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PRE-TRIAL DIVERSION AS A STRATEGY FOR REDUCING AWAITING-TRIAL INMATES IN NIGERIA

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Abstract

Nigeria's correctional facilities are severely overcrowded, with a substantial proportion of inmates awaiting trial for prolonged periods despite the constitutional presumption of innocence. This paper examines pre-trial diversion as a strategy for reducing the population of awaiting-trial inmates in Nigeria. It investigates the legal and institutional causes of prolonged pre-trial detention and evaluates the potential of diversionary mechanisms to resolve suitable criminal cases outside the formal adjudicatory process. The study adopts a doctrinal research methodology, relying on the analysis of primary legal materials, including the Constitution of the Federal Republic of Nigeria 1999 and the Administration of Criminal Justice Act 2015, as well as relevant case law, academic literature, and policy documents. Restorative justice and procedural justice theories provide the theoretical framework for the study. The findings reveal that although existing legal mechanisms such as police bail, prosecutorial discretion, and plea bargaining create opportunities for diversion, Nigeria lacks a comprehensive statutory framework regulating pre-trial mediation. Comparative experiences from the United Kingdom, the United States, and Croatia demonstrate the effectiveness of structured diversion programmes in reducing unnecessary detention and promoting restorative outcomes. The paper identifies challenges including corruption risks, institutional capacity constraints, inadequate safeguards for victims, and the absence of clear regulatory guidelines. It recommends legislative amendments to establish a statutory diversion framework, institutional guidelines for implementation, specialised training, and pilot programmes. Properly regulated pre-trial criminal mediation offers a viable mechanism for reducing awaiting-trial populations and improving criminal justice administration in Nigeria.

Keywords: Pre-trial mediation; Awaiting-trial inmates; Restorative justice; Diversion; Nigeria

1. INTRODUCTION

Nigeria's criminal justice system operates under a self-inflicted contradiction. It functions much like a funnel built for a continuous flow, yet choked at its narrowest point: each year, thousands of suspects are poured into the system, but only a trickle emerge through timely verdicts. What unfolds is a correctional reality in which the unconvicted form the majority of the prison population. By February 2026, figures from the Nigeria Correctional Service placed the total number of inmates at 80,812 and of that figure, 51,955 individuals, or 64 percent, were still awaiting trial. [1] Their continued detention does not stem from proven guilt; rather, it is the sluggish pace of legal proceedings that leaves their fate indefinitely suspended.

But this figure is far more than a cold statistic. It translates into real human costs; fathers torn from their households, young adults trapped in limbo, and individuals who, under section 36(5) of the 1999 Nigerian Constitution[2], are presumed innocent, yet languish behind bars for months or even years before ever coming before a judge. Some never will. None of this is new, nor has it gone unnoticed. Successive governments have publicly recognised the severity of the situation, and legislative steps like the Administration of Criminal Justice Act of 2015 introduced provisions aimed at speeding up trials.[3] Despite these efforts, however, the number of those awaiting trial remains stubbornly high, so high, in fact, that correctional centres now operate less as places of rehabilitation after conviction and more as sites of punishment before any guilt has been proven.

Against this backdrop, this study argues that pre-trial diversion presents a workable solution to decongest the system, by steering eligible cases away from the formal trial track before they even enter the long queue of prolonged detention. It differs from plea bargaining in a crucial respect: whereas plea bargaining takes place after charges have been laid and generally ends in a conviction, pre-trial diversion intervenes earlier. It opens up an alternate route that can settle matters without saddling defendants with the lifelong stigma of a criminal record, all while balancing the interests of victims, offenders, and the state. In pursuit of this argument, the research maps out Nigeria's existing legal and institutional landscape for such mechanisms, probes the root causes behind the persistent remand population, and borrows insights from other jurisdictions to craft a structured, context-sensitive model for pre-trial diversion.

2. CONCEPTUAL AND THEORETICAL FRAMEWORK

[1] G ChapiOdekina, '64% of inmates awaiting trial as Correctional Service seeks ₦198.85bn for 2026', *Vanguard News* (Nigeria, 11 February 2026) <https://www.vanguardngr.com/2026/02/64-of-inmates-awaiting-trial-as-correctional-service-seeks-%e2%82%a6198-85bn-for-2026/> accessed 1 April 2026.
[2] Cap C23 LFN 2004.
[3] Administration of Criminal Justice Act 2015, s 396.

2.1 Conceptual Clarifications

The term "pre-trial" in criminal procedure refers to the period between the commission of an alleged offence and the commencement of formal trial proceedings.[4] This phase encompasses all activities that occur after arrest but before the presentation of evidence in court for adjudication.[5] In the Nigerian criminal justice system, the pre-trial stage includes investigation by the police[6], consideration of whether to file charges by the prosecutor[7], bail determination[8], and any preliminary hearings or applications.[9] It is a critical window during which the trajectory of a case can be determined, either proceeding to full trial or being resolved through alternative mechanisms.[10] The significance of this phase lies in its potential to divert cases before they consume judicial resources and subject suspects to the delays and collateral consequences of formal prosecution.[11]

Mediation is a voluntary, structured process in which a neutral third party assists disputing parties to communicate, negotiate, and reach a mutually acceptable yet non-binding resolution.[12] Unlike arbitration, where a third party imposes a decision, mediation leaves decision-making authority with the parties themselves.[13] The mediator facilitates dialogue, identifies underlying interests, and helps generate options for settlement, but does not adjudicate or compel agreement.[14] In the criminal context, mediation introduces principles of consensual dispute resolution into a system traditionally characterised by state prosecution and adversarial adjudication. Braithwaite, explaining restorative justice, observed that selected problem-prevention strategies empower stakeholders by placing the problem at the centre of a circle of deliberation, rather than placing the person alleged to

[4] Andrew Ashworth and Mike Redmayne, *The Criminal Process* (5th edn, Oxford University Press 2015) 121.
[5] John Sprack, *Emmins on Criminal Procedure* (13th edn, Oxford University Press 2019) 263-272.
[6] Administration of Criminal Justice Act 2015, ss 4-32,
[7] Ibid, sections 104, 109, and 376.
[8] Ibid, sections 158, 160, 161-188.
[9] Ibid, sections 221, 271, 293,299.
[10] FF Aduagba, 'Pre-trial Diversion from Criminal Proceedings: The Need for Legal Frameworks in Nigeria' (The Loyal Nigerian Lawyer, 8 June 2022) https://loyalnigerianlawyer.com/pre-trial-diversion-from-<criminal-proceedings-the-need-for-legal-frameworks-in-nigeria/> accessed 2 April 2026.
[11] Ibid; JJ Larsen, *Responding to Substance Abuse and Offending in Indigenous Communities: Review of Diversion Programs* (Australian Institute of Criminology 2008) 1–2; American Bar Association, *Criminal Justice Standards on Diversion* (ABA House of Delegates, August 2022) < https://www.americanbar.org/groups/criminal_justice/resources/standards/diversion/> accessed 2 April 2026.; B Gill, 'Collateral Consequences of Pretrial Diversion Programs Under the Heck Doctrine' *Washington and Lee Law Review*, [2019] (76), 1763.
[12] CW Moore, *The Mediation Process: Practical Strategies for Resolving Conflict* (4th edn, Jossey-Bass 2014) 14.
[13] Ibid, 16.
[14] LL Riskin, 'Understanding Mediators' Orientations, Strategies, and Techniques: A Grid for the Perplexed', *Harvard Negotiation Law Review* [1996] (1), 7, 45.

be responsible for it in the dock. [15] On this premise, it is posited that the essence of mediation is transformation: converting a conflict defined by opposition into a problem-solving dialogue where parties can address harm and craft remedies..

