NATIONAL OPEN UNIVERSITY OF NIGERIA

CRIMINOLOGY AND SECURITY STUDIES

FACULTY OF SOCIAL SCIENCE

COURSE CODE: CSS 872

COURSE TITLE: CRIMINAL JUSTICE ADMINISTRATION

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COURSE TITLE:
Criminal Justice Administration
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INTRODUCTION

Welcome to CSS 872: Criminal Justice Administration

The course CSS 872 is a semester of 3 credit unit that provides students with the various topics on the issues in criminal justice Administration. It is prepared for Masters students who study Criminology and Security Studies at the National Open University of Nigeria (NOUN).

Criminal justice administration is core to peace and security as they are part of the processes to uphold criminal law and order in any community. This course provides the students with simple understanding of the role of criminal justice in ensuring deterrence.. They need to develop constructive minds and use situational analysis for this study and other research oriented approaches carefully to buttress arguments and facts on criminal justice administration across the globe.

In this course, study aims and objectives will be stated. The module provides some useful advice on the reading system, the structure of the module, and guidance for the assessment

AIMS AND OBJECTIVES

The aim of the course to students clear understanding of the criminal justice Administration around the world and in Nigeria. The objectives includes

a) To demonstrate an understanding of the evolution of the criminal justice system.

b) To make in-depth review of history and structures of the criminal justice administration.

c) To outline the challenges of all aspects of criminal justice administration.

d) To outline and critically analyse contemporary issues related to shifts in criminal justice system, procedure and laws.

d) To examine the rights of offenders based on the criminal history.

e) To establish the pattern of journey an offender has or could have in the criminal justice administration.

f. To introduce students to concepts in criminal Justice Administration

g. To expose students to the component of criminal justice administration

h. To identify history and roles of gatekeepers in criminal justice administration.

i. To acquaint students with theories in punishment, rehabilitation and reformation in criminal justice administration

j. To teach students how to critically analyse the strategies involved in sentencing, probation and parole.

k. To highlight the major changes that has occurred in the history of courts and possible solutions.

WORKING THROUGH THIS COURSE

To complete this Course, students are advised to check the study units, read the recommended books as well as other course materials provided by Facilitators. Each unit contains Self-Assessment Exercise (SAE) and Tutor Marked Assignments (TMAS) for assessment purposes. There will be a written examination at the end of the course. The course should take students about 14 weeks to complete. You will find all the components of the course listed below. Students need to allocate time to each unit to finish the course successfully.

COURSE MATERIALS

For this course, students will require the following materials:

1) The course guide;2) Study units which are fifteen (15) in all;

3) Textbooks recommended at the end of the units;

4) Assignment file where all the unit assignments are kept;

5) Presentation schedule**.**

STUDY UNITS

There are fifteen (15) study units in this course broken into 6 modules f 5 units each.

They are as follows:

Module 1

Unit 1 Introduction and clarification of concepts, Evolution and

fundamental principles of criminal justice system

Unit 2 Structure of criminal justice system

Unit 3 Theories of criminal law/CJS

Module 2

Uit 1 Evolution of policing

Unit 2 Purpose and Organisation

Unit 3 Legal aspect of policing and jurisdiction and Challenges of policing way forward

Module 3

Unit 1 History and evolution of courts

Unit 2 Types function and jurisdiction of courts

Unit 3 Processes of criminal justice system

Unit 4 Sentencing, probation, parole, Challenges of the court system and way forward

Module 4

Unit 1 History of Prison system Types and functions of prison system

Unit 2 Challenges of the prison system Way forward

Module 5

Unit 1 History and Clarification of concepts (Rehabilitation,

reformation and reintegration) Stages in rehabilitation, reformation and reintegration

Unit 2 Theories of rehabilitation, reformation and reintegration,

Challenges of rehabilitation and reformation

Module 6

Unit 1 History of Non-custodial correction and Types of non-custodial corrections

Unit 2 Effects of non-custodial corrections and Challenges and way

forward**.**

Each unit contains some exercise on the topic covered, and Students will be required to attempt the exercises. These will enable them evaluate their progress as well as reinforce what they have learned so far. The exercise, together with the tutor marked assignments will help students in achieving the stated learning objectives of the individual units and the course.

TEXT BOOKS AND REFERENCES

Students may wish to consult the references and other books suggested at the end of each unit to enhance their knowledge of the material.

ASSESSMENT

Assessment for this course is in two parts. These are Tutor-Marked Assignments, and a written examination. Students will be required to apply the information and knowledge gained from this course in completing their assignments. Students must submit their assignments to their tutor in line with submission deadlines stated in the assignment file. The work that they submit for Tutor-marked Assignment as part of assessment will count for 30% of the total score.

TUTOR -MARKED ASSIGNMENTS (TMAs)

In this course, learners will be required to study fifteen (15) units, and complete tutor-marked assignment provided at the end of each unit. The assignments carry 10% mark each. The best

four of their assignments will constitute 30% of their final mark. At the end of the course, they will be required to write a final examination, which counts for 70% of the final mark.

The assignments for each unit in this course are contained in the assignment file. Learners may wish to consult other related materials apart from the course material to complete assignments. When they complete each assignment, send it together with a tutor marked assignment (TMA) form to the Tutor. They should ensure that each assignment reaches their tutor on or before the dead line stipulated in the assignment file. If, for any reason they are unable to complete their assignment in time, they should contact their tutor before the due date to discuss the possibility of an extension. Note that extensions will not be granted after the due date for submission unless under exceptional circumstances

FINAL EXAMINATION AND GRADING

The final examination for this course will be for 3 hours and count for 70% of the total mark. The examination will consist of questions, which reflect the information in course material, exercise, and tutor marked assignments. All aspects of the course will be examined. Use the time between the completion of the last unit, and examination rate to revise the entire course. Learners may also find it useful to review their tutor marked assignments before the examination.

COURSE MARKING SCHEME

ASSESSMENT	**MARKS**
Assignments	**Four assignments best three marks of four count at 30% of course marks**
Final Examination	**70% of total course mark**
Total	**100% of course marks**

COURSE OVERVIEW

Assignment file consists of all the details of the assignments you are required to submit to your tutor for marking. The marks obtained for these assignments will count towards the final mark you obtain for this course. More information on the assignments can be found in the assignment file.

Course overview and Presentation Schedule

Course overview and Presentation Schedule

Module	**Conceptual clarifications**	Weeks Activity	Assessment
Unit 1	Introduction and clarification of concepts, Evolution and fundamental principles of criminal justice system	Week 1	
2	Structure of criminal justice system	Week 2	
3	Theories of criminal law/CJS		
Module 2	**The Police**		
Unit 1	Evolution of policing	Week 3	
2	Purpose and Organisation		
3	Legal aspect of policing and jurisdiction	Week 4	
4	Challenges of policing		
	Community policing, Challenges and way forward	Week 5	
Module 3	**COURTS**		
Unit 1	History and evolution of courts	Week 6	
2	Types function and jurisdiction of courts	Week 7	
3	Processes of criminal justice system	Week 8	
4	Sentencing, probation, parole, Challenges of the court system and	week 9 & 10	

	way forward		
Module 4	**Correctional institution**		
Unit 1	History of correctional institution	Week 11	
	Types and functions of correctional institution		
2	Challenges of the correctional institution	Week 12	
	Way forward		
Module 5	Rehabilitation reformation and reintegration		
Unit 1	History and Clarification of concepts	Week 13	
	(Rehabilitation, reformation and reintegration) Stages in rehabilitation, reformation and reintegration		
2	Theories of rehabilitation, reformation and reintegration, Challenges of rehabilitation and reformation	Week 14	
Module 6	Non-custodial measures in Nigeria		
Unit 1	History of Non-custodial correction and Types of non-custodial corrections	Week 15	
2	Effects of non-custodial corrections and Challenges and way forward	Week 16	
	Examinations	Week 17	

	Total	17 weeks	

HOW TO GET THE MOST FROM THIS COURSE

In distance learning, your course material replaces the lecturer. The course material has been designed in such a way that you can study on your own with little or no assistance at all. This allows you to work, and study at your place, and at a time and place that best suits you. Think of reading your course material in the same way as listening to the lecturer. However, you are advised to study with your course master in the same way a lecturer might give you some reading to do, the study units give you information on what to read, and these form your text materials. You are provided exercise to do at appropriate points, just as a lecturer might give you an in-class exercise.

Each of the study units follows a common format. The first item is an introduction to the of the unit, and how a particular unit is integrated with the other units and the course as a whole. Next to this, is a set of learning objectives. These objectives let you know what you are required to know by the time you have completed the unit. These learning objectives are meant to guide your study. The moment a unit is finished, you must go back and check whether you have achieved the objectives. If you make this habit, it will improve your chances of passing the course significantly. The main body of the unit guides you through the required reading from other sources. This will usually be either from the reference books or from a reading section. The following is a practical strategy for working through the course. If you run into difficulties, telephone your tutor. Remember that your tutor's job is to help you when you need assistance, do not hesitate to call and ask your tutor for help or visit the study centre.

Read this Course Guide thoroughly is your first assignment.

1) Organize a study Schedule, Design a "Course Overview" o guide you through the course. Note the time you are expected to support on each unit and how the assignments relate to this unit. You need to gather all the information into one place, such as your diary or a wall calendar. Whatever method you choose to use, you should decide and write in your own dates and schedule of work for each unit.

2) Once you have created your own study schedule, do everything to be faithfully to it. The major reason students fail is that they get behind with their course work. If you get into difficulties with your schedule, please, let your tutor know before it is too late for help.

3) Turn to unit 1, and read the introduction and the objectives for the unit.

4) Assemble the study materials. You will need the reference books in the unit you are studying at any point in time.

5) Work through the unit. As you work through the unit, you will know what sources to consult for further information.

6) Before the relevant due dates (about 4 weeks before due dates), access the Assignment file. Keep in mind that you will learn a lot by doing the assignment carefully, they have been designed to help you meet the objectives of the course and pass the examination. Submit all assignments not later than the due date.

7) Review the objectives for each study unit to confirm that you have achieved them. If you feel unsure about any of the objectives, review the study materials or consult your tutor.

8) When you are confident that you have achieved a unit's objectives, you can start on the next unit. Proceed unit by unit through the course and try to pace your study so that you keep your self on schedule.

9) When you have submitted an assignment to your tutor for marking, do not wait for marking before starting on the next unit. Keep to your schedule. When the Assignment is returned, pay particular attention to your tutor's comments, both on the tutor-marked assignment form and also the written comments on the ordinary assignments.

10)After completing the last unit, review the course and prepare yourself for the final examination. Check that you have achieved the unit objectives (listed at the beginning of each unit) and the course objectives (listed in the Course Guide)

TUTORS AND TUTORIALS

There are 15 hours of tutorials provided to support this course. Tutorials are for problem solving and they are optional. You need to get in touch with your tutor to arrange date and time for tutorials if needed. Your tutor will mark and comment on your assignments, keep a close watch on your progress and on any difficulties, you might encounter and provide assistance to you during the course. You must submit your tutor-marked assignments to your tutor well before the due date (at least two working days are required). They will be marked by your tutor and returned to you as soon as possible.

Do not hesitate to contact your tutor by telephone, e-mail, or discussion board. The following might be circumstances in which you will find necessary contact your tutor

if:

_ You do not understand any part of the study units or the designed readings.

_ You have difficulties with the exercises.

_ You have a question or problem with an assignment, with your tutor's comments on an assignment or with the grading of an assignment.

To gain maximum benefits from this course tutorials, prepare a question list before attending them. You will learn quite a lot from participating in the discussions.

SUMMARY

The course guide has introduced you to what to expect in criminal justice administration system. It examines the general background criminal justice administration, its component and contents of justice administration and how it relates to peace and security.

The course also discusses the challenges in criminal justice administration, sentencing, probation and parole, discretion and criteria for discretion, jurisdiction among others.

Upon completion you should be equipped with the foundation for analyzing and researching criminal laws and criminal and justice administration. We wish you success with the course and hope you will find it both engaging and practical

REFERENCES/FURTHER READING

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COURSE CODE: CSS 872

COURSE TITLE: CRIMINAL JUSTICE ADMINSTRATION

Course Writers/Developers: PROF. Hauwau Evelyn Yusuf

Course Coordinators

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Programme Leader

MODULE 1 General Background to Criminal Justice System

Unit

1 Introduction and clarification of concepts

2 Evolution and fundamental principles of criminal justice system

3 Structure of criminal justice system

4 Theories of criminal law/CJS

Unit 1 : Introduction and General Background

CONTENTS

1.0 Introduction

The criminal justice system is the set of agencies and processes established by governments to control crime and impose penalties on those who violate laws. However, the way the criminal justice system works in each area depends on the jurisdiction that is in charge: city, county, state, federal or local government or military installation. Different jurisdictions have different laws, and ways of managing the criminal justice processes. The main systems are:

State: State criminal justice systems handle crimes committed within their state boundaries. Federal: The federal criminal justice system handles crimes committed on federal property or across State Boarders

Classification of Crimes.

* Legal classification: Crimes in Nigeria are classified by the severity of the offense into felonies (very serious) and misdemeanors (less serious). Examples of felonious offenses are armed robbery, arson, auto theft, burglary, child- stealing, counterfeiting, conspiracy, drug offenses, forgery, fraud, kidnapping, murder, rape, smuggling contraband, theft of an object of high value, and treason. All other offenses are considered misdemeanors. The Nigerian police also classify crimes into offenses against persons, offenses against property, other offenses (crimes without victims), and offenses against local ordinances.

* Age of criminal responsibility: Any person seventeen years or older is considered an adult. Persons 12 to 16 years-old are treated as juveniles while 7 to 2 year-olds are considered children. The offenses of both children and juveniles are handled at the juvenile courts. Juvenile courts are generally ad hoc and informally administered. They are presided over by the county magistrate, a layman and a laywoman (Ebbe, 1988).

* Drug offenses. Drug offenses in Nigeria include the possession or selling of cocaine, heroin, and marijuana. Barbiturates and amphetamines are legal drugs which can be purchased as over-the-counter medicines.

2.0 Objectives

When you have read this Unit, you should be able to:

1. Define the criminal justice system
2. Have knowledge of the history of criminal justice system

3. Understand the Purpose of the criminal justice system
4. Get a review on elements of criminal justice system
5. Understand the functions of criminal justice system

3.0 Main Content

3.1 Definition of criminal justice system

The term criminal justice system refers to the agencies of government charged with enforcing and adjudicating criminals and correcting criminal conduct. It is a collection of federal, state and local public agencies that deal with crime issues in the society.

3.1.1 History of Criminal Justice System

In Africa, criminal justice systems remain rather fragile. This is not only because of the human rights practices of some African governments, but because the changes on the continent demand good governance and democracy.

Th e practice of criminal justice in developed countries, however, remains a useful indicator of how the state has been able to dispense justice to its people. Criminal justice theory provides a lens for scrutinising the practices and how much they adhere to laid-down principles and standards. Africa is not unique compared with the rest of the world, except that it is a recovering colonial addict that unfortunately has lived up to the dictates of the remnants of the colonial paradigm. In the face of failed states (Centre for Conflict Resolution 2004a) that are recovering from colonialism, dictatorships that are undergoing political transformation, tyrannies and unstable states, the theory and practice of criminal justice produce results that either threaten or confirm the political legitimacy of such states. When regime change occurs as a result of intra-state conflicts, wars or coups d'état, this has consequences for criminal justice and democracy. Some authors argue that Africa has largely been the beneficiary of colonial justice administration systems, and this has impacted on the ability of many of the countries to merge the interests of the new political elites with those of their former colonial masters.

One of the first governmental institutions to suffer when there is intra-state conflict or a coup d'état is always the criminal justice system. Th e normative rules, practices and processes expected of the criminal justice system are often short-circuited through political expediency

when dealing with political opponents of the regimes that have usurped democratic power. This has been no less obvious in Zimbabwe, where a plethora of charges have been laid against the leaders of the political opposition to Robert Mugabe's government. People are held in detention without trial; others are arrested for loitering; and leaders of opposition political parties are charged with high treason, only to have the charges dropped the next day (International Crisis Group 2008).

The criminal justice system thus becomes a very useful and dangerous tool in the hands of regimes and governments that use it to deal with political opponents. In South Africa for example a crisis emerged after the judgment that appears to have confirmed that the National Prosecution Authority (NPA) was not entirely independent and that there had possibly been some interference by the state president. Practicing criminal justice and democracy becomes expensive and inexpedient for ruling elites who prefer to remain in power. Africa has been synonymous with wars and conflicts and the displacement of thousands of people as a result. Countries recovering from wars and internal conflict, such as Sierra Leone, Kenya, the Democratic Republic of the Congo (DRC) and recently Zimbabwe, have demonstrated the dispensability of the criminal justice system in the process. Military leaders usurp the powers, roles and functions of the criminal justice system and in its place they usually substitute their own laws with makeshift justice and policing systems: systems that are fundamentally dangerous and sometimes fatal to the victims of these regimes.

These practices raise an important question. How do ruling elites interact with and use the criminal justice system to further their interest? Answering this question is not the purpose of this monograph, but the ways in which the ruling elites are created and perpetuated through tinkering with the criminal justice system remain a central theme of criminal justice studies in Africa.

Legitimacy of the legal system in Africa has become fundamental to the establishment of the rule of law and the resultant efficacy of regimes and criminal justice systems in dispensing social justice. In states where there is no legitimacy of the state or its instruments of coercion, it cannot reasonably be expected that the criminal justice system will work for opponents of the state or its citizens.

Institute for Security Studies The apartheid South African legal system was often open to challenges and had no legitimacy, as the records of the South African Truth and Reconciliation Commission (TRC) reflect (TRC Report 2003). Afro-pessimists argue that

Africa is unable to effectively bring about the changes that are required for upholding the rule of law. This, they argue, is because African governments do not have the capacity to change the legacy of colonialism. Instead, they perpetuate the conditions under which British, French, Belgian and Portuguese colonisers abused the people of Africa through colonial justice systems. As a result, the effective administration of justice in Africa remains elusive.

To African governments, though, the challenges are huge. Traditional approaches to justice through restorative practices and the integration of such practices in the formal justice system have become such a challenge. Access to justice remains another, particularly for people in rural communities. This is something that is addressed by some of the authors in this monograph. A clear picture is emerging that African governments are beginning to grapple with governance issues in the criminal justice. Th e new initiative to challenge the Eurocentric governance of criminal justice can be achieved partly through the New Partnership for Africa's Development (NEPAD) (Centre for Conflict Resolution 2004b) and the African Union's Peer Review Mechanism (APRM).

In in recent research four eminent critics and researchers were evaluated in the theory and practice of criminal justice in Africa. This evaluation provides us with an important opportunity to engage in the debate through exploring various themes on the expression of democracy and justice through the workings of criminal justice systems of some countries in Africa.

Etannibi Alemika sets out the sources of criminal law in precise detail by drawing attention to the norms, politics, institutions, processes and constraints in the pursuit of criminal justice. Criminal justice is the handmaiden of politics and he makes it clear that politics determines the administration of criminal justice. His argument tells us that he is concerned because researchers pay scant attention to the political economy of the criminal justice system. In his contribution to the debate, he raises the important questions of values and the practices of the law. Reproducing laws as commodities as a product of the nation state serves to finally extend the rule of the colonial state and colonial laws. He thus argues, 'In a post-colonial society, criminal law remains one of the major tools for authoritarian governance.' Criminal justice in Africa

Another critical theme from this contributor is the issue of equality and the criminal justice system. To what extent can criminal law be substantively applied equally to victims and perpetrators? Th is major theme emerges throughout the monograph. Alemika argues that the

criminal code is the outcome of the values and interests embodied in the individuals and groups that make the criminal law. Equally important, the writer casts our eyes to the significant issue of whose values the law ultimately serves. He suggests that social justice is an outcome of a democratic justice system; and in view of the dominant and competing interests of economic and political elites, those excluded from such elites are usually unable to obtain criminal justice. It is a compelling argument and the colonial cliques and new emerging elites appear to complete the picture and therefore reinforce the perception and reality that criminal justice is a useful tool against opponents when other crises are unfolding. Can we then safely assume that the state can be trusted to implement a jurisprudence that will be fair and equitable in Africa, despite its human rights practices? In that spirit, colonialism and its aftermath provided many dilemmas for emerging elites in Africa.

The extent of colonial justice and its practices influenced and further marginalised traditional practices of many of the indigenous peoples. Indigenous institutions and cultural practices suffered severely as a result of the administration of colonial justice. Th e creation of new criminal categories by the colonial administration and the result-ant continuation of the practice by the new leaders deepened the dependency on what he calls 'Western-centric notions of criminal justice'. He emphasises that traditional justice systems were based on the restorative approach and that they are able to fill any gaps left by the Western or modern criminal justice systems. Because many rural areas have difficulty accessing government systems, the traditional and restorative approaches to criminal justice should thus be applied.

Questioning the purpose of criminal law is a function of scholars and leaves us with no doubt about the legacy of colonialism and the resultant damage inflicted on the colonized through retributive criminal justice systems. Simon Robins provides us with a case study of Uganda and its emphasis on restorative justice processes. Th ese processes have been a product of the European and North American states. Uganda has a dual system of criminal justice which encompasses formal law and informal law and their application. It incorporates the formal English system and local council courts.9 Robins argues that language becomes an impediment to the practice of criminal justice in Uganda because of the colonial dominance of the criminal justice system and this in turn becomes an obstacle in ensuring access to justice because a small proportion of the population speak English.

He points out the disparities in Uganda, where the formal justice system makes people wait for up to nine years when it comes to dispensing justice. He also applauds the restorative

practices that involve three stages of restorative justice practices, including mediation, restorative circles and restorative conferencing. He equally applauds the South African (TRC) and its approach to restorative justice. He questions, however, whether restorative justice practices in Africa can be a sustainable option in the face of massive trade-off s with local economies as a result of globalisation, which has a punishing effect on them. By their nature, restorative justice practices require more resources and time during the implementation phase. In countries where a runaway crime picture is emerging, as in South Africa, the conventional wisdom of restorative justice as an approach that works is Criminal justice in Africa

For the policing agencies, certainly restorative justice is an option that is successful, given space, time and money, but this is a luxury that few countries, especially those undergoing some form of internal conflict, can afford to have. The argument put forth by Robins suggests that the restorative process in Uganda is directly linked to the political system of government. While the restorative justice approach is integrated into the legal system of Uganda, a gap remains in the application of justice. The writer suggests that the local ceremony of mato oput and its relation to the local court is a form of restorative justice in which the relationship between victim and perpetrator is restored.

The history of Nigeria's criminal justice system dates to the colonization of the country in the late 1800s by Europeans, who introduced imprisonment based on their own correctional systems. Some of the events that influenced the development of Nigeria's criminal justice system include the British occupation of the country, the Nigeria-Europe confrontation, and the slave trade. Although some British participants had humanistic and religious inclinations.

Nigeria was previously a British Colony. Therefore, the basis of the Nigerian criminal law is the English law. (Nigeria's capital territory of Nigeria-Lagos was annexed by the British in 1849. Later, other regions of Nigeria were declared protectorates and administered by the Royal Niger Company Chartered and Limited. In 1899 the charter granted to the Royal Niger Company Limited was revoked, and the British Government took over direct administration of Nigeria by 1900 .In 1861, after the colonization of the Colony and Protectorate of Lagos, the Protectorate of Southern Nigeria, and the Protectorate of Northern Nigeria, the British Consuls and the Royal Niger Company, Ltd., set up a legislative council to make laws to control the masses and regulate business activities involving many European countries and Africans). The British consuls and the Royal Niger Company Chartered and Limited

(chartered by Britain to administer Nigeria until 1900) established Courts of Justice and an armed constabulary to enforce laws and regulations.

From 1861 to 1874, ten different courts were created, with only four devoted to criminal matters: the Supreme Court/Police Magistrate Court, the Court of Civil and Criminal Justice, the West African Court of Appeal (WACA), and The Privy Council (Elias, 1963). The laws enacted by the colonial legislative council were based on the laws, values, and customs of the English people. When the British government took over direct administration of Nigeria in 1900 from the Royal Niger Company Chartered and Limited, it retained all of its courts, laws, and regulations. The Criminal Code was originally introduced to the Protectorate of Northern Nigeria in 1904 by the Colonial Governor of the Northern Protectorate, Lord Lugard. It was modeled after a code that was introduced into the State of Queensland, Australia in 1899 by Britain. (The Queensland Criminal Code was based on a Criminal Code drafted in Jamaica by a British Criminal Law attorney, Sir James Fritzstephen, in 1878 (Arikpo, 1967; Oloyede, 1972)). After the uniting of the Southern Protectorates in 1906 and the subsequent uniting of the Southern Protectorates with the Protectorate of Northern Nigeria in 1914, Lord Lugard made the Criminal Code of 1904 applicable to all the Protectorates in Nigeria (Elias, 1954, 1963, 1967; Nwabueze, 1963; Okonkwo and Naish, 1964; and Adewoye, 1977).

In 1959, the Criminal Code which was used throughout Nigeria did not apply to Northern Nigeria. Throughout the Colonial era, the courts in the Northern region of Nigeria had lacked professionally trained personnel in criminal law. In addition, the British judges were uncertain how to deal with the Emirs in regard to various offenses and punishment under the Islamic (Maliki) Law. (The Emir is the Head of a group of Moslem counties. The Emirs are the traditional rulers of the Moslem areas). As a solution, a panel of jurists was set up to introduce a Penal Code that would take into account Moslem interests, values, and standards. Since Sudan was an Islamic State where the Muslim laws were similar to those of Northern Nigerian Moslems, the jurists modeled the Penal Code law after the Sudanese Penal Code (Nwabueze, 1963; Elias, 1967; Adewoye, 1977). The Northern Nigerian Penal Code law applies to all persons living in Northern Nigeria. Occasionally a non-Moslem is brought before a Muslim Court (Alkali Court), where Muslim laws are applied. Although the defendant may not know the illegality of an act in the Emirated, he/she must still stand before the Muslim Court Judge (Karibi-Whyte, 1964). (An Emirate is a Moslem country ruled by an Emir). The Northern Nigerian Penal Code, therefore, was introduced to account for the

differences between Muslim and non-Muslim laws, making the region's laws applicable to everyone.

The guiding principle under the Code's provisions was that since the majority of the people living in the region were Moslem, the Penal Code law should not be in conflict with the dictates of the Holy Koran (Elias, 1967). While the Nigerian Criminal Code was applicable to the whole of Nigeria in 1916, most criminal cases were still governed by "Native Law and Custom." This created problems, especially in Northern Nigeria because the Maliki Law contained many rules which were not acceptable under English Law (Okonkwo and Naish, 1964). (The offense of homicide, punishable by death, includes any assault ending in death, regardless of intent. In effect, the crime of manslaughter under the Nigerian Criminal Code is prosecuted as murder under the Maliki Law (Okonkwo and Naish, 1964))

Due to the confusion occurring in the administration of dual systems of criminal laws one by the British or Colonial courts which applied the Nigerian Criminal Code, and the other by the customary courts which applied Maliki Law, an attempt was made to abolish the customary law in 1933. However, the British administrators abandoned this idea, and instead introduced Section i0 of the Native Courts Ordinance which stated that the Native Courts could administer customary law provided that the punishment did not involve mutilation or torture and was "not repugnant to natural justice, equity, and good conscience" (Elias, 1963). Today, Nigeria uses a tripartite system of criminal law and justice: The Criminal Code (based on English Common Law and legal practice); the Penal Code (based on Maliki Law and a Muslim system of law and justice); and Customary Law (based on the customs and traditions of the people). In Southern Nigeria, the native laws are informal, unwritten agreements. In Northern Nigeria, laws are written. Nigeria achieved independence in 1960. Since then, both the Nigerian Criminal Code and the Northern Nigerian Penal Code have added many amendments to reflect the norms, values, and standards of the Nigerian people (Karibi-Whyte, 1964; Elias, 1972; Ebbe, 1985a).

One result of having the Nigerian Criminal Code based on the English Common Law tradition was the criminalization of some of the Nigerian customs. For example, Section 370 of the Nigerian Criminal Code prescribes a seven year prison sentence for any person who marries another while his/her marriage partner is still living. According to this section, "Bigamy is the contracting of a second marriage during the lifetime of one's "first" wife or husband. Section 35 of the Marriage Act declares such a second marriage as void, and there

[are] penalty provisions in Section 47 and 48 of the Marriage Act (Elias, 1954, 1972; Ebbe, 1985a). Such normative standards in Nigeria that were criminalized by the colonial administration have since been revoked. For example, in 1970, by decree, the bigamy law in Nigerian Criminal Law was declared null and void (Elias, 1972; Obilade, 1969; Ebbe, 1985a)).

The Nigerian criminal justice system was formed to protect the Europeans from the natives they were exploiting and oppressing. The British influence was strongest in police, courts, and prisons formation and administration. The British colonial establishment in Nigeria could have done better had they guided the country, including its legal and judicial systems, in a positive fashion. This would have meant adapting western civilization and the colonial heritage to African conditions and would have required an extraordinary effort and much creative thinking from the Nigerians which has the country where it is today.

3.1.2 Purpose of criminal Justice System

The purposes of criminal justice system are stated as follows

- To prevent the occurrence of crime
- To punish criminals
- To rehabilitate and reintegrate criminals
- To compensate the victims
- To ensure law and order is maintained
- To deter crime and criminal tendencies in the future

3.2 Major component of criminal Justice system and Functions of Criminal Justice system

This is derived from the High Court of a Western state. It has jurisdiction on questions relating to the interpretation of the State Constitution (Elias, 1972). The Sharia Court of Appeal was established in 1960 in the Northern states for the purpose of hearing appeals from customary courts where Moslem Personal Law was involved. Appeals for cases involving Moslem Personal Law are brought from an upper court to the Sharia Court of Appeal. Appeals from the decision of the Sharia Court of Appeal that concern questions of the interpretation of the Constitution of the Federation, or a state constitution, or questions involving the application of the provisions of the Constitution of the Federation relating to

fundamental rights, are brought to the Nigerian Supreme Court (Constitution of the Federation, 1963). State High Courts. The Court of Resolution of Northern Nigeria was established by the Court of Resolution Law, 1960.

This court was established in 1960 for the purpose of resolving any conflict of jurisdiction between the State High Court and the Sharia Court of Appeal. The decision of the Court of Resolution is final; there is no appeal (Northern Region Law Report 94, 1960; Court of Resolution Law, 1963). The Federal Constitution of 1954 empowered the Regional Legislatures to establish courts for their respective regions. It resulted in the regions establishing a High Court, Magistrates Courts, and Native or Customary Courts in 1955. When the regions were broken down into 30 states, every state was granted the power to establish its own courts in accordance with the Federal Constitution. Each State's High Court is a Superior Court of Record having original and appellate jurisdiction. In the Eastern states that have abolished customary courts, the High Courts of those states have original jurisdiction in land cases and matters arising under customary law. (The abolition of customary courts in those two states resulted from the Nigerian Civil War which destroyed most of the court buildings. No federal aid has been provided for their reactivation). There are different grades of Magistrates Courts from state to state, as well as different grades of magistrates. For instance, in the Northern states, the Customary Courts are known as Area Courts. There are four types of Area Courts: Upper Area Court, Area Court Grade I, Area Court Grade II, and Area Court Grade III. The Chief Justice of each Northern state establishes the

Area Courts. Appeals can be brought from an Area Court Grade I, II or III to the Upper Area Court that has jurisdiction in the geographic area where the Area Court is located. In cases involving Moslem Personal Law, appeals from Upper Area Court go to the Sharia Court of Appeal. For other cases, appeals from an Upper Area Court are brought to the State High Court. In Bendel State, all Customary Courts are now of the same grade. Customary Courts are established by the Chief Justice subject to the approval of the State Governor.

In the Western states, Customary Courts are graded as A, B, C, and D (Elias, 1972). Positioned under the customary courts are informal courts of elders and councils of elders who handle minor criminal offenses in areas located far from formalized courts and police stations.

Special Courts. Special Criminal Offense Tribunals. Some crimes are tried at special tribunals designed for handling specific offenses. These special tribunals are: The Armed Robbery and Firearms Tribunal (1970), The Currency Offenses Tribunal (1974), and The Illegal Drugs and Narcotics Tribunal (1986). The Nigerian government originally set up the Special Criminal Offense Tribunals in order to prevent offenders from escaping conviction because of legal loopholes or corrupt criminal justice agents, including attorneys. (At the end of the Nigerian Civil War, many hand-guns circulated throughout the country. This resulted in a high rate of armed robbery and firearms offenses. However, it was common for offenders to escape penalty because of deals made with the attorneys). Each one of the Special Criminal Offense Tribunals is composed of five to seven retired court judges, senior military officials, retired senior police officers, and retired senior civil servants. Most of these tribunal judges do not have law degrees. Today, the Tribunals are considered more effective in obtaining convictions than the regular criminal courts. The defendant is allowed to have a defense attorney although there is no formal prosecutor present at these cases. Rather, at the trial, the defendant and defense attorney face a panel of unbiased judges. Witnesses may be called by the defendant. A conviction is rendered only when the evidence proves that the accused committed the offense beyond a reasonable doubt.

Juvenile Court. After World War II, the juvenile courts were introduced by Britain into the Western, Eastern, and Northern regions. (The juvenile court in Nigeria is a product of British Colonial influence. Juvenile Courts did not exist in Nigeria until the 1940s. Before the end of World War II, the only juvenile court was located in the capital city of Lagos). The juvenile court was modeled after the British juvenile justice system. Today, the court is composed of a magistrate, a layman and a laywoman (Ebbe, 1988). 3. Judges. * Number of judges. The 1963 Constitution has provided for a Supreme Court presided over by the Chief Justice of Nigeria. It has also provided for at least five other judges to sit on the Federal Supreme Court. Presently, there are eight judges sitting on the Federal Supreme Court. The Western states' Court of Appeals consists of 5 justices: four justices of appeal and one justice acting as the President of the court. The Sharia Court of Appeal (Moslem Personal Law) consists of a Grand Kadi and at least two other judges well versed in the Sharia.

The Court of Resolution for each Northern state consists of the Chief Justice of the state (who acts as the President of the Court), the Grand Kadi, one judge of the High Court nominated by the Chief Justice, and one judge of the Sharia Court nominated by the Grand Kadi. Under the Constitutions of 1960, 1979, and 1991, the High Court of each state consists of the Chief

Justice of the state and at least 6 other judges (at least 5 in Lagos) as prescribed by the legislature. * Appointments and qualifications. The 1979 Constitution requires appointments to the Supreme Court to get the approval of both Houses of the Legislature. The judges are appointed by the President of Nigeria. The judges must be certified lawyers who have served as judges at the federal or state court levels for a minimum of ten years (Kasumu, 1978). The judges of the Federal High Court/Federal Court of Appeals are appointed by the President of Nigeria with the approval of the Senate. Ten years of experience on the bench is required before a lawyer is appointed judge to this court. The Chief Justice of the state High Court is appointed by the State Governor. The other judges are appointed in the same manner as the Chief Justice but the appointments have to be made in

accordance with the advice of the appropriate Judicial Service Commission. During the military regime (1966-1979), the Chief Justice of the Federal and each State High Court, as well as other court judges, were appointed by the Supreme Military Council after consultation with the Advisory Judicial Committee. During that time, the Nigerian Supreme Court was suspended and the Federal High Court was positioned as the highest court.

The judges for the Sharia Court of Appeal are appointed by the president after consultation with the Advisory Judicial Committee. The judges of all customary courts, including Sharia Courts, are all lay-judges with no formal legal training. The Public Service Commission of each state has the authority to appoint magistrates for the Magistrate Courts. The magistrates are all certified lawyers with at least five years of experience on the bench. The judges of the Area Courts in the Northern States are also appointed by the State's Public Service Commission. In some places like bendel, the Chief Justice is empowered to appoint persons as presidents or members of a Customary Court upon the recommendation of the Advisory Judicial Committee (Elias, 1972). With the abolition of the Judicial Service Commission, the Local Government Service Board is empowered to appoint, dismiss, and exercise disciplinary control over all members of Customary Courts. Previously, the Judicial Service Commission had been able to appoint the presidents of grade A and B Western state Customary Courts. In Islamic courts, the Emirs and persons versed in Islamic law serve as judges in criminal cases which involve the violation of Islamic tradition. In customary courts, traditional chiefs serve as judges in misdemeanor offenses and some cases that involve more serious offenses (e.g. larceny, theft, aggravated assault).

3.3 PENALTIES AND SENTENCING

i. Sentencing Process

* Who determines the sentence? The judge determines the sentence. * Is there a special sentencing hearing? There is no pre-sentencing hearing. If the suspect is found guilty of the offense, the magistrate or a State High Court judge can sentence an offender to prison on the same day that the case is tried. Only in rare cases will the judge or magistrate postpone sentencing.

* Which persons have input into the sentencing process?

Psychiatrists and social workers may be involved in pre-trial investigations and are involved in administering the penalty. However, psychiatrists, social workers, and victims do not have any influence or role in the sentencing process. 2. Types of Penalties. * Range of penalties. Persons found guilty of misdemeanor offenses may be fined, warned, granted probation, given corporal punishment or ordered to perform community service. Persons found guilty of felony offenses may be imprisoned either in a maximum security or medium security prison depending on the gravity of the offense. Offenders convicted of less serious felony offenses are sent to either a minimum security prison or a labor camp. In addition, house-arrest may be imposed on political dissidents. As there is no parole system in Nigeria, life imprisonment without parole is a viable punishment. The penalty for crimes brought to a Special Criminal Offense Tribunal is established by legislative decree.

