JURISPRUDENTIAL PERSPECTIVES ON ECONOMIC CRIMES AND CRIMINAL JUSTICE ADMINISTRATION IN NIGERIA

OLUSESAN OLIYIDE*
and
OMOLARA OLATUNDE**

Abstract

This paper examines how the different jurisprudential theories affect the conceptualisation of crime and criminal justice management in Nigeria, compared with the United Kingdom. It surveys natural law, legal positivism, legal realism, critical legal studies (CLS) and postcolonial theories, highlighting their respective influence on substantive criminal law, penal philosophy and institutions in Nigeria and the United Kingdom. The paper focuses on historical roots, especially, the colonial inheritances that formed Nigeria's legal system, in comparison with that of the United Kingdom, as well as on contemporary legal challenges and reforms. The comparative analysis adopted emphasises key differences in legislative frameworks, institutional efficiency, and rights' protection. The work, eventually, recommends a reform-based approach firmly rooted in jurisprudence and legal theories and reflective of local realities, yearnings, aspirations, ethos and idiosyncrasies, as well as legal transplantation of global best practices, in order to improve Nigeria's criminal justice administration.

Keywords: Jurisprudence; Crimes; Criminal Justice; Criminal Justice Administration; Egalitarianism.

1.0 Introduction

The administration of criminal justice is a critical component of state sovereignty, legitimacy and social order.[1] However, the philosophy behind the connotation of crime, how justice is dispensed, and who should be held accountable for crimes, differ from one jurisdiction to another.[2] The distinction is, also, firmly-rooted in the differences in the thoughts of the various jurisprudential schools of thought, with each school of thought defining crime, criminal responsibility and criminal justice management, respectively, according to its peculiar

Olusesan Oliyide, Professor and Head, Department of Business and Industrial Law, Faculty of Law, Olabisi Onabanjo University, Nigeria and Visiting Professor, Department of Private and Commercial Law, Babcock University, Nigeria;
olusesan_oliyide@yahoo.com;sesan.oliyide@oouagoiwoye.edu.ng
OmolaraOlatunde, LLB, BL, LLM, PhD Candidate, School of Law and Security Studies, Babcock University, Nigeria; omolaraolatunde9@gmail.com

Darlintoniwarimie-Jaja and LasisiRaimi, 'The Criminal Justice System as Enablement for Social Order in Nigeria' (2019) 17(1) The Nigerian Journal of Sociology and Anthropology 72-86; see also, Giovani A Travaglino et al, 'The Psychology of Criminal Authority: Introducing the Legitimacy of Secret Power Scale' https://pmc.ncbi.nlm.nih.gov/articles/PMC11928288/ accessed 21 May, 2025.

Elena Maculan and Alicia Gil Gil, 'The Rationale and Purposes of Criminal Law and Punishment in Transitional Contexts' (2020) 40(1) Oxford Journal of Legal Studies 132-157; see also, Plato, 'Theories of Criminal Law' Stanford Encyclopedia of Philosophy https://plato.stanford.edu/entries/criminal-law/ accessed 21 May, 2025.

philosophical beliefs, social contexts and understanding of law.[3] In Nigeria, a hybrid legal system, shaped by indigenous norms, colonial imposition, and post-colonial legislation presents a complex legal terrain.[4] The United Kingdom (UK), in contrast, provides a mature legal system whose growth shows the fluctuations of various jurisprudential ideologies, over centuries.[5]

This paper undertakes a holistic jurisprudential analysis of crime and criminal justice administration in Nigeria and the UK,relying on theories of law and justice to assess systemic issues, procedural fairness, and institutional effectiveness. It is designed into six segments. This introduction is the first section. The second section provides a conceptual and theoretical structure that examines the jurisprudential views on crime, justice, and the role of the state in punishment. The third section comprises a summary of the historical, doctrinal and socio-legal contexts of criminal justice in Nigeria and the UK, emphasising colonial legacies and institutional improvements. In this section, a comparative analysis of substantive criminal law, centering on the definitions of crime, culpability, and defences, is, also, carried out.The fourth section discusses economic crimes and their peculiarities. The fifth section shows criminal justice administration in practice, with precise attention to policing, prosecution, adjudication, and correctional establishments in both jurisdictions. This section, also, blends the systemic issues, procedural fairness, and institutional efficiency of each structure, evaluating their strengths and weaknesses alongside jurisprudential theories of justice. The concluding section contains major findings and recommendationsforreform, deriving insights from the comparative acumen.

2.0 Theoretical Framework

2.1 Natural Law Theory

From a jurisprudential point of view, crime is not merely an act punishable by law but a construct shaped by moral, social, and lei:ral imperatives.[6] The Natural Law theorv, some of whose 1oremost proponents are Aristotle,[7] Plato,[8] Aquinas,[9] Grotms,[10] Kant,[11] Hegel,[12] Hume,[13]

Anthony Walsh and Lee Ellis, *Criminology: An interdisciplinary Approach* (Sage, 2007) c 3, 53, titled 'The Early Schools of Criminology and Modem Counterparts'; see also, David Wolitz, 'Herbert Wechsler, Legal Process and the Jurisprudential Roots of Model Penal Code' (2016) 51(3) Tulsa Law Review 633; Faith Ozdemir and BengiOner-Ozkan, 'The Nature of Crime: Different Approaches Toward the Causes of the Criminal Act' (2017) 5(11) NesnePsikolojiDergisi (NPD) 346-361; and Larry J Siegel, *Criminology: Theories, Patterns and Typologies* (13th edn, Cengage Leaming, 2017) 19.

Aderonke E Adegbite and Olusegun Michael Eluyefa, 'Theoretical Reviews in Legal Research: Challenges in Examining African Customary, Colonial, and Post-Colonial Jurisprudence' (2025) 5(1) International Journal of Civil Law and Legal Research 121-127; see also, Anthony Diala, 'Legal Pluralism and the Future of Personal Family Laws in Africa' (2021) 35(l) International Journal ofLaw, Policy and the Family 1-17.

Kenneth E Himma, 'Philosophy of Law' *Internet Encyclopedia of* Philosophyhttps://iep.utm.edu/ accessed 21 May 2025; see also, Dan Priel, 'The Political Origins of English Private Law' (2013) Comparative Research in Law and Political Economy. Research Paper No.l7/2013 https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1266&context=clpeaccessed 21 May, 2025.

Peter Ramsey, 'Rights of the Sovereign: Criminal Law as Public Law' (2025) 3691) King's Law Journal 70-103; see also, MukeshDosad, 'The Role ofMorality in Jurisprudence' https://papers.ssm.com/so13/papers.cfin?abstract_id=52 l 4570 accessed 22 May, 2025.

Aristotle (384BC-322 BC) wasanancient Greek philosopher, polymath andacclaimed 'master ofvirtues'.

Plato (427 BC-347 BC), was an ancient Greek philosopher and top thinker in philosophy.

StThomasAquinas(l 225-1274), was an Italian Dominican friarand priest and influential philosopher.

Hugo Grotius (1583-1645), was a towering Dutch legal scholarand philosopher.

Immanuel Kant (1724-1804), was a foremost German philosopher.

Locke,[14]Hobbes,[15] and Descartes,[16]upholds the view that law is grounded in diverse moral principles and objective truths.[11]The Natural lawyers consider certain acts, such as murder and corruption, including all economic crimes, as, inherently, wrong, irrespective of human enactments and as a result, positive laws must, ultimately, conform to this higher morality. For example, one commentator notes that 'it is accepted in all cultures that murder is wrong and should be punished,'and this reflects a natural law view that substantive criminal norms derive from common rational insight.[18]

In Nigeria, religious and customary notions still carry weight and this is why values, such as the sanctity oflife and community harmony influence public attitudes toward crime.[19] Also, in the UK, natural law ideas form the basis for the constitutional notions of justice and human rights, and occasionally, recur in judicial reasoning (for instance, appeals to inherent human dignity).[20] However, in both systems, natural law competes with positivist and realist approaches, both of which tend to question any fixed moral underpinnings oflaw.

2.2 Legal Positivism

In contrast to the natural law school, legal positivism scholarsemphasise that law is whatever the recognised authority enacts.[21]A rule is valid, not because it is morally correct, but because it has been duly promulgated and accepted by concerned officials. The Bureau of Justice Statistics states this succinctly thus:

> Once a law has been enacted by persons in authority, it is valid2[2] which is why Professor H.L.A. Hart, a positivist, said 'Law is a command' and there is no necessary connection between law and morals.[23]

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12 Georg Wilhelm Friedrich Hegel (1770-1831), was a frontline German philosopher.

13 David Hume (1711-1776), was a famous Scottish philosopher, historian, economist and essayist, reputed for his radical empiricism, skepticism and naturalism who sought to apply the scientific method to the study of human nature.

14 John Locke (1632-1704), was a prime English physician and philosopher.

15 Thomas Hobbes (1588-1679), was a pre-eminent English philosopher.

16 Rene Descartes (1596-1650), was a leading French philosopher.

17 Kenneth E Himma, 'Philosophy ofLaw' ibid (n 5).

18 Kenneth E Himma, 'Philosophy ofLaw' ibid.

19 Victor N Enebeli, 'Evaluation of Emerging Trends in Nigerian Criminal Law Jurisprudence' (2023) 138 *Journal of Law, Policy and Globalizationhttps://www.iiste.org* accessed 22 May 2025.

20 Kenneth E Himma, 'Philosophy ofLaw' ibid.

21 Learn Nigeria Law, 'Types of Law in Nigeria' https://www.leamnigerianlaw.com/leam/legalmethods/types accessed 22 May 2025.

22 *Bureau of Justice Statistics*, 'Women in Federal and State Criminal Justice Systems in Nigeria' https://bjs.ojp.gov/content/pub/pdf/wfbcjsnig.pdfaccessed 22 May 2025.

23 *Bureau of Justice Statistics*, 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid (n 22), citing HLAHart,Essays *in Jurisprudence and Philosophy* (Clarendon Press 1983).
Other prominent jurists of the legal positivist school include Jereme Bentham (1748-1832), renown English philosopher, jurist, social reformer and the founder of modern utilitarianism or positive law, John Austin (1790-1859), father of English jurisprudence, the creator of the school ofanalytical jurisprudence who developed the theory ofpositive law,Auguste Comte (1798- 1857),the founder and creatorofthe term 'legal positivism' and Herbert Lionel Adolphus Hart (1907-1992).

24 The Criminal Code is contained in the Criminal Code Act 1916, now Cap C38, LFN, 2004.

Code,[25] the Administration of Criminal Justice Act (ACJA),[26]the Banks Employees, etc (Declaration of Assets) Act, 1990,27the Economic and Financial Crimes Commission Act, 2004 (EFCCA),[28]the National Drug Law Enforcement Agency Act, 1990,[29] the Cybercrimes (Prohibition, Prevention, etc) Act, 2015 (CPPA),[30] the Money Laundering (Prevention and Prohibition) Act, 2022,[31] the Advance Fee Fraud and Other Fraud Related Offences Act, 2004,[32] the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks) Act, 1994,[33] the Proceeds of Crime (Recovery and Management) Act, 2022,[34] the Corrupt Practices and Other Related Offences Act, 2000,[35]and the Code of Conduct Bureau and Tribunal Act, 2004, is a reflection oflegal positivism.[36]

The UK also operates under the rule of law in a positivist sense. The Parliament is sovereign and its statutes, including subsidiary legislation, define criminal offences, although pre-existing common law offences, such as murder persist, insofar as courts recognise them.[3]

Deriving from the above, both Nigeria and United Kingdom treat law as a human product, which is meant to be obeyed, once the law isproperly enacted, even if underlying moral evaluations vary.

