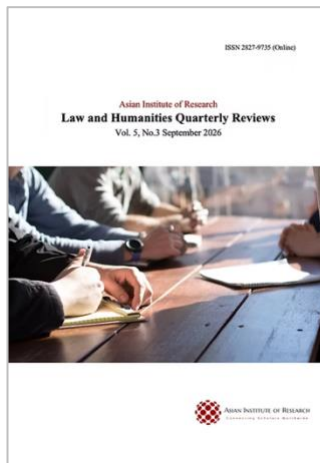




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From Law to Reality: Institutional and Resource Barriers to Correctional Reform in Nigeria

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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 institutional, resource, political, cultural, and systemic barriers that impede the translation of legislative intent into practical reality, rather than merely resource constraints. Adopting a doctrinal legal research methodology, the article analyses statutes, case law, reports, and secondary literature, drawing comparative insights from the United Kingdom. The major finding is that the implementation gap is rooted in chronic underfunding, institutional resistance to change, corruption, legislative fragmentation, cultural attitudes, and political indifference, all of which are exacerbated by drafting deficiencies in the NCS Act. The article recommends fundamental legislative redrafting to convert duties into rights and exhaustive definition of non-custodial measures, establishment of an independent inspectorate, ombudsman, and sentencing council, increased budgetary allocation, and the development of community engagement frameworks for restorative justice programmes.

Keywords: Correctional Reform, Implementation Gap, Institutional Barriers, Nigerian Correctional Service Act 2019, Non-Custodial Measures, United Kingdom Comparative Law

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 (Garland, 2001). This shift is reflected in various international 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 (Mandela Rule, 2015 & Tokyo Rule 1990). 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 (Duru, 2018). 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 (Ezeilo, et al., 2020). 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 (Obioha, 2011). 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. As at 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 (Agede, et al., 2019). These conditions attracted sustained criticisms from human rights organisations, the National Human Rights Commission, and the Nigerian judiciary.

In response to these challenges, the Nigerian government enacted the Nigerian Correctional Service Act, 2019 (the NCS Act), which was signed into law on 14 August 2019 (NCS Act, 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 as including 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. 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 (NCS Act, 2019). 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 (Ayenigba, et al., 2023). More significantly, approximately 52,937 individuals (67 per cent) of this population are awaiting trial, many for periods exceeding the constitutionally mandated limits. 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 in the institutional, resource, political, and cultural barriers that impede the translation of legislative intent into practical reality. While the drafting deficiencies of the NCS Act have been extensively critiqued elsewhere (Aaron, et al., 2026), this article focuses on the broader contextual factors that operate independently of and beyond the legislative framework. It is argued that the implementation failure of the NCS Act is attributable to a combination of inadequate funding, institutional resistance to change, systemic corruption, legislative fragmentation, cultural attitudes, and political indifference. These barriers, individually and collectively, prevent the Act's progressive provisions from being realised on the ground.

This article adopts a doctrinal legal research methodology, which involves the critical analysis of legal texts, including statutes, case law, and international instruments (Hutchinson, et al., 2012). The primary sources examined include the Constitution of the Federal Republic of Nigeria, 1999; 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 because Nigeria and the United Kingdom share a common legal heritage, with Nigeria having inherited the English common law system through colonialism. Also, the UK has undergone similar challenges of overcrowding, recidivism, and correctional reform, offering valuable lessons from both successes and failures. Furthermore, the UK's correctional legal framework is widely regarded as a model of legislative drafting precision and structured discretion (Livingstone, et al., 2015).

Following this introduction, the article proceeds with section 2 providing conceptual clarification of key terms and establishes the theoretical framework for the research. Section 3 examines the legal framework for corrections in Nigeria. Section 4 maps the implementation gap, presenting statistical evidence of the disconnect between legislative intent and practical outcomes. Section 5 analyses the institutional and resource barriers to reform. Section 6 examines systemic and contextual barriers, while section 7 presents recommendations and concludes with a summary of the argument.

2. Conceptual Clarification and Theoretical Framework

An analysis of correctional reform implementation requires precision in foundational concepts and a robust theoretical lens through which to understand the barriers examined in this article. This section clarifies key recurrent concepts and articulates an integrated theoretical framework drawing from classical and modern legal and criminological theories.

2.1. Conceptual Clarification

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

2.1.1. Correctional Reform

Refers to the process of legislative, institutional, and operational changes aimed at transforming correctional systems from punitive incarceration models to rehabilitative, rights-respecting frameworks that promote decongestion, reintegration, and the reduction of recidivism (Ashworth, 2015). In the Nigerian context, correctional reform encompasses the shift from the Prisons Act to the NCS Act 2019, including the introduction of non-custodial measures and the reorientation of correctional philosophy.

