



CUSTODIAL SENTENCING AND COMMITTAL OF JUVENILE DELINQUENTS IN BORSTAL INSTITUTIONS IN NIGERIA: FOCUS ON ABEOKUTA CENTRE.

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ABSTRACT

The perennial congestion of Borstal institutions signals the overdependence of custodial sentences. This has sparked concern because studies have shown that incarcerating offenders does not reduce recidivism. The use, effects, and alternatives to custodial sentences were examined using a mixed method. Narratives and descriptive statistical analysis were employed. The result showed that offences fall into three categories, and custodial sentences apply to all, despite available alternatives. Incarceration has far-reaching effects on juveniles as they are combined, creating room for negative learning. It concluded that the devastating effects of custody in Borstal institutions had marred the goal of reformation and recommended that non-custodial sentencing be used as an alternative. Also, that delinquents be separated according to categories to curb negative influence.

INTRODUCTION

In the past two decades, the legal protection of juveniles has increasingly received attention, which is impacting the administration of juvenile justice. One thing that has influenced the change is the adoption of the Child's Rights Act (CRA), which derives significantly from the Convention on the Rights of the Child (CRC) to which Nigeria became a signatory in 1991. Prior to the adoption of the CRA, Nigeria had operated under the Child and Young Person's Act (CYPA 1943), the Criminal Code, the Penal Code, and other related laws in the administration of juvenile justice. Some of these laws were repressive, draconian, and retributive (Obidimma and Obidimma 2012). Abdulraheem-Mustapha (2016) alludes to this, noting that prevailing laws on juveniles in Nigeria are quick to impose custodial sentences. A custodial sentence is a penal sanction for offences committed. It entails detaining or incarcerating offenders in a restricted, institutionalised facility for a designated period. Depending on the gravity of the offence, it can range from short-term to long-term or even life imprisonment. Studies have shown that the detention of juveniles in institutionalised homes is a global concern because it has detrimental effects on children's well-being. It separates them from their parents, friends, community, and school. It causes insecurity, fear, stress, and other health challenges and exposes them to more delinquent acts as they associate with and learn from serious offenders (Nowak, 2019, Van den Brink, 2021; Sutherland and Cressey, 1960). According to the Sentencing Council, custodial sentences are reserved for serious offences such as felonies and misdemeanors. However, a visit to borstal and remand homes reveals hundreds of juveniles are on committal for simple offences that placed them in detention in such institutions because custodial sentences are applied to trivial and minor offences committed by juveniles. This has contributed to overcrowding in juvenile institutions; consequently, minor and serious offenders are confined to the same facilities (Blueprint, 2022). The risks associated with such exposures are inconceivable, as association with serious offenders is damaging to first-time offenders who may learn criminal behaviour through association, as Sutherland's differential association theory suggests.

Custodial sentences have positive and negative outcomes, as studies indicate. On the plus side, incarceration is thought to rid society of crime because it removes offenders from the community



(National Research Council, 2014, Deterrence Theory). Justice is seen as having been served when offenders are incarcerated (Scott, 2007). Article 10(3) of the International Covenant on Civil and Political Rights (ICCPR) asserts that custodial sentences offer inmates an opportunity for reformation and social rehabilitation. Accordingly, skill acquisition and educational programmes like carpentry, photography, and shoemaking, among others, exist in correctional facilities where inmates are offered vocational training. Primary, secondary, and tertiary education programmes are available in some correctional centres. Some students have obtained ordinary-level certificates; some have secured admissions; and some are enrolled in higher-degree programmes while in custody (pre-field observation).

On the negative side, incarceration violates people's rights to freedom and personal liberty. People committed to the facility are confined and closely monitored. So, they are denied freedom of movement and personal liberty, which are fundamental rights enshrined in Sections 35 [1] and section 41 of the 1999 Constitution [as amended]. However, such rights could be withheld in the event of a pronouncement of guilt by the law court or after an offender pleads guilty upon arraignment. However, not all the children in residential institutions have violated the law; some are remanded because they need care and protection. Therefore, incarceration for those in that category is a violation of their rights, considering the conditions in the facility: overcrowding, poor sanitation, malnutrition, and inadequate infrastructure, among other challenges, leaving some with mood disorders, depression, trauma, and mental health conditions, as Piper and Berle (2019) noted.

Worse still, some correctional institutions have become 'crime schools,' as Study Smarter (2017) asserts, alleging that inmates master the art of crime rather than get reformed there. It has been reported that minor or first-time offenders learn from hardened criminals as they are grouped together due to congestion in correctional facilities. As the differentiation-association theory posits, behaviour is learned through frequent association with others. So, grouping them together makes them prone to learning new criminal acts or developing deviant careers. Confinement already offers a conducive environment for association; grouping them together further enhances interaction and engagement, which reinforces negative learning for juveniles given that they are susceptible and can be easily influenced by peers. Thus, exposing them has dire consequences for them and security implications for society.

Another effect of custodial sentences is that people remanded in custody are stigmatised because imprisonment marks them out as outsiders. They are isolated, disdained, and rejected. Rejection attracts hostility from society. Consequently, they reoffend and return to jail, where they are accepted, heightening recidivism. Furthermore, stigmatisation influences how those who have been labelled perceive themselves based on the opinions of others. As Becker (1974) asserted, this could become a self-fulfilling prophecy.

Borstals are institutionalised facilities designed for the committal and remand of juvenile delinquents for a designated period following the sentence of a magistrate or adjudication of a judge. It is designed for children under 18 years of age (CRA). The purpose of committal for juveniles is the rehabilitation, reformation, and reintegration philosophy of the correctional service, which Bamgbose, in Alamika and Chukwema (2001), asserts underlies juvenile justice administration. To strengthen the implementation of this philosophy, the Correctional Service Act (2019) was adopted. The Act upholds the interests of children, as Section 35 specifically states that young offenders shall not be kept in adult custodial facilities. It also provides for and



encourages the use of non-custodial sanctions by placing custodial sentences as a last resort. It calls for the establishment of borstal training institutions for male and female juvenile delinquents, which is phenomenal in juvenile justice administration considering that the existing borstal institutions in Nigeria are only for males, ignoring the needs of females, as feminist criminology asserts. Also, the existing borstal institutions—in Kaduna, Ilorin, Abeokuta, and recently, Enugu—are grossly insufficient for the increasing number of juvenile offenders (Aderemi, 2017). Thus, the enactment of the act addresses the grey areas of juvenile justice in Nigeria. The concern, however, is in the implementation, as the application of the non-custodial measures is largely discretionary, and some of the laws guiding juvenile justice administration have not been reversed (the Criminal Code, the Borstal Institutions Act, and the Remand Centre Act) since their enactment or adoption in the 1960s. This implies that juvenile cases that violate the law still retain their status. This perhaps informed the large number of juveniles detained in borstal institutions, as my visit to the Abeokuta borstal institution revealed.