2.3 Legal Realism

The legal realists critique the notion that law is a closed logical system. Llewellyn[38] argued that the written rules differ from law in practice. The codified laws do not determine outcomes of suits in the courtroom[39]but the judges exercise discretion, which is influenced by policy and

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25 The Penal Code is contained in the Penal Code Act, 1963, Cap 89, Laws of Northern Nigeria, which is supplanted by the Penal Code (Northern States) Federal Provisions Act, No 25, 1960, now Cap P3, LFN, 2004.

26 No 13, 2015.TheAct repealed theCriminalProcedureAct, Cap C41, LFN, 2004, the Criminal Procedure (Northern States)Act,Cap C42, LFN, 2004 and theAdministration ofJustice Commission Act, Cap A3, LFN, 2004. Although a Federal Act, majority of the states have adopted the Act, either wholly or with modifications; see BS Abdulsalam, 'Non-custodial Sentencing Options under the Administration of Criminal Justice Act 2015 and Related Laws' in Olusesan Oliyide and IdowuAdegbite (eds), *Trends in Nigerian Law and Jurisprudence. Festschrift in Honour of Hon Justice MobolajiAyodeleOjo, Pioneer President, Ogun State Customary Court of Appeal* (Ogun State Customary Court of Appeal,Abeokuta,2023) 139,143.

27 Promulgated as a Decree in 1986, now Cap B1, LFN, 2004.

28 No 1,2004,nowCapEl,LFN,2004.

29 Promulgated as Decree No 48, 1989, now Cap N30, LFN, 2004.

30 Assented toon 15 May, 2015.

31 Act No 14, 2022, signed into law to on 12 May, 2022, by former PresidentMuhammaduBuhari. The Act repealed and replaced the Money Laundering (Prohibition)Act, No 11, 20 I I.

32 Formerly No 13, 1995, Cap A6, LFN, 2004, now,Advance Fee Fraud and Other Related Offences Act, 2006.

33 No 5, 1994, which was signed into law on 9 November, 1994 now Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act, CapA6, LFN, 2004.

34 Signed into law on 12 May, 2022 by former President MuhammaduBuhari.

35 No 5, 2000; see also, Cap C31,LFN, 2004.

36 No I of 1989, nowCapC 15, LFN,2004

37 *Encyclopaedia Britannica*, 'Common Law' https://www.britannica.com/topic/common-law accessed 22 May 2025.

38 Karl Llewellyn (1893-1962), was a foremost realist. Other notable realists include John Chipman Gray (1839-1915), Jerome New Frank (1889-1957), Oliver Wendell Holmes (1841-1935), Axel Hagerstrom (1868-1939), a pre-eminent Swedish philosopher, Alf Ross (1899-1979), a renowned Danish philosopher and jurist and Anders VilhelmLundstedt (1882-1955) and Karl Olivercrona (1897-1980), both frontline Swedish philosophers and jurists.

39 Leslie Sebba, 'The Creation and Evolution of Criminal Law in Colonial and Post-Colonial Societies' (1999) 3(1) Crime, History and Socieies 71-91.

social factors.[40] The Internet Encyclopedia of Philosophy summarises realists' claim thus: *'the class of available legal materials is insufficient to logically entail a unique legal outcome'*. Thus, judges in such indeterminate cases, effectively, make new law by drawing on their personal values.[41] Realists are of the opinion that judicial decisions are,often,and largely,hinged on political or moral beliefs, rather than undiluted legal reasoning.[42]

In Nigeria, this position is reflected in criticisms of how cases are decided. For instance, discretionary factors,such as ethnic bias or executive influence may sway investigation and trial outcomes in high-profile cases.The position has, also, reflected, for instance, in the manner in which the Nigerian courts have delineated and protected the powers of the Economic and Financial Crimes Commission (EFCC), especially,EFCC'somnibus power to enforce and administer the provisions of the EFCCA[43] as well as investigate all financial crimes in Nigeria, as reserved in section 6 of the EFCCA.

The argument above seems validated by Oliyide's[44]view of the unconstitutionality of section 6 of the EFCCA, for its inconsistency with section 214 (1) and (2) of the Constitution ofNigeria, 1999, which states that no other Police Force shall be established for the Nigeria or any part of it and that the Nigeria Police Force shall have such powers and duties as may be conferred on the Force by law.[45] Within this context, Oliyide has, also, contended that section 6 of the EFCCA is illegal for offending the common law doctrine of *leges posteriors priorescontrariasabrogant4*[6] because of the inconsistency of that section with sections 32 to 47 and sections 31 and 66 of the Police Act, 2020,[47] the Police Act, 2020[48] being the latter in time than the EFCCA. It is noteworthy that, while sections 32 to 47 vest power of arrest on the Police, sections 31 and 66 vest powers of investigation and prosecution in the Police.[49]

Despite these seeming exclusive powers of the Nigeria Police Force, to arrest, investigate and prosecute for all crimes, including economic crimes, the Nigerian courts have, in a long string of decisions, delineated and affirmed the powers of EFCC to carry out the same functions, with regards toall economic crimes.[50]In the UK, as well, empirical legal studies show that magistrates

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40 Leslie Sebba, 'The Creation and Evolution of Criminal Law in Colonial and Post-Colonial Societies' ibid (n 39) 71-91.

41 Kenneth E Himma, 'Philosophy ofLaw' ibid.

42 Kenneth E Himma, 'Philosophy ofLaw' ibid.

43 EFCCA ibid (n 28).

44 Olusesan Oliyide, *Banking Regulation and Nigeria's Prosperity: Unending Voyage, Definite Destination* (111th Inaugural Lecture. Olabisi Onabanjo University, Ago-Iwoye, Nigeria delivered on 8 August, 2023) (OlabisiOnabanjo University PublishingHouse,Ago-lwoye, Nigeria, 2023).

45 OlusesanOliyide, *Banking Regulation and Nigeria's Prosperity: Unending Voyage, Definite Destination* ibid(n44)77.

46 Literally meaning 'latter statutes abrogate earlier contrary statutes'; see OlusesanOliyide, *Banking Regulation and Nigeria's Prosperity: Unending Voyage, Definite Destination* ibid 77.

47 The Police Act, 2020, No 2, 2020.

48 The Police Act, 2020 ibid (n 47).

49 See, *Federal Republic of Nigeria* v *Osahon and* 7 *Others* [2006] All FWLR (Pt 312) 1975, where the Supreme Court held that the Nigeria police have the power to conduct prosecution of all crimes in the country, subject, only, to the powers of the Attorney-General of the Federation and of a State; see also, 0 lusesan Oliyide, *Banking Regulation and NigeriaS Prosperity:Unending Voyage, Definite Destination* ibid 77.

50 See, for instance, the decisions of the Supreme Court in *Attorney-General, Ondo State* v *Attorney-General, Federation* [2002] 9 NWLR (Pt 772) 222, *Joshua ChibiDariye* v *Federal Republic of Nigeria* [2015] 10 NWLR (Pt 1467) 325, *Jolly Nyame* v *Federal Republic of Nigeria* [2010] 7 NWLR (Pt 1193), *Orji UzorKalu* v *Federal*

and judges do not, mechanically, apply statutes. Thus, issues, such as, precedent, prosecutorial policy, and judicial attitudes, shape sentencing and case outcomes.[51]

In practice, therefore, both systems acknowledge some judicial lawmaking, including Nigerian courts interpreting ambiguous code provisions, or UK judges developing common-law principles, consequently, confmning realists' view that *Judicial decisions, in indeterminate cases, are influenced by the judge's political and moral convictions, not, necessarily, by legal considerations'*.[52]

2.4 Critical Legal Studies (CLS)

This jurisprudential school builds on realism but on a broader ideology and critique.[53] CLS scholars,such as Kennedy,54see law, not as a neutral application of rules, but as a product of power struggles among social groups.[55] They argue that law consists of irreconcilable conflicts reflecting underlying societal divisions. According to the CLS theorists, the content of law embodies *'ideological struggles among social factions in which competing conceptions of justice, goodness, and social and political life get compromised, truncated, vitiated, and adjusted'*.[56] The result is 'profound inconsistency' in legal norms and radical indeterminacy, in which case,judges can justify nearly any outcome, once law is ideologically contested. From a CLS perspective, criminal law, often, serves the interests ofdominant groups.

In colonial Nigeria, for instance, criminal statutes were used to control subject populations, rather than reflect indigenous values.[57] Post-independence elites may, similarly, manipulate criminal rules to suppress dissent or to favour allies. In the UK, CLS analysts would point to historical continuities of class and privilege in criminal justice, such as differences in how the law treats corporate crime versus street crime, or the emergence of new offences that protect the wealthy.[58] CLS, thus, encourages critical reflection on how race, class and ideology permeate law enforcement and penal policy in both jurisdictions, rather than assuming formal equality.

Republic of Nigeria [2016] 9 NWLR (Pt 1516) and *Alao* v *Federal Reublic of Nigeria* (2019) LPELR-43905 (SC), all cited in OlusesanOliyide, *Banking Regulation and Nigeria's Prosperity: Unending Voyage, Definite Destination* ibid 77; see also, the Court of Appeal decisions in *MallamAbdullahi Hassan and 4 Others* v *Economic and Financial Crimes Commission and 2 Others* [2014] 1 NWLR (Pt 389) 616 and *Dimnwobi and Anorv Economic and Financial Crimes Commission* (2018) LPELR-46694, both cited in OlusesanOliyide, *Banking Regulationand Nigeria's Prosperity:Unending Voyage, Definite Destination* ibid 78.

51 Alysia Blackham, 'Legitimacy and Empirical Evidence in the UK Courts' (2016) 25(3) Griffith Law Review 1-27; see also, Mathilde Cohen, 'When Judges Have Reasons Not to Give Reasons: A Comparative Law Approach' (2015) 72(2) Washington and Lee Law Review 483.

52 Alysia Blackham, 'Legitimacy and Empirical Evidence in the UK Courts' ibid (n 43) 1-27; see also, Mathilde Cohen, 'When Judges Have Reasons Not to Give Reasons: A Comparative Law Approach' ibid (n 51) 483.

53 Miacheal Fischl, 'Some Realism About Critical Legal Studies' (1987) University of Connecticut Faculty Articles and Papers 402.

54 Duncan Kennedy, is a frontline American legal philosopher. Other prominent scholars in the CLS group include Roberto Mangabeira Unger (a prominent Brazillian philosopher and politician), Mark Tushnet (a pre-eminent American legal scholar) and James Boyle (a notable Scottish legal scholar).

55 Miachea!Fischl, 'Some Realism About Critical Legal Studies' ibid (n 53) 402; see also, Leslie Sebba, 'The Creation and Evolution of Criminal Law in Colonial and Post-Colonial Societies' ibid 71-91.

56 Leslie Sebba, 'The Creation and Evolution of Criminal Law in Colonial and Post-Colonial Societies' ibid 71-91.

57 *Office of Justice Programs (OJP)*, 'Colonialism, State and Policing in Nigeria' https://www.ojp.gov/ncjrs/virtual-1ibrary/abstracts/colonialism-state-and-policing-nigeria accessed 22 May 2025.

58 Leslie Sebba, 'The Creation and Evolution of Criminal Law in Colonial and Post-Colonial Societies' ibid 71-91.

2.5 Postcolonial Theory

These theorists, such as Baxi,[59] Said,6°Bhabba[61] and Spivak,[62]highlight the legacy of imperialism in shaping law, especially, in former colonies like Nigeria.[63] This theory views the contemporary legal order as layered over pre-colonial traditions, often privileging colonial values.[64]For instance, postcolonial democracies, frequently, retain the legislation enacted by the colonial power, even for criminal codes, in spite of their presumed role in controlling colonial populations.[65] Nigeria exemplifies this because the criminal law is, largely, inherited from British models, with only elementary indigenisation.[66] Postcolonial critiques would point to the tension between imported Western legal concepts and indigenous norms or religious laws.[67] In contrast, the UK's own legal system played the role of exporter, not inheritor, of law.[68] Postcolonial analysis, in the UK context, often, examines how the metropole grapples with its colonial past.[69] In general, postcolonial theory underscores that Nigeria's understanding of crime and justice cannot be fully grasped without reference to the colonial encounter, whereas, in the UK, it prompts awareness of how colonial ideologies may persist in subtle ways within the law.[70]

2.6 Sociological Theory

Theorists, such as Pound,[71] and Duguit,[72] both of the sociological school of jurisprudence, believe that law must be seen and used as a veritable instrument of continuing socio-economic growth and development and that law must keep pace with rapid changes in society, the society being intrinsically dynamic in nature. This theory has influenced the enactment of various penal

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59 UpendraBaxi is a prominent Indian legal philosopher.