The judges exercise very little discretionary power in the sentencing for these crimes. For a person convicted of any of these crimes (e.g. armed robbery, firearms, currency offense, and treason), the penalty is death by a firing-squad. It was only in November 1992 that the Nigerian Head of State, Ibrahim Babangida changed the death penalty sentence into life imprisonment for any person convicted of narcotics drug smuggling or possession. (Persons convicted of narcotic drug smuggling can not use the absence of a prior criminal record as a mitigating circumstance. The sentence for this crime is always life imprisonment). * Death penalty. Nigeria uses the death penalty for murder, armed robbery, treason, and currency offenses. Capital punishment is carried out publicly with the use of a firing squad.

3.4 PRISON

I. Description.

* Number of prisons and type

There are maximum, medium, and minimum-security prisons and some "open" prisons in many metropolitan cities of Nigeria. (Pre-colonial Nigeria did not employ prisons as penalties. Punishment took the form of fines, mutilation, castration, excommunication, lynching, and dedication to the gods, whereby the offender became an untouchable. The British Imperial Government introduced the prison system in Lagos between 1861-1900. By 1960, there was a prison in every provincial headquarters in Nigeria; some District Headquarters established minimum security prisons). The largest prison complex in Nigeria, which has both medium and maximum-security branches, is Kirikiri Prison, in Lagos (Igbinovia, 1984; Ebbe, 1982; Iwarimie-Jaja, 1989; Okediji and Okediji, 1968; Rotimi, 1982).

Number of prisons

Borstal homes are categorized as between a minimum and maximum security prison. Most offenders in these homes are young and have not committed very serious offenses). The only women's prison in Nigeria is located at Kirikiri, Lagos. It is a medium security prison and is located adjacent to the only maximum security prison in the country (Alemika, 1983; Igbinovia, 1984). In response to the severe economic problems of Nigeria and the over-crowding in Nigerian prisons, community-based corrections exist for offenders convicted of trivial crimes. These community-based programs include labor camps, open prison incarceration, and community service. * Number of prison beds.

* Average daily population/number of prisoners.

* Number of annual admissions. Information not available.

* Actual or estimated proportions of inmates incarcerated. There are no systematic records kept of Nigerian inmates by type of offense.

* The figure for violent crimes includes assault, manslaughter, murder, rape, and child stealing.

*The figure for property crimes includes stealing, robbery, stealing a domestic animal, motor theft, forgery, the buying and possession of stolen property, fraud, bribery and pickpocketing.

*The figure for other crimes includes wandering (loitering), conspiracy, smuggling, reckless driving, unlawful possession of a dangerous weapon, attempt to commit a felony, adultery, criminal damage of government property, failure to produce a bailed offender on the day of

the trial, escape from police custody, willfully living in Nigeria with an expired passport, and military offenses.

2. Administration.

* Administration. Nigeria has a centralized system of prison administration. In effect, every prison in Nigeria is a federal prison. Similar to the Nigerian Police Force, the Nigerian prisons fall under the authority of the Ministry of Internal Affairs, a department which is reminiscent of the Home Office in England. At the top of the organizational hierarchy of the Nigerian prisons is the Director of Prisons. He is appointed by the President of Nigeria only with approval of the Public Service Commission.

The overall chain of command in the Nigerian Prison Service, from the highest to the lowest, is the following: Director of Prisons, Deputy Director of Prisons, Assistant Director of Prisons, Chief Superintendent of Prisons, Superintendent of Prisons, Assistant Superintendent of Prisons, Cadet Superintendent of Prisons, Chief Warden Grade I, Chief Warden Grade II, Assistant Chief Warden, Sergeant, Corporal, and Warden (Nigerian Prisons Service Annual Report, 1982 and 1989). There is a Deputy Director of Prisons for each of the thirty states. The maximum security prison and every medium security prison are placed under the leadership of a Chief Superintendent of Prisons or a Superintendent of Prisons.

* Prison guards. Information not available. * Training and qualifications. Prison wardens must hold at least a First School Learning Certificate prior to their training. The minimum qualification for entrance into the prison cadet school is a high school diploma. In addition, university graduates have begun to join the Nigerian prisons service.

* Expenditure on the prison system. The annual expenditure of the Nigerian prison service was not available at the time of this writing. However, the salaries of the prison officials are among the lowest in the Nigerian civil service. 3. Prison Conditions.

* Remissions. Nigeria has no parole system. Persons convicted of political crimes and inmates serving a life sentence can be granted a pardon by the Nigerian President. Inmates can also gain time off for good behavior or lose time for bad conduct.

* Work/education. Inmates in all prisons are allowed to work on community programs or projects of the Nigerian Ministry of Works. They can also attend classes to obtain a primary

school or high school diploma. Some inmates are allowed to participate in correspondence programs with schools in Nigeria and Great Britain in order to obtain an ordinary or advanced General Certificate of Education. Prisons do not have organized university degree programs.

* Amenities/privileges. All prisons have visiting days. Only minimum security and open prisons have weekend leave programs. Vocational education is considered central to offender rehabilitation in maximum and medium security prisons. Group therapy and medical care is available to all prisoners.

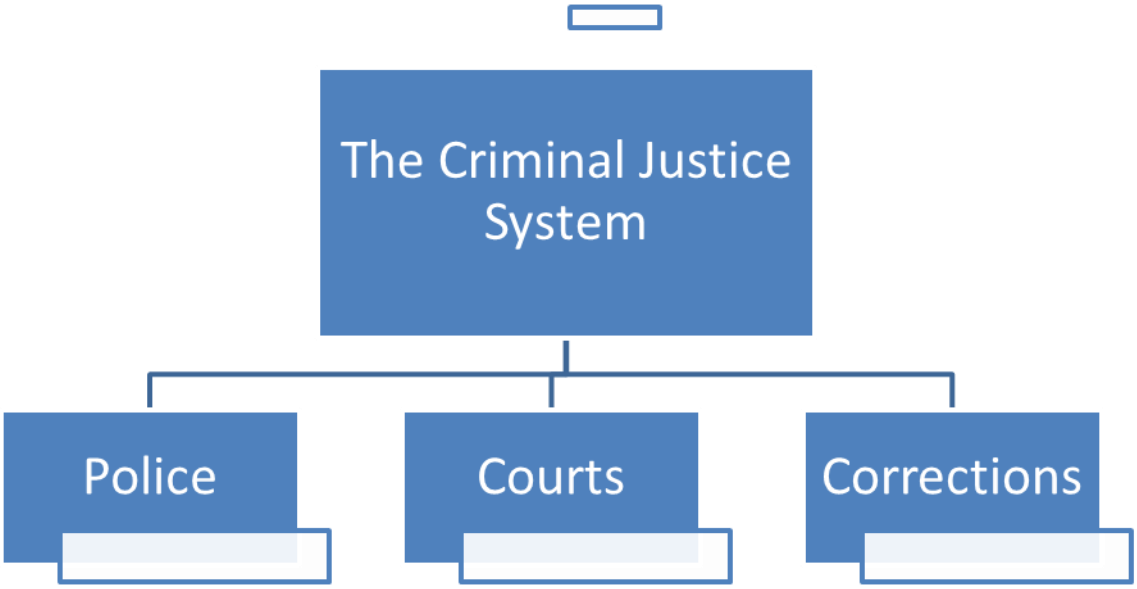
EXTRADITION AND TREATIES

* Extradition. The countries of the Economic Community of West African States (ECOWAS), of which Nigeria is a member, have a reciprocal extradition agreement. This agreement allows citizens of member states to move about within the Community without the need for visas.

* Exchange of prisoners. All ECOWAS countries can exchange or transfer prisoners if the situation warrants such a settlement.

* Specified conditions. Information not available.

The major components of the criminal justice system are the Police, Courts. And corrections



Label the above figure.

3.3 Functions of the criminal justice system

- Functions of the legislative Branch

  It Defines criminal behaviour

  It helps to establish penalties

  It passes laws governing criminal procedure

  Provides funding for criminal justice agencies
- Functions of the judicial Branch

  It process the offenders charged with crime

  It interprets the law and implements the processes in the system

  It administers the process by which criminal responsibility is determined
- Functions of the Executive Branch

  It carries out many acts of Government

  It holds the powers of appointment and pardons

  They lead processes to improve criminal justice

  It provides leadership for crime control

4.0 Conclusion

The criminal justice system is the core of law and order in any society and its key to collaborate and keep up with the citizens to ensure security and development with each recognising and taking his role for crime free society

5.0 Summary

In this Unit, you have learnt about the clarification of concepts and the Evolution, fundamental principles of criminal justice system and the Structure of criminal justice system with the branches which aid crime control and security in the society. The views the theories of criminal law/CJS has its intent in explaining these process and challenges that comes of it.

6.0 Tutor-Marked Assignments

1. Discuss the purpose and functions of the criminal Justice system

2. Give a historical review of the criminal justice system

7.0 Reference/further reading

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UNIT 2: Evolution and Structure of the Criminal Justice System

CONTENTS

1.0 Introduction

The first and good quality of all human and social institutions, likewise all laws, their establishments and maintenance/regulation would have to be transformed if they fail to dispense justice and it is so for every state and society that cherishes sustainable peace, order and prosperity (Rwals, 2008:3). This is the fact of all societies and in any stable society, justice is not bargained or left to the dictates of social interests.

The Nigerian justice system comprises of the Police which serves as the main law enforcement agent, the Courts, which is an institution for adjudication, arbitration and punishing offenders and Prisons, which are basically state centres established for punishment, correction and keeping in custody those being accused or convicted of various offenses.

The Nigeria Police Force established by Section 214 of the 1999 Constitution of Nigeria is the most strategic public law enforcement agency but is today faced with several and complicated problems which have characteristically undermined all its institutional performance and the Nigerian justice system.

The Courts also established by Sections (6 [1-3], 230-294) of the 1999 Constitution of the Federal Republic Nigeria as the only state institution with hierarchy, jurisdictions and constitutional powers to try and convict the citizens for various offences against the also in turbulence because of problems related to abuse of office, corruption and incompetence with overall negative effects on the justice system; and the Prisons, which are established as punishment and correction centres

2.0 Objectives

The main objective of this unit is to give a preview of evolution of the criminal justice system so the students can understand the change in structures and principles of the criminal justice system

3.0 Police

3.1 Definition of Police

The word ‘politia’ goes back to the Greek word polis, or “city”. Etymologically, therefore, the police can be seen as those involved in the administration of a city. Politia became the French word police. The English took it over and at first continued to use it to mean civil administration. The specific application of police to the administration of public order emerged in France in the early 18th century. The first body of public order officers to be named police in England was the marine police, a force established in 1798 to protect merchandise in the port of London. It is worthy of note that the reference to the police as a “civil authority” is very important. The police represent the civil power of government as opposed to the military power.

3.1.2 Policing Pre-Colonial Nigeria

The pre-colonial system of policing in the northern and western Nigeria was based on the system of administration which was centralised and formalised. In the Hausa states of the north, for example, the dogarai ho were the bodyguards of the Sarki (Emir or King) performed full time policing function in the community. The Sarkiri dogarai was the head of this traditional policing organisation. The duty of the dogarai included the capture and discipline of offenders, and to guard the town together with warders. Most importantly however the dogarai performed the duty of preventing crime through detective and bringing into judgment the criminal after a crime had been committed... also executed the commands of justice. The duties of the dogarai was not therefore limited to crime prevention and control, but included the punishment of the offender. In addition, they were also responsible for collecting taxes on behalf of the sarki, and traffic control.

The history of the Sayfaw dynasty in Kanem Borno in the north-east pre-colonial Nigeria has shown that the Talba, who was the judge in mai’s (King’s) court, was in addition the head of police affairs. In the Yoruba kingdoms of western Nigeria, the Ilari emesi , depending on which part of the western kingdoms were responsible for apprehending or arresting criminals and also like the dogarai, they executed the commands of justice.

3.1.3 Colonial Era

In 1861, the British started to colonize the different societies that presently constitute Nigeria, beginning with Lagos. By 1903, the British colonizers have succeeded in colonizing all the nearly four hundred nationalities in thecountry2. The colonizers executed the colonial project employing violence and fraud or deceits. Three important historical issues are relevant to the understanding of the development of police forces and police – public relations in Nigeria. First, colonial conquest of Nigerian nationalities took place piecemeal over a long period (1861-1903).Nigeria's constituent nationalities were conquered at different period. As a nationality is conquered British colonial presence is established by establishing a police force for the territory.

Second, violence and fraud were employed in the conquest of the nationalities. Consequently, the colonizer feared resistance and police forces under various names were established and employed as instrument of violence and oppression against the indigenous population. Third, given the character of colonial rule, police forces were the instrument used to sustain the alien domination. The colonial police were not accountable to the colonized but to the colonizers. From the inception of colonial rule in Nigeria in 1861 when Lagos was colonized to 1930, several police forces were established for the Lagos Colony, the Niger Coast, Northern and Southern Protectorates. Native Authorities and Local Governments police forces were also established, especially from 1916 onwards, under the control of the traditional rulers in the Northern and Western parts of the country. The establishment of police forces in colonial Nigeria also reflected administrative policy and concerns. Under the indirect rule system that was adopted as a means of reducing the cost of running the colonial bureaucracy, local police forces under the control of traditional rulers were established in the western and northern parts of the territory where centralized traditional institutions existed. For instance, after the conquest and colonization of the Yoruba Kingdoms in the West and the Emirates in the North, the colonial administration recognized their traditional framework and personnel for policing that revolved around the feudal rulers. According to Tamuno: The police powers given to the Native Authorities after the 1914 amalgamation were therefore of greater relevance to Western and Northern Nigeria than to the south-eastern parts of Nigeria. As Native Authorities, the Chiefs had their police powers extended and consolidated under the laws of 1916 and1924. The Native Authority Ordinance (No. 4 of 1916) conferred on the Native Authorities the responsibility for maintaining order in their respective areas. Under it, they were allowed to prevent crime and arrest offenders by employing 'any person' to assist them in carrying out their police duties. Their police powers were increased under the

Protectorate Laws (Enforcement) Ordinance (no. 15 of 1924)4.Under these laws, and over the time, 'palace messengers' the akodas - of the Yoruba kings were recognized and reformed as olopas, while in the Emirates of the North, the palace dogarai also were recognized and reformed asyan/dan doka. In both cases, these traditional 'police' constituted the nucleus of local police forces of the colonialera5.

Apart from the local (Native Authority) police forces, the colonial government established Protectorate wide police forces, for example, the Northern and Southern Police Forces (1900 - 1930). Constabularies were also established during the last quarter of nineteenth century6. In 1930, the Nigeria Police Force was established by merging the Northern and Southern Nigeria Police Forces. In the early 1900s, the colonizers began to consolidate the various police forces. This led to the reorganization of the various Forces into two major Police Forces during the period.

These were the Northern Nigeria Police Force and Southern Nigeria Police Force, which respectively came into effect with the proclamation of Northern Nigeria Protectorate in Lokoja on January 1, 1900 and the proclamation of the Colony and Protectorate of Southern Nigeria also in 1900. These two Forces were amalgamated as the Nigeria Police Force in 1930, with jurisdiction over the entire country. This marked the beginning of a national police force in the territory. Studies on the evolution and the role of colonial police in the country found that the police forces established by the colonialists in various parts of the country at different times between 1861 and 1960 were organized and deployed as occupation force to suppress the indigenous Nigerian peoples as the colonizers exploited their resources to develop their own countries. Between 1930 and 1966 the Nigeria Police Force coexisted with local administration police forces in Local Government Areas in Western Nigeria and the Native Authorities in Northern Nigeria. The primary purpose ofthe colonial police forces during the colonial era was to protect newly acquired territories by the British imperialist power against indigenous popular revolt against oppression and exploitation8. The character of colonial policing was succinctly by Onoge as follows: According to Onoge (1993, p.178): through armed mobile patrols, raids, arrests and detention, the colonial police protected the colonial economy by policing labour. Through the enforcement of unpopular direct taxation, the raiding of labour camps, and the violent suppression of strikes, the police ensured the creation, supply and discipline of the proletarian labour force required by colonial capitalism. The police enforce the criminalization of lucrative indigenous industries like the manufacture

of alcohol and traditional trading patterns across national borders in order to protect the colonial economy from competition.

The police in the consciousness of the people became the symbol of the dictatorial establishment rather than the protector of the people's rights. As the people had no checks over the arbitrariness of the police, they either avoided "police trouble" or mediated inevitable contacts with bribe offerings. During the colonial period, police fright was a feature of popular consciousness.

The public regarded members of the colonial police forces as dishonourable and treacherous persons.In Nigeria, members of various colonial police and armed forces were accused of 'looting, stealing and generally taking advantage of their positions"10. Rather than keep peace for the community they ''turned themselves loose upon thepeople, filling up the role vacated by kidnappers, and rioters marauders and free booters."

3.1.4 Police in Post-Colonial Nigeria

The 1960 constitution established the Nigeria Police Force as a Federal Force charged with the responsibility for maintenance of law and order throughout Nigeria. However, the constitution did not prevent the Regions from establishing their own Local Police Force. Nigeria gained independence in 1960. After the country attained independence, the indigenous political rulers did not restructure the exploitative economic system and the repressive political relations that they inherited from the colonialists. As a result, the indigenous political rulers merely replaced the colonial oppressors and exploiters, without any fundamental positive changes in the life-chances and existential conditions of the citizens, and in the operations of governmental institutions, including the police and other organs of criminal justice and security administration. Post-colonial Nigerian nation has witnessed tremendous growth of institutions and infrastructure. However, it has also witnessed pervasive political conflicts and instability, growing inequalities of wealth due largely to official corruption, widespread poverty, protracted military rule, and serious violent and economic crimes. These and other socio-political and economic problems precipitated protests and demonstrations against government policies by various groups. Sometimes, the protests turn violent because the organizers were unable to sustain non-violent demonstration or due to repressive intervention by the police. The relationships between the students, labour unions and other groups of activists were often strained because of encounters during protests and demonstrations. Until 1966, the local police forces in Northern and Western Nigeria

coexisted with the federal police force Nigeria Police Force. The local forces were disbanded as recommended by a panel set up in 1966 by the military regime of JTU Aguiyi Ironsi. The Committee or Working Party was requested to consider the desirability of dual (local and National) or centralized (unified) police and prisons service. The Committee submitted its report to the military regime led by General Gowon (that succeeded Ironsi regime overthrown in July 1966) and recommended the abolition of local police forces and prison services. According to the Committee, the local police forces were poorly trained, corrupt and used for partisan political purposes, including the repression of opponents, by traditional rulers and politicians in Northern Nigeria as well as by political parties and governments in power in the Northern and Western Regions.

Hence the North coned retain the native authority police and the west, the local governing authority police. The command of the Nigeria Police Force was under the Inspector- General of Police while those of the regions were under the command of Commissioners of Police. The 1960 constitution also set out two bodies, the Police Council and the Police Service Commission. By section 101 of the 1960 constitution, the Police Council shall be responsible for the organisation and administration of the Nigeria Police Force and all matters relating thereto (not being matters relating to the use and operational control of the force or the appointment, disciplinary control and dismissal of members of the Force. The dual system of policing involving multiplicity of local forces and a national police force continued until 1966. But it became one of the earliest victims of military rule in the country.

The first military coup occurred on 15 January 1966. Major-General J. T. U. Aguyi-Ironsi emerged as the Head of the Military Government. In March 1966, Major-General Aguyi-Ironsi empanelled a working party on Nigeria Police, Local Government and Native Authority and Police and Prisons, to examine among other issues, “the feasibility of the unification of the Nigeria Police, Local Government Police and the unification of Prisons in Nigeria. On the death of Major-General J. T. U. Aguyi-Ironsi, the Federal Military Government, under General Gowon accepted the recommendation of the working party that the Nigeria police system be unified. This led to the dissolution of the local police forces. The dissolution of the local police forces was anchored on several points. The members of the local police forces were ill-qualified, poorly trained and poorly behaved, and constituted an instrument of oppression in the hands of traditional rulers, local governments and politicians.

The experience of the Nigeria Police Force under the military rule may be characterized as sweet from 1966 -1979 and bitter from 1983-1999. The military rule under General Gowon (1967-1975) may indeed be viewed as the sweetest period of police-military collaboration in governance. During the first period (1966-1979), the police were co-opted into governance by the military as state governors and members of the national ruing council. More importantly, the police were respected as partners by the military rulers. However, during the second period (1983-1999), the police lost its high profile and prominence in government, although it continued to be incorporated as junior partner as state governors.

However, the Force as an organization was neglected in terms of funding and equipping. This was attributed to the fear of the military that a strong police force may constitute a threat to the Armed Forces, especially by acting as a counterforce during military coups. Instead of equipping the police to serve as the primary tool for promoting and protecting internal security, the military governments resorted to establishing special task forces with army and police personnel. Each unit of such was led by a soldier, often junior in rank to the police on the task force. This demonstrated the subordinate role assigned to the police. In the 1990s, recruitment and promotion in the police force were largely suspended by the military government. This resulted in shortage of personnel. It also led to non-replacement of many retired specialized officers. This led to shortage of some critical personnel and ineffectiveness of the force in some aspects of its functions.

One of the negative impacts of military rule on the development of the Nigeria Police Force was the abolition of the Police Service Commission almost throughout the duration of military rule. The Police Service Commission is responsible for the appointment, promotion and discipline of members of the Nigeria Police Force, other than the Inspector-General of Police. Its long absence, therefore, affected effective human resources management in the Nigeria Police Force during the period, the impact of which is still felt eleven years after military rule.

3.1.5 Institutional Constraints of the Nigerian Police

Policing in Nigeria is also beset by several institutional problems that undermine the effectiveness and legitimacy of the Nigeria Police Force. They include:

a. Police Organization and Management - Organization and management of police forces in terms of vertical and horizontal decentralization and coordination of

authority have implications for police behaviours, performance and image. The nature of rules of policing established by a police force, adherence to these rules, rewards or punishment for compliance or non-compliance influence police discipline, integrity, effectiveness, performance and legitimacy, including public estimation and support. The Nigeria Police Force needs to do a lot more in developing its organizational and managerial capacity to meet demands and challenges of policing in the country.

b. Police Personnel Management -The rules and provisions for recruitment, training, deployment, remuneration, promotion, discipline, and pension and retirement affect police discipline, performance and image. In Nigeria, these aspects are not given adequate and continuous attention. Supervision and coordination are generally lacking. Corruption, partisan and parochial considerations have contaminated the process and decisions relating to recruitment, deployment and promotion in the Nigeria Police Force, there by dampening motivation and commitment to excellence, sacrifice and integrity in police-work. But a particularly healthy development that indicates an emerging new Nigeria police is the increasing number of highly qualified people in the police force and who are gradually being given leadership position.

   If properly nurtured, this may in fact be an important factor in the development of a new Nigeria police that is inharmony with the community it serves. But the anti-intellectualism and anti-rationality that have long be enembedded in the country's police forces may still extinguish the new light, if the Police service Commission and the police leadership fail to nurture the positive development.

c. Information Management -The ability of a police force to manage information relating to socio-economic and political trends and to relate such information to the trend, pattern and severity of crimes will determine its capacity to plan and implement crime prevention and crime control policies, strategic plans and operations. Furthermore, the ability of a force to disseminate appropriate information about crime patterns and trends, police efforts and handicaps at promoting crime prevention and control will affect police-public relations, public support for police as well as police efficiency. The Nigeria Police Force has continued to neglect this critical area, resulting in operational strategies being dependent on guesses instead of science or systematically produced and acquired knowledge

d. Personality of Police Personnel -The personality of a police officer exercises influence on his or her behaviour, performance and relationship with the public. This is the reason why in many societies, potential recruits are subjected to a battery of psychological and other tests with a view to determining their emotional stability and social relation competence. The Police Service Commission and the Nigeria Police Force need to review the recruitment process in order to ensure that only those that can meet the challenges of police work in Nigeria, at present and in the near future are recruited. It will be a waste to recruit an individual who do not possess adequate academic qualification, strong emotional and moral qualities and a patriotic commitment to Nigeria, in an age or era characterized by computer crimes, sophisticated and technology assisted financial crimes, piracy, terrorism and espionage.

e. Police Culture -A constellation of structural, institutional and personality factors create what has been variously referred to as police culture. Police 'working personality' and culture result from the elements of police-work - danger, authority and isolation. Police-work breeds solidarity and occupational pathology characterised by 'perceptions of the public as uncooperative, unsupportive and antagonistic toward the police'. In Nigeria, this engenders a tendency by the police to protect each other's criminality and misconducts, As a result, the integrity of the police is undermined and a culture of impunity is there by entrenched.

These institutional problems are critical to the attainment and sustenance of an effective police force and deserve serious consideration and attention by the government and police leadership. Crises of the Police in Contemporary Nigeria. The structural and institutional constraints enumerated above have engendered crisis for the police in the areas of performance, integrity and accountability and legitimacy as discussed below. Crisis of Performance Nigeria police performance is unsatisfactory. The police are ineffective and inefficient in their job of prevention of crime, criminal investigation, apprehension of crime perpetrators and response to distress calls by citizens. The poor performance is due to several factors, but mainly inadequate personnel in terms of quality, quantity and competence at various ranks; poor training and conditions of service; lack of public co-operation; grossly inadequate logistic(especially transportation, telecommunication, arms and ammunition, etc.); poor remuneration and lack of welfare programmes.

There is need for better training to reflect the functions and demands of the force. Further, there is also need for the training of the NCOs and Officers to improve their management capacity to properly administer limited or scarce human and material resources for satisfactory performance. Crisis of Integrity and Accountability The crisis of integrity and accountability manifests in terms of police corruption, police incivility and brutality, and police-public antagonism. As a result of its colonial history and protracted military rule, the Nigerian police have not developed the culture of accountability to the public or citizens. The Force has been severally criticized for its brutality, corruption, extortion, incivility, extra-judicial killings and impunity.

The officers need to be properly trained and oriented to the value of democratic accountability, respect for human rights, observance of rule of law civility, and public assistance. In addition, erring officers should be promptly and fairly dealt with as deterrence to the officer and his/her colleagues.

Police Corruption

Police corruption has been defined as "... the misuse of authority by a police officer in a manner designed to produce personal gain for himself or for others". Forms or types of police corruption include:

improper political influence; acceptance of gratuities or bribes in exchange for nonenforcement of laws, ...particularly those relating to gambling, prostitution and liquor offences, which are often extensively interconnected with organized crime; the fixing of traffic tickets; minor thefts; and occasional burglaries.

Corruption by police is a worldwide phenomenon as criminological researches have shown. However, the extent, types and pattern of police corruption vary across societies, reflecting the wider social, economic and political structures of individual nations. Police corruption has been a serious concern to the police authority in Nigeria, which routinely purges the force of known corrupt officers. But, because of the country's political and economic environment as well as institutional inadequacies, police corruption has persisted on a wide scale at all levels of police functions.

While corruption is endemic in all segments of the Nigerian society, it is particularly objectionable among the police because it is their occupational responsibility to prevent and

work at its elimination and not to be responsible for its spread, entrenchment and legitimation as a norm of social and official interactions.20Police forces must deal sternly with corruption. While inadequacies of infrastructure and under-funding contribute to the extent and public perception of police corruption in the country, these cannot justify the disgraceful leprous hand shakes between commercial vehicle drivers and police officers at check-points. The insinuation that a portion of the extorted money from such handshakes is 'remitted upwards" to senior officers is particularly worrisome. This form of corruption has caused grave damage to the public perception and estimation of individual police officers and the entire police force.

3.2 Courts

In 1999 the 36 states that make up the Federal Republic of Nigeria united to ratify a Constitution which gave distinct powers and guidelines to the executive, legislative and judicial branches of government. The document was also responsible for establishing the Federal Judicial Service Commission and bestowing responsibilities and duties upon them.

Many of the laws that govern the Nigerian Judiciary are based on the concepts created by the British Commonwealth. The British government operates under a Common Law system, and the writers of the Nigerian Constitution kept these regulations in mind and adopted them to benefit our great Federation. More recent laws have been taken on from modern English legislation on both a Federal and State level. In addition, much of the hierarchy of the Nigerian court system is also based on the concepts that have been put to use in England.

Since 1999 the judicial system in Nigeria has continued to grow and improve. Statutes that originated in lower courts have been made into Federal law to ensure that our judicial system is as effective and comprehensive as possible. Judicial precedents are studied and debated to help create new laws to govern each state and our nation. Before a local law can become a federal law, the Supreme Court of Nigeria must first ratify any new regulation and make it an official part of the federal legislation.

Nigeria's court system begins with various local and district courts; continues with appellate and high courts; and culminates with the Supreme Court of Nigeria. All other courts must adhere to the rulings that are administered by the Nigerian Supreme Court, and no other judicial body has the power to overturn their decisions. Read more about the court system of Nigeria here. The Nigerian government has a proud and strong judicial system. It is regularly

expanded and amended to ensure proper governance and justice for all of the people of Nigeria. Thank you for visiting the website of the Federal Judicial Service Commission.

Court, also called court of law, a person or body of persons having judicial authority to hear and resolve disputes in civil, criminal, ecclesiastical, or military cases. The word *court*, which originally meant simply an enclosed place, also denotes the chamber, hall, building, or other place where judicial proceedings are held.

3.2.1 History of Nigerian Judiciary

The Nigerian Judiciary has had a history of 4 distinct eras namely, the period before 1842, 1845-1912, 1914 to 1953 and 1954 to date. Before the advert of the Europeans, the various indigenous people of Nigeria had difficult methods of dispute resolution mechanism. Among the Yoruba and Ibo, the system resolved around their traditional institutions. It was fashionable among the Yoruba to refer contentious matters to the head of the family. If he could not settle the dispute, the matter was taken to the head of the compound until a solution could be found up to the Oba. Similarly systems existed among the Ibo. In the North, there was a bit of formalization as founded on the Islamic legal system, the Sharia. There was an elaborate system of court systems, the hub of which was the Alkali system. The Emir was the ultimate appellate judge. After 1842, the power to administer and dispense justice in Nigeria was mainly vested in native courts.

These courts in dispensing justice, fashioned out systems of taxation, civil laws and procedure, penal law and sentencing policies including death sentence. It should be noted that these Native Courts are the forerunners of the present Customary Area and Sharia Courts. With the advert of the colonialists in the Southern part of Nigeria between 1843-1913, the British through a combination of Foreign Jurisdiction Act of 1843 and 1893 established law under which various courts were set up. In 1854, the earliest courts called the Courts of Equity were established by the British in the Southern parts of Nigeria particularly Brass, Benin, Okrika and Opobo. The principal agents of trading firms, consular or other administrative officers constituted this court of equity they acted as the judges. Simultaneous in exercise with the courts of equity and consular courts were courts that were established by the Royal Niger Company. By a Royal Charter granted in 18886 the company had the power to govern and administer justice in its areas of operations, until the Charter was revoked in 1899. Despite the establishment of British Courts, native courts were still allowed to function, in so far as the native law and custom they administered were not repugnant to natural justice,

equity and good conscience. In 1863, by Ordinance No 11 of 1863, the Supreme Court of Lagos was established, it had both civil and criminal jurisdiction. In 1900, via the Supreme Court Proclamation Order No. 6, a Supreme Court was established for the Southern Nigerian protectorate. The Court exercised same powers and jurisdictions as were vested in Her Majesty's High Court of Justice in England.

The common law, the doctrines of equity and status of general application in England were to be administered in the court in so far as local circumstances permitted. Before 1892, Sharia Law in all its ramification was operative in most parts of Northern Nigeria. By the Northern Nigeria Order in Council of 1899, the British Crown claimed that by treaty, grant, usage, sufferance and other lawful means, Her Majesty had power and jurisdiction in the Northern territory. In 1901, Sir Henry Gollan was appointed as the Chief Justice of Northern Nigeria. In 1899, the Northern Nigerian Order in Council 1899 gave the Commissioner of the protectorate of Northern Nigerian the power to provide for the administration of justice in that protectorate. By virtue of that order, the High Commissioner issued the Protectorate Courts Proclamation of 1900, which established a Supreme Court, Provincial Court and Cantonment or Magistrate Courts.

The High Commissioner also issued the Native Courts Proclamation Order of 1900, which established a new system of Native Courts for the territory. The Native Courts were presided over by an Alkali, the higher grade called Judicial Council was presided over by an Emir. This arrangement endured until 1914 when the Northern and Southern Protectorate of Nigeria were amalgamated, Provincial Courts were abolished and in its place were established High courts which consisted of Chief Judges, Judges and assistant Judges. Below these High Courts were Magistrate Courts. Native Courts will remain at the bottom of the judicial hierarchy. The Supreme Court exercised appellate jurisdiction over the High Courts. Between 1934 and 1954 appeals from the Supreme Court went to the West

African Court of Appeal. Appeals from the West African Court of Appeal went to the Privy Council. However from 1954, appeals from the Supreme Court of Nigeria went directly to the Privy Council. In 1954, a Federal Supreme Court was established and was presided over by a Chief Justice of the Federation, Nigeria then consisted of regions, each region then has a High Court presided over by a Chief Justice Appeals from each of the High Court of the regions laid to the Federal Supreme Court. While appeals from Magistrate Courts, Customary or Native Courts Grade A went to the regional High Courts. In 1967, Nigeria became a

Federation of 12 States each with its own state judiciary. In the same year, the Western State via the Court of Appeal Edict, No 15 of 1969 established a Regional Court of Appeal. In the Western State, the Supreme Court ceased to have directed jurisdiction to hear and determine appeals in any matter from the high Court of the state (including appeals in any proceeding pending in any court in the State) except in any case in which noticed of appeal to the Supreme Court had been filled 1st June 1967. In order to meet the need for cases, involving the revenue of the Federal Government to be expeditiously determined, the Federal Revenue Court was established by the Federal Revenue Court Decree No 13 of 1975. In 1970, 19 states were created in 1976 via the Constitution (Amendment No 2) Decree No 42 of 1976. Its function among others was to hear and determine appeals from the State High Courts. The law setting up the Western court of Appeal was replaced. Presently under the 1999 Constitution, the Courts recognized as constituting the judiciary are theSupreme Court, the Court of Appeal, the Federal

High Court, the High Court of the Federal Capital Territory Abuja, the Customary Court of Appeal, Abuja, the States High Courts, the Sharia Court of Appeal of the States and the Customary Court of Appeal of the states. These courts are vested with the functions or duties of dispensing justice, in accordance with jurisdiction vested in them. It should be noted that the establishment of a Sharia Court of Appeal or Customary Court of Appeal by a state is optional. Against this historical background of the Nigerian Judiciary, I now proceed to deal with the subject matter of the topic that is, an ideal Nigerian Judiciary in the present millennium. As mentioned earlier, Judges, Lawyers, the Government and the public at large all have roles to play in ensuring the attainment of an ideal judiciary in this present millennium. To this end the part to be played by each of those mentioned will be outlined and explained. The realization of an ideal judiciary is not an issue that can be left to any segment of the Nigerian society, it is a collective that should be strived to attain. ROLE OF JUDGES For the realization of an ideal judiciary, the judiciary should be composed of judges who posses or exhibit some of the under listed qualities: A sound of knowledge of the law: judges by the nature of their job are confronted on daily basis with diverse legal issues and problems which could be intellectual propensity, as well as a sound mastery of the law in order to cope with the ever-changing situations of law. A judge who lacks the required level of intellectual capacity will find it pretty tough coping on the job. An ignorant judge is the death not only of the law but of the society.

Justinian the great Roman Jurist in his institute sums it up in the following words. "The ignorance of the judge is the calamity of the innocent, for a judge who is not up to date in his law can ruin a party, by giving him a wrong judgement, which unless he has the means to appeal the case to the highest court in the land, may perpetuate injustice". A judge must not only be learned in the law, he must know a bit of every topic. He should be a master of the arts, the sciences and other branches of knowledge. He should be knowledgeable in the rudiments of accounting, book keeping and on matters of day-to-day affairs of modern business. In short, he must be a streetwise person, a man of the world and an encyclopaedia of human behaviour and action. Be humane and Exhibit patience In time past, lawyers have been known to muddle up clients cases not because of their professional ineptitude but due to the fear of incurring the wrath of judges when conducting the case of their clients. In some circles of lawyers, the fear of certain judges is the beginning of wisdom. With respect some judges do not condone any form of mistake from lawyers no matter how slight or trifle. An ideal judge of the new millennium should possess the following attributes as postulated by Socrates the ancient Greek Philosopher: (a) he should hear courteously (b) answer wisely

(c) consider soberly (d) decide impartially A judge that shouts and abuses lawyers and litigants is not only a disservice to the bench but also to humanity. We all know that respect is reciprocal. If a judge abuses a lawyer he can be sure that he may be paid back in kind. We are all witnesses to many rancorous scenes in the courtrooms. Such untoward events tend to bring the authority of the bench into dispute. A talkative judge will in all probability end up receiving strictures from the appellate Courts as it happened to the trail judge in AKINFE VS the State. One is regaled on a daily basis with stories of negative happenings in our courtrooms between judges and lawyers. The recurring accusation of bias against many judges is usually as a result of the descent of such judges into the arena of litigation. A judge that descends into the arena of legal battle cannot but have his vision blurred and possibly have his nose bloodied. Bold, upright, honest, truthful and hardworking An ideal judge of this millennium should be one who is truthful, honest and willing to risk censure for his conviction. A judge should be serious minded, but not bad tempered. He must not do anything that will bring him disrepute. An ideal judge for this millennium must be in his official at fixed times, he must sit promptly, he must be impartial and must not listen to one side of a dispute without the other person involved being present. An ideal judge must also possess exemplary character and judicial decorum that is, patience, courtesy, good manners,

and he must be imbued with integrity, humility, impartiality and a good conscience with the fear of God.