Incarceration has traditionally been deployed as a means of crime prevention and control based on the assumption that the separation of offenders will serve multiple purposes: crime prevention, deterrence, retribution, punishment, reformation, and freeing society of hoodlums (National Research Council, 2014). The question, however, is to what extent has incarceration achieved these goals? especially since studies have shown that the global crime rate has risen despite an increase in incarceration (Byrne et al., 2015). Walmsley (2018) reported a global estimate of incarcerated people at 10.74 million, with America topping the list with almost 2.1 million incarcerated people, 40% of whom are African Americans. In Africa, incarceration has grown by 40%, and the Nigerian Correctional Service (NCS) puts the number of incarcerated at 70797 as of January 2022. While the rate of incarceration has risen, its impact on reformation has remained uncertain as the crime rate and recidivism have remained high (Baffour 2021). Human rights advocates and civil society groups are concerned that petty offences end up with custodial sentences when non-custodial measures can apply. So, they advocate for the decriminalisation of minor offences to decongest the correctional facilities, which mostly exceed the capacities they were designed to hold. NCS (2020) noted that the facility designed for 50,083 inmates currently holds 70,056. The congestion of correctional facilities and grossly inadequate infrastructure have impaired the goal of reformation as inmates learn more delinquent or criminal behaviours rather than skill and behavioural change (Study Smarter 2017). As part of the measures to address this challenge, non-custodial measures were proposed. In 2019, Nigeria enacted the Correctional Service Act, which shifted emphasis from retributive justice with excessive use of custodial sentences to a correctional philosophy that includes other options in the treatment of offenders. The Act places a custodial sentence as the last resort, following the precepts of the Tokyo Rules (1990). This act has significant implications for juvenile justice administration, as part of its recommendation is to establish more borstal institutions, which is hoped to reduce overcrowding resulting from excessive use of custodial sentencing and pre-trial detention in the existing facilities. A visit to Abeokuta Borstal revealed that a whopping three hundred and seventeen juveniles are detained in the centre originally designed for a hundred people for varied offences such as theft, cultism, drug abuse, assault, truancy, and loitering, some of which (117) are cases awaiting reports. With such an overwhelming number of children detained, it is not unlikely that reformation will be undermined. Besides, incarceration has far-reaching implications for children's overall well-being. It can affect their mental health, education, relationships, well-being, and future life ambitions, and may even lead to stigmatization. They may develop a deviant career by continuing the act for which they were labelled, as Becker (1974) stated.



Another issue with custodial sentences is that they require enormous human and material resources to execute. More juveniles committed to borstal institutions means more staff, hostels, food, medical supplies, instructional materials, workshops, and recreational facilities are needed. The Reformation is hampered by a scarcity of these necessities. As a result, judicial decisions involving custodial sentences must be critically reassessed.

Present study

This study intends to add to the existing literature on juvenile delinquency. The aim is to address a major gap in the literature on the use of custodial sentencing and its effects on juvenile delinquents committed in borstal institutions. Specifically, the objective of this paper is to examine the types of offences committed by juveniles that attract custodial sentences and examine their use in juvenile justice administration. It will also examine the effects of committal on juvenile delinquents in borstal institution in Abeokuta. Lastly, it will identify non-custodial options and examine their application in the juvenile justice system because it is presumed that the application of alternative measures will reduce congestion and the resultant practice of associating minor and serious offenders in congested bostals and the negative learning.

This is explained theoretically by differential association theory. Sutherland and Cressey (1960) propose that criminal or delinquent behaviour is learned through association with others, just like any other social behaviour. He suggested that a person's propensity for conformity or deviancy can depend on how frequently they associate with those who support conventional behaviour or normative infractions. According to this view, conformity or deviancy is not inherent in an individual's nature; rather, it is a result of what they have learned. Indicating that association with those in close-knit social groups is a key factor in the development of delinquent or criminal behaviour. Motives, attitudes, beliefs, standards, and justifications are learned through social interaction and association with others; thus, delinquent or criminal behaviours are most likely to be learned in the same way. Differential association aptly explains this study, as the custodial sentence and consequent committal of the juveniles to Adegbe Borstal Institution offer opportunity for learning more delinquent behaviour through association and interaction with peers in such intimate groups or settings occasioned by incarceration. Regular contact with delinquent patterns owing to incarceration amounts to isolation from non-delinquent patterns, further enhancing juvenile delinquency, as the theory suggests.

METHODS

A descriptive research design utilising mixed methods incorporating quantitative and qualitative data from primary and secondary sources was used. The population under consideration is composed of juveniles detained and trained at the Adigbe Borstal Institution in Abeokuta. At the time of the study, there were 317 students, comprising 200 convicted offenders and 117 cases awaiting reports. Also included in the study are the regular and volunteer staff of the institution, estimated at fifty (50), some of whom are instructors teaching vocational trades. Two informants from the judicial system were also included, bringing the total population of the study to three hundred and sixty-nine (369). A sample of one hundred and ninety-two (192) participants was selected from the population using the Yamane Taro sampling technique. One hundred and sixty-five (165) questionnaires (52% of the student population) were distributed from the student sample. Five of the distributed questionnaires were missing. Therefore, 160 (97%) completed and returned questionnaires were used for the quantitative analysis. The questionnaires were



completed by students enrolled in the education programme, as their ability to read and write was required to complete the questions, which were constructed in English. Three group interviews were conducted among students to represent those in vocational training, some of whom could not read or write and could not complete the questionnaires. Participation was based on the willingness of respondents. Among the staff, ten officers (20%) were drawn from various departments for in-depth interviews. Also included in the study were two legal luminaries—a retired Chief Justice of Ogun State and the Chief Magistrate in Charge of the Family Court in Abeokuta. In all, a total of one hundred and eighty-seven (187) participants were used for this study.

Participants were drawn using simple random and purposive sampling techniques. Random sampling was used for the distribution of the questionnaire among the students. Purposive sampling was adopted for selecting key informants and participants for in-depth and group interviews. Informants for in-depth interviews were members of staff. Purposive sampling was used to select students from the vocational centre for the group interviews. A structured questionnaire was used for quantitative data. The questionnaires elicited information on demographic characteristics, juvenile delinquency, and custodial sentences. A face-to-face method was used to administer the questionnaires. The welfare officer and head of school assisted with the administration of the questionnaire.