The concept of pre-trial criminal mediation therefore, emerged from broader movements of restorative justice in criminal justice reform that questioned the adequacy of purely punitive responses to crime.[16] Throughout the latter half of the twentieth century, scholars and practitioners observed that the formal adversarial system often failed victims, who felt marginalised and received little restitution; offenders, who faced stigmatisation and incarceration without accountability for the harm caused; and communities, who bore the costs of overcrowded prisons without corresponding safety benefits.[17] Restorative justice movements in North America, Europe, and Australasia began experimenting with victim-offender mediation programmes that brought parties together to address the consequences of crime in constructive ways.[18]

These early programmes typically operated post-conviction, as alternatives to sentencing. [19] However, practitioners soon recognised that intervention earlier in the process could yield even greater benefits.[20] Pre-trial mediation emerged as a distinct model when jurisdictions began diverting cases from prosecution entirely, using mediation as the basis for dismissing charges upon successful resolution.[21] This shift is therefore posit to require changes to prosecutorial practices, legislative frameworks, and institutional cultures. The key insight was that for certain categories of offences, particularly minor crimes and first-time offending, the formal trial process was unnecessary and potentially harmful.[22] By and large, mediation could achieve the goals of accountability, reparation, and deterrence more effectively and efficiently.

The formation of pre-trial mediation as a distinct concept also reflects a convergence of legal traditions.[23] Civil law jurisdictions with inquisitorial systems developed mechanisms for prosecutorial diversion. [24] Common law jurisdictions with adversarial traditions developed plea bargaining and, more recently, restorative justice

[15] J Braithwaite, *Restorative Justice and Responsive Regulation: The Question of Evidence* (RegNet Research Paper No 51, Australian National University 2016) 1.
[16] Howard Zehr, *The Little Book of Restorative Justice* (Good Books 2002) chap 1.
[17] Braithwaite, (14).
[18] MS Umbreit, *Victim Meets Offender: The Impact of Restorative Justice and Mediation* (Wipf and Stock Publishers, 2023) 3-7.
[19] ibid.
[20] Larsen, (n10)
[21] Aduagba, (9).
[22] Larsen (n 10)
[23] Council of Europe, 'Recommendation No R(99)19 of the Committee of Ministers to Member States on Mediation in Penal Matters' < https://search.coe.int/cm?i=090000168062e02b> accessed 2 April 2026.
[24] Mireille Delmas-Marty and J.R. Spencer (eds), *European Criminal Procedures* (Cambridge University Press 2002) 147–152 (France), 305–310 (Germany).

programmes.[25] Comparative learning has led to a synthesis: pre-trial mediation combines the consensual, party-driven character of mediation with the early intervention potential of prosecutorial discretion, creating a hybrid mechanism that operates at the intersection of informal dispute resolution and formal criminal process.[26]

Based on the foregoing analysis, this study posit that Pre-trial criminal mediation refers to a process in which a suspect and victim are brought together, under the supervision of a neutral facilitator, to negotiate a resolution of the criminal matter before formal prosecution proceeds. The goal is to reach an agreement that addresses the harm caused, often through restitution, apology, or community service, thereby rendering formal adjudication unnecessary. This concept is distinct from informal settlement and is characterised by structured procedures, eligibility criteria, and oversight by prosecutorial authorities. It provides the conceptual foundation for the analysis that follows, enabling systematic examination of how pre-trial criminal mediation can function within Nigeria's legal framework and what reforms are necessary to realise its potential for reducing the awaiting-trial population.

Awaiting-trial inmate denotes any person detained in a correctional facility who has been charged with a criminal offence but has not yet been tried or whose trial has not been concluded. Under Nigerian law, such individuals are entitled to the presumption of innocence[27] and should not be subjected to prolonged detention[28] without trial[29]. The term encompasses both those who have not been offered bail and those who have been offered bail but cannot meet the conditions.

Diversion describes the process of channelling a case away from formal criminal proceedings toward an alternative mechanism that addresses the underlying conduct without a conviction. Diversion may occur at various stages: pre-arrest, pre-charge, or post-charge but pre-trial. The defining feature is that successful completion of the diversion programme results in the charges being dropped or not filed.[30]

2.2 Theoretical Underpinnings

Two theoretical frameworks provide the foundation for analysing pre-trial criminal mediation in Nigeria. Restorative Justice Theory forms the primary theoretical basis. Restorative justice shifts the focus from retribution to repair. Rather than asking what law was broken and who should be punished, it asks what harm was caused and how it can be

[25] A Srivastava and N Jain, 'Exploring the Theoretical Intersections of Plea Bargaining vis-à-vis Restorative Justice in Criminal Trials' (2023) 5(2) *Journal of Research Administration*. [2023] (5) (2), 11952.
[26] ibid, 11954- 11956.
[27] Constitution of Federal Republic of Nigeria 1999, section 35(5)
[28] ibid, section 35(4)
[29] Beeior Ishenge v Commissioner of Police, Plateau State & Anor (2019) LPELR-48390(CA)
[30] Aduagba, (9).

remedied.[31] The theory posits that crime creates obligations: offenders owe a duty to victims and the community to make things right. Mediation provides the forum in which these obligations can be negotiated and fulfilled. For the awaiting-trial population, restorative justice offers a mechanism for early resolution that avoids the punitive consequences of formal proceedings while still holding offenders accountable. This aligns with the objectives of the ACJA 2015[32], which emphasises speedy dispensation of justice.

Procedural Justice Theory complements restorative principles by emphasising the importance of fair processes. Research demonstrates that individuals who perceive criminal justice processes as fair are more likely to accept outcomes, comply with decisions, and refrain from future offending.[33] Pre-trial mediation therefore, when properly conducted, affords both victim and offender the opportunity to participate directly in decision-making, to have their voices heard, and to shape the resolution. This contrasts with the typical experience of the formal trial process, where defendants often feel powerless and victims feel marginalised. From the perspective of reducing pre-trial detention, procedural justice suggests that mediation outcomes may be more durable and satisfactory than coercive case processing.

