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JURISPRUDENTIAL EXPOSITION OF PUNISHMENT AND SENTENCING SYSTEM UNDER THE NIGERIAN CRIMINAL JUSTICE SYSTEM

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Abstract

The main objective of penal law is to secure the community against harms and repulsive activities, especially the protection of those who are weak either physically, psychologically, mentally or in a state of dependence on others. Crime and punishment are as old as the human society itself. To ensure that Criminal Law performs its various functions, punishment is central in criminal law once it is proved that a person committed a crime. This study examines the various theories of punishment and sentencing styles in the Nigerian criminal law jurisprudence. The study adopted doctrinal methodology and relied on primary sources of several statutes, decided cases and textbooks. Similarly online materials shall be relied on. The efforts found that some alternative methods of punishment adopted in some other legal systems are not applied in Nigerian criminal justice trials. The paper concluded that there can be application of the various methods of punishment and sentencing systems in Nigeria criminal justice trials. The paper recommended that the alternative methods of sentencing offenders should be applied by Nigerian courts in criminal trials.

Keywords: Crime, Justice, Punishment, Sentence, Trial

Introduction

Some have argued that the idea of punishment is as old as human existence.¹ Some scholars argue that the concept of punishment began with God sending back of Adam and Eve out of the Garden of Eden to the Earth.² Firstly, it is important to note that for every wrong action,³ a punishment is prescribed and secondly every wrong doing is punishable.⁴ Punishment differs from religion to religion and from law to custom that governs a person or a society.⁵ In Ancient Egypt, people were subjected

¹ What are the historical origins of punishment? How has... <https://www.quora.com> accessed 10 May 2025.

²The Holy Bible, New Living Translation Genesis 3:23:24.

³ Debate writing for 'punishment is necessary for every wrong act' For and Against <https://brainly.in> accessed 10 May 2025.

⁴ Crime Prevention and Criminal Justice Modul... <https://www.unodc.org> accessed 10 May 2025.

⁵ Comparing Punishment for Sins or Bad Deeds: Islam Vs Christianity <https://code2god.org> accessed 10 May 2025.

to punishment such as beatings,⁶ instances of drowning,⁷ beheading⁸ and even imprisonment.⁹ In early Rome, the law of the Twelve Tables (*lex duodecim tabularum*)¹⁰ was the ancient law that stood as the foundational law of Roman society and helped to clarify the principles of Roman law and make them available to the common man.¹¹ In traditional African societies, principally, social crimes attracted corporal punishments which did not require death. Such crimes attracted hanging on trees, shot by arrows, causing bodily injury, etc.¹² Spiritual crimes are most liable to capital punishment of execution.¹³ These customary punishments were effective in the traditional societies before the British incursion into Nigeria.¹⁴ The punishments were effective in a number of ways because they were community based, less expensive to operate, imposed on the person almost immediately after the wrong or crime had been committed.¹⁵

Justification for Punishment

The requirement of punishment is an essential prerequisite of the formulation of criminal theory. The concepts of law and punishment are well known to the African traditional societies.¹⁶ Aside from the known theories of punishment, the general justification for punishing offender is to cause pain to the criminal and to instill fear in the mind of others not to commit that crime again.¹⁷ Over the years, the concepts of 'crime' and 'punishment' have constituted themselves into co-joined twins. Often, one cannot speak of 'crime' without speaking about punishment, and vice versa. No wonder, some scholars see punishment as the object of criminal law.¹⁸ The purpose of punishment in which ever form is to restore the ethical values of the society.¹⁹ Hence, it has been observed that although the theories of punishment in Nigerian criminal codes seem to be quite elementary and unsophisticated, its paramount goal is to restore the equilibrium of the society, by preventing wrong doers from disturbing the *status quo*.²⁰

⁶ See the Holy Bible, Book of Exodus 5:14.

⁷ The Holy Bible Book of Exodus 1:22.

⁸ Genesis 40:19.

⁹ Genesis 39:20.

¹⁰ Written in 451-450 BC.

¹¹ Twelve Tables of Rome | History & Laws <https://study.com>academy>lesson> accessed 10 May 2025.

¹² Penwill D.J., Kamba Customary Law, Macmillan and Co., London, 1951).