Group interviews were conducted for 15 students drawn from the vocational centre. Each group consisted of five participants drawn from the three categories (those in conflict with the law, those beyond parental control, and those in need of care and protection) committed to custody at the centre. The record officer identified them based on their groupings. There was one meeting per group, with each session lasting between 40 and 60 minutes. Participants were asked questions relating to the offences they committed, the duration of their committal, and the effects of a custodial sentence. The group interviews were held in the office of the public relations officer (PRO), assigned to supervise the exercise, as they strictly censor and monitor the conduct of interviews to protect the amenable juveniles. The presence of the PRO proved useful as he interpreted the questions in Yoruba for some of the participants who understood them better in vernacular. The researcher personally conducted the interviews with the help of a research assistant, who helped with taking field notes.

In-depth interviews with ten members of staff were conducted. Some of the staff interviewed had worked at the institution for five to ten years, so they were able to give the information elicited from them. Field notes were used to record all responses, as the use of audio tapes and other electronic gadgets was not allowed. The interview was held in various offices within the institution. A semi-structured, open-ended question guide was used to give participants the freedom to provide information that was not included in the question guide but could add value to the study.

Informal and key informant interviews were included in the study. They provided opinions on the position of the law on juvenile offenders. An informal interview was conducted with the retired Chief Justice. She gave information relating to the laws that govern the administration of juvenile justice and criminal law. On the administration of family court, she linked the researcher with the Chief Magistrate in charge of family court for further inquiries. On establishing contact with the Chief Magistrate, the researcher declared her intent and the purpose of the study. Thereafter, a time was scheduled for an interview in his office, where he provided information on offences that attract custodial sentences, the duration of sentences for juveniles, the reason for custodial



sentences, the discretionary rights of magistrates, non-custodial sentences, and others. All interviews with the key informant were recorded on tape and in field notes. Since then, he has remained open to answering phone calls to verify and clarify issues as they emerge during the study, as a physical meeting is not always feasible due to his busy schedule.

Ethical consideration

Ethical consideration was duly observed and adhered to in order not to infringe on the rights of participants or violate institutional rules. The ethical consideration adopted includes informed consent, which was sought and obtained verbally and in writing. Written permission was granted to undertake the study by the Controller of Corrections, Borstal Training Institution, Abeokuta. Verbal consent was sought and obtained from all participants after informing them, ensuring they understood the purpose of the study, and providing a guarantee of confidentiality and anonymity before including them.

RESULTS

Quantitative data was presented in tables. Demographic data was analysed using frequencies and simple percentages (%). Others were analysed using descriptive statistics: bar charts, chi-squared tests, correlation coefficients, and ANOVA. Qualitative data was presented verbatim using the language of the interview. Narratives were adopted in discussing the results obtained from quantitative and qualitative data, respectively.

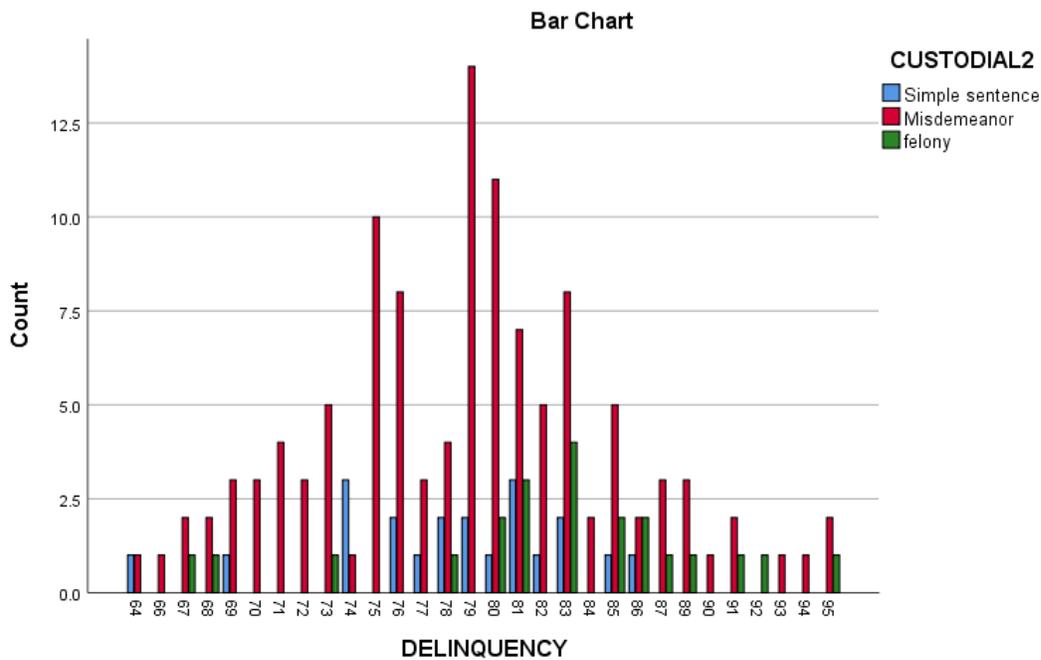
- Information on the types of offences that attract custodial sentences, and their use was sourced from secondary data and the key informant. Section 3 (3) of the Criminal Code identified three categories of offences: felonies, misdemeanours, and simple offences. The key informant intimated that custodial sentences apply to all categories to various degrees. He, however, added that age and the best interests of the child are major considerations in the administration of juvenile justice and, as such, determine the application of a non-custodial sentence.
- Juvenile justice administrators (the chief magistrate and correctional officers in the Abeokuta borstal institution) revealed that primarily correction and reformation underline the use of custodial sentences in juvenile justice administration.
- The interview with staff and the group interview with children in need of care and protection revealed that the use of custodial sentences in the juvenile justice system goes beyond retribution and deterrence to serve the purpose of care and support for some categories of juveniles.
- Data obtained from the questionnaire and group interview with the juveniles revealed that custodial sentences have both positive and negative effects on the juveniles committed at the Abeokuta centre.
- The key informant stated that non-custodial options are available in the juvenile justice system and include community service, canning, sweeping, admonishment, and fines.