2.1.2. Implementation Gap

Denotes the disconnect between legislative intent and practical outcomes, the distance between what the law promises and what is actually delivered on the ground (Hill, et al., 2014). This concept captures the central problem examined in this article. Why the progressive provisions of the NCS Act have not translated into improved correctional conditions. Implementation gaps arise from multiple factors, including resource constraints, institutional capacity deficits, political indifference, and cultural resistance (Sabatier, 1986).

2.1.3. Institutional Capacity

Refers to the ability of organisations to effectively implement policies and achieve their statutory objectives (Wilson, 1968). Key indicators include adequate staffing, appropriate training, functional infrastructure, sufficient funding, effective leadership, and organisational culture aligned with statutory mandates (Feeley, 1979). The Nigerian Correctional Service's institutional capacity is central to understanding why the NCS Act's provisions remain largely unimplemented.

2.1.4. Non-Custodial Measures

Are sanctions imposed on convicted offenders that do not involve deprivation of liberty through imprisonment (UN Standard Minimum Rules, 1990). These include community service orders, probation supervision, suspended sentences, parole, restorative justice programmes, and electronic monitoring (Oaihimire, et al., 2023). The policy rationale for non-custodial measures rests on multiple pillars: reducing prison overcrowding, avoiding the criminogenic effects of imprisonment, lowering financial costs, and promoting rehabilitation and reintegration within the community (Ashworth, 2015).

2.2. Theoretical Framework

This article adopts an integrated theoretical framework drawing from **Institutional Theory**, **Penal Populism**, **Rule of Law Theory**, and **Natural Law Theory**. Each theory illuminates a distinct dimension of the implementation gap examined in this article.

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 (Feeley, 1979). The discussions around *path dependence* describing how institutions develop routines and cultures that persist even after the legal framework changes is a key insight from this theory relevant to this article. The *principal-agent problems* explaining the implementation drift arising from the delegation of implementation authority to administrative agencies that may have different incentives, is another key insight (Sabatier, 1986). The insight from *accountability gaps* explains the persistence of challenges to being the result of a legislation that creates no oversight mechanisms (Livingstone, et al., 2015). Applying these key insights from the institutional theory to the NCS Act explains why non-custodial measures remain virtually non-existent.

Penal Populism, developed by criminologists Anthony Bottoms and John Pratt, 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 (Bottoms, 1995). Pratt argues that in late modern societies, crime has become intensely politicised, with governments competing to demonstrate ‘toughness’ on crime to secure electoral advantage (Pratt, 2007). This dynamic produces legislation that prioritises retribution over reformation, symbolism over effectiveness, and public opinion over expert knowledge (Bottoms, 1995). 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’ (Obioha, 2011). The Act's drafting deficiencies, particularly its vague, aspirational language, may themselves be a product of penal populism, allowing legislators to claim reform while maintaining the status quo (Pratt, 2007).

Natural Law Theory, traced to Aristotle, Thomas Aquinas, and John Locke, posits that law must embody moral principles derived from reason, justice, and the inherent dignity of the human person (Locke, et al., 1689, 1920, & 1988). According to natural law, a positive legal rule that is fundamentally unjust or contrary to human dignity may lack the moral quality of law. 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. (Mandela Rule, 2015)’ 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. The absence of remedies for torture, degrading treatment, or denial of healthcare means that positive law fails to protect the fundamental moral interests of incarcerated persons, undermining the law's claim to moral legitimacy (Amnesty International, 2022).

3. The Legal Framework for Corrections in Nigeria

The legal framework for corrections in Nigeria consists of multiple sources, including the Constitution of the Federal Republic of Nigeria, 1999 (as altered), the Nigerian Correctional Service Act, 2019, the Administration of Criminal Justice Act, 2015, the Borstal Institutions and Remand Centres Act, and international instruments such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Together, these instruments form the legal architecture within which Nigeria's correctional system operates. This section examines each of these sources in turn, providing the foundation for the analysis of implementation barriers that follows in subsequent sections.

3.1. The Constitutional Framework

The Constitution of the Federal Republic of Nigeria, 1999 (CFRN) is the grundnorm from which every other law derives its validity within the Nigerian legal system (6 NWLR (Pt 764) 542 [2002]). Section 1(1) of the CFRN declares that the Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria. Section 1(3) further provides that any other law that is inconsistent with the provisions of the CFRN shall, to the extent of its inconsistency, be void.

Three constitutional provisions are particularly relevant to correctional administration. Section 34 guarantees the right to dignity of the human person, providing that every individual is entitled to respect for the dignity of his person, and accordingly no person shall be subject to torture or to inhuman or degrading treatment; no person shall be held in slavery or servitude; and no person shall be required to perform forced or compulsory labour (CFRN, 1999). Subsection (2) qualifies that 'forced or compulsory labour' does not include any labour required in consequence of the sentence or order of a court. The Supreme Court has held that the prohibition against torture and inhuman or degrading treatment is absolute and admits no exception (*Kalu V. State*, 1998). In *Odigie v State*, the Court affirmed that any form of torture or degrading treatment violates Section 34 and is unconstitutional regardless of the circumstances (7 NWLR (Pt 1565) [2017]).