3. LEGAL AND INSTITUTIONAL FRAMEWORK IN NIGERIA

3.1 Constitutional Provisions

The 1999 Nigerian Constitution lays down certain bedrock principles that both limit and enable the use of pre-trial dirversion. Chief among them is section 36(5), which codifies the presumption of innocence: every person accused of a criminal offence is to be treated as innocent until the contrary is proved. This provision, it can be argued, carries an important corollary pre-trial detention ought to be an exception, not a default position. It follows that any mechanism which allows for early case resolution must be carefully designed so as not to infringe upon the rights of the suspect.

Complementing this is section 36(1), which secures the right to a fair hearing within a reasonable timeframe. When delays stem not from the accused's own actions but from systemic bottlenecks, extended pre-trial custody effectively undermines that guarantee. Pre-trial dirversion offers a way out, at least for those cases amenable to consensual

[31] D Van Ness and KH Strong, *Restoring Justice: An Introduction to Restorative Justice* (4th edn, Matthew Bender and Company, New Providence 2010), cited in J Tsado and BN Iwuagwu, 'Restorative Justice As Criminal Pre-Trial Diversion Tool: Blazing The Trail Through Prison Fellowship Nigeria-Lagos State Restorative Justice Pilot Project (Institute for Peace and Conflict Resolution, Abuja), 2-3.
[32] ACJA 2015, sections 1, 396(3), 396(4) and 396(7).
[33] TR Tyler, 'Procedural justice, legitimacy, and the effective rule of law' *Crime and justice*, [2003] (30), 283-357; C Hoyle and D Batchelor, 'Making Room for Procedural Justice in Restorative Justice Theory', *International Journal of Restorative Justice* [2018] (1), 175.

resolution by providing an avenue that bypasses the full trial process, thereby giving practical effect to this constitutional safeguard.

3.2 The Administration of Criminal Justice Act 2015

The Administration of Criminal Justice Act (ACJA) 2015 stands as the most consequential legislative intervention in Nigeria's pre-trial landscape to date. Within its provisions, several openings for diversionary thinking can be identified. Sections 30 and 31, for instance, empower the police to release a suspect on bail or recognizance where the offence is minor or where further investigation is warranted. Admittedly, neither section explicitly contemplates dirversion. Yet it can be argued that they embody a broader principle, namely, that the full trial process need not be the automatic destiny of every suspect. With the right operational framework, these provisions could be extended to accommodate pre-charge mediation in minor cases.

More specifically, section 30 governs police powers in relation to investigation and bail, authorising the release of suspects arrested without warrant under certain conditions where the offence is petty, or where additional inquiries are needed. The section also imposes a duty to avoid unnecessary detention and to conclude investigations promptly. Taken together, these obligations open a procedural window for early intervention. If mediation were to take place within this investigative phase, minor disputes could potentially be resolved before any charge is formally filed, easing court congestion and advancing restorative goals. The judiciary, for its part, has repeatedly affirmed the constitutional imperative against prolonged custody. In *Lufadeju v Johnson*[34], the Supreme Court held that indefinite detention without trial constitutes a violation of the right to liberty guaranteed under section 35 of the Constitution. Reading section 30 alongside such judicial pronouncements, one begins to see that Nigeria's criminal justice framework does, at least implicitly, leave room for pre-trial mediation as a diversionary device.

Turning to plea bargaining, sections 270 to 276 of the ACJA lay out a detailed regime. Under section 270(2), the prosecutor may enter into a plea agreement with a defendant in several scenarios: where the evidence falls short of proving the charge beyond reasonable doubt; where the defendant agrees to return the proceeds of crime or make restitution; or where the defendant has cooperated with the investigation or prosecution. Notably, section 270(2)(b) makes explicit reference to restitution to the victim, thereby forging a link between plea bargaining and restorative outcomes.[35] That said, plea bargaining under the ACJA remains conviction-based; the defendant must enter a guilty plea, and the court must record a conviction. This is precisely what distinguishes it from pure pre-trial dirversion, where a successful resolution would obviate conviction altogether.

[34] (2007) 8 NWLR (Pt 1037) 535
[35] *PML Nig Ltd v FRN* (2018) 7 NWLR (Pt 1619) 448 at 470-471, per Augie JSC.

Victim participation is also acknowledged. Section 270(5) requires the prosecutor to consult with the victim or the victim's representative before finalising any plea agreement, a gesture that aligns with restorative principles. Similarly, section 270(6) affords the victim an opportunity to make representations concerning the content of the agreement, including the inclusion of compensation or restitution orders.

The courts have had occasion to interpret these provisions in a number of significant rulings. In *Romrig Nigeria Ltd v FRN*[36], the Supreme Court, per Augie JSC, defined a plea bargain as a negotiated arrangement in which the accused agrees to plead guilty to a lesser offence, or to one of several charges, in exchange for concessions from the prosecutor, typically a reduced sentence or the dropping of other counts. The Court stressed that a plea bargain must culminate in a conviction, however minor the offence, and that it operates *in personam*, meaning the accused must personally bear the conviction. In *Igbinedion v FRN*[37], the Court of Appeal affirmed the validity of plea agreements entered under the ACJA framework, observing that the practice had come to stay as part of Nigerian criminal procedure. Then, in *Olumide Agbi v FRN*[38], the Court of Appeal held that where a trial court intends to impose a heavier sentence than that agreed upon in a plea bargain, section 270(11)(c) requires the court to notify the defendant of that intention, thereby affording the defendant an opportunity to withdraw from the agreement. In that case, the Court struck down a three-year sentence imposed without such notification, restoring the one-month term originally agreed. These cases collectively illustrate the restorative potential of plea bargaining through restitution and victim involvement but also its inherent limitations, since it remains conviction-bound and falls short of being a true diversionary mechanism.

Beyond plea bargaining, sections 453 to 459 provide for probation, allowing a court to release an offender without imposing a sentence where guilt has been established but the court considers punishment inappropriate given the offender's age, character, or mental condition. Although this occurs post-conviction, it shares with pre-trial dirversion the underlying objective of avoiding custodial sentences.

For all these provisions, however, the ACJA does not establish a comprehensive or coherent framework for pre-trial diversion or mediation. As commentators have rightly observed, Nigeria currently lacks any dedicated legal structure for pre-trial diversion; discussion of the procedure remains largely speculative. [39] The Act offers tools that could, with imagination and institutional will, be adapted for diversionary ends but it stops short

[36] *Romrig Nigeria Ltd v FRN* (2018) LPELR-44675 (SC); see also *PML Nig Ltd v FRN* (2018) 7 NWLR (Pt 1619) 448.
[37] (2014) LPELR-22766 (CA); see also *Nuhu Abdu Ibrahim Muhammed v FRN* (2019) LPELR-13505 (CA).
[38] (2020) 15 NWLR (Pt 1748) 416 at 435-438 (CA); see also *Ijire v FRN* (2020) LPELR-14446 (CA).
[39] Aduagba, (9).

of creating a distinct system with clear eligibility criteria, robust procedural safeguards, and well-defined outcomes.