Table 1. Frequency and percentage (%) distribution of the offences committed by juvenile delinquents/

Variable		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Loitering	20	12.5	12.5	12.5
	Theft	31	19.4	19.4	31.9
	Assault/bullying	12	7.5	7.5	39.4
	Drug abuse	44	27.5	27.5	66.9
	Murder	7	4.4	4.4	71.3
	Cultism	10	6.3	6.3	77.5
	Rape	10	6.3	6.3	83.8
	Others	26	16.3	16.3	100.0
	Total	160	100.0	100.0	

The table above shows that 20 juveniles (or 12.5%) were involved in loitering or truancy; 31 (19.4%) were involved in theft; 12 (7.5%) were involved in assault or bullying; 44 (27.5%) were involved in drug abuse; 7 (4.4%) were involved in murder; 10 (6.3%) were involved in cultism; 10 (6.3%) were involved in rape; and 26 (16.3%) were involved in others.



Misdemeanours are the second type of offence that can result in incarceration. The bar chart shows a pictorial representation of delinquency, indicating a high level of misdemeanour among the juveniles.

**Table 2. Statistical tests showing the relationship between incarceration and delinquency.****Chi-Square Tests**

Tests	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	58.347 ^a	58	.463
Likelihood Ratio	62.688	58	.314
Linear-by-Linear Association	5.408	1	.020
N of Valid Cases	160		

a. 82 cells (91.1%) have expected count less than 5. The minimum expected count is .13.

The above table shows the results of the Chi-square test, ratio, and linear-by-linear association between incarceration and delinquency. A linear-by-linear association with a value of 5.408 and a significant level of less than 5% indicates there is a relationship between custodial sentences and delinquency, which implies that custodial sentences influence juvenile delinquency. Further tests were conducted using the correlation coefficient test to ascertain the nature of the relationship.

Table 3. Correlation Coefficients test result showing the effect of committal on juvenile delinquency. Coefficients^a

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.
		B	Std. Error	Beta		
1	(Constant)	74.708	1.997		37.410	0.000
	CUSTODIAL2	2.273	0.964	0.184	2.359	0.020

a. Dependent Variable: DELINQUENCY

The standardised coefficient value of 0.184 at a 0.020 level of significance, which is less than 5% (refer to Table 3), indicates there is a positive relationship between custodial sentences and juvenile delinquency. This implies that a custodial sentence does not reduce juvenile delinquency in Abeokuta borstal institution. This result is consistent with the findings of Villettaz, Gillieron, and Killias (2015); however, it contradicts the expected goal of committal and the overall correctional philosophy.

Table 4: Frequency and percentage distribution of the responses of participants on whether grouping minor and serious offenders together has any influence on them.**GROUPING MINOR AND SERIOUS OFFENDERS CAN INFLUENCE EACH OTHER**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly disagreed	10	6.3	6.3	6.3
	Disagreed	9	5.6	5.6	11.9
	Neutral	3	1.9	1.9	13.8
	Agreed	76	47.5	47.5	61.3
	Strongly agreed	62	38.8	38.8	100.0
	Total	160	100.0	100.0	

Table 4 shows that minor and serious offenders can influence each other when grouped together.



Table 5. Shows the responses of the students on the treatment of students in Abeokuta borstal institution. STUDENTS ARE HAPPY AND WELL TREATED IN THE CENTRE

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly agreed	27	16.9	16.9	16.9
	Agreed	37	23.1	23.1	40.0
	Neutral	16	10.0	10.0	50.0
	Disagreed	54	33.8	33.8	83.8
	Strongly disagreed	26	16.3	16.3	100.0
	Total	160	100.0	100.0	

Table 6. Table 6. Frequency and percentage distribution showing data on stigmatization. RESPONSES ON STIGMATIZATION

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1	94	58.4	58.8	58.8
	2	65	40.4	40.6	99.4
	3	1	.6	.6	100.0
	Total	160	99.4	100.0	
Missing	System	1	.6		
Total		161	100.0		

Table 7. ANOVA test result of data on non-custodial sentence as alternative to custodial sentence.

ANOVA
NONCUS

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	382.783	2	191.391	12.434	.000
Within Groups	2416.717	157	15.393		
Total	2799.500	159			

Note: ANOVA- Analysis of Variance.
NONCUS-Non-custodial sentence.

The ANOVA test result shows a F statistic with a joint significance value of 12.432 at a significant level of 0.000, which implies that a non-custodial sentence is a viable alternative to a custodial sentence. The statistical analysis of the respondents' views on non-custodial sentences was done using the analysis of variance (ANOVA) statistical tool. Table 7 shows the test results of data on non-custodial sentences.

DISCUSSION

Objective 1: Offences that attract custodial sentences and their application in juvenile justice administration.

On offences and the use of custodial sentences in the administration of juvenile justice. There are three basic categories of offences identified in Section 3 (3) of the Criminal Code. They include felonies, misdemeanours, and simple offences. Generally, sentences range from discharge to non-custodial, custodial, and death sentences. Sanctions are dependent on the offence



committed because, as the National Institute of Justice (2014) stated in an article, punishments should be commensurate with the severity of the offence committed. Therefore, the application of a custodial sentence is dependent on the severity of the offence committed. Also, the age of the offender is a major consideration in juvenile justice administration, as the maximum sentence for juveniles does not exceed three years. Data shows that juveniles in the Abeokuta Borstal institution committed offences that fell within the three categories of offences identified.

Felony:

Felonious offences attract jail sentences of three years or more or a death sentence. They are punishable without proof of a prior conviction. Offences that fall within this category under the criminal code include murder, rape, sodomy, cultism, armed robbery, kidnapping, and drug offences, among others. It is worth noting that both juvenile and adult offenders commit felonious offences and can consequently be subject to an adjudication hearing under the criminal code. Table 1 shows that 44 respondents (27.5%) indicated they abused drugs. 7 respondents (4.4%) committed murder; 10 (6.3%) were charged with cultism; and 10 (6.3%) were involved in rape. Data indicates that 71 (44.4%) of the respondents sentenced to custody at the Abeokuta Borstal institution committed felonious offences.

Further on the offences committed, one of the staff members stated that juveniles commit the same offences as adults, and in most cases, they have adult accomplices who are custodied in adult facilities upon conviction, while juveniles are given the advantage of being committed in borstal institution due to their age. Age significantly influences judicial decisions in cases involving juveniles because placement and the duration of the sentence are largely dependent on the age of the offender. The CRA provides that the age, maturity, emotional development, mental health, learning disabilities, and best interests of children—their physical, social, moral, and spiritual development—should be considered by the court. However, the key informant maintained that felonious offences attract a custodial sentence regardless of age. He opined that being a child is not a defence to committing a crime and that it should not confer immunity because there are no double standards in the law. Therefore, juveniles who commit felonious offences are made to face the wrath of the law because the criminal code applies both to juveniles and adult offenders. He noted that the law and the Borstal Act provide a three-year maximum term for juvenile offenders. However, some staff stated that some children stay beyond the prescribed three-year term in the institution. Some of the reasons advanced for this include delays in justice processing, when the family could not be traced for reunification, or when they are unwilling to take the children back.