¹³ Religions-Christianity: Capital punishment <https://www.bbc.co.uk>christianity> accessed 10 May 2024.

¹⁴ Punishing criminals indigenously <https://www.tandfonline.com> accessed 10 May 2025.

¹⁵ The coloniality and evolution of African... <https://opo.iisj.net> accessed 10 May 2025.

¹⁶ Crime and Punishment in African Indigenous Law <https://legalpediaonline.com> accessed 10 May 2025.

¹⁷ Balogun O.A., (2009) 'A Philosophical Defence of Punishment in Traditional African Legal Culture: The Yoruba Example' in The Journal of Pan African Studies, vol.3 (3) , 45.

¹⁸ See Oraegbunam I.K.E., (2010) 'Crime and Punishment in Igbo Customary Law: The Challenge of Nigerian Criminal Jurisprudence', A New Journal of African Studies 7 (1), 2010; Okonkwo C.O. and Naish M.E., (1980) Criminal Law in Nigeria (London, Sweet and Maxwell) .

¹⁹ See Section 384 of the Penal Code Law.

²⁰ See Karibi-Whyte A.G., (1986) Ground Work of Nigerian Criminal Law (Lagos, Nigerian Law Publications Ltd., Lagos), 9.

Theories of Punishment

In criminal trials, punishment may be imposed either as a deterrent, or as a reformation of the offender or potent wrong doer or as compensation to the injured.²¹ Over time, various theories of punishment have been formulated.²²

Retributive Theory

This theory acknowledges the basic human impulse of attempting to hurt what hurts him.²³ This theory assumes individual free will and the assumption that an individual has the power to determine what he wants.²⁴ The Biblical Old Testaments expression of ‘an eye for an eye’²⁵ seems to validate retribution.²⁶ According to the proponents of the theory, the defendant chooses and intends to harm his victim and accidental activities will not qualify for retribution.²⁷ So, a person who loads, aims, and fires gun to his enemy’s chest deserves punishment; and hunter who fires at what he thinks is a deer and hits his companion who he should know is in the line of fire, will deserve adequate punishment. This virtue of justice has been recognized by philosophers as early as the 2nd Century.²⁸ Similarly, it has been opined that justice involves the fair and proper administration of law²⁹; this no doubt extends to the substance of the punishment.³⁰

However, several problems are associated with the theory. First, it is not so easy to translate abstract justice into concrete penalties, and secondly, the urge to retaliate is considered crooked and there is the need for the state to demonstrate the idea of inviolability of life which it continually advocates by every means.³¹ The Determinists do not subscribe to the assumption of free will assumption of the retribution theorists, but held the view that factors beyond human control go a long way to determine how and individual behaves.³² Social Scientists have highlighted the relationship between social factors and crime.³³

Deterrence Theory

Under this theory, punishment is given not to aim revenge on the offender, but simply to deter the person who might think to commit the wrong in the future.³⁴ An exemplary punishment should be meted on the wrong party in order for him to learn a lesson.³⁵ As opined by Smirit, penalty will keep

²¹ See Sayre F.B., ‘Public Welfare Offenses’ in 33 Col. L. Rev, (1933), 1.

²² Theories of punishment <https://blog.ipleaders.in> accessed 10 May 2025.

²³ Is Impulsive Behavior a Disorder? <https://www.healthline.com>. accessed 10 May 2025

²⁴ Retributive Justice-Stanford Encyclopedia..<https://plato.stanford.edu> accessed 10 May 2025.

²⁵ See Holy Bible, King James Version Matthew 5:38; Exodus 21:24; Deuteronomy 19:21.

²⁶ See Hate: Definition, Health Effects, and Why People Hate-Everyday Health <https://www.everydayhealth.com>> accessed 10 May 2025.

²⁷ Retributive Criminal Justice | Definition, Law... <https://study.com> accessed 10 May 2025

²⁸ In the 2nd century, Ulpian defined justice as ‘the constant and perpetual will to allot to every man his due’.

²⁹ Wigwe C.C., (2011) Jurisprudence and Legal Theory (Ghana, Readwide Publishers), 89.

³⁰ Judicial Imposition of Punishment | Sentencin... <https://academic.oup.com> accessed 10 May 2025.

³¹ Hentig H.V., (1937) Punishment: Its Origin, Purpose and Psychology (London, William Hodge Ltd.), 171.

