiple dimensions of legislative design. **Section 5** examines the legal framework for corrections in the United Kingdom, including the key legislation, institutional framework, and correctional reforms. **Section 6** undertakes a comparative analysis of the Nigerian and UK frameworks, drawing out key lessons for Nigeria. **Section 7** analyses the challenges of correctional reform in Nigeria, including inadequate funding, institutional resistance, corruption, overcrowding, rights violations, legislative fragmentation, cultural factors, and political challenges. **Section 8** presents recommendations for legislative, institutional, operational, and inter-agency reforms, followed by a concluding summary.

2. Conceptual Clarification and Theoretical Framework

A meaningful critique of correctional legislation requires precision in the foundational concepts that underpin the analysis and a multi-layered theoretical lens through which the law's failures and potential solutions can be

[1] I E Oaihimire and P A Aidonojie, 'The Innovative Concept and Issues Concerning the Non-Custodial Sentence in Nigerian Criminal Justice System' *Law Development Journal* (2023) (5) (3) 365-370.
[2] U D Okeke, C I Obianyo and S V Ater, 'An Assessment of the Untapped Potentials of Non-Custodial Sentencing Provisions under the Nigerian Correctional Service Act 2019: Implications for the Rights of Inmates' *African Journal of Law and Human Rights* (2024) (8) (1) 35-40.
[3] T Hutchinson and N Duncan, 'Defining and Describing What We Do: Doctrinal Legal Research' *Deakin Law Review* (2012) (17) (1) 99-110.
[4] A Ashworth, *Sentencing and Criminal Justice* (6th edn, Cambridge University Press 2015) 290-295.
[5] S Livingstone, T Owen and A Macdonald, *Prison Law* (5th edn, Oxford University Press 2015) 45-50.

assessed. This section clarifies the key recurrent concepts in this article and articulates an integrated theoretical framework drawing from both classical and modern legal and criminological theories.

Conceptual Clarification

Four concepts recur throughout this article and require precise definition to avoid ambiguity and ensure analytical coherence.

The Principle of Legality (Nullum Crimen, Nulla Poena Sine Lege)

The principle of legality is a fundamental tenet of criminal justice and the rule of law. It mandates that no person shall be convicted of a criminal offence unless that offence is defined in a written law, and no penalty shall be imposed heavier than that prescribed by law at the time the offence was committed.[1] As constitutionally guaranteed under Section 36(12) of the Constitution of the Federal Republic of Nigeria, 1999, this principle requires that both the definition of an offence and the stipulation of its punishment be accessible, foreseeable, and clearly expressed.[2]

The principle has both a substantive and a procedural dimension. Substantively, it prohibits the retroactive application of criminal laws and requires that laws defining crimes and prescribing punishments be sufficiently precise to enable individuals to conform their conduct to legal requirements.[3] Procedurally, it requires that criminal proceedings be conducted in accordance with established legal rules and that judicial discretion be structured to prevent arbitrariness.[4]

In the context of correctional law, the principle of legality demands that non-custodial measures such as community service, probation, and parole must be exhaustively defined by statute and not left to the unstructured discretion of courts or administrative authorities.[5] Where legislation substitutes a statutorily prescribed punishment with an undefined alternative, it risks violating this principle. The Supreme Court of Nigeria affirmed this position in *Egba v State*, where the Court held that a court cannot impose a sentence not provided for by the law creating the offence.[6]

Non-Custodial Measures (Alternative Sentencing)

Non-custodial measures refer to sanctions imposed on convicted offenders that do not involve the deprivation of liberty through imprisonment.[7] These include community service orders, probation supervision, suspended sentences, parole, restorative justice programmes, and electronic monitoring. The United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules) define non-custodial measures as "any measure that does not involve the detention of an offender and that may be imposed before, during or after trial or adjudication."[8]

The policy rationale for non-custodial measures rests on multiple pillars including reducing prison overcrowding, avoiding the criminogenic effects of imprisonment (where minor offenders are socialised into criminal networks), lowering the financial cost of corrections (as imprisonment is significantly more expensive than community-based supervision), and promoting rehabilitation and reintegration within the community.[9] Research has consistently shown that, for low-risk offenders, non-custodial measures are at least as effective as imprisonment in reducing recidivism, while causing significantly less harm to offenders' families and communities.[10]

Legislative Drafting Deficiencies

[1] J Raz, *The Authority of Law: Essays on Law and Morality* (2nd edn, Oxford University Press 2009) 214-218; T O Elias, 'The Principle of Legality in Nigerian Criminal Law' *Journal of African Law* (1965) (9) (2) 80-85.
[2] Constitution of the Federal Republic of Nigeria, 1999, s 36(12).
[3] D Luban, 'Legality and Legitimacy: The Morality of the Principle of Legality' (2018) *Georgetown Journal of International Law* (49) (2) 465-470.
[4] S J Summers, 'The Principle of Legality in Criminal Law' *Journal of Criminal Law* (2022) (86) (2) 125-130.
[5] Okeke, Obianyo and Ater (n 12) 34-36.
[6] *Egba v The State* (2025) LPELR-80673(SC).
[7] M Cavadino and J Dignan, *Penal Systems: A Comparative Approach* (Sage Publications 2006) 245-250.
[8] United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules), Rule 1.1.
[9] Ashworth (n14).
[10] T Roos and M I Fontao, 'Young Offenders: Principles of Effective Treatment' in J Merrick (ed), *School, Adolescence, and Health Issues* (Nova Science Publishers 2014) 45-50.

Legislative drafting deficiencies refer to structural, linguistic, and technical flaws in the formulation of a statute that impede its clarity, coherence, effectiveness, or enforceability.[1] Drawing from established drafting manuals and scholarly works on legislative drafting, these deficiencies include lack of purposive clarity, structural incoherence, and definitional inadequacy, among others.