Misdemeanours

A misdemeanour is the second category of offence, and it attracts custodial sanctions that range from six months to two years and above, but less than three years. Included under the category of misdemeanours are theft, assault, and others. Data shows that 31 (19.4%) of the respondents were sentenced for theft, and 12 (7.5%) were committed for assault or bullying, which implies that 43 (26.4%) of the respondents were sentenced for misdemeanours. This category of offence is high, as shown in the bar chart. Presumably, some juveniles on committal are beyond parental



control and may have committed various offences that fall into the category captured as 'others' (26 or 16.3%) for lack of precision, and this could account for the high number of misdemeanours.

Simple offences

The third category is simple offences. Simple offences are the least punishable; they are punishable by imprisonment for no more than six months. They can also attract non-custodial sanctions like fines or caution. Examples include trespass, public nuisance, traffic offences, etc. The bar chart and Table 1 show that simple offences are the least committed by the respondents. This could be because the option of a non-custodial sanction is open to this category of offenders, as the CRA and the Correctional Service Act provide alternative sanctions, making the use of a custodial sentence a last resort when all other options have been exhausted.

The data indicates (table 1) that 20 (12.5%) of the respondents were committed to loitering. Loitering, as defined by the law, is 'wandering without an apparent reason. It is decriminalised in Section 1 of the Minor Offences Act. It stated that anyone charged with minor offences 'shall not, by reason of such offence, be detained in custody.' However, 12.5% of the respondents indicated that they were committed on account of loitering. This may appear to contravene the 'last resort' caption, as alternative sanctions could be appropriate for loitering. But Section 50 of the same CRA considers any child found wandering, loitering, or being truant to be in need of care and protection. The care and protection of children are primarily the responsibility of parents. However, in accordance with the policy of parent *paternae*, the government can take responsibility for children found wandering or abandoned on the streets. This could explain why 12.5% of our respondents were charged with loitering. For example, during the group interview, one of the students revealed that he was arrested by the police in Lagos State for loitering in the street during the COVID-19 lockdown. At the time of the interview (two years after lockdown), he was still awaiting a report. While the violation of the lockdown order is reprehensible, the delay in processing his case contravenes the provision of the CRA, which unequivocally states that detention must only be used for the shortest period. Detention for two years without adjudication for a minor offence violates Section 1 of the Minor Offences Act. Similar cases of delay were cited during the interviews. One such was that of an ex-boy nicknamed '*Tolotolo*,' who was said to have been in committal for five years. Delays in justice processing have become a feature of Nigeria's judicial system, resulting in pending trials. This confirms the findings of Ayuba (2019), whose study confirmed the general dissatisfaction of people over delayed justice in the Nigerian judicial system, resulting in cases of awaiting trials and consequent overcrowding that has become characteristic of correctional facilities in Nigeria. This underscores the need for effective supervision and synergy between the court and correctional institutions. It highlights the need for full implementation of non-custodial sentences as prescribed in the Correctional Service Act of 2019.

The use of a custodial sentence

Custodial sentences apply to juveniles; cases involving them are entertained in the family court. A visit to the family court in Abeokuta revealed an informal arrangement that depicts a family setting. There were small chairs nicely arranged for children, with toys and teddy bears arranged for their use. The adult section of the family court was arranged in a semi-circle, which gave it a touch of homeliness. Its serenity notwithstanding, cases involving juveniles and families are entertained and resolved there.



The operation of family court is guided by several laws: the Criminal Code (1916), the Child and Young Persons' Act (CYPA) (1943), the Child Rights Acts (2003), and the Correctional Service Acts (2019). Juvenile delinquents are subjected to adjudication hearings based on the provisions of these acts and laws. Upon conviction, sentences are passed. One sanction that is applied to violators is a custodial sentence. It entails the incarceration of offenders in a restricted environment for a designated period. It involves some form of deprivation or denial of certain freedoms. The Criminal Code applies to adults and juveniles and has been operational since 1916. The application of the code has remained draconian since its enactment, guided by the philosophy of deterrence and punishment of those perceived to be ill-disposed to colonial interests, as Obidinma and Obidinma (2012) have pointed out. Therefore, juveniles who contravene the provisions of the code are subjected to punishments as spelled out in the code. The application of a custodial sentence is dependent on the offence and the sanction prescribed by the act or law governing the offence committed.

Custodial sentences can also be used on a discretionary basis, as the key informant hinted, stating that judges can apply their discretionary rights to sentences depending on the circumstances. Section 223 empowers judges to use their discretionary rights, which may amount to the use of alternative sanctions, the disposal of cases after due consideration, the reduction of the length of custody, or other measures as deemed appropriate by the judge. It is important to add that the Tokyo rules emphasise that discretion should be exercised according to the rule of law.

In the juvenile justice system, custodial sentences are used for cases of violations of laws, which apply to the category of students adjudged to be in conflict with the law. Apart from this category, custodial sentences can also apply to those beyond parental control who may have exhibited behavioural inconsistencies that parents find difficult to handle. Depending on the case, the key informant stated that a custodial sentence may apply for the purpose of correction. Custodial sentences also apply to children in need of care and protection who may not have violated the law but are placed in committal for care and support (see Section 50 of the Child Rights Acts) because their parents have abrogated their responsibilities. Thus, custodial sentences in juvenile justice administration go beyond retribution and deterrence to serve other purposes: correction, care and support, training, and reformation.

Objective 2: Effects of committal on juvenile delinquents in borstal institutions in Abeokuta

Committal has far-reaching consequences for students at the Abeokuta Borstal institution. The juveniles at the centre are restricted due to confinement. Some of them bemoaned the restrictions during the group interview, noting that since they came there, they are not allowed to go out except when they are taken to court (for those awaiting a report). Whereas juveniles like to explore, the restriction of movement and the deprivation of certain privileges, like the use of gadgets, reduce their chances to explore and limit their learning. In this age of information technology, gadgets like cellphones, tablets, and computers are vital learning tools, but juveniles committed to Abeokuta Borstal institutions are not allowed to use gadgets. Thus, they are deprived of useful learning tools and the lessons they offer. Access to e-learning would have been possible if they had utilised the information and communication technology (ICT) unit and computers donated to the centre, but due to facility constraints, the computers have been packed away and the ICT centre converted to a hostel. Converting a facility that should have enhanced learning to a hostel deprives them of leveraging technology for high-impact learning. It could also



discourage charitable exercise by public-spirited individuals, who may be discouraged if they discover that the facilities they donated are not used.