3.3 Institutional Actors

The effectiveness of any pre-trial mediation framework depends on the coordination of several institutions. First among other is the Nigeria Police Force. The force serves as the first point of contact for most suspects. Police officers conduct investigations, make arrests, and decide whether to charge suspects to court. Currently, police practices often exacerbate the awaiting-trial problem. A culture of arresting first and investigating later, coupled with demands for informal payments, leads to cases being filed without sufficient evidence, contributing to prolonged proceedings.[40] Police-level mediation would require significant training and cultural change to shift from an enforcement mindset to a restorative orientation.

Second institution is the Ministry of Justice and Directorate of Public Prosecutions who exercise prosecutorial authority. The the office of the minister of justice has the power to discontinue prosecution through the *nolle prosequi*[41] and can decide not to file charges where the evidence is insufficient or where diversion is appropriate. Prosecutorial diversion programmes common in other jurisdictions place this power at the centre of pre-trial mediation. In Nigeria, however, prosecutorial discretion is often exercised without structured guidelines, leading to inconsistency and potential for abuse.

The third institution under consideration is the Nigeria Correctional Service (NCoS). The NCoS manages custodial facilities and bears the immediate consequences of the awaiting-trial crisis. The NCoS is responsible for feeding, housing, and securing individuals who have not been convicted. With 64% of inmates awaiting trial, the Service's resources are stretched thin, and its rehabilitative mission is compromised.[42] The NCoS also administers non-custodial measures, which could include supervision of participants in pre-trial diversion programmes.

The last institution under consideration in this study is the Judiciary. ultimately the judiciary controls the trial process.[43] Courts have the power to grant bail[44], to monitor

[40] L Uche, *Pre-trial Detention and the Implication of the Bail Provision under the ACJA 2015* (NIALS Policy Bulletin, Vol 16, 2023) 1.
[41] See generally, CFRN 1999, sections 174 and 211; see also *State v Ilori* (1983) 1 SCNLR 94,
[42] M Adeyemi, 'Awaiting trial inmates make up 64% of prisons - NCoS reveals' The Eagle Online (Nigeria 11 February 2026) < https://theeagleonline.com.ng/awaiting-trial-inmates-make-up-64-of-prisons-ncos-reveals/> accessed 3 April 2026.
[43] CFRN 1999, section 6(6)(b)
[44] Ibid, Section 35(4) & (5); ACJA 2015, Sections 158–164, see also Suleman v COP, Plateau State (2008) 8 NWLR (Pt 1089) 298 SC

remand orders[45], and to accept or reject plea agreements[46]. It is humbly submitted that judicial attitudes toward pre-trial mediation vary, and there is no uniform approach to handling cases that could be diverted. Magistrates are required under the ACJA to visit police stations monthly to inspect custody records[47], but juxtaposing this provision with the reported 64% of inmate awating trial, it most respectfully submitted that the oversight function provide by section 34 and by extension section 33 of the ACJA 2015 is often poorly implemented.

3.4 Gaps in the Existing Framework

When examined closely, Nigeria's legal and institutional landscape for pre-trial criminal dirversion reveals three notable deficiencies. The first is the absence of any statutory criteria for determining who qualifies for diversion. Nowhere does the ACJA specify which categories of offence might be suitable for alternative resolution. In practice, this leaves police officers and prosecutors to exercise their own judgment in the absence of any clear benchmarks. The result is a system prone to inconsistency: diversion may be applied too liberally to grave offences on one hand, or withheld entirely from trivial ones on the other, depending largely on who happens to be handling the file.

A second shortcoming lies in the lack of a procedural framework for mediation itself. Even when law enforcement officials are inclined to pursue an alternative path, there exist no formal mechanisms for referring cases, appointing mediators, conducting settlement sessions, or recording the terms of any agreement reached. With no standardised forms or protocols to guide the process, outcomes hinge almost entirely on the discretion of the individual officer or prosecutor, leaving the system vulnerable to arbitrariness and uneven application.

Third, and equally significant, is the complete absence of provisions for record expungement. In many other jurisdictions, a defining feature of pre-trial diversion is that successful completion leads to the dropping of charges and the erasure of arrest records. In Nigeria, however, even where a matter is resolved informally, the arrest continues to appear on the individual's record. This lingering blemish can have lasting consequences, hindering employment opportunities, damaging social reputation, and undermining the very restorative objectives that diversion is meant to serve.[48]

[45] ACJA 2015, 293–296; I Aliyu, 'Decongestion of Nigerian prisons: An examination of the role of the Nigerian police in the application of the holding-charge procedure in relation to pre-trial detainees." (2019). *African Human Rights Law Journal* [2019] (19) (2), 779-792.
[46] ACJA 2015, Section 270(9)
[47] Ibid, section 34.
[48] Aduagba, (9).

4. CAUSES OF HIGH AWAITING-TRIAL POPULATION

Understanding the causes of the awaiting-trial crisis is essential for evaluating the potential contribution of pre-trial mediation. The causes are multiple and interconnected. There are therefore examined anon:

4.1 Policing Practices

Police investigation practices contribute directly to prolonged detention. The pattern of arresting first and investigating later means that suspects are often detained before any evidence has been gathered. When investigations are eventually concluded, they may be deficient, leading to weak cases that cannot be proved beyond reasonable doubt.[49] Rather than releasing such suspects, police may forward the case to court anyway, where it joins the backlog of pending matters.[50]

Additionally, the practice of parading suspects before the media, condemned by courts[51] and human rights advocates, reflects a presumption of guilt that undermines the possibility of pre-trial resolution.[52] When suspects have been publicly labelled as criminals, police and prosecutors face pressure to proceed with formal charges regardless of whether diversion might be more appropriate.

4.2 Bail and Remand Practices

Bail decisions significantly affect the awaiting-trial population. While the ACJA requires courts to grant bail except in specified circumstances, bail conditions often include requirements that suspects cannot meet: sureties with property within the court's jurisdiction, substantial cash deposits, or travel restrictions. For many suspects, particularly those who are poor or who lack family connections, these conditions amount to detention without the possibility of release.[53]

Magistrates may also order remand in correctional facilities without considering alternatives. The ACJA mandates that remand should be ordered only when necessary and that courts should provide reasons for detention. In practice, however, remand orders are issued routinely, and periodic review is inconsistent.

[49] IGP & ANOR v. UBAH & ORS (2014) LPELR-23968 (CA)
[50] Uche, (n39).
[51] *Ndukwem Chiziri Nice V. AG, Federation & Anor. (2007) CHR 218 AT 232.*
[52] A Adebamiwa, 'If EFCC Must Parade Suspects, Start With Corrupt Politicians' (Global Upfront Newspapers, 11 September 2025) <https://globalupfront.com/2025/09/11/if-efcc-must-parade-suspects-start-with-corrupt-politicians/> accessed 1 April 2026.
[53] Uche, (n39).