The incorruptibility of a judge is a commodity that should not be taken for granted. A corrupt judge is the worse specimen of creation. Corruption in any form should be shunned and should be an anathema to a judge. Humility is not a sign of weakness, and arrogance is not a sign of power. A judge that is arrogant, disdainful and haughty will soon know that he is not worthy of the call to the bench. Indolence, tardiness and lack of seriousness are things a judge should abhor like the plague. The tradition of the bench is that sitting starts at 9.00a.m. A judge that comes late to the court has a duty to apologize to the counsel in court for lateness. It is now a common occurrence to hear that some judges sit from 11.00am upwards. Punctuality is the soul of business, especially a serious business like what happens in the hallowed portals of a court of law. A judge should not be too sensitive to issues concerning his person. He should strive to protect the institution he represents rather than his personality. The power to punish for contempt should be sparingly used. Power that is not exercises has much value than one arbitrarily exercised. A judge should be bold and courageous especially in the face of tyranny. The exemplary example of the Supreme Court in the cases of Lakanni vs A. G. West and Gov. of Lagos State vs Ojukwu are very commendable. To hold the Rule of Law A judge that pays lip services to the rule of law will discover sooner than later that he has no profession to practice. The rule of law demands equality before the law, therefore there should not be "Kabiyesi" syndrome on the bench. The law

is no respecter of anyone or institution. The rule of law also connotes that things should be done in accordance with the law, not on the whims and caprices of any person. Our judges have the bounden duty to help uphold this tenet of the rule of law. The rule of law also means that no one will be damned without a hearing nor will one person be a judge in his cause. Partiality, favouritism and sentiment should have no place in the judiciary of the new millennium. Judge should scrupulously insist that Court orders should be obeyed and sanctified by all. Selective justice is no justice. There should be harmony between law and justice. Justice should be done in accordance with the law. The application and interpretation of law should be even handed as between the powerful and the powerless, the rich and the poor, the affluent and the humble. The power to grant ex-parte orders should be watched and exercised with circumspection. Over Socialization: the nature of the job of the Judge makes him a social outcast of some sort. While he should not become a hermit because he is a judge, he should also not become a disc jockey or a man about town. He should be reserved, without

becoming self effacing, he should be modest without becoming a social outcast, and he should be friendly without becoming a jester. He must watch the circle of his friends. A judge that patronizes nightclubs or such other organizations is an easy target for blackmailers and other social miscreants. The judge of the new millennium should strive to strike a balance between the various contending social issues and problem of the society. Computer Literate: we are now in the world of Information

Technology (IT) especially the personal computer (PC). The judge of this millennium must have more than a smarting knowledge of computer. He should be well schooled in the art of e-mail, Internet and the cyberspace generally. The immediate past was the age of technology; the new one is one of information technology. A judge that is not computer literate may find out rather too soon that he will be a misfit at any international for a of jurists. The judge of the new millennium must be able to access a computer and carry out simple operations thereon. From the foregoing, an ideal judiciary of the new millennium should be composed of judges who have a sound mastery of the law, who are humane and patient and in addition who are upright, honest, truthful, diligent, and hardworking, who keep their oath of office strictly and are computer literate.

3.2.2 Functions of Courts

The primary function of any court system to help keep domestic peace is so obvious that it is rarely considered or mentioned. If there were no institution that was accepted by the citizens of a society as an impartial and authoritative judge of whether a person had committed a crime and, if so, what type of punishment should be meted out, vigilantes offended by the person's conduct might well take the law into their own hands and proceed to punish the alleged miscreant according to their uncontrolled discretion. If no agency were empowered to decide private disputes impartially and authoritatively, people would have to settle their disputes by themselves, with power rather than legitimate authority likely being the basis of such decisions. Such a system might easily degenerate into anarchy. Not even a primitive society could survive under such conditions. Thus, in this most basic sense, courts constitute an essential element of society's machinery for keeping peace.

3.2.3 The structure and Jurisdiction of Nigerian Courts

What is jurisdiction?

Jurisdiction is "a court's power to decide a case or issue a decree"

"Rules of Jurisdiction in a sense speak from a position outside the court system and prescribe the authority of the courts within the system. They are, to a large extent, constitutional rules. The provisions of the U.S. Constitution specify the outer limits of the subject-matter jurisdiction of the federal courts and authorize Congress within those limits, to establish by statute the organization and jurisdiction of the federal courts."

Jurisdiction is essentially the authority which a court of law has to determine matters or issues which are litigated before it or to take cognizance of issues presented in a formal way for its resolution. The limits of jurisdiction are prescribed by the constitution or by the enabling statute under which the court is constituted. Jurisdiction may be extended or restricted by statutory enactments. The basis of jurisdiction of Nigerian courts is the Constitution of the Federal Republic of Nigeria. By virtue of the 1999 Constitution of the Federal Republic of Nigeria, all courts in the Nigerian federation derive their jurisdiction or competence from the constitution. Nigerian courts, like other courts in democratic nations, are creatures of statute based on the constitution. Their jurisdictions are based on statutes and as a corollary, no court in Nigeria assumes jurisdiction without its enabling statute. Jurisdiction cannot be implied and as a result where there is no enabling state there cannot be jurisdiction. When a court has no jurisdiction, it is futile exercise for that court to embark on the hearing of a matter.

Jurisdiction is so fundamental that it is a condition precedent to any action which calls for determination before the court. Jurisdiction is usually an important issue in matters before the court and therefore goes to the root of the whole action. Once the issue of jurisdiction is raised during a proceedings before the court, it should be decided at the earliest stage of the proceedings in order to save the time and before the merits of the case are considered and determined. The ingredients which must be present before the courts can assume jurisdiction have been decided by the courts.

"A court is only competent when –

a. It is properly constituted with respect to the members and qualifications of its members;

b. The subject matter of the action is within its jurisdiction;

c. The action is initiated by due process of law; and,

d. Any condition precedent for the exercise of its jurisdiction has been fulfilled. Non compliance with any of the foregoing matter is a defect in competence which may be fatal to its jurisdiction" The parties to a dispute cannot confer jurisdiction on a court. In any event where the court lacks jurisdiction, the parties cannot confer and vest jurisdiction on the court

The question as to whether a court has jurisdiction can be raised at any stage of the trial, even for the first time on appeal. If a court lacks the requisite jurisdiction to hear and determine an issue before, any step taken in relation to the matter is a nullity and void . Lack of jurisdiction emphasizes the want of legal capacity and lack of competence in the court to hear and determine the subject matter before it. Lack of jurisdiction necessarily means that the court does not have the competence to exercise the judicial powers vested in the courts by s.6(6)(b) of the 1999 constitution of the Federal Republic of Nigeria and a decision or judgment made while lacking jurisdiction is null and void.

There is a clear difference between jurisdiction over subject matter and procedural jurisdiction. While procedural jurisdiction could be waived by the affected party to the proceedings, that cannot be said of jurisdiction relating to subject-matter. For example, where the wrong procedure was adopted in commencing a suit and no objection to the procedure was timorously raised by the opposing party, the procedure based on such wrong procedure is valid and cannot be overturned on the basis of lack of jurisdiction on the part of the court.

Directly following this principle is the fact that non- compliance with the rules of court, as against a statutory provision, may not necessarily result in the judgment given being set aside on the basis of absence of jurisdiction. The importance of jurisdiction in the adjudicatory processes has always been emphasized by the courts. It is of absolute importance in judicial proceedings and the life wire of adjudication. "Where there is no jurisdiction to hear and determine a matter, everything done in such want of jurisdiction is a nullity."

'Power of a court is derived from its enabling stature. It is the statute which creates the court that defines its jurisdiction. In other words, all courts of record are creatures of the constitution, as their jurisdiction is confined, limited and circumscribed by the constitution

3.2.4Types of Courts

Supreme Court of Nigeria

Section 230(1) of the 1999 Constitution establishes the Supreme Court of Nigeria. It is the highest court in Nigeria and the court of last resort. It is situated in the Federal Capital Territory, Abuja. The Chief Justice of the Federation who is the head of the judiciary in Nigeria presides over the Supreme Court. The court consists of the Chief Justice of Nigeria and such number of justices not exceeding twenty one as may be prescribed by the National Assembly. Ordinarily, the court is duly constituted with not less than five justices of the court, except where it is exercising its original jurisdiction or a matter which involves a question of interpretation or application of the constitution or whether any provision relating to Fundamental Rights provisions of the constitution has been, or is likely to be contravened. In this regard, the court is duly constituted if it consists of seven Justices of the court

The Supreme Court is the most powerful court among state courts. It began functioning in 1963 after Nigeria was declared a federal republic, following the setting of a constitution which became relevant in October 1963. The appellate jurisdiction of Privy Council was abolished with the cancellation of Section 120. Judicial committee served as Apex Court. A new view of the court was set forth in article 230, stating that this institution is headed by a chairman, with whom 21 judges work. Their decision is law and must be fulfilled. Repeated reviews are not practiced except in cases when the president and the governors are examined. In such situations, any person who is considered to have violated the Nigerian legislation may be granted a reprieve. Also, Supreme Court rulings can be revoked by law or by the Supreme Court itself if its participants decided to change their decision.

Jurisdiction of the Supreme Court

Original Jurisdiction of the Supreme Court

The Supreme Court of Nigeria has both original and appellate jurisdiction. The original jurisdiction of the Supreme Court is contained in Section 232(1) of the Constitution. It provides that "The Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute between the Federation and a State or between States if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends."

Additionally, the National Assembly also has the power to confer additional original jurisdiction on the Supreme Court. The constitution precludes the Supreme Court from exercising original jurisdiction with respect to criminal matters.

The National Assembly has enacted the Supreme Court (Additional Original Jurisdiction) Act by which additional original jurisdiction was conferred on the Supreme Court. By section1 (1) of that Act, it is provided that in addition to the jurisdiction conferred upon the Supreme Court by section 232(1) of the Constitution, the court shall, to the exclusion of any other court, have original jurisdiction in any dispute (in so far as that dispute involves any question whether of law or fact or in which the existence or extent of a legal right depends) between:

(a) The National Assembly and the President;

(b) The National Assembly and any State House of Assembly; and

(c) The National Assembly and the State of the Federatio

Court of Appeal

Next on the hierarchy of Nigerian courts is the Court of Appeal. Unlike the Supreme Court which has a single office in Abuja, the Court of Appeal has several units located in different regions of the country. The institution was set up in 1999; its creation is documented in section 237. It is headed by a Chairman who has 49 judges working with him. The Court of Appeal is a decisive force when it is necessary to establish whether results are correct following governorship or presidential elections, after a request has been made via other Nigerian courts. When it comes to appeals, this court has the same unlimited power as the Supreme Court normally has. It considers results of the collation of ballots and appeals of all civil jurisdictions.

Federal High Court

Several units of the Federal High Court exist all over the country; they are located in more than 15 regions. The existence of this judicial body is prescribed in Article 249 of the Constitution. The leading position belongs to the Chief Judge. It also has a number of other judges working under the instructions of the National Assembly. The court can function correctly only if it contains at least 1 Judge of Court.

State High Court

It also called the High Court of FCT (Federal Capital Territory). The establishment of this organization in Abuja is prescribed in article 255 of the Constitution. Article 270 describes

the establishment of such judicial bodies in all regions. It is led by a Chief Judge who also has a number of other judges working with him. The High Court has major rights prescribed by the Constitution over several matters in the country; this applies to criminal and civil proceedings. Appeals are acceptable for decisions of district, magistrate and other less significant courts.

National Industrial Court

Establishment of this court is prescribed in article 254A of the Constitution. This organization has a President who is its leader. The law of the National Assembly prescribes a number of judges to work under the National Industrial Court; it also has various departments providing administrative convenience, and has offices located in some regions of the country. The staff of this court are mostly involved in civil proceedings and other aspects prescribed in article 254C.

Sharia Court of Appeal

The creation of this organization is prescribed in article 260 of the Constitution. Article 275 refers to a free establishment of such institutions in any region located in Nigeria. It is headed by a Grand Kadi and also has a number of other Kadis working with him. This court is concerned with the affairs of citizens if they concern Islamic personal rights.

Customary Court of Appeal

The formation of this organization is prescribed by article 265 of the constitution; it is was created to service the FCT. Article 280 describes the possibility of forming such an organization in any region that is a part of Nigeria. It is headed by a President and the National Assembly determines the judges to work with him. It is involved with civil proceedings when it comes to customary proceedings.

Magistrate Court (District Court)

The House of Assembly establishes such institutions by its orders, although they aren't prescribed in the Constitution. The Magistrate court performs summary judgment without statements and instructions from the parties involved. District and Magistrate Courts have similar functions but the first name is most often used in the northern part of the country, while the second is used in the southern areas. All of them are engaged in civil law; and each region has its unique rules.

I think the emphasis should be on courts with criminal justice jurisdictions!!

3.3. Correctional Institution

3.3.1 The International Legal Framework

Most countries have signed and ratified the international and regional human rights legal instruments which ensure better detention conditions for prisoners. These include the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the African Charter on Human and Populations Rights, the Convention against Torture and other Degrading Treatments, the Standard Minimum Rules for the Treatment of Prisoners (1955), (Compendium of United National 1992).

Health care for inmates is not provided on a regular basis owing to lack of personnel and medicines. Prisoners very often lack basic sanitary necessities including soap. even food is a problem, and relatives often have to bring it from outside. Given this situation, it is not difficult to understand why governments do not view the right to education for prisoners as a priority(Compendium of United Nations:1992).

African Experience on Correctional System

The slight data that exists on concerned custodial correctional system in Africa is subjected to poor infrastructure, overcrowded conditions, rough treatment and suffering. It is known that many custodial correctional system on the continent do certainly suffer from these problems, it is not amazing that there is very dialogue on what these correctional instruments can do better to help facilitate change in the prisoners with a view to helping them lead crime-free lives after their release. However, rehabilitation and reintegration of prisoners is recognized as one of the key functions of the correctional system all over the world including countries of Africa. Local instruments refer to it is as one of the important aspects to consider in the treatment of offenders. It is, for that reason, important to realize what rehabilitative efforts are occurring in Africa and what impacts they have on the successful reintegration of offenders. This chapter outlines some of these activities ,but does so recognizing that only limited literature with slights information exists about rehabilitation in most parts of the Africa and that unyielding conclusions cannot be draw some lessons for correctional science in rehabilitation practice. Lastly, it poses the constraints facing most prisons in Africa. Although

the chapter starts with an impression of rehabilitation, drawing on various literature in the develop world to provide a common understanding of what is meant by rehabilitation and rehabilitation and reintegration, as well as to outline what is understood as necessary for effective interventions under correctional system.

a) African perspectives on concepts related to correctional service

In Africa societies, the aim of imprisonment punishment is not only to stop offending and reoffending, yet if viewed through the preventive lens of incarceration, but also to send a strong message about society`s public dissatisfaction of an offence. Imprisonment sentence, which deprives a person of liberty, is very accepted by most African societies with a perception to represent ultimate penalty and the strongest mark of disapproval. In addition to this, there are several others functions that a sentence of imprisonment fulfils. These includes:

Retribution which imposes a symbolic punishment , in this case imprisonment on offender for a crime that has been committed. The term of imprisonment is meant to be proportionate to the crime or extent of harm inflicted.

Deterrence: intend to prevent the commission or decommission of crime through threat of the negative outcomes that may result from the commissions of crime. Yet, research has not proven any significant impact of deterrence on crime levels.

Incapacitation: aims to prevent crime through rendering the offender incapable of committing furthers crime by is removal from society and incarceration in prison. However, this theory fails to take into account the possibility of committing further acts of crime within the prison community. Rehabilitation is a planned intervention which aims to bring about change in some aspect of the offender that is thought to cause the offender`s criminality, such as attitudes, cognitive processes, personality or mental health.

A broad definition of rehabilitation refers to social relations with others , education and vocational skills, and employment. The intervention is intended to make the offender less like to break the law in the future, or to reduce 'recidivism' (Cullen & Gendreau 2000). Reintegration is the process by which a person is reintroduced into the community with the aim of living in a law-abiding manner. Reintegration also refers to active and full community participation by ex-offenders. Preparation for reintegration can occurs in prison. Rehabilitation and reintegration are sometimes used interchangeably in the literature.

Rehabilitation and Reintegration are said to be very potential of a prison sentence to change a person`s behaviour and have an impact on the factors that lead to crime of the decommission of crime. Rehabilitation has been emplacing with the belief that human behaviour is the product of antecedent caused that can be identified and that therapeutic measures can be employed to effect positive changed in the behaviours of the person subjected to treatment (Rabie & Mar`e 1994). In terms of this approach, a prisoner is regarded as having malfunctioned, or as being ' diseased', and capable of being 'treated' or 'cured' usually by a range of professionals within the criminal justice system. Rehabilitation treatment programmes can include educational and vocational training, individual and group counseling, and medical treatment.

The rehabilitation to some extent made a comeback in the late 1980s and early 1990s, when studies using meta-analytical techniques indicated that some of rehabilitation programmes may be effective under certain conditions (Layton Mackenzied 2000; McGuire 2000). These studies reveal that the recidivism rate is in average 10 percentage points lower for prisoners going through treatment programmes though sometimes the reduction in recidivism may be a s high as 25 per cent. Based on these studies , there is developing consumers that programmed and services that have the following features work best (McGuire 2000).

The programmes must be base on an explicit and well- articulated model of the cause of crime such as :

Risk assessment: Interventions should be targeted towards specific risk categories. Studies have also indicated that programmed provided for high- risk groups are most effectives (Andrews et al.2001).

Criminogenic needs: the prisoners should be assessed to determined dynamic risk factors such as attitudes, criminals associations, skills deficits, substance abuse , or self control issues which are related to offending.

Responsivity: More effective methods are those which are active and participatory. Structure interventions should have clear objectives. Mental and physical health is another risk factor, with over 70 per cent of prisoners suffering from mental and the prison environment. Prison could provide the opportunity for proper diagnosis and treatment. Attitudes and self-control risk factor, among some prisoners my reinforce negative attitudes and behaviour. Prison rehabilitation programmed could help to improve prisoners' thinking skills and anger

management to help mitigate this factor. Imprisonment may also strengthen experiences of institutionalization and deeply structured regimes, or a lack of activity, which can demage prisoners ability to think or act for themselves.

On the other hand, prison could provide a place to develop positive life skills. Housing risk factor can be lost on entry, and non-payment of rent could have knock-on effects for the prisoner`s family if the particular prisoners was a beard winner of the family. Appropriate empowerment to family from professional social worker is needed to access housing rent. Prisoners are released without sufficient financial means to tide them over until they become re-established. Therefore rehabilitation programmes in prison could help them to access financial support on their release. The final risk factors is the impact on families, as imprisonment can damage positive links to families and contribute to financial instability among family members. On the other hand, prison could give families an opportunity to have input into the prisoner`s rehabilitation needs, to deal with poor family relationships and to stabilize financial needs and concerns, as mentioned above.

Building on these ideas is the newly evolving notion of 'correction science'.

This is a community oriented approach which shifts the emphasis from the individual to the community to which the offender returns, with the aim of building capacity and enlisting community resources to assist in reintegration. This approach requires operational changed to facilitate the provision of a continuum of care from imprisonment through to release and case management, balancing supervision with support and building partnerships with all stakeholders (Borzycki 2005).

Most of the above discussed rehabilitation programmed ideas have been developed and researched in the Western World. In analyzing their importance and may be its application and impact in the countries of Africa, it is very important to start observing our African correctional instruments as an expression of the intent continent.

b) Analysis of african instruments trend on correctional steps

A number of African instruments established to deal with the rehabilitation and reintegration of prisoners, such as Kampala Declaration on Prison Conditions in Africa, adopted in 1996, they document outlining rights for prisoners in Africa. Instead of listing determined goals for prisoner rehabilitation, the Declaration set a more realistic agenda for Africa stated facing the high levels of overcrowding and under-resourcing prevalent on the continent. The Kampala

Declaration made several recommendations, which include the following: that the detrimental effects of imprisonment should be minimized so that prisoners do not lose their self-respect and sense of personal responsibility; that prisoners should be given the opportunity to maintain and develop links with their families and the outside world, and that prisoners should be given access to education and skills training in order to make it easier for them to reintegrate into society after their release. However, even where such programs exist in Africa it shows they have short comings. In a way many prison training programs are not linked with the regular education system outside the prisons. As a result, the transition from one to the other is hard to make. Adult education programs in prison seldom give information on the rights of individuals. Little or no attempt is made to promote creativity. Little attention is paid to the personal biographies of prison inmates. A serious problems is the inadequate of a national curriculum in prisons training. Consequently, when prisoners change prisons , they are confronted with an adult learning system which is completely different from the one they have previously been exposed to. There is nevertheless a general consensus that adult education for prisoners is a fundamental step towards their social reintegration. The important consideration for the development of successful policies under thus instruments is to have education practices that stress personal development should be advocated for prison inmates.

Notwithstanding the fact that the situations of African prisons had seen little improvement by the time of the next pan- African seminar held in Burkina Faso, in 2002, then the Ouagadougou Declaration on Accelerating Penal and Prison Reform in Africa was established to promote effectives rehabilitation in African prisons. The Ouagadougou Declaration recommended promoting the reintegration of offenders into society. In doing so, it proposed that every stated should prepare plan of action by making sure greater efforts to use the period of imprisonment, or other sanctions, to develop the potential of offenders and to empower them to lead a crime-free life in the future.

3.3.2 Definition and history of Correctional Institution

Prisons also known as correctional institutions, an institution for the confinement of persons who have been remanded (held) in custody by a judicial authority or who have been deprived of their liberty following conviction for a crime. A person found guilty of a felony or a misdemeanour may be required to serve a prison sentence. The holding of accused persons awaiting trial remains an important function of contemporary prisons, and in some countries such persons constitute the majority of the prison population.

During the 16th century a number of houses of correction were established in Europe for the rehabilitation of minor offenders and vagrants; they emphasized strict discipline and hard labour. Over time, imprisonment came to be accepted as an appropriate method of punishing convicted criminals. Poor sanitation in these institutions caused widespread disease among prisoners, who were generally held unsegregated, without any consideration for gender or legal status. Outbreaks of epidemic typhus, known as “jail fever,” occasionally killed not only prisoners but also jailers and (more rarely) judges and lawyers involved in trials. The modern prison developed in the late 18th century in part as a reaction to the conditions of the local jails of the time.

The situation of African prisons

Yet, once African countries seek to bring about the correctional science or development of rehabilitation to prisoners, the realities facing the prison system often make any attempts very difficult. Most literatures of African countries reviewed for the purposes of this chapter are subject to high levels of overcrowding and inadequate resources and facilitated. Extreme conditions of overcrowding, resulting in inadequate sleeping space, a lack of proper sleeping, a lack of ventilation and lighting, were some of the factors mentioned in many of the reports of the African Commission`s Special Reporter on Prisons and Detention in Africa. Concern was also raised about excessive and inappropriate discipline and punishment, labour, and paltry access to medical treatment. Another problem often mentioned is that the prison systems fail to separate prisoners sentences for serious crimes from those convicted of less serious.

These factors have an impact on the mental a and physical health of a prisoners and fail to create an environment conducive to rehabilitation. Overcrowding also has a negative impact

on the staffing and management of a prison. This has proved by UK`s Chief Inspector of Prisons in his 2001/02 Annual Report: Prison overcrowding is, however, undoubtedly making it more difficult to build sustain progress [with assessing prisoners and placing them in appropriate programmers]. It is more difficult to get prisoners out of cell [sic] and into activities. Frequent prisoner movement makes the completion of courses and skilled- based qualifications much more difficult. (cited in Steinberg 2005:15). These concerns are severely illustrated on the African prison. The literature showed that in one prison in the Central African Republic inmates were not allowed out of the congested and poorly ventilated cell at all for fear that they would escape (ACHPR 20000b) In many African countries, the prisons are understaffed and few personnel have received training that helps them to understand their role in terms of facilitating offender development and reintegration.

In South Africa was in past 10 years quoted as stating: ' Correcting inmates is an extraordinary responsibility (that) needs extraordinary citizens. I don`t have extraordinary citizens as yet, at the moment we have got people that have got a matric and have got on criminals record. ' He up and throw staff had no respect for prisoners and still believed that they 'must lock them up and throw away the key'(Pretoria News 29 September 2005).

In addition, most countries in Africa have no, or inadequate, numbers of professional staff, such as social workers, psychologists, educators and vocational trainers. In addition, the rehabilitation or reformation of prisoners is often viewed very narrowly , so that the provision of schooling, training or work opportunities is often seen as the full extent of rehabilitation, even when no others psychosocial aspects are catered for. When programmed and facilities are available in prisons, they are most often targeted towards juvenile offenders and female offenders , which may be as a result of donor agendas in respect of these marginalized groups. In Namibia criminal rehabilitation works to reduce criminal recidivism. The success of rehabilitation depends on manner the programs are arranged over since reception of the prisoner in prison. The offender is assumed treated and the services or programs used are designed to positively reinforce pro-social behavavior but how do we approach this methodology?. In the first five years after independence of Namibia, the Correctional Service concentrated in creating work opportunities for its inmates (Correctional Forum, Vol 1.2007) The Correctional Service of Namibia tried to break the Prisoner's idleness that breeds boredom and resultant to trouble-making and lack of self-esteem. Therefore started to look for land where inmates could work on and in the few workshops where Prisoner's labour could be utilized. Whereby the Service could manage to get Divunda

rehabilitation centre in Kavango region and Farm Scott in Tsumeb, but this was not enough, as they discovered that work only, may not be the only method of changing inmates, altitude against criminal activities. it should be accompanied with appropriate effective intervention programme. This is more philosophical approach in which we diagnose the criminogenic needs or problems of an offender and then put on the correct therapy. That is where the expert expertise of the

specialized staff comes in, social workers, educationalists, psychologists, criminologists to do the intake assessment and prepare correctional programme and offer the programme to the offender (Correctional Forum, Vol 1 of 2007). With the assistance of the working partners such as Correctional Service of Canada, the Correctional Service of Namibia has been working with them form 1999 in the new approach. Currently they are having two joint projects with Canadian running, namely, the Pilot Project on Unit Management and the Offender Management System. The Pilot Project on Unit Management started in April, 2005 at Windhoek Central Prison with 431 inmates selected on the basis of their risks and were placed in five units. Unit management is very important vehicle for rehabilitation as it is the best practice in prisoner's management whereby each contact and action by staff is designed to promote security and custody, prisoner rehabilitation and provision of constructive prison environment. However, the Correctional Service of Namibia have conducted an evaluation on this Management Unit and found out that it was running very smoothly (Correctional Forum, Vol 1 of 2007). Constraints in implementation of the rehabilitation programs in Namibia; Constraints and setback: Undeniable, lack of resources and inadequate of funding can be singled in the operations of the Namibian Prison Service. This major problem which has an impact on all our ambitious programs that they worked out. Their strategic plan which spells out their road map of implementation of the Policy document and Mission Statement is yet to be realized. Almost the big junk of the budget goes to wage bill and Prisoner's basic needs. Nature of the Namibian work as indicated earlier, they do not have control on the people who are brought to us in terms of their numerical presence and their movement on transfers and appearance to courts (Correctional Forum, Vol 1 of 2007).

3.3.3The Purpose of Imprisonment

There are a number of accepted reasons for the use of imprisonment. One approach aims to deter those who would otherwise commit crimes (general deterrence) and to make it less likely that those who serve a prison sentence will commit crimes after their release (individual deterrence). A second approach focuses on issuing punishment to, or obtaining retribution from, those who have committed serious crimes. A third approach encourages the personal reform of those who are sent to prison. Finally, in some cases it is necessary to protect the public from those who commit crimes particularly from those who do so persistently. In individual cases, all or some of these justifications may apply. The increasing importance of the notion of reform has led some prison systems to be called correctional institutions.

4.0 Conclusion

The role of correctional institution in justice administration cannot be overlooked as its responsible for action or inaction on part of offenders and control recidivism. This circle is key to tolerance of the society to crime and deterrence which ensure security and which makes it import for constant focus and re-evaluation of purpose and policies of correctional services from time to time.

5.0 Summary

This unit discusses the court system, types of court and correctional institutions in an effort to establish the types, history and purpose of this structure. These two aspects are important as the gatekeepers can do and achieve less without clear terms of operations.

Tutor-Marked Assignments

(a) Discuss the History of correctional Institution in Nigeria

(b) Highlight the types of courts in Nigeria

7.0Reference/further readings

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Unit 3Theories of Crime and Justice Administration

CONTENTS

1.0 Introduction

There are several theories on criminal laws and these theories have gone through paradigm shift from traditional approaches and view to macro and macro explanation based on precedence and challenges overtime. These theories are applied in different levels and different countries based on the developments stage and history of crime.

The scientific study of the causes of delinquency and crime has been historically guided by theory. A good theory is said to provide a foundational lens through which to interpret and understand the manifestation of a behaviour. In the field of criminology, the theoretical lens has been primarily guided by concepts germane to the fields of sociology, psychology, and biology, and the behaviour to be explained is typically behaviour that violates the codified laws of our society (i.e., crime and delinquency). Although isolated theories have provided empirical insight into the important factors perceived and expected to explain delinquency and crime, no single theory can adequately explain all types of crime and delinquency or all of the variation in crime and delinquency. In response to the absence of a "magic bullet" theory, scholars have begun to integrate theories in hopes of explaining a greater proportion of delinquency and crime. Theoretical integration generally involves borrowing theoretical constructs from competing theories and combining them into a single theory. Integrating theories within criminology is particularly advantageous because it allows scholars to begin to understand the behavior under study in a more complex, and potentially more complete, manner.

2.0 Objectives

Major theories of crime, justice and punishment, their methods and applications, and explanations of criminal behaviour and criminal justice practices and policies will be reviewed. Students will attain a comprehensive grasp of the main philosophical, historical and methodological debates, become acquainted with critiques and controversies about crime causation and prevention, and explore the policy implications on the role of institutions and

practice on criminal justice. The various criminological theories (imaginations) are located in the context of different perspectives about both the meaning and realisation of criminal justice.

3.0Main Content

3.1 Theory of crime

Strain theory

Why do people engage in crime according to strain theory? They experience strain or stress, they become upset, and they sometimes engage in crime as a result. They may engage in crime to reduce or escape from the strain they are experiencing. For example, they may engage in violence to end harassment from others, they may steal to reduce financial problems, or they may run away from home to escape abusive parents. They may also engage in crime to seek revenge against those who have wronged them. And they may engage in the crime of illicit drug use to make themselves feel better.

A recent version of strain theory is Robert Agnew's 1992 general strain theory. Agnew's theory draws heavily on previous versions of strain theory, particularly those of Robert Merton, Albert Cohen, Richard Cloward and Lloyd Ohlin, David Greenberg, and Delbert Elliott and associates. Agnew, however, points to certain types of strain not considered in these previous versions and provides a fuller discussion of the conditions under which strain is most likely to lead to crime.

The major types of strain. Agnew describes two general categories of strain that contribute to crime: (1) others prevent you from achieving your goals, and (2) others take things you value or present you with negative or noxious stimuli. While strain may result from the failure to achieve a variety of goals, Agnew and others focus on the failure to achieve three related goals: money, status/respect, and for adolescents autonomy from adults.

Factors influencing the effect of strain on delinquency. Strainful events and conditions make people feel bad. These bad feelings, in turn, create pressure for corrective action. This is especially true of anger and frustration, which energize the individual for action, create a desire for revenge, and lower inhibitions. There are several possible ways to cope with strain and these negative emotions, only some of which involve delinquency. Strain theorists attempt to describe those factors that increase the likelihood of a criminal response.

Among other things, strain is more likely to lead to crime among individuals with poor coping skills and resources. Some individuals are better able to cope with strain legally than others. For example, they have the verbal skills to negotiate with others or the financial resources to hire a lawyer. Related to this, strain is more likely to lead to delinquency among individuals with few conventional social supports. Family, friends, and others often help individuals cope with their problems, providing advice, direct assistance, and emotional support. In doing so, they reduce the likelihood of a criminal response.

Strain is more likely to lead to delinquency when the costs of delinquency are low and the benefits are high; that is, the probability of being caught and punished is low and the rewards of delinquency are high. Finally, strain is more likely to lead to delinquency among individuals who are disposed to delinquency. The individual's disposition to engage in delinquency is influenced by a number of factors. Certain individual traits like irritability and impulsivity increase the disposition for delinquency. Another key factor is whether individuals blame their strain on the deliberate behavior of someone else. Finally, individuals are more disposed to delinquency if they hold beliefs that justify delinquency, if they have been exposed to delinquent models, and if they have been reinforced for delinquency in the past

Social learning theory

Why do people engage in crime according to social learning theory? They learn to engage in crime, primarily through their association with others. They are reinforced for crime, they learn beliefs that are favorable to crime, and they are exposed to criminal models. As a consequence, they come to view crime as something that is desirable or at least justifiable in certain situations. The primary version of social learning theory in criminology is that of Ronald Akers and the description that follows draws heavily on his work. Akers's theory, in turn, represents an elaboration of Edwin Sutherland's differential association theory (also see the related work of Albert Bandura in psychology).

According to social learning theory, juveniles learn to engage in crime in the same way they learn to engage in conforming behavior: through association with or exposure to others. Primary or intimate groups like the family and peer group have an especially large impact on what we learn. In fact, association with delinquent friends is the best predictor of delinquency other than prior delinquency. However, one does not have to be in direct contact with others

to learn from them; for example, one may learn to engage in violence from observation of others in the media.

Most of social learning theory involves a description of the three mechanisms by which individuals learn to engage in crime from these others: differential reinforcement, beliefs, and modeling.

Differential reinforcement of crime.

Individuals may teach others to engage in crime through the reinforcements and punishments they provide for behavior. Crime is more likely to occur when it (a) is frequently reinforced and infrequently punished; (b) results in large amounts of reinforcement (e.g., a lot of money, social approval, or pleasure) and little punishment; and (c) is more likely to be reinforced than alternative behaviors.

Reinforcements may be positive or negative. In positive reinforcement, the behavior results in something good some positive consequence. This consequence may involve such things as money, the pleasurable feelings associated with drug use, attention from parents, approval from friends, or an increase in social status. In negative reinforcement, the behavior results in the removal of something bad a punisher is removed or avoided. For example, suppose one's friends have been calling her a coward because she refuses to use drugs with them. The individual eventually takes drugs with them, after which time they stop calling her a coward. The individual's drug use has been negatively reinforced.

Control theory

Strain and social learning theorists ask, Why do people engage in crime? They then focus on the factors that push or entice people into committing criminal acts. Control theorists, however, begin with a rather different question. They ask, Why do people conform? Unlike strain and social learning theorists, control theorists take crime for granted. They argue that all people have needs and desires that are more easily satisfied through crime than through legal channels. For example, it is much easier to steal money than to work for it. So in the eyes of control theorists, crime requires no special explanation: it is often the most expedient way to get what one wants. Rather than explaining why people engage in crime, we need to explain why they do not.

According to control theorists, people do not engage in crime because of the controls or restraints placed on them. These controls may be viewed as barriers to crime—they refer to those factors that prevent them from engaging in crime. So while strain and social learning theory focus on those factors that push or lead the individual into crime, control theory focuses on the factors that restrain the individual from engaging in crime. Control theory goes on to argue that people differ in their level of control or in the restraints they face to crime. These differences explain differences in crime: some people are freer to engage in crime than others.

Control theories describe the major types of social control or the major restraints to crime. The control theory of Travis Hirschi dominates the literature, but Gerald Patterson and associates, Michael Gottfredson and Travis Hirschi, and Robert Sampson and John Laub have extended Hirschi's theory in important ways. Rather than describing the different versions of control theory, an integrated control theory that draws on all of their insights is presented.

This integrated theory lists three major types of control: direct control, stake in conformity, and internal control. Each type has two or more components.

Direct control.

When most people think of control they think of direct control: someone watching over people and sanctioning them for crime. Such control may be exercised by family members, school officials, coworkers, neighborhood residents, police, and others. Family members, however, are the major source of direct control given their intimate relationship with the person. Direct control has three components: setting rules, monitoring behavior, and sanctioning crime.

Direct control is enhanced to the extent that family members and others provide the person with clearly defined rules that prohibit criminal behavior and that limit the opportunities and temptations for crime. These rules may specify such things as who the person may associate with and the activities in which they can and cannot engage.

Direct control also involves monitoring the person's behavior to ensure that they comply with these rules and do not engage in crime. Monitoring may be direct or indirect. In direct monitoring, the person is under the direct surveillance of a parent or other conventional "authority figure." In indirect monitoring, the parent or authority figure does not directly observe the person but makes an effort to keep tabs on what they are doing. The parent, for

example, may ask the juvenile where he or she is going, may periodically call the juvenile, and may ask others about the juvenile's behavior. People obviously differ in the extent to which their behavior is monitored.