Section 35 guarantees the right to personal liberty, providing that every person shall be entitled to his personal liberty and no person shall be deprived of such liberty except in certain specified circumstances. These exceptions include the execution of the sentence or order of a court in respect of a criminal offence for which an individual has been found guilty, and detention for the purpose of bringing a person before a court upon reasonable suspicion of having committed an offence (CFRN, 1999). Critically, Section 35(4) provides that a person arrested or detained upon reasonable suspicion of having committed an offence shall be taken before a court of law within a reasonable time, and failure to try a detained person within two months (or three months for those released on bail) entitles the person to release. Despite these constitutional guarantees, the majority of inmates in Nigerian correctional centres (approximately 67%) are persons awaiting trial, many for periods exceeding the constitutional limits (Ayenigba, et al., 2023).

Section 36 guarantees the right to fair hearing and embodies the principle of legality. Section 36(8) provides that no person shall be held to be guilty of a criminal offence for any act or omission that did not, at the time it took place, constitute an offence, and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed. Section 36(12) further provides that a person shall not be convicted of a criminal offence unless that offence is defined and the penalty prescribed in a written law. 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 (*Egba v The State*, 2025). This principle raises fundamental questions about the constitutionality of non-custodial measures under the NCS Act and ACJA, as the substantive penal codes (Criminal Code and Penal Code) do not provide for such sentences (Criminal Code Act, 2004).

Furthermore, 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 (CFRN, 2023). Presently, States may legislate on matters relating to correctional service, the establishment of correctional and custodial sentences, and the establishment of an authority for the management of State correctional centres and

custodial facilities. Nonetheless, the relationship between federal and State legislation is unclear, and the mechanisms for ensuring consistency and coordination have not been established (Jaja, 2024).

3.2. 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 Explanatory Memorandum to the Act narrates that the Act is enacted to address issues that are not covered under the repealed Act and provide clear rules setting out the obligations of the Nigerian Correctional Service and the rights of inmates (NCS Act, 2019). The Act establishes the Nigerian Correctional Service (NCS) as consisting of the Custodial Service and the Non-Custodial Service.

The objectives of the Act are set out in Section 2(1) as follows: to ensure compliance with international human rights standards and good correctional practices; to provide an enabling platform for the implementation of non-custodial measures; to enhance the focus on corrections and the promotion of reformation, rehabilitation and reintegration of offenders; and to establish institutional, systemic and sustainable mechanisms to address the high number of persons awaiting trial (NCS Act, 2019).

3.1.1. The Custodial Service

The functions of the Custodial Service are enumerated in Section 10 of the Act and include taking custody of all persons legally interned; providing safe, secure and humane custody for inmates; conveying remand persons to and from courts; identifying the existence and causes of anti-social behaviours of inmates; conducting risk and needs assessment aimed at developing appropriate correctional treatment methods for reformation, rehabilitation and reintegration. Administering borstal and related institutions; providing support to facilitate the speedy disposal of cases of persons awaiting trial; and performing other functions as may be required to further the general goals of the Service, also forms part of the statutory functions of the Custodial Service (NCS Act, 2019).

To facilitate reformation, the Correctional Service is required to provide opportunities for education, vocational training, and modern farming techniques (NCS Act, 2019). The Service is equally required to take adequate steps to ensure the prevention of torture, inhumane and degrading treatment, and sexual and non-sexual violence and bullying of inmates (NCS Act, 2019). As a marked departure from the colonial policy of using inmates for cheap labour, the Act declares that inmates shall not be held in slavery or servitude, and labour carried out by inmates shall not be of an afflictive nature or for the personal benefit of any correctional officer (NCS Act, 2019).

Given the high number of awaiting trial detainees, the Act mandates the Correctional Service to liaise with the heads of justice institutions and relevant agencies to review and eradicate causes of high numbers of pre-trial detainees (NCS Act, 2019). The Act also seeks to improve the medical welfare of inmates through the provision of quality and quantitative food and the promotion of hygiene and sanitary conditions (NCS Act, 2019). The NCS Act incorporates the United Nations Minimum Standards for the Treatment of Inmates by reference, requiring that government provide funds for the feeding of inmates at a rate and ration to be reviewed periodically after every five years (NCS Act, 2019).

The Act made provisions relating to the special needs of women and juvenile offenders in custody. Section 34 requires separate facilities for women and the provision of all necessary facilities to address the special medical and nutritional needs of women, including pregnant women, nursing mothers, and babies in custody. Section 35 mandates that young offenders shall not be kept in an adult custodial facility or mixed with adults, and requires the Service to establish separate male and female borstal training institutions for juvenile offenders. However, implementation of these provisions has been hindered by significant drawbacks, including funding constraints and the prior exclusive legislative competence of the federal government (Ezeilo, et al., 2020).