60 EdwardWadieSaid(1935-2003),isanotablePalestinian-Americanphilosopher,literarycriticandpoliticalactivist.

61 Homi KBhabba is an eminent Indian scholar and critical theorist.

62 GayatriChakravortySpivak is a notable Indian scholar, literary theorist and feminist critic.

63 *OfficeofJusticePrograms(OJP),*'Colonialism, State and Policing in Nigeria' ibid (n 57).

64 Swati Parashar and Michael Schulz, 'Colonial Legacies, Postcolonial 'Selfhood' and the (un)doing of Africa' (2021) 42 Third World Quarterly 867-881; see also, Aderonke E Adegbite and Olusegun Michael Eluyefa, 'Theoretical Reviews in Legal Research: Challenges in Examining African Customary, Colonial, and Post-ColonialJurisprudence' ibid (n 4) 121-127.

65 Chris Cunneen, 'Postcolonial Perspectives for Criminology' (2011) Paper 6 University ofNew South Wales Faculty ofLaw Research Series 1-17; see also, Leslie Sebba, 'The Creation and Evolution of Criminal Law in Colonial and Post-Colonial Societies' ibid 71-91.

66 Aderonke E Adegbite and Olusegun Michael Eluyefa, 'Theoretical Reviews in Legal Research: Challenges in Examining African Customary, Colonial, and Post-ColonialJurisprudence' ibid 121-127.

67 Aderonke E Adegbite and Olusegun Michael Eluyefa, 'Theoretical Reviews in Legal Research: Challenges in Examining African Customary, Colonial, and Post-Colonial Jurisprudence' ibid 121-127.

68 Elisabeth Becker and Samuel Sarni Everett, 'Decolonizing the Metropolis: Crisis and Renewal' (2023) 57 Patterns ofPrejudice 1-16;seealso,BillAshcroft,Gareth Griffiths and Helen*Tiffin*,*Post-ColonialStudies:TheKey Concepts* (2nd edn, Routledge,Taylorand Francis, London and New York, 2007) 1.

69 Elisabeth Becker and Samuel Sarni Everett, 'Decolonizing the Metropolis: Crisis and Renewal' ibid (n 68); see also, Bill Ashcroft, Gareth Griffiths and Helen Tiffin, *Post-Colonial Studies: The Key Concepts* ibid (n 68) 1 andAderonke EAdegbite and Olusegun Michael Eluyefa, 'Theoretical Reviews in Legal Research: Challenges in Examining African Customary, Colonial, and Post-Colonial Jurisprudence' ibid 121-127.

70 Aderonke E Adegbite and Olusegun Michael Eluyefa, 'Theoretical Reviews in Legal Research: Challenges in Examining African Customary, Colonial, and Post-Colonial Jurisprudence' ibid 121-127.

71 Nathan Roscoe Pound (1870-1964), is foremost American scholar.

72 Leon Duguit (1859-1928), is leading French law scholar.

statutes,in both Nigeria and UK, that are a response to rapid changes in society, such as the EFCCA,73theACJA,[74]the CPPA,[75]theAdvance Fee Fraud and Other Fraud Related Offences Act, 2004[76] and the Corrupt Practices and Other Related Offences Act, 2000.[77] The Human Rights Act, 1998 (UK)78 is a good example of such statute in the UK.

2.7 The Historical and Anthropological School

The historical school of jurisprudence, propounded by Herder,[79] Savigny,[80] Puchta[81]and Maine,[82]advocate that the thrust of law must be it being a product of the history, customs, traditions, peculiar ethos, beliefs, ways-of-life, practices and idiosyncrasies of the society that the law proposes to regulate. The school believes that only this can guarantee the functionality and advancement of law and justice in such society because that law will, naturally, derive its credibility, legitimacy, authority and force, solely, from minimum social standards (that is, history, customs, traditions, peculiar ethos, beliefs, ways-of-life, practices and idiosyncrasies), all encapsulated in a popular consciousness, called *'the Volksgeist'* of the people of that society. An example of Nigeria statutes that reflect this philosophy is the Same-Sex Marriage (Prohibition) Act, 2014.[83]

3.0 Historical and Doctrinal Foundations

3.1 Nigerian Legal Heritage

Before colonial rule, social control and order in Nigeria were ensured and sustained by customary and religious norms. After the late 19thcentury,being the imposition of British colonial rule, formal criminal law was, gradually, unveiled and introduced. The strength ofNigeria's criminal law was the **Nigerian Criminal Code Act of 1916,**[84] which was, largely, adapted from British colonial codes.[85] Overtime, the Nigerian Criminal Code has been adapted from different laws in force in the UK indifferent timeall through the colonial period however

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73 EFCCAibid.
74 ACJAibid (n26).
75 CPPAibid (n 30).
76 The Advance Fee Fraud and Other Fraud Related Offences Act, 2004 ibid (n 32).
77 The Corrupt Practices and Other Related Offences Act, 2000 ibid (n 35).
78 The Human Rights Act, 1998 (UK), Cap 42, 1998.
79 Johann Gottfried Herder (1744-1803), is a prominent German philosopher and literary critic.
80 Friedrich Carl Von Savigny (1799-1861), is a pre-eminent German Jurist.
81 Georg Friedrich Puchta (1798-1846), i leading German legal scholar.
82 Sir Henry Sumner Maine (1822-1888), is a notable English philosopher.
83 Same-Sex Marriage (Prohibition) Act, 2014, No I, 2014; see, OlusesanOliyide, 'Legal and Other Perspectives of Matrimonial Disputes and Resolution' in OlusesanOliyide (ed) *Readings on Matrimonial Disputes Resolution in Nigeria* (TOG Publishers, Lagos, 2017) 1, 7 and 21; see also, OlusesanOliyide, 'Some Regional and Global Perspectives on Same-Sex Sensual Practices' (2019) 22 The Nigerian Law Journal 119-146; OlusesanOliyide, 'Suggested Pathway Out of the Same-Sex Sexual Practices Conundrum in Nigeria' (2023) 24 The Nigerian Law Journal 54-83; *Eugene Merba* v *Joshua* C *Egwu[l976]* 3 SC 23, (1976) NSCC 182 (SC); and *Pamela Adie* v *Corporate Affairs Commission* (Unreported FHC/ABJ/CS/827/2018 delivered 19 November, 2018, Dimgba J - appeal filed at the Court of Appeal on 14 July, 2022 pends; see, ISLA, 'Protection of the Right to Freedom of Expression and Association 'https://www.the-isla.org/protection-of-the-right-to-freedom-of-expression-and-association/#:-:text=On%2014%20July%202022%2C%20the,litigant%20against %20the%20Corporate%20Affairs accessed 23 May, 2025).
84 **Criminal Code Act of 1916,** Cap C38, LFN, 2004 ibid (n 24).
85 Victor N Enebeli, 'Evaluation ofEmerging Trends in Nigerian Criminal Law Jurisprudence' ibid (n 19).

blending local customary rules with the English laws borrowed from British dependencies.[86] Practically, Southern and some mid-western regions applied the Criminal Code, while the Northern Nigeria applied the **Northern Nigeria Penal Code** which itself is based on Islamic *Maliki* jurisprudence.[87] From the foregoing therefore, one can safely infer that modem Nigeria has athree-way criminal law system to wit the Criminal Code derived from the UK, the Maliki-based Penal Code, and all *thecustomary laws* dispensed by local courts, noting, specifically, that the original colonial offences were retained in the books after independence.[88]

Upon attaining independence in 1960, the Nigeria's Criminal legal system has undergone series of amendments but never been fully replaced.[89] Judicial institutions, such as the Supreme Court evolved, nevertheless, colonial legacies persist.[90] Despite the persistence of the colonial legacies, indigenous customary law was, largely, preserved, regardless, its integration with colonial codes.[91]

The British administrators considered abolishing customary laws in 1933,yet, instead, they succeeded, only, in restricting it through the inclusion of a proviso that any customary punishment should not be 'repugnant to natural justice, equity, and good conscience'.[92]

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86 Leslie Sebba, 'The Creation and Evolution of Criminal Law in Colonial and Post-Colonial Societies' ibid 71-9 I; see also, Aderonke E Adegbite and OJ usegun Michael Eluyefa, 'Theoretical Reviews in Legal Research: Challenges in Examining African Customary, Colonial, and Post-Colonial Jurisprudence' ibid 121-127.

87 Mohammed TukurAliyu, 'The Practice of Sharia Law in Nigeria and Its Impact on Islamic Jurisprudence Between 2001 and 2021' (2022) 9(2) Port Harcourt Journal of History and Diplomatic Studies 93-103; see also, Victor LK Essien, 'The Northern Nigeria Penal Code: A Reflection of Diverse Values in Penal Legislation' (1983) 5(1)(1) New York Law School Journal of International and Comparative Law 67-102; and US Commission on International Religious Freedom, 'Shari'ah Criminal Law in Northern Nigeria: Implementation of Expanded Shan'ah Penal and Criminal Procedure Codes in Kano, SokotoandZamfaraStates,2017-2019' h s://www.uscirf. ov/sites/default/files/USCIRF_ShariahLawinNi eria re ort 120919%20v3R. dfaccessed 23 ay,2025.

88 Obi NI Ebbe, 'World Factbook of Criminal Justice Systems: Nigeria' (Bureau of Justice Statistics) h s://b·s.o· . ov/content/ ub/ df/wfbc·sni . df accessed 23 May, 2025; see also, Leslie Sebba, 'The Creation an Evolution of riminal Law in olonial and Post-Colonial Societies' (1999) 3(1) Crime, History and Societies ibid 71-91; and Victor LK Essien, 'The Northern Nigeria Penal Code: A Reflection of Diverse Values in Penal Legislation' ibid (n 87) 67-102.

89 IfeoluwaAyokunleOlubiyi and Hilary EgheoseOkoeguale, 'Nigerian Criminal Justice System: Prospects and challenges of the Administration of Criminal Justice Act, 2015' (2016) AFJCLJI 68-87, 68-69; see also, Obt NIEbbe, 'World Factbook of Criminal Justice Systems: Nigeria' ibid (n 88).

90 ToyinFalola, *Understanding Colonial Nigeria: British Rule and Its Impact* (Cambridge University Press, London, 2024) 573-592 (cap 27); see also, Maryam Kanna, 'Furthering Decolonization: Judicial Review of Colonial Criminal Laws' (2020) 70 Duke Law Journal 411, 411; and Valentin Seidler, •r:olonial legacy and Institutional Development: The Cases of Botswana and Nigeria' (2011) OFSE-Forum, No 52, ISBN 978-3-9503182-4-l, Siidwind-Verlag, Wien, https://www.oefse.at/publikationen/oefse-forum/detail-oefse-forum/publication/show/PublicatJon/Colonial-Legacy-and-Institutional-Development/ accessed 23May, 2025.