Structured Discretion

Structured discretion is the legislative technique of conferring decision-making authority on administrative or judicial bodies while simultaneously providing statutory criteria, procedural safeguards, and accountability mechanisms to guide and constrain its exercise.[2] It stands in contrast to *unstructured* or *standardless* discretion, where the law confers power without specifying how it should be exercised, leaving decisions entirely to the subjective judgment of the decision-maker.[3]

Structured discretion is a cornerstone of the rule of law because it ensures that discretionary power is exercised predictably, consistently, and subject to review.[4] Examples of structured discretion include statutory criteria that must be satisfied before a decision can be made, and accountability mechanisms that enable review of decisions such as rights of appeal and independent oversight bodies.[5]

Theoretical Framework

This article adopts an integrated theoretical framework drawing from **classical theory of** Natural Law, and **modern theories** of Penal Populism, and Institutional Theory of Legislative Implementation. Each theory illuminates a distinct dimension of the NCS Act's failures and the comparative advantages of the UK framework.

Natural Law Theory

Natural law theory, traced to Aristotle, Cicero, Thomas Aquinas, and later John Locke, posits that law is not merely a command of the sovereign but must embody moral principles derived from reason, justice, and the inherent dignity of the human person.[6] According to natural law, a positive legal rule that is fundamentally unjust or contrary to human dignity may lack the moral quality of law. This is captured in the Latin maxim *lex iniusta non est lex* (an unjust law is no law at all).[7]

Applying natural law theory to correctional legislation requires that any statute governing the deprivation of liberty must respect the inherent dignity of incarcerated persons. The Nelson Mandela Rules, which Nigeria has incorporated by reference into the NCS Act, embody natural law principles by mandating that "all prisoners shall be treated with the respect due to their inherent dignity and value as human beings." [8] The NCS Act's deficiencies, particularly its framing of inmate entitlements as administrative duties rather than enforceable rights, represent a failure to recognise the inherent moral status of prisoners.

Penal Populism (Anthony Bottoms and John Pratt)

The theory of **penal populism** is developed by criminologists Anthony Bottoms and John Pratt.[9] Penal populism refers to the tendency of politicians and policymakers to adopt punitive criminal justice policies in response to public demands for harsh punishment, often ignoring evidence-based reforms such as rehabilitation or non-custodial alternatives.[10] Pratt argues that in late modern societies, crime has become intensely politicised, with governments competing to demonstrate "toughness" on crime to secure electoral advantage.[11] This dynamic

[1] V C R A C Crabbe, *Legislative Drafting* (Cavendish Publishing Limited 1993) 3-5; G C Thornton, *Legislative Drafting* (4th edn, Butterworths 1996) 45-47.
[2] Livingstone, Owen and Macdonald (n 15) 45-50.
[3] Raz (n 16) 216-218; F A Hayek, *The Road to Serfdom* (1944) 72-75.
[4] J Raz, 'The Rule of Law and its Virtue' *Law Quarterly Review* (1977) (93) (2) 200-205.
[5] Livingstone, Owen and Macdonald (n 15) 45-50.
[6] T Aquinas, *Summa Theologica* (1265-1274) (Fathers of the English Dominican Province tr, Burns Oates & Washbourne 1920) Part I-II, Q90-95; J Locke, *Two Treatises of Government* (1689) (P Laslett ed, Cambridge University Press 1988) Book II, Ch II.
[7]Augustine of Hippo, *De Libero Arbitrio* (c 395) Book I, Ch 5 ("Lex iniusta non est lex").
[8] United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson
[9] A Bottoms, 'The Philosophy and Politics of Punishment and Sentencing' in C Clarkson and R Morgan (eds), *The Politics of Sentencing Reform* (Clarendon Press 1995) 17-50;
[10] J Pratt, *Penal Populism* (Routledge 2007) 1-25.
[11] ibid 12 – 14.

produces legislation that prioritises retribution over reformation, symbolism over effectiveness, and public opinion over expert knowledge.[1]

Applying penal populism to Nigeria explains several observed phenomena. Despite the NCS Act's rehabilitative objectives, courts continue to impose custodial sentences even where non-custodial alternatives exist, reflecting a judicial culture influenced by punitive public sentiment. Politicians allocate minimal resources to correctional reform because there are no electoral rewards for "being soft on prisoners.

Institutional Theory of Legislative Implementation

This modern theoretical pillar addresses the gap between legislative enactment and practical implementation. Institutional theory, as applied to criminal justice by scholars such as Malcolm Feeley and James Q Wilson, posits that the effectiveness of any legislation depends not only on its content but on the institutional structures, resources, cultures, and accountability mechanisms that govern its implementation.[2]

Feeley, in his seminal work *The Process is the Punishment*, demonstrated how institutional structures and routines shape outcomes in ways that legislation alone cannot control.[3] Wilson, in *Varieties of Police Behavior*, showed that organisational culture and incentives powerfully influence how law is implemented on the ground.[4]

Applying institutional theory to the NCS Act explains why, more than six years after enactment, non-custodial measures remain virtually non-existent. The Act created the Non-Custodial Service but provided no dedicated funding stream, no staffing requirements, no timelines for establishment, and no performance standards.

This integrated framework guides the analysis in subsequent sections. The **classical theories** provide foundational principles against which the NCS Act's formal deficiencies can be measured. The **modern theories** explain why these deficiencies persist. The political dynamics (penal populism) that favour symbolic over effective legislation, and the institutional barriers (path dependence, resource dependence, principal-agent problems, accountability gaps) that impede implementation even where progressive legislation exists.