3.1.2. The Non-Custodial Service

The Nigerian Non-Custodial Service (NNCS) is responsible for the administration of non-custodial measures under the Act. Section 37(1) provides that non-custodial measures include community service, probation, parole, restorative justice measures, and any other non-custodial measure assigned to the Correctional Service by a court of competent jurisdiction. The Act establishes the National Technical Committee on Non-Custodial Measures to coordinate and implement the non-custodial measures with other relevant agencies; monitor and propose measures for effective operation; receive and consider complaints from offenders, victims and affected communities; and perform any other function required for proper implementation (NCS Act, 2019). Similar Committees are to be established at the State level.

The Act mandates the Controller-General to make regulations relating to each of the non-custodial measures specified under the Act (NCS Act, 2019). The administration of parole, probation, community services, and restorative justice are all to be under the control and direction of the Controller-General. The funding of non-custodial measures is to be provided by the proceeds in the Fund established under the Act (NCS Act, 2019). However, the Act provides only a skeletal framework for non-custodial measures without substantive content, and no regulations have been made under Section 39.

3.2. The Administration of Criminal Justice Act, 2015

The Administration of Criminal Justice Act, 2015 (ACJA) was enacted to regulate the administration of criminal justice institutions, facilitate speedy dispensation of justice, ensure adequate protection of society from crimes, and promote the protection of the rights and interests of suspects, defendants, and victims of offences (ACJA, 2015). The Act is elaborately divided into 49 Parts, with each Part detailing provisions related to the administration of criminal justice.

Parts 44 and 45 of the ACJA make detailed provisions covering probation, parole, suspended sentences, and community services. Section 455(1) defines probation as an arrangement where a defendant against whom a charge has been proved and who is convicted is released under the supervision of a person of the same sex called a probation officer. Further provisions regulate the duties of a probation officer, the variation of the terms of probation, and the procedure where the terms of probation are flouted (ACJA, 2015).

Section 460(1) provides that regardless of any provision in a law creating an offence, the Court may, where it considers appropriate, order that a sentence imposed on a convict be suspended with or without conditions. On community service, Section 461 empowers a court to sentence a convict to perform community service in the convict's community or such other place subject to any condition the Court may consider appropriate to impose. Several problems arise with these provisions. First, they confer wide discretionary powers on courts without adequate guidance, potentially violating the principle of legality (Okeke, et al., 2024). Second, the provisions do not provide practical guides for the exercise of judicial discretion (Umenekwe, et al., 2023). 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. The relationship between the two statutes is nowhere addressed, creating legal uncertainty and implementation paralysis.

3.3. The Borstal Institutions and Remand Centres Act

The Borstal Institutions and Remand Centres Act, Cap B11 LFN 2004, empowers the Minister responsible for borstal institutions and remand centres to establish a remand centre to be a place for the detention of persons between the ages of sixteen years and twenty-one years while awaiting trial for offences or to serve terms of prison sentences (Borstal Institutional and Remand Centres Act, 2004). A borstal institution differs from a remand centre as it seeks to offer such training and instruction as will facilitate the reformation of young offenders and the prevention of crime (BIRC Act, 20). The idea of establishing remand centres and borstal institutions includes preventing the mixing of young offenders with adult criminals.

However, the establishment, administration, and funding of remand centres and borstal institutions by the Federal Government greatly suffered prior to the passage of the Fifth Alteration Act, 2023. As an establishment, the remand centres and borstal institutions are less effective, lacking the facilities and conditions to effectively reform and train young offenders (James, 2013). The unfortunate effect is that young offenders are often mixed with adults and treated like adults in prisons, with several incidences of violation of the young offender's rights (Iosemi, 2018). Many are convicted and jailed without making contact with a social worker or getting the opportunity to be heard. Some end up becoming more notorious after being mixed with adult offenders. Even with devolution of legislative competence, the shortcomings and challenges prevalent under the Nigerian Criminal Justice Administration relating to juvenile offenders have yet to generate the response that urgent reform requires.

3.3. The United Nations Nelson Mandela Rules

The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) offer a general consensus of contemporary thought and the essential pillars of the most adequate systems, specifying what are generally accepted as being good principles and practice in the management of prisoners and the administration of prisons. The inclusion of these principles under the legal framework for corrections in Nigeria is to offer minimum standards, a benchmark for the treatment of offenders.

It is a cardinal principle that all prisoners shall be treated with sufficient respect for the dignity of the human person, protecting prisoners against torture, inhuman, and other cruel and degrading treatments (Mandela Rules, 2015). The application of this rule does not admit any exception or justification for derogation. The Rules also require separation of prisoners according to categories so that men and women, juvenile offenders and adults, and convicts and persons awaiting trial are separated. The Rules require provision of accommodation meeting all requirements of health, adequate water and other articles necessary for health and cleanliness, and adequate food with nutritional value (Mandela Rules, 2015).