³² Freedom and Determinism, Past Test Questions <http://people.tamu.edu>> accessed 10 May 2025.

³³ The role of social factors in explaining crime <https://store.ectap.ro> accessed 10 May 2025.

³⁴ Karibi-Whyte A.G., (1986) Groundwork of Nigerian Criminal Law, (Lagos, Nigerian Law Publications Ltd.), 8.

³⁵ What is exemplary punishment? Quora <https://www.quora.com/what-is> accessed 10 May 2025.

the people under control and protection.³⁶ He further stated that punishment check people from committing wrongs.³⁷ Those that criticize this theory are in the opinion that complex forces within the person coupled with external influences strongly influence the individual's conduct.

Reformative Theory

Retributive and deterrent pattern of punishment is the teaching of are the philosophies of the Classical School and Neo-Classical theorists,³⁸ who emphasize that 'let the punishment fit the crime'.³⁹ The Positive School on the other hand, emphasizes the importance of the 'punishment fitting the criminal'.⁴⁰ It is the individual criminal, not the crime that is the focal point in the positive thinking.⁴¹ The theory's sole aim is reforming the wrong-doer.⁴² There is the tendency now towards reformation and rehabilitation as sanctions for criminal liability.⁴³ In several jurisdictions, Institutions such as Borstals, remand homes, and detention centres where juveniles are sent on being found guilty of offence, are not regarded as penal, but rehabilitation institutions.

Preventive Theory

The theory aims to personally check the wrong-doer from further participating in the wrongful act using the instrumentality of the sanction that is imposed, such as imprisonment, death or exile.⁴⁴ The incarceration of the culprit is intended not only to sever the culprit from the society, it also denies him the freedom to make personal decisions.⁴⁵

Concept and Types of Punishment under the Nigerian Law

It is the duty of the judge to sentence an offender after his trial and conviction.⁴⁶ The sentence to be passed must as prescribed by the law providing for the offence.⁴⁷

Capital Punishment

³⁶See Deterrent Theory, <https://udrc.lkouniv.ac.in> > accessed 10 May 2025.

³⁷ Ibid.

³⁸ It merged in the late 18th century as a response to the classical school, which emphasized punishment and retribution. Neo-classical thinkers centered interest on the individual's free will and the concept of utility, arguing that punishment should be proportionate to the crime and aimed at deterrence.

³⁹This principle was first articulated by Cicero in *De Legibus* (On the Laws) in 106 BCE and has remained a core principle of criminal justice.

⁴⁰According to Austin J, 'sanction' is an essential ingredient of law.

⁴¹ Positive Criminology | Overview and Theory... <https://study.com> accessed 10 May 2025.

⁴² Punishment- Rehabilitation,... <https://www.britannica.com> accessed 10 May 2025; Paranjape N.V., (1983) *Criminology* (India, Central Law Agency) 117.

⁴³The introduction of Borstals and Remand Homes, the teaching of useful trades in prisons are some of the efforts.

⁴⁴ Ibid, 138.

⁴⁵Right to Personal Liberty-Learn Nigerian Law <https://www.learnnigerianlaw.com> accessed 10 May 2024.

⁴⁶ Sentencing hearings <https://www.sentencingcouncil> accessed 10 May 2025.

⁴⁷ See Section 36 (8) Constitution of the Federal Republic of Nigeria, 1999, as amended.

In Nigeria, death penalty are provided for offences like murder,⁴⁸ treason,⁴⁹ and armed robbery,⁵⁰ Presently, in Kano, Benue, Bayelsa, Enugu, Anambra and Nasarawa States of Nigeria, kidnapping attract death penalty.⁵¹ Where a death penalty is provided by law, the judge has no option than to hand down such sentence.⁵² Beccaria, observes that the natural sentiments of every person concerning the punishment of death is that it may be seen in contempt and indignation with which everyone looks at the executioner.⁵³

Thus, in the case of *State v Okoro*,⁵⁴ in contrast in the American case of *Greg v Georgia*,⁵⁵ it was held that mandatory imposition of death sentence was no longer legally valid. The imposition of death sentence in American jurisdiction is not absolute; it depends on the nature, facts and circumstances of a particular case. Under the Criminal Procedure Act and the Criminal Procedure Code,⁵⁶ a pregnant woman is exempted from the death sentence; in lieu, she shall be sentenced to imprisonment for life. This saves the foetus from punishment for which it is not criminally responsible.⁵⁷ The second exception is for a young person. Under the Criminal Procedure Act and the Criminal Procedure Code,⁵⁸ where a person below the age of 17 years is convicted of a capital offence, he or she shall not be sentenced to death; in lieu, he shall be detained, during the pleasure of the Governor.