Finally, direct control involves effectively sanctioning crime when it occurs. Effective sanctions are consistent, fair, and not overly harsh. Level of direct control usually emerges as an important cause of crime in most studies.

Stake in conformity.

The efforts to directly control behavior are a major restraint to crime. These efforts, however, are more effective with some people than with others. For example, all juveniles are subject to more or less the same direct controls at school: the same rules, the same monitoring, and the same sanctions if they deviate. Yet some juveniles are very responsive to these controls while others commit deviant acts on a regular basis. One reason for this is that some juveniles have more to lose by engaging in deviance. These juveniles have what has been called a high "stake in conformity," and they do not want to jeopardize that stake by engaging in deviance.

So one's stake in conformity that which one has to lose by engaging in crime—functions as another major restraint to crime. Those with a lot to lose will be more fearful of being caught and sanctioned and so will be less likely to engage in crime. People's stake in conformity has two components: their emotional attachment to conventional others and their actual or anticipated investment in conventional society.

If people have a strong emotional attachment to conventional others, like family members and teachers, they have more to lose by engaging in crime. Their crime may upset people they care about, cause them to think badly of them, and possibly disrupt their relationship with them. Studies generally confirm the importance of this bond. Individuals who report that they love and respect their parents and other conventional figures usually commit fewer crimes. Individuals who do not care about their parents or others, however, have less to lose by engaging in crime.

A second major component of people's stake in conformity is their investment in conventional society. Most people have put a lot of time and energy into conventional activities, like "getting an education, building up a business, [and] acquiring a reputation for virtue" (Hirschi, p. 20). And they have been rewarded for their efforts, in the form of such things as good grades, material possessions, and a good reputation. Individuals may also

expect their efforts to reap certain rewards in the future; for example, one might anticipate getting into college or professional school, obtaining a good job, and living in a nice house. In short, people have a large investment both actual and anticipated in conventional society. People do not want to jeopardize that investment by engaging in delinquency.

Internal control

People sometimes find themselves in situations where they are tempted to engage in crime and the probability of external sanction (and the loss of those things they value) is low. Yet many people still refrain from crime. The reason is that they are high in internal control. They are able to restrain themselves from engaging in crime. Internal control is a function of their beliefs regarding crime and their level of self-control.

Most people believe that crime is wrong and this belief acts as a major restraint to crime. The extent to which people believe that crime is wrong is at least partly a function of their level of direct control and their stake in conformity: were they closely attached to their parents and did their parents attempt to teach them that crime is wrong? If not, such individuals may form an *amoral orientation* to crime: they believe that crime is neither good nor bad. As a consequence, their beliefs do not restrain them from engaging in crime. Their beliefs do not propel or push them into crime; they do not believe that crime is good. Their amoral beliefs simply free them to pursue their needs and desires in the most expedient way. Rather then being taught that crime is good, control theorists argue that some people are simply not taught that crime is bad.

Finally, some people have personality traits that make them less responsive to the above controls and less able to restrain themselves from acting on their immediate desires. For example, if someone provokes them, they are more likely to get into a fight. Or if someone offers them drugs at a party, they are more likely to accept. They do not stop to consider the long-term consequences of their behavior. Rather, they simply focus on the immediate, short-term benefits or pleasures of criminal acts. Such individuals are said to be low in "self-control."

Self-control is indexed by several personality traits. According to Gottfredson and Hirschi, "people who lack self control will tend to be impulsive, insensitive, physical (as opposed to mental), risk-taking, short-sighted, and nonverbal" (p. 90). It is claimed that the major cause of low self-control is "ineffective child-rearing." In particular, low self-control is more likely

to result when parents do not establish a strong emotional bond with their children and do not properly monitor and sanction their children for delinquency. Certain theorists also claim that some of the traits characterizing low self-control have biological as well as social causes.

Gottfredson and Hirschi claim that one's level of self-control is determined early in life and is then quite resistant to change. Further, they claim that low self-control is the central cause of crime; other types of control and other causes of crime are said to be unimportant once level of self-control is established. Data do indicate that low self-control is an important cause of crime. Data, however, suggest that the self-control does vary over the life course and that other causes of crime are also important. For example, Sampson and Laub demonstrate that delinquent adolescents who enter satisfying marriages and obtain stable jobs (i.e., develop a strong stake in conformity) are less likely to engage in crime as adults.

In sum, crime is less likely when others try to directly control the person's behavior, when the person has a lot to lose by engaging in crime, and when the person tries to control his or her own behavior.

Labeling theory

The above theories examine how the social environment causes individuals to engage in crime, but they typically devote little attention to the official reaction to crime, that is, to the reaction of the police and other official agencies. Labeling theory focuses on the official reaction to crime and makes a rather counterintuitive argument regarding the causes of crime.

According to labeling theory, official efforts to control crime often have the effect of increasing crime. Individuals who are arrested, prosecuted, and punished are labeled as criminals. Others then view and treat these people as criminals, and this increases the likelihood of subsequent crime for several reasons. Labeled individuals may have trouble obtaining legitimate employment, which increases their level of strain and reduces their stake in conformity. Labeled individuals may find that conventional people are reluctant to associate with them, and they may associate with other criminals as a result. This reduces their bond with conventional others and fosters the social learning of crime. Finally, labeled individuals may eventually come to view themselves as criminals and act in accord with this self-concept.

Labeling theory was quite popular in the 1960s and early 1970s, but then fell into decline—partly as a result of the mixed results of empirical research. Some studies found that being

officially labeled a criminal (e.g., arrested or convicted) increased subsequent crime, while other studies did not. Recent theoretical work, however, has revised the theory to take account of past problems. More attention is now being devoted to informal labeling, such as labeling by parents, peers, and teachers. Informal labeling is said to have a greater effect on subsequent crime than official labeling. Ross Matsueda discusses the reasons why individuals may be informally labeled as delinquents, noting that such labeling is not simply a function of official labeling (e.g., arrest). Informal labeling is also influenced by the individual's delinquent behavior and by their position in society—with powerless individuals being more likely to be labeled (e.g., urban, minority, lower-class, adolescents). Matsueda also argues that informal labels affect individuals' subsequent level of crime by affecting their perceptions of how others see them. If they believe that others see them as delinquents and trouble-makers, they are more likely to act in accord with this perception and engage in delinquency. Data provide some support for these arguments.

John Braithwaite extends labeling theory by arguing that labeling increases crime in some circumstances and reduces it in others. Labeling increases subsequent crime when no effort is made to reintegrate the offender back into conventional society; that is, when offenders are rejected or informally labeled on a long-term basis. But labeling reduces subsequent crime when efforts are made to reintegrate punished offenders back into conventional society. In particular, labeling reduces crime when offenders are made to feel a sense of shame or guilt for what they have done, but are eventually forgiven and reintegrated into conventional groups—like family and conventional peer groups. Such reintegration may occur "through words or gestures of forgiveness or ceremonies to decertify the offender as deviant" (pp. 100–101). Braithwaite calls this process "reintegrative shaming." Reintegrative shaming is said to be more likely in certain types of social settings, for example, where individuals are closely attached to their parents, neighbors, and others. Such shaming is also more likely in "communitarian" societies, which place great stress on trust and the mutual obligation to help one another (e.g., Japan versus the United States). Braithwaite's theory has not yet been well tested, but it helps make sense of the mixed results of past research on labeling theory.

Social disorganization theory

The leading sociological theories focus on the immediate social environment, like the family, peer group, and school. And they are most concerned with explaining why some individuals are more likely to engage in crime than others. Much recent theoretical work, however, has

also focused on the larger social environment, especially the community and the total society. This work usually attempts to explain why some groups—like communities and societies—have higher crime rates than other groups. In doing so, however, this work draws heavily on the central ideas of control, social learning, and strain theories.

Social disorganization theory seeks to explain community differences in crime rates (see Robert Sampson and W. Bryon Groves; Robert Bursik and Harold Grasmick). The theory identifies the characteristics of communities with high crime rates and draws on social control theory to explain why these characteristics contribute to crime.

Crime is said to be more likely in communities that are economically deprived, large in size, high in multiunit housing like apartments, high in residential mobility (people frequently move into and out of the community), and high in family disruption (high rates of divorce, single-parent families). These factors are said to reduce the ability or willingness of community residents to exercise effective social control, that is, to exercise direct control, provide young people with a stake in conformity, and socialize young people so that they condemn delinquency and develop self-control.

The residents of high crime communities often lack the skills and resources to effectively assist others. They are poor and many are single parents struggling with family responsibilities. As such, they often face problems in socializing their children against crime and providing them with a stake in conformity, like the skills to do well in school or the connections to secure a good job. These residents are also less likely to have close ties to their neighbors and to care about their community. They typically do not own their own homes, which lowers their investment in the community. They may hope to move to a more desirable community as soon as they are able, which also lowers their investment in the community. And they often do not know their neighbors well, since people frequently move into and out of the community. As a consequence, they are less likely to intervene in neighborhood affairs—like monitoring the behavior of neighborhood residents and sanctioning crime. Finally, these residents are less likely to form or support community organizations, including educational, religious, and recreational organizations. This is partly a consequence of their limited resources and lower attachment to the community. This further reduces control, since these organizations help exercise direct control, provide people with a stake in conformity, and socialize people. Also, these organizations help secure resources from the larger society,

like better schools and police protection. Recent data provide some support for these arguments.

Social disorganization theorists and other criminologists, such as John Hagan, point out that the number of communities with characteristics conducive to crime—particularly high concentrations of poor people—has increased since the 1960s. These communities exist primarily in inner city areas and they are populated largely by members of minority groups (due to the effects of discrimination). Such communities have increased for several reasons. First, there has been a dramatic decline in manufacturing jobs in central city areas, partly due to the relocation of factories to suburban areas and overseas. Also, the wages in manufacturing jobs have become less competitive, due to factors like foreign competition, the increase in the size of the work force, and the decline in unions. Second, the increase in very poor communities is due to the migration of many working- and middle-class African Americans to more affluent communities, leaving the poor behind. This migration was stimulated by a reduction in discriminatory housing and employment practices. Third, certain government policies like the placement of public housing projects in inner-city communities and the reduction of certain social services—have contributed to the increased concentration of poverty.

Critical theories

Critical theories also try to explain group differences in crime rates in terms of the larger social environment; some focus on class differences, some on gender differences, and some on societal differences in crime. Several versions of critical theory exist, but all explain crime in terms of group differences in power.

Marxist theories. Marxist theories argue that those who own the means of production (e.g., factories, businesses) have the greatest power. This group—the capitalist class—uses its power for its own advantage. Capitalists work for the passage of laws that criminalize and severely sanction the "street" crimes of lower-class persons, but ignore or mildly sanction the harmful actions of business and industry (e.g., pollution, unsafe working conditions). And capitalists act to increase their profits; for example, they resist improvements in working conditions and they attempt to hold down the wages of workers. This is not to say that the capitalist class is perfectly unified or that the government always acts on its behalf. Most Marxists acknowledge that disputes sometimes arise within the capitalist class and that the

government sometimes makes concessions to workers in an effort to protect the long-term interests of capitalists.

Marxists explain crime in several ways. Some draw on strain theory, arguing that workers and unemployed people engage in crime because they are not able to achieve their economic goals through legitimate channels. Also, Marxists argue that crime is a response to the poor living conditions experienced by workers and the unemployed. Some draw on control theory, arguing that crime results from the fact that many workers and the unemployed have little stake in society and are alienated from governmental and business institutions. And some draw on social learning theory, arguing that capitalist societies encourage the unrestrained pursuit of money. Marxist theories, then, attempt to explain both class and societal differences in crime.

Institutional anomie theory. Steven Messner and Richard Rosenfeld's institutional anomie theory draws on control and social learning theories to explain the high crime rate in the United States. According to the theory, the high crime rate partly stems from the emphasis placed on the "American Dream." Everyone is encouraged to strive for monetary success, but little emphasis is placed on the legitimate means to achieve such success: "it's not how you play the game; it's whether you win or lose." As a consequence, many attempt to obtain money through illegitimate channels or crime. Further, the emphasis on monetary success is paralleled by the dominance of economic institutions in the United States. Other major institutions—the family, school, and the political system—are subservient to economic institutions. Noneconomic functions and roles (e.g., parent, teacher) are devalued and receive little support. Noneconomic institutions must accommodate themselves to the demands of the economy (e.g., parents neglect their children because of the demands of work). And economic norms have come to penetrate these other institutions (e.g., the school system, like the economic system, is based on the individualized competition for rewards). As a result, institutions like the family, school, and political system are less able to effectively socialize individuals against crime and sanction deviant behavior.

Feminist theories.

Feminist theories focus on gender differences in power as a source of crime. These theories address two issues: why are males more involved in most forms of crime than females, and why do females engage in crime. Most theories of crime were developed with males in mind;

feminists argue that the causes of female crime differ somewhat from the causes of male crime.

Gender differences in crime are said to be due largely to gender differences in social learning and control. Females are socialized to be passive, subservient, and focused on the needs of others. Further, females are more closely supervised than males, partly because fathers and husbands desire to protect their "property" from other males. Related to this, females are more closely tied to the household and to child-rearing tasks, which limits their opportunities to engage in many crimes.

Some females, of course, do engage in crime. Feminist theories argue that the causes of their crime differ somewhat from those of male crime, although female crime is largely explained in terms of strain theory. Meda Chesney-Lind and others argue that much female crime stems from the fact that juvenile females are often sexually abused by family members. This high rate of sexual abuse is fostered by the power of males over females, the sexualization of females—especially young females—and a system that often fails to sanction sexual abuse. Abused females frequently run away, but they have difficulty surviving on the street. They are labeled as delinquents, making it difficult for them to obtain legitimate work. Juvenile justice officials, in fact, often arrest such females and return them to the families where they were abused. Further, these females are frequently abused and exploited by men on the street. As a consequence, they often turn to crimes like prostitution and theft to survive. Theorists have pointed to still other types of strain to explain female crime, like the financial and other difficulties experienced by women trying to raise families without financial support from fathers. The rapid increase in female-headed families in recent decades, in fact, has been used to explain the increase in rates of female property crime. It is also argued that some female crime stems from frustration over the constricted roles available to females in our society.

There are other versions of critical theory, including "postmodernist" theories of crime. A good overview can be found in the text by George Vold, Thomas J. Bernard, and Jeffrey B. Snipes.

Situations conducive to crime

The above theories focus on the factors that create a general willingness or predisposition to engage in crime, locating such factors in the immediate and larger social environment. People who are disposed to crime generally commit more crime than those who are not. But even the

most predisposed people do not commit crime all of the time. In fact, they obey the law in most situations. Several theories argue that predisposed individuals are more likely to engage in crime in some types of situations than others. These theories specify the types of situations most conducive to crime. Such theories usually argue that crime is most likely in those types of situations where the benefits of crime are seen as high and the costs as low, an argument very compatible with social learning theory.

The most prominent theory in this area is the routine activities perspective, advanced by Lawrence Cohen and Marcus Felson and elaborated by Felson. It is argued that crime is most likely when motivated offenders come together with attractive targets in the absence of capable guardians. Attractive targets are visible, accessible, valuable, and easy to move. The police may function as capable guardians, but it is more common for ordinary people to play this role like family members, neighbors, and teachers. According to this theory, the supply of suitable targets and the presence of capable guardians are a function of our everyday or "routine" activities like attending school, going to work, and socializing with friends. For example, Cohen and Felson point to a major change in routine activities since World War II: people are more likely to spend time away from home. This change partly reflects the fact that women have become much more likely to work outside the home and people have become more likely to seek entertainment outside the home. As a result, motivated offenders are more likely to encounter suitable targets in the absence of capable guardians. Homes are left unprotected during the day and often in the evening, and people spend more time in public settings where they may fall prey to motivated offenders. Other theories, like the rational-choice perspective of Derek B. Cornish and Ronald V. Clarke, also discuss the characteristics of situations conducive to crime.

Integrated theories

Several theorists have attempted to combine certain of the above theories in an effort to create integrated theories of crime. The most prominent of these integrations are those of Terence P. Thornberry and Delbert S. Elliott and associates. Elliott's theory states that strain and labeling reduce social control. For example, school failure and negative labeling may threaten one's emotional bond to conventional others and investment in conventional society. Low social control, in turn, increases the likelihood of association with delinquent peers, which promotes the social learning of crime. Thornberry attempts to integrate control and social learning theories. Like Elliott, he argues that low control at home and at school

promotes association with delinquent peers and the adoption of beliefs favorable to delinquency. Thornberry, however, also argues that most of the causes of crime have reciprocal effects on one another. For example, low attachment to parents increases the likelihood of association with delinquent peers, and association with delinquent peers reduces attachment to parents. Likewise, delinquency affects many of its causes: for example, it reduces attachment to parents and increases association with delinquent peers (an argument compatible with labeling theory). Further, Thornberry argues that the causes of crime vary over the life course. For example, parents have a much stronger effect on delinquency among younger than older adolescents. Factors like work, marriage, college, and the military, however, are more important among older adolescents.

3.1.2 Restorative Justice Theory

Restorative Justice is a theory of justice that emphasizes repairing the harm caused by criminal behaviour. It is best accomplished through cooperative processes that allow all willing stakeholders to meet, although other approaches are available when that is impossible. This can lead to transformation of people, relationships and communities. This Theory is a different way of thinking about crime and our response to crime. It focuses on repairing the harm caused by crime and reducing future harm through crime prevention and requires offenders to take responsibility for their actions and for the harm they have caused ensuring to seek redress for victims, recompense by offenders and reintegration of both within the community. It also requires a cooperative effort by communities and the government.

The foundational principles of restorative justice have been summarized further as follows:

1. Crime causes harm and justice should focus on repairing that harm.
2. The people most affected by the crime should be able to participate in its resolution.
3. The responsibility of the government is to maintain order and of the community to build peace.

Principles of Restorative Justice

The theory of restorative justice has basic principles guiding it, and some say that another way to explain restorative justice is to look at the core principles that govern it. The following are therefore few guiding principles of restorative justice:

1. It views crime primarily as an offence against human relationships and secondarily a violation of the law.

2. Both victim and offender voluntarily participate in the restorative process: This emphasizes the fact that participation in a restorative justice process should be based on the victim and offender's free and voluntary consent (absence of coercion).

3. The offender must accept responsibility for the offence: For a restorative justice approach to be used, the acceptance of guilt by the offender is not only necessary but essential because without it, what wrong would be corrected? And how would the offender be integrated into society if he doesn't consider his actions wrong?[1]

4. The offender's admission cannot be used as evidence against the offender in any subsequent legal process

5. Referrals to the restorative justice process can occur at all stages of the trial.

Common Misconceptions about Restorative Justice

There are various misconceptions about restorative justice which include but are not limited to:

1. **Restorative justice is easy/ soft on the offender**: This is to date, one of the most common misconceptions of Restorative Justice which is in no way soft on the offender but rather seeks to hold the offender accountable to the victim. A restorative approach involves the offender facing the victim and the community who are affected by his actions. Offenders often report that facing their victims and others negatively affected by their actions is a difficult and intense experience because they must answer difficult questions and take full responsibility for their actions. Restorative justice has proven not to be easy on offenders but assists them through other means inclusive or short of incarceration to restitute and make amends. It has proven to be effective despite the misconceptions as it provides an 85 per cent victim satisfaction rate and a 14 per cent reduction in the rate of re-offending.

2. **It is more offender centred**: Restorative justice considers all parties involved. It aims to meet the needs of victims as it considers the effects of the criminal act on the victim while it also assists the offender in identifying the root causes and contributing factors behind their criminal acts so they learn to act differently and avoid recidivism.

It can, therefore, be safe to say that offender rehabilitation and crime prevention is an aspect of restorative justice. But the victim's needs always take the centre stage as their wants, opinions, general and emotional wellbeing are also put into consideration. It can, therefore, be deduced that offender rehabilitation is a common element of a restorative process, but it doesn't necessarily make it offender centred.

3. **It is not suitable for all cases and is only appropriate for minor offences**: This is another common misconception born out of limited or improper knowledge of what restorative justice entails. Some persons inclusive of legal practitioners view restorative justice to be only effective on minor offences whereas this is not the correct position as Restorative Justice can be used for any crime, and in more developed countries, it has been successfully used in cases of assault, rape, and murder. For these more serious offences, the restorative justice process can be done in conjunction with the mainstream justice system after the offender has been found/plead guilty. It is important to iterate that Restorative Justice can be done at any stage of the proceeding and can even take effect after sentencing. It can be done before initiating a Court process, after sentencing, or even after the court case is over.

4. **It serves as a get out of jail card for the offender**: Flowing from the above, it can be deduced that Restorative Justice is not a get out of jail free card and can even take place after incarceration. It can occur in conjunction with judicial sentencing and a custodial sentence. Let us consider the celebrated case of Harvey Weinstein, who was accused of sexual abuse and rape and was subsequently sentenced to 23 years in prison after a full-blown trial. While many applauded the prison sentence he received, restorative justice should also serve as an addition as conceived by one of his Victims, Ashley Judd, who indicated that she would love for Weinstein to have a restorative justice process in which he could come emotionally to terms with his wrongs as Weinstein from comments in court appeared not to have understood the impact his actions had on his victims'. Restorative justice, in his case, would not serve as a get out of jail free card but an avenue for healing and rehabilitation.

5. **Restorative justice requires forgiveness and becoming friends with the offender:** Although the place of forgiveness and reconciliation cannot be denied in a restorative process, it is not the primary goal of a restorative process. Restorative Justice is a voluntary process where victims move at their pace and can decide whether or not to

forgive the offender or become friends with them, and no restorative process forces reconciliation and forgiveness on the parties.

Having highlighted some common misconceptions of Restorative Justice, I shall discuss the basic universal restorative programs which are often used to achieve a successful restorative process.

Restorative Justice Programs

Various countries involved in Restorative Justice all have different programs they use and often the frequency of one is more prevalent because it may produce more results in the region or area it is being used. We shall discuss three (3) programs commonly used in a Restorative Process.

1. **Victim-Offender Mediation**: This restorative program is by far one of the most commonly used and it involves the victim, the offender and trained Restorative Justice Practitioners who discuss the crime, its negative effect, and the process needed to make things right. It can even take an indirect approach by dispensing with face-to-face meetings but takes place through the exchange of letters between victim and offender. Victim Offender Mediation may be independent, relatively independent or dependent of the judicial process. It is independent when it is offered as an alternative to criminal litigation and it is relatively independent when it is offered as part of the regular criminal litigation, and the resolution reached may have an impact on the outcome of the case. It may also be dependent, and this is used after a criminal trial has taken place. In summary, Victim-Offender Mediation can appear as part of/ instead of/ on top of the formal criminal justice system.

2. **Conferencing**: This Restorative program involves the Victim, the Offender, family members, and community members coming together to discuss the crime, its effect and the way forward. It is usually facilitated by an independent 3rd party who acts as a facilitator. Just like in every Restorative process, it must be Voluntary and the Offender must have admitted guilt for the offence.

3. **Circles**: This process is similar to Conferencing, they only differ because of the involvement of more parties such as more family members, community members, government representatives, police officers and others who may be necessary for the process to discuss the underlying causes and impacts of the crime not only to the

victim but to the community as a whole. This process is governed by a keeper of the circle who ensures the process is protected with the use of a talking piece and participants in the process only speak when the talking piece reaches their turn including the keeper of the circle. This is to ensure peace and reduction of rowdiness because of the number of persons involved.

The restorative justice process may occur during the trial, before trial or after trial. From the provisions of the Nigerian Correctional Service Act, 2019, there are four (4) stages at which the restorative justice approach may be used. They are:

1. Pre Trial stage
2. Trial stage

iii. During imprisonment; and

Iv. at post-imprisonment.

Although restorative justice has its obvious advantages, just like all other facets of life it also has disadvantages and it is not the writer's wish to paint it as an all-perfect answer to crime reduction but rather to portray it in its true light. Some major disadvantages of restorative justice are:

1. Potential re-victimisation.
2. Inability to ascertain if an offender is truly rehabilitated.
3. Some offenders end up re-offending this is because Restorative Justice does not totally eradicate re-offending.
4. Reliance on the voluntary participation of parties and the admission of guilt by the Offender, in the absence of which there can be no Restorative Justice.

Instances of Restorative Justice in Nigeria using the Traditional Igbo Society.

The Igbo tribe is one of the major tribal groups in Nigeria. They occupy the eastern part of Nigeria like Abia, Anambra, Ebonyi, Enugu, Imo and some parts of Delta and Rivers state. Before western education, culture, and civilization were introduced in Nigeria, the Igbos had their way of making laws, governing themselves and settling their disputes. In those days, the Igbos practised restorative justice in their mode of settlement of disputes.

For instance, when a serious or violent crime is committed, such as murder or rape, the victim's family is offered a form of reparation which may come in the form of 'nkuchi'or 'ikwala' or banishment of the murderer from the community. Most times, the banishment extends to the offender's nuclear family. The latter example was evidenced in Chinua Achebe's novel "*Things Fall Apart"* which chronicled the journey of a young man, Okonkwo, who was banished from the land for killing a young boy. As was the norm in many Igbo lands, it was a crime to kill a clansman and a man who committed it must flee from the land. For killing the sixteen-year-old son of Ezeudo, Okonkwo was forced to flee from the land for seven years.

This mode of justice was heavily prevalent in that era and it's ironic they had no idea they were effortlessly practising a system of justice which we would in the 21st-century fight to bring back to the limelight in our urban civilised society. Restorative justice has not lost its light as it is still practised in Igbo lands. Till date, when a crime is committed in a village, in most cases, recourse is not made immediately to the police or formal authorities but to parents of the person who committed the crime or Umunna's (kinsmen) who resolve the dispute among themselves or with the help of the Igwe (the traditional ruler) or the community. It is also evidenced in the mode of settlement of a dispute in Afikpo land, Ebonyi State and in most villages in the eastern part of Nigeria, where the participation of the victim, offender, and community in repairing harm done is still thriving.

The traditional Igbo society justice system is characterised by restitution, which is an important aspect of restorative justice. It goes to prove that restorative justice is not alien to the Nigerian justice system and Africa as a whole.

Importance of Restorative Justice in Nigeria's Criminal Justice System

It is common knowledge that the Nigerian Correctional Centers do little or nothing to rehabilitate and reintegrate offenders into the society as most prisoners come out more hardened. Nigeria's criminal justice system is retributive and characterized by punishment and sanction, but restorative justice is emerging as a formidable alternative to it.

Most inmates at Correctional Centers are awaiting trial, some of them having been there for about 10 years. Presidential pardons offered by the Federal Government have done

little to resolve the problem. All over the world Correctional Centres are established to serve as rehabilitative and reformatory institutions with the goal of reorientation and reforming inmates so they would come out as useful members of the society. However, the Nigerian correctional centres have failed to attain this purpose but instead harden inmates by subjecting them to horrible and degrading conditions.

Despite the shortcomings of the then Prison Service, it is laudable to applaud the tremendous feat of the government on the introduction of the new Correctional Service Act which not only changed the name from Prison to Correctional Centres but also made provision for the use of Restorative Justice in the country. This is a huge stepping stone for Restorative Justice practitioners as the Correctional Service Act has now adopted a process of custodial and non-custodial approach giving room for restoration. However, the law should not only be made but seen done by a rapid implementation.

Restorative Justice shines a light on humanity by realising that offenders, especially first-time offenders and juvenile offenders are often victims of themselves or of attempts to impress friends and in situations like that, rather than creating room for recidivism and re-offending, it is important to shed light on their non-complexities as they need help to become better versions of themselves. When offenders go into the correctional facilities with little or no opportunity for rehabilitation and education, they come out worse than they were when they entered, thereby becoming more susceptible to committing worse crimes than their first.

3.1.3 Retributive Justice

History of retribution

It is difficult to know when retribution was first used as a philosophy of justice, but the concept regularly recurs in many religions. There are mentions of it in several religious texts, including the Bible and the Qurʾān. In the Christian tradition, for example, Adam and Eve were cast out of the Garden of Eden because they violated God's rules and thus deserved to be punished. Many Christians believe sinners will suffer a fiery afterlife for their transgressions. The Qurʾān discusses retribution by God for those who are disobedient or wicked. Allah is specifically addressed as the Lord of Retribution in a selection that discusses those who reject belief in him. The

Buddhist Dhammapada mentions retribution as following bad acts, and the Hindu Bhagavadgita ties retribution to bad karma.

Most legal scholars agree that restorative and retributive justice elements coexisted for centuries in justice systems that recognized the value of victims and their recovery from harm perpetuated by offenders. In 451–450 bce, the Law of Twelve Tables was drafted by a committee of Roman judges. Those laws signaled the end of private justice achieved through blood feuds by confirming compensation as the accepted method of justice in ancient Rome. In the Twelve Tables, restitution was the sanction of choice for most crimes, and victim retaliation was tolerated only when attempts to obtain restitution had failed. In many respects, the Twelve Tables indicated the beginning of state-involved justice.

The collapse of the Roman Empire led to a reassertion of private justice in the 5th century ce. British rulers noted problems with relying on private justice and tried to remedy the situation by issuing successive legal codes, such as Aethelberht I's laws in the early 7th century. By the time of the Norman conquest in 1066, Anglo-Saxon justice had been successfully restored to a system that typically involved payment of a wergild (or wergeld) to compensate victims or their families for the harms they suffered. The wergild system reduced reliance on private vengeance, because victims or their families could expect restitution, and private revenge was undesirable because such vengeance had often been met with additional violence. Wergilds were paid to the victims or their families, and more serious injuries meant paying a higher wergild. The highest wergild was paid for homicide, the smallest for injuries that healed quickly, such as bruises.

Around 1116 England's Henry I penned his *Leges Henrici*, which redefined offenses as crimes against the king or government and thus shifted the focus of justice away from concern for victims. Instead of harming victims, crimes came to be viewed as transgressions against an amorphous "king's peace." By declaring himself the true "victim" of crimes, Henry shifted compensation to the crown and began the erosion of restorative schemes. Over time, restoration was relegated to sporadic efforts fashioned by creative counsel, and other justice philosophies such as deterrence, incapacitation, rehabilitation, and retribution moved to the forefront. Because deterrence was not formally described until the 18th century and rehabilitation did not achieve a following until the 19th, restoration was initially replaced by retribution and

incapacitation (which was essentially achieved through execution or maiming owing to the lack of detention facilities).

As the British government began to control more and more of the justice system, retribution became even more important as a sentencing philosophy. Part of that transformation was due to attempts by the crown to monopolize financial penalties, but other changes sprang from the inability of the system to include adequate consideration of the victim as more than a mere target of crime. Instead, victims were left to rely on the civil courts for their compensation, and offenders were fined or punished for whatever level of guilt and blameworthiness they had displayed during their crimes. By sentencing offenders for the culpability they possessed or appeared to possess and then allowing victims to sue for whatever damages were fitting, the justice system was able to create a consistent schema.

Victims' concerns eroded over time until the system was completely offender-centred. By the mid-1800s, a few critics had begun calling for the reinstatement of restitution, claiming that it was important for victims, but retribution remained the dominant philosophy. Owing in part to the victims' rights movement launched in the 1970s, the justice system began to incorporate restorative justice initiatives. Although those initiatives have been successful with juveniles and in certain types of cases, retribution is still employed in serious cases.

Retribution as a philosophy

Retribution appears alongside restorative principles in law codes from the ancient Near East, including the Code of Ur-Nammu (c. 2050 bce), the Laws of Eshnunna (c. 2000 bce), and the better-known Babylonian Code of Hammurabi (c. 1750 bce). In those legal systems, collectively referred to as cuneiform law, crimes were considered violations of other people's rights. Victims were to be compensated for the intentional and unintentional harms they suffered, and offenders were to be punished because they had done wrong.

Retribution is based on the concept of lex talionis that is, the law of retaliation. At its core is the principle of equal and direct retribution, as expressed in Exodus 21:24 as "an eye for an eye." Destroying the eye of a person of equal social standing meant that one's own eye would be put out. Some penalties designed to punish culpable behaviour by individuals were specifically tied to outlawed acts. Branders who used their skills to remove slave marks from runaway slaves, for example, had their hands amputated.

No other punishment philosophy gives so much importance to actus reus (a guilty act) and mens rea (a guilty state of mind). Under retribution, both elements of the crime must be present before punishment can be imposed. In addition, offenders may be punished only for the guilty acts they actually commit; those who plan a murder but succeed only in wounding a victim, for example, should not be punished as harshly as those who actually carry out the murder.

Under retributive justice schemes, it is also important that offenders actually be guilty of the crime for which a penalty has been imposed. True deterrence doctrine, according to the utilitarian philosophy of Jeremy Bentham, allows for the punishment of innocent individuals if doing so would serve a valuable societal function (e.g., creating and maintaining an image that crime is detected and punished so that others are deterred from crime). That idea is repugnant to retributionists, who believe that punishment should be meted out only to those who have broken laws. The value of retribution cannot be cheapened by using it to compensate for inadequacies of the justice system.

Retribution also forbids the punishment of offenders who cannot be held responsible for their actions. Insane or intellectually disabled individuals, for example, should not be penalized for acts that result from mental illness or disability. In addition, acts that are truly accidental, as well as those committed by children, are not subject to the same punishment as those committed by adults who possess criminal intent. The reasoning is simple when viewed through the lens of retributive theory. If individuals do not or cannot form mens rea (i.e., they cannot freely choose how they act), they do not deserve to be punished for their actions. As in the time of Hammurabi, however, victims are entitled to damages, because causing harm even in the absence of intent carries the obligation of restoring one's victims.

Under retribution, it is improper to allow guilty individuals to go unpunished. Because punishment must be deserved and follow culpable actions, it is inappropriate to deny individuals the consequences of their actions. In some respects, punishment is something that individuals "earn" when they exercise their free will in an unacceptable manner. Here again, deterrence doctrine differs from retribution, because true deterrence allows offenders whose skills are needed by the community to be spared sanctions. Utilitarianism's overall goal is deterrence, which allows pardoning guilty parties if doing so is somehow better for the community as a whole.

Punishing offenders also restores balance to society and satisfies society's need or desire for vengeance. Offenders have misused society's benefits and have thus gained an unethical advantage over their law-abiding counterparts. Retributive punishment removes that advantage and tries to restore balance to society by validating how individuals ought to act in society. In some respects, punished individuals undergo a restricted form of rehabilitation. Punishing criminals for their crimes reminds others in society that such conduct is not appropriate for law-abiding citizens, and the offenders themselves realize they have done wrong and deserve to be punished.

Criticisms of retribution

Of course, no punishment theory is without its critics. Many of those who criticize retribution argue that the philosophy is outdated. As societies become more civilized, they should outgrow the need or desire for revenge. Others note that punishing criminals just because they have acted inappropriately does not address any underlying issues that may have led to the crimes in the first place. Some offenders need treatment rather than punishment; without treatment, the cycle of crime will continue unabated.

Other critics note that it is not feasible to establish a satisfactory scale of punishments for crimes. Even if such a scale could be developed, it would probably fail to consider offenders' differing roles and motivations in committing crimes. Yet such considerations are important to retributionists, given their focus on deserved sanctions rather than punishment for its own sake.

Finally, a few critics note that doing unto others what they have done unto you is not as fair as it may initially seem. The victim suffered only the injury, but the offender must suffer both the injury and the anxiety of waiting for the injury to be imposed as punishment.

3.1.3 Retributive Justice Theory

Retributive justice is a theory of punishment that when an offender breaks the law, justice requires that he or she suffer in return. It also requires that the response to a crime is proportional to the offence. Prevention of future crimes (deterrence) or rehabilitation of the offender are other purposes of punishment. As a "theory of punishment," retributivism is said to answer the question, Why punish anyone? The question is best interpreted to be a very

general one, asking after the justification for the entire criminal law and the institutions that serve it. Retributivism is thus, first and foremost, a theory about the legitimate end served by penal institutions. Retributivism, like other theories of punishment, is a theory about why we should have the criminal law (Moore, 1997). As such, retributivism also purports to answer more discrete questions about criminal law, such as questions about the correct doctrinal triggers for liability and questions about how much offenders should be punished for certain crimes when done with certain levels of culpability. Retributivism also has strong implications for the question of what should be prohibited by penal law; with certain suitable assumptions, a retributivist theory of punishment yields the legal moralist theory of criminal legislation according to which all and only morally wrongful behaviour should be forbidden by the criminal law (Moore, 1997).

4.0 Conclusion

Rehabilitating offenders based on these theories are key in the society as punishment for crimes aid in reducing and acting as deterrence to others. This should be cleared and monitored in the operational process of the society to achieve successful punishment, retribution and deterrence strategy.

5.0 Summary

5.1 This unit discussed the major theories of criminal law which is the reformative and retributive which is a guide in punishment with one stating that the offender should get punished for the crime while restorative believe in repairing the criminal behaviour or criminal.

6.0Tutor-Marked Assignments

Discuss in details theories on crime and justice administration which theory is Nigeria applying now and what are the challenges

7.0Reference/further readings

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MODULE 2: Policing Jurisdiction and Discretion

Unit 1: Legal Aspect of Policing, Jurisdiction and Discretion

CONTENTS

1.0 Introduction

Legal issues on jurisdiction and discretion has been the negative factors preventing collaboration among gatekeepers in the criminal justice system. It is key therefore to have a proper understanding of these areas in the criminal justice system for future planning, policy and implementation.