The Mandela Rules made extensive detailed provisions on healthcare service delivery as the responsibility of the State to be enjoyed by prisoners at the same standards available to the community, provided free of charge (Mandela Rules, 2015). Although the NCS Act stipulates the establishment of a health clinic in every custodial correctional centre, these provisions are not strictly adhered to because the NCS fails to ensure the adequate provision of healthcare services delivery (Ogunyemi, 2022). Due to funding constraints, some correctional centres do not have clinics, and those that have are often understaffed and unequipped, with inmates being required to buy their drugs and medications out of pocket.

4. The Implementation Gap - Mapping the Disconnect

The NCS Act 2019 represents a comprehensive legislative framework for correctional reform, yet its implementation has been partial, uneven, and largely ineffective. The NCS Act embodies a clear legislative intent to transform Nigeria's correctional system from a punitive model to a rehabilitative one. The Explanatory Memorandum identifies the Act's purposes as ensuring compliance with international human rights standards, providing a platform for non-custodial measures, enhancing focus on rehabilitation, and addressing the high number of awaiting trial persons. Yet more than six years after its enactment, these purposes remain largely unrealised. This section maps the implementation gap across multiple dimensions, providing the empirical foundation for the analysis of institutional and resource barriers that follows in subsequent sections.

4.1. Statistical Overview of Correctional Outcomes

The most visible manifestation of the implementation gap is the persistent overcrowding of Nigeria's custodial centres. 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 (Ayenigba, et al., 2023). More significantly, approximately 52,937 individuals (67 per cent) of this population are awaiting trial, many for periods

exceeding the constitutionally mandated limits. These figures represent not merely statistical abstractions but human beings confined in conditions of extreme deprivation, often for years, without having been convicted of any crime.

The distribution of overcrowding varies across facilities, but conditions are uniformly dire in the most congested centres. The Kirikiri Maximum Security Custodial Centre in Lagos, designed for 800 inmates, regularly holds over 3,000 (Awopetu, 2014). The Kano Central Custodial Centre operates at more than three times its design capacity. In these facilities, inmates sleep in shifts, share inadequate sanitary facilities, and lack access to basic healthcare and nutrition. The concentration of pre-trial detainees is particularly troubling given that the CFRN guarantees the right to personal liberty and requires that any person arrested or detained be brought before a court within a reasonable time. Section 35(4) further provides that failure to try a detained person within two months (or three months for those released on bail) entitles the person to release. Yet these constitutional provisions remain largely unenforced, with thousands of detainees held for months and years without trial (Adeyanju, 2023).

4.2. Non-Implementation of Non-Custodial Measures

The most striking implementation failure is the near-complete absence of non-custodial measures in practice. The Act establishes the Non-Custodial Service and lists community service, probation, parole, and restorative justice as measures to be administered (NCS Act, 2019). It also empowers the Controller-General to make regulations for each measure (NCS Act, 2019). Yet no such regulations have been made, and the Non-Custodial Service remains largely non-functional. Community service, which the Act requires the Service to ‘establish and maintain a system for the administration of,’ is virtually non-existent (NCS Act, 2019). Courts rarely impose community service orders, and where they do, there is no infrastructure to supervise them (Umenekwe, 2024). Offenders sentenced to community service are left unsupervised, defeating the purpose of the sentence and undermining public confidence in non-custodial alternatives.

Similarly, the parole framework remains entirely undeveloped. The NCS Act creates a parole system in principle, but no regulations have been made to bring it into operation. Inmates eligible for parole have no mechanism to apply, no criteria to meet, and no process to follow. The parole provisions are, for practical purposes, a dead letter.

4.3. Failure to Make Subsidiary Legislation

The NCS Act's excessive reliance on subsidiary legislation has resulted in a situation where core elements of the legislative framework remain uncreated. Sections 13, 16, 21, 36, and 39 all empower the making of regulations or standing orders, yet many of these have not been made. The Controller-General is empowered to make regulations for each of the non-custodial measures, but no such regulations have been made. The entire framework for non-custodial measures, which the Act recognises in principle but does not elaborate, remains entirely undeveloped. The power of the Controller-General to make regulations for the maintenance of discipline and good order in custodial centres, including regulations relating to the award of punishment for offences against discipline, has not been exercised. The disciplinary regime that governs inmates' daily lives operates without statutory foundation, governed by informal practices and outdated standing orders rather than by law (Adebayo, 2013).

The Act's conferral of regulation-making powers without time limits, without reporting requirements, without any mechanism to compel their exercise, and without consequences for non-exercise denotes that the powers are permissive, not mandatory.

4.4. Weak Monitoring and Oversight Mechanisms

The implementation gap is perpetuated by the absence of effective monitoring and oversight mechanisms. The NCS Act creates no body with responsibility for overseeing implementation, no reporting requirements that would reveal implementation failures, and no mechanisms for holding implementing authorities accountable. The

requirement of the Act for the Controller-General to prepare annual reports on the activities of the Service without specific content requirements and obligation to publish or lay reports before the National Assembly is a deficiency in legislative design (NCS Act, 2019). Reports prepared under this provision have been irregular, incomplete, and inaccessible. No systematic information on implementation status is available to Parliament, the public, or civil society.