91 ToyinFalola, *Understanding Colonial Nigeria: British Rule and Its Impact* ibid (n 90) 573-592 (cap 27); see also, Aderonke E Adegbite and Olusegun Michael Eluyefa, 'Theoretical Reviews in Legal Research: Challenges in Examining African Customary, Colonial, and Post-Colonial Jurisprudence' ibid 121-127; and Leslie Sebba, 'The Creation and Evolution of Criminal Law in Colonial and Post-Colonial Societies' ibid 71-91.

92 RemigiusNwabueze, 'The Dynamics and genius ofNigeria's Indigenous Legal Order' https://www.researchgate.net/publicat10n/265l43018_The_Dynamics_and_Genius_of_Nigeria's Indi enous Le al Order accessed 23 May, 2025; see also, *Bureau of Justice Statistics*, 'Women in Federal and tate CriminafJustice Systems in Nigeria' ibid (n 22).

Subsequent Nigerian constitutions and statutes, after independence, retained the basic and central features of the inherited British system.[93] This character is obvious relying on the **Administration of Criminal Justice Act (ACJA) 2015,which** updates procedures but still operates within the framework and scope of the 1916 Code and 1960 Penal Code though with variations.[94]

The Administration of Criminal Justice Act (ACJA) 2015 was enacted to combat the inefficiencies and inadequacies in Nigeria's criminal justice system, bringing together the available criminal procedure laws throughout the federation and guaranteemg fair, efficient, and timeous dispensation of justice.[95] One major asset of the ACJA is its focus on **speedy dispensation of justice** by abolishing trial-within-trial before an accused person's confessional statement is admitted as evidence, thereby, cutting avoidable setbacks.[96] The Act also **safeguards the rights of defendants** as well as that of victims, offering innovative provisions such as plea bargaining and reparation for victims, consequently, upholding restorative justice.[97] It is the ACJA that introduces procedures to **inhibit abuse of detention** by commanding feriodic feedbacks from the police regarding persons arrested and prohibited stay o proceedings in criminal proceedings which avenue has previously empowered the powerful defendants to stall trials indefinitely.[98] Also, the **merger of the criminal procedures** across the Federal Courts which procedures are now being adopted by the states, have promoted stability and precision in the administration of justice in Nigeria.[99]

However, despite the progressive attributes of the Administration of Criminal Justice Act, 2015, implementation of same remains unequal across Ni eria because the Act is enacted andjurisdiction over same is restricted to **federal courts.' However, the Act can be adopted by the states, with little or no modifications at all.[101] So far, only few states have adopted it, with modifications, where and when necessary, but there exist states still operating under the archaic laws.[102]**

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93 David OlayinkaAjayi, 'British Colonial Policies and the Challenge ofNational Unity in Nigeria, 1914-2014' (2022) 47(1) Southern journal for Contemporary History https://joumals.co.za/doi/10.18820/24150509/SJCH47.v1.3 accessed 23 May, 2025.

94 *Bureau of Justice Statistics*, 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

95 Ifeoluwa Ayokunle Olubiyi and Hilary Egheose Okoeguale, 'Nigerian Criminal Justice System: Prospects and Challenges of the Administration of Criminal Justice Act, 2015' ibid (n 89) 68-69; see also, BS Oghenekevwe and PI Gasiokwu, 'Prospects and Challenges of the Administration of criminal justice Act (ACJA), 2015' (2025) 13(1) Global Journalof Politics and Law Research 79-96.

96 Ifeoluwa Ayokunle Olubiyi and Hilary EgheoseOkoeguale, 'Nigerian Criminal Justice System: Prospects and Challenges of the Administration of Criminal Justice Act, 2015'ibid 69; see also, BS Oghenekevwe and PI Gasiokwu, 'Prospects and Challenges of the Administration of Criminal Justice Act (ACJA), 2015' ibid (n 95) 79-96.

97 John IshakuMantu, 'The Administration of Criminal Justice in Nigeria and a Call for Amendment of the Administration of CriminalJusticeAct, 2015' (January 17, 2024) SSRN: https://ssrn.com/abstract=4698078 or http://dx.doi.org/l 0.2139/ssrn.4698078.

98 Kemi Omojola and Kemi Beatrice Omodanisi, 'Assessing the Implication of Plea Bargain under ACJA, 2015 in Nigeria's Anti- Corruption Crusade: Lessons from Kenya' 2024 22(1) *Asian Research Journal of Arts and Social Sciences* 13-29.

99 John IshakuMantu, 'The Administration of Criminal Justice in Nigeria and a Call for Amendment of the Administration of Criminal Justice Act, 2015' ibid (n 97).

100 **Cleen Foundation, 'Strengthening Accountability and Transparency in theACJA'** https://cleen.org/strengthening-accountabiIity-transparency-in-the-acja/ accessed 24 May, 2025.

101 Cleen Foundation, 'Strengthening Accountability and Transparency in the ACJA' ibid (n 79).

102 **Cleen Foundation, 'Strengthening Accountability and Transparency in the ACJA' ibid.**

Also, the jurisprudence of plea bargaining was introduced into Nigeria criminal justice system by the Administration of Criminal Justice Act, 2015.[103] The procedure is observed as an abuse of the criminal justice system considering that it has resulted, most times, in lenient sentences for the elite offenders, thereby, reducing the confidence of the public in Nigeria criminal justice system.[104]

It is noteworthy that the Administration of Criminal Justice Act, 2015 is more than a procedural enactment. It is a **jurisprudential tool,which** has helped to give a different dimensions to how the Nigeria criminal justice is conceptualised, imparted, and demonstrated.[105] It shows a **model-swing from colonial punitive justice to a restorative rights-conscious and efficiency-driven criminal justice system,** thereby, inducing the improvement of Nigerian criminal justice jurisprudence.[106]Hence, the Nigerian experience portrays the continuity emphasisedby the bureaucratic model oflegislation since the character and content of the legislation may depend, as much, upon the personalities involved.[107]

As a whole, the present Nigeria's criminal law is a formation of colonial imports and local adaptations, resonating postcolonial theorists' insight that the British criminal code was initially applied with minimal regard for pre-existing norms.[108]

3.2 UK Legal Tradition

England's criminal law has its origin in medieval common law.[109] Until the 18th to 19th centuries, most crimes were defined by judge-made common law rather than statute.[110] Over time, Parliament codified many offences and especially, the statutes abolished most medieval

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103 KemiOmojola and Kemi Beatrice Omodanisi, 'Assessing the Imr,lication of Plea Bargain under ACJA, 2015 in Nigeria's Anti-Corruption Crusade: Lessons from Kenya ibid (n 98). 13-29.

104 KemiOmojola and Kemi Beatrice Omodanisi, 'Assessing the Imr,lication of Plea Bargain under ACJA, 2015 in Nigeria'sAnti-Corruption Crusade: Lessons from Kenya ibid 13-29.

!OS OlubukolaOlugasa, 'Utilising Technology in Making the Nigerian Administration of Criminal Justice Act Effective for Criminal Trials' (2020) 11(2) International Journal for Court Administration https://iacajournal.org/articles/10.36745/ijca.332 accessed 24 May, 2025.

!06 YemiAkinseye-George, 'ACJA 2015/ ACJLs, Principles, Innovations and Prospects' https://www.nms.ng/files/PIP.pdf accessed 24 May, 2025; see also, IfeomaUchennaOnonye, 'An Analysis of the Concept of Restorative Justice Under the Nigerian Criminal Justice System' (2018) 4 Unizik Law Journal **1;** and Yvonne Darkwa-Poku, 'Leaving a Legacy of Cnminal Justice Reform in Nigeria' (MacArthur Foundation) https://www.macfound.org/press/perspectives/leaving-a-legacy-of-criminal-justice-reform-in-nigeria accessed 24 May, 2025.

!07 *Learn Nigerian Law*, 'Types of Law in Nigeria' https://www.learnnigenanlaw.com/learn/legalmethods/types accessed 24 May 2025.

108 Peter O Nwankwo, *Criminal Justice in the Pre-Colonial, Colonial and Post-Colonial Eras: An Application of the Colonial Model to Changes in the Severity of Punishment in the Nigerian Law* (University Press of America, Lanham, Boulder, NewYork, Toronto, Plymouth, 2010) 65, 76; see also, Leslie Sebba, 'The Creation and Evolution of Criminal Law in Colonial and Post-Colonial Societies' ibid 71-91.

109 William Blackstone, *Commentarieson the Lawof England* (I stedn,Oxford,Clarendon Press, 1765- I 7 67) 1 ; see also, *Encyclopaedia Britannica*,'Common Law' https://www.britannica.com/topic/common-law accessed 24 May 2025; and The Robins Collection, 'The Common Law and Civil Traditions'htt'.r.s://www.law.berkeley.edu/wp-content/uploads/2017/11/CommonLawCivilLawTraditions.pdfaccessed 4 May, 2025.

110 William Blackstone, *Commentaries on the Law of England* ibid (n 109) 5; see also, *Encyclopaedia Britannica*, 'Common Law' ibid (n 109); and The Robins Collection, 'The Common Law and Civil Traditions' ibid (n 109).

capital punishments.[111] According to the Encyclopaedia Britannica, although common law *has,historically, been the foundation of the English Criminal Law,* **most of its criminal law has been codified from its common law origins, in the interests of certainty and ease of prosecu ẗ100.**[112]

Presently, only a few core offences, notably, murder, remain, technically, common law crimes in England and Wales, although, many former common law offences have, now, been codified into statutes such that common law crimes are, now, complemented by statute.[113] For instance, although the term 'common law offence' still applies to crimes, such as murder, the definition and prosecution are now, substantially, influenced bl'. statutory interpretation as well as previous judgments, as opposed to being, solely,judge-made.[11] Thus, while statutory criminal law has ultimate authority, judges still interpret statutes and evolve legal principles via case law and these legal principles serve as veritable precedents in subsequent similar cases.[115] By and large, the UK Penal Code is still, largely, unwritten, scattered in numerous statutes and common-law rules.[116] It is noteworthy, too, that the UK criminal justice institutions developed along adversarial lines, in which the victim ofcrime is almost entirely eliminated in the process.[117]

As a corollary, policing evolved from the 1829 Metropolitan Police, which superintend arrests and investigations. However, prosecutions are handled by the Crown Prosecution Service (CPS), which works, independently, of the Police and the government but in concert with other criminal justice agencies.[118]

It is important to note that, in England and Wales, philosophical undeWinnings, including those that have been discussed in this endeavour, have guided penal reforms[11] and they emphasise what should form the theoretical basis of punishment for crimes. They comprise two very interrelated components, rooted in the 18th century thinking as well asa third component that is

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[ill] William Blackstone, *Commentaries on the Law of England* ibid 5; see also, *Encyclopaedia Britannica*, 'Common Law' ibid;and The Robins Collection, 'The Common Law and Civil Traditions' ibid.

[112] *Encyclopaedia Britannica*, 'Common Law' ibid.

[113] Grant Lamond, 'Core Principles of English Common Law' in Matthew Dyson and Benjamin Vogel (eds.), *The Limits of Criminal Law:Anglo-GermanConcepts and Principles* (Cambridge University Press, 2020) 9-38; see also, *EncyclopaediaBritannica*,'CommonLaw' ibid.

[114] Grant Lamond, 'Core Principles of English Common Law' ibid 9-38; see also, see also, *Encyclopaedia Britannica*, 'Common Law' ibid.

[115] Grant Lamond, 'Core Principles of English Common Law' ibid 9-38; see also, see also, *Encyclopaedia Britannica*, 'Common Law' ibid.

[116] Grant Lamond, 'Core Principles of English common Law' ibid 9-38; see also, see also, *Encyclopaedia Britannica*, 'Common Law' ibid.

[117] Jacqueline S Hodgson, 'The Future of Adversarial Criminal Justice in 21st Century Britain' (2010) 35(2)(3) North Carolina Journal oflntemational Law and Commercial Regulation 1-2.