4.3 Judicial Delays

Criminal proceedings in Nigeria are notoriously lethargic. Cases grind through the system at a glacial pace, plagued by frequent adjournments sometimes because a judge is unavailable, other times because a witness has failed to appear, a defendant has not been produced from custody, or a case file has simply gone missing. The sheer volume of matters brought before the courts overwhelms whatever institutional capacity exists, and there is little in the way of effective case management to ensure that the oldest matters receive priority over newer ones.[54]

For a defendant caught in this machinery, the wait can be excruciating. Months may pass before arraignment; then more months, sometimes years before trial dates are fixed; and then yet more time before judgment is eventually delivered. Throughout this prolonged ordeal, the individual remains behind bars unless bail has been granted. The cumulative consequence is stark: many of those held in pre-trial custody have already spent more time in detention than the maximum sentence they would have received had they been tried and convicted of the offence with which they are charged.

4.4 Inter-Agency Coordination

Delays are further compounded by a conspicuous lack of coordination among the key agencies involved police, prosecutors, and correctional services. Case files frequently disappear in transit from one agency to another. Court dates are scheduled without any reliable mechanism for ensuring that the defendant will actually be produced from custody on the appointed day. Remand orders lapse without being formally renewed, yet inmates remain incarcerated simply because no one thinks to notify the correctional authorities.

The ACJA 2015 sought to tackle these persistent dysfunctions through a number of targeted interventions. It introduced, for instance, a case management framework and mandated regular inspections of detention facilities. The Act also established the Central Criminal Records Registry, intended to ensure proper documentation of arrests [55], while simultaneously requiring that court proceedings be recorded whether electronically or in writing [56] as a means of strengthening case tracking. Additionally, Magistrates were charged with the duty of conducting monthly inspections of police stations and detention centres[57], and the police were obliged to submit quarterly arrest reports to the Attorney

[54] C Amakiri and MF Chichezum, 'Delays in the Nigerian Criminal Justice System: Causes and Consequences' (2025) *International Journal of Social Sciences and Management Review* [2025] (11) (6), 351–359, 353.
[55] ACJA 2015, Section 16
[56] Ibid, Section 364
[57] Ibid, Section 33

General.[58] These measures were plainly designed to curb unlawful detention, expedite proceedings, and enhance institutional accountability.

Yet, with respect, the reality on the ground tells a different story. Implementation has been patchy at best. A significant number of states have yet to adopt the ACJA, and even in jurisdictions where it formally applies, enforcement remains weak and irregular.

4.5 Resource Constraints

All agencies in the criminal justice system operate under significant resource constraints. The Nigeria Correctional Service reported that only 22.2 per cent of its capital appropriation for 2025 was released, leaving critical infrastructure needs unmet.[59] The judiciary suffers from insufficient courtrooms, inadequate staffing, and outdated facilities. Legal aid is scarce, meaning many suspects face trial without representation, further slowing proceedings.

The foregoing constraints creates a cycle. Resources are insufficient to process cases quickly, leading to congestion; congestion increases costs and demands on resources; and the system becomes further strained.

5. PRE-TRIAL CRIMINAL MEDIATION: MECHANISMS AND MODELS

5.1 Mediation at Police Level

At the very earliest stage of the criminal justice process, during investigation, before any charge has been formally filed police-level mediation can take place. This is the first possible point of intervention, and for that reason, it also holds the greatest promise for keeping cases out of the formal system altogether. In practice, the mechanism typically involves the investigating officer or a designated mediator bringing the suspect and the victim together for a facilitated discussion, with a view to negotiating a mutually acceptable resolution.

The advantages of intervening at this stage are considerable. For one, cases are diverted before they can consume scarce prosecutorial and judicial resources. Equally important, the suspect is spared the stigma that comes with formal charges and the psychological toll of courtroom proceedings. The process itself tends to move swiftly, often wrapping up in days or weeks rather than dragging on for months. For minor offences in particular, police-level mediation offers a proportionate response that repairs the harm caused without resorting to the heavy hand of criminalisation.

[58] Ibid, Section 34
[59] ChapiOdekina, (n1).

That said, police-level mediation in Nigeria is not without its considerable obstacles. For one, officers are seldom trained as mediators, and many lack the facilitative skills necessary to conduct balanced and fair discussions. This deficiency has not gone unnoticed by the Nigeria Police Force itself; in 2022, the Force entered into a partnership with the Institute of Chartered Mediators and Conciliators aimed at equipping Community Policing officers with professional training in mediation, reconciliation, and conflict resolution. [60] The stated objective was to broaden the skill base of personnel and encourage a more citizen-centred approach to policing. [61] Yet despite these efforts, reports suggest that a significant number of officers have never received any formal training since enlisting; an indication that such initiatives have yet to reach the rank and file in any meaningful way.

Beyond the training deficit, there is a deeper structural concern: the inherent power asymmetry between officers and suspects risks rendering any mediated agreement inherently coercive. In Nigeria, standard policing practice typically involves arresting a suspect before any meaningful investigation has taken place, a pattern that has been described in the literature as an "ill-disguised first step in a well-established extortion or torture routine."[62] When the very same officers who hold the authority to detain also assume the role of mediators, the voluntariness of the suspect's participation becomes deeply questionable. Rights organisations have documented that investigating officers effectively operate as "gods" within detention facilities, exercising near-absolute control over how long a suspect remains in custody and whether the matter proceeds to court at all. [63] Under such conditions, any agreement reached can hardly be said to reflect genuine consent.

Corruption presents another genuine and pressing concern. Rather than functioning as a bona fide restorative process, mediation could easily be subverted into a vehicle for extortion by officers seeking personal enrichment. Investigative reports have laid bare the systematic nature of such practices at police stations, where detainees and their families are subjected to demands for payment at virtually every turn fees simply to see a detained relative, fees to deliver food, and even percentage cuts taken from money sent to those in custody.[64] The police's much-publicised "Bail is Free" campaign has been dismissed by observers as little more than a "ruse," given that officers routinely demand substantial sums

[60]Editorial, 'Police Partner Mediation Institute to Boost Community Policing', Vanguard News (Nigeria, 12 September 2022) <https://www.vanguardngr.com/2022/09/police-partner-mediation-institute-to-boost-community-policing/> accessed 3 April 2026.
[61] ibid
[62] Network on Police Reform in Nigeria and Open Society Justice Initiative, *Criminal Justice Monitor: Assessment of Detention, Police and Judicial Statistics in Nigeria* (NOPRIN/OSJI, 2010) 15.
[63] OP Inimiesi and E George, 'Human Rights Violation by Law Enforcement Agents in Nigeria' (2025) *International Journal of Research and Scientific Innovation* [2025] (XII) (X), 826–827 <https://dx.doi.org/10.51244/IJRSI.2025.1210000070> accessed 3 April 2026.
[64] ibid

before releasing suspects.[65] A 2010 assessment starkly characterised detention as "often an ill-disguised first step in a well-established extortion or torture routine." [66] More recent documentation suggests that little has changed; there are well-attested instances of suspects being held for weeks without charge while families are subjected to mounting pressure to raise funds for their release. [67]