The Nigerian Correctional Service Board is merely conferred with advisory functions, but the Board has no oversight or investigative powers (NCS Act, 2019). It cannot monitor implementation, investigate failures, or require the Service to account for its performance. No independent body has statutory responsibility for monitoring implementation of the NCS Act. The National Human Rights Commission has documented implementation failures, but it lacks the mandate and resources to provide systematic oversight (NHRC, 2021). Civil society organisations have attempted to fill the gap, but their efforts are limited by lack of access, resources, and enforcement power (PRAWA, 2021).

5. Institutional and Resource Barriers to Correctional Reform in Nigeria

The implementation gap identified in the preceding section is not merely a consequence of administrative failure or poor planning. It is rooted in deeper institutional and resource barriers that systematically prevent the translation of legislative intent into practical reality. This section examines three interrelated barriers. They are; inadequate funding and resource constraints, institutional resistance to change, and corruption and the absence of accountability mechanisms.

5.1. Inadequate Funding and Resource Constraints

Chronic underfunding is the most persistent and debilitating challenge facing Nigeria's correctional system. Despite the progressive aspirations of the NCS Act, the gap between legislative promise and fiscal reality remains vast. Annual budgetary allocations to the Nigerian Correctional Service consistently fall below operational requirements, with capital expenditure particularly neglected (Obioha, 2011). The consequence is a system perpetually in crisis mode, struggling to meet basic needs rather than advancing the rehabilitative objectives the Act proclaims.

Comparative data illustrate the severity of underfunding. While the United Kingdom allocates approximately £48,000 per prisoner annually, Nigeria's per capita expenditure on inmates is a small fraction of this amount (NCS Report, 2024). The disparity reflects not merely differences in economic capacity but fundamental differences in priority, as correctional services in Nigeria are consistently relegated to the margins of national budgetary consideration (Adebayo, 2013). Underfunding has resulted in severely dilapidated physical infrastructure across Nigeria's custodial centres. Most facilities were constructed during the colonial era and have received minimal maintenance or upgrading since (Aliyu, et al., 2017). The structural decay manifests in overcrowded cells, inadequate sanitation, poor ventilation, unreliable water supply, and frequent breakdown of essential services (Awopetu, 2014).

The resource crisis extends to human capital. The Nigerian Correctional Service operates with a significant shortage of personnel relative to the inmate population. The officer-to-inmate ratio falls far below international standards, with some custodial centres operating at less than 50% of required staffing levels (NCS Strategic Plan, 2021). This shortage undermines security, limits the capacity to provide programmes and services, and places enormous strain on existing officers. This is further compounded by inadequate training and poor staff welfare. Correctional officers receive limited training, particularly in rehabilitative approaches, and are often ill-equipped to implement the Act's reformatory philosophy. Low salaries, poor working conditions, and limited career progression opportunities contribute to low morale and high turnover, further eroding institutional capacity (Obioha, 2011).

The rehabilitative aspirations of the NCS Act are rendered largely aspirational by the absence of facilities and programmes necessary to give them effect. Where facilities exist, they are often ill-equipped or lack trained instructors (Sunday, 2024). Vocational training programmes, where available, typically focus on low-skilled trades with limited economic relevance, undermining the objective of equipping inmates for gainful employment upon release. Psychological counselling and mental health services, critical for addressing the underlying causes of offending, are severely limited or entirely absent.

The resource crisis, while primarily a matter of fiscal allocation, is enabled and exacerbated by specific drafting deficiencies. The Act's welfare provisions are framed as administrative duties rather than enforceable rights, and they lack the specificity necessary to create measurable standards against which performance can be assessed and judicially enforced. The Act mandates 'qualitative and quantitative food' and 'hygiene, cleanliness, and sanitary conditions' without defining these terms or establishing minimum standards (NCS Act, 2019). These vague provisions mean that even if resources were available, there would be no statutory standards against which to measure whether they were being adequately deployed. More fundamentally, the absence of clear, enforceable standards means that the Executive faces no legal compulsion to allocate resources sufficient to meet the Act's objectives.

5.2. Institutional Resistance to Change

Legislative reform, no matter how progressive, cannot succeed without corresponding changes in institutional culture and practice. The NCS Act represents a fundamental shift in correctional philosophy from punitive incarceration to rehabilitative corrections. However, the institutional culture of the Nigerian correctional system, shaped by decades of operation under the punitive Prisons Act regime, has proven remarkably resistant to this legislative mandate.

The Nigerian Correctional Service inherited an administrative culture deeply rooted in the punitive philosophy of the repealed Prisons Act. For over forty-seven years, the system operated on principles of custody, control, and punishment, with rehabilitation occupying a marginal role (Ahire, 1995). This legacy persists in administrative practices, routines, and assumptions, creating profound inertia against the transformative objectives of the NCS Act.