3. The Legal Framework for Corrections in Nigeria

The Constitutional Framework

The Constitution of the Federal Republic of Nigeria, 1999 (CFRN) is the supreme law from which all other laws derive their validity.[5] Three constitutional provisions are particularly relevant to correctional administration. Section 34 guarantees the right to dignity of the human person, prohibiting torture, inhuman or degrading treatment, slavery, and forced labour.[6] Section 35 guarantees the right to personal liberty, permitting deprivation of liberty only in specified circumstances, including execution of a court sentence or detention upon reasonable suspicion of committing an offence. Critically, Section 35(4) provides that failure to try a detained person within two months (or three months for those released on bail) entitles the person to release.[7] Section 36 guarantees the right to fair hearing and embodies the principle of legality, requiring that no person be convicted of an offence unless that offence is defined and the penalty prescribed in a written law.[8]

Despite these constitutional guarantees, the majority of inmates in Nigerian correctional centres (approximately 67 per cent) are persons awaiting trial, many for periods exceeding the constitutional limits.[9] The Supreme Court has affirmed in *Egba v State* that a court cannot impose a sentence not provided for by the law creating the offence.[10] This principle raises fundamental questions about the constitutionality of non-custodial measures

[1] Bottoms (n 34) 42-45.
[2] M Feeley, *The Process is the Punishment: Handling Cases in a Lower Criminal Court* (Russell Sage Foundation 1979) 1-15.
[3] ibid.
[44] ; J Q Wilson, *Varieties of Police Behavior: The Management of Law and Order in Eight Communities* (Harvard University Press 1968) 1-20
[5] CFRN 1999, s 1(1) and (3); *A-G of Abia State v A-G of the Federation* [2002] 6 NWLR (Pt 764) 542.
[6] CFRN 1999, s 34.
[7] CFRN 1999, s 35. See also D Tarh-Akong Eyongndi, 'The Administration of Criminal Justice Act, 2015 as a Harbinger for the Elimination of Unlawful Detention in Nigeria' *African Human Rights Law Journal* (2021) (21) (1) 240-245.
[8] CFRN 1999, s 36.
[9] Ayenigba and Ajao (n 9) 820-821.
[10] *Egba v The State* (2025) LPELR-80673(SC); *Ogugu v The State* [1994] 9 NWLR (Pt 366) 1.

under the NCS Act and ACJA, as the substantive penal codes (Criminal Code and Penal Code) do not provide for such sentences.[1]

The Fifth Alteration Act, 2023, transferred legislative competence over correctional services from the exclusive legislative list to the concurrent list, enabling States to legislate on correctional matters.[2] However, this devolution creates risks of fragmentation and inconsistency that the NCS Act does not address.[3]

The Nigerian Correctional Service Act, 2019

The NCS Act repealed the Prisons Act, which had been in force for forty-seven years and had become obsolete. The Act establishes the Nigerian Correctional Service, consisting of the Custodial Service and the Non-Custodial Service. Its objectives under Section 2 include ensuring compliance with international human rights standards, providing a platform for non-custodial measures, promoting reformation and rehabilitation, and addressing the high number of awaiting trial persons.[4]

The Custodial Service is responsible for taking custody of persons legally interned, providing safe and humane custody, conducting risk assessments, implementing reformation and rehabilitation programmes, and providing support for speedy disposal of cases of awaiting trial persons.[5] The Non-Custodial Service administers community service, probation, parole, and restorative justice measures.[6]

The Administration of Criminal Justice Act, 2015

The ACJA regulates criminal justice administration and provides for non-custodial sentencing.[24] Sections 455-459 provide for probation, defining it as release of a convicted defendant under supervision of a probation officer.[25] Section 460 provides for suspended sentences, allowing courts to suspend a sentence with or without conditions.[26] Section 461 empowers courts to impose community service.[27]

Several problems arise. First, these provisions confer wide discretionary powers on courts without adequate guidance, potentially violating the principle of legality.[28] Second, the provisions do not provide practical guides for the exercise of judicial discretion.[29] Third, there is significant conflict and overlap between the ACJA and the NCS Act. The ACJA empowers Chief Judges to establish Community Service Centres, while the NCS Act assigns community service to the Non-Custodial Service.[30] The relationship between the two statutes is nowhere addressed, creating legal uncertainty and implementation paralysis.[31]

The Borstal Institutions and Remand Centres Act

This Act provides for remand centres and borstal institutions for persons between sixteen and twenty-one years.[7] Remand centres detain young persons awaiting trial, while borstal institutions provide training and instruction for reformation.[8] However, these institutions have been largely ineffective due to inadequate funding and lack of facilities.[9] Young offenders continue to be mixed with adults in custodial centres, exposing them to criminal influence and violating their rights.[10] Even with the Fifth Alteration, juvenile justice reform remains neglected.[11]

The United Nations Nelson Mandela Rules

The Mandela Rules provide minimum standards for treatment of prisoners.[12] Rule 1 requires respect for inherent human dignity and prohibits torture and cruel treatment. Rule 4 recognises that imprisonment should protect society and reduce recidivism through reformation and reintegration. Rule 11 requires separation of prisoners by

[1] Okeke, Obianyo and Ater (n 12) 34-36.
[2] Constitution of the Federal Republic of Nigeria (Fifth Alteration) No. 15 Act, 2023, s 4(5).
[3] O J Jaja, 'Devolution of Powers and the Future of Correctional Administration in Nigeria' *Nigerian Constitutional Law Review* (2024) (16) (1) 78-82.
[4] NCS Act, s 2.
[5] NCS Act 2019, s 10.
[6] NCS Act 2019, s 37.
[7] Borstal Institutions and Remand Centres Act, Cap B11 LFN 2004, s 3.
[8] BIRC Act, s 3(1)(b).
[9] G James, 'Assessment of the Administration and Practice of Juvenile Justice System in Abuja, Nigeria' *Mediterranean Journal of Social Sciences* (2013) (4) (1) 20-25.
[10] A Iosemi, 'Child/Juvenile Trials under the Criminal Justice Administration in Nigeria: An Urgent Compulsion for Reformations' *International Journal of Law* (2018) (4) (4) 30-32.
[11] Z M Sarki, A Abdullahi and J I Mukhtar, 'The Role of Borstal Homes in Nigeria: Reformation or Remaking Criminality' *Journal of Advanced Research in Social and Behavioural Sciences* (2018) (12) (1) 21-23.
[12] United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).

sex, age, and legal status. Rules 12-27 provide detailed standards for accommodation, sanitation, food, and healthcare. Rule 24 requires healthcare equivalent to community standards, provided free of charge.