[118] Sage, *The Philosophical and Ideological Underpinnings of Corrections* (Sage Publications, 2025) https://uk.sagepub.com/sites/default/files/upm-assets/141352_book_item_141352.pdfaccessed 24 May, 2025.

[119] Philosophy of punishment, otherwise known as penology, concerns defining the concept of punishment and highlighting the values, attitudes, and beliefs that are contained in that definition as well as justifying the imposition of a painful burden on someone.The philosophy also encompasses punishment justifications, including the following: (i) retribution, meaning that, as much as possible, punishment must match the degree ofhann that a suspected criminal has inflicted; (ii) deterrence, meaning discouragement from crime commission; and (iii) incapacitation, meaning inability of criminals to victimise people outside prison walls while they are locked up. Penology also accommodates selective incapacitation, which is a punishment strategy that reserves punishment, largely, for a select group of offenders, comprised, primarily, of violent repeat-offenders and other incorrigible offenders; see Sage, *The Philosophical and ideological Underpinnings of Corrections* ibid (n 118) 9.

a 19th century theory. These are: (i) the classical school; \ii) the utilitarian school; and (iii) the positivism school. Classicism, which Beccaria [20]championed,centresround the humanisation and rationalisation of penal laws, such that they would make punishment for crimes, both just and reasonable. Being just and reasonable means that penal laws should be designed to preserve public safety and order, and not, merely, to avenge crime. Utilitarianism,which Bentham[121] enunciated, is that government actions on penology must be both rational and pragmatic and must rest on the greatest amount of good for the greatest number of people, in which case, those actions must yield to overall societal benefit,such as, crime reduction and public protection, instead of focusing, solely, on individual pum·s[h] ment.[122]

Utilitarianism also insists that sentencing must focus on five objectives, namely: (i) punishment; (ii) deterrence; (iii) rehabilitation; (iv) reparation; and (v) public protection; and that the overall result of these five objectives must be reduction of re-offending, societal protection and overall public well-being, pleasure and happiness.[123]Within the context of utilitarianism, Bentham's influence ensured that punishments remained non-cruel (no torture) and proportionate.[124]Within the context of this penology component, also, the Human Rights Act, 1998 (UK),[125] incorporated the European Convention into domestic law, thereby, embedding the notions of dignity and fair trial into the UK criminal justice s1stem by empowering individuals to enforce their European Convention rights in UK courts. [1 6]

The positivism school of penology place emphasis on empirical science, from which more "positive" or pragmatic considerations could be drawn.[12] The school's focus is on radical empiricism, by which only things that can be observed and measured should form the basis of design of penal laws and policies.[128] Advocates of positivism believe that factors, such as rationality, free will, motivation, conscience, and human nature, are both unseen and immeasurable, and are, thus, mere speculation that should be ignored in determining penal laws.[129] Positivism, further, involves the belief that human actions have causes, which are to be found in the uniformities that, often, precede those actions.[130]Garofalo[131] and Liszt[132] are prominent members of the positivism school of penology.

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120 Cesare Bonesana di Beccaria (1738-1794) isa respected Italian criminologist,jurist, philosopherand economist.

121 Jeremy Bentham (1746-1832) isa frontline English philosopher and jurist whose pioneering work - *An Introduction to thePrinciples of Morals and Legislation* (Clarendon Press, 1789), formed the core of the utilitarianism idea.

122 Sage, *The Philosophical and Ideological Underpinnings of Corrections* ibid 7.

123 Sage, *The Philosophical and Ideological Underpinnings of Corrections* ibid 7.

124 HadiDachak, 'The Principle of Proportionality of Crime and Punishment in International Documents' (2021) 8(4) International journal ofMulticulturaland Multireligious Understanding 684.

125 The Human Rights Act, 1998 (UK) ibid (n 78).

126 Joanna Dawson and Dora Robinson, 'The European Convention on Human Rights and the Human Rights Act 1988'(House of Commons Library, 2024) https://researchbriefings.files.parliament.uk/documents/CBP-9958/CBP-9958.pdf accessed 25 May, 2025.

127 Sage, *The Philosophical and Ideological Underpinnings of Corrections* ibid 7.

128 Sage, *The Philosophical and Ideological Underpinnings of Corrections* ibid 7.

129 Sage, *The Philosophical and Ideological Underpinnings of Corrections* ibid 7.

130 Sage, *The Philosophical and Ideological Underpinnings of Corrections* ibid 7.

131 RaffaeleGarofalo (1851-1934), foremost Italian jurist and criminologist, authored the criminology c lassique *Criminologia: StudisulDelitto, sulle sue cause e suimezzi di repressione (Criminology: Study on Crime, Its Causes and Means of Repression)* (FratelliBocca,Torino, 1885).

132 Franz von Liszt (1851-1919), eminent German jurist and criminologist, authored 'Der Zweckgedankeim Strafrecht (The Idea/Concept of Purpose in Criminal Law)' (1883) 3 German Journal Zeitschrift

The foregoing, thus, underscore that while UK criminal law is a product of a centuries-old common-law tradition that has been, statutorily, supplemented,the Nigerian criminal law derives from the same origins, due to its colonial history,but the Nigerian criminal law, is, nevertheless, interwoven with local customary and religious laws.[111]

3.3 Colonial Legacies and Postcolonial Context

Colonialism left an indelible mark on Nigeria's criminal justice.[134] Beyond replicating British legal codes, the colonial masters fashioned the police and courts, primarily, to maintain their control and hold.[135]For instance, the colonial police were established to control native populations and not to serve community needs and many colonial era penalties and definitions were imported, wholly.[116]As the United States (US) Bureau of Justice noted, *'one result of having the Nigerian Criminal Codebased on the English Common Law tradition was the criminalisation of some of the Nigerian customs'.*[117] *A* custom that was so criminalised is the lawful marriage to more than one partner, otherwise, known as bigamy under the Criminal Code.[138]This was donedespite the fact that such custom was a permissible marital practice, locally.[119] This scenario shows how a positivist import clashed with indigenous moral law.

Postcolonial theory would insist that,largely, these foreign laws have survived well, even afterNigeria's independence.[140] In effect, Nigeria inherited a criminal **legal culture** from Britain. Nigeria'scourt procedures, training of judges, and even linguistic concepts, such as the notion of *mensrea* or culpability, were all British innovations.[141] The implications of this, as scholars have argued, is that the Nigerian criminal justice system, often, feels more colonial than democratic,with powers still concentrated in the State.[142] Many critics see the legacy in today's enforcement problems,for instance, thepersistence of extrajudicial 'habeas corpus' practices, suggest continuities with colonial-era police impunity.[141]

In contrast, the UK itself was the metropole; its institutions did not derive from an external Bower although thecountry has been influenced by the European integration and international law. [44] The British system has exported its law, that is, common law, parliamentary democracy, to colonies around the world. As a result, from a postcolonial standpoint, Nigeria's problems, often, stem from failing to indigenise or adapt those imposed systems. Efforts to "decolonise" Nigerian law,for instance, by reintegrating customary dispute resolution,or acknowledging African values, have been minimal.[145]Therefore, colonial legacy theory explains that Nigeria's

fur die gesamte Strafrechtswissens chaft'. An article, which was later published as book by Vittorioklostermann, Frankfurt,Germany, 1948.

133 Obi NI Ebbe, 'World Factbook of Criminal Justice Systems: Nigeria' ibid (n 88).

134 Victor N Enebeli, 'Evaluation ofEmerging Trends in Nigerian Criminal Law Jurisprudence' ibid (n 19).

135 Victor N Enebeli, 'Evaluation ofEmerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

136 Victor N Enebeli, 'Evaluation of Emerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

137 *Bureau ofJustice Statistics,*'Women in Federal and State Criminal Justice Systems inNigeria' ibid(n 22).

138 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

139 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

140 Victor NEnebeli, 'Evaluation ofEmerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

141 Victor N Enebeli, 'Evaluation of Emerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

142 Victor N Enebeli, 'Evaluation of Emerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

143 Victor N Enebeli, 'Evaluation of Emerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

144 *Bureauof Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

145 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

criminal justice is still,heavily, constrained by its British-origin framework, whereas, in the UK, the challenge is, mainly, to recognise and address the historical context from which the country's own laws emerged.[146]

4.0 Economic Crimes and their Peculiarities

Oliyide andAbiri-Franklin,[147] citing Kaushal,[148] have defined 'economic crime' thus:

> ...an illegal act or series of acts committed by non-physical means and by concealment or guile, to obtain money or property, to avoid the payment or loss of money or property, or to obtain business or personal advantage.[149]

The authors,[150] citing Andenaes,[151]have, also asserted that 'economic crimes' '... violate the interest of the state or sociery in general' and they have given examples of'economic crimes' to include the following: (1) corruption; (ii) embezzlement; (iii) money laundering; (iv) credit card fraud; (v) clieque fraud; (vi) computer-related crimes; (vii) tax evasion; (viii) insurance fraud; (ix) bribery; (x) kickbacks; (xi) payoffs; (xii) bunkermg; (xiii) receiving stolen property; (xiv) failure to abide by the principle of financial reporting, *et cetera.*[152]

Oliyide and Abiri-Franklin[153] further emphasise the adverse macroeconomic effects of economic crimes, unlike violent crimes, in the following words:

> The effect of embezzlement of public funds is felt in all sectors of the economy. For instance, where money meant for the health sector is misappropriated, it results in insufficient health centers and poorly equipped hospitals leading to the death of millions of Nigerians from illnesses that could have been properly managed if there were access to good health care facilities.[154]

The implication of the above observation is that the consequences of economic crimes are much graver and more widespread than those of violent crimes. Corrupt practices, for instance, deprive the country of socio-economic infrastructure, such as, good roads, sustainable electricity, good health care system, social security regime for the elderly, *et cetera.*The adverse effects of this

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146 *Bureauof Justice Statistics,* 'Women in Federal and State Crimina!Justice Systems in Nigeria' ibid.

147 OlusesanOliyide and Sophia Abiri-Franklin, 'Violent Versus Economic Crimes: The Fatality of Needless Dichotomy' in OlusesanOliyide and ldowuAdegbite (eds), *Trends in Nigerian Law and Jurisprudence. Festschrifi in Honour of Hon Justice MobolajiAyodeleOjo, Pioneer President, Ogun State Customary Court of Appealibid(n* 26)217,223.

148 P Kaushal, 'White-collar crimes and contribution of Professor Sutherland in the development of the white-collar crimes' cited in Olusesan Oliyide and SophiaAbiri-Franklin,'Violent Versus Economic Crimes:The Fatality ofNeedlessDichotomy' ibid(n 147)223.

149 P Kaushal, 'White-collar Crimes and Contribution of Professor Sutherland in the Development of the White-collar Crimes' cited in Olusesan Oliyide and SophiaAbiri-Franklin, 'Violent Versus Economic Crimes: The Fatality ofNeedless Dichotomy' ibid 223.

150 Oliyide andAbiri-Franklin 'Violent Versus Economic Crimes: The Fatality ofNeedless Dichotomy' ibid.

151 J Andenaes, 'Social and Economic Offences - Theoretical Issues and Practical Solutions' cited in Olusesan Oliyide and Sophia Abiri-Franklin, 'Violent Versus Economic Crimes: The Fatality of Needless Dichotomy' ibid 223.

152 Olusesan Oliyide and Sophia Abiri-Franklin, 'Violent Versus Economic Crimes: The Fatality of Needless Dichotomy' ibid 223.

153 Oliyide andAbiri-Franklin'ViolentVersus Economic Crimes: TheFatality ofNeedless Dichotomy' ibid.

154 Oliyide andAbiri-Franklin 'Violent Versus Economic Crimes: The Fatality ofNeedless Dichotomy' ibid 225.

deprivation are legion, and they include, pervasive road carnages, illnesses, poverty, hunger and death.
This, therefore, requires that there should bea much more cautious and strategic sentencing regime for economic crimes.It demands, for example, that punishments for economic offences shouldbe as stiff and deterring as those of violent crimes and that indemnity or adequate compensation of victims of economic crimes, in line with victimology philosophy that has been discussed, should be the goal of economic crimes statutes and ofprosecution and sentencing for such crimes.