Imprisonment

This is the commonly imposed type of punishment and may be imposed in almost all cases. What this sentence means is that the convict shall leave his personal residential premises in his community for a new residential accommodation in the prison yard to be provided by the government. Here, the convict will reside in such prison custody until the expiration of the term of imprisonment. Where the law creating an offence prescribes imprisonment as punishment, upper and lower limits are usually set by the same law. Imprisonment is the punishment that is one of the few exceptions to the rule against non-infringement of the right to personal liberty provided for under the Constitution of the Federal Republic of Nigeria 1999, as amended.⁵⁹ The Constitution provides that every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law.⁶⁰

⁴⁸ Section 319 of the Criminal Code Act, C38, Law of the Federation of Nigeria, 2004; See *Uchegbu v State* (1993) 8NWLR (Pt. 309), 89; *Udom v State* (1996) NMLR 357.

⁴⁹ *Queen v Enahoro* (1965) 1 All NLR 125 at 132.

⁵⁰ *Ogundijo v State* (2022) LPELR-57733.

⁵¹ See *Punch Newspaper* of 24th January, 2024 'Kidnapping Epidemic: Kano, nine others mull death sentence, life jail.

⁵² *Doherty O.*, (1990) *Criminal Procedure in Nigeria: Law and Practice*, 1st edn. (Blackstone Press).

⁵³ *Subbarao G.C.V.*, (2012) *Jurisprudence and Legal Theory* (Lucknow, Eastern Book Company), 214.

⁵⁴ (1998)13 NWLR (Pt. 509), 531.

⁵⁵ 428, US, 159, 96 SCR. 2950.

⁵⁶ Section 368 (2) Criminal Procedure Act and Section 270 Criminal Procedure Code.

⁵⁷ This exception is not recognized in Sudan where Meriam Yehya Ibrahim, a 27 year old pregnant woman was sentenced to death for 'apostasy'.

⁵⁸ Section 368 (3) Criminal Procedure Act and Section 270 Criminal Procedure Code.

⁵⁹ See Section 35 (1) (a) Constitution of the Federal Republic of Nigeria, 1999, as amended.

⁶⁰ *Ibid.*

While Section 35(1) (a) of the same law provides an exemption that in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty.

There are two major drawbacks against imprisonment as a form of punishment: first, imprisonment is inadequate to reform or rehabilitate the offender;⁶¹ secondly, imprisonment does not compensate or provide restitution to the victim of crime.⁶² It must be pointed out that imprisonment cannot be said to be adequate punishment for economic and financial offences and it does not compensate the victim of crime, as the victim of crime benefits nothing. Despite the inadequacy of imprisonment as a form of punishment in respect of economic and financial offences, imprisonment is adequate punishment for most serious and violent crimes like terrorism, armed robbery and sexual offences.⁶³ In cases of most serious and violent crimes, emphasis cannot be on restitution; imprisonment of the offender is the best option as punishment to protect the larger society.⁶⁴

Fine

Fine is the twin brother of imprisonment and where fine is provided as an alternative to imprisonment, it is advisable that fines be imposed. Several laws in Nigeria⁶⁵ provide for the discretionary power of a Court to impose fine in lieu of imprisonment. Furthermore, the Criminal Procedure Act⁶⁶ provides that the fine in Nigerian courts must be appropriate not only to the offence but also to the means of the offender to pay. In the case of *Goke v Police*,⁶⁷ on the other hand, it has been pointed out that capacity to pay fine does not carry with it the notion that a rich man should be able to buy himself out of prison with a substantial fine. This proposition was the opinion of court in the case of *R v Marwick*⁶⁸ where the question was whether fine can be combined with other punishments by a sentencing Judge. The law⁶⁹ provides that a convict can be imprisoned and fined at the same time in respect of the same offence.⁷⁰ The above combined punishment is possible where the profit from the offence, the means of the offender and seriousness of the offence and other circumstances are such that a court will be justified in combining such punishments.⁷¹ The above practice is indirectly being employed in Nigeria, whereby the convict suffers some terms of imprisonment, as well as, having the ill-gotten property either confiscated by the government or kind of restitution to the victim.⁷² The provisions of Economic and Financial Crimes Commission (Establishment, etc.) Act⁷³ which deals with retention of proceeds of a criminal conduct is better than fine in the Criminal Code and Penal Code. The fine imposed here is to serve as deterrent to offenders; but it still does not address restitution to the victim of the crime.