Staff attitudes present a significant barrier. Correctional officers, recruited and trained under the old regime, often view their role through a punitive lens, seeing themselves as custodians and disciplinarians rather than as agents of rehabilitation. Studies reveal widespread scepticism toward rehabilitative approaches, with many officers regarding rehabilitation as unrealistic or even inappropriate (Adebayo, 2013). This punitive orientation manifests in daily interactions with inmates through verbal abuse, physical mistreatment, arbitrary exercise of discretion, and indifference to inmate welfare. Training curricula continue to emphasise security and control over rehabilitative skills, reinforcing rather than challenging these attitudes (Ulo, 2019).

The punitive mind-set is embedded in the organisational structure and reward systems of the Service. Promotion and career advancement have historically been tied to performance in security and custodial functions, not to achievements in rehabilitation or inmate welfare (Obioha, 2011). Officers who maintain strict discipline, prevent escapes, and control inmates through authoritarian means are rewarded, while those who invest in rehabilitative work receive no comparable recognition.

5.3. Corruption and Absence of Accountability

Corruption within Nigeria's correctional system represents a fundamental obstacle to the achievement of the NCS Act's reform objectives. The Act's progressive aspirations are systematically undermined by corrupt practices that pervade custodial centres across the country.

Corruption among correctional officers is widespread and takes multiple forms. Officers routinely demand bribes from inmates for access to basic entitlements such as food, healthcare, communication with family, and legal representation (PRAWA, 2021). Inmates who can pay receive preferential treatment while those who cannot are neglected or subjected to additional hardships. This practice fundamentally undermines the principle of equal treatment before the law and converts statutory entitlements into commodities available only to those with resources (Araromi, 2025). A 2021 study by the Prisoners' Rehabilitation and Welfare Action (PRAWA) documented extensive corruption in Nigerian custodial centres, with inmates reporting paying bribes for placement in better cells, for access to medical attention, for permission to receive visitors, and even for food that meets minimum nutritional standards (PRAWA, 2021).

Beyond individual corruption, the correctional service suffers from systemic mismanagement of funds and resources. Budgetary allocations intended for inmate welfare, facility maintenance, and rehabilitation programmes are frequently diverted, misapplied, or simply not released (Obioha, 2011). The Act establishes the Nigerian Correctional Service Fund but creates no mechanism for parliamentary oversight of expenditure, no requirement for independent audit, and no transparency obligations that would enable public scrutiny of how Fund resources are used. The Controller-General is required to prepare annual reports, but the provision makes no specific content requirements and creates no obligation to publish or lay reports before the National Assembly (NCS Act, 2019).

6. Systemic and Contextual Barriers to Correctional Reform

Beyond institutional and resource constraints, correctional reform in Nigeria is impeded by broader systemic and contextual barriers. This section examines five such barriers: persistent overcrowding, violation of inmates' rights, legislative fragmentation, cultural and societal factors, and political challenges. Each barrier is analysed with explicit reference to its connection to the implementation gap.

6.1. Persistent Overcrowding

The excessive use of pre-trial detention is the primary driver. Courts routinely remand suspects for minor offences without adequate scrutiny of whether detention is necessary. Several factors contribute including police and prosecutors frequently oppose bail; courts lack confidence in alternatives to detention; many suspects cannot afford legal representation (Ayenigba, et al., 2023). Judicial delays compound the problem. Cases take years to progress, with detainees remaining in custody throughout. The ACJA 2015 established time limits to address these delays, but these provisions remain poorly enforced (Eyongndi, 2021). The NCS Act creates no mechanisms to address systemic delays, merely requiring the Service to 'provide support to facilitate speedy disposal' without powers to compel action (NCS Act, 2019).

Overcrowding fundamentally undermines rehabilitation. In facilities operating at two or three times capacity, conditions necessary for rehabilitation are impossible to achieve (Awopetu, 2014).

6.2. Violation of Inmates' Rights

Despite constitutional prohibitions and the NCS Act's explicit requirements, widespread rights violations continue (CFRN, 1999). A 2023 NHRC report documented torture including beatings, prolonged restraint, denial of food, "pointing" (forced standing), and punitive isolation (PRAWA, 2021). Living conditions fall below human dignity with the absence of nutritionally adequate food, sufficient sanitation, and trained medical staff.

6.3. Legislative Fragmentation and Poor Integration

Nigeria's criminal justice system is deeply fragmented. Police, prosecutors, courts, and correctional services operate in silos with limited coordination (Alemika, 2011). The police make arrest and bail decisions that directly

affect correctional populations, but the NCS Act creates no mechanisms for engaging with police practices. Similarly, prosecutors and courts operate without reference to correctional implications (Eyongndi, 2021).

The most significant coordination failure is the absence of integration between the NCS Act and the ACJA 2015. The ACJA contains detailed provisions on bail, plea bargaining, and non-custodial sentencing (ACJA, 2015). Yet the NCS Act makes no reference to these provisions. The relationship between the two statutes is unaddressed, creating legal uncertainty (Oaihimire, et al., 2023).