5.0 Crime, Punishment and CriminalJusticeStructure

5.1 Crime and Punishment: Philosophical Foundations

In Nigeria and UK, criminal justice systems have, historically, been shaped by the mixture of retributive, deterrent, and, more recently, rehabilitative philosophies.[155] In Nigeria, the dominant penal philosophy has often been utilitarian-deterrent, reflecting both the colonial mindset of maintaining order and contemporary security challenges (for instance, terrorism, insurgency).[156] Punishments prescribed by penal statutes, including the Criminal Code[157] and the Penal Code,[158] prescribe lengthy prison terms for offences.[159] In practical terms, however, these laws are diminishedby certain enforcement gaps that make many offenders escape punishment, as well as manifest overcrowding of the correctional centres.[160] Thus, in practice, the actualisation of the twin-sentencing objectives of severity ofpunishment and deterrence is inhibited and the effectiveness of the country's legal system's penal measures, is, thereby, seriously, curtailed.[161]

It is noteworthy, too, that traditional and restorative notions survive in local contexts and that in Muslim-majority states, Sharia-based punishments under the Penal Code framework) introduce elements of moral culpability and communal values.[1 2]

In the UK, punishment philosophy has evolved, since the Victorian era of deterrence.[163] The abolition of the death penalty in 1965 and corporal punishment marked a move toward respecting human dignity.[164] Modem sentencing seeks anadmixture of deterrence, rehabilitation and public protection, based on the objectives of utilitarianism.[165] For instance, the Criminal Justice Act 2003 sets outpurposesofpunishment, including rehabilitationand reparation.[166] Recent UK

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155 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid; see, for instance, the fives objectives of sentencing which utilitarianism focuses on, discussed (s 3.2) ibid.
156 *Bureau of Justice Statistics,*'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.
157 The Criminal Code ibid.
158 The Penal Code ibid.
159 *Bureauof Justice Statistics,*'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.
160 MaizerChankseliani, 'Punishment and Other Penal Measures' 8(2) European Scientific Journal file:///C:/Users/USER/Downloads/51-Article%20Text-I5l- l-l0-20120616%20(1}.pdf accessed 25 May, 2025; see also, *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.
161 MaizerChankseliani, 'Punishment and Other Penal Measures' 8(2) European Scientific Journal ibid (n 160); see also, *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.
162 *Bureauof Justice Statistics,*'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.
163 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.
164 *Bureau of Justice Statistics,*'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.
165 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid. see, the fives objectives ofsentencing which utilitarianism focuses on, discussed (s 3.2) ibid.
166 *Bureauof Justice Statistics,*'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

reforms, increasingly, stress evidence-based approaches and alternatives to custody (such as, community ordersand restorative justice panels), thereby, reflecting a more nuanced philosophy.[167] The Human Rights Act, 1998(UK)16[8]and the European Convention jurisprudence also temper punishment to ensure it is not inhuman or degrading.[169]Thus, while natural-law ideas of justice still inform public intuitions such as victims' rights, UK policy, often, foregrounds consequentialist and rights-based reasoning.[170] In both countries, CLS analysts would caution that these stated philosophies may hide power dynamics such as whether detention serves state interests.[111]

5.2 Law Enforcement and Prosecution

In Nigeria, policing and prosecution remain under intense scrutiny.[172] The Nigeria Police Force, designed under colonial models, has often been criticised for corruption and excessive force.[173] Reports documented *'widespread instances of police brutality, frequent wrongful arrests, and torture',* indicating a law-and-order approach that violates basic justice values.[174] Postcolonial and CLS perspectives highlight that the police, sometimes, act to protect ruling elites or maintain inequality, rather than, purely, enforce law.[175]

However, the UK police operate under different norms.[116]For instance, the 1829 Peelian principles[177]emphasise policing by consent and rule oflaw,[178] which enforcement has also faced its own critiques, such as racial disparities in stop-and-searchand controversies over surveillance powers.[179]RecentdebatesembodiedintheCrimeandPolicingBill2024[180]showatension

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167 *Bureau of Justice Statistics,* 'Women in Federaland State Criminal Justice Systems in Nigeria' ibid.

168 Human Rights Act, 1998 (UK) ibid.

169 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

170 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

171 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

172 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

173 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

174 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

175 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

176 *Bureau of Justice Statistics,* 'Women in Federal and State Crimina!Justice Systems in Nigeria' ibid.

177 The term, 'The 1829 Peelian Principles', refers to the 9 rules that Sir Robert Peel established to guide modem policing in the UK, upon the establishment, by him, of the London Metropolitan Police. The rules centre round public cooperation to prevent crime, placing reliance on trust, the importance of using force, both judicially and sparmgly, as well as dedication to the ideals of impartiality and community service. These rules, among others, earned Sir Robert Peels, the appellation of 'father of modem English policing'; see, Law Enforcement Action Partnership, 'Sir R6bertPeel's Policing Principles' https://lawenforcementactionpartnership.or /peel-policing-principles/ accessed 26 May, 2025.

178 *Bureau of Justice Statistics,* 'Women in Federa and State Criminal Justice Systems in Nigeria' ibid.

179 *Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid.

180 House of Lords (UK) Bill 111, 2025, which originated in the House of Commons (UK) in the 2024-2025 Legislative Session, is jointly sponsored by Yvette Cooper and Lord Hanson of Flint (both of the Labour Party. The Bill's Long Title 1s as follows:

> A Bill to make provision about anti-social behaviour, offensive weapons, offences against people (including sexual offences), property offences, the criminal exploitation of persons, sex offenders, stalking and public order; to make provision about powers of the police, the border force and other similar persons; to make provision about confiscation; to make provision about the police; to make provision about terrorism and national security, and about international agreements relatmg to crime; to make provision about the cnminal liability ofbodies; ancf for connected purposes.

See, [UK] Parliament, 'Bills' https://bills.parliament.uk/bills/3938 accessed 25 May, 2025.

between public-order measures and civil liberties.[181] Prosecutorial independence is,generally, stronger, essentially, because the CPS is formally autonomous of government. However, both Nigeria and UK criminal systems grapple with legal realism phenomena.[182]Legal actors, that is, police and prosecutors exercise discretion, influenced by workload and policy priorities.[183] For example, overburdened Nigerian police may fail to record thousands of minor offences, while UK police may issue community resolutions for minor crime, each reflecting pragmatic triage, rather, than pure legal logic.[184]

5.3 Courts and Judicial Role

Nigerian courts are, formally, independent but have been shaped by political pressures.[185] Judges may face intimidation or be influenced by executive factors.[186] In practice, the judiciary, often, contends with backlogs and underfunding.[187] Regardless, the appellate courts,sometimes, engage in natural law reasoning invoking equity or conscience to temper strict positivist codes.[188] The Court of Appeal and Supreme Court have, even, invoked Nigeria's international human rights obligations to interpret criminal procedure rules, thereby, reflecting a modem jurisprudence that blends domestic law with broaderprinciples.[189]

Conversely, in the UK, separation of powers is strongand judges review legislation in order to ensure compliance with rights (under the Human Rights Act, 1998 (UK)'9°) and they set sentencing via precedent.[191] UK judges openly consider liberal theory for instance, sentencing guidelines promulgated by the Sentencing Council are informed by research on what deters

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'" *Bureau of Justice Statistics*, 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid; see also, Victor N Enebeli, 'Evaluation ofEmergingTrends in Nigerian Criminal Law Jurisprudence' ibid.

182 ***Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid; see also,** Victor N Enebeli, 'Evaluation of Emerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

183 ***Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria' ibid; see also,** Victor N Enebeli, 'Evaluation of Emerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

184 ***Bureau of Justice Statistics,* 'Women in Federal and State Criminal Justice Systems in Nigeria'** ibid;see also,Victor NEnebeli,'Evaluation ofEmerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

185 **OkechukwuOko, 'Seeking Justice in Transnational Societies: An Analysis of the Problems and** Failures of the Judiciary in Nigeria' (2005) 31(1) Brooklyn Journal of International Law 10-82; see also, Ibrahim Abdullahi, 'Independence of the Judiciary in Nigeria: A Myth of Reality?' (2014) 2(3) International Journal of Public Administration and Management Research 55-66.

186 **OkechukwuOko, 'Seeking Justice in Transnational Societies: An Analysis of the Problems and Failures of** the Judiciary in Nigeria' ibid **(n** 185) I0-82; see also, lbrahimAbdullahi,'Independence of the Judiciary **in** Nigeria: A Myth ofReality?' ibid (n 185) 55-66.

181 **OkechukwuOko, 'Seeking Justice in Transnational Societies: An Analysis of the Problems and Failures of** the Judiciary in Nigeria' ibid I 0-82; see also, Ibrahim Abdullahi, 'Independence of the Judiciary in Nigeria: A Myth ofReality?' ibid 55-66.

188 **OkechukwuOko, 'Seeking Justice in Transnational Societies: An Analysis of the Problems and Failures of** the Judiciary in Nigeria' ibid I 0-82; see also, Ibrahim Abdullahi, 'Independence of the Judiciary in Nigeria: A Myth ofReality?' ibid 55-66.

189 **OkechukwuOko, 'Seeking Justice in Transnational Societies: An Analysis of the Problems and** Failures of the Judiciary in Nigeria' ibid 10-82; see also, Ibrahim Abdullahi, 'Independence of the Judiciary in Nigeria:AMyth ofReality?' ibid 55-66.

190 Human Rights Act, 1998 (UK) ibid.

191 **House of Commons and House of Lords Joint Committee on Human Rights, *The Governn1ent's*** *Independent Review of the Human Rights Act: Third Report of Session 2021-2022* (House of Commons and House of Lords, 202l)https://committees.parliament.uk/publications/6592/documents/71259/default/ accessed 25 May, 2025.

crime.[192] From a realist/CLS view, however, critics note that British judges are still part of an elite cadre and may carry biases such asfavoring state arguments in terrorism cases.[193]

5.4 Corrections and Rehabilitation

Prison and probation systems reflect underpinning penal philosorhies. [194] Nigeria's prison population is strongly influenced by colonial-era laws and theACJAreforms.[19] **Overcrowded prisons, long pretrial detentions, infrastructure inadequacy and failure to attain rehabilitation, thereby, yielding to recidivism,'%all** pervade Nigeria.This is despite reforms, including plea bargaining, victim-compensation and community service, which have been introduced, to reduce this burden, the practical implementation of which remain, largely, limited.[197]Thus, correctional philosophy in Nigeria is still, largely, punitive, with strong emphasis still placed on retribution and punishment.[198]However,advocacyfor rehabilitation and restorative justicein the country, is growing,tremendously,in academic circles, based, largely,on international norms and values.[199]

Conversely, UK prisons operate under strict rehabilitation mandates (for example, the Rehabilitation of Offenders Act, 1974[200]) and independent monitoring (HM Inspectorate of Prisons). Overcrowding is a concern, but UK corrections also face ideological debates,for example, the role of religion or moral education in prisons.[201] The UK system is now,strongly, influenced by criminological studies, showing a more systematic, positivist approach to policy (for instance, using risk assessment tools).[202] Critics from the CLS tradition may still point out that incarceration, disproportionately, affects the poor and minorities, suggesting that even a"modem" system retains structural biases.[203] Both Nigeria and the UK are members of international treaties on prisoner rights, such as the International Covenant on Civil and Political

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192 Sentencing Council, 'Reconceptualising the Effectiveness of Sentencing: Four Perspectives' https://sentencingcounc ii.org.uk/html-publications/reconceptualising- the-eff ectiveness-of-sentencing-four-perspectives/ accessed 25 May, 2025.