These risks are further amplified by the absence of structured procedures and independent oversight. Unlike formal prosecutorial diversion programmes, which typically operate within clearly defined guidelines, police-level mediation in its current informal state lacks the basic safeguards needed to prevent abuse. [68] Rights organisations have consistently identified the failure to comply with the Administration of Criminal Justice Act which expressly prohibits detaining suspects beyond 48 hours without arraignment as a persistent obstacle to fair policing.[69] Without statutory frameworks that spell out eligibility criteria, require written agreements, and establish independent monitoring mechanisms, police mediation threatens to become yet another channel for exploitation rather than a credible route to restorative outcomes. [70] This concern is hardly theoretical; there are documented instances of senior police officers allegedly shielding suspects from lawful arrest and prosecution, underscoring just how weak institutional accountability mechanisms remain in practice. [71]

Useful guidance can be drawn from comparative jurisdictions. In the United Kingdom, for instance, the framework of Out-of-Court Disposals includes what are known as Community Resolutions, a mechanism that enables police to address minor offences through restorative interventions without resorting to formal prosecution. [72] These interventions may take various forms: an apology from the offender, reparation for damage caused, or a facilitated restorative conversation between the parties involved. The system operates within clearly defined parameters, including explicit eligibility criteria, mandatory recording of outcomes, and robust oversight to guard against misuse. Notably, as of November 2025, the terminology shifted from "out-of-court disposals" to "out-of-court

[65] ibid
[66] Network on Police Reform in Nigeria and Open Society Justice Initiative, (n62).
[67] Inimiesi and E George, (n63), 827–828.
[68] Asabe Waziri Justice Advocacy Initiative, 'Oversight Visit to Bwari Police Station' (25 June 2025) < https://awjai.org/2024/11/08/bwari-police-station-oversight-visit/> accessed 3 April 2026.; I Joshua, 'The Nigeria Police Force Has a Detention Anomaly That Should Not Exist' *TheCable* (20 January 2025) < https://www.thecable.ng/the-nigeria-police-force-has-a-detention-anomaly-that-should-not-exist/> accessed 3 April 2026.
[69] ibid
[70] Ibid; Section 35(4) of the 1999 Constitution (as amended) and Section 15(2) ACJA 2015.
[71] I Igwe, '151 Senior Police Officers Face Disciplinary Committee Over Alleged Misconduct' (Channels TV, 16 July 2025) < https://www.channelstv.com/2025/07/16/151-senior-police-officers-face-disciplinary-committee-over-alleged-misconduct/> accessed 3 April 2026.
[72] HM Inspectorate of Probation, *Out-of-Court Disposals* (HMIP, 2024); College of Policing, *Possible Justice Outcomes Following Investigation* (College of Policing, 21 February 2024).

resolutions" a change intended to signal a child-first philosophy and to move away from language that carries stigmatising overtones.[73]

5.2 Prosecutorial Diversion

Prosecutorial diversion occurs after charges could be filed but before the case is formally presented to the court. The prosecutor, typically through the Directorate of Public Prosecutions, reviews the case and determines that it is appropriate for diversion rather than prosecution. The suspect is offered the opportunity to participate in a diversion programme, and successful completion results in the charges not being filed.

This model places prosecutorial discretion at the centre of the process. It requires prosecutors to have the authority to suspend prosecution pending diversion and to dismiss charges upon successful completion. The DPP must establish clear guidelines for eligibility, programme content, and monitoring.

Prosecutorial diversion programmes are well-established in the United States. The State Attorney's Office for the Ninth Judicial Circuit in Florida operates a Pretrial Intervention Programme that allows eligible defendants to complete diversion requirements in exchange for charges being dropped.[74] Participants pay a programme fee, complete educational courses, and perform community service. Successful completion results in charges being dropped, while failure results in prosecution resuming. Eligibility is limited to certain offence types and requires the prosecutor's approval.

For Nigeria, prosecutorial diversion offers a structured alternative that builds on existing prosecutorial powers. It is respectfully submitted that the DPP could develop guidelines specifying which offences are eligible, what conditions may be imposed, and what constitutes successful completion. This would formalise what currently occurs inconsistently and informally.

5.3 Plea Bargaining as Quasi-Mediation

Plea bargaining under the ACJA shares some features with mediation but remains distinct. It occurs after charges have been filed and requires the defendant to plead guilty. The agreement is between the prosecutor and the defendant, though the victim must be consulted. The court must approve the agreement and impose a sentence.

Plea bargaining can incorporate restorative elements. Section 270(2)(b) specifically contemplates restitution to the victim. Section 270(5) requires consultation with the victim.

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[73] ibid.

[74] Office of the State Attorney Ninth Judicial Circuit, 'Pretrial Intervention Level 1' (SAO9)< https://sao9.net/resources/alternatives-to-prosecution/pretrial-intervention-programs/pretrial-intervention-level-1/> accessed 1 April 2026.

Section 270(6) affords the victim the opportunity to make representations regarding compensation. These provisions create space for victim participation and for resolutions that address the harm caused.

However, plea bargaining remains conviction-based. The defendant must admit guilt and accept a criminal record. This is a significant distinction from pure pre-trial mediation, where successful resolution avoids conviction entirely. For minor offences and first-time offenders, the consequences of a criminal record may outweigh the benefits of early resolution.

Plea bargaining could be adapted to serve as a quasi-mediation mechanism by expanding the role of victims and emphasising restorative outcomes. Courts could be encouraged to accept agreements that focus on restitution and rehabilitation rather than punishment. The ACJA already permits this to some extent, but practice varies widely.

5.4 Comparative Insights

Comparative jurisdictions offer models that Nigeria can adapt. For instance, the United Kingdom's Out-of-Court Resolutions. The UK system of out-of-court resolutions provides a tiered approach to diversion. Community Resolutions are used for low-level offences and involve restorative interventions without formal sanctions. Youth Cautions and Conditional Cautions impose requirements such as rehabilitation programmes or reparation. The system emphasises multi-agency partnership, with youth justice services, police, health services, and community organisations collaborating to address the underlying causes of offending.[75] Effective practice includes engaging with victims, ensuring their views inform decision-making, and providing culturally responsive interventions for diverse populations.