Although the NCS Act incorporates the Mandela Rules by reference, implementation has been severely deficient.[1] Many custodial centres lack clinics or have understaffed, unequipped facilities. Inmates are often required to pay for drugs and medications out of pocket. Pregnant and nursing women lack adequate medical facilities. In some cases, wardens demand bribes before allowing inmates to access medical care.[2]

4. A Critique of the Drafting Style of the Nigerian Correctional Service Act, 2019

This section critiques the legislative form and drafting style of the NCS Act, arguing that its drafting deficiencies fundamentally impede its effectiveness and limit its transformative potential and not merely resource constraints.[3]

Drafting of Legislative Objectives

The NCS Act fails to articulate clear, operative objectives. Section 2 states general goals including compliance with international standards, non-custodial measures, rehabilitation, and addressing awaiting trial persons. However, the section provides no guidance on how these purposes relate or which prevails in cases of conflict.[4] The Explanatory Memorandum has diminished interpretive weight, and the long title offers no substantive guidance.[5] Most critically, the Act fails to anchor its rehabilitative philosophy in enforceable provisions. Provisions on education and training lack specificity regarding nature, extent, or quality.[6] This creates interpretive uncertainty, leaving courts and administrators to infer legislative intent from scattered provisions. The UK's Sentencing Act 2020 provides clearer guidance.[7]

Structural Arrangement

The Act exhibits significant structural deficiencies. Its division into two Parts is inadequate for a statute of its scope. Sections 1-8 (establishment and objectives) are left uncategorised.[8] Related subject matters are scattered. Healthcare provisions are separated from general welfare by disciplinary provisions, while female and juvenile provisions appear near the end, distant from related treatment provisions.[9]

The Act makes no clear distinction between policy, administrative, and enforcement provisions. Headings are uninformative with Section 14 headed as "Reformation and Rehabilitation" covering education, training, labour, and counselling.[10] No internal cross-references direct readers to related provisions.

Definitional Inadequacy

Key operational terms are inadequately defined or omitted entirely. "Rehabilitation" being central to the Act's philosophy is not defined.[11] "Restorative justice measures" appears without definition despite being listed as a non-custodial measure.[12] Where definitions exist, they often rely on ordinary meaning rather than technical precision.

Furthermore, terminological inconsistencies abound. The Act uses "inmate," and "offender," interchangeably. "Reformation" and "rehabilitation" are used without distinction.[13] The phrase "adequate steps" to prevent torture

[1] M O Ogunyemi, 'Access to Health Care Services in Nigerian Correctional Centres and International Standards for Prison Health Care' (LLM Dissertation, Robert Mckinney School of Law, Purdue University 2022) 43-45.
[2] ibid 44-46.
[3] Crabbe (n 26) 3-5; Thornton (n 26) 45-47.
[4] Ezeilo and Akinseye-George (n 4) 145-148.
[5] Lord Sales, 'The Role of Purpose in Legislative Interpretation' (Oxford University, 2024) 5-8.
[6] NCS Act 2019, s 14.
[7] Ashworth (n 14) 290-295.
[8] NCS Act 2019, ss 1-8.
[9] NCS Act 2019, ss 19-22, 24-28, 34-35.
[10] NCS Act 2019, s 14.
[11] NCS Act 2019, s 2, Part II.
[12] NCS Act 2019, s 37(1)(d), 43.
[13] NCS Act 2019, ss 2, 10, 12, 14.

provides no criteria for measuring compliance.[1] The Supreme Court in *Ogugu v The State* held that vague language cannot support rights restriction.[2]

Drafting of Powers and Functions

The Act confers extensive powers without guiding criteria. Section 12 describes functions but implies unspecified necessary powers.[3] The Minister's power to make regulations for juvenile offenders lacks any guiding criteria as disciplinary provisions contain no procedural safeguards, no notice, hearing, witness rights, representation, or appeal for accused inmates.[4] The UK's Prison Rules 1999 provide detailed procedural protections. Accountability mechanisms are absent with no parliamentary oversight of expenditure, no independent audit, no ombudsman.

Drafting of Rights and Welfare Provisions

The Act consistently frames inmate entitlements as administrative duties rather than enforceable legal rights. Rather than "every inmate has the right to," the Act states "the Service shall provide."[5] An inmate denied education cannot point to a violated right only that the Service failed its duty.

Most significantly, the Act provides no remedies for breach. An inmate subjected to torture, denied food, or refused legal access has no statutory complaint mechanism, investigation procedure, or compensation right.[6] Vulnerable categories receive inadequate attention with section 34 merely providing that women are entitled to "all necessary facilities" without detail. Section 35 (juveniles) lacks treatment standards.[28] Persons with disabilities are not mentioned at all.[7]

Drafting of Non-Custodial Measures

The Act provides only a skeletal framework for non – custodial measures. Section 37 lists community service, probation, parole, and restorative justice but provides no definitions, content specifications, duration limits, conditions, or enforcement mechanisms. No provision specifies what community service entails such as the work types, hours, duration, or relationship to other sanctions.[8]

Poor coordination with the ACJA 2015 creates confusion. The ACJA has detailed probation and community service provisions, but the relationship between the statutes is unaddressed.[9] Courts are uncertain which framework applies. The Non-Custodial Service remains largely non-functional as no regulations have been made under Section 39.

Delegated Legislation

The Act excessively defer core policy matters to subsidiary legislation. Administration of custodial centres, privileges systems, discipline, juvenile treatment, and the entire non-custodial framework are deferred to regulations.[10]

Regulation-making powers are conferred without guiding principles, using permissive ("may") rather than mandatory language.[11] No procedural safeguards exist such as consultation, publication, parliamentary scrutiny, or opportunity for representations.