193 Charles Hoddon-Cave, 'The Conduct ofTerrorism Trials in England and Wales' (2021) 95 ALJ 1-8.

194 Robert Canton, 'Probation and the Philosophy of Punishment' (2018) 65(2) Probation Journal 252-268.

195 Victor N Enebeli,'Evaluation of Emerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

196 Victor N Enebeli, 'Evaluation of Emerging Trends in Nigerian Criminal Law Jurisprudence' ibid; see also, Timothy OnwughaiOsahon, Jerry James Doka and Abubakar Musa Tafida, 'Restorative Justice System: A Catalyst to Reducing Recidivism in Nigeria' (2025) 7(6) Berkeley Journal ofHumanities and Social Science 163-179 and Peter ArchibongEssoh, Okoro Sunday Asangausung and Uduak Gabriel Peter, 'Recidivism and Public Order in Nigerian Correctional Centres in Akwalbom State' (2025) 3(1) AKSU Annals of Sustainable Development 14-34.

197 Victor N Enebeli,'Evaluation of Emerging Trends in Nigerian Criminal Law Jurisprudence' ibid; see also, Timothy Onwughai Osahon, Jerry James Doka and Abubakar Musa Tafida, 'Restorative Justice System: A Catalyst to Reducing Recidivism in Nigeria' ibid (n 196) 163-179 and Peter Archibong Essoh, Okoro Sunday Asangausung and Uduak Gabriel Peter, 'Recidivism and Public Order in Nigerian Correctional Centres inAkwaibom State' ibid (n 196) 14-34.

198 Timothy OnwughaiOsahon, Jerry James Doka and Abubakar Musa Tafida, 'Restorative Justice System: A Catalyst to Reducing Recidivism in Nigeria' ibid 163-179 and Peter ArchibongEssoh, Okoro Sunday Asangausung and Uduak Gabriel Peter, 'Recidivism and Public Order in Nigerian Correctional Centres inAkwalbom State' ibid 14-34.

199 See, for instance, Timothy OnwughaiOsahon, Jerry James Doka and Abubakar Musa Tafida, 'Restorative Justice System: A Catalyst to Reducing Recidivism in Nigeria' ibid 163-179 and Peter ArchibongEssoh, Okoro Sunday Asangausung and Uduak Gabriel Peter, 'Recidivism and Public Order in Nigerian Correctional Centres inAkwaibom State' ibid 14-34.

200 Rehabilitation of Offenders Act, 1974, c 53, 1974.

201 *Encyclopaedia Britannica*, 'Common Law' ibid.

202 *Encyclopaedia Britannica*, 'Common Law' ibid.

203 *Encyclopaedia Britannica*, 'Common Law' ibid.

Rights (ICCPR) and the Covenant Against Torture, both of which encourage that prisoners are treated with humanity and respect for their inherent dignity. These treaties, among others, often serve as external restraints on domestic penal discretion.

5.5 Contemporary Reforms and Challenges

In **Nigeria,** recent years have witnessed major reform efforts, largely, encouraged by crisis.[204] The **Administration of Criminal Justice Act, 2015** represents a major overhaul. It streamlined procedures, introduced plea bargaining, and emphasised speedy trials. It is noteworthy that plea bargaining under ACJA has the ability to speed up case resolution and consequently reduce overcrowded pretrial detention. In the courts, domestication of international treaties (for instance, on torture and fair trial) has started to take root, reflecting both positivist adoption of global norms and natural-law concerns for human dignity.[205] Worthy of note is the Anti-Torture Act, 201?2°[6] that has criminalised police torture, for the first time, indicating a move toward rights-based values in principle even though enforcement remains limited.[207] The EndSARS movement of 2020/21 forced the government to undertake police reforms and demonstrating how public opinion,influenced by natural law ideas of justice, can push change in a system otherwise dominated by positivist statutes and realist power.[208]

5.6 Victimology in Nigeria's Criminal Jurisprudence

"Victimology",which may be referred to as the study of the experiences and rights of victims of crime, is an upcoming focus in Nigeria's criminal justice scholarship.[209] Conventionally, Nigeria's law was correctional, and the punishing statutes, being the Criminal Code and Penal Code, practically, made no mention of victims.[210] Until recently, crime victims had no input in criminal proceedings and participate, only, as a witness for the State.[211]Shajobi-Ibinkule and Suleiman[212] explain that the initial statutes, including the anti-corruption laws, omitted the term "victim," but, happily,that the ACJA 2015,and other current legal reform efforts, clearly,recognises the victim's rights and interests.[213]

The ACJA, 2015, for instance, contains several victim-oriented provisions. Notably, the ACJA allows confidential proceedings and other protective procedures, such as anonymity, admission

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[204] Victor N Enebeli, 'Evaluation ofEmerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

[205] Victor N Enebeli, 'Evaluation ofEmerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

[206] Anti-Torture Act, 2017, No 21, 2017.

[207] Victor N Enebeli, 'Evaluation ofEmerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

[208] Victor N Enebeli, 'Evaluation ofEmerging Trends in Nigerian Criminal Law Jurisprudence' ibid.

[209] D Gloria Shajobi-Ibinkule and M Barnabas Suleiman, 'An Overview of Victim Rights and Interests in Nigerian Criminal Justice System' (2024) 3(2) Federal University ofWukari Journal ofSocial Sciences 300-317.

[210] Chikodi Gideon Samuel Elendu and Beatrice NkechiOkpalaobi, 'Reforming Nigeria's Criminal Justice System through Compensation for Victims of Crimes: Challenges, Gaps, and the Way Forward' (2025) 9(1) African Journal of Law and Human Rights https://joumals.ezenwaohaetorc.org/index.php/AJLHR/article/view/3210 accessed 25 May, 2025.

[211] Chikodi Gideon Samuel Elendu and Beatrice NkechiOkpalaobi, 'Reforming Nigeria's Criminal Justice System through Compensation for Victims of Crimes: Challenges, Gaps, and the Way Forward' ibid (n 210).

[212] D Gloria Shajobi-Ibinkule and M Barnabas Suleiman, 'An Overview of Victim Rights and Interests in Nigerian Criminal Justice System' ibid (n 209) 300-317.

[213] Administration of Criminal Justice Act, 2015 ibid, s 232, especially, s 232(1) and 232(4).

ofvideo link-evidence, use of screens, face-masks (to enhance anonymity), among others, for victims and witnesses in sexual, trafficking, terrorism offences and related suits.[214] Also, for the purpose of plea bargaining, it is compulsory for the prosecution to obtain the consent of either the victim or his representative and allow them to make representations, including making a demand for restitution, and this is made a condition for the court's approval of any plea agreement.[215]

The ACJA, 2015, also, enjoins the courts to evaluate the interest of the crime-victim in sentencing the accused and to order the defendant to pay compensation.or damages to the victim or otherwise grant restitution to the crime-victim, as part of the court's judgement.[216] ACJA, 2015, thus, makes restitution and compensation possible under the Nigerian criminal justice system and pioneers a shift towards restorative justice the objective of which is to prioritise the victim's desires, rights and interests, through a compensatory mechanism for the harm caused the victim by the crime,[217] as well as through efforts made regarding **information, consultation and protection.**

In practice, however, victim's rights remain inadequately enforced. Regardless of the innovations as contained in the ACJA, compensation of victims is an optional act and not mandatory.[218] Also, often, crime victims are unaware of their rights to compensation and/or restitution, and the courts, rarely, award compensation and this, consequently, leaves several victims with no meaningful redress.[219] Adeyemo, rightly, critiques that the present Nigerian criminal justice system treats victims of crime as docile objects immersing their interests wholly into the agenda of the State,and this, consequently, adversely, affects the victim's "enjoyments" during a criminal case.[220]

However, to deal with these lacuna in the criminal justice system, Adeyemo[221] recommends that the long-abandoned Victims' Rights Bill be resuscitated and that this bill, when passed into law,

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214 Administration of Criminal Justice Act, 2015 ibid, s 232(e).

215 Administration of Criminal Justice Act, 2015 ibid, s 270(2) and (6).

216 AdministrationofCriminalJusticeAct,2015 ibid, pt 32,especially,ss314 and 319 to328,particularly, s 319(1)(a).

217 It is remarkable that, some other laws, including the **Violence Against Persons (Prohibition) Act, 2015,** complement the reforms on crime-victims' compensation, by providing for protection and support procedures for victims of domestic violence; see, Shajobi-Ibinkule and Suleiman, 'An Overview of Victim Rights and Interests in Nigerian Criminal Justice System' ibid 300-317.

218 Administration of Criminal Justice Act, 2015 ibid.

219 Chikodi Gideon Samuel Elendu and Beatrice NkechiOkpalaobi, 'Reforming Nigeria's Criminal Justice System through Compensation for Victims of Crimes: Challenges, Gaps, and the Way Forward' ibid.

220 Deborah D Adeyemo, 'Recognising the Rights of Victim in the Nigerian Criminal Justice System' (2021) 3(3) International Journal of Comparative Law and Legal Philosophy (IJOCLLEP) 64-72.

221 Deborah D Adeyemo, 'Recognising the Rights of Victim in the Nigerian Criminal Justice System' ibid (n 220).

222 Deborah DAdeyemo, 'Recognising the Rights ofVictim in the Nigerian Criminal Justice System' ibid 72.

223 Chikodi Gideon Samuel Elendu and Beatrice NkechiOkpalaobi, 'Reforming Nigeria's Criminal Justice System through Compensation for Victims of Crimes: Challenges, Gaps, and the Way Forward' ibid.

will give the country, a detailed enactment that will codify the minimum guarantee for every victim.[222]In this connection, ElenduandOkpalaobialso propose that a National Victim Compensation Authority or Fundshould be established, so as to change the ACJA's discretionary arrangement into a mandatory and effective framework.[223]ln this connection, too, the police and judges should be trained on the needs of victims, as well as the necessity of government-fundedsupport programmes for victims of crimes.

Undoubtedly, ACJA, 2015 and allied statutes, represent the significant statutory reforms, preserving concepts of victim protection, participation and reparation, which was, initially, strange to the system. It is significant to note, however, that these amendments should, as a matter of necessity, be supported by the political will that should yield to proper implementation. Victimology, in Nigerian criminal jurisprudence is only just gaining traction and much work is required, so as to translate theory into practice. A **victim-oriented** criminal justice system is that which decentralises the accused as the main point and prioritises the victim's needs. This major shift, should be the ultimate goal of continuing reform efforts, especially in relation to economic crimes, which are the core focus of this work. This is given the pervasive negative effects of economic crimes, which even transcend the crime-victim and involves several facets of the Nigerian economy and prosperity.

5.7 Reforms and Challenges in England and Wales

In contrast to the Nigerian situation, in England and Wales, reforms continue on several fronts.[224]For example, the government is revising policing laws (for instance, the 2024 Crime and Policing Bill tackles anti-social behaviour and crimes via statutory enhancements).[225] On the judicial side, there is ongoing debate about funding, ensuring effective assistance of counsel, and speeding up trials in part to reduce remand.[226]

The UK also grapples with legacy issues for instance, efforts to decolonise the law curriculum or review ancient statutes have been proposed.[227] From a jurisprudential point of view, these reforms are hybrid because they involve positive law changes, informed by social data and human rights discourse, while sentencing policy has been influenced by research being a positivist-utilitarian approach. At the same time,they are, also, constrained by natural-law-inspired minimum standards,for example, limits on life sentences for juveniles due to ECHR

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224 Kenneth EinarHimma, 'Philosophy of Law' (2001) *Internet Encyclopedia of Philosophyhttps://iep.utm.edu!* accessed 25 May 2025.