Also, the students reported that they are cramped in their hostels due to facility constraints. The staff confirmed that the hostel is overcrowded because the facility, originally designed for 100 students, now accommodates multiples of hundreds. At the time of this study, there were three hundred and seventeen (317) students accommodated there. Overcrowding puts pressure on human and material resources at the centre, warranting grouping serious and minor offenders together to influence one another. The danger, as the differential association theory suggests, is that delinquent or criminal behaviour is further learned through such associations, as table 4 indicates, showing that a total of 86.3% of the respondents agreed that minor and serious offenders influence themselves when they are grouped together. This calls for concern, considering that some could be negatively influenced, especially since not all the students there violated the law. For some, committal is for support and protection. Therefore, grouping this category of juveniles with those in conflict with the law creates an opportunity for negative influence and learning more deviant behaviours, as shown in tables 2 and 3, which indicate a positive relationship between custodial sentences and juvenile delinquency, implying that custodial sentences do not reduce juvenile delinquency because minor and serious offenders influence themselves in custody. Differentiation-association theory buttresses the point when it asserts that behaviour is learned through frequent association with others. Confinement in borstal institutions offers an environment for association, interaction, and engagement that reinforces learning. This is true, given that juveniles are susceptible and can be influenced by peers, as Gifford-Smith, Dodge, Dishion, and McCord (2005) observed. As a result, incarceration in an overcrowded facility where exigencies necessitate grouping serious and minor offenders together is detrimental as they learn criminal acts there. For instance, one of the students disclosed that sodomy, drug abuse, cultism, bullying, and other unprintable things happen in their hostels at night. Exposure to such atrocities has a contaminating effect on first-time offenders. Studies have shown that correctional facilities have become crime schools where offenders learn more criminal and delinquent acts (Study Smarter, 2017). This is disturbing for children, who were innocently committed there with the hope of reformation. The welfare officer regretted the situation, blaming it on a shortage of facilities to accommodate the teeming number of students admitted to the centre. The records officer attributed it to the delay in justice processing, excessive use of custodial sentences, and heightened criminality in the country. He admitted that grouping them together contributes to increased recidivism, buttressing the findings of other studies (Cruz, 2022; Loeffler and Nagin, 2022).

Consequently, the students revealed that some of them are not happy staying there (Table 5 captures their responses). 50% of the respondents indicated that they were not happy at the centre owing to the treatment they receive there. Other reasons they gave were separation from loved ones, deprivation of freedom, the quantity and quality of food they were served, living conditions in the facility, the punishment, exposure to serious offenders and hardened criminal elements among them, disruption of education, opportunity lost, and the duration of the sentence, among others. The staff confirmed that some of them are sad; they cry; some attempt to run away; and some tend towards self-harm, mood changes, and depression. The juveniles themselves stated that life at the centre is regimented and rigid. They must follow schedules that dictate when to eat, sleep, or work. Data revealed that a whopping 115 (71.4%) respondents conceive of committal as a setback because it disrupts the lives of students. This agrees with the extant literature that detention has detrimental effects on children's lives, their well-being, ambitions, and



future life chances (Nowak 2019, Van den Brink, 2021). For those beyond parental control, removing them from their families, where they enjoy parental love, to mingle with heartless offenders was a rude shock, as one of them disclosed. Though he signed up for vocational training, he considers it a waste of time because apprentices for vocational training do not get the best of it as they lack the necessary tools and learning materials, as the children disclosed during the group interview. The instructors were mainly volunteers who came at their convenience and showed little or no commitment to it. Also, the short duration of sentences in some cases does not give room for mastery of the trade before discharge, so many of them do not take it seriously. It is pertinent to state, however, that taking skill acquisition seriously is also dependent on the individual, because while structural deficiencies may inhibit training and learning, personal interest, motivation, and other personal factors play a part, as Baffour (2021) observed.

Aside from training, there are not enough facilities for recreational activities. The only outdoor recreation is football, which many of them claim has become monotonous. Some find it depressing to be restricted in an environment where they cannot exert themselves. For instance, one of the students broke down in tears during the group interview, pleading that his sister should take him away and promising never to steal again. He confessed that he even stole indomie noodles belonging to one of his roommates in the centre and was given the beating of his life. He and many others are unhappy because of the mistreatment, torture, and severe discipline; the insufficient recreational facilities; the poor quality and insufficient diet; and the trauma and mental health problems they face because of the harsh conditions. Incarceration has several effects, including mental health problems, as the UK government's study earlier mentioned showed.

Another effect of committal on delinquents is stigmatisation. Interestingly, data on stigmatisation showed that the majority (94), which constitutes 58.4% of the respondents, indicated they are not stigmatized. Only 65 respondents (40.4%) claimed they were stigmatized. While the responses of the majority evidenced compliance with policy on stigmatisation, the positions of others indicate there is a gap between policy and practice. While stigmatisation is prohibited in borstal institutions, in practice it is not strictly adhered to. One example is '*Tolotolo*,' an ex-boy earlier mentioned who was so labelled because he stole a live turkey and was sentenced to committal to the Abeokuta Borstal institution. *Tolotolo* became his identity while he was at the centre and, of course, a constant reminder of the offence he committed. Stigmatisation such as that has an impact on the student because it can affect their self-conceptualization and evaluation, as labelling theory suggests. Stigmatisation also comes from the public; as the public relations officer (PRO) stated, 'It is a normal thing; we get stigmatized.' The welfare officer also hinted that he disguises himself as their uncle when he takes them out for external examinations or admission interviews because people stigmatise them when they know they are from the borstal institution. Stigmatisation has negative outcomes; it affects their chances of admission into schools, apprenticeships, friendships, and other relationships; it affects their physical, psychological, and mental health; and it affects their overall well-being. As labelling theory suggests, stigmatisation (labelling) can lead to the development of a deviant career through self-fulfilling prophecy. Stigmatisation increases the likelihood of recidivism because rejection and an unreceptive public attitude can act as push factors for recidivism, as studies have shown (Dako-Gyeke and Baffour, 2016; Baffour, Francis, Chong, Harris, and Darkwa Baffour, 2020). Thus, stigmatisation undermines correctional policy and reformation efforts. It thus becomes imperative to consider alternative sanctions, considering the effects of committal on students, since their 'best interest' is the overriding factor, as the CRA (2003) and the Nigerian Correctional Service Act (2019) stipulate.