2.0 Objectives

The students will be able to:

Define police discretion and Jurisdiction

Be acquainted to Types of police discretion and Jurisdiction

Have knowledge of Legal structures of police discretion and Jurisdiction

Be aware of Limitation of police discretion and Jurisdiction

3.0 Main Content

3.1 Definition of Discretion

Discretion means the power and ability to make decisions. This is somewhat vague, but so is the concept of police discretion. In the context of policing, discretion means that officers are given some leeway on which they can rely as they make choices that impact the people they are policing. There are some departments that give their officers more discretion. They believe that by hiring good people, they are able to give more leeway to those individuals to ensure that the goals of public safety are obtained. Other departments give their officers less discretion, asking them to abide by a certain set of standards.

Basic Categories of Discretion

Discretion in investigatory stops

One of the most important areas where police have discretion is in deciding who to stop. Most people commit some violation during the course of their day. Often, it is something small like failing to maintain a lane during a turn. Others will go a few miles per hour over the speed limit. It is quite obviously not possible to arrest every single person who happens to break the law. It is also not advisable for officers to do so. This means they must decide whether the person breaking the law is posing some threat to public safety.

Discretion in ticketing and arrests

Officers may fairly wide discretion when it comes to issuing traffic tickets and other non-serious citations. Their discretion is bound by some constraints, including soft or unspoken quotas. Still, they can decide to give some people warnings if they deem that this would be the most effective way to protect the public. Some complain that the use of discretion can lead to unfairness on the basis of race, gender, religion and the like. Others hold that this is an important function that ensures the law is not too rigid.

Discretion in arrest.

In addition, officers occasionally have discretion when it comes to who to arrest and how to do it. When a warrant for arrest is issued, there is no discretion involved. However, officers operating without a warrant must decide whether the complained of crime is enough to justify the arrest. For instance, a person who is drunk in public could be arrested, but some officers may choose to just put him in a cab and send him home. Likewise, discretion must be used in determining how much force is needed to bring a suspect into compliance.

3.1.2 Advantages of Police Discretion

1. Police discretion allows officers to make decisions when a clear solution may not exist.

   The principle of police discretion allows a law enforcement official to make effective decisions while on the job when clear solutions may not be available. That means each officer has the flexibility to handle a situation in the manner that they feel best meets the needs of the individual and their overall community. Instead of applying a specific statute in a standardized way, it becomes possible to serve and protect in ways that the law might not envision based on its wording.

2. It permits the use of force when necessary to keep a community safe.

Police discretion allows law enforcement officials to utilize their skills and experience to determine an acceptable level of force against a suspect. Officers can use lethal force with this advantage if they believe a potential offender is threatening the life of a civilian, themselves, or a fellow officer. It gives them the right to defend their life without the obligation to do so.

For most police officers, preserving life is the best-case scenario. The principles of police discretion make this possible while also allowing for a higher level of force to get applied when necessary to prevent future injuries.

3. This principle allows an officer to pick and choose their enforcement opportunities.

It isn't practical for a police officer to attempt to pull over every driver who speeds or violates a traffic law. Even when a contact does occur, it still isn't necessary to search every vehicle to see if contraband is present in that situation. The advantage of discretion here allows an official to focus their energy on specific situations where the law gets broken in a reckless manner. Officers can also make contact with individuals that they believe could be hiding something or have broken serious laws that require an intervention to keep others safe.

4. It allows for resource allocation.

Detectives can use police discretion as a way to allocate resources to specific activities. Different departments can take advantage of this principle to determine how much time gets spent investigating a specific case. Although patrol officers, on foot or in vehicles, receive the

highest degree of autonomy in this area, anyone in law enforcement can enjoy some level of discretion with this advantage. The daily operations of a Police Department would not be as efficient if this approach was not taken regularly.

5. Discretion allows an officer to determine what charges to file against suspects.

Police officers can use discretion to determine what charges get filed against a suspect. That means law enforcement officials can change the nature of the charges that someone faces by choosing a lesser or related one then a severe violation. This principle can also determine how quickly officers arrive at the scene when receiving a dispatch call or the number of officials that need to be present to subdue a situation. Each of the decisions made in this area can have a significant impact on the safety of the public. It is up to each official to balance the rights of individual suspects with the needs of the overall community.

6. It permits a police officer to use their training for the public good.

Policing is similar to other care-based professions because of the level of care involved in this process. Discretion enables practitioners to use their expertise in training to determine how they should perform well on the job. Although there should be a balance between holding officers accountable and supporting their decision-making processes, the allowance of this policy acknowledges the professionalism that's expected from local departments. It also speaks to the trust that the public has in the individual officers determining the best manner to preserve their interests.

7. Discretion is available for offenders of all ages.

Police officers often act as a gatekeeper to the juvenile justice system in the developed world. The discretion they use when interacting with young criminal offenders gives them the option to handle delinquencies and minor offenses in a constructive way. That means fewer kids get charged with a crime because of this principle. Even though discretion can often be viewed as problematic when it doesn't receive enough oversight, most officials use their judgment in ways that work to preserve societal and family interests whenever possible.

8. Specific areas of concern can get addressed through administrative rulemaking.

When a police department decides to put limits on discretion, then they can do so through a process of administrative rulemaking. Creating specific procedures for officials to follow provides consistency for officers when they are on the job. Although this advantage places limits on how individuals can use their experience and training to benefit others, it also creates more communication lines between them and the public. It works to reduce frivolous charges, constructively engages vulnerable population demographics, and seeks to find ways to supplement the rights of the average person instead of trying to take them away.

3..1.3 Disadvantages of Police Discretion

1. Statutory laws don't cover every potential situation.

Statutory and common laws don't cover every potential situation that police officers encounter while on the job. That means there could be times when an offender might not receive a ticket or detainment because of the circumstances involved in their situation. Even if victims attempt to press charges during this situation, officials can decide whether or not to pursue pressing forward with legal intervention.

2. It can be an invitation for cronyism.

If a police officer doesn't carry out their duties with diligence, then there is an opportunity for some offenders to avoid prosecution because of cronyism. Although most law-enforcement officials are highly ethical and excellent with what they do on the job, a handful of bad apples can interfere with community relations or encourage corruption within the ranks. Because of the definition of police discretion, these issues can get written off without a beneficial outcome. Some people can commit blatant crimes without consequence due to this disadvantage.

3. Violating orders can lead to the use of excessive force.

Police officers can use a discretionary amount of force to control a potentially dangerous situation. If an official goes beyond this level, then it can lead to problems with excessive force being applied in a specific situation. The barring of excessive force can make some individuals believe that officers must work with them in ways that are gentle, soft, and smooth. When someone violates an order, even if it may be perceived as unlawful, then it

creates a higher risk of violence toward the official. That's why issues of force are often justified, even if it doesn't seem that way at the time.

There are specific examples of this disadvantage that create harm to the general public when officers still committed acts of violence against people not breaking the law. That's when an official will cross the thin blue line and can face charges themselves.

4. It can lead to soft law enforcement mechanisms.

When police discretion gets abused at local precincts, it can result in softer law enforcement mechanisms. It may act as a motivation to the general public to be less respectful of the laws and regulations that govern their community. Officials must act with proper prudence and a high degree of confidence and self-esteem to ensure that criminal conduct receives the deterrent consequences needed to keep everyone safe.

5. Some police officers see discretion as being a form of unlimited authority.

Police discretion can sometimes cause law enforcement officers and the general public to believe that unlimited authority exists in the application of statutory or common law. This disadvantage occurs when an unscrupulous officer decides to use this principle as a way to promote their self-interests. Proper supervision from individuals in the higher ranks can reduce this problem, but the individualized nature of the job can make it challenging to have eyes on people at all times of the day.

6. People with wealth tend to receive more of the benefits of discretion.

Accountability requires discretion. No one would argue that point. The issue with this law enforcement principle is that an individual with wealth tends to receive more flexibility than someone living in poverty. The personal bias of the officers involved often look at current and past behaviors as a way to determine whether a significant intervention is necessary. If someone is rich, then the natural implication is that wealth could be made while violating the law.

7. It is a principle that gives the police officer the benefit of the doubt.

Members of society disproportionally receive the benefit of the doubt when a police officer exercises their discretion. Outside of the advantage, anyone who has an association with law enforcement may receive special treatment that wouldn't be possible without that connection. It is a disadvantage that is known as the "power model," leading to inequities in enforcement for different demographics. This problem can even lead to conduct that violates the constitutional rights of citizens.

8. The use of police discretion can put the public at risk.

Police officers can use discretion as a way to protect the general public. Their decision-making can also lead to situations where there is a higher risk of harm to a civilian. The choice to engage in a high-speed chase or not attempts to balance the need to capture a suspect against the potential for an injury because of pursuit activities. Choosing to engage will place anyone in the way at a greater risk of harm since the suspect and officers may go through intersections or drive in unauthorized areas.

That's why it is up to the general public to be observant of their surroundings at all times. If a criminal matter occurs, then a person's observations can encourage them to stay out of the situation as best as possible.

3.2 Jurisdiction

Police jurisdiction, generally, is contained to the areas within the city limits where the police officer is sworn. A police officer who works for a particular city would only be authorized to enforce the law within the city limits. This is referred to as territorial jurisdiction.

Types of jurisdiction

Police jurisdiction, generally, is contained to the areas within the city limits where the police officer is sworn. A police officer who works for a particular city would only be authorized to enforce the law within the city limits. This is referred to as territorial jurisdiction.

Every court system has jurisdiction over certain cases, from enforcing traffic laws to hearing capital murder charges. There are three types of jurisdictions:

Original Jurisdiction– the court that gets to hear the case first. For example Municipal courts typically have original jurisdiction over traffic offenses the occur within city limits.

Appellate Jurisdiction– the power for a higher court to review a lower courts decision. For example, the Texas Court of Appeals has appellate jurisdiction over the District Courts (See the hierarchy of Texas Court Structure in this Unit).

Exclusive Jurisdiction– only that court can hear a specific case. For example only the Texas Court of Criminal Appeals Court can hear appeals for death penalty sentences.

3.3 Legal structure and police jurisdiction

Police discretion legally can be applied in different ways and these ways are as follows: One of the most important areas where police have discretion is in deciding who to stop. Most people commit some violation during the course of their day. Often, it is something small like failing to maintain a lane during a turn. Others will go a few miles per hour over the speed limit. It is quite obviously not possible to arrest every single person who happens to break the law. It is also not advisable for officers to do so. Still, they can decide to give some people warnings if they deem that this would be the most effective way to protect the public. Some complain that the use of discretion can lead to unfairness on the basis of race, gender, religion and the like. Others hold that this is an important function that ensures the law is not too rigid.

In addition, officers occasionally have discretion when it comes to who to arrest and how to do it. When a warrant for arrest is issued, there is no discretion involved. However, officers operating without a warrant must decide whether the complained of crime is enough to justify the arrest.

3.3.1 Limitations of police discretion

Limitations of police discretion are that there may be instances of favouritism or bias when enforcing the law. This is because all human beings are essentially a sum total of all the experiences that have shaped them. These experiences form the perception individuals have of certain aspects of their lives, thus leading to bias even when they are unaware of it. This is the basis of the problem of inconsistency in application of police discretion. It is a tenet of the law that the law should be applied equally to all citizens. Therefore, police discretion may serve as a loophole for certain citizens to escape the full force of the law, while others may be unfairly punished.

As regards the question of whether police work is too complex to scrutinize and micromanage in every circumstance, it is clear that the community comprehends this truth, and hence the leeway which is police discretion. Police discretion is exercised within the constraints of the law. The law, on the other hand, is created by legislators who are representatives of their electorate; therefore, it is safe to assume that the community does understand the need for police discretion. However, the police must understand that discretion is not unlimited, and the community reserves the right to question some of their decisions. This will inspire a feeling of transparency and accountability in the police, which will ensure access to justice for all. Obviously, elimination of police discretion is not a feasible option. While certain biases and prejudices are ingrained into human nature, it would be possible to try and eliminate such through certain methods. Police discretion will, therefore, be highly successful, if properly regulated.

Methods that can be used include developing strict policies and guidelines that guide the force. For example, it has been noted that the New York City Police Department started a strict policy based on "defence of life." Based on this policy, the officers were encouraged to spare life at all time. One should shoot where all other options have been exhausted and proved futile. Because of this policy, the number of police shootings reduced by thirty pre cent. Because of the success of this policy, other police departments all over the state were encouraged to adopt it, and this led to a reduction in shooting incidents by 50% between 1970 and 1984 (Engel, 2003).

Police discretion can also be taught by emphasising ethics. It should be emphasised that policemen are servants of the people, and, therefore, should exercise conduct befitting such a noble mandate. They should also be encouraged to avoid bad habits and employ excellent reasoning. Ethics education seeks to ensure that police officers are worthy of the public's trust. Police departments must produce a code of conduct for their officers. Every officer should be encouraged to act according to that code, and failure to abide by it would result in punishment.

There should also be routine trainings for police officers in a bid to eliminate any bias they may have. These should be conducted by experienced personnel who specialise in dealing with such problems.The trainings should also incorporate real-life dilemmas which police officers would ordinarily face in everyday world. Specialists conducting trainings should then seek to get the response of police officers with regard to those particular situations. This will

help the specialist analyse the levels of bias that may be inherent in each of police officers. This will help supervisors determine which officer is most competent in dealing with troubling scenarios, thus eliminating instances of bias by sending the most competent to handle difficult situations.

The question of gratuities and gifts should also be tackled. Most officers do not earn extremely high salaries, hence the temptation to take gratuities and gifts from citizens. While it is not generally wrong to accept such gifts, they could cloud his/her judgement when dealing with a particular case. This will most likely lead to a situation where certain people feel biased against. While this may not necessarily be true, the underlying principle in law is that one must not only be fair but seen to be fair as well (Goldstein, 1977).

Other specific disadvantages

1. Statutory laws don't cover every potential situation.

2. It can be an invitation for cronyism.

3. Violating orders can lead to the use of excessive force.
4. Some police officers see discretion as being a form of unlimited authority.
5. People with wealth tend to receive more of the benefits of discretion.

6. It is a principle that gives the police officer the benefit of the doubt.
7. The use of police discretion can put the public at risk.

4.0 Conclusion

Jurisdiction has always been the major factor mitigating against fight crime as instead of collaboration the gatekeepers of the criminal justice system fight for who has what power and how to operate in the society which makes it key to look into the process of creating these.

5.0Summary

The jurisdiction is a huge part of the police as a structure as it guides their operation however it has disadvantages are enormous as it can make fight for crime hard and at times put the officer in danger.

6.0Tutor-Marked Assignments

Discuss police discretion in details

What are the disadvantages /limitation of police jurisdiction? or discretions?

7.0Reference/further readings.

Dennis Jay Kenny 1999 Police and Policing: Contemporary issues

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UNIT 2: Community policing, Challenges and Way forward

CONTENTS

1.0 Introduction

Issues of community policing has evolved with time and the increase in population and lack of manpower in the criminal justice system has made it key to readopt and adapt collaboration between citizens and the government to curb the increasing rate of crime.

Community policing, recognizing that police rarely can solve public safety problems alone, encourages interactive partnerships with relevant stakeholders. The range of potential partners is large, and these partnerships can be used to accomplish the two interrelated goals of developing solutions to problems through collaborative problem solving and improving public trust. The public should play a role in prioritizing and addressing public safety problems

2.0 Objectives- always itemise the objectives or make broad statement of objectives

To get acquainted with community policing

Understand the history of community policing

Be aware of the challenges of community policing

3.0 Main Content

3.1 History of community policing around the world

Community policing has been evolving slowly since the civil rights movement in the 1960s exposed the weaknesses of the traditional policing model. Even though its origin can be traced to this crisis in police-community relations, its development has been influenced by a wide variety of factors over the course of the past forty years.

The Civil Rights Movement (1960s). Individual elements of community policing, such as improvements in police-community relations, emerged slowly from the political and social upheavals surrounding the civil rights movement in the 1960s. Widespread riots and protests against racial injustices brought government attention to sources of racial discrimination and tension, including the police. As visible symbols of political authority, the police were exposed to a great deal of public criticism. Not only were minorities underrepresented in

police departments, but studies suggested that the police treated minorities more harshly than white citizens (Walker). In response to this civil unrest, the President's Commission on Law Enforcement and the Administration of Justice (1967) recommended that the police become more responsive to the challenges of a rapidly changing society.

One of the areas that needed the most improvement was the hostile relationship separating the police from minorities, and in particular the police from African Americans. Team policing, tried in the late 1960s and early 1970s, developed from this concern, and was the earliest manifestation of community policing (Rosenbaum). In an attempt to facilitate a closer police community relationship, police operations were restructured according to geographical boundaries (community beats). In addition, line officers were granted greater decision-making authority to help them be more responsive to neighborhood problems. Innovative though it was, staunch opposition from police managers to decentralization severely hampered successful team implementation, and team policing was soon abandoned.

Academic interest (1970s). All the attention surrounding the police and the increased availability of government funds for police research spawned a great deal of academic interest. Researchers began to examine the role of the police and the effectiveness of traditional police strategies much more closely. In 1974 the Kansas City Patrol Experiment demonstrated that increasing routine preventive patrol and police response time had a very limited impact on reducing crime levels, allaying citizens' fear of crime, and increasing community satisfaction with police service. Similarly, a study on the criminal investigation process revealed the limitations of routine investigative actions and suggested that the crime-solving ability of the police could be enhanced through programs that fostered greater cooperation between the police and the community (Chaiken, Greenwood, and Petersilia).

The idea that a closer partnership between the police and local residents could help reduce crime and disorder began to emerge throughout the 1970s. One of the reasons why this consideration was appealing to police departments was because the recognition that the police and the community were co-producers of police services spread the blame for increasing crime rates (Skogan and Hartnett). An innovative project in San Diego specifically

recognized this developing theme by encouraging line officers to identify and solve community problems on their beats (Boydstun and Sherry).

The importance of foot patrol. It is clear that challenges to the traditional policing model and the assumption that the police could reduce crime on their own, helped generate interest in policing alternatives. However, it was not until the late 1970s that both researchers and police practitioners began to focus more intently on the specific elements associated with community oriented policing. The major catalyst for this change was the reimplementation of foot patrol in U.S. cities. In 1978, Flint, Michigan, became the first city in a generation to create a city-wide program that took officers out of their patrol cars and assigned them to walking beats (Kelling and Moore). Meanwhile, a similar foot patrol program was launched in Newark, New Jersey.

The difference between these two lay primarily in their implementation. In Flint, foot patrol was part of a much broader program designed to involve officers in community problem-solving (Trojanowicz). In contrast, the Newark Foot Patrol Experiment, which was modeled on the study of preventive patrol in Kansas City, focused specifically on whether the increased visibility of officers patrolling on foot helped deter crime. Results from these innovative programs were encouraging. It appeared that foot patrol in Flint significantly reduced citizens' fear of crime, increased officer morale, and reduced crime. In Newark, citizens were actually able to recognize whether they were receiving higher or lower levels of foot patrol in their neighborhoods. In areas where foot patrol was increased, citizens believed that their crime problems had diminished in relation to other neighborhoods. In addition, they reported more positive attitudes toward the police. Similarly, those officers in Newark who were assigned to foot patrol experienced a more positive relationship with community members, but, in contrast to Flint, foot patrol did not appear to reduce crime. The finding that foot patrol reduced citizen fear of crime demonstrated the importance of a policing tactic that fostered a closer relationship between the police and the community.

As foot patrol was capturing national attention, Herman Goldstein proposed a new approach to policing that helped synthesize some of the key elements of community policing into a broader and more innovative framework. Foot patrol and police-community cooperation were integral parts of Goldstein's approach, but what distinguished problem-oriented policing (POP) was its focus on how these factors could contribute to a police officer's capacity to identify and solve neighborhood problems. By delineating a clear series of steps, from identifying community problems to choosing among a broad array of alternative solutions to law enforcement, Goldstein showed how increased cooperation between the police and community could do more than reduce fear of crime. An intimate familiarity with local residents could also provide the police with an invaluable resource for identifying and solving the underlying causes of seemingly unrelated and intractable community problems. With its common emphasis on police-community partnerships, parts of the philosophy of problem-oriented policing were readily incorporated into ideas about community policing.

The beginnings of a coherent community policing approach (1980s). Interest in the development of community policing accelerated with the 1982 publication of an article entitled "Broken Windows." Published in a national magazine, The Atlantic Monthly, the article received a great deal of public exposure. Drawing upon the findings of the Newark Foot Patrol Experiment, James Q. Wilson and George L. Kelling constructed a compelling and highly readable argument challenging the traditional crime-fighting role of the police, and exploring the relationship between social disorder, neighborhood decline, and crime.

According to Wilson and Kelling, officers on foot patrol should focus on problems such as aggressive panhandling or teenagers loitering on street corners that reduce the quality of neighborhood life. Similar to a broken window, the aggressive panhandler, or the rowdy group of teenagers, represent the initial signs of social disorder. Left unchecked they can make citizens fearful for their personal safety and create the impression that nobody cares about the neighborhood. Over time, this untended behavior increases the level of fear experienced by lawabiding citizens, who begin to withdraw from neighborhood life. As residents retreat inside their homes, or even choose to leave the area altogether, local community controls enervate and disorderly elements take over the neighborhood. Eventually, this process of neighborhood deterioration can lead to an increase in predatory

crime. Wilson and Kelling argue that by patrolling beats on foot and focusing on initial problems of social disorder, the police can reduce fear of crime and stop the process of neighborhood decay.

Goldstein's work and Wilson and Kelling's article sparked widespread interest in problem solving, foot patrol, and the relationship between the police and the community, all of which were becoming broadly associated with community policing. Police departments were quick to seize upon the ideas and publicity generated by these scholars, and in the 1980s they experimented with numerous problem-and community oriented initiatives. In 1986 problem-oriented policing programs were implemented in Baltimore County, Maryland, and Newport News, Virginia (Taft; Eck and Spelman). In Baltimore County, small units composed of fifteen police officers were assigned to specific problems and responsible for their successful resolution. In Newport News, the police worked with the community to identify burglaries as a serious problem in the area. The solution involved the police acting as community organizers and brokering between citizens and other agencies to address the poor physical condition of the buildings. Ultimately the buildings were demolished and residents relocated, but more importantly problem-oriented policing demonstrated that the police were capable of adopting a new role, and it did appear to reduce crime (Eck and Spelman).

An initiative to reduce the fear of crime in Newark and Houston through different police strategies, such as storefront community police stations and a community-organizing police response team, was successful in reducing citizens' fear of crime (Pate et al.). Interestingly, the results in Houston suggested that generally the program was more successful in the areas that needed it least. Whites, middle-class residents, and homeowners in low-crime neighborhoods were more likely to visit or call community substations than minorities, those with low incomes, and renters (Brown and Wycoff).

These studies further catalyzed interest in community policing and problem solving, and from 1988 to 1990 the National Institute of Justice sponsored the Perspectives on Policing Seminars at Harvard University's Kennedy School of Government. Not only did this help popularize these innovations in policing, but it helped scholars and practitioners refine and synthesize the mixture of ideas and approaches labeled community-and problem-oriented policing. One policing seminar paper in particular received a great deal of scholarly attention. The Evolving Strategy of Policing, by George Kelling and Mark Moore, summarized the history of policing and identified what was unique about recent developments in the field. In

contrasting three different policing approaches and finishing with the advent of the "community problem-solving era," Kelling and Moore appeared to be sounding a clarion call, announcing the arrival of a complete paradigm shift in law enforcement.

In the face of such bold proclamations, it is unsurprising that scholars began to examine community policing more critically, and queried whether it could fulfill its advocates' many promises. Contributors to an edited volume on community policing entitled Community Policing: Rhetoric or Reality? noted that without a workable definition of community policing, its successful implementation was difficult. They also suggested that community policing might just be "old wine in new bottles," or even a community relations exercise employed by police departments to boost their legitimacy in the eyes of the public (Greene and Mastrofski). The outgrowth of these thoughtful criticisms was to encourage researchers to design more rigorous methodological studies that could evaluate the effects of community policing more clearly.

3.2 Community policing as a national reform movement (1990s and beyond).

By the 1990s, community policing had become a powerful national movement and part of everyday policing parlance. Encouraged by the federal funds made available through the Office of Community Oriented Policing Services (COPS), police departments across the country shifted their attention toward implementing community policing reforms. Annual conferences on community policing became commonplace, and researchers began to study community-policing programs in cities all over America. Besides the availability of funds and promising research findings, the political appeal of community policing and its close affinity to long-term trends in societal organization contributed to the widespread acceptance of community policing (Skogan and Hartnett).

Given the large concentration of African Americans and Hispanics in American cities, groups who have historically been engaged in a hostile relationship with the police, an approach to law enforcement that promised to improve police-community relations by working with, rather than targeting, racial and ethnic minorities held great appeal for local politicians concerned with pleasing their constituents. In addition, community policing reflected a more general underlying trend in the structure, management, and marketing practices of large organizations. In contrast to rigid bureaucracies and their dependence on standard rules and

policies, decentralization created smaller, more flexible units to facilitate a speedier and more specialized response to the unique conditions of different organizational environments. Rather than emphasizing control through a strict organizational hierarchy, management layers were reduced, organizational resources were made more accessible, and both supervisors and their subordinates were encouraged to exercise autonomy and independence in the decision-making process. Finally, the extent to which consumers were satisfied with the market produce, in this case police services, became an important criteria for measuring police performance (Skogan and Hartnett).

At the outset of the twenty-first century, the momentum behind community policing shows no signs of slowing down. Even though police departments may have been slow to adopt all the philosophical precepts, tactical elements, and organizational changes commensurate with the entire community-policing model, its slow and steady evolution suggests that it is a permanent fixture on the landscape of American policing

3.3 Definition of community policing

Community policing is a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime (President's Task Force on 21st Century Policing, 2015). Tillman (2000:1) defined community policing "as bringing police and citizens together to prevent crime and solve problems, emphasizing the prevention of crime rather than the traditional policing method of responding to crime after it happens".

Community policing involves collaboration between police and community members characterized by problem-solving partnerships to enhance public safety. Community policing was adopted widely among law enforcement agencies in the 1990s, with a view toward improving trust between community members and police, and leveraging police resources through voluntary assistance by community members in public safety measures (COP Office, 2008).

3.3.1 History of community policing in Nigeria

The central tenets of community policing that stresses involvement and *responsiveness to the community are similar to the principle set* forth by Sir Robert Peel in 1829 when he opined that the police are the public and the public are the police. However, as the police evolved in the United States, they grew further apart *from* the public they served. This social distance by the police away from the public was enhanced due to the advent of patrol cars which replaced the traditional foot patrol.

Traditional police departments are insular organizations that respond to calls for service from their offices. This insular professional approach began to change in many agencies in the late 1970s and early 1980s. During this period, there was a paradigm shift in America from the traditional, professional model of policing to a more community partnership and proactive model of policing (Wrobleski and Hess, 2003:134-135).

Thus, Community policing started in the United States as a way of shifting police from its traditional reactionary way of policing to a more proactive policing. For decades, the U.S. police followed professional model, which rested on three foundations: preventive patrol, quick response time, and follow-up investigation. Sensing that the professional model did not always operate as efficiently and effectively as it could, Criminal justice researchers set out to review current procedures and evaluate alternative programme. One of the first known of these studies was the Kansas City, Missouri, Preventive Patrol Experiment. The study found that preventive patrol did not necessarily prevent crime or reassure citizens. Following the study, many police departments assigned police units to proactive patrol. Another of such significant study was that done by James Q. Wilson and George kelling. They introduced the theory of "broken windows". The theory assumes that a community will be free of major crime if minor crimes are gotten rid of. They concluded that in order to solve both minor and major problems in a neighborhood and to reduce crime and fear of crime, police must be in close, regular contact with citizens. That is police and citizens should work cooperatively to build a strong sense of community and should share responsibility in the neighborhood to improve the overall quality of life within the community (Bohm and Halen, 2005; 214- 2 15).

It was stated in recent times as follows:

1. Massive onslaught against robbers, gruesome murder, assassination and other crimes of violence against the backdrop of which operation Pire for Fire‟ was adopted as a methodology.

2. Fast decisive crime/ conflict management.

3. Community partnership in policing, the modern approach all over the world.

4. Serious anti-corruption crusade, both within and outside the Force.

5. Comprehensive training programme conducive for qualitative policing.

6. Improved conditions of service and enhanced welfare package for officers, inspectors and rank and file.

7. Inter-service/agency cooperation at all levels down the line.

8. Robust public relations necessary for the vision of people‟s Police

3.3.2 Strategies of community policing in Nigeria

Basically, there are three strategies of community policing: community partnerships, organizational transformation, and problem-solving. Community partnerships: consisting of collaborative partnerships between the police and the individuals and organizations they serve to develop solutions to problems and increase trust in police (Chene, 2012). For instance, it was instructed in the Final Report of the President's Task Force on 21st Century policing (2015) that:

"community policing requires the active building of positive relationships with members of the community-on an agency as well as on a personal basis. This can be done through assigning officers to geographic areas on a consistent basis, so that through the continuity of assignment they have the opportunity to know the members of the community".

Similarly, Policing agencies are unlikely to be successful in creating partnerships to address violent crimes until they establish trusting relationships with the communities they serve (Schanzer et al. 2016). The community policing strategies employed under this category included community assessments and engagement, and efforts to educate members of the public, private and non-profit communities. The strength of this strategy is the value of

information collected from residents and other stakeholders about the issues and concerns of the community that can help inform police activities that are best suited to address these concerns.

Organizational transformation: involving the alignment of organizational management, structure, personnel and information systems to support community partnerships and collaborative/proactive problem-solving (Chene, 2012).

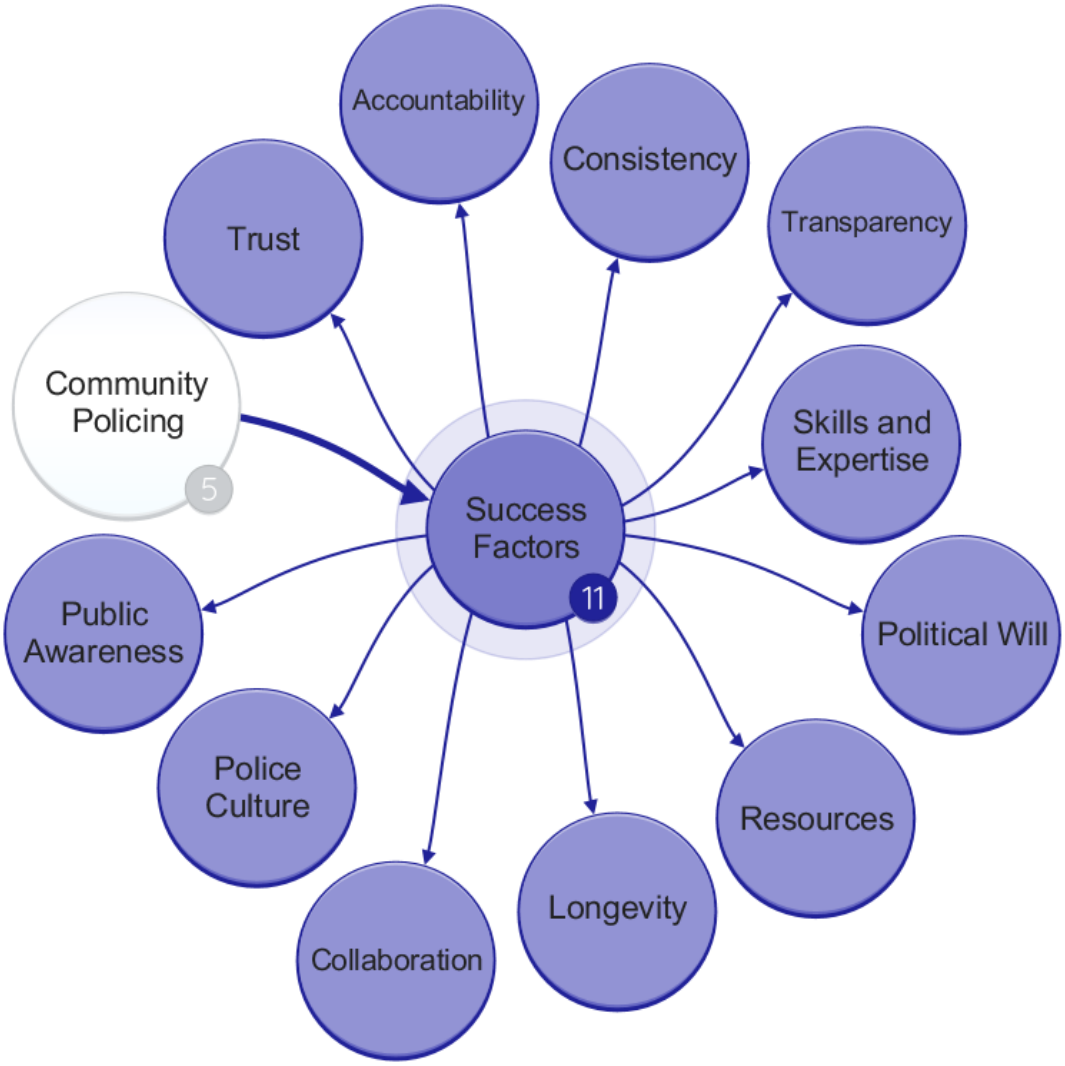
Problem-solving: problem-solving is defined as the process of engaging in proactive and systematic examination of identified problems to develop and rigorously evaluate effective responses. Problem solving is new way of policing to address not only the causes of crime and the fear of crime but all quality of life issues in the community.

3.3.3 Implementing Community Policing

According to Strategies for Community Policing, common implementations of community policing include:

- Relying on community-based crime prevention by utilizing civilian education, neighborhood watch, and a variety of other techniques, as opposed to relying solely on police patrols.
- Re-structuralizing of patrol from an emergency response based system to emphasizing proactive techniques such as foot patrol.
- Increased officer accountability to civilians they are supposed to serve.
- Decentralizing the police authority, allowing more discretion amongst lower-ranking officers, and more initiative expected from them.

Requirements for effective Community Policing



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Effective community policing requires a civic society open to collaboration and collective problem solving. This implies mature and robust government and accountable public institutions, independently held to account through a free press and judiciary (Parsons, 2017).

Institutional corruption, discrimination or bias in any public body is injurious to community policing as it pollutes the relationships so essential to make the problem solving environment viable. Community policing schemes established as a tactical response, or operating within repressive environments must therefore be treated with scepticism. Indeed, community policing can be misappropriated, expediently applied as a metaphorical band aid, or spun as a fashionable cause du jour. The positive impact such initiatives have on crime and community safety and security is likely negligible or accidental.

This complicates analysis of community policing, as schemes may have little chance of succeeding due to factors outside their locus of control or through fundamental mistakes in approach and configuration.

Crime figures can be quantitative analysed, but proving a causative link to success or failure of community policing is complex. It could be argued that a rise in reported crime is an indicator of improving trust in policing and criminal justice. Fear of crime and perceptions of safety are less tangible, but community safety measures (and other analogues) could include ‘feelings of safety’ as analysed through the British Crime Survey (Office for National Statistics, 2017) as well as public satisfaction surveys with police performance (Tuffin, Morris and Poole, 2007, pp. 49-53). Representation and protection of marginalised groups, safeguarding women, children, the elderly, disabled and mentally ill are important in this context (Trojanowicz and Bucqueroux, 1994, pp. 79-82).Community policing also has a key role in the interdiction of violent extremism and radicalisation leading to terrorism. It is therefore important that policing develops sophisticated religious and cultural understanding, free of orientalist bias and stereotype.

3.4 Benefits of Community Policing

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Community policing can therefore usefully build relationships and trust, assist with community integration, facilitate criminal and terrorist intelligence elicitation and distribution, identify and isolate 'bad actors'. A visible and reassuring presence, listening to community concerns and developing meaningful joint initiatives is a significant contributor to the alleviation of the fear of crime and satisfaction with policing.

Tackling signal crimes and developing healthy environments contributes to community vibrancy and creates a cold house for criminals (Wilson and Kelling, 1982). Early intervention, such as youth programmes and gang programmes may interrupt burgeoning criminal careers, or steer the vulnerable out of the path of radicalisers.

The cost of non-intervention is likely immeasurable. The true value proposition of community policing is therefore difficult to fully qualify. It is not a panacea in terms of actual crime reduction.

It appears more successful in satiating demand for visible policing, making useful contribution to alleviation of community fear by reducing the reassurance gap. In this sense, it is essential to question the key performance measures and success factors for community policing and community police officers.

3.5Challenges of community policing in Nigeria

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In spite of high expectations and widespread support for this type of policing, the impact of such approaches on corruption and accountability has not been clearly established especially in Nigeiria where this type of policing has not been adopted. In terms of anti-corruption benefits, bringing police forces closer to the community can strengthen and weaken the accountability of the police to the public. For the latter, community policing could create more opportunities for corruption/unethical practices by promoting closer ties between the police and the community and providing opportunities for long-term personal interactions, preferential treatments and the development of corrupt networks (Chene, 2012).

It seems pertinent to observe that the dismal image of the Nigeria Police accounts for the non-cooperation by the public who are often reluctant to volunteer useful information to the police. Yet, the tasks of crime prevention and detection as well as prosecution of offenders cannot be successfully performed without the cooperation of the public. Other allegations levelled against the police include arbitrariness in the exercise of its powers of arrest and prosecution, corruption and perversion of justice, use of crude techniques of investigation, collusion with criminals and incessant cases of accidental discharge of lethal bullets (Olujinmi, 2005).