Another model Nigeria could adopt is the United States's Pre-Trial Diversion Programmes**.** US jurisdictions operate a range of pre-trial diversion programmes, typically administered by prosecutors' offices. Eligibility is generally limited to first-time offenders and non-violent offences. Programmes may include community service, counselling, educational courses, and drug testing. Successful completion results in charges being dropped, and participants avoid criminal records.[76] Some programmes offer expungement of arrest records, further reducing collateral consequences.

One more model Nigeria could adopt is the Australia's Diversion for Summary Offences**.** Australian law provides for diversion of summary offences and indictable

[75] HM Inspectorate of Probation and HM Inspectorate of Constabulary and Fire & Rescue Services, *Effective Practice – Out-of-Court Disposals* (October 2025) 6–8 < https://cdn.websitebuilder.service.justice.gov.uk/uploads/sites/32/2025/10/Effective-Practice-Out-of-Court-Disposals.pdf> accessed 3 April 2026.

[76] TE Ulrich, 'Pretrial Diversion in the Federal Court System' *Federal Probation* [2002] (66) (3), 3–10.

offences that can be tried summarily. The process requires the defendant to acknowledge responsibility and requires prosecutorial approval. A diversion notice is filed, and a magistrate conducts a hearing to determine eligibility. If the defendant completes the diversion programme, the charges are dismissed.[77]

Croatia's Victim-Offender Mediation is another model Nigeria could adopt. Croatia has developed a sophisticated system of out-of-court settlement focused on victim-offender mediation. The process is available for certain offences and requires both parties' consent. Mediators work to facilitate agreements that address the harm caused. Research on the Croatian model demonstrates positive outcomes for both victims and offenders, including high satisfaction rates and reduced recidivism.[78]

6. BENEFITS OF PRE-TRIAL MEDIATION

6.1 Reduction in Awaiting-Trial Population

The most direct benefit of pre-trial mediation is its potential to reduce the number of individuals detained while awaiting trial. Each case diverted at the police or prosecutorial stage is one less case entering the formal system. Each case resolved through mediation is one less case contributing to court backlogs. For correctional facilities operating beyond capacity, the cumulative effect could be substantial.

The impact extends beyond the immediate reduction in numbers. Cases that are diverted early avoid the cycle of adjournments and delays that characterise the formal system. They do not require the production of defendants from correctional facilities, which consumes transport and security resources. They do not occupy court time that could be devoted to more serious matters.

6.2 Victim Benefits

Pre-trial mediation offers victims the opportunity to participate directly in the resolution of their cases. In the formal system, victims are often passive observers: they report crimes, they may testify at trial, but they have little control over the outcome. Mediation allows victims to explain the impact of the offence, to ask questions, and to negotiate terms of resolution.

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[77] Aduagba, (9); L Lim, 'Predictors of Success in the South Australian Magistrates Court Diversion Program' (Paper presented at *Mental Health Issues and the Administration of Justice Conference*, Australasian Institute of Judicial Administration, Adelaide, 18–20 February 2010); Y-L Soon, and Others, 'Mentally ill offenders eligible for diversion at local court in New South Wales (NSW), Australia: factors associated with initially successful diversion' (2018) 29(5) *Journal of Forensic Psychiatry & Psychology* [2018] (29) (5), 705–716

[78] A Mirosavljević, N Koller-Trbović and D Lalić-Lukač, 'Evaluation of the Efficiency of Victim-Offender Mediation (VOM) in Zagreb Professional Service for VOM in Cases of Juvenile Offenders', *Kriminologija & socijalna integracija* [2010] (18) (2), 77–95.

Victims may receive restitution more quickly and more reliably through mediation than through formal court orders. Agreements reached through mediation often include specific terms for repayment or repair, and participants may feel more committed to fulfilling terms they have negotiated than terms imposed by a court. Research from restorative justice programmes consistently shows high victim satisfaction rates.[79]

6.3 Offender Benefits

For offenders, particularly first-time offenders and those accused of minor offences, pre-trial mediation offers the possibility of avoiding a criminal record. The consequences of a criminal record in Nigeria can be severe: difficulty finding employment, loss of educational opportunities, social stigma, and family disruption. Avoiding conviction preserves the individual's ability to contribute productively to society.

Pre-trial mediation also avoids the trauma of pre-trial detention. Even short periods in correctional facilities expose individuals to overcrowded conditions, potential violence, and separation from family. For those who are ultimately found not guilty or whose cases are dismissed, the experience of detention remains an injustice that mediation could prevent.

6.4 Systemic Benefits

Pre-trial mediation benefits the criminal justice system as a whole. It reduces court congestion, freeing judges and magistrates to focus on serious cases that require full adjudication. It reduces correctional costs, as each individual diverted is one fewer person requiring housing, feeding, and medical care. The Nigeria Correctional Service budget for 2026 includes N14.83 billion for feeding an estimated 91,100 inmates at N1,125 per inmate daily.[80] Reducing the awaiting-trial population would yield significant savings.

Mediation also reduces the costs of prosecution and legal aid. Cases that are resolved early do not require the preparation of witnesses, the presentation of evidence, or the management of appeals. For an overburdened system, these savings are substantial.

6.5 Restorative Outcomes

Beyond the instrumental benefits, pre-trial mediation serves restorative values. It emphasises accountability. offenders confront the consequences of their actions directly. It promotes healing: victims receive acknowledgment of harm and may experience closure. It engages the community. resolutions may include community service that benefits local

[79] Ibid, 4.
[80] ChapiOdekina, (n1).

areas. These outcomes align with the rehabilitative goals of the correctional system and may reduce recidivism.

7. CHALLENGES AND LIMITATIONS

7.1 Risk of Corruption

In face of the glaring benefits of Pre-Trial Mediation, it is not without its challenges. The most significant challenge to pre-trial mediation in Nigeria is the risk of corruption. Diversion programmes create opportunities for discretion, and discretion creates opportunities for exploitation. Police officers might use the prospect of mediation to extract payments from suspects. Prosecutors might condition diversion on informal payments. The absence of transparent guidelines and oversight would leave the system vulnerable to abuse.

This risk cannot be dismissed as speculative. The Nigerian criminal justice system has long struggled with corruption at all levels.[81] Any mediation framework must include robust safeguards: clear eligibility criteria, written agreements, judicial or prosecutorial oversight, and mechanisms for victims and offenders to report abuse.

7.2 Victim Vulnerability and Coercion

Pre-trial mediation requires voluntary participation from both parties. In cases involving power imbalances, such as domestic violence or exploitation, the risk of coercion is substantial. Victims may feel pressured to participate out of fear, family obligations, or economic dependence. Offenders may use mediation to manipulate or intimidate victims further.

Protecting vulnerable victims requires careful screening of cases. Domestic violence, sexual assault, and other offences involving power imbalances may be unsuitable for mediation, at least without specialised safeguards. The presence of legal counsel for both parties and the ability to withdraw at any time are essential protections.