⁶¹ Prison and penal reform: the need for change <https://www.unodc.org> accessed 10 May 2025.

⁶² Doing justice to both victim and prisoner <https://prisonreformtrust.org.uk> accessed 10 May 2025.

⁶³ Prison is punishment enough <https://prisonreformtrust.org.uk> accessed 10 May 2025.

⁶⁴ Ibid.

⁶⁵ See Section 382 Criminal Procedure Act; Section 23 Criminal Procedure Code; Section 316 Administration of Criminal Justice Law, 2011 of Lagos State; Section 422 Administration of Criminal Justice Act, 2015.

⁶⁶ Section 390 (3).

⁶⁷ (1957) WRNLR 80.

⁶⁸ (1953) 37 CR. App R 125.

⁶⁹ The English Magistrate Courts Act, 1952.

⁷⁰ See Section.19 of the Act.

⁷¹ *R v. Ward* (1960) Crim. LR 43.

⁷² *Fed Republic of Nigeria v Ajudua* (2006) 1 EFCL.

⁷³ Section 17 Economic and Financial Crimes Commission (Establishment) Act.

Probation/Suspended Sentence

The Administration of Criminal Justice Act⁷⁴ and the Criminal Procedure Act⁷⁵ provides for probation under the Nigerian Law. The inability of our courts to fully impose probation as a form of punishment is as a result of absence of logistics or facilities to supervise probation as practiced in other jurisdictions. Probation or suspended sentence was introduced in Britain in 1967.⁷⁶ The English Court of Appeal in the case of *R v O' Keefe*⁷⁷ explicitly stated what would be considered by the court in considering probation and suspended sentence. An order of this type will be considered when the wrong-doer is considered unfit to serve time in prison.⁷⁸ The probation order will often involve the release of the felon and might require him being subject for some time to supervision of a probation officer.⁷⁹ In Nigeria, presently, this method of punishment is not adequately put to use.

Compensation and Restitution

Restitution is provided for under the Criminal Procedure Act of Nigeria.⁸⁰ The Economic and Financial Crimes Commission Act⁸¹ also provides that the Commission may compound any offence punishable under the Act by accepting such sums of money as it thinks fit, exceeding the maximum amount to which that person would have been liable if he had been convicted of that offence by a competent court of the land. Similarly, the Administration of Criminal Justice Act⁸² also empowers the Court to make compensation orders where necessary.

Some cases have been decided in Nigeria bordering on this principle, as they particularly involve politicians.⁸³ In the case of *Federal Republic of Nigeria v Ajudua*,⁸⁴ the Federal High Court confiscated some of the offender's property and proceeded to award compensation to the victim. Due to the problems posed by prison congestion, courts undertaking the sentencing of offenders are persuaded to award restitution and compensation rather than imprisonment.⁸⁵ Curiously, in the case of *Ubu v COP*,⁸⁶ Magistrate Court imposed a term of imprisonment in default of compensation order and further held that there was no statutory provision to pay compensation in Nigeria.

Haddi Lashing/Flogging

⁷⁴ Sections 453-459 ACJA, 2015.

⁷⁵ Section 435 (1) CPA, Cap. C41, Laws of the Federation of Nigeria, 2004.

⁷⁶ English Criminal Justice Act, 1973.

⁷⁷ (1969) 1 AER 426.

⁷⁸ Probation Orders Programme... <https://www.probation.go.ke> accessed 10 May 2025.

⁷⁹ Probation and Parole Requirements <https://www.prisonfellowship.org> accessed 10 May 2025.

⁸⁰ Sections 267-270.