The Fifth Alteration Act, 2023, transferred legislative competence over correctional services to the concurrent list, enabling States to legislate on correctional matters. This creates new coordination challenges. The mechanisms for ensuring consistency have not been established. The NCS Act contains no provisions addressing these challenges as no minimum standards, and no information-sharing mechanisms, were provided.

6.4. Cultural and Societal Factors

Nigerian society holds strongly punitive attitudes toward crime. Public discourse emphasises punishment and retribution, with rehabilitation occupying a marginal position. These attitudes constrain policymakers' willingness to invest in rehabilitation and courts' willingness to impose non-custodial sentences (Okeke, et al., 2024). The punitive orientation has deep roots from traditional justice systems involved harsh punishments; colonial criminal justice reinforced punitive approaches; contemporary media amplifies demands for harsh punishment (Ahire, 1995).

Stigmatisation of ex-convicts is profound. Individuals with criminal records face discrimination in employment, housing, and social relationships, undermining reintegration (Monehin, 2021). The NCS Act creates no mechanisms for post-release support, no provisions for reducing stigma, and no framework for engaging employers and communities.

Community resistance to non-custodial measures is significant. Communities resist offenders serving community sentences because they perceive non-custodial sentences as inadequate (Okeke, et al., 2024). The NCS Act creates no framework for community engagement.

6.5. Political and Policy Challenges

Successive administrations have demonstrated limited genuine commitment to implementation (Okoro, 2020). This manifests in inadequate budgetary allocations, political rather than meritocratic appointments, and abandoned policy initiatives. Political indifference reflects broader patterns as institutions serving marginalised populations receive scant political attention because they offer few political rewards (Adebayo, 2013).

Policy discontinuity is significant. Changes in political leadership bring wholesale shifts in policy direction (Oyebode, 2005). Implementation has been uneven, with periods of activity followed by neglect (Okoro, 2020). The Act contains no provisions to ensure continuity because there is no long-term strategy, or independent institutions with stable mandates (Oyebode, 2005).

7. Recommendations and Conclusion

Based on the foregoing analysis, the following recommendations are offered:

7.1. Recommendations

1. Establish an independent oversight body (modelled on HM Inspectorate of Prisons) with statutory power to inspect all custodial centres unannounced, investigate conditions, publish public reports, and compel responses from correctional authorities.
2. Create a Prisons and Probation Ombudsman to investigate complaints from inmates and deaths in custody, with power to make binding recommendations and require responses.
3. Establish a Sentencing Council to issue binding sentencing guidelines that integrate non-custodial measures, structure judicial discretion, and promote consistency.
4. Increase budgetary allocation to the Nigerian Correctional Service to meet minimum international standards for accommodation, food, healthcare, and rehabilitation programmes, with ring-fenced funding for non-custodial services.
5. Invest in recruitment, training, and welfare of correctional officers, with mandatory training on the NCS Act's provisions, rehabilitative philosophy, human rights standards, and de-escalation techniques.
6. Restructure career progression to reward achievements in rehabilitation and inmate welfare equally with security and custodial performance.
7. Deploy electronic monitoring technologies for non-custodial supervision, including GPS tracking for curfew requirements and virtual reporting systems.
8. Harmonise the NCS Act and ACJA 2015 through a coordinating amendment designating the Non-Custodial Service as the sole agency responsible for community service supervision, and establishing a statutory inter-agency coordination committee.
9. Develop a federal-state coordination framework establishing minimum standards for State correctional legislation, information-sharing protocols, and mechanisms for resolving inter-jurisdictional conflicts.
10. Develop community engagement protocols for restorative justice programmes in partnership with local governments, civil society organisations, and traditional institutions.

7.2. Conclusion

This article has examined the institutional, resource, political, cultural, and systemic barriers that impede correctional reform in Nigeria. Despite the progressive objectives of the NCS Act 2019, more than six years after its enactment, the Nigerian correctional system continues to be plagued by overcrowding, rights violations, corruption, and the non-implementation of non-custodial measures. The foregoing analysis demonstrated that these failures are not merely a consequence of resource constraints or administrative shortcomings. They are rooted in deeper institutional and systemic barriers such as chronic underfunding, institutional resistance to change, corruption, legislative fragmentation, cultural attitudes, and political indifference. These barriers, individually and collectively, prevent the translation of legislative intent into practical reality. The Act provides a vision of reform but not the operational framework necessary to realise it.

The NCS Act 2019 represents a progressive policy aspiration. But aspiration without implementation remains precisely that, aspiration. Unless Nigeria addresses the institutional, resource, political, cultural, and systemic barriers examined in this article, correctional reform will continue to fail, inmates' rights will remain unprotected, and custodial centres will remain sites of suffering rather than rehabilitation. The law is necessary, but it is not sufficient. The journey from law to reality requires institutional capacity, political will, adequate resources, and societal support all of which remain critically deficient in Nigeria's correctional landscape.

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