Enforcement Provisions

The Act creates no offences for abuse of power by correctional officers. An officer who tortures inmates, denies legal access, or fails to provide food faces no statutory penalty. Section 47 creates offences only for external interference such as obstruction, rescue, conveyance of prohibited articles, but not for internal abuses.[40] The NCS

[1] NCS Act 2019, s 14(8).
[2] *Ogugu v The State* [1994] 9 NWLR (Pt 366) 1.
[3] NCS Act 2019, s 12.
[4] NCS Act 2019, ss 33, 39.
[5] NCS Act 2019, s 14(1).
[6] NCS Act 2019, ss 14(8), 19(1), 23(2).
[7] Ogunyemi (n 59) 43-45.
[8] NCS Act 2019, s 42.
[9] Oaihimire and Aidonojie (n 11) 371-373.
[10] NCS Act 2019, ss 13(1), 16(1), 21(1), 33(1), 39(1).
[11] NCS Act 2019, s 39(1).

Act provides weak linkage between obligations and consequences. Compliance depends entirely on Service goodwill.[1]

5. The Legal Framework for Corrections in the United Kingdom

Correctional services in the United Kingdom are devolved matters, as England and Wales together, Scotland, and Northern Ireland each have their own systems and agencies, even though the objective of each correctional system is to punish offenders, protect the public, and address recidivism.[2] Essentially, correctional services across the United Kingdom consist of the prison system and the probation and community services. The prison system takes custody of both sentenced offenders and those on remand awaiting trial or sentencing, while the probation and community services administer non-custodial measures such as probation, community service, and suspended sentences.[3]

The Prison Act 1952

The Prisons Act of 1952 consolidated the relevant enactments relating to prisons and other institutions for offenders.[4] Under the Act, all powers and jurisdiction in relation to prisons and prisoners were made exercisable by the Secretary of State.[5] The Act mandated the separation of men prisoners from women prisoners at all times while also prohibiting the use of corporal punishment.[6]

Under the Act, the Secretary of State for the Home Department is empowered to make Rules whereby a person serving a sentence of imprisonment may be granted remission of such part of that sentence on the ground of his industry and good conduct.[7] The Secretary of State wields considerable power under the Act, including the power to release a person serving life imprisonment, to discharge prisoners temporarily on account of ill-health, and to establish remand centres, detention centres, and borstal institutions.[8]

The Secretary of State's power to make regulations for the general implementation of the Act has led to the development of the legal framework for corrections in the United Kingdom. Such delegated legislation includes the Prison and Young Offender Institution (Adjudication) Rules and its amendments.[9]

The UK Criminal Justice Act 2003

The UK Criminal Justice Act 2003 is the principal legislation regulating criminal justice procedure.[10] Part 12 of the Act is titled "Sentencing" and contains several Parts, including a Chapter on general provisions about sentencing covering community sentences and restrictions on imposing community sentences. Other provisions relate to procedural requirements for imposing community sentences and discretionary custodial sentences, including the pre-sentence report requirement.[11] The Act also provides for the issuance of sentencing guidelines, among several other provisions.[12]

The Sentencing Act 2020

The Sentencing Act 2020 furthered the reformation, restoration, and deterrence theories of punishment within the UK's criminal justice system.[13] Chapter 2 is titled "Compensation Orders," regulating how sentences for offences are to promote the victim's interest by ensuring adequate compensation for any personal injury, loss, or damage resulting directly from the offence. Detailed provisions on restitution orders and youth rehabilitation orders were also made under the Act.[14]

Institutional Framework

[1] Obioha (n 5) 101-103.
[2] Prison Reform Trust, 'Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders' (UK 2010) 5-10.
[3] ibid 12 – 15.
[4] Prison Act 1952 (UK), s 1.
[5] Prison Act 1952 (UK), s 1.
[6] Prison Act 1952 (UK), ss 15, 18.
[7] Prison Act 1952 (UK), ss 25, 47.
[8] Prison Act 1952 (UK), ss 27, 28, 43.
[9] Prison and Young Offender Institution (Adjudication) Rules (UK).
[10] Criminal Justice Act 2003 (UK), Parts 1-12.
[11] Criminal Justice Act 2003 (UK), ss 147-158.
[12] Criminal Justice Act 2003 (UK), ss 152-153.
[13] Sentencing Act 2020 (UK), s 133.
[14] Sentencing Act 2020 (UK), ss 147, 173.

In England and Wales, the body responsible for correctional services is His Majesty's Prison and Probation Service (HMPPS), which is under the Ministry of Justice. The functions of the HMPPS include the operation of prisons, overseeing probation and community sentences, and the administration of rehabilitation and reintegration services. The prison system consists of over 100 prisons divided into four categories (A-D) depending on the security level or the nature of the offence.[1]

His Majesty's Inspectorate of Prisons (HMIPS) is the body responsible for the oversight of the HMPPS. It is estimated that there are about 88,000 prisoners spread across the 100 prisons in England and Wales, amounting to about 99% of holding capacity.[2] The prisons consist of both public and private prisons, highlighting the punitive approach to punishment in England and Wales as well as the effect of private prisons in sustaining this approach.[3]

The probation and community services have been under the HMPPS since 2021 and manage matters pertaining to non-custodial sentencing, including community sentences, pre-sentence reports for courts, rehabilitation programmes in cases of substance misuse or domestic violence, and resettlement support for released prisoners.[4] Through the use of community orders, suspended sentence orders, and post-release licence supervision, the National Probation Service has an estimated caseload involving about 250,000 offenders.[5] In England and Wales, the estimated recidivism rate among adults is 28% and 35% among youths.[6]

As observed earlier, prisons in the UK is a devolved matter. The Scottish Prison Service (SPS) operates under the Scottish Justice Directorate, focusing more on rehabilitation and community reintegration. Scotland has 15 prisons holding about 7,600 prisoners at near-full capacity.[7] The non-custodial service is under Community Justice Scotland (CJS), which coordinates Community Payback Orders. About 42,000 offenders are processed through community payback orders annually, with recidivism rates of 26% among adults and 32% among youths.[8]

The Northern Ireland Prison Service administers three prisons (one high-security, two open for youths and women).[9] The Probation Board for Northern Ireland (PBNI) supervises reintegration programmes. Northern Ireland's prisons hold about 1,500 prisoners at slightly below capacity.[10]Under PBNI supervision, about 4,500 offenders are resolved through probation orders and community service orders, with recidivism rates of 20% among adults and 28% among youths.[11]