⁸¹ Section 14 (2) Economic and Financial Crimes Commission Act, 2004.

⁸² Section 319 Administration of Criminal Justice Act, 2015.

⁸³ See *Federal Republic of Nigeria v Lucky Igbiniedion & Ors*. Suit No. FHC/EN/M60C/2008 dated 18/12/2008 unreported (2006) 1 EFCL (report), 4 Ratio 5.

⁸⁵ Elendu C.G.S. and Okpalaobi B.N., *Reforming Nigeria's Criminal Justice System Throuh Compensation for Victims of Crimes: Challenges, Gaps, and The Way Forward*.

⁸⁶ (1980) 1 NLR 80.

The punishment may be imposed under the Penal Code for some offences, to attract shame to the suspect instead of applying the actual punishment for the offence.⁸⁷ However, it needs to be stated that a person above the age of 45 years and women are excluded from caning.⁸⁸ This sentence is applied in a secluded place and members of the public are allowed to witness it.⁸⁹ The person administering the lashing must be moderate; he or she is expected to hold the whip with his or her 3rd, 4th and 5th fingers. He or she cannot use his thumb, and cannot raise his or her hand above the shoulder.⁹⁰

Community Service Order

Community service order is a non-custodial order imposed in some countries of the world.⁹¹ Under this kind of a sentence, the offender will be made to perform a job for a specified period of time without being paid for it.⁹² The works may take the nature of sweeping or cleaning a public place, roads, toilet or care homes, etc.⁹³ Community service is a new innovation to criminal justice delivery in some states of Nigeria.⁹⁴

Plea Bargaining

This is Plea the practice of negotiating an agreement between the prosecuting party and the defending party whereby the defendant will plead guilty to a lesser charge or a lesser sentence offence.⁹⁵ Those who argue in favour of this type of sentence claim that it makes criminal trial very fast and ensures a conviction; whereas those that oppose it argue that it prevents justice from being served.⁹⁶ Negotiations that result in formal agreements are termed 'explicit plea bargains', while plea bargains that do not guarantee of leniency are called 'implicit plea bargains'.⁹⁷

Binding Over

Binding over orders are a civil disposal of a case available in the courts of criminal jurisdiction and can, in the right circumstances, provide an effective means of dealing with low-level public disorder.⁹⁸ The court will bind an individual over to keep the peace, to prevent future misconduct and the person so bound over might be asked to give an undertaking to forfeit a stated sum if there is a breach.⁹⁹

⁸⁷ Ogbu O.N., *Punishment in Islamic Criminal Law as Antithetical to Human Dignity: The Nigerian Experience* <https://www.tandonline.com> accessed 10 May 2025.

⁸⁸ Corporal Punishment in Nigeria: An Overview <https://ijern.com> accessed 10 May 2025.

⁸⁹ Criminal Procedure Code <https://www.policinglaw.info> accessed 10 May 2025.

⁹⁰ The schedule to the Criminal Procedure (Haddi Lashing) Order.

⁹¹ See *Community Work as an Alternative to Imprisonment in the Modern Georgian Law* <https://lawandworld.ge> accessed 10 May 2025; *Success of the British 'Community Service'* <https://www.ojp.gov> accessed 10 May 2025; *Community Service Sentences in England...* <https://www.makwanas.co.uk> accessed 10 May 2025.

⁹² *Community Service by Offender* <https://www.ojp.gov> accessed 10 May 2025.

⁹³ *131 Great Examples of Community Service...* <https://research.com> accessed 10 May 2025.

⁹⁴ See Section 347 (3) *Administration of Criminal Justice Law, 2011, Lagos State*.

⁹⁵ *Plea bargaining| Definition, Types, History,& Fact-Britannica* <https://www.britannica.com> accessed 10 May 2025.

⁹⁶ *Plea Bargains: Pros and Cons You Should* <https://www.walshcriminaldefer> accessed 10 May 2025.

⁹⁷ *Implicit plea bargaining| law* <https://britannica.com> accessed 10 May 2025.

⁹⁸ *3. Binding over orders* <https://www.sentengcouncil> accessed 10 May 2025.

⁹⁹ *BIND OVER Definition& Meaning* <https://www.merriam-webster.com> accessed 10 May 2025.