7.3 Absence of Legal Framework

The absence of a statutory framework for pre-trial mediation creates inconsistency and uncertainty. Without clear eligibility criteria, different police stations and prosecutorial offices may apply different standards. Without standardised procedures, the quality of

[81] SG Ediagbonuvie and PI Gasiokwu, 'Emerging Trends in Judicial Corruption in Nigeria', *Global Journal of Politics and Law Research*, [2025] (13) (4), 119–20; M Uzochukwu, 'Corruption in Nigeria: Review, Causes Effects and Solutions' <https://www.soapboxie.com/world-politics/corruption-in-nigeria.htm/> accessed 2 April, 2025.

mediation may vary widely. Without provisions for expungement, successful participants may still carry arrest records.

Legislative action is necessary to address these gaps. The National Assembly and state Houses of Assembly should consider amendments to the ACJA that establish a comprehensive pre-trial diversion framework. Such legislation should specify eligible offences, define the roles of police and prosecutors, establish mediator qualifications, provide for record expungement, and create oversight mechanisms.

7.4 Capacity Constraints

Implementing pre-trial mediation requires trained mediators, supervision structures, and monitoring systems. Nigeria currently lacks these resources. Police officers have not been trained in restorative practices. Prosecutors have not been trained in diversion case management. Correctional services lack the capacity to supervise participants in community-based programmes.[82]

Building capacity requires investment. Training programmes for mediators must be developed and delivered. Supervisory structures must be established within prosecutorial offices. Monitoring systems must track outcomes and identify problems. The NCoS has requested N37.99 billion for implementing non-custodial measures across 774 local government areas, indicating recognition of the need for expanded capacity.[83]

7.5 Cultural and Public Perception

Pre-trial mediation may face resistance from a public accustomed to punitive approaches. Victims may perceive mediation as letting offenders off lightly. Communities may view diversion as injustice. Police and prosecutors may resist because they see their role as punishing rather than mediating.

Addressing these perceptions requires public education about restorative justice principles. Demonstrating the benefits of mediation through pilot programmes and published outcomes can build support. Engaging community leaders, religious figures, and civil society organisations in the design and implementation of mediation programmes can increase acceptance.

7.6 Defining Appropriate Cases

Not all cases are suitable for pre-trial mediation. Serious violent offences, sexual offences, and cases involving organised crime should generally proceed through formal prosecution.

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[82] AO Chukwu, Criminal Mediation: A Case For The Decongestion Of Nigeria Correctional Centre And Court Overload' (Being Long Essay Submitted to the faculty of Law Taraba State University, Jalingo 2023), 64-66.
[83] Adeyemi, (n41).

Even among minor offences, certain circumstances may render mediation inappropriate: the offender may have a history of similar conduct, the victim may be unwilling to participate, or there may be public interest in prosecution.

Establishing clear eligibility criteria is essential. These criteria should specify offence types, offender characteristics, victim considerations, and public interest factors. The criteria must be applied consistently while allowing for professional judgment in individual cases.

8. CONCLUSION AND RECOMMENDATIONS

8.1 Conclusion

The persistent growth of the awaiting-trial population in Nigeria's correctional facilities reflects deep structural deficiencies within the criminal justice system. Prolonged pre-trial detention undermines the constitutional presumption of innocence, infringes upon the right to personal liberty and fair hearing, and contributes significantly to prison congestion and systemic inefficiency. The continued reliance on formal prosecution and custodial detention for all categories of criminal cases has proven inadequate in addressing these challenges. This study has demonstrated that pre-trial diversion offers a viable and practical strategy for reducing the number of awaiting-trial inmates in Nigeria. Through the application of restorative justice and procedural justice theories, the paper establishes that appropriate cases can be resolved outside the conventional trial process without compromising accountability, victims' interests, or public confidence in the administration of justice. Existing mechanisms within the Administration of Criminal Justice Act 2015, including police bail, prosecutorial discretion, and plea bargaining, provide a foundation upon which a broader diversion framework may be developed.

Comparative experiences from other jurisdictions further illustrate that structured diversion programmes can reduce unnecessary detention, promote rehabilitation, encourage victim participation, and improve the efficiency of criminal justice institutions. However, the absence of a comprehensive legal and institutional framework governing diversion in Nigeria continues to limit the effective use of these mechanisms. Accordingly, the paper argues that legislative reforms establishing a statutory pre-trial diversion framework, supported by clear eligibility criteria, procedural safeguards, institutional guidelines, and trained personnel, are necessary. Properly implemented, pre-trial diversion can reduce awaiting-trial detention, promote restorative justice objectives, and contribute to a more efficient, humane, and rights-oriented criminal justice system in Nigeria.

8.2 Recommendations

For the effective implementation of Pre-Trial Dirversion, the underling recommendations are proposed.

1. The National Assembly should enact amendments to the Administration of Criminal Justice Act 2015 establishing a comprehensive pre-trial diversion framework. The amendments should include:

i. Definition of eligible offences**.** Diversion should be available for offences punishable by imprisonment not exceeding three years, with exclusions for violent offences, sexual offences, and offences against the state. First-time offenders should receive priority consideration.

ii. The Act should specify procedures for police-level diversion, prosecutorial diversion, and court-ordered diversion. It should require written diversion agreements, specify the conditions that may be imposed, and establish time limits for completion.

iii. Successful completion of diversion should result in charges not being filed or being dismissed, and the record of arrest should be expunged. This provision is essential to ensure that diversion achieves its full benefit for participants.

iv. The Act should establish oversight committees at state and federal levels to monitor diversion programmes, collect data on outcomes, and investigate complaints of abuse.

2. The Directorate of Public Prosecutions should develop guidelines for prosecutorial diversion, specifying eligibility criteria, programme conditions, and monitoring procedures. The guidelines should be published and made available to the public to ensure transparency.
3. The Nigeria Police Force should establish specialised units for police-level mediation, with officers trained in restorative practices. Police mediation should be documented using standardised forms, and outcomes should be reported to oversight bodies.
4. The Nigeria Correctional Service should expand its capacity to supervise non-custodial measures, including participants in pre-trial diversion programmes. The NCoS should develop community service programmes, counselling services, and other interventions that can be used as diversion conditions.
5. A national training programme for mediators should be developed, drawing on international best practices and adapted to the Nigerian context. Training should be provided to police officers, prosecutors, magistrates, and correctional officers. Civil

society organisations with expertise in restorative justice should be engaged to deliver training and provide technical assistance.

6. Universities and law schools should incorporate restorative justice and mediation into their curricula. Legal education should prepare future practitioners to use diversion mechanisms effectively and ethically.
7. Implementation should begin with pilot programmes in selected states, such as Lagos, Kano, and the Federal Capital Territory. The pilots should be carefully designed with clear objectives, eligibility criteria, and evaluation frameworks. Data on outcomes should be collected systematically to assess effectiveness and identify problems.
8. Based on the results of the pilots, the programme can be refined and expanded to other states. The phased approach allows for learning and adjustment before national implementation.