Across the entire Kingdom, correctional services aim to afford protection to the public, enforce the sentences of the courts, rehabilitate offenders, reduce reoffending, and support victims and communities. Current challenges include overcrowding (particularly in England and Wales), staff shortages and morale issues, high recidivism rates, mental health and drug problems among inmates, and the need for rehabilitation-focused reforms.[12]

Most critically for this comparative study, the integration of the **principle of legality** into the UK legal framework for non-custodial sentencing is achieved through a robust statutory framework, primarily the Sentencing Act 2020 and comprehensive Sentencing Council guidelines.[13] All available non-custodial sentences are created and governed by legislation, ensuring that no individual can be punished in a manner not prescribed by law. Sentencing guidelines provide clear frameworks for judges, enhancing consistency and predictability. While judges have considerable discretion, it is constrained by maximum penalties set in legislation and by detailed guidelines.[14]

6: Comparative Analysis and Lessons for Nigeria

[1] Livingstone, Owen and Macdonald (n 15) 50-55.
[2] UK Ministry of Justice, 'Annual Report and Accounts 2024-2025' (2025) 45.
[3] M Sigler, 'Private Prisons, Public Functions' *Florida State University Law Review* (2018) 380 95-100.
[4] HMPPS, 'Target Operating Model for Probation Services' (2021) 15-20.
[5] National Audit Office, 'Building an Effective Probation Service' (2025) 10-15.
[6] UK Ministry of Justice, 'Proven Reoffending Statistics' (2023) 5-8.
[7] Scottish Government, 'Evaluation of Community Reintegration Project' (2014) 10-15.
[8] Scottish Centre for Crime & Judicial Research, 'Scotland's Prison Population' (2019) 8-12.
[9] C Murray and N Carr, 'The Criminal Justice System in Northern Ireland' in S Case et al (eds), *Oxford Textbook on Criminology* (2nd edn, OUP 2021) 45-50.
[10] S McCarthy, 'Perception of Restorative Justice in Ireland' *Irish Probation Journal* (2024) (1) 20-25.
[11] Northern Ireland Statistics and Research Agency, 'PBNI Annual Caseload Statistics 2023/2024' (2024) 10-15.
[12] S Jenkins, 'Britain's Prison System is Brutal and Broken' *The Guardian* (14 March 2024).
[13] D Gradinaru, 'The Principle of Legality' *Research Association for Interdisciplinary Studies* (2018) 5-10.
[14] Sentencing Act 2020 (UK), ss 197-223; Criminal Justice Act 2003 (UK), ss 152-153.

The comparison focuses on drafting styles, the principle of legality, structured discretion, rights enforcement, and institutional frameworks.

Comparative Analysis of Drafting Styles

The NCS Act and UK correctional legislation exhibit fundamentally different drafting philosophies. The NCS Act is characterised by generality, broad discretion, and weak structuring.[1] Provisions are framed at high levels of abstraction, leaving critical details to be supplied by regulation or administrative decision. The UK framework, by contrast, is characterised by precision, structured discretion, and rights-oriented drafting.[2] Provisions are detailed, criteria are specified, and relationships between provisions are clearly signalled.

This difference is not merely technical. The NCS Act's generalised drafting reflects a conception of legislation as the articulation of broad principles, with implementation left to administrative discretion. The UK's precise drafting reflects a conception of legislation as the creation of enforceable rules that constrain administrative discretion and protect individual rights.[3]

The Principle of Legality and Non-Custodial Measures

The most significant comparative insight relates to the principle of legality. Under Nigerian law, the substantive penal codes (Criminal Code and Penal Code) do not provide for non-custodial measures as punishments for specific offences. The NCS Act and ACJA purport to empower courts to impose community service, probation, and suspended sentences, but these are not the punishments prescribed by the defining laws. This raises a serious constitutional question: does the imposition of non-custodial measures violate Section 36(12) of the CFRN, which requires that punishment be prescribed in a written law?[4]

The Supreme Court in *Egba v State* held that a court cannot impose a sentence not provided for by the law creating the offence.[5] While the ACJA provides that its provisions apply "regardless of any provision in a law creating an offence," this may not cure the constitutional defect, as the Constitution is supreme and any inconsistent law is void to the extent of its inconsistency.[6]

The UK framework avoids this problem entirely. The Sentencing Act 2020 and Criminal Justice Act 2003 exhaustively define all available non-custodial measures. Section 177 of the Criminal Justice Act 2003 lists twelve specific requirements that may be included in a community order. This include unpaid work requirement, activity requirement, programme requirement, prohibited activity requirement, curfew requirement, exclusion requirement, residence requirement, mental health treatment requirement, drug rehabilitation requirement, alcohol treatment requirement, supervision requirement, and attendance centre requirement.

Each requirement has specified maximum durations and conditions. For example, unpaid work requirement cannot exceed 300 hours while curfew requirement cannot exceed 16 hours per day for up to 12 months.[7] This level of detail ensures that offenders know precisely what punishment they face, courts have clear statutory authority, and the principle of legality is fully satisfied.

Structured Discretion vs. Unstructured Discretion

The NCS Act confers extensive powers on the Controller-General and correctional officers using phrases such as "as he deems fit" and "subject to such conditions as may be prescribed" without providing guiding criteria. The Controller-General may make regulations for discipline, privileges, and non-custodial measures with no statutory guidance on content.[8]

The UK framework structures discretion through statutory criteria. Section 152 of the Criminal Justice Act 2003 provides that a court must not pass a custodial sentence unless it is of the opinion that the offence "was so serious that neither a fine alone nor a community sentence can be justified." Section 153 requires that custodial sentences be "for the shortest term that is commensurate with the seriousness of the offence." These provisions guide judicial discretion while preserving necessary flexibility.