Objective 3: Non-custodial options and their application in the juvenile justice system

Lastly, we examined non-custodial alternatives. Non-custodial sentences are alternative sanctions that do not involve confinement in a restricted facility. Information from the key informant revealed that non-custodial measures are also applied in juvenile justice administration. The key informant indicated that beyond the custodial sentence, there are alternative sentences. He identified the underlisted as part of the non-custodial sanctions used in the administration of justice in Nigeria: admonishment, caning, sweeping, community service, and fines.

Other respondents supported the use of non-custodial sentences, as table 7 showed the statistical analysis of variance (ANOVA) result indicating that respondents are inclined to the use of non-custodial measures. This is because it will reduce overcrowding and the consequent grouping of serious and minor offenders, which pose potential dangers to juveniles and society. Also, non-custodial measures are cheaper to run. If adopted, minor cases will be given alternative sentences, which will reduce the number of students committed to custody in the institution and, invariably, the cost of running the institution, as respondents noted. Also, studies have shown that there is no significant difference between reoffending among juveniles serving custodial sentences and those who served a non-custodial sentence (McGrath and Weatherburn, 2012). Moreover, the UN Convention on the Rights of the Child (CRC) places custodial measures as a last resort.

Regrettably, though international and domestic laws like the Convention on the Rights of the Child (CRC), the Tokyo Rules, the Child Rights Act, and Section 35 of the Correctional Service Act (2019) strongly support the use of non-custodial sentences, the huge number of juveniles at the centre raises questions about their application. This concern is not limited to Nigeria, as the United Nations Global Study on Children Deprived of Liberty indicated that many juveniles spent time in remand detention worldwide (Nowak, 2019). Part of the reason limiting the effective application of alternative measures in Nigeria is the disparity in law; while other Acts recommend non-custodial sentences, the Borstal Act itself does not fully capture non-custodial options for juveniles. This omission certainly limits its applicability. It is therefore imperative that the Borstal Act of 1962 be reviewed to capture non-custodial sentences and other relevant changes that require amendment in the Act.

On his part, the key informant stated that in practice, some non-custodial measures are difficult to implement; for instance, the use of fines is restricted in cases involving juveniles because it is assumed that they cannot afford to pay fines. Another challenge inhibiting the effective application of non-custodial measures that he mentioned is that effective supervision is required to ensure compliance. He noted that when measures like community service are used, there is a need for effective monitoring to ensure that offenders execute the task assigned. But the challenge is that, in most cases, the court does not follow up to ensure compliance. Sometimes supervision is left to the community to monitor, and often it is not effectively supervised, so the aim is defeated. He, however, submitted that, despite the challenges, non-custodial sanctions are useful alternatives to custodial sentences and should be employed based on the circumstances involved.

Conclusions



In sum, this study has examined the custodial sentences and committal of juvenile delinquents in Borstal institutions and discovered that custodial sentences apply to juvenile justice administration and are used as a measure against felonies, misdemeanours, and simple offences. Custodial sentences as used in juvenile justice administration are geared towards reformation, deterrence, care, and support of juveniles committed there. While this task is noble because the children's interests are paramount, the study found that putting all categories of juvenile delinquents in the same institution without sufficient facilities to accommodate them is counterproductive because grouping serious and minor offenders together exposes them to negative influences. Thus, the institution has evolved into a "crime school" where delinquents learn more crimes like sodomy, bullying, drug abuse, cultism, and other criminal acts from peers. Also, their incarceration deprives them of using gadgets and computers that could enhance learning, as the ICT Centre in the institution was put away due to insufficient facilities. Teaching and vocational training at the centre are impaired by a lack of funds, qualified and committed teachers and instructors, and the short duration of apprenticeship, which does not allow for mastery of the vocational training offered there. Lack of commitment on the part of the government and the despairing attitude of some students have marred the objective of the committal of juveniles in Abeokuta Borstal Institution. This study argued that the use of custodial sentences should be reconsidered in view of their inability to effectively achieve reformation and training of students sentenced to committal in Abeokuta Borstal institutions. It further argued that since the laws governing juvenile justice administration prescribe alternatives to custodial sentences, non-custodial alternatives should be adequately employed and effectively implemented to cater for minor offences and reduce perennial congestion and its attendant challenges that have become characteristic of Nigerian correctional facilities.

Recommendations

- It recommends that the government, through the Ministry of Internal Affairs and the Comptroller of Corrections, ensure that people committed to custody are separated according to their categories to curtail the exposure and influence of serious offenders on others.
- Adequate use and effective implementation of non-custodial sentences by the juvenile justice administration is strongly recommended to reduce incarceration and consequent overcrowding and grouping of serious and minor offenders together, which influences them negatively in Borstal institutions.
- It is strongly advised that the government commit to funding borstal institutions to ensure adequate provision of facilities.
- Juveniles themselves should make the most of the programme to improve their lot and desist from delinquency.
- Parents, on their part, should effectively raise, care for, and protect their children rather than relinquish their parental responsibilities to the government.

Limitations and suggestions for further studies

This study examined custodial sentencing and committal of juvenile delinquents in Abeokuta Borstal institutions and drew from the experiences of the juveniles committed at the centre to understand the impact of custodial sentences. Further study is required to examine the impact of a custodial sentence on recidivism, which this present study did not cover.

**Declaration of Interests**

The author declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.