Forfeiture of Assets

This is a divestiture of a right to property devoid of compensation, because of involvement in a crime or breach of a duty owed.¹⁰⁰ The punishment aims to deny the wrongdoer, his family members or associates from benefiting from the proceeds emanating from the commission of the crime.¹⁰¹ This makes the prospective offender to think again and dissuade from committing the offence if he knows that the proceeds of same can be taken from him if he is eventually caught and prosecuted.

Probation

Under this method of punishment, the persons convicted of offence will live in the community and be subjected to some conditions to be imposed by the court or other constituted authority to be supervised by an appointed probation officer.¹⁰² Juvenile probation is less formal and the procedure is made non-criminal.

Parole

Parole has to do with the release from prison of the offender sequel to service of part of the sentence and liable to be returned to the institution for violation of any of the conditions for his release.¹⁰³ Parole is quite different from probation because in parole, the offender would have served some time in custody.¹⁰⁴ Parole is a release method that affords some check on the offender. Parole may be granted whenever the Board of Pardons and Parole finds that there is a reasonable probability that, if released, the prisoner will be law-abiding and that the release will not be incompatible with the interest and welfare of society.¹⁰⁵ While under parole, the parolee must live up to some prescribed conditions or risk being arrested and returned to prison without a court hearing.¹⁰⁶

Restitution

Restitution is a way of assuaging the victim of the loss he would have suffered by the conduct of the offender. In addition, it provides assurance to the victim that the offender has been held accountable for his wrongful action. To be entitled to restitution, the victim must clearly losses emanating from the wrongful conduct of the offender. Sequel to doing this, the prosecutor may apply to court for a restitution of the victim. In forfeiture, as well in restitution matters, the onus of proving that the property in respect of which a restitution or forfeiture order is to be made is on is from the process of an alleged theft or crime is on the prosecution, as in civil cases, the onus is discharged on the preponderance of evidence and balance of probabilities and not beyond reasonable doubt as prescribed in criminal case.¹⁰⁷

¹⁰⁰ See also Forfeiture-Clear Tax <https://cleartax.in>glossary>forfei> accessed 10 May 2025.

¹⁰¹ The Scope of “in Rem” Forfeiture under <https://www.sciedupress.com> accessed 10 May 2025.

¹⁰² Terms and Conditions of Probation <https://criminalnotebook.ca> accessed 10 May 2025.

¹⁰³ What is Parole? How Does Parole Work? <https://www.nolo.com>how-does-> accessed 10 May 2025.

¹⁰⁴ What is the difference between Parole and Probation? accessed 10 May 2025.

¹⁰⁵ Executive clemency-Parole and Probation Administration <https://probation.gov,ph2017/02> accessed 11 May 2025.

¹⁰⁶ What Are Common Parole Conditions? <https://www.nolo.com>conditions> accessed 11 May 2025.

¹⁰⁷ See *Ogunlana v State* (1995) 5 NWLR (Pt. 395) 266 at 291, para F-G.

Compensation

The crime victim compensation program helps victim who has suffered a specific loss to pay for some of the expenses incurred from the conduct of the offender. The compensation is typically monetary in nature and payable by the offender for the injuries caused to the victim.¹⁰⁸ It needs to be stated that a victim can be granted compensation even where there is no arrest or prosecution of the offender.¹⁰⁹ Compensation can be granted for such heads of claims like hospital bills, counseling in mental health, loss of income act of the offender, funeral and burial expenses.¹¹⁰

Conclusion and Recommendations

The study concludes that there can be a combination of various theories or punishment in other to reach the set objective behind the reason for punishment and that alternative punishment such as diversion, probation, binding over, parole, compensation, forfeiture of assets and plea bargain should be introduced into the Nigerian law and implemented as there are the future of punishment. The study recommends that the Nigerian sentencing be reformed to meet the dynamics of the growing society, punishment should not focus on retribution, but should focus more on preventive and reformatory theories which are important ways to maintain law and order.

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¹⁰⁸ See *What Does Compensation Mean? Definition& Examples* <https://www.sage.com> accessed 11 May 2025.

¹⁰⁹ *Crime Victim Compensation* <https://rainn.org> accessed 11 May 2025.

¹¹⁰ *Victim Compensation- Office for Victims of Crime* <https://ovc.ojp.gov> accessed 11 May 2025.