[1] Thornton (n 26) 45-47.
[2] Ashworth (n 14) 290-295.
[3] Raz (n 16) 214-218.
[4] CFRN 1999, s 36(12).
[5] *Egba v The State* (2025) LPELR-80673(SC).
[6] ACJA 2015, s 460(1); CFRN 1999, s 1(3).
[7] Criminal Justice Act 2003 (UK), s 177(2).
[8] NCS Act 2019, ss 21(1), 39(1).

For prison administration, the Prison Rules 1999 provide detailed procedural requirements. Rule 53 requires that an inmate charged with a disciplinary offence be informed "as soon as possible" and given a reasonable opportunity to prepare a defence. Rule 54 entitles the inmate to be present at the hearing, to call witnesses, and to make representations. Rule 55 specifies the range of punishments that may be imposed, with maximum periods specified for each.

Rights Enforcement and Remedies

The NCS Act frames inmate entitlements as administrative duties without providing remedies for breach. An inmate subjected to torture, denied food, or refused legal access cannot invoke any statutory complaint mechanism or compensation right. However, the UK framework provides multiple enforcement mechanisms. The Human Rights Act 1998 incorporates the European Convention on Human Rights into domestic law, creating directly enforceable rights to dignity (Article 3), liberty (Article 5), and fair hearing (Article 6). Prisoners can bring claims for breach of these rights, with courts empowered to grant damages.[1]

The Prisons and Probation Ombudsman investigates complaints from prisoners and deaths in custody, with power to make recommendations and require responses. HM Inspectorate of Prisons conducts independent inspections and reports findings to Parliament.[2] Independent Monitoring Boards have unrestricted access to prisons and prisoners.[3] These multiple accountability mechanisms ensure that rights violations are detected, investigated, and addressed.

Key Lessons for Nigeria

1. The UK experience demonstrates that adequately funded rehabilitation programmes for young offenders produce better public safety outcomes than incarceration, at lower cost.[4] Nigeria must urgently implement Section 35 of the NCS Act by establishing separate borstal institutions and ensuring young offenders are not mixed with adults.
2. Nigeria must establish comprehensive non-custodial legal framework by amending the NCS Act to exhaustively define all non-custodial measures, specifying content, duration, conditions, and enforcement mechanisms.[5] The UK's Section 177 of the Criminal Justice Act 2003 provides a model. This is essential for compliance with the constitutional principle of legality.[6]
3. Sentencing guidelines Nigeria should establish a Sentencing Council to issue binding guidelines that integrate non-custodial measures into mainstream criminal proceedings.[7] Guidelines would structure judicial discretion, promote consistency, and ensure that non-custodial alternatives are considered before imprisonment.
4. Providing for collaborative framework for federating units to ensure consistency in correction administration. The Fifth Alteration Act 2023, which devolves correctional powers to States, requires development of a collaborative framework integrating federal and State authorities, community organisations, and law enforcement. The UK's coordination mechanisms between HMPPS, local authorities, and voluntary organisations offer valuable lessons.
5. Leveraging technology for non-custodial supervision, including electronic monitoring tags, virtual visits, and digital education programmes. The UK has successfully used electronic monitoring to enforce curfew requirements and track offenders in the community.[8]
6. Training and retraining of personnel is essential to shifting institutional culture from punitive custody to rehabilitative corrections. The UK's emphasis on professional development, including through the Prison Officer Entry Level Training (POELT) programme, provides a model.

7. Challenges of Correctional Reform in Nigeria

The practical manifestation of drafting deficiencies identified in Section 4 include:

Inadequate Funding and Resource Constraints

[1] Human Rights Act 1998 (UK), s 8.
[2] Prison Act 1952 (UK), s 5A.
[3] Prison Act 1952 (UK), s 6.
[4] R Mendel, 'Effective Alternatives to Youth Incarceration' *The Sentencing Project* (2023) 5-10.
[5] Oaihimire and Aidonojie (n 11) 370-373.
[6] Okeke, Obianyo and Ater (n 12) 34-38.
[7] A M Tijah, 'Articulating Sentencing Guidelines for Nigeria' *University of Ibadan Law Journal* (2022) 45-60.
[8] Criminal Justice Act 2003 (UK), s 177(1)(d)

Chronic underfunding is the most persistent challenge. Annual budgetary allocations to the Nigerian Correctional Service consistently fall below operational requirements.[1] While the UK allocates approximately £48,000 per prisoner annually, Nigeria's per capita expenditure is a fraction of this amount.[2] Underfunding has resulted in dilapidated infrastructure as most custodial centres were constructed during the colonial era and have received minimal maintenance. Cells designed for 20 inmates routinely hold 80 or more, with non-functional toilet facilities and medical clinics lacking basic equipment. The officer-to-inmate ratio falls far below international standards, and rehabilitation facilities (workshops, classrooms, libraries) are largely absent.[3]

The drafting connection is directly connected with the Act's welfare provisions being framed as administrative duties without enforceable standards. Without clear, enforceable standards, the Executive faces no legal compulsion to allocate sufficient resources.

Institutional Resistance to Change

The Nigerian Correctional Service inherited an administrative culture rooted in the punitive philosophy of the repealed Prisons Act. For forty-seven years, the system operated on principles of custody and punishment. This legacy persists in administrative practices, with colonial-era standing orders still in use despite the Act empowering the Controller-General to issue new ones.

Correctional officers, recruited and trained under the old regime, often view their role through a punitive lens. Studies reveal widespread scepticism toward rehabilitative approaches, with many officers regarding rehabilitation as unrealistic.[4] Promotion and career advancement remain tied to security and custodial functions, not rehabilitative achievements. The drafting connection is evident from the Act framing of rehabilitation as an objective but creates no corresponding obligations, standards, or accountability mechanisms that would incentivise its pursuit.

Corruption and Absence of Accountability

Corruption among correctional officers is widespread. Officers routinely demand bribes from inmates for access to basic entitlements such as food, healthcare, and legal representation.[5] The Act establishes the Nigerian Correctional Service Fund but creates no mechanism for parliamentary oversight or independent audit.[6] The Controller-General is required to prepare annual reports, but provisions specify no content requirements and create no obligation to publish or lay reports before the National Assembly. The drafting connection lies in the failure of the Act to create offences for abuse of power by correctional officers.