225 Kenneth EinarHimma,'Philosophy ofLaw' ibid (n 224).

226 Kenneth EinarHimma,'Philosophy ofLaw' ibid.

227 Kenneth EinarHimma,'Philosophy of Law' ibid.

228 Kenneth EinarHimma, 'Philosophy of Law' ibid. ECHR law are the body of law that sprouts from the European Convention on Human Rights, which protects fundamental human rights and freedoms in Europe, being a legally binding treaty of the Council of Europe. ECHR law includes the original text of the Convention, its various Protocols and the decisions of the European Court ofHuman Rights (the case law), which are an interpretation of the Convention's provisions. ECHR law establishes shared-responsibility among state-parties, to protect rights and ensure that national authorities apply domestic law, in line with the Convention; see, Council ofEurope, 'European Convention on Human Rights' https://www.echr.coe.int/documents/d/echr/convention_ENG accessed 26 May, 2025; see also, Thomas Reuters - Practical Law, 'Glossary - European Convention on Human Rights (ECHR)' https://uk.practicallaw.thomsonreuters.com/1-107-6550?transitionType=_Default&context_Data=(sc.Default)&firstPage=true accessed 25 May, 2025.

law.[228] Law enforcement reforms, such as strengthening independent oversight of police misconduct, reflect a recognition that purely positivist structures must be balanced by accountability norms often framed in terms of justice or fairness.[229]

5.8 Influence of Jurisprudence on Criminal Justice Administration in Both Jurisdictions Compared

In both jurisdictions, **courts play a dynamic role.** Nigerian courts have, in recent times, been seen as potential agents of change, citing environmental attention because of civil society campaigns and activism by lawyers. UK courts have, similarly, been arenas for jurisprudential debate. For example, UK Supreme Court rulings on the legality of data surveillance or anti-terror measures underscore a tension between state power and individual rights.[230]The influence of interplay of theories is obvious in both jurisdictions. The natural-law, which appeals to morality, appears dominant, alongside hard-nosed readings of statutes. However, CLS-style critiques ofideological inconsistency emerge in academic commentary on case law.[231]

Also, in both jurisdictions, **correctional ideology** is evolving under jurisprudential scrutiny and is taking precedence over punishment.[232]For instance, Nigeria's prison reforms, championed, in the main, through the Nigeria Correctional Service Act, 2019,[233] involves guard training for inmates, for the purpose of fostering a humane environment, as well as inmates vocational programmes, such as carpentry, tailoring and computer skills, signifying a gradual but steady movement towards rehabilitative ideals.[234] UK prisons have, long, formally, aimed at rehabilitation, although commentators note a historical pendulum-swing between liberal and punitive regimes.[235]

Both systems,thus, face calls to incorporatemore restorative justice practices,on sustainable basis, especially,for juvenile or minor offenders, reflecting a clear-cut and constituent move away from purely retributive models into rehabilitative and restorative models. Postcolonial

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229 Kenneth EinarHimma, 'Philosophy ofLaw' ibid.

230 Kenneth EinarHimma, 'Philosophy ofLaw' ibid.

231 Kenneth EinarHimma, 'Philosophy of Law' ibid; see also, Victor N Enebeli, 'Evaluation ofEmerging Trends in Nigerian Criminal Law Jurisprudence' ibid; and Walter B Miller, 'Ideology and Criminal Justice Policy: Some Current Issues' (1973) 64(2) Journal of Criminal Law and Criminology 141-162.

232 Victor N Enebeli, 'Evaluation of Emerging Trends in Nigerian Criminal Law Jurisprudence' ibid; see also, Walter B Miller, 'Ideology and Criminal Justice Policy: Some Current Issues' (1973) 64(2) Journal of Criminal Law and Criminology 141-162.

233 Nigeria Correctional Service Act, 2019, No 19, 2019.

234 Emeka E Obioha, 'Challenges and Reforms in the Nigerian Prisons System' (2011) 27(2) Journal of Social Sciences 95-109.

235 *Encyclopaedia Britannica,* 'Common Law' ibid.

236 ***Encyclopaedia Britannica,* 'Common Law' ibid.**

encourage Nigeria to draw on indigenous conflict-resolution traditions, here, while discourse on UK explores how UK's medieval and colonial legacies inform or hinder modem corrections and how that challenge may be surmounted.[236]

As noted earlier, Nigeria and the UK share a common legal criminal ancestry but have diverged under different historical and social pressures.[237] In Nigeria, the imprint of British colonialism
remains powerfuland the basicstructure of criminal law and justice is, largely, a legacy of imperial rule.[238] Jurisprudentially, the Nigerian criminal structure is influenced by an admixture of imported positivist and natural-law models as well as indigenous moral frameworks, influenced by the historical and anthropological jurisprudence. Efforts at reforms, inspired by sociological jurisprudence, such as the ACJA, 2015, or human-rights legislation, show an ongoing balance-striking of these multifarious jurisprudential forces. On the other hand, in the UK, the enduring common-law tradition and a stable constitutional order provide a different backdrop.[239] Here, jurisprudential debates center on balancing state authority with rights, and on confronting residual colonialist perspectives within a modem democracy.[240]

Across both contexts, natural law, positivism, realism, CLS, sociological as well as historical and anthropological jurisprudence and postcolonial theory, offer lenses for analysis.[241] Natural law reminds that underlying any criminal code is a set of societal values which may be inherited or evolved.[242] Legal positivism explains *why/ormally*, the Nigerian and UK systems look like any modem law-based system.[243]They rely on enacted statutes, codes, and recognised procedures, which are meant to beobeyed, without questioning, whether ornot they align with natural law or

237 Obi NI Ebbe, 'World Factbook of Criminal Justice Systems: Nigeria' ibid.

238 Noel Out, 'Colonialism and the Criminal Justice System in Nigeria' (1999) 23(2) International Journal of Comparative and Applied Criminal Justice 293-306.

239 ***Encyclopaedia Britannica*, 'Common Law' ibid; see also, Christine Lienen, *Shaped by the Nuanced Constitution: A Critique of Common Law Constitutional Rights*** (Hart Pub, 2023) 55.

240 ***Encyclopaedia Britannica*, 'Common Law' ibid; see also, Christine Lienen, *Shaped by the Nuanced Constitution: A Critique of Common Law Constitutional Rights*** ibid (n 239).

241 Nnamdi Kingsley Akani, 'Jurisprudential Doctrines on the Nature of Law and Impact on Contemporary Global Legal Systems' (2019) 85 Joumal of Law, Policy and Globalization https://iiste.org/Joumals/index.php/JLPG/article/view/48110 accessed 25 May, 2025.

242 *Encyclopaedia Britannica*, 'Natural Law' https://www.britannica.com/topic/natural-law accessed 25 May, 2025.

243 GodwinAdinyaOgabo, 'Preserving African Customary Laws from the Dangers ofLegal Positivism' (2024) 5(3) African Social Science and Humanities Journal (ASSHJ) 250-258.

244 GodwinAdinyaOgabo,'PreservingAfrican Customary Laws from the Dangers ofLegal Positivism' ibid (n 243).

245 WA Adeboayo and AdeboluOlumideAdeniyi, 'Legal Realism and Administration of Criminal Justice in Nigeria' (2021) https://www.researchgate.net/publication/385504376_LEGAL_REALISM_AND_ADMINISTRATION OF_CRIMINAL_JUSTICE_IN_NIGERIA/citation/download accessed 25 May, 2025.

customary norms.[244] Legal realism and CLS urge to look beyond texts to the actual practices and power relations that produce outcomes in the courts, prisons, and police stations.[245]Sociological jurisprudence encourages that penal laws must keep pace with changes in society, society being dynamic in nature. Postcolonial critique, especially, illuminates the distinct path Nigeria has taken in adapting and/or failing to adapt imported institutions.[246]

6.0 Conclusion and Recommendations

6.1 Conclusion

This comparative analysis of the jurisprudential underpinnings of economic crimes and criminal justice administration in Nigeria and the United Kingdom,has revealed that jurisprudential perspectives are not merely utopian or academic but have real, practicalimplicationsfor how crime is definedand how prosecution and punishment for crime are carried out.The work has, also, shown that jurisprudential dimensions on crime and criminal justice are pervasiveand that those dimensions, holistically, influence the definition of crime and the prosecution and punishment for crime in both Nigeria and UK.

The work has shown, for instance, that, in Nigeria today, understanding crime means tracing a path from ancient customs, to colonial religious norms (in relation to Islamic law), to colonial criminal codes,and to contemporary statutes and reforms. It has, also, revealed that, in the UK, understanding crime means acknowledging the deep roots of common law while assessing how modern values, including those transplanted back from former colonies, now affect the English system.

The work has, also, underscored that a full grasp of why each of both jurisdictions, defines crime and administers justice in the ways it does, requires a full understanding of the integrated nature of the impact of these philosophical, historical, and doctrinal strands.

Finally, the work has shown that, despite the impact of an integrated jurisprudential regime, Nigeria's criminal justice system, although legally structured, still suffers from the complexity of normative fragmentation, procedural inefficiencies, and institutional weaknesses and that these need to be addressed, as a way of improving the country's criminal justice administration framework.

6.2 Recommendations

In improving the country's criminal justice administration framework, the following recommendations are made:

First, there is need for philosophical re-evaluation.In this regard, it is recommended that legal education and policy formulation should embrace broader jurisprudential discourses, integrating

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[246] Hakeem Yusuf, 'Nigeria - The Colonial Legacy and Transitional Justice' https://oro.open.ac.uk/ 76036/1/Nigerian-Report-Electronic.pdf accessed 25 May, 2025; see also, Peter O Nwankwo, *Criminal Justice in the Pre-Colonial, Colonial and Post-Colonial Eras: An Application of the Colonial Model to Changes in the Severity of Punishmentin the Nigerian Law* ibid (n 108) 76.

natural law, critical theory, and restorative justice principles and that natural law should continue to be the dominant philosophical basis of criminal justice law and management.

Second, continuing legislative amendment is proposed, within which context, outdated colonial laws must be revised in order to reflect current socio-legal realities and human rights standards, in line with sociological jurisprudence.

Third, institutional fortification is imperative and in this connection, judicial independence, police professionalism, and correctional reforms are essential to rebuilding public trust and ensuringjustice delivery.

Fourth, the culture of rights-oriented policing and sentencing should be imbibed and policing should be done within the ambits of the law, always.Generally, enforcement agencies must internalise constitutional rights' guaranteesand respect same in carrying-out their duties.Sentencing policies should, also, balance deterrence with rehabilitation and restoration. In this connection, community service and other non-custodial sentencing measures should be introduced.

Fifth, international learning must be mixed with local ethos, norms,beliefs and awareness, in line with historical and anthropological jurisprudence.In this connection, while borrowing best practices from the UK, on legal transplant basis, Nigeria must ensure the adaptation of such practices to its peculiar socio-cultural and legal context.

Sixth, as has been noted, because the consequences of economic crimes are much graver and more pervasive than those of violent crimes, a much more cautious and strategic sentencing regime for economic crimes is imperative. Thus, punishments for economic offences should be as stiff and deterring as those of violent crimes and indemnity or adequate compensation of victims of economic crimes, in line with victimology philosophy that has been discussed, should form the primary goal of economic crimes statutes and ofprosecution and sentencing.

Seventh, states that are yet to adopt ACJA should do so, in order to ensure a more uniform criminal justice regime across Nigeria. Also, plea-bargaining should not be abused through ridiculously lenient sentencing of elite offenders so that confidence of the Nigerian public in the criminal justice system may be sustained. Furthermore, the practical implementation of plea-bargaining, victim-compensation, non-custodial and otherreforms inACJA, should be felt.

Finally, on a general note, a thoroughly jurisprudentially grounded human-rights-oriented and structurally, functionallyand institutionally sound criminal justice regime is imperative for Nigeria's democratic consolidation and socio-economic stability and prosperity and this is strongly recommended.