In a study on Police corruption in Nigeria, it was gathered that the reasons some Nigerians do not want to join Police Force, the respondents stated:

Even if you do not want to be corrupt, the conditions of service cannot induce one to be honest or corrupt free and it is against my religious ethos to be corrupt'; 'Police officers are ineffective in combating the spate of insecurity in the country'; 'Instead of protecting life, they take it. The state is like a danger zone, no security for people'; 'The police do not charge suspects to courts, instead, they collect bribes and release them'; 'They aid armed robbers at times by (1) giving them arms and (2) not responding to distress calls until robbers have left the scenes of the robbery attack. They also extort money from civilians'; 'They are seen to be very, very corrupt and unprofessional in their dealings';

'They are ruthless and do not respect the rules and regulations laid down. They are crime architects. ne disturbing issue closely related to the above negative perception of Nigeria police is the widespread outcry on extra-judicial killings by the police with impunity. Lastly, despite the relevance of the community policing in modern policing practice and the fact that there are many literatures on the subject by Nigerian authors, the program is not taken so serous in the country. Chene (2011) acknowledges that fact that community policing has become a widespread model of policing in US. Office of Community Oriented Policing Services (COPS) has been created by the Justice Department to support innovative work in Community Policing. But Nigeria has embraced the philosophy since 2004, but it has not been given such importance in the country .

3.6 Theories on community policing

Social Structure of Community Policing

Robert R. Friedmann in his book "Community Policing: Comparative Perspectives and Prospects" maintains that from the perspectives of both community and police, community policing signifies that crime is produced by societal factors over which police have relatively little control and therefore crime control needs to focus on those societal factors which cause crime and should focus more on 'quality of life' issues that exceed crime. Fear of crime also needs to be attended to in attention to 'traditional' crime issues(2003: 3). Well known legal anthropologists have contributed much, through their studies of "trouble cases," to our understanding of how indigenous people of different cultures settle disputes and deal with problems. Such research informs that the problems of everyday life look and feel very differently from the inside than from outside. The lesson to be drawn from such studies is that legal classifications of a personal encounter, e.g., murder or rape, do not usually capture the true nature and felt impact of such an encounter, as experienced by the person involved. Problems as experiences are anchored within a constellation of personal relationships, shaped by a multiplicity of social factors, circumscribed by intersecting norms (moral, custom, and ethics) and moved along by situational dynamics and personal interactions. Simply, as experience, no crimes are alike.Social life is governed by certain normative behavior that is shaped by an understanding of what is acceptable and what is not acceptable to do in a society.

Laws are simply the formalization of social norms without which societies can not exist. According to Friedmann, the criminalization or decriminalization of an act reflects society's reaction to it and what societies will or will not tolerate. It specifies who the victim is, who the offender is, what the offence is, under what circumstances it was committed, where it was committed and what will be the penalty against it. However, the leap, or transition, from informal social norms to formal laws is not clear and while from a legal standpoint deviant behavior is to be treated as criminal only when it violates a given law, it is also important to understand that at least some amount of such deviant behavior could be handled on an informal level as well to alleviate a conflict before it becomes an official crime. Here underlies the significance of community policing

(2003: 6). American criminology rests mainly on the social structural explanations of crime and the impact that a community has on regulating the conduct of its members. This explanation has been appreciated by the criminologists all over the world. The social structural concept of community policing requires the citizens to assume the responsibility of controlling crime by reporting such instances or any deviant behavior promptly to the police and also by cooperating as witnesses when the crime occurs.The accepted view today, is that crime and delinquency should be viewed not merely as an infraction of law, but more appropriately, as an anti-social conduct, arising from disorientational developments in the individual and disorganizational process of the society itself. Social factors like population explosion, inadequate economic growth, and inequitable distribution of opportunities, side by side unplanned industrialization and urbanization, super imposed on ignorance and poverty, have all contributed to higher levels of disorder in the society.

Social Order Theory of Community Policing

Social order is a core theoretical issue in the social sciences. The most important theory of social order emanates from Aristotle and is echoed by Rousseau, Durkheim, Parsons, and their contemporary fellows. It views the ultimate source of social order as residing not in external controls but in compliance of specific values and norms that individuals have somehow managed to internalize. As per this theoretical tradition, the attainment of order is generally not considered to be problematic in socially and culturally homogeneous societies, for in these settings the internalized values and norms will tend to be common to all when compared to heterogeneous societies which comprises of a variety of normative orientations and in such societies internalization is likely to sow the seeds of conflict rather than order.

In such heterogeneous societies community policing programmes should aim at attaining local order by cooperating and convincing various local social groups to exercise informal social control among themselves for their own benefit. Members of the social group can be expected to produce local order to satisfy their own private ends, and once produced, this local order, regardless of its normative content, will contribute to the overall social order within the community. Robert Lombardo and Todd Lough (2007: 122) are of the opinion that certain community police programmes and community meetings can help to increase the informal social control mechanisms inherent in communities that have been lost in neighborhoods besieged by crime and disorder, thus enabling residents to contribute to maintaining social control. According to them, two theoretical constructs underlie most of the community policing programmes. They are 'Broken Windows' theory and the 'Community Implant' hypothesis. Both the theories are grounded in social disorganization theory and both argue that there is a direct relationship between distressed communities and crime.

Social Dis-organization Theory on Community Policing

The social disorganization theory further argues that there exists a direct relationship between higher rates of deviance and the increased complexities of urban life. Shaw and McKay (1942) formulated a structural theory of crime according to which poor neighborhoods, inhabited by heterogeneous and residentially unstable groups, are more likely to lack social organization and, as a result, experience higher rates of juvenile delinquency. Julius Wilson (1987), after studying the city of Chicago, argued that the de-industrialization of American society has led to the establishment of a new set of structural constraints that has continued to fuel social disorganization. As such it can be rightly said that communities suffering from increased unemployment, poor educational opportunities, and residential immobility also lack the social organization needed to control delinquent and criminal behavior.

In such communities, the process of community policing becomes difficult. Broken Windows theory, introduced by James Q.Wilson and George L. Kelling(American criminologists) in 1982 is based on the assumption that disorder and crime are linked in a developmental sequence. If a window in a building is broken and left unrepaired, all the rest of the windows will soon be broken as well. Since the unrepaired window is a signal that no one cares and so breaking more windows will not result in any official sanction. This type of vandalism can occur anywhere once the sense of mutual regard and the obligations of civility are lowered by actions that seem to signal a lack of common concern. Wilson and Kelling argue that neighborhoods where property is abandoned, weeds grow, windows are broken, and adults stop scolding ill-disciplined children cause families to move out and unattached adults to move in. In response people begin to use the streets less, causing the area to become vulnerable to criminal invasion.

The withdrawal of the community leads to increased drug sales, prostitution, and mugging. Broken Windows theory has been a driving force in community policing programmes, because of the belief that unattended behavior leads to the breakdown of community controls, thus leading to crime. Wilson and Kelling, therefore, have called the police to pay urgent and serious attention to disorder and order maintenance policing(Lombardo and Lough 2007: 123). However, several researchers and criminologists have challenged the 'Broken Windows' theory. Taylor in his book entitled 'Breaking away from Broken Windows' (2001) made an attempt to determine origin of civilities and to find out whether or not they eroded urban life over time. He maintained that zero-tolerance, order maintaining police strategies, aimed at reducing fear of crime, may be misdirected and should not be adopted axiomatically. He argued that incivilities are better interpreted as a result of an economically disadvantaged

neighborhood, rather than as a symptom of a disorderly and disorganized neighborhood, and that crime fighting is more important than grim fighting for long term reductions in crime. Similarly, Sampson and Raudenbush (1999) argue that disorder and crime are both manifestations of the same explanatory process. They share common structural and social origins. They maintain that the cause of crime is structural disadvantage and weak collective efficacy: the ability of a community to regulate its own conduct (Lombardo and Lough 2007: 124-126).

The legitimatization of order maintenance policing as advocated by the 'Broken Windows' theory has brought community policing to a difficult situation. The present model led to the establishment of aggressive patrol strategies, which often placed police in direct confrontation with minority communities. Community Implant hypothesis is based on the assumption that the main reason for high levels of crime is the lack of informal social control in community areas. Sociologists argue that informal social control can be implanted in a community by collective citizen action in neighborhoods where social control is naturally weak or non-existent. The term Community Implant hypothesis was first used by Rosenbaum (1987) in his essay entitled 'Theory and Research behind Neighborhood Watch'. Mastrofski, Worden and Snipes (1995) have described this hypothesis as 'Community building'. Community building, according to them, is a process by which police strengthen the capacity and resolve of citizens to resist crime by building positive relationships with community residents. Lyons (1999), in his book "The Politics of Community Policing", argues that innovative police strategies such as educational, recreational and occupational opportunities for youth, can mobilize the informal mechanisms of social control embedded within the community life (Lombardo and Lough 2007: 128).

Social Control Theory

Social control generally refers to the capacity of a particular group / community to regulate its members. It involves the use of rewards and punishments. Formal social control is always derived from certain written rules and laws and is enforced by the courts and the police. On the other hand, informal social control is based on customs and norms and is enforced by the citizens themselves through behaviors such as surveillance, verbal reprimand, warning, rejection, and other emotional pressures to ensure conformity. The question for community policing then becomes whether the police, working with the community, can implement informal social control in socially disorganized communities. Social defence programmes of the police adopt a dynamic approach, in tune with national development and connected aspirations. Social defence-oriented developmental strategies are consciously adopted for improving the standards of education, employment, health and living conditions, and all this would generally enhance the quality of life of the ordinary people and will automatically lead to resolutions of tensions, reconciliation of conflicts and building up of resistances in the individual and in society all leading to minimization of deviance, delinquency and crime. S. M. Diaz (2005: 47) further maintains that in a disorganization-prone society, with an all pervading permissiveness, even normally abiding citizens are inclined to unlawful activities as a result of their frustration, discontent and anger, stemming from the disparities between promise and performance and the obvious dichotomy between profession and practice.

All these problems lead to confrontations with the police.Community policing has the capacity to solve the problems of deviant behavior in a disorganized society by handling the problem at the beginning stage itself with appropriate community-based programmes, fully involving the community groups at various stages of decision making, planning and implementation of the programmes for the protection of the community. These programmes can subsequently become the base for all neighborhood community police projects with the involvement of the community members in community's own organization, collective anti-crime activities, neighborhood social integration, local social control and overcoming fear of crime. Such community based programmes in turn result in the promotion of mutual understanding and appreciation among the community members.In spite of the popularity of programmes that utilized the community-building approach, there is little empirical evidence to support the effectiveness of the community implant hypothesis.

The study conducted by Skogan (1990) concluded that informal social control mechanisms do not increase solidarity or social interaction. Nor can any of such programmes improve neighborhood conditions. However, research by Silver and Miller (2004), found that

community attachment and satisfaction with the police (on the basis of which community policing operates) contribute significantly to neighborhood levels of informal social control. The residents of a community that were satisfied with the ability of the police to control crime and maintain order were more likely to engage in activities to control deviant behavior (Lombardo and Lough 2007: 130). The Social Structural theory of CP holds that community cooperation in the form of informal social control can result in successful community policing since increased satisfaction with the police is indeed one of the fundamental goals of community policing. The efforts to 'implant' informal social control in urban neighborhoods, where social control is naturally weak or non-existent can be positively affected by improved police-community relations account of relationships and structures of power within as well as between communities,

Community policing is argued to be a paradigmatic shift in public law enforcement wherein police organizations are to become "flatter" i.e. less hierarchical, more product as opposed to process oriented, and less driven by reactive responses to citizen mobilizations. The present theory argues that although much attention in the literature on CP has concentrated on police-public contact, the organizational medium through which this new style of policing is to take shape is essentially under-studied. The theory maintains that for CP to become a central feature of law enforcement, the institutional framework and organizational apparatus of police organizations must be altered if they are to accommodate the sweeping changes implied by community policing proponents. Classical views of organizational dynamics emphasize structure to the near exclusion of culture. Early theories tended to downplay the role that organizational culture has in shaping bureaucracies such as the police. Max Weber (1947) separated the professional and personal lives of bureaucrats, in part as a means of leaving the issue of culture at the doorstep, rather than within his "ideal" organization. Early structural and managerial theories of organizations more often treated the internal culture of the organization as highly susceptible to manipulation by those in authority. For all practical and theoretical purposes the culture of an organization was the object rather than the source of organizational change. The normative and cultural aspects of organizational life received attention in the work of the early human relations movement, most notably the work of George Elton Mayo (1933), Chester I. Barnard (1938), Fritz J. Roethlisbergerand William J. Dickson (1939), and reemerged in the 1950s and 1960s in the work of Chris Argyris (1953, 1957), Peter Drucker (1954), and Douglas McGregor (1960). In their work the theoretical

focus shifted from structure to process and from managers to workers. Work group culture dominated much of the analysis, and managerial focus shifted from control to cooperation. The socio-psychological dynamics of organizational life also gained greater credibility, providing a foundation for the analysis of organizations as cultural systems (Rosenbaum 1994: 94-95).An organizational structure is a normative structure composed of rules and roles specifying, more or less clearly, who is expected to do what, and how. Thus, the structure broadly defines the interests and goals that are to be pursued, and the considerations and alternatives that should be treated as relevant. The various dimensions of organizational structure such as the Size and Horizontal specialization express the number of roles that are to be filled and how different issues and policy areas are supposed to be linked together or de-coupled from each other. According to Luther Gulick (Peters and Pierre 2007: 78-79), those areas that are encompassed by the same organizational unit are more likely to be coordinated than those that belong to different units. However, he maintains that in a hierarchy, separation of issues at lower levels only means that co-ordination responsibility is moved up to higher echelons.

The structure may express whether co-ordination is supposed to be hierarchical or collegial. 'Collegiality' usually means that decisions have to be reached through arguing, bargaining or voting rather than through command. CP rests on a similar belief. Finally, organizational structure may be more ambiguous or loosely coupled than other structures, thus facilitating innovative behaviour, flexible responses and extensive policy dynamics. CP organization is supposed to be collegial in nature. According to the Community policing proponents like Jack R. Greene, William T. Bergman and Edward J. McLaughlin (Rosenbaum 1994: 93), the success or failure of CP, to a large measure, is affected by the organizational structures and processes that characterize modern day policing. They hold that the internal culture of these organizations, together with structural and technological considerations, also can shape the success or failure of CP implementation efforts. This they say is true for several reasons:(i)By all accounts, police organizations have been some of the most intractableof public bureaucracies, capable of resisting and ultimately thwarting change efforts.(ii)The history of police organizational change has generally favoured the police organizations over the institutions bent on changing it. Organizational adaptation in police bureaucracies has tended to be one way: the change efforts adapt to the organization,

rather than the organization adapting to the intended change. Moreover, police organizations are rank and power centered.

Culturally they remain inward looking and they are often distant from their clients and they shun most civic oversight attempts. An agency or an organization must cope with the constraints and pressures applied by the outside social context in which it operates. Therefore it develops its own organization character. Institutionalization is a concept that defines the process through which the members of an agency/ organization acquire values that go beyond the technical requirements of organizational task. No organization is completely free of such a process. Community policing is one such example. Institutionalization necessarily takes time. It means that organizations are growing increasingly complex by adding informal norms and practices. These informal norms and role expectations are impersonal in the sense that they exist independently of the concrete individuals who happen to be in the organization at different points in time (Peters and Pierre 2007: 80).

Thus, the present theory holds that organizations like community policing organizations become real institutions as they come to symbolize the community's aspirations, its sense of identity. J.G. March and J.P. Olsen (Peters and Pierre 2007: 94-95) who are political scientists and founding fathers of New Institutionalism argue that organizations that handle public affairs should be conceptualized as institutions rather than instruments. They believe that in order to understand how policy making really functions inside organizations, three fundamental dimensions should be considered: the actual goals the various units pursue, the way information, opportunities and support are built and elaborated, and the choice or decisions processes. New institutionalists provide a framework that predicts and explains how individuals and organizations try to reach some degree of understanding and some form of intelligence of the contexts they face and how they allocate their attention to a particular subject at a given time and how information is collected and exploited.

A similar framework is considered in case of CP since New Institutional frameworks coordinate the views and mindsets of multiple partners, make them speak a common

language and share a common perception about what to do, how, when and for whom. Further, new institutionalism perspective favours a vision of democratic order in which responsibility is a consequence of the institution of the individual, citizens are free, equal and discipline-oriented agents, and governance is enlightened and rule-constrained. This perspective applies to CP as well.Organizational structure and culture are closely linked and mutually reinforcing. However, the chief of police and the leadership he or she demonstrates plays a critical role in changing both the culture and the organization. Critics argue that special units with a "few good officers" do not have the clout to change the larger organization, as the history of team policing so vividly illustrates. Secondly, a police organization that is heavily invested in the professional model of policing with a centralized, hierarchical, and bureaucratized command structure will have difficulty creating an environment that is conducive to community policing strategies.

This is not to say that CP initiatives cannot survive in these conditions, but doing so may require the creation of an informal support structure within the organization or a completely isolated unit with its own set of rules, regulations, and performance standards for some period of time. Despite numerous expectations several questions remain unanswered in this area, such as: How do different police departments, with a variety of pressures both internally and externally, cope with the efforts to institute structural, programmatic, and institutional changes?; How do organizational structure and cultural climate influence the overall planning and implementation of CP? ; and what mechanisms are necessary or useful to promote the shift from a traditional operating mode to a community policing approach?

Finally it can be rightly said that police chiefs and community policing officers on the cutting edge have their attention focused almost exclusively on the goals of policing rather than the means of policing. While this change of focus is laudable, perhaps there has been too little attention paid to the means of policing.

Seven broad conclusions follow from the theories presented above. These may be listed as below: Firstly, the community policing initiative depends on several factors for its

success namely the social factors like population, economic growth, industrialization, employment opportunities along with the normative behavior of the individuals residing in a community. Apart from this, modern management techniques and information and communication technology also provide a major momentum to CP initiatives.

Secondly, besides mutual understanding and mutual support between the police and the community members, democratic participation by different levels of social organizations such as neighborhood groups, communities, civic groups, business houses, voluntary and non governmental organizations in decision making, investigations and other policing activities can be of great help in making CP a success.

Thirdly, there exists a direct relationship between minor disorderly behavior and rise in crime. Fourthly, there also exists a direct link between distressed communities and crime. Fifthly, certain other factors like police discretion in the use of coercive power, image building through public relations campaign and participatory decision-making influence CP in India and else where to a very great extent. Sixthly, it can be maintained that communities cooperate with the police for the maintenance of peace and stability since they owe a sense of responsibility to the community to which they belong. Finally, the depth of an organization's commitment to bureaucracy appears to be inversely related to the speed at which it is able to implement community policing. The present study, however, explores the possibility of developing a participatory theory of community policing which strives to create opportunities for all members of a society to make meaningful contributions to decision-making, and seeks to broaden the range of people who have access to such opportunities. The study uses a model of participatory theory, thus blending the received theories of community policing, since the participatory theory forms the very basis of community policing. Other theories influence only a part of CP and hold good only under certain existing social and economic situations, as has been discussed at the end of each of these theories.

Participatory approach to CP has the advantage of demonstrating that "no citizen is a master of another" and that, in society, "all of us are equally dependent on our

fellow citizens". Jean Jacques Rousseau suggested that participation in decision – making increases feeling among individual citizens that they belong in their community. This feeling of cooperation and consensus is the building block of community policing. The model also holds that those who are affected by a decision have a right to be involved in the decision-making process. It implies that the public's contribution will influence the decision and may be regarded as a way of empowerment and as vital part of democratic governance (Hacker 1961: 327). The Participatory Theory which gained popularity during the past few decades is mainly associated with the names of scholars like Jean Jacques Rousseau, Carole Pateman, C.B. Macpherson and N. Poulantaz. Participatory theorists try to assimilate and realize the ideals of direct democracy – responsive and active citizenry, participation and equality in the modern complex world of nation-states. Carole Pateman points out that if individuals have an opportunity to directly participate in decision-making at the local level, they can achieve real control over the course of their everyday life.

She is of the opinion that participation can help individuals learn about key issues in resource creation and control, thus, being better able to assess the performance of their political representatives, judge national questions and when need arises, participate in national decisions. She maintains that the local and national institutions shall be kept open and flexible for people to experiment with new political forms and reform rigid structures imposed by different asymmetries of power. On the other hand, C.B. Macpherson argues that a truly democratic society promotes powers of social cooperation and creativity rather than maximize aggregate satisfactions . He argues for transformation based upon a system combining competitive parties and institutions of direct democracy (Ramaswamy 2004: 405). The participatory theory can be said to be based on the following principles, the ideas of which can also be found in the context of community policing.

These principles are:

1.Democratization of parliaments, bureaucracies and political parties to make them more open and accountable. CP also rests on the belief that solutions to contemporary community problems demand freeing both people and the police to explore ways to address neighborhood concerns.

2.Decentralization of powers to ensure participation of people in the formulation of policies from bottom to top. CP also emphasizes on a decentralized personalized police service with the inclusion of private citizens.

3.Accountability of political leaders and administrators to the people whom they represent. CP also ensures greater police accountability to the public.

4.Direct participation of citizens in the regulation of the key institutions of society. The concept of CP also considers crime control and public order management as truly participative functions, with the total involvement of the community.

Maintenance of an open institutional system to ensure the possibility of experimentation with political forms. The new policing philosophy has also been preceded by lot of experimentation and innovation in order to provide a more scientific basis to the concept. Participatory theory possesses several merits. In the first place, it focuses on the individual in the context of the overall society and cooperation with others. Secondly, it makes a bid to find out the means for achieving the ideal of self-rule. Thirdly, it makes suitable suggestions for remedying the ills of the existing societies. Finally, it helps to find out the limitations of the existing system and suggests changes to improve the socio-economic conditions of the people. On the whole it can be rightly said that the principles underlying participatory theory can facilitate an evaluation of the concept of community policing.

3.7 Way Forward

1. Nigerian government shall raise the image of criminal justice and Nigeria Police Force in the eyes of Nigerian citizens by providing a climate in which they will exercise their powers without fear or favour.
2. Government shall also review the police salary and to improve their welfare for them to get motivated and be willing to pay back to the country in crime detection and prevention through effective community policing.

3. Government shall fight police corruption and abuse of authority just the way it fights corruption among politicians.
4. Police shall not enforce the law but shall also abide by the rule of law.
5. Police shall be willing to support the program and avoid all sleazy attitudes, like corruption.
6. Media houses shall enlighten Nigerians on the usefulness of community policing.
7. Community leaders shall encourage their followers to cooperate with the police and other law enforcement agencies

4.0 Conclusion

There is a need to wake up to see the effect of interpersonal relation on increase in crime in our communities this will help acceptance and ownership of community policing in Nigeria.

5.0 Summary

The attempt to implement community policing has as been tricky as people's perception of the police as a system made it hard to apply community policing. This unit discuss on the lack of acceptance and knowledge of the process of community policing as a strategy and the way forward being collaboration between religious and traditional leader, government and citizens for strict fight for crime free society.

6.0 Tutor-Marked Assignments

Discuss the history of attempts to implement community policing in Nigeria

What are the challenges of community policing in Nigeria?

Discuss the way forward to these challenges?

7.0 Reference/further readings?

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MODULE 3: Journey in the Criminal Justice System

UNIT 1: Process of Criminal Justice

CONTENTS

1.0 Introduction

The process in the criminal justice's system has mutual supports very difficult to establish between the components. That is, every effort to bring the police close to the public, improve court operations and for community members to see the police as their friends, who require their assistance in policing the society that belongs to both of them, is an end in futility which makes it pertinent to learn the process

2.0 Objectives

To give a review of the criminal justice system

To account for the journey of the suspected offender in the system

To highlight the challenges encountered in the process of criminal justice Administration.

3.0 Main Content

3.1 Process in the criminal justice system

The process may vary according to the jurisdiction, the seriousness of the crime (felony or misdemeanor), whether the accused is a juvenile or an adult, and other factors. Not every case will include all these following steps, and not all cases directly follow this sequence. Many crimes are never prosecuted because they are not reported, because no suspects can be identified, or because the available evidence is not adequate for the prosecutor to build a case

3.1.1 Entry into the Criminal Justice system

Entry into the System

- **Report:** Law enforcement officers receive the crime report from victims, witnesses, or other parties (or witness the crime themselves and make a report).

- **Investigation:** Law enforcement investigates the crime. Officers try to identify a suspect and find enough evidence to arrest the suspect they think may be responsible. The purpose of a criminal investigation is to gather evidence to identify a suspect and support an arrest. An investigation may require a search, an exploratory inspection of a person or property. Probable cause is the standard of proof required for a search. Probable cause means there are facts or apparent facts indicating that evidence of criminality can be found in a specific place.

- **Arrest or Citation:** If they find a suspect and enough evidence, officers may arrest the suspect or issue a citation for the suspect to appear in court at a specific time. This decision depends on the nature of the crime and other factors. If officers do not find a suspect and enough evidence, the case remains open.

3.1.2 Pre -trial stage in the criminal justice system

- **Charges:** The prosecutor considers the evidence assembled by the police and decides whether to file written charges (or a complaint) or release the accused without prosecution.

- **First Court Appearance:** If the prosecutor decides to file formal charges, the accused will appear in court to be informed of the charges and of his or her rights. The judge decides whether there is enough evidence to hold the accused or release him or her. If the defendant does not have an attorney, the court may appoint one or begin the process of assigning a public defender to represent the defendant.

- **Bail or Bond:** At the first court appearance (or at any other point in the process-depending on the jurisdiction) the judge may decide to hold the accused in jail or release him or her on bail, bond, or on his or her “own Recognizance" (OR)," (OR means the defendant promises to return to court for any required proceedings and the judge does not impose bail because the defendant appears not to be a flight risk). To be released on bail, defendants have to hand over cash or other valuables (such as property deeds) to the court as security to guarantee that the defendant will appear at

the trial. Defendants may pay bail with cash or bond (an amount put up by a bail bondsman who collects a non-refundable fee from the defendant to pay the bail). The judge will also consider such factors as drug use, residence, employment, and family ties in deciding whether to hold or release the defendant.

- **Grand Jury or Preliminary Hearing:** In about one-half of the United states, defendants have the right to have their cases heard by a grand jury, which means that a jury of citizens must hear the evidence presented by the prosecutor and decide whether there is enough evidence to indict the accused of the crime. If the grand jury decides there is enough evidence, the grand jury submits to the court an indictment, or written statement of the facts of the offense charged against the accused. In other cases, the accused may have to appear at a preliminary hearing in court, where the judge may hear evidence and the defendant is formally indicted or released.

- **Arraignment:** The defendant is brought before the judge to be informed of the charges and his or her rights. The defendant pleads guilty, not guilty, or no contest (accepts the penalty without admitting guilt). If the defendant pleads guilty or no contest, no trial is held, and offender is sentenced then or later. If the defendant pleads not guilty, a date is set for the trial. If a plea agreement is negotiated, no trial is held.

3.1.3 Trial stage in criminal justice system

Adjudication (Trial Process)

- **Plea Agreements:** The majority of cases are resolved by plea agreements rather than trials. A plea agreement means that the defendant has agreed to plead guilty to one or more of the charges in exchange for one of the following: dismissal of one or more changes, a lesser degree of the charged offense, a recommendation for a lenient sentence, not recommending the maximum sentence, or making no recommendation. The law does not require prosecutors to inform victims about plea agreements or seek their approval.

- **Trial:** Trials are held before a judge (bench trial) or judge and jury (jury trial), depending on the seriousness of the crime and other factors. The prosecutor and defense attorney present evidence and question witnesses. The judge or jury finds the defendant guilty or not guilty on the original charges or lesser charges. Defendants

found not guilty are usually released. If the verdict is guilty, the judge will set a date for sentencing.

3.1.4 Post trial stage in criminal justice system

Post-Trial

- **Sentencing**: looking at sentencing generally ,Victims are allowed to prepare for the judge (and perhaps to read at the sentencing hearing) a victim impact statement that explains how the crime affected them. n deciding on a sentence, the judge has a range of choices, depending on the crime. These choices include restitution (paying the victim for costs related to the crime), fines (paid to the court), probation, jail or prison, or the death penalty. In some cases, the defendant appeals the case, seeking either a new trial or to overturn or change the sentence.

- **Probation or Parole:** A judge may suspend a jail or prison sentence and instead place the offender on probation, usually under supervision in the community. Offenders who have served part of their sentences in jail or prison may-under certain conditions-be released on parole, under the supervision of the corrections system or the court. Offenders who violate the conditions of their probation or parole can be sent to jail or prison.

3.1.5 Challenges of Investigation in the Nigeria Criminal Justice System

The challenges confronting investigations and investigators in the Nigerian criminal justice system are myriad. Consequently, only eight major ones are identified and discussed hereunder. These eight major challenges to criminal investigations were arrived at by the author, after a three year study. The study was conducted between 2006 and 2009 and focused on criminal investigations as a component of the criminal administration of justice in Nigeria. The participant-observant methodology was employed for the research, while the author served as a public prosecutor in the office of the Oyo State Ministry of Justice. This position served allowed for regular interaction with the police and other stakeholders in Nigeria‟s criminal justice sector. The position and experiences of a public prosecutor in the Oyo State Ministry of Justice is also largely representative of public prosecutors in other states of the Nigerian federation, because prosecuting officers of the several State Ministries of Justice in Nigeria, serve as advising officers to the Nigeria Police in respect of criminal investigations and also as the prosecutors of most indictable offences.

The Unforthcoming Informant

Criminal investigation is not a voodoo science but is primarily reliant on information supplied to the investigator either as a complaint by a victim of a crime or as a report by a witness to a criminal act. The Nigeria Police has over the years complained of the unforthcoming attitude of the Nigerian populace on the issue of complaint and report of crimes and criminal activities.

The average Nigerian citizen views the police with awe and this has been the case since the oppressive days of the Hausa Constabulary Guards established in 1861 by the British colonial government.9The Hausa Constabulary was the forerunner of the present Nigeria Police and its sole duty was the protection of British colonial interests against the native population using strong-arm tactics. Currently, there is the ever present fear of being accused of perpetrating the offence one reports to the police, reprisal attacks from the person the report is made against, due to the potential leakage of information by the police to the suspects. It is not also uncommon for the police to require the person reporting a crimeto fund the subsequent investigation and make endless return visits to the police station for one reason or the other, leading to an enormous loss of man-hours.

Funding

Crime detection and investigation are capital intensive. Money is required to employ and train adequate number of criminal investigators, equip and mobilise them. In Nigeria when a crime is reported at a police station, the practice is for the complaint desk officer to request for money to purchase stationary to incident the complaint and open a file. Afterwards, where the need arises to visit the scene of the crime, the complainant must provide transportation, because there is usually no vehicle attached to the criminal investigations department. If the crime involves a murder, the complainant or the accused is called upon to pay for a post mortem examination because funds are not available for such activities. When investigations have been completed, the complainant or the accused person is the ones also called upon to provide funds forthe duplication of the investigation case file. It is clear from the foregoing, that criminal investigations are underfunded in Nigeria. This underfunding can be attributed to the general underfunding of the Nigeria Police as a whole and to corruption within the Nigeria

Police. The dismissed Inspector General of Police, Tafa Balogun was reported to have embezzled about 150 million dollars of police funds.

Corruption

The Nigeria Police is not immune from the corruption pervading the governance machinery of Nigeria. In fact, police corruption is one of the most visible manifestations of corruption in Nigeria and the Inspector General of Police has said, that "corruption... has come to characterise the behaviour of the average policeman." The average Nigerian is used to witnessing police officers collect "toll" at checkpoints mounted across the country. The corruption of the police does not stop at the checkpoints; it affects criminal investigations as well. So many crimes go un-investigated by the police where influential persons, including persons in government are fingered as suspects12or where the suspects "sort the police investigators", a slang for bribe payment. Corruption continues to fester in the Nigeria Police despite the establishment of the "X Squad Section" in 1963.

The X Squad Section is one of the sections under the Force Criminal Investigations Departments of the Nigeria Police Force and it is charged with the responsibility of investigating corruption within the force and fishing out corrupt officers. It however appears that the X Squad Section is moribund despite its continued existence on the organogram of the Nigeria Police Force.

Training of Investigating Police Officers

The majority of criminal investigations carried out by the Nigeria Police are conducted by the officers below the rank of sergeant. Most of these constable investigators have only gone through the basic three-month entry training at the Police College, where the most significant part of their training is centred on physical drills with lesser attention on the art of policing.13The knowledge and skills of practical criminal investigation are left for the officer to discover and learn on the job, and while still neophyte, she is detailed to handle complex investigations.

Missing Case Files

The phenomenon of missing and untraceable case files has become an embarrassment for the Nigerian criminal justice system. Investigation case files contain the statements of witnesses, statements of the accused persons, police investigation reports and other vital documents required for the rendering of legal advice and criminal prosecutions. As at 2006, statistics revealed that 3.7% of about 25,000 accused persons in prison remand, had their prosecutions stalled because of missing and untraceable investigation case files. These persons were therefore by default sentenced to stand perpetually under the sword of Damocles and remain in jail indefinitely.

The missing file phenomenon springs from theabsence or the ineffective running of central investigation files registries at police stations and at all levels of the police structure. The current practice is that the police investigators take personal custody of all their investigation files and keep them in their private lockers at their stations or elsewhere including their homes. This practice of personal custody of files opens such files to the perils of mutilation, loss, theft and inaccessibility, when the officer in whose custody the file is, is transferred to another department or other part of the country, retires or dies.

Delayed Duplication of Case Files

Part of the duty of an investigating police officer is to have case files duplicated and transmitted to the office of the Director of Public Prosecutions for legal advice, especially where capital offences, serious offences and technical offences are involved. As straight forward as this process is, it has constituted a major bottleneck in the Nigerian criminal justice system. Some criminal matters have been known to be bogged down at this stage of the criminal administration of justice for up to two years and more.The Nigeria Police investigators place the blame for the non-duplication and the delayed duplication of investigation case files on the no availability of duplicating equipment and services at police stations. Most times, police investigators have had to resort to commercial duplicating service

providers, with the attendant risks of mutilation, loss and the premature exposure of investigation reports in the public media, sometimes leading to prejudicial consequences. The funds for duplications at commercial centres have had to be sourced from the police investigators‟ personal purses, the complainants, the victims or from the accused persons with the threat that otherwise, such a case would remain at a standstill. Another reason for the delayed duplication of case files is the routine transfers of police officers with the attendant handing over and continuity problems.After thesuccessful duplication of a case file, another bottleneck is the transmission of the duplicate file to the office of the Director of Public Prosecutions. Because of the rigid hierarchical and bureaucratic structure of the Nigeria Police, duplicate case files are only transmitted to the Director of Public Prosecutions through the Officers‟-in-Charge of Legal matters, who are domiciled at the states‟ and national headquarters. In some instances, where offences are committed in remote rural areas, the case files are transmitted from the police post through the Divisional Police Office to the Area Command, to the State Headquarters, to the Zonal Headquarters and finally to the Force National Headquarters at Abuja before coming back to the office of the Directorof Public Prosecutions of the State where the offence was committed. This long and tortuous journey is time consuming and contributes to the delays encountered in the Nigerian criminal justice system.

Lack of Forensic Laboratories and Insufficient Number of Trained Forensic Experts The application of scientific knowledge and methods to the investigations of crimes and the solution of knotty criminal riddles is routine in the developed world. There forensic sciences are now generally regarded as the indispensable handmaiden of the criminal investigator.22But this is not the case in Nigeria, where forensic investigations are still novel. Throughout the entire expanse of Nigeria, there is no single forensic sciences laboratory. The equipment reportedly acquired for a police crime laboratory by the Federal Government in 1991 from a German company is still in their shipping crates unpacked, uninstalled and unutilised. The closest facility to a forensic science laboratory is the laboratory of the Federal Institute of Industrial Research, Oshodi23(FIIRO). The facilities and scientists of FIIRO are the ones now saddled by the Nigeria Police with the burden of forensic tests and analysis. This is despite the fact that forensic research is not part of the researchmandate of FIIRO, and that its facilities are not forensic science oriented nor are its personnel trained forensic scientists.Another issue is the very low infrastructure for forensic science capacity building in Nigeria. Of the over 250 licensed tertiary educational institutions in Nigeria, none of them

runs a programme in any of the forensic sciences at the undergraduate level. At present, only the University of Ibadan is known to have initiated a programme at the graduate degree level in forensic anthropology, which is yet to take off. The result of this low manpower capacity in the forensic sciences is evidenced by the fact that more often than not when important issues requiring forensic analysis crop up, they are usually referred to experts abroad with the attendant prohibitive costs and excessive time consumption. Currently, in all the medical facilities in Oyo State, the University College Hospital of the University of Ibadan inclusive, there is no single trained forensic medical pathologist. As a result, general medical practitioners and medical pathologists trained in other specialties have to fill the gap and this deficiency is manifest in the forensic post mortem reports they produce.