Persistent Overcrowding

As at April 2025, Nigeria's custodial centres housed 79,555 inmates against a designed capacity of approximately 50,000, representing overcrowding of nearly 60 per cent. Approximately 52,937 individuals (67 per cent) are awaiting trial, many for periods exceeding constitutional limits.[7] The excessive use of pre-trial detention is the primary driver. Courts routinely remand suspects for minor offences, and the absence of effective bail supervision schemes means courts lack confidence in alternatives.[8] The drafting connection is in the Act's provision of only a skeletal framework for non-custodial measures. Section 37 lists community service, probation, and parole but provides no definitions, content specifications, or enforcement mechanisms. Courts, lacking statutory guidance and operational frameworks, continue to impose custodial sentences as the only certain option.

Violation of Inmates' Rights

Torture and ill-treatment remain endemic despite constitutional prohibitions and Section 14(8) of the NCS Act. The National Human Rights Commission documented beatings, prolonged restraint, denial of food, and "pointing" (being forced to stand for hours).[9] Living conditions fall below any reasonable standard of human

[1] Obioha (n 5) 101-103.
[2] UK Ministry of Justice, 'Annual Report 2024-2025' (2025) 45; Nigerian Correctional Service, '2023 Annual Report' (2024) 12.
[3] Nigerian Correctional Service, 'Strategic Plan 2021-2025' (2021) 23.
[4] O Adebayo, 'Correctional Reform in Nigeria' *Nigerian Law Journal* (2024) (12) (1) 112-115.
[5] Prisoners' Rehabilitation and Welfare Action (PRAWA), 'Corruption in Nigerian Prisons' (2021) 23-28.
[6] NCS Act 2019, s 44.
[7] Ayenigba and Ajao (n 9) 820-821.
[8] Y Olomojobi, 'Right to Personal Liberty in Nigeria' *Journal of Global Justice* (2022) (8) 52-58.
[9] National Human Rights Commission, 'Annual Report 2020' (2021) 45-48.

dignity. Inmates routinely receive nutritionally inadequate food, sanitary facilities are insufficient, and health clinics lack essential medicines.[1] The drafting connection is the Act's framing of the prohibition of torture as a duty of the Service rather than a right of inmates.

Disconnect Between Legislative Intent and Implementation

The most striking failure is the near-complete absence of non-custodial measures in practice. No regulations have been made under Section 39, and the Non-Custodial Service remains non-functional. Courts rarely impose community service orders, and where they do, no infrastructure exists to supervise them. The absence of sentencing guidelines means courts exercise broad discretion without statutory guidance on non-custodial alternatives.[2]

The drafting connection is the Act's deference of core policy matters to subsidiary legislation using permissive ("may") rather than mandatory language.

8. Recommendations

1. Amend the NCS Act to replace vague welfare provisions ("qualitative and quantitative food") with specific, measurable standards for accommodation, nutrition, healthcare, and staffing ratios, creating enforceable benchmarks that courts can use to compel adequate budgetary allocation. Also, mandate retraining of all correctional officers on rehabilitative philosophy within 12 months, require the Controller-General to issue new standing orders aligned with the Act's objectives, and restructure promotion criteria to reward rehabilitation outcomes equally with security performance.
2. Create specific criminal offences for corruption by correctional officers (including bribery, extortion, and trafficking of prohibited items), establish an independent anti-corruption unit within the Service, and mandate annual independent audits of the Correctional Service Fund to be laid before the National Assembly.
3. Exhaustively define all non-custodial measures (community service, probation, parole, restorative justice) with specific content, duration limits, conditions, and enforcement mechanisms, following the UK model of Section 177 of the Criminal Justice Act 2003, thereby enabling courts to impose these measures with confidence. Furthermore, convert all administrative duties into enforceable inmate rights using rights-conferring language, establish a statutory complaints mechanism with clear timelines for investigation, provide for compensation for established violations, and grant the National Human Rights Commission unrestricted access to all custodial centres.
4. replace permissive language ("may make regulations") with mandatory language ("shall make regulations within 12 months"), establish a statutory National Implementation Committee with quarterly reporting obligations, and require the Controller-General to publish annual implementation reports laid before the National Assembly.
5. Harmonise the NCS Act and ACJA 2015, designating the Non-Custodial Service as the sole agency responsible for community service supervision, and establishing a statutory inter-agency coordination committee with representatives from the NCS, police, prosecutors, and courts to address pre-trial detention.
6. Mandate public education campaigns on non-custodial measures, require community engagement protocols for restorative justice programmes, and establish reentry support services (housing, employment, family reunification) for released inmates to address stigmatisation and reduce recidivism.

9. Conclusion

The Nigerian Correctional Service Act, 2019, despite its progressive policy objectives, is fundamentally flawed as a piece of legislation. The Act's drafting deficiencies including lack of purposive clarity, structural incoherence, definitional inadequacy, over-broad discretionary powers, weak articulation of rights (duties without remedies), skeletal framework for non-custodial measures, excessive delegation to unguided regulations, and inadequate enforcement provisions, are all not marginal technical flaws but substantive weaknesses that directly cause the implementation failures examined in this article. Overcrowding, corruption, rights violations, and the non-existence of non-custodial measures in practice. The comparative analysis with the United Kingdom demonstrates that better drafting is possible. The UK framework respects the principle of legality through exhaustive definitions, structures discretion through statutory criteria, creates enforceable rights through the Human Rights Act 1998, and ensures accountability through multiple independent oversight mechanisms.

[1] Ogunyemi (n 59) 43-45.
[2] Okeke, Obianyo and Ater (n 12) 35-38.

Nigeria need not copy the UK model wholesale, but it must learn from it. Unless the NCS Act is fundamentally redrafted to convert duties into rights, define non-custodial measures exhaustively, remove excessive delegation, create specific offences for abuse of power, and establish independent oversight, correctional reform will remain aspiration rather than reality. Legislative aspiration without legislative precision is precisely that, aspiration alone.