REFERENCES

- Abdulraheem-Mustapha, M.A. (2016). Child justice administration in the Nigerian Child Rights Act: Lessons from South Africa. *African Human Rights Law Journal online*, [http:// dx. Doi. org/ 10. 17159/1996-2096/2016/v16n2a6](http://dx.doi.org/10.17159/1996-2096/2016/v16n2a6) URL.
- Abdul-Mumin, S. (2008). Juvenile justice in Nigeria. *The Nigerian Journal of Sociology and Anthropology*.6(1):71-83. DOI:1 0.36108/NJSA /8002/60(0140). <http://www. Research gate. net>.
- Aderemi, F.S (2017). Prevalence of Juvenile Delinquency: A strategic threat to building a safer world. *Building a safer world through education*. :pg.653-667.
- Ayuba, M.R. (2019). Justice delayed is justice denied: An empirical study of causes and implications of delayed justice by the Nigerian courts. [https:// www.researchgate.net /publication /334443381](https://www.researchgate.net/publication/334443381). Accessed 5 September 2023.
- Baffour, F.D. (2021), Recidivism: Exploring why inmates re-offend in a prison facility in Ghana. *Victims and Offenders: An International Journal of Evidence Based Research. Policy and Practice*. 16(8) :1161-1181. DOI: 10.1080/15564886.2021.1878080.
- Baffour, F. D., Francis, A. P., Chong, M. D., Harris, N., and Darkwa Baffour, P. (2020). Perpetrators at first, victims at last: Exploring the consequences of stigmatization on ex-convicts' mental well-being. *Criminal Justice Review*, 46(3). [https:// journals. sagepub .com/doi/10. 1177 /0734016820960785](https://journals.sagepub.com/doi/10.1177/0734016820960785). Accessed 30 August 2023.
- Bamgbose, O. (1998), An exposition of the laws of crime and health implications in cases of child abuse in Nigeria. In Alemika, E.E.O., and Chukwuma, I.C. *Juvenile justice administration in Nigeria: philosophy and practice* Lagos: Center for law enforcement education.
- Becker, H. S. (1974) Labelling theory reconsidered. In P. Rock and M. McIntosh (Eds). *Deviance and social control*. 172-180. London: Tavistock.
- Blueprint Newspapers online. <http://www.blueprint.ng/kakuri-bostal-training-institution-where-nps-reforms-future-criminals/> Accessed 6/4/2022.
- Borstal Institutions and Remand Center Act (1962), <http://www.africanchildforum.org> .
- Byrne, J.M., Lurigio, A.J., and Petersilia, J. (2015). *Smart sentencing: The emergence of intermediate sanctions* Sage Publications, Newbury Park, CA.
- Child Rights Act, (2003). (No. 26), Laws of Federal Republic of Nigeria [https:// citizenship rightsafrica.org/nigeria-child-rights-act-2003/](https://citizenshiprightsafrika.org/nigeria-child-rights-act-2003/)
- Cruz, J.S. (2022). Rethinking prison as a deterrent to future crime. [https://daily.jstor.org/ rethinking-prison-as-a-deterrent-to-future-crime/](https://daily.jstor.org/rethinking-prison-as-a-deterrent-to-future-crime/) Accessed 30 August 2023.
- Convention on the Rights of the Child (1989) Treaty no, 27531. United Nations Treaty Series, 1577.
- Criminal Code Act (1916), (Cap C. 38 Law of Federal Republic of Nigeria 2004).
- Dako-Gyeke, M., and Baffour, F. D. (2016). We are like devils in their eyes: Perceptions and experiences of stigmatization and discrimination against recidivists in Ghana. *Journal of Offender Rehabilitation*, 55(4), 235–253. <https://doi.org/10.1080/10509674.2016.1159640>
- Gifford-Smith, M. Dodge, K.A. , Dishion, T.J. and McCord, J. (2005). Peer influence in children and adolescents: Crossing the bridge from developmental to intervention science. *Journal of Abnormal Child Psychology*. 33(3): Pg 255–265. DOI: 10.1007/s10802-005-3563-7.



- Loeffler, C.E. and Nagin, D.S. (2022). The impact of incarceration on recidivism. *Annual Review of Criminology*, 5:1, 133-152. <https://www.annualreviews.org/doi/10.1146/annurev-criminol-030920-112506>
- McGrath A. and Weatherburn D. (2012). The effect of custodial penalties on juvenile. *Australian and New Zealand Journal of Criminology*. 45(1) 26–44. DOI: 10.1177/0004865811432585 anj.sagepub.com
- National Institute of Justice (2016). Five things about deterrence. <https://nij.ojp.gov/topics/article/five-things-about-deterrence>. Accessed 8 September 2023.
- National Research Council, (2014). The growth of incarceration in the United States: Exploring causes and consequences. Washington, DC: The National Academies Press. <https://doi.org/10.17226/18613>.
- Nigerian Correctional Service Act, (2019). <https://lawnigeria.com/2020/01/nigerian-correctional-services-act-2019-2/>
- Nowak, M., (2019). *United Nations global study on children deprived of liberty*. United Nations, Geneva.
- Obidimma, A.E. and Obidimma, E.O.C. (2012). Challenges and prospects of the juvenile justice administration in southeast Nigeria. *Nnamdi Azikiwe University journal of international law and jurisprudence*. 3;83-96.
- Paternoster, R. (2010). How much do we really know about criminal deterrence? *The Journal of Criminal Law and Criminology* (1973)100(3):765–824.<http://www.jstor.org/stable/25766109>. Accessed 14 September 2023.
- Piper, A and Berle, D. (2019) The association between trauma experienced during incarceration and PTSD outcomes: A systematic review and meta-analysis. *The Journal of Forensic Psychiatry and Psychology*, 30:5, 854-875, DOI: 10.1080/14789949.2019.1639788.
- Scott, D. (2007). The changing face of the English prisons: A critical review of the aims of imprisonment. In: Jewkes, Y.(ed). *Handbook on Prisons*. Devon: Willan Publishing. 49–72.
- Sentencing Council: <https://www.sentencingcouncil.org.uk>. Accessed 6/4/2022.
- Smarter study (2017). Custodial sentencing: meaning, types, and advantages, House of Commons Committee of Public Accounts, Mental health in prisons, 20.
- Sutherland, E. H., and Cressey, D. R. (1960). *Principles of Criminology* (6th ed.). Philadelphia, PA: Lippincott
- The Child and Young Persons Acts (CYPA), (1943). [Library.net/article/children-young-persons-act-overview-nigerian-child-justice.zk](http://library.net/article/children-young-persons-act-overview-nigerian-child-justice.zk).
- United Nations Human Rights. (1966). International covenant on civil and political rights. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>. Accessed 12 September 2023.
- United Nations standard minimum rules for non-custodial measures (The Tokyo Rules) (1990)/ <https://www.ohchr.org/.../tokyorules.pdf> · PDF file
- Van den Brink, Y.N. (2021). Remand decision-making in the youth court. A comparative analysis of youth remand and bail in England and Wales and the Netherlands. *International Journal of Law, Crime and Justice* 66 (2021)100487. www.elsevier.com/locate/ijlcrj
- Villetaz P, Gillieron G, Killias M. (2015). The Effects on re-offending of custodial versus. Non-custodial sanctions: An updated systematic review of the state of knowledge. *Campbell Systematic Reviews* 2015:1 DOI: 10.4073/csr.2015.1
- Walmsley, R. (ed.). (2018). World prison population list. Institute for Crime Policy Research <http://www.prisonstudies.org> Accessed 30 August 2023.