Poor Public Records Keeping

Criminal investigations is not an esoteric science, thus it often requires the reconstruction of criminal acts and crime scenes through the piecing together of facts with seemingly unconnected pieces of information such as the weather, soil typology among so many others. These seemingly unconnected pieces of information though are not directly connected with the facts in issue, they might be so relevant that they may turn out to be the key to unravel a criminal mystery case. For example, in a case investigated by the police on an allegation of bigamy, the case was stymied because the investigator could not get access to copies of the certificates of the two marriages alleged to have been contracted by the defendant.24The marriage registries where the two marriages were allegedly contracted could not supply any records, because they did not have a proper record keeping system.

The other basic challenge of criminal justice system here will be discussed looking at the journey of the offenders in the system. These challenges include

1. Lack of clear jurisdiction
2. High rate of awaiting trial persons
3. Incessant court adjournment of cases
4. Lack of properly structured rehabilitation and reintegration process.

4.0 Conclusion

The journey of an offender through the system in Nigeria need to be revaluated as this has led to recidivism and continuous increase in crime rate that the effects are seen in

discrepancies in the structure from arrest stage to prosecuting stage and keeps destroying the public's perception of the criminal justice system.

5.0 Summary

This aspect of the module refocuses the students on the process in the criminal justice system highlight the journey through pre-trial and trail stage giving a view of the role of the gatekeepers in the criminal justice system.

6.0 Tutor-Marked Assignments

Discuss the stages in the journey of an offender in the criminal justice system

7.0Reference/further readings-

Adebayo, P. F., & Ojo, O. E. (2009). The challenges of effective policing as measure of controlling the phenomenon of police corruption in Nigeria today. International Nongovernmental Organisation Journal, 4(3), 070-075.

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Unit 2: Sentencing, Probation and Parole

CONTENTS

1.0 Introduction

One of the Major aspects of the criminal justice system is sentencing probation and parole even though it is important to note that not all countries practice every aspect of these processes. This unit will give a general overview of sentencing, probation and parole in a way that the students will have a holistic knowledge.

2.0 **Objective**s

To ensure students can define these basic terms

To give insight into sentencing in the criminal justice system

To get students acquainted with types and conditions of sentencing, probation and parole.

3.0 Main Content

3.1 Definition of sentencing

The term **sentence** in criminal **law** refers to punishment that was actually ordered or could be ordered by a trial court in a **criminal** procedure. The **sentence** can generally involve a decree of imprisonment, a fine, and/or punishments against a defendant convicted of a **crime**.

3.1.1 Types of sentencing

Sentences can vary in the way they are implemented or carried out. The following list provides a brief overview of the different types of criminal sentences that may imposed on a person who has been found guilty of a crime.

- A ***concurrent*** sentence is served at the same time as another sentence imposed earlier or at the same proceeding.

- A ***consecutive*** (or ***cumulative***) sentence occurs when a defendant has been convicted of several counts, each one constituting a distinct offense or crime, or when a defendant has been convicted of several crimes at the same time. The sentences for each crime are then "tacked" on to each other, so that each sentence begins immediately upon the expiration of the previous one.
- A ***deferred*** sentence occurs when its implementation is postponed until some later time.
- A ***determinate*** sentence is the same as a ***fixed*** sentence: It's for a fixed period of time.
- A ***final*** sentence puts an end to a criminal case. It's distinguished from an ***interlocutory*** or ***interim*** sentence.
- An ***indeterminate*** sentence, rather than stating a fixed period of time for imprisonment, instead declares that the period shall be "not more than" or "not less than" a certain prescribed duration of time. The authority to render indeterminate sentences is usually granted by statute in several states.
- A ***life*** sentence represents the disposition of a serious criminal case, in which the convicted person is sentenced to spending the remainder of their life in prison.
- A ***mandatory*** sentence is created by state or federal statutes and represents the rendering of a punishment for which a judge has/had no room for discretion. Generally it means that the sentence may not be suspended and that no probation may be imposed, leaving the judge with no alternative but the "mandated" sentence.
- A ***maximum*** sentence represents the outer limit of a punishment, beyond which a convicted person may not be held in custody.
- A ***minimum*** sentence represents the minimum punishment or the minimum time a convicted person must spend in prison before becoming eligible for parole or release.
- A ***presumptive*** sentence exists in many states by statute. It specifies an appropriate or "normal" sentence for each offense to be used as a baseline for a judge when handing out a punishment. The statutory presumptive sentence is considered along with other relevant factors, such as aggravating or mitigating circumstances, in determining the

actual sentence. Most states have statutory "presumptive guidelines" for major or common offenses.

- A ***straight*** or ***flat*** sentence is a fixed sentence without a maximum or minimum.
- A ***suspended*** sentence actually has two different meanings. It may refer to a withholding or postponing of pronouncing a sentence following a conviction or it may refer to the postponing of the execution of a sentence after it has been pronounced (Pertisilla 2001)

3.2 Definition of probation

Probation in criminal law is a period of supervision over an offender, ordered by the court instead of serving time in prison. In some jurisdictions, the term *probation* applies only to community sentences

3.2.1 Types of probation

Informal Probation

Informal probation is alternatively known as court probation or unsupervised probation. It is the probation assigned to low-risk offenders. It typically involves nothing more than paying your fines and fees and agreeing to commit no more violations of the law for the period of probation, typically 12 to 18 months. The court will often order a suspended jail sentence as part of the probation. If you comply with the terms you won't have to go to jail, but if you fail to pay your fines or commit another crime the court will send you to jail.

Type Two: Supervised Probation

A more intense form of probation is known a supervised or or formal probation. If you are on supervised probation you will have to report to a probation officer on a regular basis. Supervised probation will typically have much stricter requirements. You may be required to attend counselling, submit to random drug or alcohol checks, make restitution payments to victims of your crimes, and maintain gainful employment.

Community Control

Community control is the strictest form of probation. Effectively a jail sentence without the jail, an offender on community control will be monitored at all times. Typically this is achieved through use of an ankle monitor. The offender wears the ankle monitor for the duration of his probation and his whereabouts can be tracked at all times. Additionally, all of the other requirements of probation still apply, including payment of fines, counseling and maintaining employment. Some states such as Florida have more restrictive types of community control programs including electronic surveillance for sex offenders.

Shock Probation

Shock probation came to prominence in the late 1990s. In a shock probation scenario, the judge sentences you to the maximum prison or jail sentence allowable under the law. Then within a short period, typically around 30 days, the judge brings you back into court and releases you to a standard supervised probation program. The rationale behind shock probation is that the brief stay in jail or prison will literally shock you into complying with the terms of your probation (Paratore 2016)

The Ins and Outs of Diversion Courts

Diversion courts are not exactly probation but they operate in the same manner. Rather than being placed on probation post-conviction, you enter the program before going to trial. If you complete the requirements the charge against you is dropped. Diversion typically involves all of the same requirements as supervised probation.

3.3 Definition of Parole

Parole is the conditional release of an inmate prior to the completion of his prison sentence, after he agrees to follow very specific rules and regulations. While an individual released on parole is considered to have served his sentence, he risks being returned to prison to finish the prison term if he fails to follow the specific conditions set, or to report regularly to his parole officer.

The American Parole Model

Parole is a period of conditional supervised release in the community following a term in state or federal prison. Parolees include individuals released through discretionary or mandatory supervised release from prison, released through other types of post-custody conditional supervision, or sentenced to a term of supervised release from prison. The history

of the parole system can be traced to the 20th century. During this period indeterminate sentencing dominated the American jurisprudence and the parole board was embedded with 3 main functions.

1.Parole boards determine the actual length of a prison sentence. The rationale for this is because with indeterminate sentencing in place, judges only sentence offenders specifying the maximum and minimum sentence to be given effect on the offender.

2.Parole agencies supervise recently released individuals in the community for the remainder of their sentence.

3.Parole officers and parole boards are authorized to revoke a parolee's conditional liberty and return him or her to prison. This is mainly done when the parole board believes that the parolee have not fulfilled a condition essential to his term of "temporary release".

This system of having the prisoners getting released through the parole board soon became unpopular as mandatory release date were used in determining when prisoners will be released on parole. At the national level, the decline in the role of parole boards in making release decisions can be understood on three levels.

First, the shift from discretionary to mandatory release mechanisms reflects the parallel shift in sentencing philosophy. As more states moved from indeterminate to determinate sentencing schemes, the role of parole boards was diminished.

Second, this change in practice can be viewed as a realignment of relationships among the three branches of government. Under the indeterminate sentencing philosophy, the judicial and executive branches of government exercise substantial discretion over the length of a prison sentence.

Finally, this shift has operational implications as well. The role of parole boards in deciding whether to grant parole has significant consequences for prisoners. They must prepare applications for release, line up a job and housing in the community, and present a record of program involvement and good behaviour to justify a release decision (Paparozzi 2009)

3.3.1Types of Parole

Temporary absence

Offenders, usually minimum-security offenders, are eligible for this type of parole at any time in their sentence.

Those offenders who are maximum security offenders are not eligible for this program. Offenders who are serving three years or more are only eligible after serving one sixth of their sentence. Those serving sentences from between two to three years are only eligible six months into their sentence. For those serving less than two years, their eligibility is determined by provincial jurisdiction. Those who are serving life sentences are only eligible for this program three years before their full parole eligibility date.

This type of parole is granted in order for inmates to receive medical treatment, have contact with their family, for personal development or counselling reasons, etc.,

Day parole

For day parole, offenders who are serving a sentence of three years or more are only eligible for day parole six months before their parole eligibility kicks in. Those sentenced less than two years are eligible for day parole after having served one sixth of their sentence. For those serving two to three years and life sentences, their eligibility is the same as it would be if they were to apply for temporary absence.

This type of parole is intended to help acclimatize the offender to full parole or statutory release as it allows the offender to take part in community-based events. However, offenders are required to return to an institution or halfway house at night.

Full parole

After having served one third of their sentence, or (whichever is less), offenders may apply for full parole.

The only exception to that rule is for offenders who are serving life sentences for murder. For those serving life sentences for first degree murder are only eligible for full parole

after 25 years. Those serving for second degree murder are eligible after between ten to 25 years.

Under this program, while allowed to serve the rest of the sentence in the community, the offender is regularly supervised by a parole officer. As well, the offender has to report any changes in circumstances to the officer and follow conditions given to him or her by the Parole Board.

Statutory release

This is not parole. Here, the decision whether to release an inmate on statutory release is made by Correctional Services of the country involved.

If inmates have not already been released on parole, federal law mandates that after people have served two thirds of their sentence, they are to be released from prison under supervision. This is called statutory release.

That doesn't mean the offender's sentence has ended though. Rather, conditions are imposed upon the offender, as well, the offender has to regularly report to his or her parole officer. Statutory release is allowed in order to allow the offender to re-integrate into society.

3.3.2 Probation and parole How does it work ?

Probation and parole are privileges rather than rights that allow convicted criminals to avoid going to prison or serve only a portion of their sentences. Both are conditional on good behavior, and both have the goal of rehabilitating offenders in a way that prepares them for life in society, thus reducing the likelihood that they will recommit or commit new crimes.

However, there are important similarities and differences between these two often-confused features of the United States correctional system. Since the concept of convicted criminal offenders living in the community can be controversial, it is important to understand the functional differences between probation and parole.

How Probation Works

Probation is granted by the court as part of the convicted offender's initial sentence. Probation may be granted in lieu of any jail time or after a short period of time in jail.

Restrictions on the offender's activities during his or her period of probation are specified by the judge as part of the sentencing stage of the trial. During the probationary period, offenders remain under the supervision of a state-administered probation agency.

Conditions of Probation

Depending on the severity and circumstances of their crimes, offenders may be placed under active or inactive supervision during their probationary period. Offenders under active supervision are required to regularly report to their assigned probation agencies in person, by mail, or by telephone. Probationers on inactive status are excluded from regular reporting requirements (Paparozzi 2009) .

While free on probation, offenders known as "probationers" may be required fulfill certain conditions of their supervision, such as payments of fines, fees, or court costs, and participation in rehabilitation programs.

Regardless of their supervisor status, all probationers are required to adhere to specific rules of conduct and behavior while in the community. Courts have great latitude in imposing condition of probation, which can vary from person to person and case to case. Typical conditions of probation include:

1. Place of residence (for example, not near schools)
2. Reporting to probation officers
3. Satisfactory performance of court-approved community service
4. Psychological or substance abuse counselling
5. Payment of fines
6. Payment of restitution to crime victims
7. Restrictions on the use of drugs and alcohol
8. Prohibition of possession of firearms and other weapons
9. Restrictions on personal acquaintances and relationships

In addition, probationers may be required to make periodic reports to the court showing that they had complied with all conditions of their probation during the reporting period. How Parole Works Parole allows convicted offenders to be conditionally released from prison to serve the remaining time of their sentence in the community. The granting of parole may be either discretionary by the vote of a state-appointed prison parole board, or mandatory according to provisions established by federal sentencing guidelines.

Unlike probation, parole is not an alternative sentence. Instead, parole is a privilege granted to some prisoners after they have served a percentage of their sentences. Like probationers, parolees are required to comply with terms and conditions while living in the community or face being returned to prison.

3.4Conditions of Parole

Like probationers, offenders released on parole—called "parolees"—are supervised by state-appointed parole officers and may be placed under either active or inactive supervision. As determined by the parole board, some common conditions of parole include:

1. Reporting to a state-appointed supervisory parole officer
2. Maintaining a job and a place of residence
3. Not leaving a specified geographic area without permission
4. Avoiding criminal activity and contact with victims
5. Passing random drug and alcohol tests
6. Attending drug and alcohol counselling classes
7. Avoiding contact with known criminals

Parolees are typically required to meet periodically with an assigned parole officer. In addition, parole officers often make unannounced visits to parolees' homes in order to determine whether or not they are complying with their conditions of parole.

3.4.1 Eligibility for Parole

Not all prison inmates are likely to be granted parole. For example, offenders who have been convicted of violent crimes like murder, kidnapping, rape, arson, or aggravated drug trafficking are far more rarely granted parole. A common misconception about parole is that it can be granted solely as a result of an inmate's "good behavior" while incarcerated. While

behavior is certainly a factor, parole boards consider many other factors, such as the inmate's age, marital and parental status, mental condition, and criminal history. In addition, the parole board will factor in the severity and circumstances of the crime, the length of time served, and the inmate's willingness to express remorse for committing the crime. Inmates who are unable to show the ability or willingness to establish a permanent residence and get a job after release are seldom granted parole, regardless of other factors.

During the parole hearing, the inmate will be questioned by the board members. In addition, members of the public are typically allowed to speak for or against the granting of parole. Relatives of crime victims, for example, often speak at parole hearings. Most importantly, parole will be granted only if the board is satisfied that the inmate's release will pose no threat to public safety and that the inmate is willing to comply with his or her conditions of parole and is able to re-enter the community.

4.0Conclusion

The issues of sentencing and parole has been overtime changed as the process evolved and how the society responds to these as means of deterrence to future offending however it is important to note that if these issues are not handled properly it leads to recidivism and increase in crime pattern.

5.0 Summary

This unit discuses on Sentencing as an integral aspect of criminal justice system and the several types of parole is important for the understanding of how key it is to adapt these in Nigeria as means of improving rehabilitation and reducing the stress on the center.

8.0 Tutor-Marked Assignments

Discuss in details types of sentencing

Highlight process of patrol and types of parole and discuss why it should be adopted in Nigeria.

7.0 Reference/further readings- include reference list in APA style

Paparozzi, M.A., & Caplan, J.M. (2009). A profile of paroling authorities in America: The bed-fellows of politics and professionalism. The Prison Journal, 89(4), 401-425. doi: https://doi.org/10.1177/0032885509349559

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MODULE 4 Correctional Institution

UNIT 1: Types and Functions of Correctional Institutions

CONTENT

1.0 Introduction

The types and function of correctional institution of correctional institution in every society is based on its criminal law and structure. These laws determine the punishment for each offence and how to move forward from it including the rights of the offender along the way. The room for correctional institutions to be able to serve its purpose is key to security in every society.

3.0 Objectives

Get students acquainted with types of correctional institutions and the purpose of these institutions

To give students an insight into criteria for judges' discretion as to what prison choice fits for certain offenders.

To give an overview of challenges of correctional institutions and the way forward.

3.0 Main Content

3.1 Types of Correctional institutions

This aspect will be discussed in general not in Nigeria Alone as its important to note that some of these prisons do not exist in every country and most are established based on pattern of crime history.

State prisons

State prisons house offenders who have committed state crimes, such as assault, arson, robbery or homicide. Each state in Nigeria has its own unique legislation regarding the prison system, and the differences from state to state can be vast. States differ in their stances on capital punishment, the percentages of offenders released on probation and the racial makeup of their prison populations.

Federal prisons

Inmates held in federal prisons have been charged with federal crimes, such as drug trafficking, identity theft, tax fraud or child pornography. Many different factors are considered when determining which prison an offender will be assigned to, including their offense and past criminal record, mental and physical health, and proximity to family.

Federal prisons can be one of five levels of security, with each level designed to best meet the needs of its inmates.

1. Minimum security

These prisons, sometimes called Federal Prison Camps (FPCs), have the lowest level of security and are used to house non-violent offenders with a relatively clean record. Some think FPCs resemble college campuses more than prisons since they offer little-to-no perimeter fencing and prisoners are housed in dorm-style units. FPCs typically offer work programs and classes to rehabilitate inmates, who are sometimes allowed to work off-site.

2. Low security

Low-security facilities still have a strong orientation toward inmate work programs, but they also have perimeter fencing and a higher staff-to-inmate ratio than FPCs. Some of these prisoners may have a history of violence, but they must have less than 20 years left on their sentence to be placed in a low-security facility.

3. Medium security

Medium-security federal correctional institutions (FCIs) are much more likely to have violent offenders as inmates. This is the security level that moves to cell-based housing, more

rigorous treatment programs and perimeter fencing that often includes razor wire with electronic detection systems.

4. High security

As you might imagine, they provide the highest level of security, where inmates are closely monitored by guards and cameras and careful of what instrument goes and come in and are surrounded by razor-wire fencing or walls, and most also have watch towers.

5. Administrative

This special class of prison encompasses other types of institutions designed to house inmates with special considerations, such as those who are chronically ill, extremely dangerous or a high-escape risk. The administrative level includes the Administrative Maximum Security Penitentiary (ADX), which is the nation's only "supermax" prison. ADX provides extreme security for the country's most dangerous offenders, where prisoners spend most of their time in their cells and are under 24-hour supervision.

3.2 Private correctional institutions

Sometimes more prison capacity is needed than what the government can offer. In these cases, local, state and federal governments will contract with a private, for-profit firm to operate a prison on their behalf in developed states but Nigeria is yet to get to this level.

The privatization of prisons as been up for debate in recent years in these countries . Opponents fear that private prisons, which are typically paid a set amount per inmate, have incentive to keep inmates imprisoned and reduce rehabilitation resources. Supporters view private prisons as an affordable corrections option for states with stretched budgets.

3.3 Juvenile detention centers

These "youth prisons" are operated by states and are used to house and rehabilitate offenders under the age of 18. Inmates can be sentenced to juvenile detention for a variety of reasons, including truancy, property crimes, drug-related offenses and violence.

Juvenile detention centers have the primary goal of educating and rehabilitating offenders so they can go on to rejoin society. The number of juvenile detention centers has fallen in recent

years thanks to increased preference for alternate options for young offenders, such as counseling and probation or smaller facilities operated at a city or county-level.

Minimum Security: Reserved for committers of non-violent crimes. Prisoners are often incarcerated for "white-collar" crimes, such as fraud. Security is minimal and accommodation is often dormitory style.

Medium Security: The next step up, medium security prisons are what most people think of as "prison". Personal freedoms are fewer than in a minimum security facility and the daily routine of inmates is more regimented. "Cage" style accommodation is often used.

Maximum Security: Maximum security is reserved for offenders of the most violent crimes. Guards are armed and plentiful. Every inmate is regarded as dangerous.

3.4 Function of Correctional Institution

The basic functions of prisons today are as follows:

i. Social isolation and confinement, i.e., to isolate an offender from society because he has proved to be a threat to its organisation, stability, and cohesion, and to keep him out of circulation and so securely confined that his deviation from law does not disturb the peace of mind of the man in the street.

ii. Repentance, i.e., to keep an offender in an isolated place where he could ponder over the consequences of his wrong deeds.

iii. Punishment and deterrence, i.e., to inflict some pain and suffering, on an offender (i.e., some punishment) for violating legal norms, so that criminals should be worse off than the poorest of honest citizens; law-abiding individuals must be satisfied that law-breakers are penalised and they are being protected against the threat of recidivism; and members of society may be deterred from committing crimes.

iv. Protection, i.e., protecting community from criminals by marking out persons who violate laws and stigmatising them so that others are warned against them. J Criminal = Deviance + Prosecution + Stigma

v. Reformation, i.e., to change offender’s values, motivations, attitudes and perceptions and to resocialise him and restore him to community.

3.5 Challenges of the correctional institution

Overpopulation

This is a major factor that makes life very unbearable for prison inmates. At the Federal Prisons, there are approximately 2,000 inmates, plus or minus 100. Out of this number, only about 10 per cent are convicts serving their various jail terms. The remaining ones are 'awaiting trial' inmates. The cells at the prisons are usually over crowded. For example, my cell (1 ward 2 cell) measuring 32 feet in length and 28 feet in width has approximately 100 inmates staying there. Ordinarily, not more than 40 inmates are supposed to be there. The 100 people use only one bathroom and two toilets. This makes it easy for one to contact diseases, especially skin rashes, *Apollo (*conjunctivitis), chicken pox, small pox, measles, etc. I was lucky, I did not contact any. (It is not a laughing matter).

Poor quality of food

The quality of food being served the inmates is nothing to write home about. Their soup is called *chakpadim*. This is because it is too watery. The beans is *averagely* okay. The rice and gari is s*omething else.* The sizes of meat and fish served the inmates are as small as Tom-Tom sweet. Due to the poor quality of food served the inmates in general, they look malnourished. I never ate prisons' food; neither did I drink their water. My wife and I were on self-feeding throughout our stay.

Lack of adequate health care

The health facilities in Prisons are not adequate. It can only take care of minor health challenges like headache, typhoid fever, measles, small pox, chicken pox, etc. Also Retroviral

drugs for HIV positive inmates are available. Health facilities at the prisons cannot take care of inmates with sight (eyes) problems, tooth aches, kidney problems, liver problems, mentally deranged fellows, pregnant female inmates, and serious cases that require surgery etc. Hence occasionally, deaths occur among the inmates, due to lack of adequate health facilities.

Poverty and inability to hire lawyers

This is a major factor frustrating many inmates and has deprived many of them from securing their freedom. As a result, many of them waste up to 10 years in prison (awaiting trials) without going to court.

Over 90 per cent inmates are awaiting trial

This is a major factor because our criminal justice system is not effective. It is very fraudulent.

Absence of household items

The correctional Institutions do not provide essential items such as soaps, tooth brush, tooth paste, chewing sticks, tissue papers, sanitary pads, body creams, detergents, inner wears (pants and singlet), slippers etc, for the inmates. They only provide food, as I mentioned earlier. This simply means that inmates are left to fend for themselves on these essential items. While the rich ones manage to provide these items, the poor ones simply end up as shadow of themselves.

Absence of judges in courts

This is a notorious fact. In Imo State, there are about 15 high courts in Owerri Judicial Division, but only three or four high courts are functional with judges. The remaining courts are empty and under lock and key. Yet, thousands of cases were criminally assigned to them, just to ensure that people (inmates) remain permanently in prison. I want to be proved wrong. If I am challenged on this, I will give details.

Conspiracy

There must be a conspiracy between State Counsel and complainants, to ensure that cases are given long adjournments. This factor is self-explanatory, and it is the truth. At least, it is happening in Imo State.

There is equally a conspiracy between judges and complainants to ensure that cases are given long adjournments. This is a notorious fact. In Imo State, it is happening. Such judges are called political and business judges. They are shameless. In extreme cases, the dishonorable judges adjourn cases *sine-die* to justify the money they collected from complainants (mostly government house officials), thereby keeping innocent people (inmates) permanently in prison. If I am challenged, I will give details.

Missing case files

This is equally a notorious fact. Many innocent inmates at the Federal correctional institutions do not know the whereabouts of their case files. Police officers of the Imo State Police Command who are (were) the Investigating Police Officers are reportedly guilty of this debilitating wickedness. I want to be proved wrong.

Mental illness among inmates

It is a notorious fact that there are inmates who are not organised, disciplined and God-fearing, who engage in Indian hemp smoking.

Children born by female inmates undergo psychological torture

This is an acknowledged fact. Most of these female inmates were impregnated by their Investigating Police Officers who promised to assist them out of the case when they were detained at their respective police stations. Unfortunately, they merely used them to satisfy their sexual desires. Some female inmates are married and might have been pregnant before being remanded at the prisons. Yet, others might have been impregnated inside prison premises "under special arrangement" to satisfy sexual desires of female inmates. Also, some female inmates might have had their babies shortly before being arrested by the police, taken to court and thereafter remanded in prisons for alleged crimes earlier committed. The resultant effect is that children born by the female inmates suffer from lack of love, home-training, psychological torture, and unaware of the existence of life outside the walls of prisons. Ninety per cent of children born inside prisons grow up to fight the society.

Sexual abuses among inmates

This is a notorious fact. Homosexuality and lesbianism among inmates are rampant. Having stayed in prison for so long and without the opportunity to have sex with the opposite sex, some inmates resort to the evil practice of homosexuality and lesbianism. However, prisons authorities at the Federal correctional institutions have placed adequate measures to check this abnormal method of sexual satisfaction. Any inmate or inmates caught in this satanic act is (are) given punishment. For example, when two people are caught in homosexual act, they are usually flogged, stripped naked and charcoal dust poured on them. After that, they would be made to undergo *black wedding* and driven in a wheel-barrow around the prison yard. After that, they would be made to under-go another round of punishment.

Drug abuse

This is a notorious fact, and it is self-explanatory as abuse of drugs is an endemic in all correctional institutions in Nigeria

Possible solution tp these challenges are as follows:

1. There should be special amnesty by Mr President for inmates (both convicts and awaiting trials) who have spent 15 years and above. The only criteria for this special amnesty should be good behaviour, positively changed character and fear of God, attested to by prison authorities. This special amnesty by Mr President should take place twice every year, precisely on (a) Independence anniversary day, October 1, and (b) Democracy Day, May 29.

2. Patriotic citizens of Nigeria and organizations filled with milk of human kindness, sympathy and true love, should play their roles by visiting our prison inmates scattered across the various prison yards in the country with items such as packaged foods, tissue papers, detergents, bar soaps, toilet soaps, sanitary pads, tooth brushes, underwear, slippers, body cream, tooth pastes, etc. For God's sake, we should realize that prison inmates are one of us.

3. The National Human Rights Commission, non-governmental organizations, 'self-governmental' organizations, social crusaders and activists should come together and force state governments with empty high courts, magistrate courts, etc., to fill them with responsible judges. Imo State should be a test case, because 80 per cent of the high courts have no judges, yet thousands of cases were criminally assigned to them just to punish innocent people.

4. Decongestion of prisons through the setting up of special committees across the states to review cases of inmates who are awaiting trials, but who have not gone to court for trials after being remanded for two years in prison should be supported. The committees should have the following personalities as members: i. State Chief Judges ii. Attorneys General and Commissioners for Justice iii. State High Court Registrars iv. Administrative Judges v. A responsible elder statesman vi. A respected Catholic or Anglican or Pentecostal bishop. It must not be politicized by politicians in power.

vii. Adjournment of various cases should not go beyond one week. Through this method, inmates who are innocent of the crimes for which they were remanded in prison would be released, discharged and acquitted, while those who committed crimes are sentenced with various jail terms as quickly as possible.

viii. Special concession should be given to women who gave birth to babies in prisons. They should be granted bail so that they attend their court cases from their various homes.

ix. There should be improved health facilities at the prisons.

x. *Good Samaritan* lawyers should volunteer to assist awaiting trial inmates who are unable to fund their cases in courts.

3.5.1 Basic administrative Way forward includes

1. Proper record keeping strategies.
2. Adapting Technology approach to process of operations.
3. Capacity building
4. Improved prison structure
5. Proper and monitored fund allocation.

4.0 Conclusion

Correctional institution and its function are important for protection, reformation and rehabilitation of offenders however there have been challenges over time which hinders the process and attention paid to updating the process.

5.0 Summary

The need for strong correctional institution cannot be overemphasised as the challenges encountered which includes lack of funds, records and capacity which make it important to improve processes and operation of the system.

6.0Tutor-Marked Assignments

What are the basic functions of the correctional institutions?

Discuss the challenges of correctional institution and way forward.

Students should also be asked to differentiate between juvenile incarceration centres and prisons/correctional centres

7.0 Reference/further readings

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Module 5 Rehabilitation, Reformation and Re-integration

Unit 1: Theories of Rehabilitation, Reformation and Reintegration (The 3-Rs)

CONTENTS

1.0Introduction

There are several opinion and ideas on reformation and reintegration with the latter being the weakness of the system. The reintegration process is weak and almost nonexistence but it's important to have a good background of these aspect of criminal justice administration.

2.0 Objectives

To get acquainted with theories on rehabilitation

To have understand the critics on these theories

To understand how these theories are related in criminal justice administration.

3.0 Main Content

3.1 What Is Rehabilitation?

The concept of rehabilitation rests on the assumption that criminal behavior is caused by some factor. This perspective does not deny that people make choices to break the law, but it does assert that these choices are not a matter of pure "free will." Instead, the decision to commit a crime is held to be determined, or at least heavily influenced, by a person's social surroundings, psychological development, or biological makeup. People are not all the same and thus free to express their will but rather are different. These "individual differences" shape how people behave, including whether they are likely to break the law. When people

are characterized by various "criminogenic risk factors" such as a lack of parental love and supervision, exposure to delinquent peers, the internalization of antisocial values, or an impulsive temperament they are more likely to become involved in crime than people not having these experiences and traits.

The rehabilitation model "makes sense" only if criminal behaviour is caused and not merely a freely willed, rational choice. If crime were a matter of free choices, then there would be nothing within particular individuals to be "fixed" or changed. But if involvement in crime is caused by various factors, then logically re-offending can be reduced if correctional interventions are able to alter these factors and how they have influenced offenders. For example, if associations with delinquent peers cause youths to internalize crime-causing beliefs (e.g., "it is okay to steal"), then diverting youths to other peer groups and changing these beliefs can inhibit their return to criminal behaviour.

Sometimes rehabilitation is said to embrace a "medical model." When people are physically ill, the causes of their illness are diagnosed and then "treated." Each person's medical problems may be different and the treatment will differ accordingly; that is, the medical intervention is individualized. Thus, people with the same illness may, depending on their personal conditions (e.g., age, prior health), receive different medicines and stay in the hospital different lengths of time. Correctional rehabilitation shares the same logic: Causes are to be uncovered and treatments are to be individualized. This is why rehabilitation is also referred to as "treatment."

Correctional and medical treatment are alike in one other way: they assume that experts, scientifically trained in the relevant knowledge on how to treat their "clients," will guide the individualized treatment that would take place. In medicine, this commitment to training physicians in scientific expertise has been institutionalized, with doctors required to attend medical school. In corrections, however, such professionalization generally is absent or only partially accomplished.

The distinctiveness of rehabilitation can also be seen by contrasting it with three other correctional perspectives that, along with rehabilitation, are generally seen as the major goals of corrections. The first goal, *retribution* or *just deserts*, is distinctive in its own right because it is nonutilitarian; that is, it is not a means to achieving some end in this case, the reduction of crime but rather is seen as an end in and of itself. The purpose of correctional sanctions is

thus to inflict a punishment on the offender so that the harm the offender has caused will be "paid back" and the scales of justice balanced. In this case, punishment inflicting pain on the offender is seen as justified because the individual used his or her free will to choose to break the law. The second goal, *deterrence,* is utilitarian and asserts that punishing offenders will cause them not to return to crime because they will have been taught that "crime does not pay." Note that deterrence assumes that offenders are rational, in that increasing the cost of crime usually through more certain and severe penalties will cause offenders to choose to "go straight" out of fear that future criminality will prove too painful. This is called *specific deterrence*. When other people in society refrain from crime because they witness offenders' punishment and fear suffering a similar fate, this is called *general deterrence*. Finally, the third goal, *incapacitation*, makes no assumption about offenders and why they committed crimes. Instead, it seeks to achieve the utilitarian goal of reducing crime by "caging" or incarcerating offenders. If behind bars and thus "incapacitated," crime will be impossible because the offender is not free in society where innocent citizens can be criminally victimized.

In comparison, rehabilitation differs from retribution, but is similar to deterrence and incapacitation, in that it is a utilitarian goal, with the utility or benefit for society being the reduction of crime. It fundamentally differs from the other three perspectives, however, because these other goals make no attempt to change or otherwise improve offenders. Instead, they inflict pain or punishment on offenders either for a reason (retribution in order to "get even" or deterrence in order to "scare people straight") or as a consequence of the penalty (incapacitation involves placing offenders in an unpleasant living situation, the prison). In contrast, rehabilitation seeks to assist both offenders and society. By treating offenders, they hope to give them the attitudes and skills to avoid crime and live a productive life. At times, this attempt to help offenders exposes rehabilitation to the charge that it "coddles criminals." This view is short-sighted, however, because correctional rehabilitation's focus is not simply on lawbreakers but also on protecting society: by making offenders less criminal, fewer people will be victimized and society will, as a result, be safer.

3.2 Types of correctional institution

Educational

Educational programs within the prison environment include classes to help with obtaining a GED or High School Diploma, college level coursework, learning English as a second language and activities within the library. Inmates who increase their skills in these areas often have a higher chance of reentering society and being more successful at not repeating criminal behavior. Working within these educational settings gives an inmate something else to do with his time.

Spiritual

Prisons hire chaplains to minister, supervise and manage the spiritual needs of an inmate population. Inmates are free to practice any religion of their choosing, including no religion at all. Community leaders and organizations often volunteer their time to provide study over sacred texts, worship services, meditation sessions and other times of spiritual practice in accordance with prison rules and safety requirements. Self-help programs are also provided, such as life-building and communication skill-building classes.

Work Programs

Working within the prison gives inmates several benefits, including a structured work day, job experience, the ability to practice positive team-building skills and receiving pay that helps them fund incidental living expenses behind bars. Work programs include inmates working as part of day-labor crews that are hired to do things like janitorial work, stripping and waxing of flooring, garbage cleanup along state and federal roadways, concrete work, landscaping and other similar types of work. After release, this work experience can help

inmates obtain jobs or help in providing paperwork to the court for receiving custody of children from foster care.

Some of the work programs can include vocational training such as working in prison laundries, kitchens or farms. The evidence isn't clear whether this translates into new job skills for prisoners upon their release.

Transitional Programs

Transitional rehabilitation programs help the inmate prepare for release and then guide the inmate back to successful reentry to society. These take the form of counseling to help with anxieties about being released, and sessions that provide information on local resources that help with free clothing, housing assistance and more. Some inmates may be required to stay at a halfway house for a temporary period, where he is provided assistance in finding employment, required to save money, abide by a curfew and abstain from alcohol and drug usage. These rules vary depending on the type and purpose each halfway house.

3.3 Theories of rehabilitation in criminal justice system

Deterrence

It has been a popular notion throughout the ages that fear of punishment can reduce or eliminate undesirable behavior. This notion has always been popular among criminal justice thinkers. These ideas have been formalized in several different ways. The Utilitarian philosopher Jeremy Bentham is credited with articulating the three elements that must be present if deterrence is to work: The punishment must be administered with celerity, certainty, and appropriate severity. These elements are applied under a type **rational choice theory**.

When evaluating whether deterrence works or not, it is important to differentiate between general deterrence and specific deterrence. General deterrence is the idea that every person punished by the law serves as an example to others contemplating the same unlawful act. Specific deterrence is the idea that the individuals punished by the law will not commit their crimes again because they “learned a lesson.”

Rational choice theory

This is the simple idea that people think about committing a crime before they do it. If the rewards of the crime outweigh the punishment, then they do the prohibited act. If the punishment is seen as outweighing the rewards, then they do not do it. Sometimes criminologists borrow the phrase **cost-benefit analysis** from economists to describe this sort of decision-making process.

As unpopular as rational choice theories may be with particular schools of modern academic criminology, they are critically important to understanding how the criminal justice system works. This is because nearly *the entire criminal justice system is based on rational choice theory*. The idea that people commit crimes because they decide to do so is the very foundation of criminal law in the United States. In fact, the intent element must be proven beyond a reasonable doubt in almost every felony known to American criminal law before a conviction can be secured. Without a **culpable mental state**, there is no crime.

Incapacitation Theory

Incapacitation is a very pragmatic goal of criminal justice. The idea is that if criminals are locked up in a secure environment, they cannot go around victimizing everyday citizens. The weakness of incapacitation is that it works only as long as the offender is locked up. There is no real question that incapacitation reduces crime by some degree. The biggest problems with incapacitation is the cost. There are high social and moral costs when the criminal justice system takes people out of their homes, away from their families, and out of the workforce and lock them up for a protracted period. In addition, there are very heavy financial costs with this model. Very long prison sentences result in very large prison populations which require a very large prison industrial complex. These expenses have placed a crippling financial burden on many states.

3.4 Criticism of theories of criminal justice system

Critics of these theories point to high **recidivism** rates as proof that the theory does not work. Recidivism means a relapse into crime. In other words, those who are punished by the criminal justice system tend to reoffend at a very high rate. Some critics also argue that rational choice theory does not work. They argue that such things as crimes of passion and crimes committed by those under the influence of drugs and alcohol are not the product of a rational cost-benefit analysis.

Reformative Theory in criminal justice system

The reformative theory is also known as rehabilitative sentencing. The purpose of punishment is to "reform the offender as a person, so that he may become a normal law-abiding member of the community once again. Here the emphasis is placed not on the crime itself, the harm caused or the deterrence effect which punishment may have, but on the person and the personality of the offender."

The Reformative theory is supported by criminology. Criminology regards every crime as a pathological phenomenon a mild form of insanity, an innate or acquired physiological defect. There are some crimes which are due to willful violation of the moral law by normal persons. Such criminals should be punished adequately to vindicate the authority of the moral law.

In terms of the theory, offenders largely commit crime because of psychological factors, personality defects, or social pressures. Sentences are consequently tailored to the needs of the individual offender, and typically include aspects of rehabilitation such as community service, compulsory therapy or counseling. The pre-sentencing report by a probation officer or psychologist plays a substantial role in assisting the judicial officer to arrive at an appropriate sentencing decision.

According to the supporters of the Reformative theory, punishment is not imposed as a means for the benefit of others. Rather, punishment is given to educate or reform the offender himself. Here, the crime committed by the criminal is an end, not a means as in the Deterrent theory. This view is commonly accepted in the present time.

Punishment is inflicted on a criminal for his reformation. This theory does not justify capital punishment. Punishment is inflicted only to educate or reform the criminal himself. Punishment does not always make reform in a criminal. On the other hand, kind treatment sometimes produces a better result than punishment. It may be more favorable to the reformation of the criminal.

Forgiveness can change the nature of the criminal and give the scope of repentance and reformation to the criminal. It is clear that the reformative theory does not justify capital punishment. It supports the reformation of the criminal. According to this theory, a crime is committed as a result of the conflict between the character of a man and the motive of the criminal.

One may commit a crime either because the temptation of the motive is stronger or because the restraints imposed by character is weaker the reformative theory wants to strengthen the character of the man so that he may not become an easy victim to his own temptation this theory would consider medicine. According to this theory, crime is like a disease so you cannot cure by killing.

For this reason, a punishment like imprisonment should be given to criminal and all prisons should be transformed into residences where physical moral and intellectual training should be given in order to improve the character of criminal. A crime is committed as a result of the conflict between the character and the motive of the criminal. One may commit a crime either because the temptation of the motive is stronger or because the restraints imposed by character is weaker.

This theory would consider punishment to be curative or to perform the function of medicine. According to this theory, crime is like a disease. This theory maintains that you can cure by killing. The ultimate aim of reformists is to try to bring about a change in the personality and character of the offender, so as to make him a useful member of society.

It must be noted that the reformative theory shows a radical departure from the earlier theories and seeks to bring a positive change in the attitude of the offender so as to rehabilitate him as a law-abiding member of society. Thus punishment is used as a measure to reclaim the offender and not to torture him. This theory condemns all kinds of corporal punishments.

The major thrust of the reformist theory is rehabilitation of inmates in penal institutions so that they are transformed into law-abiding citizens. It focuses greater attention on humanly treatment of prisoners inside the prison. It suggests that instead of prisoners being allowed to idle in jail, they should be properly taught, educated and trained so as to adjust themselves to normal life in the community after their release from penal institution.

This purpose may be achieved through the agencies of parole and probation which have been accepted as modern techniques of reforming the offenders all around the world. Thus the advocates of this theory justify prisonisation not solely for the purpose of isolating criminals and eliminating them from the society, but to bring about a change in their mental attitude through effective measures of re formation during the term of their sentence

3.5Reintegration in criminal justice system.

3.5.1 Definition of Re-integration

Reintegration refers to the process of re-entry into society by persons that have been in prison, or incarcerated. Reintegration includes the reinstatement of freedoms not previously had by individuals as a result of being in prison. This process may occur gradually, as in the case of paroled inmates, inmates finishing their sentences in halfway houses, or serving the final part of their sentence on home confinement and gradually granted freedoms. Alternatively, reintegration may occur immediately as in the case of sentence expiration. In sentence expiration, a person has served the entirety of his or her maximum sentence behind bars, and the correctional system can no longer legally detain the person.

It's important to remember that prison is essentially a society within a society - meaning that while in prison, there are completely different social guidelines and cultural norms. As a result, returning to the outside world is not a simple task because a person must reacquaint themselves with how to live on the outside, in society again, without all of their decisions being made for them. So it's not uncommon for persons coming out of prison to want to return to the life they had before prison as a way to adapt to these changes. However, that lifestyle got them sent to prison in the first place. Hence the reintegration process is not a simple one. It involves substantial conscious lifestyle changes that are complicated and difficult.

The Process of Reintegration

With expiration release, freedoms are fully restored when a person returns home from prison. This means that they are no longer in custody of a department of corrections, nor are they under the supervision of a governmental entity. They do not have to worry about strict parole guidelines or notifying an officer if they wish to leave the state. However, this individual will still have the mark of a criminal record. As a result, basic rights of citizenship such as the right to vote, hold public office, adopt a child or be eligible for certain types of public grants, subsidies and funding are largely limited and restored selectively based on state and federal regulations in relation to the crime committed

Alternatively, when a person is released on parole, to a community corrections program, or to a halfway house, freedoms are returned to the individual incrementally based on how successful a person is in the program they are in. Success in each of these venues is largely

measured according to whether or not a person returns to prison during or after the completion of these programs.

3.6 Challenges of rehabilitation, reformation and reintegration

All around the world, the correctional Institution as it is known today was established by the colonial government since the legal system of the pre-colonial African societies did not have a prisons set up (KHRC 2002).However, the performance of this vital cog in the criminal justice system as it is today is interfered with by several factors.

The harsh prison conditions in developing countries like Nigeria which is characterized by overcrowding and congestion, poor diet, degrading clothing and beddings, lack of clean water, poor sanitation, infectious diseases, homosexuality among others (Omboto 2010) can be attributed to several factors. Historians for instance opine that the colonial government established and maintained prisons in poor state because the prisoners were Africans, particularly the rebels such as the militants who had put resistance to the white rule.

However even in post colonial period, over-population is the root cause of decay in correctional institutions. First, due to the rise in crime in rate, the rate of conviction and length of sentences have proportionally risen, and so the prison population is always quite high, this pushes up the cost of prisoners maintenance beyond what the economy can support. The end result is normally harsh unhygienic prison conditions that cause rampant deaths because of insufficient medical care. Omboto (2010:45) established that homosexuality, abuse of tobacco and drugs smuggled by dishonest prisons staff has also become a menace in our prison institutions.

The harsh conditions in prisons and work without pay not only negate on rehabilitation of prisoners but also make them bitter and rebellious, therefore, at the end of their prison term they commit crimes of revenge against the society , which also does not offer much support to them as ex-prisoners Odera Oruka (1985).

The capacity of prison officers in rehabilitation of offenders

Another cause of prisons failure in rehabilitation rest on the people entrusted with the responsibility to reform the prisoners. It is important to appreciate that if the officers who come in contact with prisoners on a daily basis, both junior and senior officers are not people of integrity who are well educated and specifically trained for this job that require an in-depth understanding of human behaviour, human motivation, human worth and human destiny then it is impossible for them to rehabilitate the offenders. In terms of training for the job, the core function of reformation and rehabilitation require that prison officers must first accept that prisoners are incarcerated as a punishment and not for punishment, and they must have the ability to facilitate behaviour and attitude change. This requires that professionals such as psychiatrists, psychologists, pastors, professional counsellors, social workers, sociologists, criminologists and other social scientists should serve as uniformed officers who come into contact with the prisoners daily because only such experts have what it takes to make positive changes in the human mind: where criminality is fostered.

This is not the case as studies show that a good number of prisoners have attained university and college education compared to the prison officers Omboto (2010;39). On the integrity of the prison officers, it is worth to point out that prisons department like any other organization has some dishonest employees, for example, the report titled “Warder seized over bang smuggling”[1]and another “Prison Officer is seized over robbery”[2]confirm the existence of such prison officers. These dishonest officers have shamelessly enabled some prisoners to continue with illegal activities such as drug abuse rightinside jails as mentioned earlier, therefore making rehabilitation of such offenders impossible. The use of mobile phones by prisoners also is illegal but such officers have smuggled them into prison institutions thus enabling prisoners to communicate freely with the outside world in

the end maintaining criminal links and carrying out criminal acts such as defrauding.

The poor terms and conditions of work of prison officers impart negatively on their work

The third reason why our prisons cannot reform inmates established by Omboto (2003) is related to the poor working conditions of the prisons staff. Morale of the lower cadre officers is at the lowest ebb for the delicate work.

Other problems that face several prison institutions, like poor drainage and sanitation, and water shortage also hamper the work of prison officers. Added to the unfavourable scheme of service, that do not give clear career progression path; such as the automatic movement from one job group to another, and the requirements for such movements that is not dependent on the whims of the senior officers; claims that some prisoners e.g. the trustees (the special stage prisoners) are happy and comfortable in prisons than the prison warders cannot be dismissed. On promotions for instance, findings of the 2003 study revealed disquiet among prisons‟ staff. The officers complained that, in the prisons department, uniformed staff with similar academic qualifications, experience and personal file records (i.e. whether they have breached prisons‟ regulations or not) scatter in all ranks warders (the lowest rank) , chief officers (five ranks up) and even other ranks above.

This situation de-motivates and demoralises, it is worst when one realises that his/her senior is of lower qualifications (academic and professional experience) therefore it a positive step that the prison administration from the year 2008 has made efforts to steam line promotions. From a special report, members of the parliamentary committee on Administration, National Security and

The frustrations imposed on the prison officers by such conditions cannot enable them to reform the prisoners, even if they were skilled for the work; this is because they are not emotionally stable themselves as they go about their duties. Instead some have been recruited in crime by the very criminals they were supposed to reform. The

availability of drugs and substances in prison institutionsThe rehabilitation mandate of prisons is difficult to achieve in an environment where inmates abuse drugs and substances this is because cases of inmates‟ indiscipline and infractions rises. Omboto (2010) established that the problem of drugs and substances exist in correctional isntitutions with cannabis sativa being the most common drug followed by psychotropic substances. These drugs and substances are smuggled into prison institutions by the prison staff. That the expensive and highly addictive drugs such as heroin and cocaine are also available in our prisons compounds the problem because the inmates who use them will only crave for more when they get addicted thus increasing their demand in prison .However, the problem of illicit drugs in prisons and related indiscipline is not restricted but is a global phenomenon.

3.7 Addressing the Above Challenges will improve Prisoners Rehabilitation

ensure that the prisoners are reformed during their incarceration, and properly rehabilitated into the society as law abiding citizens after release, the above challenges should be addressed. How to ameliorate the problem of congestion and overcrowding in correctional institution To eliminate the problem of congestion in Kenya prisons requires a broader perspective which include taking into account how the other actors within the criminal justice system such as the Police, the Office of the Attorney General, Prosecution, the Judiciary, Children‟s Department, and the Lawyers contribute to the problem. For instance, shortage of judicial staff , prosecution officers and investigators, and their frequent transfers, missing court files, and fewer courts, and unnecessary adjournments by advocates do greatly negate on the trial process by making the cases to drag in courts for a long time thus the high number of un-convicted offenders in prison custody has contributed to the rise in prison population. In ability to pay fines in cases where offenders have the option due to poverty and underutilization of alternative methods such as Community Service Order (CSO) by courts also contribute to overcrowding in prison institutions.

These other actors in the criminal justice system should be streamline so that they do not negatively affect rehabilitation of offenders in prisons due to congestion. For instance the courts must employ alternatives to imprisonment such as Community Service Order (CSO), suspended sentence, and affordable fines to ensure that the many petty offenders do not congest prisons and remand homes. Measures to ensure

speedy conclusion of cases must also be put in place within the police, the judiciary and the prosecution, it should not take too long to process, hear and determine appeal cases. Another cause of congestion in the institutions is the presence of a large number of prisoners who have been sentenced to death over the years but have not been executed.

However, increased funding to the prisons department and proper utilization of funds by prison administrators to ameliorate the harsh conditions is recommended. Expansion of existing prison institutions and building of new ones to correspond with the increased population, and crime rate is also necessary. It is imperative to have effective rehabilitators in place As concerns training and education level of prisons personnel, it‟s worth to note that when the original prisons were established, the work of the warders was basically surveillance; to prevent escapes from custody, and meting of physical punishment to inflict pain on the inmates who did not toe the line. For this, there was no need of a more -than basic education, provided one was physically fit. Thus, the consideration for employment was a "physique contest" where physical fitness was the ultimate qualification for prison officers. Though the society is dynamic, it surprises that most prisons in African have not fully evolved out of this mentality. Given that the present day criminal is not the same with the one of say 1970s when most offenders were illiterate and ignorant, today a good number of prisoners attained university and college education. Therefore the required qualification today, on top of the physique, for any individual prison officer and their roles should be expanded from mere guarding against escapes to being educator and counsellor,whichis only possible when the officers are specifically trained. To knowledgeable prison officers are important for rehabilitation because they can establish the aetiology of antisocial behaviour; and apply the correct treatment techniques

The best that can be done to the staff to reform the department; so as to ensure performance and efficiency in rehabilitation, is to ensure that the present and future prison officers are trained in relevant disciplines for their work. However, to tackle the problem of integrity of the prison staff, though this suggestion will make the recruitment process more tedious; we can rid off the prisons of such unworthy employees, by ensuring that those who are enlisted are not of questionable character by conducting background investigation which involves checking whether the

would-be-officers were obedient students in schools and colleges, and in the villages of upbringing among others.

The improvement of the prison staff welfare First on promotions; the Human Resource Development practice which demands that work experience, academic qualifications and professional relevance be the first criteria in evaluation and promotion of employees should be put to practice. People with similar qualifications and duration of service must be on the same salary scale, anything short of this is an injustice and a catalyst to corruption. Promotions and salary increments should come automatically as the length of service progresses, clean record maintained and relevant skills acquired. The working and living conditions for prison staff such as their salaries and allowances, stores and uniforms, housing and other provision such as water and electricity must be improved for any meaningful reformation and rehabilitation of offenders to take place. It has also been observed that prison officers who are frustrated, demotivated and demoralized always engage in vices such as corruption and mistreatment of inmates

Other specific challenges includes:

1. Weak criminal justice process
2. Lack of collaboration in the criminal justice system
3. Change in public perception of the correctional facility.
4. Non-strategic reintegration process
5. Lack on inclusiveness in the reintegration process
6. Lack of attention to policy making and implementation process in Nigeria

4.0 Conclusion

These processes have proven to determine how crime is perceived in the society however rehabilitation suffers from negligence and lack of capacity from the criminal justice system to achieve its function in all aspect of crime control and prevention.

5.0 Summary

This unit shows the rehabilitation process types and challenges which includes Weak criminal justice process, Lack of collaboration in the criminal justice system and Change in public perception of the correctional facility. Looking into paradigm and opinions on rehabilitation ,reformation and reintegration.

6.0 Tutor-Marked Assignments

Discuss rehabilitation theory

What are the challenges of these theories?

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MODULE 6 Non custodial measures the future of Criminal Justice Adminstration

Unit 1: Non-Custodial Measures

CONTENTS

1.0 Introduction

The use of custodial measure has weighed down on criminal justice system due to overcrowding in the facilities which is calling for adoption of non-custodial measure in the Nigeria. Experienced countries that have implemented non-custodial approach are of the opinion that it aids reintegration and deterrence in the society.

2.0 Objectives

The objectives is to familiarize students with the existing international standards that promote the use of non-custodial measures

To explain the aim of non-custodial measures and their use at the various stages of the administration of justice and identify types of non-custodial measures

To acquaint students with theories of rehabilitation and legal protection linked to the use of non-custodial measures;

3.0 Main Content

3.1 Meaning of non-custodial measures

The concept of "non-custodial measures" means any decision made by a competent authority to submit a person suspected of, accused of or sentenced for an offence to certain conditions and obligations that do not include imprisonment; such decision can be made at any stage of the administration of criminal justice

3.1.2

Non-Custodial Sentence and its Legal Framework

Generally, a sentence is the judgment that a court formally pronounces after finding a criminal defendant guilty. It is the judicial determination of the penalty for a crime hence the punishment imposed on a criminal wrongdoer. It is usually custodial which requires that the convict be locked up in prison thereby being legally deprived of liberty. On the other hand, non-custodial sentence is a criminal sentence (such as probation) not requiring prison sentence. Thus, probation is a court-imposed criminal sentence that, subject to stated conditions, releases a convicted person into the community instead of sending the criminal to jail or prison. Also, non-custodial sentence can be in the form of suspended sentence.

Suspended sentence is a sentence postponed so that the convicted criminal is not required to serve time unless he or she commits another crime or violates some other court-imposed condition. A suspended sentence, in effect, is a form of probation. It is also known as withheld sentence.

In order for non-custodial sentencing to be effective, the legal and regulatory framework will be necessary. Such legal framework is seen in the Nigerian Correctional Service Act 2019 which established the Nigerian Non-Custodial Service under part II providing for its functions, power to make regulations and guidelines and allowing for praole, probation, community service, restorative justice measures and any other non-custodial measure assigned to the Correctional Service by a court of competent jurisdiction (section 37). Under the Act, Non-Custodial Service is defined as an aspect of the Nigerian Correctional Service that serves as an alternative to going to a custodial centre (section 46).

The need and prospect for non-custodial sentencing was reiterated by former Chief Judge of Lagos State, Hon. Justice Opeyemi Oke (rtd.) who said that;

"Today in Nigeria, we have seen countless cases where defendants are arrested for minor offences such as burglary and wandering; they are locked up in our prisons for the flimsiest

reasons to join the teeming population awaiting trial inmates. They are in our prisons with hardened criminals and by the time they come out they have been initiated into a life of crime and are ready to spread terror, death, and destruction in their post-prison escapades."

In addition, the Judge said petty offenders will be diverted to the Practice Directions centres where non-custodial sentences, including fines, restitution orders, and community service orders would be used as long as they are willing to take responsibility for their actions. Thus, petty offenders will no longer get prison sentences effective from 3rd June, 2019.

In essence, the foregoing is highly commended as it will greatly reduce the population of awaiting trial inmates who were arrested for allegedly committing minor offences. Therefore such measures should be adopted in all other states of the Federation including the FCT.

3.1.3 Criteria for use of Non-custodial Measures and the need for discretion

In considering the application of non-custodial measures the court shall base its decision on best practices including the following established criteria as well as our own laws such as the Administration of Criminal Justice Act/Laws and other national laws.

1.The nature of the offence

2.The personality and background of the offender

3.The purpose of the sentence

4.The rights of the victim

This provides a clear framework for the selection of non-custodial measures which considers the interest of the offender as well as those of both the society and the victim. In applying these criteria the judge is still expected to apply considerable degrees of discretion

3.2 Types of non-custodial measures

Several aspects to the type of non-custodial measure s will be discussed as its relative

a. Community rehabilitation order (previously called 'probation order' and unhelpfully changed to this inferior new name)

b. Community punishment order (previously called 'community service order' - ambiguous but at least not absurd)

c. Community Punishment and Rehabilitation Order (previously the obtuse but at least not farcical 'combination order')

d. Curfew order, Attendance centre order and Supervision order

3.3 Forms of Non-Custodial Sentencing

There are several noncustodial alternatives among which are:

i. Community Correction Order (CCO) which prescribes standard conditions such as stating that an offender must not commit any offence and additional conditions including supervision, community service work, curfews, alcohol and drug abstinence, non-association, place restriction, programmes and treatment;

ii. Conditional Release Order (CRO) which provides the court with an option to divert low-risk and less serious offenders away from the criminal justice system. It can be imposed with or without conviction and the additional conditions under CCO also apply to this order.

iii. Driving Disqualification under which a court can impose a driving disqualification period preventing a person from driving during a given period of time.

iv. Fines or Monetary Orders which requires that certain sums of money be paid. Monetary orders include court costs, witness expenses, compensation (section 78 of the Penal Code and the Violence Against Person (Prohibition) Act 2015 [VAPP Act], sections 1(3) and 2(5) [on financial compensation]) and professional costs. It is worth noting that under our criminal laws, various options of fines have been enshrined either solely or jointly with prison sentences. Thus, consequent to such provisions for example section 17 of the Criminal Code,

section 72 of the Penal Code and the VAPP Act, the courts have imposed orders for payment of fines in addition to imprisonment sentence upon conviction.

v. Apprehended Violence Orders (AVO) which prohibits certain behavior(s) for a period of time. Such orders include not to assault, harass or intimidates a protected person, not to contact a protected person or not to attend premises where a protected lives or works. Such orders are likened to protection orders provided for under the Violence Against Person (Prohibition) Act 2015 which is accompanied by a warrant of arrest (sections 28-36 and 46). The consequence of breaching an AVO includes arrest and charging to court with an offenceIt is worth noting that some of the above alternatives have been implemented in other jurisdictions and they have been effective. Therefore, adopting and adapting same in our criminal justice system will bring with it enormous prospects. In this vein, the Nigerian Correctional Service Act 2019 has established the non-custodial service which has been defined as an alternative to a custodial centre; empowered same and created non-custodial centres which are designated centres in the community for the administration of non-custodial measures (community service, probation, parole etc.)

Recategorizing further the different types can be seen as follows depending on the age of the offender : Check formatting

Other approach to non-custodial sentences that a court might give to adult offenders, including:

- fine
- probation order
- community service order
- a combination of probation and community service orders
- conditional or absolute discharge

Non-custodial sentences for young people who offend include:

- attendance centre order
- community responsibility order

- reparation order
- youth conference order

4.0 Conclusion

Non-custodial measure in criminal justice is essential given increase in population and weak judiciary system characterised by incessant adjournment of cases in Nigeria as awaiting trial persons are always high in the system making the processes and implementation of non custodial measure Key.

5.0 Summary

Even though there is high support for non-custodial measures it does not apply to every cases and its criteria and use are based on the judge's discretion. The are several types of these measure and its varies within the rights of a citizen depending on age as at time of offence.

6.0 Tutor-Marked Assignments

Define non-custodial measure

Discuss the types of non custodial measure and criteria for applying any.

7.0 References and further reading

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Unit 2: Effectiveness of Non-Custodial Corrections

CONTENTS

1.0 Introduction

The existence of the notion of noncustodial correction in the society does little to solve the challenges in rehabilitation of offender. There is a need for proper mechanism to procedure and policies guiding establishment of such approach and identification of possible challenges to ensure success of this process**.**

2.0 Objectives

To give students opportunity to understand how effective custodial measure are.

To ensure the challenges encountered in the process of non -custodial measure are recognised

To enlighten students on their role in ensuring security

3.0 Main Content

Measuring the performance of public services is always difficult. The challenge is compounded with the criminal justice system because one of the key things we are interested in measuring is how much crime is prevented, not just how it is dealt with once committed. For most people not having to deal with the criminal justice system at all is the surest sign of its success. Thus, research evaluating sentencing effectiveness has to try and work out what would have happened without that particular sanction being handed out. The problem cases, repeat offenders for example, are typically more visible than the successes. This may

motivate politicians to insist on reform without necessarily understanding what is already working within the system.

There are several mechanisms through which the criminal justice is theorized to reduce crime:

1. Incapacitation: incarceration in prison or greater surveillance in the community can prevent an individual offender from re-offending during a sentence.

2. Rehabilitation: a sentence can be an opportunity to address an offender's problematic behavior that leads to them committing crime through therapeutic interventions, especially to address drug addiction, and the provision of education and training.

3. Specific deterrence: the experience of being convicted and punished is unpleasant and is meant to discourage people from committing crime in the future.

4. General deterrence: the threat of being detected and then punished deters not only offenders who directly experience the sanction, but also potential offenders in the community from committing crimes that they would otherwise attempt.

However, there are also ways in which sanctions can produce perverse criminogenic outcomes that lead people to commit more crime than if they hadn't been sanctioned at all. This can apply especially to prison sentences. Incapacitation can prevent offenders from accessing legitimate sources of employment, education, and supportive social structures such as their families. This can make them less likely to reintegrate successfully at the end of a sentence. The social experience of punishment may actively bolster their 'deviant' identity. Offenders may also learn new skills that allow them to avoid detection when they commit future crimes. They may meet experienced criminals with whom they can cooperate and form gangs. They may learn that punishment is not as unpleasant an experience as they had feared, or their tastes may adapt to be more accepting of future sanctions. For the truly desperate, the prospect of prison may offer respite from homelessness and insecurity. Such cases, if they can be identified, can be handled more effectively with social support than with criminal sanctions.

Thus, there are plausible reasons to be both optimistic and sceptical about the effects of criminal sentencing on crime. At the same time, the range of channels through which sentences change behaviour means that research on individual offenders is likely to miss some of the broader social impact. This is precisely what our data and approach can help to identify.

In order to get an intuitive handle on our results, we have estimated the association between a 1% increase in one sentence type for an offence category and the following year's crime rate. Our results attempt to control for some critical socio-economic factors (age composition and unemployment) that determine the environment in which people see committing crime as a viable option. Our stylized example is based on recorded crime figures for 2014 based on a hypothetical nationwide change in sentencing activity in 2013. We use statistically significant estimated coefficients keeping in mind that these predictions have upper and lower bounds that can be computed from the standard errors.

1. Property crime: Sentencing 1% more offenders to prison for property offences (including theft and handling) reduces next year's recorded crimes by 2,693.

However, a similar 1% increase in community sentences reduces these offences by 3,590. In this example, 1% is going to be approximately 320 extra offenders sentenced for a property offence. Thus, it appears there is scope to reduce property crime (72% of recorded crimes in our analysis) more cost-effectively and humanely through greater use of community sentences instead of prison.

2. Violence: Sentencing 1% more adult violent offenders to custody reduces next year's violence against the person offences by 1,153. 1% more suspended sentences reduces such offences by 649. This suggests that there is scope to tackle violent crime more efficiently with less costly suspended sentences (that are often combined with community orders) and less reliance on immediate custody.

3. Sexual offences: Sentencing 1% more adult sexual offenders to prison reduces the following year's recorded sexual offences by 94.

4. Robbery: in contrast to the other offences, robbery appears to be harder to tackle more effectively through variations in existing sanctions. Sentencing an additional 1% of adult robbery offenders to prison appears to increase the following year's robbery numbers by 29. Sentencing an extra 1% of adult robbers to community sentences reduces the next year's number of robberies by around 8. This may imply that we are near the limits of what variations in sentencing can do for preventing robbery victimisation.

This near exclusive reliance on custodial sentences comes with significant socio-economic costs and public safety and security implications. According to a 2017 Nigerian Prison Survey, there is a strong nexus between imprisonment and poverty. Imprisonment impoverishes the prisoner, his or her family and other relations who are economically dependent on the inmate. Most prisoners are poor, have low education and employment status, and earned little prior to incarceration. Imprisonment further dislocates prisoners and their families-economically and socially.

Regrettably, excessive use of imprisonment causes congestion, drains public resources as well as impede on the efforts of the Nigerian Correctional Service to deliver on its mandate. Using custodial processes to warehouse persons awaiting trial over long periods of time is burdensome on the Correctional Service and distracts it from its core mandate of correcting convicted offenders.

Worse still, is the pattern of exposing minor/petty offenders who have no prior criminal history or are underaged to contact with serious/violent offenders. Incarcerating this category of persons in the learning or economically productive phases of life, often for minor offences, queries the wisdom and necessity of the custodial sentences as a sole or frequently utilized sanction. The frequent utilization of custodial sentences for all manners of offenders including petty Offenders can amount to injustice and abuse of human rights.

Aptly, the Prison Survey called for less use of pre-trial detention, increased utilization of alternatives to prison sentences especially for minor offences and diversion of special needs offenders, including young offenders and mentally ill persons from prison custody to appropriate facilities.

Fortunately, Nigeria has seen the necessity of deploying non-custodial measures and through legislation has provided courts and correctional services the opportunity to look to a wider range of penal measures for addressing deviant behaviour. Nigeria keyed into utilization of non-custodial measures first with the enactment of the Administration of Criminal Justice Act (2015) and later Nigerian Correctional Service Act (2019). Interestingly, both legislations provide for human rights compliant approach to administration of criminal justice.

The purpose of ACJA (2015) is the "promotion of efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant, and the victim Nigerian Correctional Service Act rolls out a range of objectives that are more relevantly related to delivering correctional services.

The emphasis of both legislation on corrections, is welcome and in tandem with the global deemphasis on custodial responses to crime. Therefore, the need strategy for promoting financial sustainability of the implementation of non-custodial measures. Non-custodial sentences has come to stay. We expect to witness the utilization of a wide range of

non-custodial measures (Community service, Parole, Probation, Restorative justice among others as provided in section 37 of the NCSA (2019). However, as the discourse continues, pertinent questions about the sustainability of non-custodial measures stare us in the face.

There are various ways of promoting the implementation of non-custodial measures in Nigeria and its sustainability. One of such is the activation of the Non-custodial Special Fund. This is critical considering the fact that before now, budgetary constraint has been a major challenge to the implementation of non-custodial measures in Nigeria.

In seeking solution to this major challenge therefore, focus should be, firstly, on the utilization by Nigerian Correctional Service of existing facilities and funds where possible for the implementation of non-custodial measures. Secondly, on proper funding of the non-custodial service from budgetary allocations to ensure that there are adequate operational vehicles for the non-custodial officers and for security, communication and other logistics for the service. There should equally be proper assignment of costs towards the rehabilitation of offenders serving non-custodial sentences. Thirdly and most interestingly on the application of the innovations brought by Section 44 of the NCSA (2019).

This section provides that ”There shall be the special Non-custodial fund to be administered by the National Committee on Non-custodial Measures into which there shall be (a) such sums as may be provided by the government of the Federation or a state for payment into the Special Non-custodial Fund, (b) such sums as may be paid by way of contribution under or pursuant to provisions of this Act or pursuant to this Act or any other enactment and (c) all sums accruing to the Non-custodial Service by way of gifts, testamentary disposition, contributions from philanthropic persons or organizations.’’

Notable is the involvement of state governments in the management of corrections in Nigeria. This is a very welcome development as it would help reduce the burden of management of corrections on the Federal Government especially given the fact that most offenders found in Correctional Centres are indigenes of the states where such centres are located.

3.1 Effectiveness of Non -custodial corrections

Effectiveness of non-custodial sentences can best be understood looking at few countries that are currently practicing this approach.

The Criminal Justice Act 2003 states that all courts must have regard to the following purposes of sentencing:1

■ Punishment of offenders

■ Reduction of crime

■ Reform and rehabilitation

■ Protection of the public

■ Reparation to victim(s)

This section reviews the effectiveness of non-custodial sentences in achieving these purposes. It mainly focuses on community orders as these sentences are often given for offences near to the custody threshold.

1. **Punishment of offenders**

Research suggests that public support for sentences focussing on punishment has increased in the UK since the early 1990s. Studies indicate that the public consider non-custodial sentences to be 'soft' options that do not effectively punish offending. In response to these concerns, in 2012 the MoJ introduced an obligation for all community orders to include at least one requirement that was a form of punishment (such as unpaid work, curfews and/or exclusion from certain areas).

The charity Prison Reform Trust suggests that a focus on punishment can undermine how well community orders can deliver other outcomes, such as reducing reoffending.68 It argues that some requirements create extra burdens for individuals that may increase the likelihood that they breach the order's conditions. This can result in a custodial sentence, contributing to prison population growth.Researchers also note that community orders already represent a form of punishment as they all deprive people of certain liberties.

2. Reduction of crime

Sentencing can seek to reduce crime in various ways, such as deterring others from offending. However, research typically focusses on whether sentences reduce reoffending. Data from 2017 (latest available data) indicate that between 29–32% of convicted adults and 36–44% of convicted young people are proven to have reoffended within one year of completing their sentence.

Four international reviews comparing reoffending rates for custodial and non-custodial sentences report mixed findings. In most (but not all) cases reoffending rates were lower for non-custodial sentences. A 2007 review of over 100 studies globally also indicates that non-custodial sentences are associated with lower reoffending.80 Probation and community orders (including rehabilitation treatments) showed lower reoffending rates than custodial sentences. However, even when an intervention reduced reoffending in one location, it did not always result in a reduction when implemented elsewhere.

When looking at reoffending data, there is a lack of clear evidence on which interventions are effective at reducing reoffending, how these should be implemented, and for which offender groups the interventions should be used.80 There are also issues with comparing people receiving custodial and non-custodial sentences. This is because the characteristics of the two populations (such as sex, age and offending history) are different. There are also differences in how studies measure reoffending. For example, some look at charge or conviction rates while others survey people with past convictions on subsequent offences. Therefore, researchers encourage consistency and transparency in how reoffending data are collected and reported.

In 2019, the MoJ compared the reoffending rates for people given short custodial sentences, SSOs and community orders. They matched various characteristics associated with reoffending across the three groups to ensure that the groups were not vastly different. The analysis found that short custodial sentences were associated with higher reoffending rates by similar individuals when compared with SSOs and community orders. Analysis by the MoJ in 2014 also highlighted that community orders reduced reoffending more than other types of non-custodial sentences.

3.2 Reform and rehabilitation

Both custodial and non-custodial sentences can seek to reform and rehabilitate people to prepare them for life beyond the criminal justice system. Researchers identify four forms of rehabilitation that they argue are necessary for an individual's successful reintegration into society:

■ **Personal rehabilitation** involves developing a person's skillset for life outside the criminal justice system. It aims to increase their motivation and develop a positive personal identity.

■ **Judicial rehabilitation** is the restoration of full civil liberties to a person after the end of their sentence.

■ **Moral rehabilitation** is the acknowledgement (by the person who has offended, civil society and the state) that harm was caused. It can also involve the person seeking forgiveness as part of social reintegration.

■ **Social rehabilitation** is the restoration of a person's social position and social identity.

Research indicates that some community orders (such as alcohol treatment) may provide the majority of these forms. While research shows that rehabilitation is possible through non-custodial sentences, assessing forms of rehabilitation, such as to what extent a person acknowledges the harm caused, can be difficult. Successful rehabilitation also relies on programmes being adapted for individuals. However, there is little evidence on how to do this for different groups. For example, a 2018 report for the Prison and Probation Service reviewed 11 studies of rehabilitation programmes for BAME people and found a lack of evidence on what was effective. It also noted that participants were less likely to engage in programmes that lacked cultural awareness.

4. **Protection of the public**

When sentencing an individual, one aspect that a criminal court considers is protecting the public from future harm. Custody removes people from society, preventing them from carrying out any other offences in the community while they

are in prison. Although not providing the same level of protection, some community order requirements help to protect the public in a similar way, such as an electronically monitored curfew.

Protection of the public also involves successful deterrence and prevention of reoffending. If this is achieved, then levels of crime should reduce following convictions. Data from police force areas in England and Wales between 2002 and 2013 indicate that the relationship between sentences and local levels of crime vary by offence type. Community orders appeared more effective than custodial sentences at lowering the volume of property crime and robbery. Custodial sentences (but not community orders) were associated with reductions in sexual and violent offences.

5. **Reparation**

Reparation is the process of making up for the harm caused to victim(s). Convicted individuals may pay back their community through some types of sentence, such as unpaid work. The income generated from fines is treated as government revenue, meaning that it may be directed to court funding but is not passed on to victims.However, both custodial and non-custodial sentences may require convicted individuals to pay victim surcharges and/or victim compensation .

Reparation can also include restorative justice, which brings together the person who offended and their victim(s) in an attempt to repair harm.A 2013 review of 10 restorative justice interventions reported that they reduced reoffending and increased victim satisfaction.A 2016 Commons Justice Committee report made similar conclusions.

The effectiveness of non-custodial corrections can be seen in its role in the criminal justice system and they are as follows:

1. Community sentences are more effective in reducing reoffending.

2. Prisons can help people learn to cope with life outside through rehabilitation.

3. Depriving someone of their freedom is a good form of punishment. It is a form of justice for the victims.

4. They are a cheaper alternative to correctionaal institutions, correctional institutions are expensive and overcrowded.

3.3 Challenges of non-custodial corrections

1. Lack of understanding of the process of non custodial measures
2. Less attention to rehabilitation and reformation of offenders.
3. Weak tracking system
4. Lack of updated record keeping strategy of offenders and the criminal justice system as a whole.

3.4 Way forward

1. Enlightenment on non custodial measures
2. Better record keeping
3. Elevated understanding of the need to rehabilitate and reform offenders for future security and avoid recidivism

4.0Conclusion

The use of noncustodial corrections is relative as what works for one society is different from others which determine the result and how effective it will be and learn from other countries.

5.0 Summary

This unit looks into how effective no custodial measure are and the challenges that could arise from applying this approach in a criminal justice system. It shows how weakness and negligence in the system can affects favourable results

6.0Tutor-Marked Assignments

How effective can Non-custodial correction be?

What are the challenges of non-custodial measures?

No list of referenced works, if any, included

7.0 References

Yekini, Abubakri O., and Mashkur Salisu Esq 2020. "PROBATION AS A NON-CUSTODIAL MEASURE IN NIGERIA: MAKING A CASE FOR ADULT PROBATION SERVICE." ***African Journal of Criminology and Justice Studies*****, vol. 7-2, no. 1, 2013, p. 101+.**

Standard Minimum Rules for the Treatment of Prisoners

United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules)