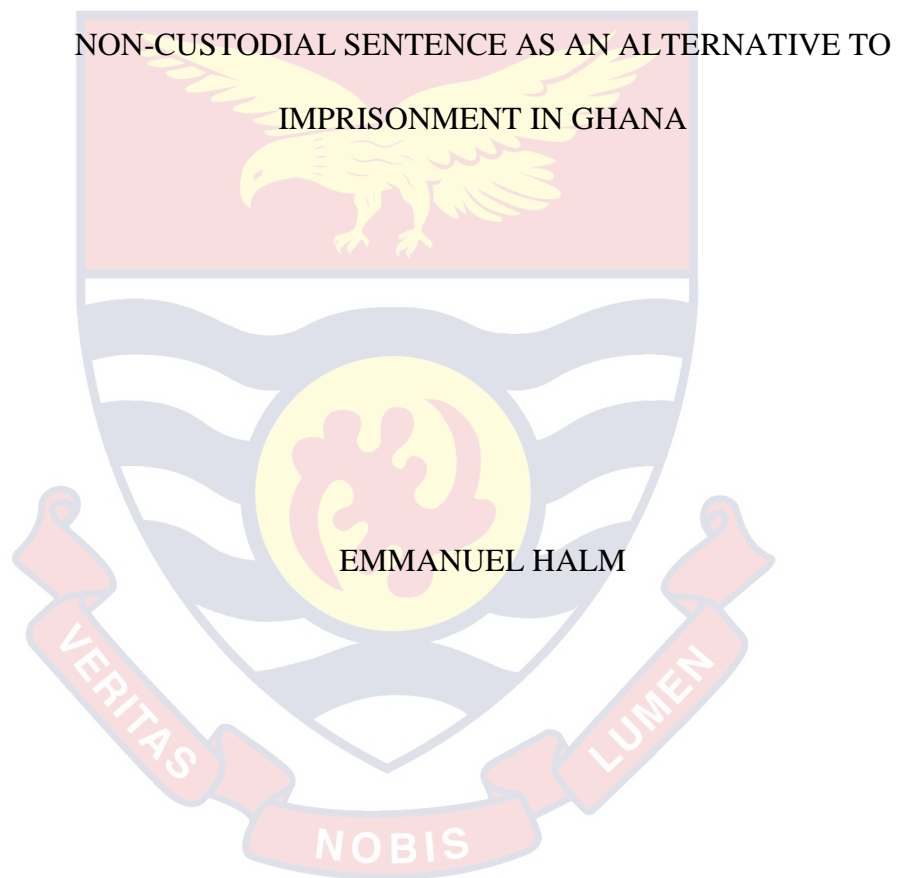


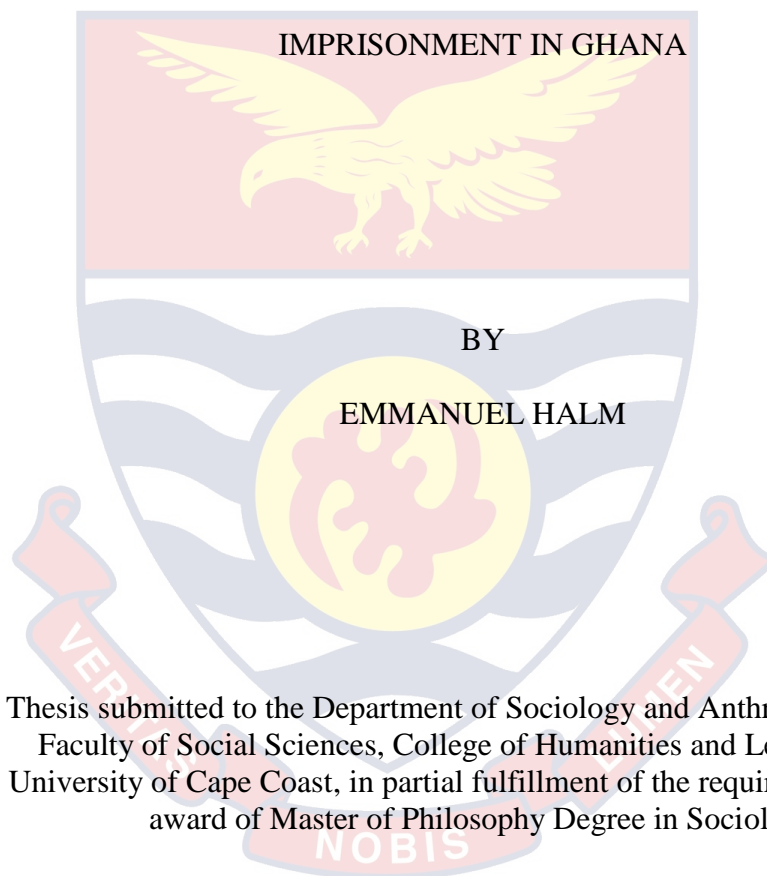
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2020

UNIVERSITY OF CAPE COAST

NON-CUSTODIAL SENTENCE AS AN ALTERNATIVE TO



Thesis submitted to the Department of Sociology and Anthropology of the
Faculty of Social Sciences, College of Humanities and Legal Studies,
University of Cape Coast, in partial fulfillment of the requirements for the
award of Master of Philosophy Degree in Sociology

OCTOBER 2020

DECLARATION

Candidate's Declaration

I hereby declare that this thesis is the result of my own original research and that no part of it has been presented for another degree in this university or elsewhere.

Candidate's Signature: Date:

Name: Emmanuel Halm

Supervisors' Declaration

We hereby declare that the preparation and presentation of the thesis were supervised in accordance with the guidelines on supervision of thesis laid down by the University of Cape Coast.

Principal Supervisor's Signature: Date:

Name: Dr. Alex Somuah Obeng

Co-Supervisor's Signature: Date:

Name: Dr. Imoro Razak Jaha

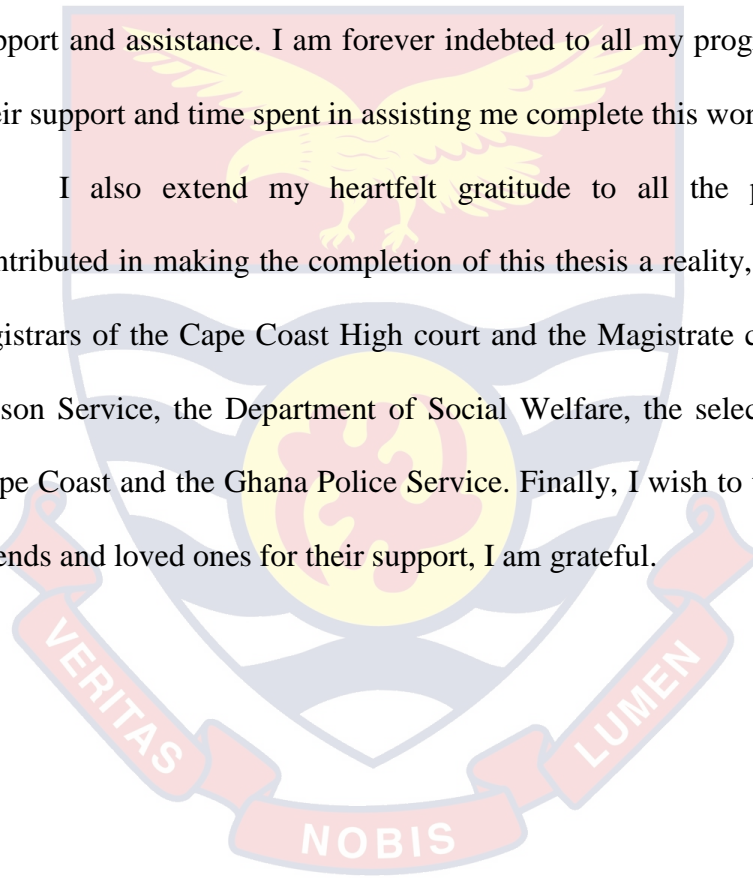
ABSTRACT

The increase in prison populations around the world and its enormous financial burdens on governments, health risk on prisoners and overcrowding of prisons has warranted the need to explore non-custodial sentence. This study's main objective was to explore non-custodial sentence as an alternative to imprisonment in Ghana, with the study area being the Cape Coast Metropolitan Assembly. The study used the theories of punishment. The mixed method research approach was used. The study used multi stage cluster sampling and the random sampling to collect data from 382 residents in the Metropolitan Area and purposive sample to collect data from 25 members of the criminal justice system. With pragmatism as the research philosophy, questionnaires and interviews were used to elicit data for the study. The study revealed that majority of the residents in Cape Coast were aware of non-custodial sentence and could describe how it works. Also it was found that the current forms of non-custodial sentence in Ghana are not enough. It is recommended that parliament should pass the non-custodial bill into a law allowing other forms of non-custodial sentence to be practiced in Ghana. It is also recommended non-custodial sentence must be clearly defined for members of the criminal justice system since the concept is given varied meanings about what constitute a minor offence and how non-custodial sentence may deal with such repeated offences.

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DEDICATION

To Gloria Essuman and Mary Ennin



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LIST OF ACRONYMS

ASCC	Accra Senior Correction Center
BCE	Best Common Era
NCCE	National Commission for Civic Education
POTS	Prison Officers Training School
PRI	Prison Reform Initiative



CHAPTER ONE

INTRODUCTION

Background to the Study

Prison populations around the World are increasing, placing enormous financial burdens on governments (United Nations Office on Drugs and Crime, 2006). The World prison population has increased by 25% since the year 2000. Currently, the available data suggest that there are more than 10.35 million prisoners worldwide either as pre-trial detainees (remand prisoners) or having been convicted and sentenced and the number is still growing (Walmsley, 2015). This assertion from Walmsley suggest that the growing numbers of prisoners are leading to often severe overcrowding in prison, and this has resulted in prison conditions breaching the United Nations and other standards that requires that all prisoners be treated with the respect due to their inherent dignity and value as human beings (United Nations Office on Drugs and Crime, 2007).

The prison system in Africa according to Coldham (2000), were created based on the retributive mode of punishment and that the whole prison structure was harsh. It was not until the later end of the colonial period that efforts were being made to rehabilitate inmates. The prison condition in Africa is associated with high cost of maintenance, feeding and unsanitary conditions (Dikötter, 2018; Abotchie, 2008). There is growing recognition that imprisonment does not achieve some of its most important stated objectives, but has being harmful – to offenders, to their families and in the long-term, to the community (United Nations Office on Drugs and Crime, 2006). Imprisonment has several objectives: to keep persons suspected of having

committed a crime under secure control before their guilt or innocence is determined by a court. It punishes offenders by depriving them of their liberty after they have been convicted of an offense. It keeps them from committing further crimes whilst they are in prison and, allows them to be rehabilitated during their period of imprisonment. The goal of rehabilitation is to address the underlying factors that led to criminal behaviour and by so doing, reducing the likelihood of re-offending (Andrews & Bonta, 2010).

Imprisonment of offenders remains a common punishment for crime, which is also authorized by international human rights law (Robinson, 2001). Imprisonment may be necessary in many cases involving violent offenders (Pager, 2006), but does not constitute a panacea with regard to either crime prevention or to the social reintegration of offenders (Cullen, Jonson, & Nagin, 2011).

Moreover, in many countries the prison system faces major challenges because of overcrowded and outdated facilities, with this prisoners often find themselves in deplorable conditions of detention that can have adverse effects on their physical and mental health and impede their educational and vocational training, thereby affecting their chances of future adjustment to an ordinary life in the community (United Nations Office on Drugs and Crime, 2006). This rise in custodial sentencing has also resulted in considerable pressure on the prison facilities and it is very expensive to manage (Meek, 2008).

This situation as described above is not so different in Ghana, as prison conditions are associated with overcrowding, lack of quality food, easy transfer of communicable diseases, and defunct rehabilitation structures (Yin,

2018; Antwi, 2015; Hagan, 2013). Yin 2018, argues further that imprisonment and its accompanying responsibilities have become a burden on the state and that prisoners have become tax takers rather than tax payers.

Scholars have argued that imprisonment does not alter the behavior of prison inmate neither does it fulfil its role of reformation and rehabilitation (Taylor, Burke, Millings, & Ragonese, 2017; Aba-Afari, 2011). Frank, Beirie and Mackenzie (2010) affirm that prisons do not alter criminal behavior, rather they often promote criminality and are generally delegitimizing. Therefore, prisons are considered schools of crime and contribute to the increase of crime by hardening the prisoner. Aba-Afari (2011), asserts that the harsh prison sentences pronounced on offenders of the law was meant to serve as deterrent.

However, after their release from prison some ex-prisoners continue to commit serious crimes without recourse to the harshness of the punishment suffered while in prison (Aba-Afari, 2011). With overcrowding and its associated health risk coupled with low funding for prisons makes it very difficult to truly reform inmates. In a similar vein, Coldham (2000) emphasizes that, in an era where most countries are devising viable alternatives to imprisonment for tackling crime, most Commonwealth African countries like Ghana are still relying on imprisonment alone. While other forms of non-custodial sentences such as (caution and discharge signing of bond of good behavior) which are part of the penal code are underutilized. What is even worsening the situation in Ghana is that imprisonment seems to be the only option for almost all offences in Ghana.

Currently, according to the 1992 Constitution of Ghana there are four forms of punishments in Ghana; imprisonment, fine (in default will be

imprisonment), signing of bond to be of good behavior again (in default will be imprisonment) and lastly caution and discharged. With the exception of caution and discharge all the other forms of punishment has custodial sentence attached to it which is directly and indirectly contributing to the rise in the prison population in Ghana and also the over reliance on imprisonment as the major source of punishment to the neglect of other such as fines, and signing of bond.

Available data across the globe suggests that non-custodial sentences reduce the cost involved in managing prisons and has equally reduced the number of prison inmates (Morgan, 2018). Non-custodial sentence is a punishment given by a court of law that does not involve a prison term (United Nations. Office of the High Commissioner for Human Rights, & International Bar Association, 2003). Such punishments includes fine, restriction order, community service, probation order, periodical imprisonment, supervision order (parole), house arrest/electronic monitoring, drug testing and treatment order term (United Nations. Office of the High Commissioner for Human Rights, & International Bar Association, 2003). Not every crime fit non-custodial sentencing, this is to say there are certain offences which the offender must be given custodial sentence they are termed as felonies, which include but not limited to first degree murder, armed robbery, rape and kidnapping (Seiter, & Kadela, 2003; Yin, 2018).

Prison has outlived its mandate, it is now seen as living opposite of its mandate (Seiter, & Kadela, 2003; Yin, 2018). This has to do with the fact that in most prisons first time offenders with not so serious crimes are put in the same population as hardened criminals where these first time offenders have

unlimited opportunities to learn from the hardened one, coupled with overcrowding that does not allow the prison officers to adequately monitor the behavior of inmates. Overcrowding causes pressure on prison facilities thereby causing unsanitary conditions for inmates.

Non-custodial sentence opens avenues for offenders to engage in some productive work that would benefit the community at large (Graham, 2012). In Africa, before the introduction of non-custodial sentencing in Zimbabwe, the country's prison population had risen dramatically due in part to rise in crime rates and failure by increasing numbers of offenders to pay fine set by the courts and ending up in prison (Prison Reform Initiative, 1997). After it was introduced, the country saw a significant improvement in their prisons. The community also benefited from the services provided by the convicted offenders. Following the success of Community service in Zimbabwe, it has been discussed at the various regional fora and has been introduced into penal codes in a number of African countries (PRI, 1997).

Non-custodial sentencing can help change the course of the offender's behaviour as it instils in him or her, the sense of moral obligation to the community (Wing Lo & Harris, 2004). It also has the potential of contributing to the wellbeing of the people in the community (Caputo, 1999). In addition, Muiluvuori (2001) has found out that though the forms and structure of non-custodial sentence may vary from one jurisdiction to the other, it has however gained grounds in the legislature of some countries. It is for this reason the current study seek to explore non-custodial sentence as an alternative to imprisonment in Ghana. The research intends to explore the extent to which non-custodial sentence can work in Ghana and also assess citizens awareness

of alternative punishments such as this. In addition, the thesis will survey the nature of non-custodial sentencing within the African context.

Statement of the Problem

According to the 2013 Annual Prisons Report of the Ghana Prison Service there are three core mandates of the prison: Safe custody, Welfare of inmates and Rehabilitation and Reformation of inmates. With these mandates, Yin (2018) argued that, the only thing the prison service does well is the safe custody which he argued further to ask how safe is the safe custody?; When inmates are prone to communicable disease and other air-borne diseases due to the challenge of overcrowding. This reflects and confirms the findings of Antwi (2015), Hagan (2013), and Ofori-Dua et al. (2015) on the challenges of overcrowding, transfer of communicable diseases among inmates, and defunct rehabilitation structures to rehabilitate and resocialised inmates.

Other challenges associated with the Ghana Prison service includes the high cost of maintain the prison, inadequate funds for proper meals for the inmates, inadequate sleeping beds for the inmates to sleep on and unsanitary conditions. This suggests that the main functions for which the prisons were established appear hanging.

These challenges reflect in the rate of recidivism in Ghana. According to the Ghana Prison Service Annual Report, the recidivism rate in the year 2007 was 20.6%; in 2008, it was 19.3%; in 2010, it was 23.6%; and in 2011, it was 22.2%, with this rate, Yin (2018) argued that, some inmates take delight in returning to the prison since it appears a better option than freedom. This therefore questions the relevance and the place of imprisonment in rehabilitation and reformation of prisoners.

Against this background, is non-custodial sentence an option in the wake of the failure (welfare of inmates, rehabilitation and resocialisation of inmates) of the custodial sentencing? Many studies (Abotchie, 2008; Hagan, 2013; Antwi, 2015, Ofori-Dua et al. 2015; Aba-Afari & Adu-Agyem, 2015; Yin, 2018) have been conducted in the area of imprisonment in Ghana. These studies are very important as they have focused on other areas of prison studies, however, their focus suggest paucity of literature. Not much has been done in the area of non-custodial sentencing as an alternative to imprisonment in Ghana which this study intends to cover.

Objective of the study

The purpose of this study is to explore non-custodial sentence as an alternative to imprisonment in Ghana.

Specific Objectives of the Study

Specifically, this study seeks to

1. Assess peoples' awareness of non-custodial sentencing in Ghana;
2. Assess the practice of non-custodial sentencing in Ghana;
3. Examine the prospects non-custodial sentencing in Ghana; and
4. Examine the perceived challenges associated with the practice of non-custodial sentencing in Ghana.

Research Questions

1. To what extent are people aware of non-custodial sentencing in Ghana?
2. How is non-custodial sentencing practised in Ghana?
3. What are the prospects of non-custodial sentencing in Ghana? and

4. What are the perceived challenges associated with the practice of non-custodial sentencing in Ghana?

Significance of the Study

The study will contribute to understanding of the concept and the practice of non-custodial sentencing. The insights obtained from this study will contribute to the development of theoretical framework for the explanation of non-custodial sentencing and also add to the literature on criminology, sociology of law, and penology. The findings may lead to the discovery of something new, confirm existing theories or refute them. It may also be beneficial to other researchers who intend to carry out similar or related research in this area. The findings from the study may shed light on how non-custodial can contribute to the reformation and rehabilitation of prisoners in Ghana. It is also expected that the study will generate recommendations, suggestions, and comments that could be adopted and implemented by policy makers the Ghana Prison Service.

Operational Definition of Terms

Non-custodial sentencing: is a sentence given to an offender by a competent court of Jurisdiction that does not involve a prison term.

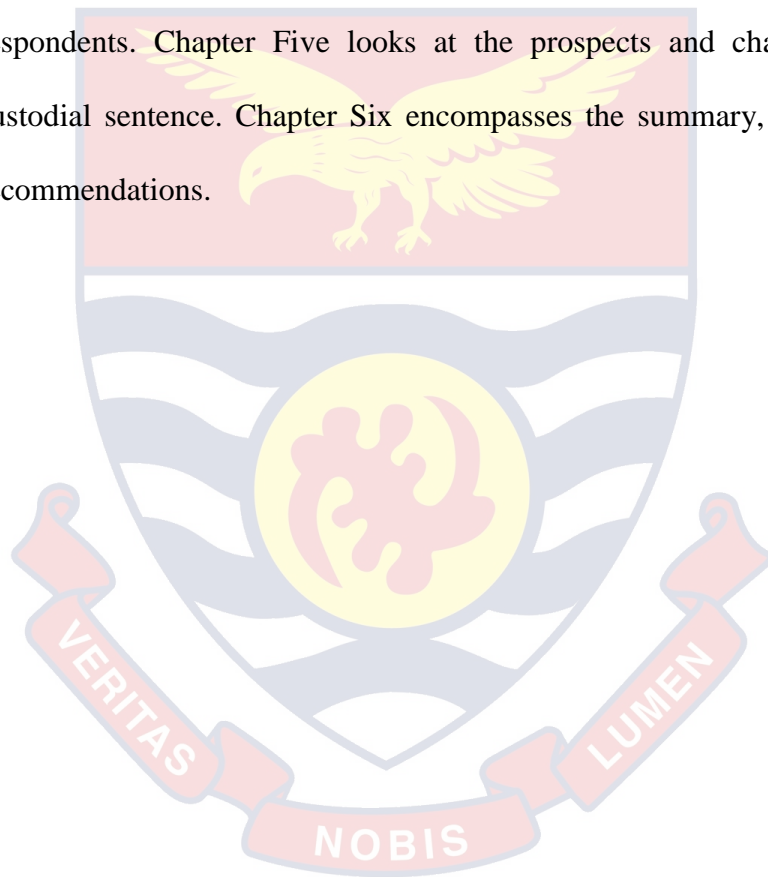
Imprisonment: the state of being confined in a prison

Sentencing: is a judgment pronounced by a Judge to an offender to serve a period, or a fine, and/or other punishment.

Recidivism: the rate at which an ex-prisoner who after his/her release commit another crime and is sentenced back to prison for the new offence.

Organization of the Study

The study is organized into six chapters. Background to the study, statement of the problem, objectives, research questions, significance of the study, operational definition of terms and delimitation make up Chapter One. Chapter Two is the literature review. The literature review focuses on other related works, and theoretical underpinnings. Chapter Three covers the methodology. Chapter Four is the socio-demographic characteristics of respondents. Chapter Five looks at the prospects and challenges of non-custodial sentence. Chapter Six encompasses the summary, conclusions and recommendations.



CHAPTER TWO

LITERATURE REVIEW

Introduction

This chapter encompasses review of relevant works and theoretical underpinnings of the study. The chapter is divided into two key sections. The first section looked at the review on; historical development of prison and correction, prisons in Africa and Ghana, non-custodial sentence and the challenges and prospects of non-custodial sentencing. The second section looked at the theories of correction.

Historical Development of Prisons and Corrections

Human beings, throughout recorded history, have devised ways to punish their kind for real or perceived transgressions (McLynn, 2013). The history of corrections is riddled with the best of intentions and the worst of abuses. According to Stohr, Walsh and Hemmens (2012), in order to eradicate offenders from urban streets, correctional procedures and facilities (e.g., galley slavery, transport, jails and prisons, community corrections) have been developed. Stohr, Walsh and Hemmens (2012), further emphasized that such punishment could include torture, whipping, branding, mutilation, drowning, suffocation, executions, and banishment (which was equivalent to a death sentence in isolated areas) also among some tribal groups and even in more advanced civilizations. According to Verhoef, & Michel (1997), the extent of the punishment given to an offender often depended on the wealth and status of the offended party and the offender. Therefore, the affluent who were convicted and found guilty were frequently able to make amends by rewarding their families with the victim, whilst those who were weaker and of lower

standing were likely to undergo physical punishment. However, whatever the method, and for whatever reason, some form of retribution has always been called for as a way of balancing the scales of justice, whether to please a deity or gods or to prevent future culprits. (Abotchie, 2008; Nukunya, 2003)

Even in the eighteenth century, the brutality of criminal punishment remained unchanged. In the thirteenth century, for example, crimes were usually wrecked on the wheel for treason. (Kocher, 1963; Miethe & Lu., 2005), particularly in England, their laws allowed poisoners to be boiled alive (Kocher, 1963) this was made possible by the 1530 Act. Burning was the punishment for high treason and blasphemy, as well as the murder of a wife's husband or a servant's lord. In England, the burning of lawbreakers remained legal until 1790. In an act of kindness and sympathy towards women, they were strangled before they were burned. Their right hand was also taken away for attempted murder in some cases. Hangings were generally frequent, where they were publicly disemboweled until the convict was hanged and their still-beating heart held up to a celebrating multitude. (Kocher, 1963).

Punishment dates back to the old days, according to Johnston (2009), as it was cited in a work published in 2000 B.C. edited by Confucius. The Old Testament of the Bible again refers to the usage of incarceration from 2040-164 B.C. In Egypt and its use in Babylon and ancient Assyria. Extreme physical penalties were also reserved for slaves in Ancient Greece and Rome, while civilians could be sentenced to fines, exile, incarceration, or death, or even a combination of these (Harris, 1973). In ancient Roman culture, where a slave system existed, *capitis deminutio maxima* (the forfeiture of citizenship) was used to punish wrongdoers, so criminals became penal slaves. They were

sent to hard work in the Carrara marble quarries, metal mines, and sulphur pits for the doomed men. The most common penalty was whipping, followed by the shaving of the head in the case of free men, but the slave's mark was for the shorn head (Harris, 1973).

Another type of corrections was galley slavery, used cautiously by the ancient Greeks and Romans, but it was more regular in the medieval period for Europe and England and remained in use until about the 1700s (Johnston, 2009). Galley slavery were used as a sentence for crimes or as a means of removing the poor from the streets. It also served the twin purpose of providing the requisite labor (rowing) needed to propel ships for seafaring nations interested in engagement in trade and warfare. For instance, these galley slaves were reportedly used by Columbus (Johnston, 2009). The slaves were required to row the boat until they collapsed from exhaustion, hunger, or disease; often they sat in their own excrement (Welch, 2004). Under Pope Pius, galley slaves were entitled to bread each day, and their sentences ranged from three years to life (Johnston, 2009). The enforcement ranged from ship to ship to some extent, the records that exist suggest that galley slavery was effectively a death sentence. Because of the technical advancement of sails, galley slavery ended when labor was no longer required on ships.

Jails were the first form of correctional facility to be built, and for several thousand years they have been there (Schlosser, 1998). Whichever way the detained were held whether in pits, dungeons or caves, or even the detained were tied to a tree, ancient people had ways of holding people until a judgment was made or executed (Irwin, 1985; Mattick, 1974; Zupan, 1991).

The Bridewells came from right after jails. They were Structures designed to keep and beat beggars, prostitutes, and night walkers were Bridewells. Bridewells were eventually used as places of detention, starting in London in 1553 (Kerle, 2003; Orland, 1975, p. 16). The name Bridewell originated from the first establishment of this type, which was built at St. Bridget's Well at Bishop Ridley 's place; all subsequent similar buildings were known as Bridewells.

Bridewells were also workhouses, used as leverage for the extraction of fines, interest payments and substitution of labor. Such facilities did not separate persons by gender or age or criminal and non-criminal status, nor were their inmates adequately fed and dressed, and they did not maintain hygiene standards. As a result of these conditions, bridewells became unsafe with extreme health consequences where the prisoner and probably his or her family could be doomed if one could not pay a charge for food , clothes, or release (Orland, 1975 and Pugh, 1968). The use of bridewells spread throughout Europe and the British colonies, as it offered a way to eliminate the poor and displaced from the streets while still making a profit (Kerle, 2003). The guards, stewards, and gaolers, the managers of bridewells, houses of correction in every county in England was permitted to create one more in 1609 which made such a benefit. Gaols, though unpaid, campaigned as it was so lucrative for the job. By collecting money from their captives, they made a profit. If a prisoner is unable to pay, he or she can be left starving in filth or tortured or killed for failure to pay by the keeper (Orland, 1975).

Prison is not a local African institution, but, like so many characteristics of the African establishment today, it is a colonial leftover, a

European import designed to segregate and punish political rivals, practice racial superiority, and administer capital and corporal punishment (Van Ness & Strong, 2002). Incarceration as punishment was unknown to Africa until the first Europeans arrived. While pretrial detention was common, wrongdoing was rectified by restitution rather than punishment. Local justice systems were victim- rather than perpetrator-centered with the end goal being compensation instead of incarceration (Van Ness & Strong, 2002). The purpose of imprisonment has remained to secure justice for victims rather than prosecute criminals, even in countries that have started jails. In African justice systems, incarceration and capital punishment were seen as the last resorts to be used only when criminals like repeated offenders and witches posed risks to local communities (Bah, 2003; Abotchie, 2008 ; Van Ness & Strong, 2002).

Although incarceration as punishment did not take root in Africa until the late 1800s, this classification had two exemptions. First, in connection with the Atlantic Slave Trade, jails were used. Second, earlier than the majority of the countries on the continent, Southern African nations started to rely on incarceration, in certain instances as early as the start of the nineteenth century (Bah, 2003).

Once the imperial powers arrived in Africa, they used incarceration, according to Bah (2003), not as a way of punishing the commission of common crimes, but rather to govern and exploit potentially rebellious local communities. He therefore indicated that the earliest experience of Africa with organized prisons was not directed at the rehabilitation or reintegration of prisoners, but rather the economic, political, and social repression of indigenous peoples. This assertion was also pointed out by Peté, and

Devenish, (2005). It was in during these initial days of prisons that even minor wrongdoers were subjected to cruel detention and recruited as sources of cheap labor (Peté, & Devenish, 2005; Bah 2003)

According to Bah (2003), Africa's late 19th century prisons were not merely catch basins for the victims of colonial oppression, they were also manifestations of European racial superiority. European settlers and conquerors looked upon African people as subhuman, savages who were unable to be civilized. For example, white prisoners unlike their black counterparts enjoyed higher quality clothing, food, and shelter, as well as vocational training aimed at preparing them for release, rehabilitation, and reintegration (Quete, 2005; Bah 2003). In addition, although European jails banned brutality in the late 1800s, colonial prisons increasingly relied on the practice as a way to overpower native cultures and emphasize supremacist doctrines. (Quete, 2005; Bah 2003).

Despite the connection between prison brutality and the racist and colonial laws of the late 1800s, however, penal brutality continued in postcolonial Africa at an unprecedented pace and terrible scope (Quete, 2005; Bah 2003). In addition, the continent continues to be afflicted by related problems such as underdevelopment, dependence on foreign assistance, political dominance, and human deprivation despite the decades-old elimination of colonial powers (Quete, 2005). Overcrowding, declining facilities, corporal and capital punishment, brutality, prolonged pretrial detention, gang culture, and insufficient attention to women and youth are still visible even inside jails, while the prison designers of Africa have been removed.

The early jails in Ghana were largely custodial institutions (Tankebe, 2008; Seidman, 1966). In 1850, there were only jail cells in some four forts in Ghana, all of which detained a maximum of 129 convicts (Ghana Prison Service, 2018). Throughout this period, convicted prisoners employed to repair public roads and by making straw hats for sale to the general public, they were permitted to earn a trifle. As was the rule in the early days, until the then Colonial Secretary Cladstone, prisoners were in shackles but he insisted prisoners should not be in shackles (Ghana Prison Service, 2018). In the Prisons Ordinance 1860, a guard position was created for the original prisons. It was just a series of rules that did not express an inclusive philosophy of punishment for the safe keeping of prisoners (Ghana Prison Service, 2018).

The food seemed to be charitable enough as inmates were offered 6lbs of kenkey daily and a pound of fish thrice every week. The colonial office sent letters addressed to all colonial governors in search of a way to transform the entire prison system in those days, asking them to put the overall prison system on the same basis as that of England (Ghana Prison Service, 2018).

In 1869, according to the Ghana Prison Service (2018), the State Secretary wrote a letter to one of the Gold Coast commissioners directing him on how to do away with congestion devoid of the cost of putting up additional prison facilities. The letter suggested that shorter and harsher reprimands should be resorted to, by flagging, in addition to shorter periods of imprisonment or in complete substitution for any imprisonment, by replacing purely penal work in the initial stages of imprisonment and by lowering the diet to a minimal mandatory for safety. By these means, not only by

shortening the length of each prisoner's sentence, but also by reducing the number of prisoners, the overcrowding of prisons has been minimized.

The Prison Ordinance was announced in 1876. The Prisons Act, 1865, was cautiously modelled on this Ordinance, whose dead hand still forms Ghana's prison regulations. Such regulations showed that prison inmates were to be placed at night in separate cells, to the extent that accommodation would be possible. Prison inmates were not allowed to talk or make any motions or sing to other prison inmates or to whistle or even to express concerns to other prisoners, except to a senior prison officer or a visitor. Only once in three months were letters and visits allowed. Prison prisoners over the age of 16 had to perform three hours a day of brief exercises (Ghana Prison Service, 2018).

The undesirable state of the prisons led to the appointment of the police commissioner in 1902 to hold the office of prison superintendent. The local prisons were supervised by all the superior police officers, but the two departments were otherwise separated. The bigger prisons hired European gaolers, and they had no power over the police (Ghana Prison Service, 2018).

The Prisons Department had maintained 29 Penal Institutions by the year 1948. The overall lock-up was 3,000, 400 fewer than in 1947. Just three officers and eleven escort guards were increased by the workers controlling prisons. There were 15 officers in all and about 650 men. There were five central prisons, two penitentiary camps and one industrial institution, all run by full-time superintendents.

The Ghana Prison Service had seventeen local prisoners in 1948, and a new prison was opened in Ankaful for criminals suffering from leprosy or tuberculosis between 1947 and 1948. Inmate hangings on the death roll all

took place at the James Fort, Accra Central Prison. Under the industrial school, which was made possible by the 1945 decree, boys between the ages of 16 and 21 were established (Ghana Prison Service, 2018). The Ghana Prisons Service has the following mandate:

1. Safe keeping of convicted persons from the courts.
2. To ensure that the welfare of prisoners are protected as well as to provide inmates with good care, clothing, bedding feeding, recreation and library facilities, among other amenities
3. To ensure the reformation and rehabilitation of inmates by offering them opportunities to develop their skills through trade and moral education

Presently, Ghana has forty-five prisons in all sixteen regions with the headquarters in the capital city of Ghana, Accra. It is the administrative centre where prison policies are formulated for the effective management of all prison establishments in Ghana. The Director-General of Prisons and two assistants, five Inspectors of Prisons and other major office holders are based at the headquarters. There are also seven central prisons, seven women's prisons, fourteen local prisons, one Nsawam Medium Security Prison, and eleven open prison camps and the Agricultural Settlement Camp. In Accra, there is also a Training School for Prison Officers (POTS) and the Accra Senior Correctional Centre (ASCC: formerly Ghana Borstal Institution) for behavioral discipline and socio-religious enhancement of juvenile offenders.

The Criminal and other Offences Procedure Act – 1960, (ACT 30)

According to the criminal and other offences Procedure Act – 1960, (ACT 30) of the 1992 Constitution, Section 294, the following are the

different Kinds of Punishment that may be inflicted on a person for committing an offence:

(1) Death; (2) Imprisonment; (3) Detention; (4) Fine (5) Payment of compensation;

(6) Liability to police supervision. This implies there are other forms of punishment other than imprisonment that the courts may choose from. But it looks as if they are not exploring the other options. Although in section 295 of the same acts, it states that where a crime is declared by any enactment to be a first degree felony and the punishment for not specified, a person convicted thereof shall be liable to imprisonment for life or any lesser term. The constitution further states that offences which has no specified punishment will warrant a prison term of not less than 3 years and not more than 25 years.

In Section 354, the constitution grants Power to the Courts to make Probation Orders; (1) Where any person is charged with an offence before a Court of summary jurisdiction or on indictment court thinks that the charge is proved but is of opinion that, having regard to the youth, character, antecedents, home surroundings, health or mental conditions of the offender, or to the nature of the offence extenuating circumstances in which the offence was committed, it is expedient to release the probation, the court may make a probation order.

(2) Before making a probation order, the court shall explain to the offender in ordinary language the effect order and that, if he fails in any way to comply therewith or commits another offence, he will be sentenced for the original offence.

(3) The Court shall not make a probation order where the offender is above the age of seventeen years the offender expresses his willingness to comply with the provisions of the order.

So although it is within the powers of the court to grant probation which is a form of non-custodial sentencing, it can only do so when the offender is not above 17 years. Making probation only fit for minors. Meanwhile, for all the punishment listed above that the courts can give to an offender, they all has in default imprisonment attached to it.

The State of Ghana Prisons

The goal of the Ghana Prisons Service is to turn the current penal system into an efficient, humane and secure reformatory one, with great emphasis on the creation of human capital to ensure high competence, competence and efficiency (Ghana Prison Service, 2013). In this respect, the service provided a large number of officers with the opportunity to take academic and technical courses to improve their understanding and skills, while certain officers were also given the opportunity to attend international conferences to exchange practices and processes with the rest of the world and also to familiarize themselves with new trends in prison administration. With these service-based opportunities, the ability of officers on the job has increased dramatically (Ghana Prison Service, 2015)

The other area they have considered is the educational services accessible to inmates in the Nsawam Medium Security Prison and several other central prisons in the country. These services are there to assist inmates to learn the desired educational and vocational skills. Some of the accomplishments they have achieved are that, since the beginning of the

program, the performance of students both in the Basic Education Certificate Examinations (BECE) and the West Africa Senior Secondary Certificate Examinations (WASSCE) has been excellent.

In its determination to cater for and inspire as many inmates as possible to access vocational training in carpentry, tailoring, soap making, cooking, block laying and concreting, barbering, and Information Communication Technology (ICT), the Ghana Prison Service has also not yielded to the rehabilitation of inmates. The Ghana Prison Service predicts that achieving such employable skills will make it easier for beneficiaries to make economic changes when they are reintegrated into traditional society, thus helping to minimize recurrence. Prisoners' effective contribution to agriculture was also sought as farming. These inmates were sent to the farm stations of the Ghana Prison Service to work. In accordance with the Prisons Service 's strategy to complement the government quota with agricultural products produced internally, farm stations continue their commitment to produce food.

The Ghana Prison Service, however, appears to be consistently concerned with the issue of overcrowding in the midst of all of these (Ghana Prison Service, 2015). The increasing number of prisoners and people sentenced on a regular basis by the courts to complete various jail sentences resulted in a devastating overcrowding of the prisons. Prison inmates are vulnerable to health threats because of this congestion. Other consequences due to congestion are that the cost of prison upkeep is high, so the cost of food is not even adequate to provide the inmates with a decent meal. The recidivism problem still poses a big obstacle to the prison service. This is partially because there are those who want to go back to the prisons because they will

be fed (Yin, 2018), because the prisoners who have completed their terms are not welcomed as they should have. It also calls for a summary of the programmes for recovery in prisons. In the Ghana Prison Service 's 2015 Annual Report, they called for wide-ranging changes in the country's correctional policies to think about other alternatives to incarceration. When this is done, it is highly anticipated that our jail will be decongested for successful sentence structure and administration while sentencing individuals convicted of felonies to prison terms and executing proper non-custodian sentences for those found guilty of misdemeanors.

The Need for Non-Custodial Sentencing

As an acute form of social exclusion, the effects of offending have been theorized (Van Ness, & Strong, 2014). The loss of social capital spread from the perpetrator who committed the crime, to the victim, to the group and to society as a whole, with its considerable social and financial costs (Villettaz, Killias, & Zoder, 2006). Prison rates have risen worldwide, and the estimated world prison population has expanded by 25-30 percent in the last 15 years (Walmsley, 2015). According to Davis, (2011), worldwide statistics presuppose that the position of incarceration must be urgently examined in relation to alternatives to incarceration such as community punishments, probation, parole, because alternatives to imprisonment could give way to recovery rather than recurrence.

The discussion on alternatives to imprisonment is not so fresh (Stern, 1999). In the overpopulation of prisons with detrimental effects, the lack of appropriate substitutes for incarceration is exposed, resulting in: mass management of individual needs; a decline in recovery programs; the previous

release of criminal elements; the burden on the government for personnel supplementation and extension; a rise in capital expenditure for the establishment of prison accommodation to eradicate excesses; adverse behavioral trends in prisons; and a growing burden on the government for the provision of prisoners' families and dependents (Singh, 2007; Stern, 1999; Rhodes, 2004).

Singh (2007) further argued that in terms of crime prevention or regulation, the use of incarceration has had little effect. In comparison to incarceration, access to rehabilitative resources and services is considered a more effective, economic, and compassionate step towards the care of the offender through community-based corrections, under which a person lives in his own community and retains normal social relationships while under the supervision and direction of a probation officer.

There are numerous ways of appreciating the word, rehabilitation, for Singh (2007). Rehabilitation, for example, can be conceptualized as a means of allowing the individual to change their moral code and sustain change in their behavior; or rehabilitation can be theorized as a means of safeguarding the behavior of the individual, independent of any ethical status, it can be viewed as the behavior synonymous with adherence to state laws. For the purposes of this analysis, we will follow this concept (Singh, 2007), which states that rehabilitation is established in terms of re-education within the law, and it is through this phase that the person achieves the ability to live in society and obey its laws.

The greater usage of alternatives to incarceration reflects a profound shift in the system of crime, inmates, incarcerated individuals and their role in

society (Durlauf, & Nagin, 2011). The focus has moved to restorative justice, reintegration and social inclusion, from prison-based methods of deterrence and alienation (Fortune, Thompson, Pedlar, & Yuen, 2010). Together with adequate and satisfactory support for criminals, following this latter approach has been shown to enable the most defenseless members of society to build a life without returning to criminal activity (Singh, 2007; Fortune et al, 2010). Instead of incarceration and isolation, the implementation of community penalties and probationary measures should therefore have long-term and better consequences for the citizen, the family, the community and society (Fortune et al, 2010).

The objectives and purposes of alternatives to imprisonment vary, the reasons for the variances include: lack of consensus on the objectives and intent of alternatives to imprisonment, for example: the judicial system can prefer punitive penalties with a retributive goal, whereas rehabilitation, re-socialization and re-integration of the offender are often preferred by probation services and re-integration of the offender (Yekini, & Salisu, 2013; Sarkin, 2008). Concerns that these alternative punishments have been enforced instead of punishment or as a form of delayed punishment and are not treated as an actual punishment; Costs in terms of money (less expensive) and social costs (relapse) (Tokyo Rules, 2000; Sarkin, 2008) (Tokyo Rules, 2000);

With regard to the Tokyo Rules and the European Community Sanctions and Measures Rules (Rec(92)16, 2000), the aims and objectives of alternatives to imprisonment are calculated as: prevention of recurrence; social recovery and inclusion; community protection; prevention of imprisonment and its adverse effects; cost reduction; and flexibility. It also proposed

strengthening their execution, such as: preventing the detrimental consequences of imprisonment; rationalizing the policies of criminal justice; taking into consideration the observance of human rights, social justice standards and the needs of the offender for rehabilitation; Provide greater versatility compatible with: the nature and seriousness of the crime, the offender's personality and history, and the safety of society; preventing the excessive use of imprisonment; preventing institutionalization to assist the offenders during their early reintegration into society;

Challenges of Non-Custodial

Various studies performed on non-custodial sentencing indicate that it has worked well with its services (Singh, 2007; Yekini, & Salisu; 2013 & Fortune et al 2010). The social welfare departments in different countries where non-custodial sentences are carried out have faced tremendous difficulties (Yekini, & Salisu, 2013). This is not to say, there are no difficulties. Some of the problems found include; inadequate numbers of officers who are called on to do other community works more often than not; heavy caseloads on the few officers; lack of adequate supervision of probation orders; misconduct on the part of probation officers; weak rewards and many more. (Asuni, 1979; Noun, 2010; Okagbue, Alemika & Chukwuma, 2001).

Again, it seems that the practice of probation orders is not predisposed to our judges (Yekini, & Salisu, 2013). More often than not, the courts often do not pay attention to alternate methods of disposal in general. For example, Nwankwo (2008) noted that, due to the fact that no probation officers were sent to the judge's court, a judge expressed concern about community-based sentences comprising probation. He expressed concern that there would be no

agency to oversee it, even though the order was issued. The judge also suspected that probation officers could conspire with offenders and that offenders would still have a field day at the end of the day.

A study done in 2010 revealed that a typical convict in Nigerian prisons is a semi-literate man, in the prime of his youth (18-29 years), according to Tanimu, as cited in Yekini and Salisu, 2013. He also reported that most convicts are unemployed and the crimes they are involved in are related to property. This outcome endorses the greater involvement of non-custodial sentences to rehabilitate certain criminals than incarceration when their actions are responsible for certain mitigating factors. No one seems to be looking at that path, though (Yekini, & Salisu, 2013).

Theories of Correction

Philosophy of Punishment

Philosophies of corrections as explained by Meyer and Grant 2003, are deterrence, rehabilitation, incapacitation, retribution, and restoration.

Deterrence

The emergence of the school of deterrence of thinking prompted the expanded use of incarceration as a criminal philosophy, as it was then the only intelligent and humane way to prosecute criminals (Van Ness, & Strong, 2014). The prison system became congested for a long time and developed its own sub-culture. It soon became clear that incarceration no longer served the purposes for which it was created, as many individuals became hardened offenders when they got back from prison and would find their way back to jail after their release on an ongoing basis (Ogbozor, Odoemena, Obi, & Onipanu, 2006). There was, therefore, the need for a fundamental change.

According to Meyer and Grant (2000), deterrence tries to convince people not to perpetrate wrongdoings or abuse laws. When a person chooses not to do something like parking in a handicapped space because they will be fined for breaking the law, this is called deterrence. Officers can decide to write a warning instead of taking formal actions like having the offender appear in court. (Meyer & Grant, 2003).

According to Meyer and Grant (2003) there are two types of deterrence; general and specific. Specific deterrence is when an offender decides not to commit future crimes. General deterrence is when a person decides not to commit a crime, because others were punished for similar crimes and do not want to deal with the punishment if caught. In addition, Meyer and Grant (2000) assume that, after measuring the benefits and penalties of their acts, individuals chose to follow or violate the rule. However, proving the efficacy of deterrence is troublesome since not just those criminals are deterred come to the law enforcement attention, so we will never know the reason why others offend

Specific deterrence is designed to deter only the individual offender from committing crime in the future. Specific deterrence also believe that punishing offenders severely will make them unwilling to reoffend in the future. They stress that the state must apply enough pain to offset the amount of pleasure derived from committing a crime. The theory of deterrence relies on three individual components: severity, certainty, and celerity. The more severe a punishment, the more likely that a rationally calculating human being will desist from criminal acts. In other words, after calculating the gains and the losses, an individual will not commit as the losses will out weight the

gains. In this way, criminal law must underline deterrence and urge people and comply with the law in order to deter crime. Discipline that is too serious is excessive, and discipline that is not sufficiently extreme will not prevent offenders from committing crimes. Essentially, the certainty of punishment means ensuring that punishment occurs if a criminal act is committed.

Classical theorists, such as Beccaria, acknowledge that once people know that their unwanted actions will be punished, in the future they will avoid such sanctions. Additionally, in order to prevent wrongdoing, their penalty must be immediate. The near the implementation of punishment is to the commission of the offence, the greater the possibility of criminals discovering that there is no payment for misconduct. To put it plainly, deterrence theorists believe that if punishment is severe, certain, and swift, a rational person will measure the profit and losses before participating in crime and will be discouraged from violating the law if the loss is greater than the gain offenders will realize that crime does not pay.

This theory has been criticized for its over dependence on the objective actor model of criminal behavior has been criticized for its major premise that individuals are lightning calculators of pains and pleasures. The postulation that a person always carefully weigh the consequences of their criminal behavior beforehand easily can be disproven by the observation that some crimes are spontaneous acts and highly emotional in character. Crime can be categorized as either instrumental or expressive. The former is for material gain and includes rational planning; the latter is motivated by passion. A person possessing a strong emotional commitment to the perpetration of a

particular offense is not likely to be deterred from committing it, regardless of the sanctions imposed.

Rehabilitation

The recovery school of thinking is to share a comparable concept with the deterrence school. The theory of rehabilitation considers wrongdoing as the manifestation of a social disease, according to Banks (2009), and views the goal of recovery as relieving the sickness through care. This school recognizes that rehabilitation and not prosecution of criminals should be the aim of the criminal justice system. Due to biological, economic and socio-political causes, it is said that an offender may have been enticed to commit a crime. The State itself may also have been a contributory factor causing individuals to commit crime and must share part of the obligation (Yekini, & Salisu, 2013). The entire crux of non-custodial punishment is underlined by rehabilitating prisoners by supplying them with necessary management rather than incarceration.

The rehabilitation theory argues that by curing criminals who violate the law, the criminal justice system aims to end criminal activity. In this way of thinking, a crime happens when a suspect or "sick person" commits a crime (Meyer & Grant, 2003). The patient has a physical condition, mental illness, or a psychological disability that causes them to commit these criminal offences. Paroled and released from jail are the criminals the system claims can be rehabilitated (Meyer & Grant, 2003). Rehabilitation includes those approaches, measures and programmes applied during incarceration in preparation for release. strategies such as given a routine daily tasks to be done by the inmates; measures such not permitting the inmates to have access to

any sharp objects or any stimulant which can aid them in further criminal behavior, placing them in a confined high secured place to prevent them from running away from the place of imprisonment and programs such as farming, schooling, counselling, crafts learning and religious activities are all geared in the direction of the rehabilitation of the inmates while in prison.

Raynor and Robinson (2009), posit that rehabilitation encompasses not only measures and programmes taken in prison but serves as an umbrella term for programmes and structures inside and outside prison, aimed at preparing and supporting the release of offenders on their way back to society. This underscores the view that rehabilitation efforts ought to be offered by the prison system from the onset of detention, during incarceration and after release, to limit the detrimental effects of imprisonment through adequate activities and services (Scheirs 2016).

Incapacitation

Incapacitation often means avoiding crimes by isolating prisoners from the rest of society in jails. The philosophy of incapacitation also entails physically stopping prisoners from victimizing others (Meyer & Grant, 2003). They are not able to victimize other individuals in society when criminals are put behind bars. Incapacitation is not confined to detention or imprisonment, but also requires house arrest or in-patient recovery services (Meyer & Grant, 2003). The theory of incapacitation suggests that criminals should be discouraged from committing further crimes either by their expulsion from community (temporary or permanent) or by some other tactic that reduces their physical capacity to reoffend in some other way. The most popular means of incapacitating criminals is incarceration; other, more extreme, ways

such as capital punishment are also used, however. The main goal is to deter violent criminals from reoffending in the community, strictly using incapacitation.

Incapacitation has a forward-looking rationale for punishment, since it is endorsed by the philosophy of moral reasoning known as utilitarianism, which holds that an act is defensible and fair if the largest number of people benefit from its ultimate consequences. Thus, if it prevents and removes the more damage that would have been caused to the rest of society by the potential crimes of an offender, the misery and suffering inflicted on an offender by punishment is justified. The major worry here is the victim or future victim who, at the receiving end of a crime, is likely to experience pain. So the interests of the perpetrator deserve no consideration for this sort of punishment.

The primary method of incapacitation is imprisonment. Incapacitation in the form of incarceration is considered a technique that works because prisoners are prohibited from committing crimes within the community for the duration of their prison term. According to this principle, punishment, as is the case with rehabilitation, is not concerned with the essence of the perpetrator or with the nature of the crime, as is the case with vengeance. Instead, punishment is justified by the danger that people in the future are believed to pose to society. As a consequence, people can be prosecuted for hypothetical offences, so they can, in other words, be imprisoned not for offences they have actually committed, but for crimes they are supposed or believed to commit.

In both theory and practice, the use of incapacitation as a reason for punishment may be fundamentally problematic. Next, sentences of

incapacitation re-punish people for past offences. Alternatively, for offenses not yet committed, sentences based on selective incapacitation punish people. Thus, with selective incapacitation, there is an implicit risk that some of the persons who are marked as dangerous and thus imprisoned will not have been offended. Even if the prediction methods were precise, however, there are obviously moral and ethical questions regarding incarcerating people for what they can do rather than what they have actually done.

Sentences for incapacitation often maintain and legitimize basic social distinctions that can stimulate stigma against ex-convicts. At the same time, on the crimes of the rich, a penal method based on the notion of incapacitation places little significance. So white-collar, industrial, and environmental offenses are ignored, which are more expensive and, some would say, more harmful to society. The importance of street crime, which is excessively committed by the young and the poor, is placed in its place. Ultimately, incapacitation sentences, which are frequently imposed on underage offenders, do not take into account the fact that most offenders are mature regardless of their illegal behavior. The late teen years do not last for many criminal careers. Therefore, lengthy sentences stripped of the hope of parole do not give the momentary existence of certain violations of the law any chance.

Retribution

The key penal principle used by those in authority has been punishment for centuries (Banks, 2009). Retributionists see retribution as a reward for having committed a crime. When a character commits a felony, he / she may have to face the repercussions for that offense that have been prescribed. (Banks, 2009; 1983 Greenawalt). In addition, revenge as a penalty

is moulded to obey the theory of *lex talionis*, 'an eye for an eye, a tooth for a tooth'. The State is not diligent in deterring or rehabilitating the perpetrator or other criminals, but is granted what it deserves by the commission of that crime (Wilson and Herrnstein, 1986; Danbazau, 2007).

In England, the haphazard execution of criminals prompted some thinkers like Beccaria to propose an alternative to the procedure of vengeance. Beccaria claims punishment needs to be known to criminals and punishment must be carried out promptly by the state (Danbazau, 2007). He seriously advocated that the offense should suit the penalty. This implies that the amount of punishment should be proportionate to whatever gain.

With the introduction of the idea of hedonistic calculus, Bentham took this principle further. He claims that before venturing into it, any human being, being a rational being, must have weighed the pain and punishment involved in committing a crime (Bronsteen, Buccafusco, & Masur, 2010). Therefore, the penalty (pain) must be a little greater than the will to be derived in order to make crime less eye-catching. Punishment would thereby prevent both the criminal and the general public from committing an offense. This theory places concern in the idea of price or graduation of punishment (Bakare, 2011). The more dangerous the offence, the higher the penalty (Bronsteen et al 2010).

For Mayer and Grant (2003), retribution is justified as any penalty, no matter how harsh, and is based on an eye for an eye concept of criminal punishment. They contend that retributive theory is punishing the offender by taking away their advantages that they might have gained from their criminal or illegal acts. Under this theory, criminals deserve to be punished for the

wrongful acts they have committed. Many supporters of the retribution theory argue that it is morally wrong to allow a guilty party to escape punishment. (Meyer & Grant, 2003).

Retribution does not punish innocent parties or discipline those that cannot be held responsible for their actions. For example, people who have a mental illness cannot be punished since they are not aware that they are committing a crime. By punishing offenders, we restore balance in society instead of society seeking the desire for revenge. (Meyer & Grant, 2003). The concept of retributive justice has been used in a variety of ways, but it is best understood as that form of justice committed to the following three principles: that those who commit certain kinds of wrongful acts, serious crimes, morally deserve to suffer a proportionate punishment; that it is intrinsically morally good and that it is morally impermissible to intentionally punish the innocent or to inflict disproportionately large punishments on wrongdoers.

The idea of retributive justice has played a dominant role in theorizing about punishment over the past few decades, but many features of it especially the notions of desert and proportionality, the normative status of suffering, and the ultimate justification for retribution remain contested and problematic. Retribution involves both positive and negative reward claims. The positive reward claim holds that wrongdoers morally deserve punishment for their wrongful acts and this claim comes in stronger and weaker versions.

Retributionists are of the view that the primary justification for punishing a criminal is that the criminal deserves it. A retributivist believes that there is some positive value in punishing a wrongdoer for his wrongful acts, apart from any consequences that might arise from doing so. This

positive reward claim is complemented by a negative one: Those who have done no wrong may be indirectly be punished. Of course, the innocent will inevitably sometimes be punished; no human system can run without mistakes as such most retributionist accept both the positive and the negative reward claims, along with the thought that it is morally good if those who deserve punishment get the punishment they deserve.

Restoration

Lastly, Meyer and Grant (2003), clarified that restoration is when the victim is compensated by the convicted offender. Restoration is where the criminal offender pays when the crime is committed for any harm or missing property faced by the victim. (Meyer & Grant, 2003). Restoration is more like reversing the crime committed against the victim and trying to bring their lives back to what they would have been like before the crime was committed. Restoration generally stresses the needs of victims of crime and their general absence from the course of justice.

Restorative justice does not necessarily highlight the needs of victims of crime, it also finds them in the sense of membership of society. Therefore, restorative justice focuses on the needs of individual parties to criminal cases (offenders, victims, onlookers) and discusses the connections between members of the group, repairing broken social relations. Restoration thus turns out to be an all-embracing purpose of group improvement over conditions of status quo (punish the criminal by throwing him / her in jail).

They are to be mended when victims have been affected; it is to be repaired when property has been spoiled; when chaos threatens the functioning of the community level, order must be restored; when structural failure, such

as unemployment, inadequate schools, family disturbance, or insufficient housing, generates circumstances that encourage crime, structural investment is indicated. Therefore, restoration is a solution to identifiable issues in society that need to be tackled, hence issues of both individual members of the community and the community as a whole.

A critical domain is also related to the purpose of restoration: reactive versus constructive crime prevention. In linking the response to a crime occurrence and activities of crime reduction, restoration enhances the response of a society to crime and the causes of crime. This is because persons and communities suffer from both, restorative findings resolve individual members of the group in need of assistance and organizational situations in need of mending. When there is an issue that is a consequence of a crime or that can lead to a crime, the purpose of the solution is to fix the problem. The rehabilitation of victims of crime is one significant measure of community justice. Recognizing the degree of damage caused by crime to victims is a first step in finding how to compensate them.

It is significant to have two payout arenas. First, by seeking restitution, victims may be restored, often in the form of monetary compensation and replacement or repair of property. Second, as well as medical, mental health and other essential social services, victims can be given services to help them recover from violence. While victims might opt not to take advantage of these programs, they will be made available under a model of restoration. Although these programs will be offered and widely used, it is often understood that some of the losses are so profound that it is difficult to expect complete recovery. The problem of restitution generally falls on the defendant, although

alternative forms of reparation in which the group provides compensation have also been introduced (Wright 1992).

Victim services, however, typically involve the community's contribution to delivering them as a public benefit. In this case, rehabilitation refers to both reparations for criminal harm to the community and problem-solving measures to mitigate criminogenic conditions. Incident-driven community reconstruction usually requires community service by perpetrators to compensate for the damage caused by them. Restoration is a comprehensive term that often involves restorative measures to target particular criminogenic factors to deter potential criminal damage in the community.

Therefore, the non-custodial measure is the detection of those categories of criminals who, by providing them some sort of specialized handling, may be rehabilitated and made better people. This care may include attendance at educational sessions required (e.g. for opioid offenders), participation in community-based recovery services, reporting at multiple points, extreme surveillance of the offender with the assistance of electronic devices, etc.

Basically, the object of the non-custodial measure is to provide, under a probation officer and under the continuing jurisdiction of the court, a personalized program offering a young or unhardened offender the opportunity to rehabilitate himself without institutional detention to enforce institutional punishment for his original crime in the event that he violates such an opportunity (Yekini, & Salisu, 2013).

Empirical Review

This part looks at other works that have been done in the area of prisons and how it will help shape the current study. The following are some of works reviewed.

Hagan (2013) analyzed the effect on prisoners in the Nsawam prisons of recovery services. In his dissertation, he researched the different vocational and educational programs of the Nsawam Medium Security Prisons and the effect on the inmates of these programs. He used the technique of the mixed process. His research found that the primary rehabilitation programmes in the Nsawam Prisons were vocational and educational services.

It also demonstrated that the quality of life of an ex-convict is not contingent on participating in a vocational training programme while in custody. In addition, his research found that the acquisition of work by ex-convicts in the larger community following discharge is not affected by the form of recovery services they are enrolled in. In other jails, this research concentrated only on the Nsawam, there may be various conditions. The study could have compared rehabilitation programmes in other prison facilities to better assess the situation if they same in all prisons.

Similarly, Antwi (2015) looked at Social reintegration of offenders and recidivism in Ghana. In his study, he sought to address the transition of offenders in Ghana. With a particular focus on qualitative research design, he used a mixed approach to methodology. His study showed that because of individual attributes, family relationships, societal background and penal policies, most ex-offenders re-offend. The study also found that in Ghana, penal policies primarily concentrate on detention, punishment and retaliation

rather than rehabilitation. Prison-based approaches are also ineffective in converting prisoners into law-abiding citizens because states are not expected to fund rehabilitation services.

It also showed that the social organization outside the prison is intimidating and non-supportive: ex-prisoners return to their communities, face intimidating interpersonal relationships, and because of the stigma of the prison record, they do not obtain the desirable support from the wider community. The study suggested a change in focus from punitive to rehabilitative approaches in correctional policy changes to keep governments responsible for funding rehabilitation in prisons in Ghana. In addition, to boost their reception back in their communities in Ghana, ex-offenders should be re-engaged in civic activities. This research concentrated only on one prison institution, so it could not be the same for all the other prison institutions in Ghana. The research also failed to make the general public's views on the topic illicit. The research would have been able to know what the general public also feels by including the opinions of the general public.

Birungi (2005) conducted a study on Community Service in Uganda as an Alternative to Imprisonment. In his work, Birungi wanted to examine the seeming efficiency of the community service programme as a new and advanced intervention in Uganda's criminal justice system. Secondly to examine strengths and weaknesses identified by members of the communities, by offenders, victims and their families as well as by members of the judiciary. His study employed the qualitative research design. His study revealed that the community service programme in Uganda was helpful and

boosts reconciliation as well as accelerating the reintegration process of the offenders into their communities.

He noted that still some of the community members held the opinion that community service is a 'soft' punishment and hence imprisonment is preferred. His study further showed that community service only as an alternative measure cannot do much in terms of tackling the issues of a high prison population. Other methods including African traditional ways of dealing with community issues need to be looked at to make a meaningful change to the criminal justice system in Uganda. This study could have included other forms of non-custodial sentence and also it could have compared the various different types of non-custodial sentences so we could better appreciate the benefit each has on the country.

Kagaruki (2015) assessed public knowledge on community service sentence as an alternative to imprisonment in Dar es Salaam. Kagaruki wanted to know the level of understanding and awareness of the public regarding Community Service sentence and suggest the better ways to make the public understand its benefits and participate in the implementation. His study employed the mixed method.

His study found out that most people had knowledge about community service however, the study pointed out that there are various challenges which hinder the implementation of community service, they included: poor awareness on alternative to imprisonment, insufficient staff of Community service offices, poor attitude of the public towards community service and also the mindset that offenders should be imprisoned. This study also focused only

one form of non-custodial sentence. It could have looked at the other forms of non-custodial and how well the public also know them.

Ofori-Dua, Akuoko, Barnie, Kwarteng, & Forkuo, (2015) in their study “Prison without Walls: Perception about Community Service as an Alternative to Imprisonment in Kumasi Metropolis, Ashanti Region, Ghana. They investigated the perception among residents of Kumasi metropolis about community service as an alternative to imprisonment”. Their thesis took on the research design of the social survey to examine the view of 200 respondents as an alternative method of punishment to incarceration about community service. Their research showed that the general population was overwhelmingly well educated about community service and preferred it to incarceration.

The first option for community service was related to its obvious value in removing the stigma normally attached to ex-convicts and its perceived potential to help transform prisoners than incarceration. Respondents agreed that for community sentences, petty crimes were sufficient. In addition, community service that must be communal in nature should be extended to persons with communicable diseases, pregnant and nursing mothers, single parents and first time offenders. Their study also focused on only one form of non-custodial sentence, also they also failed to include the views of either prison officers or the members of the criminal justice system.

Conceptual Framework

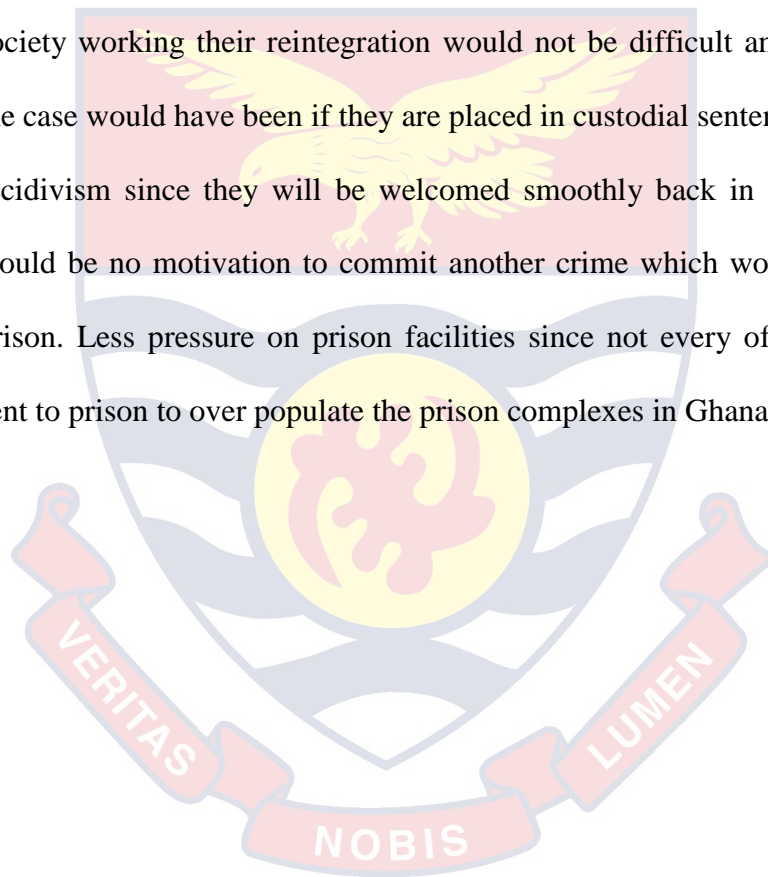
This conceptual framework is built on the understanding that the practice of non-custodial sentence in Ghana depends on three components: community involvement, awareness creation and the involvement of state

institutions (The Judiciary, The Police, The Prison Service, Social Welfare and The Media).

Awareness creation will afford the individual the needed information about how non-custodial sentence works and the different modalities available, it will at the same time inform the individual their part to be played in making it successful. So educating people about non-custodial sentence will make them be aware of the practice. The community involvement is very crucial in the sense that the community will serve as the place where people who are sentenced to non-custodial service will be sent to and made to work. It is this place where rehabilitation and reformation will take place. With this, the members of the community will be made to understand that people who will be sentenced to non-custodial sentences are being sent into the community to work in order to rehabilitate and reform them. By doing this it will also help the inmate so that their reintegration into the society will be smooth. The last component vital for the practice of non-custodial sentence is the involvement of state institutions (The Judiciary, The Police Service, The Prison Service, The Social Welfare and The Media).

All these three components are faced with challenges that if they are dealt with can disturb the smooth running of non-custodial sentence. Some of the challenges are the fear of community members rejecting people sentenced to non-custodial, lack of personnel to handle the practice, inadequate surveillance equipment, financial constrain and lack of formal legal backing. If these challenged are not handled properly then it will be very difficult for the practice of non-custodial sentence to be rolled out.

However, if these challenges are taken care of then we are going to enjoy the benefit from the practice of non-custodial sentence. Some of these benefits are reduction in crime as other people who will be giving non-custodial since will be visible enough for every on to see hence would serve as a deterrent to others who will want to commit similar offence or crimes. Less costly because the amount government would spend on maintaining the prison would be less, Smooth reintegration so far as the prisoners will be in the society working their reintegration would not be difficult and stigmatized as the case would have been if they are placed in custodial sentence. Reduction in recidivism since they will be welcomed smoothly back in the society there would be no motivation to commit another crime which would land them in prison. Less pressure on prison facilities since not every offender would be sent to prison to over populate the prison complexes in Ghana



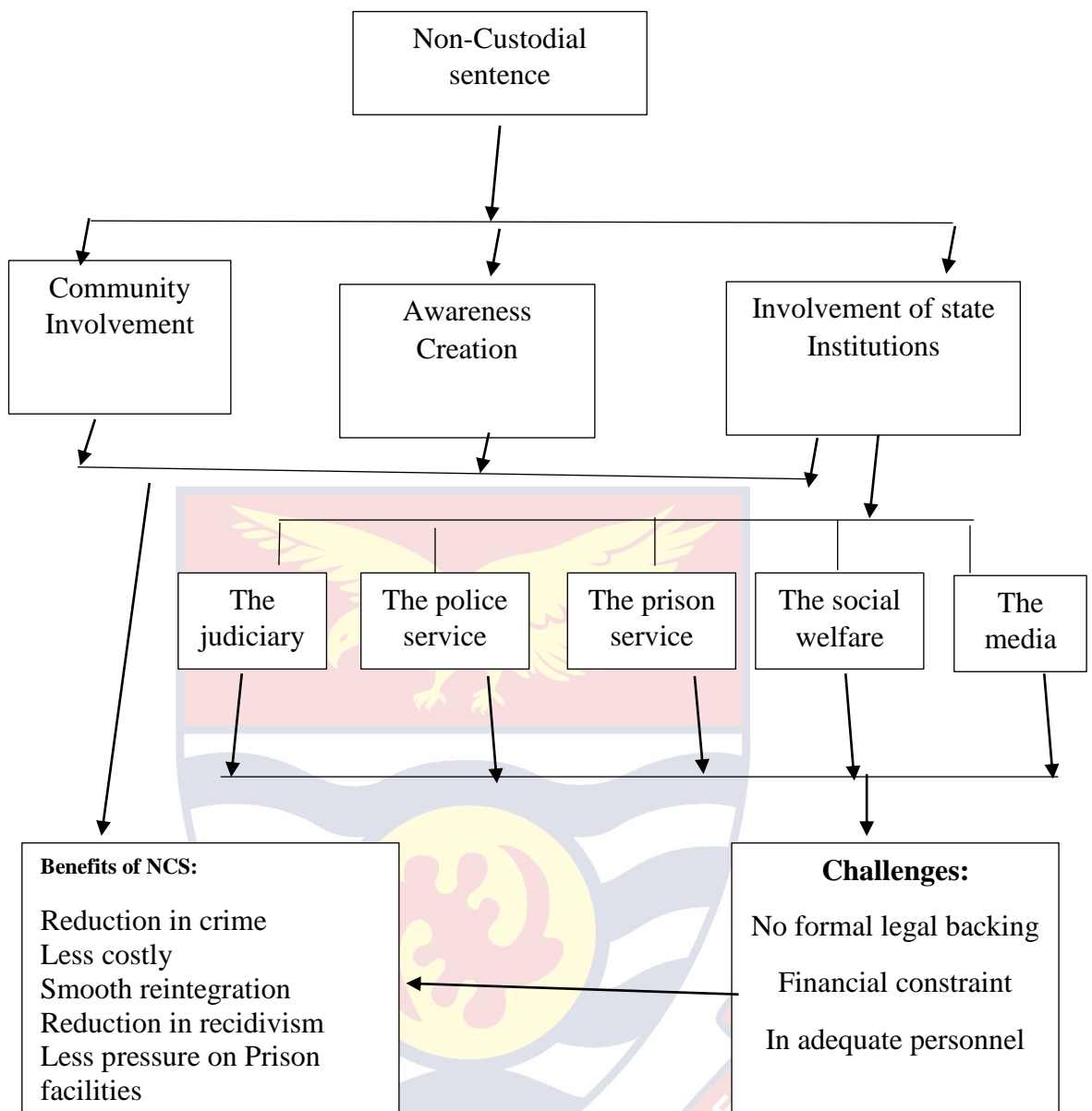


Figure 1: The non-custodial sentence Framework
 Source: Adopted from the Philosophy of Punishment

Summary of the Chapter

This chapter highlighted the historical development of Prisons and Corrections, from the ancient times, how it started in Africa, then in Ghana. It also looked at non-custodial sentence in the status book of Ghana. The chapter also explored the need for Non-Custodial Sentencing and the challenges associated with it. It then analyzed the empirical literature on non-custodial sentences and eventually analyzed the theory of punishment.

CHAPTER THREE

METHODOLOGY

Introduction

This chapter contains a description of the study design, study area, philosophy underpinning the study, population, sample, sampling procedure as well as instruments for data collection and data collection procedures, data processing and analysis. It also addresses the ethical considerations, field challenges and data analysis that will guide this study.

Research Design

The study used exploratory research design with the aim of unearthing underexplored issues related to non-custodial sentencing as an alternative to imprisonment in Ghana. The exploratory design is considered appropriate because its purpose addresses the nature and objectives of this study. Scholars like Brown (2006), Saunders, Lewis & Thornhill (2012), Eugene & Christine (2015) argued that exploratory design is used when there are few or no earlier studies to refer to about a particular research problem. Thus, the focus is on gaining insights and familiarity for later investigation or undertaken when problems are in a preliminary stage of investigation (Eugene & Christine, 2015; Saunders, Lewis, & Thornhill, 2012).

Philosophical Paradigm

Research paradigms are simply mental models for guiding practice, they are also regarded as stable worldviews, with supportive assumptions, constructs, and propositions (Greene & Caracelli, 1997 and Morgan, 2007). The research philosophy underpinning this study is the Pragmatism Philosophy. Pragmatism has often been identified in the mixed methods

research literature as the appropriate paradigm for conducting mixed methods research (Johnson and Gray, 2010; Creswell & Plano Clark, 2011)

Johnson, Onwuegbuzie and Turner, (2007) defined mixed methods research as a type of research in which a researcher or team of researchers combines elements of qualitative and quantitative research approaches (e.g., use of qualitative and quantitative viewpoints, data collection, analysis, inference techniques) for the broad purposes of breadth and depth of understanding and collaboration. The reason for the choice of mixed methods is that complex social phenomena are subjected to multiple realities hence the need to adopt multiple mental model and employ different methodological approaches (Greene, 2008).

The convergent mixed method was used in the study. The convergent mixed method combines both the qualitative and quantitative data, analyzes them separately and then compares the results to see if the findings confirms or disconfirm each other. In relating to the current study, pragmatism was very useful to the study because it brought to bear the issues from both the qualitative and the quantitative.

The quantitative method answered questions on relationships with measurable variables with an intention to explain the phenomena under study whilst the qualitative research approach produced holistic understandings of rich, contextual, and generally unstructured, non-numeric data by engaging in conversations with the research participants in a natural setting (Brown, 2006; Mason, 2002). Qualitative research covers a phenomenon in depth and detail by recording and analysing feelings, attitudes and behaviours (Creswell, 2013). It also makes the research easier for the researcher to gain clearer

understanding about the targeted market for the reason that the types of questions asked during the process starts with “Why” (Creswell, 2013; Lewis, & Thornhill, 2012) and by enabling participants to tell their stories.

Since the study is driven by the need to acquire an in-depth exploration of both expert views and public views on non-custodial sentencing, both the quantitative and qualitative design would complement each other by affording the rich lived experiences, insights, and how social world is defined by a category or group of people about a social situation or problem and hence the mixed method design is very favourable in this regard (Ahuja, 2003; Jones, Torres, & Arminio, 2013)

Study Area

The study was conducted in Cape Coast. The reason for selecting Cape Coast among other reasons was that Cape Coast is the regional capital of the Central Region. It is most notable for being the center of Ghana’s education as it holds some of the first class secondary schools in Ghana such as Wesley Girls, Holy Child, Mfansipim and St. Augustines. Other important educational institution such as the University of Cape Coast and the Cape Coast Technical University. Cape Coast shares a boarder to the West with Elmina, Abura Aseibu Kwamankese to the East, Twifo Heman Lower Denkyira to the North and the Gulf of Guinea to the South. Cape Coast is divided into two main subdivisions, thus the Cape coast North which has 15 electoral areas and Cape Coast South which also has 30 electoral areas. Some of the popular communities in the Cape coast South are: Kotokuraba, Kingsway, London Bridge, Ola, Tantri and Brofoyedur. For the North, Abura, Pedu, Amamoma,

Nkanfoa, Apewosika, kwaprow and Akotokye are some of the popular communities.

The Cape Coast Metropolitan area is among the oldest districts in Ghana, according to the 2010 Population and Housing Census. In 1987, it was raised to municipal status and subsequently upgraded to metropolitan status in 2007. There is one prison complex located at Ankaful which is about 10 minutes drive from the main Cape Coast town. It has four separate prisons which houses several convicted criminals and those on remand awaiting trial. Cape Coast has a court complex, Regional Police command and a Social Welfare Office. Cape Coast also has the regional office of the Social Welfare and a host of law firms. With these facilities and institutions, Cape Coast was selected for the study.

Population

Population as defined by Ogula (2005) refers to a group of individuals, artifacts or organizations with a common characteristic defining the artifacts of the enquiry. Judges, judges, special investigators (police officers), and corrections officers were part of the population in this report. Others include after-care officers and certain general public members. As follows, the judges are the persons required by statute to hand sentences to convicted criminals, the reason for choosing the respective target groups. The criminal prosecutors (police officers) are the ones who bring criminal charges against a person accused of a crime in court, while prison officers are the people who are mandated by law to provide welfare, reformation and rehabilitation. Aftercare officers are social welfare officers who deal with ex-convicts. The members of the general public consisted of randomly selected people who are part of the

adult population of Cape Coast and their perception about the study will be sort. In this context, the adult population refers to all persons who have attained the age 18 and above who are voters and have a fair ideas about Non-custodial sentence. To be able to get the total adult population of 18 and above, the study used the 2016, voter register of the Electoral Commission of Ghana. The adult population of the residents in Cape Coast, according to the 2016 voter register was is 80906, out of this figure, 41,474 were from the Cape Coast South, while 39,432 were from the Cape Coast North.

Sampling Size

Quantitative

The quantitative sample size was determined using the Krejcie and Morgan (1970) formulas. Using the 2016 voter register, Cape Coast North and South has a total adult population of 80906. Adult population because they are people who can make independent decision and they will be able to understand the tenets of the study. Considering the population size of Cape Coast, by computation from the Krejcie and Morgan (1970) Table, a population of 75,000, with 95 percent level of precision, produces a sample size of 382. Thus these 382 respondents in the Cape Coast was the total population of respondents selected for the quantitative study. In order to be able to get all the 382 respondents, the researcher relied on the (45) electoral areas in Cape Coast. The whole of Cape Coast was divided into two big clusters, thus Cape Coast North and Cape Coast South. They were further subdivided into (45) clusters with each cluster representing an electoral area. This was done with the help of the Electoral Commission' electoral register. In the register Cape Coast North has 15 electoral areas while Cape Coast South

also has 30 electoral areas. These electoral areas formed the clusters where the researcher gathered the data making a total of 45 clusters.

Qualitative

With respect to the qualitative study, the question of how many participants are sufficient have been exclusive to qualitative research (Baker, Edward & Doidge, 2012). In responses, a number of scholars have shared their views as to which sample size is ideal. In thesis writing, most scholars (Bryan, Peter, Amit, & Renee, 2013; Bryman 2012; Gerson & Horowitz, 2002) agree on 12 to 30 participants. However, Adler and Adler (2011) argue that the maximum sample size for qualitative research for M. Phil thesis is 20. In spite of these arguments, some scholars (Bryman 2012; Guest, Bunce & Johnson, 2006) share the view that the sample size could be adjusted in the course of data collection bearing in mind the concept of saturation and adequacy in qualitative data collection. Therefore, the sample size for the qualitative was determined on the field when saturation and adequacy was reached. The following are the breakdown of the sample from qualitative study. The study used four (4) Judges, two (2) police Officers, two (2) lawyers, one (1) social welfare officer and sixteen (16) prison officers. In total the study used twenty five (25) participants.

Sampling Procedure

Quantitative

The primary goal of sampling is to get a representative sample, or a small collection of units or cases from a much larger collection or population, such that the researcher can study the smaller group and produce accurate generalizations about the larger group (Teddlie, & Yu, 2007). The study

employed multistage cluster sampling and the simple random sampling in eliciting data for the quantitative study.

Having in mind the various clusters and the population sample 382 every cluster (electoral area) was covered thus (8) respondents from each electoral area. Again, in each electoral area household were considered. According to the 2010 population and housing census in Ghana, a household is a group of persons who make common provision of food, shelter and other essentials for living. In each household each adult member who is 18 years and a voter was considered. For the individual respondent the researcher sort permission from them and explained the purpose of the study to them and for those who agreed to participate the questionnaires were given to them.

For those who couldn't read and write, the researcher read the question to them in their native language which was Fante and the responses given were ticked on the questionnaire. The researcher was also able to give the questionnaires to 22 assembly members of the various electoral areas. The reason for the 22 assembly members was that some of them were not available at the time of the administration of the questionnaires hence those who were available were included. The study was gender sensitive as both males and females were given the questions to fill.

Qualitative

The purposive sampling technique was employed to select the participant for the qualitative research. Purposive sampling is a type of non-probability sampling techniques (Kothari, 2004). Purposive sampling relies on the judgment of the researcher when it comes to selecting the units (e.g., people, cases/organisations, events, pieces of data) that are to be studied. In

this study the participants that were very beneficial to the study were judges, lawyers, police officers, social welfare officers and prison officers. Usually, the sample being investigated is quite small, especially when compared with probability sampling techniques (Kothari, 2004). The main goal of purposive sampling is to focus on particular characteristics of a population that are of interest, which will best enable you to answer your research questions (Etikan, Musa, & Alkassim, 2016). In these case the choice of the members of the criminal justice are of a very significance to study as they will provide more insight to the research. The reason for this choice is that the researcher believes that the participants to be selected for the study possess certain characteristics and also have in-depth knowledge about the subject matter.

Data Sources

The research relied on primary data as well as secondary data. Basically, the primary data were the data collected from the interviews and the questionnaires. Secondary data were derived from relevant literature and suitable records such as: scholarly journals, study journals, publications of the government, as well as dissertations published and unpublished.

Instruments for the Research

The questionnaire and interview guide were the tools used to collect data from the respondents and participants.

The questionnaire was used to gather data from the adult Cape Coast population. Questionnaires were chosen because they constituted the most appropriate technique for deriving information from the large number of respondents involved in this study. The questionnaire comprised close ended questions. The close ended questions were used to help the respondents choose

the options with which they agreed most. The questionnaire was sub-divided into five sections (A-E) with 35 items thematically addressing the research objectives and questions. It covered the demographics of individual respondents, awareness of non-custodial sentencing non-custodial sentencing in Ghana prospects of non-custodial sentencing in Ghana and the challenges of non-custodial sentencing.

Heads or representatives of the components of the criminal justice system were interviewed to document their views on non-custodial sentencing as an alternative to imprisonment in Ghana. The interview guide served as the main qualitative research tool for this study. Interviews also supply data that cannot be accessed by any other means. The selected judges, lawyers, social welfare officer, prison officers, police officers were interviewed at their offices. An interview guide was structured to cover non-custodial sentence and other issues that were deemed important in providing answers to the research questions and the objectives of this study. The interview guide acted as the key qualitative analysis method for this report.

Pre-testing

The practice of pretesting is highly considered as an efficient tool for enhancing the validity and interpretation of results in data collection procedures (De Vaus & De Vaus, 2013). By definition, pre-testing includes small-scale simulation of the structured data collection process to identify functional issues with respect to data collection methods, sessions, and methodology. Therefore, Elmina, a neighboring community to Cape Coast which portrayed similar characteristics as Cape Coast was selected for the pre-testing of the questionnaire. The aim of the pilot study was to assess and

review the objectives underlying the study and to assess the internal consistency of the research instruments statistically. The pre-testing was really useful as it gave the researcher the chance to change a question and how to approach respondents as well.

Validity and Reliability of Instruments

Guba's (1981) standards for internal validity, external validity, reliability and objectivity were adhered to in this analysis to ensure the trustworthiness of the collected data. Pointing out that various definitions in a mixed methodology analysis should be labeled differently to reflect the reconstruction of the criteria. The detailed implementation of the trustworthiness criteria (credibility, transferability, reliability and conformity) in the sense of project assessment was further refined by Guba and Lincoln (1989).

The investigator therefore communicated with participants through interviews and the administration of questionnaires to obtain sufficient information on the study's goals in order to ensure the reliability of this study. This criterion was intended to validate numerous data sources on the same question. Furthermore, responses obtained from participants and respondents offered perspectives and guidance to conduct successful interviews. Therefore, the study result showed a true representation of the collected data. Finally, in the sense of the respondents and participants, data interpretation was anchored by value clarification while leaving off the researcher's own biases and perceptions in order to ensure study compliance. In order to complement the reliability of the questionnaire, internal validity, external validity and objectivity were also evaluated in order to fine-tune the targets for field work.

In advancing the validity of the study, the researcher established content validity by pre-testing the instruments at Elmina, a community with similar characteristics as the study area. Before the pretesting was executed, the researcher peer reviewed the instruments with other master students at the department of Sociology and Anthropology. They were given the instruments to read through in order to help find tune it. Inputs made during this stage were added to the instruments. From there, the researcher gave the instruments to the supervisors who also added valuable inputs which aided in the easy understanding of the questions. This was evident during the analysis of the pretesting.

Administration of Instruments

Each instrument employed in the study followed a pattern on its data collection as detailed below. In eliciting data from respondents, questionnaires were administered to randomly selected residents in Cape Coast by using the multistage sampling method. Respondents were selected by dividing the study area into forty five clusters. The questionnaires were administered in the language that the respondents were easily able to identify with. This was very helpful as not all the respondents in Cape Coast were familiar with the English language. So for those who could not read the English language, the instruments were read to them in the language they could understand and they provided answers to it. The duration for the administration of questionnaire for each respondent lasted between 15 and 20 minutes.

With respect to the qualitative data an introductory letter was sent to the Ghana Prison Service, the Ghana Police Service, Social Welfare and The Cape Coast High Court to seek permission to conduct the study. For each

participant, the interview took 30 to 40 minutes. The purposive sampling technique was used to gather information from key informant such as Prison officers, Judges, Lawyers, social welfare (after care officer), police prosecutors. These people are believed to be the members of the criminal justice system and hence seen as having the requisite knowledge on the study. So after the introductory letter has been sent to their outfit those who were available were interviewed. Purposive sampling means selecting units of analysis that have vital information with the population (Kumekpor, 2002). Purposive sampling because these individuals are believed to have in-depth knowledge about the subject matter and can provide valuable information to the study.

Ethical considerations

In order to protect both participants and respondents from possible harm, both study studies raise a range of ethical and moral dilemmas that must be defined and addressed (Seidman, 2013). In the study, ethical questions were adhered to. The ethic of informed consent was followed by this report. The Department of Sociology and Anthropology and the Institutional Review Board at the University of Cape Coast received an introductory letter to request the permission of the respondents and participants to engage in the research.

Respondents and participants were not pressured into engaging in this research study for moral and legal purposes. Participants and respondents were made to recognize that their engagement is voluntary and that adequate information on the study was presented to make an informed decision on whether or not to engage in it. On the first day of data collection, the purpose

of the study was explained to participants and respondents for them to get clear understanding of the study. The issue of informed consent was catered for in this study by making sure that the respondents for the study are briefed to know the purpose of the research. An informed consent form was provided to endorse participants and respondents agreement to participate in the research.

Also, since it was imperative to protect information gathered from participants and respondents, the researcher ensured that responses given by participants and respondents cannot be traced back to them in the analysis. Moreover, the right to privacy is the individual's right to decide when, where, to whom, and to what extent his/her attitude, belief and behaviour was revealed. Social research presents many possibilities for invading the privacy of research participant, and it is essential that researchers be sensitive to the ways in which their actions can violate this basic right. No matter how sensitive the information, however, ethical investigators protect the right to privacy by guaranteeing anonymity and confidentiality. Subsequently, the report of the findings did not include names of respondents or anything that could lead to their identification

Field challenges

The major challenge the study face was the bureaucratic process at the security services. Replies to the letters sent to these agencies delayed making it difficult to collect data on time. Also, the researcher was instructed not to tape record the participants in the security services and the law court. Every academic research has its own unique challenges, as such this study faced challenges such as unwillingness to participate thus most respondents were

afraid to answer the questionnaires as they feared what they say may be used against them even though the researcher assured them of confidentiality and anonymity. There was also lack of time on the part of the respondents/participants as they were busy with their work schedules. Financial challenges to the researcher in the form of transportation cost to and from the head of offices the security services which are all based in Accra.

Data Analysis

The quantitative data collected from the field was coded and analyzed using software version 22 of Statistical Product and Service Solutions (SPSS). The information is collected, evaluated and displayed. Two descriptive figures, frequencies and percentages, were used to present the details based on the study's basic goals. The in-depth interviews in English were documented and transcribed verbatim. The information was then coded according to the research objectives after patterns were defined based on the emerging themes.

Summary of Chapter

The chapter highlighted the justification for selecting Cape Coast as the study area as well as the members of the criminal justice system and the general public used in the study area. In total, data was elicited from 407 respondents and participants by using multistage, simple random and purposive sampling techniques. The chapter sought to highlight how the researcher applied the ethical considerations techniques in the face of the numerous field limitations and challenges. Finally, by using the Statistical Product for Service Solution (Version 22), it addresses the data interpretation and presentation of the findings and the qualitative data was manually coded and themes were drawn up to interpret the study's research results.

CHAPTER FOUR

SOCIO-DEMOGRAPHIC CHARACTERISTICS OF RESPONDENTS

Introduction

This chapter focuses on the socio-demographic characteristics of respondents and participants and also presents findings on the awareness of non-custodial sentences by respondents and participants.

Socio-demographic Characteristics of Respondents and Participant

The socio-demographic characteristics of the respondents and participant gives understanding of the responses, it also shows the degree to which data given can be relied on. The variables considered relevant to the study are age, sex, marital status, educational level, religious affiliation, employment status, position/rank and job schedule.

Age distribution of respondents

Figure 1 shows the age distribution of the respondents

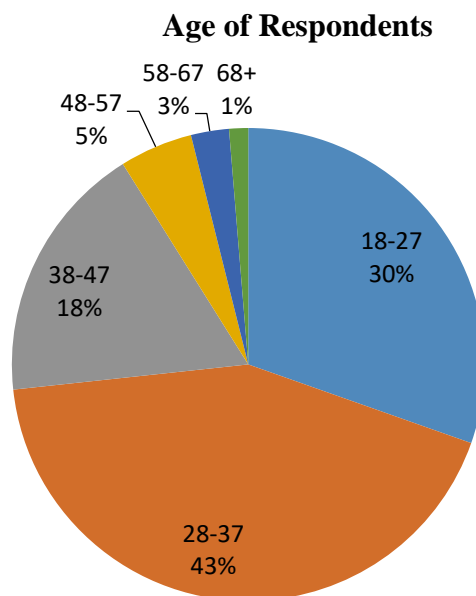


Figure 2- Age of Respondents

Source: Fieldwork of the Author, 2019

The age distribution of the 383 sampled respondents is shown by the findings obtained from Table 1. The table reveals that 42.9 percent of respondents were aged 28-37 years of age, 30.4 percent were between the ages of 18 and 27 years, while 17.8 percent were between the ages of 38 and 47 years with another 5 percent within the ages of 48 and 57 years while the 2.6 percent were between the ages of 58 and 67 with the least being 1.3 percent representing age 68 and above. Similarly, the participants had varied age ranges. It showed that the participants for the in-depth interviews were within the ages of 40 and 58 years of age, with only two participants within the ages of 30 and 35 years old.

Sex Distribution of Respondents

Table 1 shows the sex distribution of the respondents

Table 1- Sex of Respondents

	Frequency	Percent
Male	196	51.3
Female	186	48.7
Total	382	100.0

Source: Author's Fieldwork, 2019

Table two indicates that the majority of the respondents comprising 51.3 percent were males while that of females were 48.7 percent. For the in-depth interviews, 13 of the participants were women while 12 were males.

Marital Status

Table 3 shows the marital status of the respondents.

Table 2- Marital status

Marital status	Frequency	Percent
Married	102	26.7
Single	241	63.1
Divorced	20	5.2
Separated	9	2.4
Widowed	10	2.6
Total	382	100.0

Source: Author's Fieldwork, 2019

Like any society, the Ghanaian society cherishes the marriage institution. It has demographic, economic, socio-cultural and health implications as it sets the context for reproductive activities such as legitimizing sexual activities and childbirth (Braun, 2005). Notable forms are the traditional, ordinance and religious marriages. Marital status is also used as one of the determinants of social status and an indicator of social responsibility, trust and achievement in some societies (Animasahun & Fatile, 2011). In this study, when the respondents were asked to indicate their marital status, Table 3 shows how they responded.

With regards to the marital status of the respondents, 63.1 percent were single, 26.7percent were married. The table shows also that 5.2 percent were divorced, 2.6 percent were widowed and 2.4 percent were separated.

Educational Level of Respondents

Table 3- Educational level of respondents

Educational level	Frequency	Percent
Primary	9	2.4
Senior High	84	22.0
Tertiary	170	44.5
Others	119	31.2
(Professional)		
Total	382	100.0

Source: Author's Fieldwork, 2019

From Table 4, it was evident that 44.5 percent of the respondents had obtained tertiary education, 31.2 percent indicated that they had other forms of professional education, while 22 percent made it known that they had obtained senior high school education and only 2.9 percent had primary education.

On the part of the qualitative data, it was revealed that the four judges from the court had obtained tertiary education as their highest form of education, fourteen (14) prison officers had obtained tertiary education, and another two prison officers one with middle school certificate and the other O level certificate. The social welfare officer and two police officers and the two lawyers also had obtained tertiary education.

Religious affiliation of respondents

On the issue of religious affiliations Table 5 shows the various religions of the respondents.

Table 4- Religious affiliation of respondents

Religion	Frequency	Percent
Christian	307	80.4
Islam	50	13.1
African Traditional Religion	10	2.6
Others	4	1.0
No Response	11	2.9
Total	382	100.0

Source: Author's Fieldwork, 2019

Religion forms part of the integral part of the Ghanaian society. According to the 2010 population and housing sensors report, the Ghanaian society has an approximately 71.2% of its population being Christians. It is therefore not surprising that of the total population sampled, 80.4 percent were Christians, followed by 13.1 percent representing the Islamic religion and 2.6 percent representing the African Traditional Religion. The rest 2.9 percent indicated that they did not belong to any religion while only 1 percent indicated they belong to other religion apart from the three main religions in Ghana. The decline in the numbers people worshiping in the African traditional religion can be attributed to the fact that there are no more traditional shrines where people go to consult the gods but on the contrary, there are a lot of churches around making it very easy for people to access hence accounting for the large numbers in Christianity, as well as that of the Islamic religion.

Employment status of respondents

With regards to the employment of respondents figure 3 shows the various employment status of the respondents.

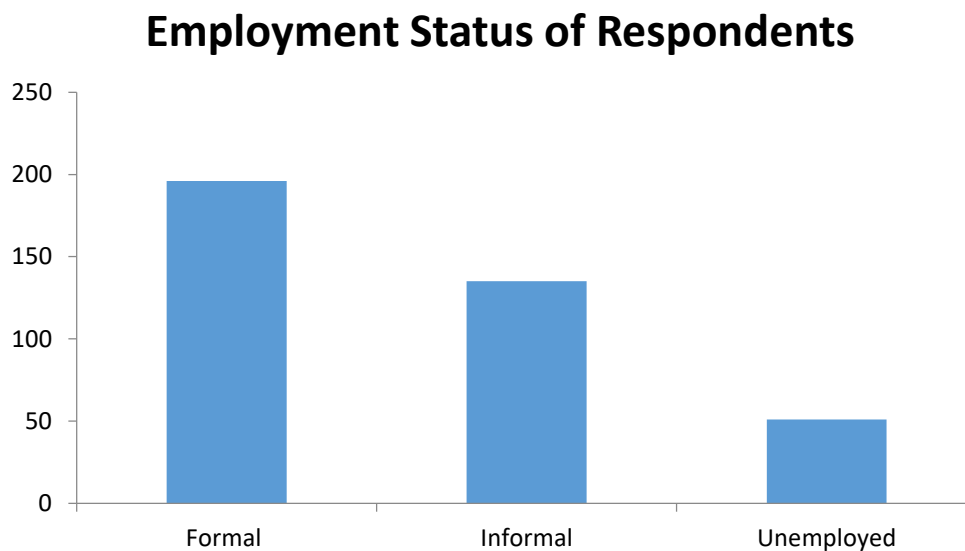


Figure 3: Employment Status of Respondents

Source: Author's Fieldwork, 2019

As can be seen from figure 3, 51.3 percent of the respondents were employed in the formal sector. The formal sector being the government while 35.3 percent of the respondent indicated that they employed in the informal sector thus any form of employment other than the government sector. The results show that 13.4 percent indicated no response because they were not employed in either of the sector. These groups represent students and those who have finished school and are not employed yet.

Employment and Job description of Participant

The qualitative data shows that all the 23 of the participant were employed in the formal sector while only 2 participants were employed in the informal sector. The participants were further asked to explain their roles in the penal system. For the prison officers, they retreated their core mandate as

their role in the penal system, which is the safe custody of prisoners, to ensure their welfare and lastly to rehabilitate and reformation. This is what few of them had to say

“As a prison officer I ensure the safe custody, welfare, by welfare I hope you understand what I mean: their clothing, their shelter, feeding, bedding and healthcare and then their reformation and rehabilitation” (Male, 40 years Prison officer, Deputy Supt. of Prison)

Similarly, another officer, female 44 years had this to say

We ensure the safe custody, their welfare and rehabilitation and reformation. As our mandate says we should do. (Female, 44years Deputy Supt. of Prison)

The judges follow a strict procedure as they sit and listen to arguments from both accused persons and the prosecution and decides the fate of the accused persons. This is what one high court judge had to say.

“as a high court judge, I presides over cases and pronounce judgment where necessary”. (High Court Judge, Male 54years)

For the Social welfare officer, he is a member of the juvenile court. So for his role in the penal system he sees to it that minors or under age people are given the right treatment during their court case. The lawyers had different roles to play in the penal system. They emphasized that in criminal trial they represent the accused persons who have been accused of an offense or any matter that is classified as offense. For the police officers their main role is to investigate and cause the arrest of the alleged offender. So in the criminal justice system, the police officers are the first people who come into contact with the

alleged offender, from there they investigate and process the offender to court, at the court the judge sits on the case and hear agreements from both sides thus, the offender and the prosecutor after which he/she makes judgment and pronounce sentence. After the sentence is pronounced the convicted person is taken to the prison and that's where the prison officers will ensure their safe custody, welfare and their rehabilitation and reformation. Social welfare officers come in when they are released from the prison hence their name aftercare officers but sometimes before the judgment are pronounce, a judge can consult a social welfare officer to write a social enquiry report on a minor. In a nut shell, all these institutions work hand in hand to make sure the right things are done and are according to the laws of the country.

Awareness of Non-custodial Sentence

The first goal of the research is to understand the extent of understanding of non-custodial sentences by the major institutions of the criminal justice system and the general public, where they heard it from and how it works. The following tables and narratives indicate the level of awareness of the respondents and participant of this study. Prior to knowing the awareness of participants the study sort to know from the professional the forms of punishment in Ghana, their views about it and how effective the current forms of punishments in Ghana. It came out that imprisonment or custodial sentence was the dominating form of punishment in Ghana. All the other forms of punishment had default attached to it, and being in default meant that you will have to be sent to the prison.

A Judge at the circuit court had this to say:

Currently as we have in our laws there are four sentences that the court can impose: imprisonment, fines which they have added in default the person goes to prison; signing of bond to be of good behavior which also has in default if you are not able to comply you go to prison; caution and discharge, on the face of it the caution and discharge is the non-custodial.

(Female Judge, 40 years)

This indicates that the modes of punishment as allowed by the constitution of Ghana are very limited. On how effective these modes of punishment have been so far, there were mixed responses as some of the participant were of the view that it has not been effective due to the limited number of punishments available and also the prison or imprisonment has being used chiefly as the main form of punishment.

Even though other options are there the option of imprisonment is practiced, its only a few cases where the court will offer caution. Majority of the punishments is imprisonment. They do so because the status do not allow non-custodial to be resort to. They are not effective. We punish people to change the aims of punishment are not being achieved because we concentrate too much on imprisonment where facilities, resources are not there. They (prisoners) are prone to diseases. There are no extensive rehabilitation hence the aims of punishment is not yet met.

(Prison officer Male 44 years, Chief Supt. Prison)

This statement is agreeing to Yin 2018, that facilities in prison are not available if they are too, they are defunct and are not working. The argument

here is that since every punishment meted out to offenders by the court of law will in one way or the other end up in prison then the prison must be well resourced enough to cater for this kind of need. As it stands now, our prisons are not well resourced and the ones resourced too they are defunct.

On the other hand, there were participants who were in favor of the fact that to some extent, the imprisonment is effective, it has helped the community to get rid of some bad nuts. We turn to have our peace in our various homes. While some were of the view that it deters other people who will have otherwise might want to commit similar offence.

They are effective, criminals are taken to prison so other people have their freedom. (Prison Officer, Female 46 years, Chief Supt. Prison)

One other prison officers maintained that imprisonment is the last resort after all the other options have been weighed and assessed.

Imprisonment is the last resort, after all other options. Most of the boys here are because of poverty in the home hence they cannot go back to their homes so they are placed here to come and lessons for their betterment if the environment is not conducive for their stay in the community then they come here.

(Prison officer, Male 47 years, Assistant Supt. Prison)

He made this assertion because of the place he is stationed. Only minors are sent to that prison facility for a period of not more than three years. In this instance he believes imprisonment for these minors is warranted because the families of these minors are not so well to do coupled with unconducive environment hence the young ones may indulge in criminal

activities which will land them in court and subsequently be imprisoned. He was of the view that the court will not just resort to imprisonment but will consider the family background and the environment in which the child is coming from before passing that sentence. This was in agreement to what the high court judge said before he pass judgment to a minor, he will ask the social welfare officer to write a social enquiry report detailing the family background, the social environment of the minor after which he will base his judgment.

From the above discussions, imprisonment may be conducive but not for all crimes. There are programs that are specially designed for certain kind of offenders to undergo which will help them become better versions of themselves while for some others they need not to go through the prison system because the fear of them becoming hardened criminals is also high.

The quantitative data also revealed that the majority of the respondents 84 percent had heard about non-custodial sentence, it further showed that 13.6 percent responded no, indicating that they have not heard about non-custodial sentence while 2.4 percent did not respond at all which also suggest they have not heard about non-custodial sentence. The qualitative data showed that all the participants had knowledge about how non-custodial sentence worked too. All the participants responded yes to when they asked if they have heard about non-custodial sentence. This finding presupposes that may people have heard about non-custodial sentence.

Table 5, shows the sources of information about non-custodial sentence.

Table 5- Sources of Information about non-custodial sentence

Responses	Frequency	Percent
Electronic Media	208	54.5
Court	43	11.3
In a Movie	40	10.5
Newspapers	49	12.8
No Response	42	11.0
Total	382	100.0

Source: Author's Fieldwork, 2019

From Table 5, the study went further to know how they heard about non-custodial sentence. The results from Table 5 show that 54.5 percent heard non-custodial sentence from the electronic media (i.e. the radio, the internet and television station), 12.8 percent had read it from the newspapers 11.3 percent said they heard it from the law court, 10.5 percent had seen it in the movies. This results also underscores the fact that the electronic media is a great source information to the populace. They tend to educate the populace on social, political and environmental issues, these information from the electronic media are taken very seriously and they can reach out to more people even those in the remote villages. It then becomes the primary source of information to a lot of people.

In the case of the qualitative data, it was revealed that for the security agencies such as the Ghana Prison Service and the Ghana Police Service non-custodial sentence was part of their training manual. There they are taught at their various training schools. For the judges and the lawyers, they were

equally taught during their training at the law school and subsequently their constant practice of the law.

From the quantitative data obtained, it was also apparent that 79.3 percent of respondents said they had knowledge of non-custodial sentences, this is consistent to (Ofori-Dua, et al, 2015) they establish in their study that the members of the community were well conversant with community service and preferred it to imprisonment.. Also 11.3 percent made it known that they did not have any knowledge of non-custodial and 9.4 percent did not answer which also means that they did not have a knowledge about non-custodial sentence.

Table 6, shows how the respondents described the practice of non-custodial sentence.

Table 6- Description of Non-custodial sentence

Statement	Frequency	Percent
A convicted offender will be asked to undergo a medical treatment	34	8.9
A convicted offender will be asked to clean the gutters or sweep the street	134	35.1
A convicted offender will be working for an organization without being paid	100	26.2
A convicted offender will be asked to pay a fine	114	29.8
Total	382	100.0

Source: Author’s Fieldwork, 2019

On how to describe non-custodial sentence, Table 6 shows that 35.1 percent of the indicated a convicted offender will be asked to clean the gutters or sweep the street, then, 29.8 percent indicated that a convicted offender will be asked by the court to pay a fine, 26.2 percent made it known that a

convicted offender will be asked by the court to work for an organization without being paid while others answered that a convicted offender will be asked to undergo a medical treatment. For such instances, the criminal behavior maybe as a result of health condition that may have affected the criminal hence placing them under medical treatment will help rehabilitate the offender. The most practice form of non-custodial sentence is the community service or the communal service where a convicted offender will have to work to repay the harm caused society or to help reduce the problems associated with sanitation.

Community service is a penalty option, according to Morris & Tonry, 1990, which requires a lawbreaker to choose to stay at his place of residence and do any work of communal gain as a penalty instead of being held in a jail, in this case the offender receives no pay and works for a prescribed time. It is therefore not surprising that major of the respondents answered that a convicted offender will be asked to clean the gutters or sweep the street. This also underscore the fact that majority of the respondents know and describe how non-custodial sentence work.

The qualitative data showed that the respondents were able to describe how the practice worked. Some of the highlighted responses they provided in describing what was a non-custodial sentence are as follows, a prison officer said it was an alternative to imprisonment. This was what he said:

Yes it is an alternative to imprisonment. Instead of bringing them (convicted offender) to prison, they can be sent outside to work but not being in prison” (Prison Officer, Female 50 years, Deputy Supt. of Prison)

For the high court Judge he outlined what the laws say about a particular offense and what must happen to the offender. This is what he had to say

There are some crimes that the law states clearly that this is what should happen to the offender but there are some that are open, for them non-custodial can be applied and I believe it should be used more. Instead of sentencing a person to imprisonment he or she will be asked to pay a fine, sign a bond of good behavior or will be cautioned and discharged (Male 54, High Court Judge).

In effect Ghana is practicing non-custodial sentence but it is not enough as the constitution only give room for fine, caution and discharge then signing of bond to be of good behavior.

The social welfare officer said that when an offender is not incarcerated, this is what he had this to say:

There are a number of non-custodial sentencing, it is where a person is not incarcerated. The person will be not be put behind bars but be made to suffer either financially or emotionally/psychologically. (Male 58 years, Social Welfare officer).

For the police officer, he explained that it include all other forms of punishment except imprisonment.

It is an alternative to custodial sentencing, where all the modes of punishment apply except imprisonment (Male, 56 years, Chief Supt of Police).

These responses pointed out that non-custodial sentence is one that the offender will not be put into prison cells but any other punishment that can be proportionate to the crime committed.

The respondents were asked if they know of cases where non-custodial sentence has been applied. It was indicated that the majority, 51.8 percent answered yes they had and 45 percent answered no. There were 3.1 percent who did not respond to this question. Ordinarily, one expects that the number of respondents who responded should be more than the number which responded no but this data suggest otherwise. Although there is about 6.8 percent difference between them this is not so much a difference. The reason could be attributed to the fact that the country is not practicing more forms of non-custodial sentence.

Table 7 shows how the respondents answered when they were asked to select crimes they think non-custodial sentence applies to

Table 7– Types of crimes non-custodial sentence apply

	Frequency	Percent
Victimless Crimes	39	10.2
Non-violent crimes	91	23.8
Traffic offences	136	35.6
First offenders	7	1.8
Violent crimes	10	2.6
Petty crimes	50	13.1
Misdemeanor	24	6.3
No Response	25	6.5
Total	382	100.0

Source: Author's Fieldwork, 2018

With regard to Table 7, respondents were asked to describe the types of offenses to which they believe non-custodial punishment applies. The data showed that, 35.6 percent of the respondents indicated that non-custodial sentence should be applied in cases of road traffic offences, 23.8 percent made

it known that it should be applied in the cases of non-violent offences, 13.1 percent answered that it should be applied to petty crimes, while 10.2 percent think it must be applied to victimless crimes. For the rest, 6.3 percent said it should be applied to misdemeanors, 2.6 percent said it should be applied to violent crimes and 1.8 percent made it known that it should be applied to first time offenders while some 6.5 person did not respond. The data is consistent with (Ofori-Dua, et al, 2015) petty offences is suitable for community penalties. In addition, community service that must be communal in nature should be offered to people with communicable diseases, pregnant and nursing mothers, single parents and first time offenders.

As it can be seen from the data in Table 7, it must be emphasized that non-custodial sentence should not apply to all offenders as some offenders are supposed to be kept out of the society to make it safe. Therefore, for crimes such as traffic offences thus failing to observe basic traffic regulations, failing to provide first aid kid, not wearing seat belt are very suitable for non-custodial sentence. Petty crimes such stealing one fowl or a bunch of cassava are all crimes that noncustodial sentence can be applied to, this is because the amount of money to be spent on such a person by the state will outweigh the cost of the item he/she might have stolen. Not only this, but also will put untold pressure on the prison facilities. On the other hand, should the person who steals a bunch of plantain be asked to weed the plantain farms for two week to offset the cost of the item stole it will prevent the expenditure the government may spend on the individual, making these kinds of crimes very suitable for non-custodial sentence.

Table 8 shows the choices of respondents when they were asked to select from a list of non-custodial sentence they were aware of.

Table 8- Popular non-custodial sentence according to Respondents

Non-custodial	Frequency	Percent
Community service	223	58.4
Probation	27	7.1
House Arrest	23	6.0
Fines	88	23.0
Parole	6	1.6
No Response	15	3.9
Total	382	100.0

Source: Author's Fieldwork, 2019

Evident from Table 8, suggests that 58.4 percent of the respondents selected community service as the form of non-custodial sentence that they were aware of, 23 percent selected fines 7.1 percent chose probation, 6 percent chose house arrest and 1.6 percent opted for parole. This shows that more of the respondents know much about community service even though this form of non-custodial sentence is not practiced in Ghana. It further suggest that the members of the community believes that the offender must pay back in the form working for the community. The restitution principle claims that after the crime is committed, the convicted criminal pays for any injury or loss of property faced by the victim (Meyer & Grant, 2003). So once a convicted criminal is committed to non-custodial sentence he/she will be indirectly

paying back. The data point out that non-custodial sentence has a better chance of restoration.

Community service is a scheme, according to Zedriga (1998), in which carefully chosen individuals who have committed non-serious criminal offences such as petty theft or causing minor property damage are forced to do voluntary work to support the community. Community service is an optional alternative to incarceration for Birungi (2005), in which the perpetrator does unpaid labor that is beneficial to the community rather than going to prison. In turn, many individuals root for community service because they want to see the perpetrator disciplined, not only being disciplined, but also being really helpful to the community, the perpetrator owes the community members some form of apology.

In the case of fines, the current status of Ghana allow for fine. According to the criminal and other offences Procedure Act – 1960, (ACT 30) of the 1992 Constitution, Section 294, the courts can impose fines as form of punishment. This however does not stand alone because should an offender fail to pay the fine upon its imposition he or she will be sent to prison. When the accused person is convicted and sentenced to pay a fine, he/she has until the time the court will close from that particular day to pay for the fine or risk being sent to prison.

Summary

The objective of this section was to know the awareness of both the respondents and participant concerning non-custodial sentence. From the data, it can be clearly seen that indeed both the respondents and the participants were aware of non-custodial sentence. It also emerge from the data that both

the respondents and the participants could describe non-custodial sentence and even were able to mention some of the forms of non-custodial sentence. The next section then focused on the non-custodial sentence in Ghana.

Non-Custodial Sentence in Ghana

The Criminal and Other Offences (Procedure) Act- 1960 (Act 30) Section 293 of the 1992 constitution outlines the various punishment that a competent court of jurisdiction can met out to a convicted offender. In this act, the court can imprison, impose a fine, death, detention, payment of compensation and liability to police supervision, in order to ascertain the knowledge of the respondents on the forms of punishment they know in Ghana. This section looks at non-custodial sentence in Ghana. The following tables and narratives shows how the respondents and the participants.

The results from Table 9 indicates that 57.6 percent of the respondents selected imprisonment as the form of punishment they know, 31.4 percent selected imposition of fine while 8.6 percent chose the caution and discharge and signing of bond.

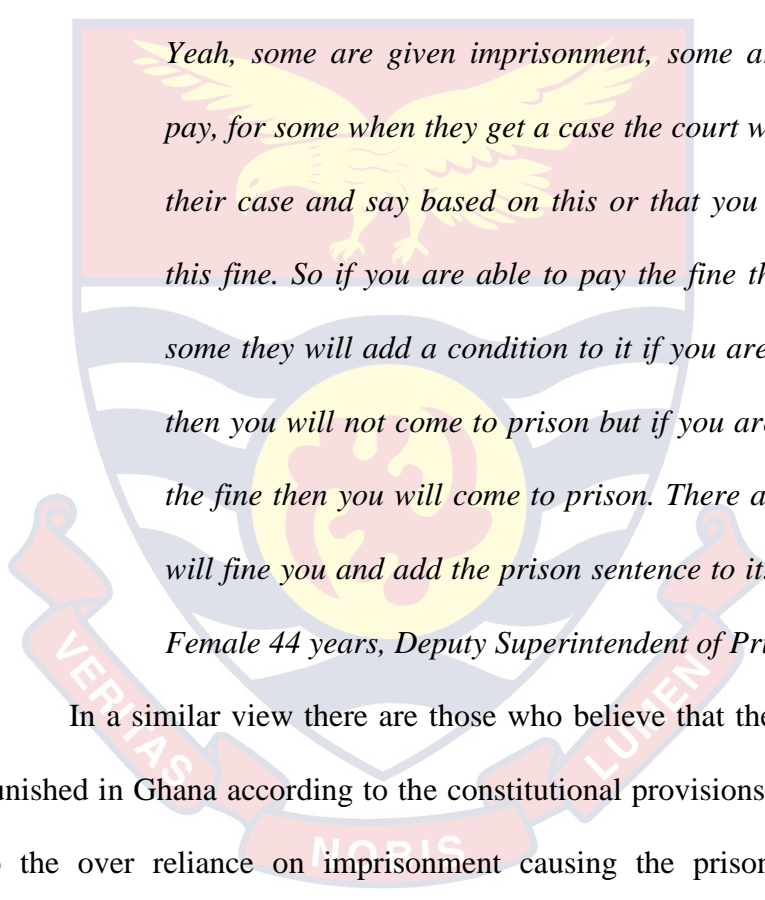
Table 9- Forms of punishments Respondents know in Ghana

	Frequency	Percent
Imprisonment	220	57.6
Fine	120	31.4
Others	33	8.6
No Response	9	2.4
Total	382	100.0

Source: Author's Fieldwork, 2019

The results suggest that the most visible form of punishment in Ghana is imprisonment. This was also buttressed by the qualitative data as most of

the participants mentioned imprisonment first then fine as the two major forms of punishment in Ghana, for the imposition of fine most of the participant added that it was seldomly used and that if you are not able to pay you still go to prison. They added that the court mostly sentence people to imprisonment. This result is in accordance with Antwi (2015), who revealed that custody, deterrence and punishment rather than recovery are the key focus of punitive policies in Ghana. This is what one Prison Officer and a lawyer had to say,



Yeah, some are given imprisonment, some are given fines to pay, for some when they get a case the court will sit on their on their case and say based on this or that you will have to pay this fine. So if you are able to pay the fine then you are free, some they will add a condition to it if you are able to pay fine then you will not come to prison but if you are not able to pay the fine then you will come to prison. There are some too they will fine you and add the prison sentence to it. (Prison Officer, Female 44 years, Deputy Superintendent of Prison).

In a similar view there are those who believe that the way people are punished in Ghana according to the constitutional provisions is limited. More so the over reliance on imprisonment causing the prison populations to increase. It is believed that if there are more room for other forms of punishments preferably non-custodial ones the prison populations will reduce.

Our mode of punishment I think it is too limited, either you are fined, you are cautioned or you are imprisoned. However, social responsibilities are not placed. For example like someone one may be bonded to perform social responsibility

for a particular period of time. Not issue of corporal punishment but maybe somebody who has stolen will be told to sweep for a particular period of time, you can even be given house arrest which is enough but all the time either you are fine to pay money sometimes the people who are fined they may not even have the means to pay the fine and the alternative is that they serve prison sentence. The prison becomes overcrowded, they are not well fed, then they go there and sometimes contract diseases and they come back and become hardened criminals.
(Male 31 years, lawyer)

Table 10 shows how the respondents answered when they were asked about their views on the practice of non-custodial sentence.

Table 10- Respondents perception about Non- Custodial sentence

Statement	Frequency	Percent
It's a good practice and will help Ghanaian prisons	117	30.6
It has help many countries and I think it will help the Ghana Prison Service	108	28.3
I think Ghana has the capacity to enroll this kind of punishment and I endorse that Ghana should use it more	47	12.3
It will help in better reformation of convicted criminals	34	8.9
It will help in the rehabilitation of convicted criminals	38	9.9
It will help the community as the convicted criminal will work in the community	27	7.1
No Response	11	2.9
Total	382	100.0

Source: Author's Fieldwork, 2019

The respondents were asked about their opinion on non-custodial sentence in Ghana. Table 10 showed 30.6 percent indicated that it's a good

practice and it will be very helpful to the Ghana Prison Service, also, 28.3 percent said it has help many countries and that they think it will help the Ghana too. While 12 percent of made it known that Ghana has the capacity to enroll this kind of punishment and they endorse that Ghana should use it more, 9.9 percent said it will help in the rehabilitation of convicted criminals, 8.9 percent said it will help in the reformation of convicted criminals, 7.1 percent were of the view that it will help the community as the convicted criminals will work in the community. The data presented shows that most of the respondent believe the practice of non-custodial sentence will help the Ghana Prison Service the more. One will be incline to agree as this practice will be a sort of sieving criminals hence only hardcore criminal of those who commit grievous offences will be sent to prison while those petty crimes and other not so serious crimes will not be sent to prison to choke up the place. The benefits to be derived from this practice will be more beneficial to the prison service and the country as a whole

On the issue of whether the practice of non-custodial sentence be continued in Ghana, Table 11 shows how the respondents answered.

Table 11- Should the practice continue in Ghana?

Statements	Frequency	Percent
Yes, because I think it will reduce prison populations	137	35.9
Yes because it will reduce the cost of prison management	130	34.0
Yes, because it will better rehabilitate the offenders	66	17.3
No, because Ghana Prison Service cannot sustain this practice	18	4.7
No, because it is a soft punishment	10	2.6
No. because it will become incentive for other to commit crimes	10	2.6
No Response	11	2.9
Total	382	100.0

Source: Author's Fieldwork, 2019

When the respondents were asked should the practice of non-custodial sentence be continue in Ghana Table 11 shows that 35.9 percent of the respondents indicated yes they would want the practice to continue because they think it will reduce prison population, 34 percent also indicated yes, because it will reduce the cost of prison management while 17.3 person indicated yes and because it will better rehabilitate the offenders. This implies that non-custodial sentence should be practice and the practice must be continued. The benefit the country and the prison service will drive from its practice will help preserve the prisons, the inmates will not contract illness associated with overcrowding and unsanitary condition. So in sum, it will be more beneficial if the practice is continued.

On the other hand, 4.7 percent said no and their reason was that the Ghana Prison Service cannot sustain this practice, while 2.6 percent each also

said no the reasons being that it was a soft punishment and the other said it will become incentive for other people to commit crimes. The data suggest that the benefits to be obtain from the practice outweigh that of the negative. This also means that non-custodial sentence will be more help to Ghana hence the need to continue it practice. Therefore for this to actually work, we need to add more of noncustodial sentences.

Owing to the above, the study sort to know the crimes that the respondent believes will warrant non-custodial sentence in Ghana. Table 12 shows how the respondents answered.

Table 12- Respondents perception about crimes should merit non-custodial sentence

	Frequency	Percent
Sexual Offences	34	8.9
Traffic Offences	240	62.8
Theft	29	7.6
Robbery	3	0.8
Fraud	17	4.5
Contempt of court	9	2.4
Assault	41	10.7
No Response	9	2.4
Total	382	100.0

Source: Author's Fieldwork, 2019

As it can be seen from Table 12, 62.8 percent of the responded selected traffic offences as the crime that should attract non-custodial sentence. For the rest, 10.7 percent went for assault, 8.9 percent for sexual offences, 7.6 percent

said theft 4.5 percent said fraud 2.4 percent for contempt of court and 0.8 percent said robbery.

The result reveals that most of the respondents 62.8 percent will prefer non-custodial sentence metered out to people who will commit traffic offences. In the 2015 annual report of the Ghana Prison Service, 353 people were in prison for traffic offences. In other words these people could have been given non-custodial sentence and the prison population will have been reduced by that number.

The study then wanted to know if the current forms of non-custodial sentence being practice in Ghana were enough. It was gathered from the data collected that the majority of respondent 69.9 percent agreed that the current non-custodial sentence is not enough while 27.7 percent said yes it enough. This led to a follow up question as to whether the current forms of non-custodial sentence being practiced was effective or not.

Table 13 show the views of the respondents on non-custodial sentence in Ghana.

Table 13- Respondent view on non-custodial sentence in Ghana

	Frequency	Percent
Very Effective	32	8.4
Effective	64	16.8
Not very effective	139	36.4
Not Effective	129	33.8
No Response	18	4.7
Total	382	100.0

Source: Author's Fieldwork, 2019

Assessing the effectiveness of the practice, the study sort from the respondent how effective the practice of non-custodial sentence has been. From table 13, 36.4 percent and 33.8 percent of the respondents indicated that the practice has not been very effective and not effective respectively, while 16.8 percent said it is effective and half of that number 8.4 percent made it known that it is very effective.

This results point to the fact that there are not enough forms of the non-custodial sentence and also even with the current forms, they are not mostly been used. The ones that are being used too has some clauses that state that if the offender default he or she will be sent back to prison. Indicating that the main aim of the non-custodial are not being realized hence not visible enough for the citizens to see and appreciate. This data was collaborated by the qualitative data as most of the participant admitted that the effectiveness of the current non-custodial sentence is very little, more so there are problems with it implementation as the law has not given enough form of noncustodial sentence.

For this prison officer, he believes that if the constitution allows for more forms of non-custodial sentence it will help in the reformation and rehabilitation of offenders

The current forms of non-custodial sentence are not enough and because they are not enough, it seem not to be very effective. Per the constitution, a judge can impose a fine or caution and discharge or even make a convicted offender sign a bond of good behavior, but really there are other forms that I believe if the constitution allows the court to impose on people

will help in their reformation and reintegration. Example of such form of non-custodial sentence is community service. For this one, the offender is made to work in the community as a way of paying back to the community the wrongs he/she did to the community. So if it cleaning the gutter, it means that act will help reduce flooding when it rains. Eventually the community benefits. If other forms of non-custodial sentence are available then we would have seen it to be very effective (Male Prison Officer 44 years).

This also ties in to what the theory of reformation and rehabilitation. So once the offender will be made to work in the community, he/she will give back to the community and reintegration will not be a problem as members of the community will know how reformed the offender has been.

Summary

It can be gathered from this section that non-custodial sentence do exist in Ghana. It is however very limited and they do have clauses that if not followed can land the convicted person to prison thereby defeating the real purpose of non-custodial sentence. It is evident from this that more form of non-custodial sentence needs to be practiced in Ghana.

CHAPTER FIVE

PROSPECTS AND CHALLENGES OF NON-CUSTODIAL SENTENCE

This chapter presents results on the prospects of non-custodial sentence.

Table 14 shows five point questions with Yes or No answer. The respondents were supposed to answer yes implying that they agree with the statement of question being asked.

Table 14– Prospect of Non-custodial sentence in Ghana

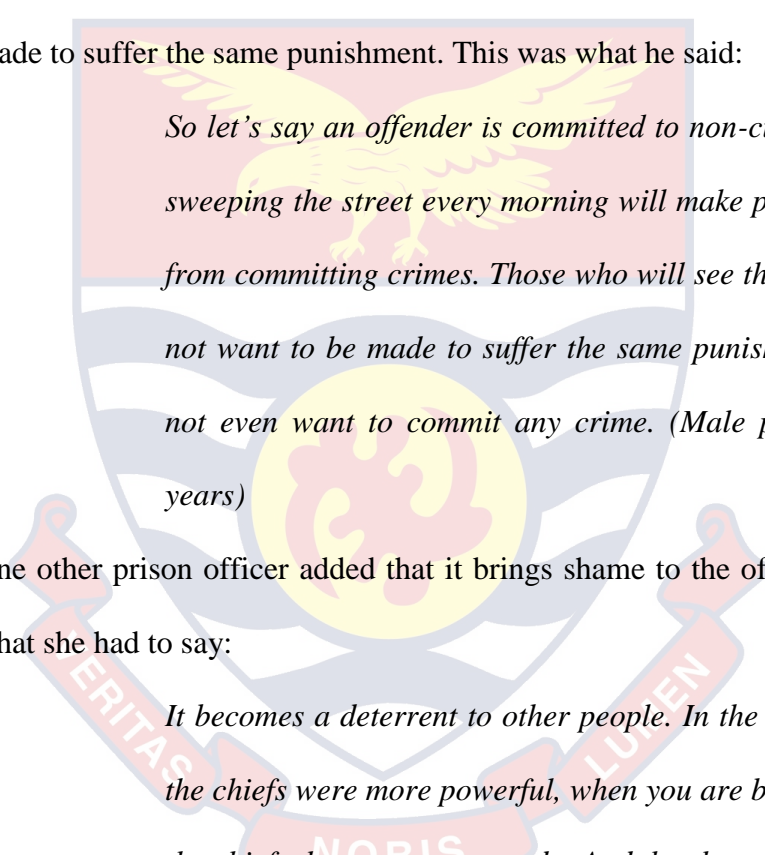
	Yes %/(f)	No %(f)	No Response %(f)
Do you think non-custodial sentencing can reduce crime in Ghana	81.4%(311)	12.6%(48)	6% (23)
Do people frown on others who have been punished through non-custodial sentencing?	57.1 % (218)	39%(149)	3.9%(15)
Does the criminal justice system in Ghana has the capacity to roll out more forms of non-custodial sentencing?	75.9%(290)	20.2%(77)	3.9%(15)
Should the practice of non-custodial sentencing be encouraged?	84.3%(322)	5.0%(19)	10.7%(41)
Will the practice of non-custodial sentencing be sustainable?	74.1%(283)	20.7%(79)	5.2%(20)

Source: Author’s Fieldwork, 2019

As indicated in Table 14, the data shows that an overwhelming majority of the respondents 81.4 percent of the respondent agrees that non-custodial sentence can reduce crime in Ghana. This confirms one of the reason for non-custodial sentence, which is from the deterrence theory. They are of the view that the aim of punishment is to deter other people from committing similar crimes. The deterrence school has it that when an individual sees

another individual being punished for crime they committed it deters them from committing the same crime. Some are also deterred due to the shame as a result of the punishment they saw their fellow individual went through. The data from the qualitative study also showed that non-custodial sentence can better reduce crime than imprisonment would.

A prison officer said that when a convicted offender is seen sweeping on the street other people will shun away from committing same crime and made to suffer the same punishment. This was what he said:



So let's say an offender is committed to non-custodial sentence sweeping the street every morning will make people shun away from committing crimes. Those who will see the offender would not want to be made to suffer the same punishment hence will not even want to commit any crime. (Male prison officer 43 years)

One other prison officer added that it brings shame to the offender. This was what she had to say:

It becomes a deterrent to other people. In the olden days when the chiefs were more powerful, when you are being punished by the chief who are you not to do. And the shame it brings to your family name is more deterring enough. Let say you (Emmanuel) a nice guy like you, your girlfriend comes to see you are sweeping the market place because of a crime you committed, she will leave you. (Female Prison officer 44 years).

The data further shows that 57.1 percent of the respondents admitted that indeed people will frown on others who have been punished through non-

custodial sentence while 39 percent said no people do not frown on those who have been punished through non-custodial sentence. In other words people are not happy when they see others who are punished through non-custodial sentence they would want to see them punished severely. It also means that they may prefer a stiffer punishment for the crimes committed and that the society or the victim of a criminal incident have not yet let go of the pain caused by the crime.

In most cases, if the members of the community are not well informed about non-custodial sentence and are not involved in non-custodial sentence this situation is likely to happen. In the conceptual framework, members of the community must be involved and they must be aware of it too. There are yet some people who may feel that punishing a convicted offender through non-custodial sentence is a soft punishment. This is where there the proponents of the philosophy of incapacitation comes in, they explain this by saying the offender (s) must be physically restrained to prevent them from causing more harm to other victims. So by isolating the offender from the society will ensure that the society and the people in it are safe. This assertion from the quantitative data was collaborated by the responses from the qualitative data that punishing someone through non-custodial sentence will be seen as a softer punishment.

A high court judge retreated that some people and also victims of criminal activity see people punished through non-custodial sentence as soft punishment for them.

Before giving out judgment we consider a lot of things, what the constitution says, background of the person, even their

demeanor in the court from and all of that. It is rather sad that sometimes when judgment is given out some people may feel you the judge you have taken bribe so the problem is that it is seen as a softer punishment hence they will prefer a harsher punishment. (High court Judge 54 years)

This assertion is consistent with what Birungi, (2005) establish that community members held opinion that communal service is a ‘soft’ penalty and hence imprisonment is preferred. The data also showed that majority of the respondent believe that the criminal justice system has the capacity to rollout more forms of non-custodial sentence in Ghana. Rolling out more forms of non-custodial sentence means that there must be monitoring systems, proper address systems, more social welfare and prison officers. Government, private sector and the society must accept and be willing to let those who will be punished through non-custodial sentence work for them or even work in the communities.

Also an overwhelming majority 84.3 percent were of the view that the practice of non-custodial sentence must be encouraged while 5 percent do not think it must be encouraged. In the conceptual framework, for smooth and successful running of non-custodial the state institution, community members must all be aware and involved. By encouraging it means that everyone in the community, the various stakeholders in the criminal justice system, the government and to some extent some international bodies must embrace the concept and then champion it practice.

Finally, the majority of the respondents 74.1 percent believes that the country has the ability to sustain the practice of non-custodial sentence while

20.7 percent thinks the country cannot sustain the practice. This will be a good thing because without the ability to sustain such a programme, it will rather become a burden on the country other than becoming a relief.

Table 15 shows the responses for the benefit of non-custodial sentence.

Table 15- Benefit of Non-Custodial Sentence

	Frequency	Percent
Reduce prison cost	137	35.9
Effective in reducing reoffending	61	16.0
Effective rehabilitation	43	11.3
Less congestion at the prisons	75	19.6
Effective reformation	16	4.2
Less pressure on prison facilities	39	10.2
No Response	11	2.9
Total	382	100.0

Source: Author's Fieldwork, 2019

Respondents were asked to select from a list of benefits that non-custodial sentence will have for Ghana. as it can be seen from Table 15, 35.9 percent selected it will reduce prison cost, 19.6 percent said it will bring about less congestion at the prisons, 16 percent were of the view that it is very effective in reducing reoffending- in other words recidivism will be reduced. For some 11.3 percent they believe that will be very effective in rehabilitation of convicted criminals, 10.2 percent selected less pressure on prison facilities while 4.2 percent selected effective in reformation.

Currently in Ghana there are about 15203 prisoners (Ghana Prison Service, 2018) in the 45 prison establishments. For each of the prisoners the

government spend about 1.8 pesewas daily on their feeding. The cost of their bedding and health are not quantified as each individual will have different condition from the other person. According to one prison officers they had to pay for the surgery cost of a convicted offender because they are mandated to take care of inmates in their care. This is what he said:

Just early this year, they brought one convicted offender and once the law court has sentenced them too we the prison service cannot reject them. This person was suffering from hernia and had to take him to the hospital for him to be operated upon and my brother you can imagine the cost involved. So for example if this particular offender stole one fowl and he has been sentenced to 2 years in prison his hospital bill alone is more than the fowl he stole. (Male Prison officer ASP, 47 years)

This legitimizes the question one participant asked that why spend so much money on someone you yourself punished? While you could make them work to offset the amount of the items they have stolen?

The insistent problem of overcrowding and overpopulation of the prison in Ghana will be reduced to the barest minimum where now the prisons of Ghana can focused on the rest of the prison inmates who may pose high risk to the society. As Singh (2007), puts it the prison will constantly be there for those offenders who are seen as a danger to the security of the community and who, during the period of imprisonment, continuously show no prospects of the possibility for dealing with them effectively in the community without jeopardizing the security of the community. It then becomes obvious that if the

prison population is reduced there will be less congestion on the prison facilities. All the 45 prison establishments will be able to contain the rest of the prisoners, their bedding and feeding will improve than as it stands now.

When the participants were asked a similar question about what benefit does non-custodial sentence hold for Ghana they equally mentioned it will reduce the pressure on the prisons, it will reduce burden on judges, it deters, reduce cost of maintaining prisons, offer the convicted person a better chance at rehabilitation and a better chance of smooth integration.

This was highlighted by the participant during the interview.

It will reduce the pressure on the prisons, it will help the prisoners as they won't be spending so many years in prison.

Minors who enter bostal homes are seen to become better adults leaving their criminals ways behind. (High court Judge 54 years)

The social welfare officer in expressing his view stressed that there would be no need for the government to house prisoners since they will be staying in their homes while serving their non-custodial sentence. This is what he said;

Its less costly because the government will not spend so much on the prison, no infrastructure needed because people who will punished through non-custodial sentence will be staying in their own homes not a government building, its more reformative, contributes to the revenue generation of the country, an example is the fines and those people who will be asked to serve communal sentences can be sent to state farms

to work in the farms to generate money for the nation. (Social welfare officer, 57 years)

For the prison officer, he believed that the aim of punishment will be better achieved since he believed that custodial sentence only harden prison inmate. He also added that non-custodial will reduce stigma attached to being an ex-convict. This is what he said

The aim of punishment being prevention will be more achieved in the non-custodial than the custodial. As at now our custodial system is turning out hardened criminals, majority of ex-convict have turned out new leave are those who have seen Christ. It will save the country and our state resources that are even scarce. From 2017 till date, we (Ghana prison service) owing food distributed. So if we take our budget to be 100 percent, 70 percent is spent on food the rest are not coming. Unless a donor donates drugs, we won't be able to purchase some from the monies left this is because the service (Prison Service) is seen not as an income generating firm. Non-custodial helps a lot in the reformation and also stigma attached to prison will be out. More importantly, when you come to prison your status will be lost. Again if you are serving custodial sentence society lose two, government spending on you and the pain caused the crime committed (prison officer CSP, Male 44 years)

For the police, the issue of overcrowding and high government expenditure will be reduced.

No overcrowding, government will get enough revenue because they won't be spending money on prisoners. Individuals can view prisoners work. So it can become a deterrence to others.

There will be production because the more they weed you can plant (Police Officer Chief Superintendent, Male 56)

Lastly, the lawyer added that it will decongest the prison and also save the government of high expenditure while the state will be benefiting from the expertise of the convicted person.

It decongest the prisons, it saves the state a lot of money. That is money that otherwise the state would have spent on the prisoner while in prison on both medical bills, food and other related expenses on the prisoner even including clothing so it will also save us those monies. Then it also prevent curtailing people inherent potential. Somebody maybe expert in a particular field but because of a particular crime the person will be secluded from the society while we are punishing the person for a particular crime the person has committed the state is also denied or the person is also denied of the person's ability. So non-custodial sentence even though the crime will be compensated for by way of punishment, again the person who have been the accused may have some sort of expertise that the state may need. By performing such duties it become beneficial to the state so I think non-custodial sentence is beneficial. (Male 31 years, lawyer)

It can be seen from the above that the benefit of non-custodial sentence will be very helpful to Ghana as most of the respondents and participant thinks it will be better off than to send the convicted person to prison, where the government and the system that punished the convicted person will also spend a lot of money on the person who has been convicted.

Challenges of Non-custodial Sentencing

This section looked at the challenges associated with the practice of non-custodial. Both the participants and the respondents were asked to identify some of the challenges that were associated with the practice of non-custodial sentence and further to suggest possible ways to help reduce these challenges that are associated with the practice. A 4-point Likert scale (strongly agree, agree, strongly disagree and disagree) was used to elicit respondents' challenges of non-custodial sentencing. However, for the purpose of presentation and ease of understanding, a 2-point Likert scale (agree and disagree) was used, where strongly agree and agree were collapsed into agree, while strongly disagree and disagree were collapsed into disagree. Table 16 shows the responses.

Table 16- Challenges of Non-custodial Sentence

Statement	Agree	Disagree	No Response
Financial Constrain	77.49%	16.5%	6.0%
Fear of community rejecting offenders	50.00%	44.0%	6.0%
No formal legal backing	62.57%	30.6%	6.8%
In adequate human resource	64.66%	28.5%	6.8%
Fear of offenders not adhering to rules of Non-custodial sentence	63.09%	31.7%	5.2%
Cost of maintaining the practice	76.44%	18.9%	4.7%
Possible revenge from community members	52.09%	43.2%	4.7%
The practice will be seen as soft punishment	60.11%	34.4%	5.5%
Increase in crime rate	43.72%	50.0%	6.3%

Source: Author's Fieldwork, 2019

As can be seen from Table 16, 77.49 percent of respondents described financial constraint as one of the non-custodial sentencing obstacles, while 16.5 percent disagreed that financial constraint is an obstacle to non-custodial sentencing practice. Also 50 percent agreed that fear of community rejecting the offenders sentenced to non-custodial sentence while 44 percent disagreed that the community may reject them. On the issue of a formal legal backing of non-custodial sentence 62.57 percent said that there was no formal legal backing while 30 percent disagreed. Also, 64.66 percent agreed that there is inadequate human resource to help in the practice of non-custodial sentence while 28.5 percent disagreed with that assertion. On the issue of offenders not adhering to the rules of non-custodial sentence, 63.09 percent of the respondents agreed with the statement that they fear the offenders may not

adhere to the rules of non-custodial sentence where 31.7 percent disagreed and are of the opinion that offenders will adhere to the rules.

Also 76.44 percent believes that the cost of maintaining the practice can be a challenge to the practice of non-custodial sentence while only 18.9 percent say they did not see this as a challenge to the practice. While 52.09 percent agreed that there can be a possible revenue from the community, 43.2 percent disagreed. Then with the issue of non-custodial sentence being a soft punishment, 60.11 percent agreed while 34.4 percent disagreed that non-custodial sentence was a soft punishment. Then lastly, 50 percent of the respondents disagreed to the assertion that non-custodial sentence will cause an increase in crime rate while 43.72 percent held this assertion that there will be an increase in the crime rate.

The qualitative data also showed that participants saw non-custodial sentence as a soft punishment, there were not enough officers to implement the programme, limited or weak structures, poor tracking system, dishonesty on the part of the citizenry and lack of proper information system among others. The following responses throw more light on the challenges associated with non-custodial sentence.

It is seen as a softer punishment, there are no supervisors, no training apparatus for the officers to train them. I visited the assessor's home, they told me there are no teachers to teach the children (Judge at the Magistrate court, Female 40 years).

The lawyer in collaboration with what the Judge said hinted that crimes that demand harsher punishment should be given harsher punishment. He also

talked about the fact that if the right punishment is not given to an offender the victim may not be satisfied when they see the offender in the society. This was what he said:

If the offense is actually grievous and the victim demands that justice should be served by punishing this person it is sometimes dis-incentive to see people who are victims of crime walking in the same society as the people who are perpetrators of these crimes. As soon as you see them it reminds you of what you went through. And sometimes non-custodial sentence if not handled well psychologically will not work on the conscience of the person. For example if I have actually committed a grievous crime and am only fined or told to a community service, I can easily do it and suffer no pain and that's actually dis-incentive to me for not committing those crimes (Male 31 years, lawyer).

A female Prison officer talked about the issue of no supervisors and people in power who will use their influence and position to undermine non-custodial sentence. This was what she said:

There are no supervisors to supervise the implementation of the programme. Also, my biggest problem is the big men among us. They will be obstructing justice when it has to do with their families. There is so much dishonesty among us as Ghanaians. (Prison Officer Superintendent Female, 43 years)

There is also the fear that the ex-convict may escape or will even not decide to follow the lay down laws governing the noncustodial sentence.

A lawyer in addressing adding her option to the issue said they can escape and commit more crimes and when they are able to escape they cannot be found again since the housing address system in Ghana is not properly structured.

The housing and address system in Ghana is not effective so if we do not take time and put some of them on the street to sweep he/she might not go home but might run away. Therefore the probability of them not serving their sentence is high. It will be very difficult to supervise them (social welfare and probation officers) lack resources and this can impede them because you need to go and see them and check up on them (Lawyer, 28 years).

The other challenges were that it was capital intensive and required more logistics. This is what the social welfare officer said:

There is lack of resources and the implementation of the programme too is cost intensive. We must get the basic needs which are difficult to come by at the moment. (Social welfare officer 30, years)

Both responses from the qualitative pointed out deficiencies that needs to be fully addressed before non-custodial sentence can fully take off in Ghana and be very relevant in the Ghanaian society, to improve on the way prisons and the prisoner will be treated. However, when the participants were asked that comparing the benefits of custodial sentence and that of non-custodial sentence, all of them rooted for non-custodial sentence to be an alternative to custodial sentence. Thus there some offences that they believed the culprit can

be given non-custodial sentence as a form of punishment other than given them custodial sentence.

It is worth nothing that there is no policy or practice without challenges and these challenges help to bring out possible solution to the policy or practice. In the same way, after the participant have given out what they believe to be the challenges of non-custodial sentences, the study then asked what could be done to remove these challenges so that non-custodial can run smoothly in Ghana. It came out clearly that first and foremost the parliament of Ghana must pass the bill allowing a wide coverage of other non-custodial sentences. From there they must amend the default clauses attached to sentences such as fines and signing of bond to be of good behavior. Others were that the media should talking more about it and civil service groups and organizations must join this direction and the general public must as well be educated on the practice and the need for it in Ghana now. The following are some of the responses of the participants interviewed.

A prison officer advocated that the non-custodial sentence bill should be passed.

The bill (non-custodial sentence bill) should be passed to rope in other non-custodial sentence and the public educated on them. With fines, some people still go to jail because they are unable to pay the fines imposed by the court. With the others the problem is the bill not being passed. Government should pass the bill to allow a wide coverage of the non-custodial sentences and the public should be educated on non-custodial

sentence to create awareness. (Male, Prison officer ASP 57 year)

Another respondent, a social welfare officer stipulates that the entire county must be educated on non-custodial sentence:

Educating the entire country. Thus the country should be educated on this non-custodial sentence, what is it about and what the government want to do with it. There should be training of personnel on it. There should be proper housing demarcation and proper housing numbering so that people who will be punished through non-custodial sentence can be easily located. For example parole, you know the house of the person and know what time the person must be in the house but if all these are not done then the success of the programme will not be achieved. The time has come that we should start implement it (non-custodial sentence) because high/overcrowding in our central prison. (Social welfare officer 30, years)

Furthermore, a lawyer opined that:

We must enact laws and also do public education in the country. The country as well as the media should try and project the advantages of non-custodial sentence and resource the departments /institutions to supervise it. The law should be enacted quickly and institutions to work on non-custodial sentence must be stated and resourced enough. Social welfare must take active part but they are under resourced so they must

be revived and lastly education on it must be intensified.

(Lawyer, 28 years)

Lastly, a prison officer added that we must go on ahead and implement non-custodial sentence he however hinted that the appropriate non-custodial sentence must be applied where it is appropriate:

Ghana should go ahead and implement non-custodial sentence, but because there is no legal backing, it must first go to parliament and amend the old laws. I will also like to recommend that the judicial system should know the sentences they give to people about offenses committed, it should be proportionate to the crime committed. They should also introduce other forms of non-custodial sentence so there won't be overcrowding in the prisons. (Police officer Chief Superintendent, Female 40 years)

The emerging trend from this is that there must be a legal backing to the practice of non-custodial sentence. Once this is done the next pertinent issue becomes the tools, the personnel and the community awareness and education. To this end some of the respondents also suggested that for a successful programme to be implemented, the tools and gargets needed must be provided for and supervision and monitoring be done properly. On the other hand, the media seen as not helping to popularize non-custodial sentence. There were some of the respondent who taught that the media is more interested in talking about people or gossiping they do not have interest in some of these social issues. This is what one respondent had to say:

You see hmmm Ghana and Africa the media are not the type who go to fetch for information, important information that will help society. They are only there to blow an issue that will affect somebody, excuse me to use that language. Things happen all over around us but how many times do you hear these news apart from politics. They are more into politics than these social issues. (Male Prison Officer ADP, 54 year)

On the issue of the state and the criminal justice system trying to popularize non-custodial sentence the data revealed that all the respondents pointed to the fact that the state must pass the law allowing for more use of other non-custodial sentence practiced in other jurisdictions. As soon as that is done the criminal justice system will abide by and implement.

Linking the Findings to the Conceptual Framework

The aims of punishment are to deter, rehabilitate, incapacitate, to serve as retribution, and also to serve as restoration. Lately, the focus is more rehabilitation and reformation so that placing them back into the society they will better fit in society. Custodial sentence or imprisonment has been the norm to achieving this purpose but due to the numerous nature of crimes these aims are not being realized. The possible alternative to help achieved this purpose is the non-custodial sentence.

For non-custodial sentence to achieve this feat there are certain conditions that must be met. In the conceptual framework, there must be community involvement and awareness of non-custodial. This is dependent on the members of the criminal justice department. They will have to provide education on non-custodial sentence to the members of the community. The

data showed that the majority 84 percent of the respondents as well as all the participant were aware of non-custodial sentence which mean non-custodial sentence would be running smoothly. However if the institutions fail to provide the needed education to the members of the community there would not be smooth running of non-custodial sentence. The data also showed that there are some challenges that must be tackled before non-custodial sentence will be running smoothly.

Summary of Chapter

The chapter revealed that the residents in cape coast have knowledge of non-custodial sentence and how it works. It showed that they could describe non-custodial sentence. For the members of the criminal justice system that were interviewed, it also emerged that they have knowledge and could describe how it work. The chapter also discussed the prospect of non-custodial in Ghana and then how the practice of non-custodial sentence has been in Ghana. Finally the chapter revealed some of the challenges and possible recommendations to these challenges associated with non-custodial sentence

CHAPTER SIX

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

Introduction

The study sought to explore non-custodial sentence as an alternative to imprisonment in Ghana focusing on Cape Coast Metropolitan Assembly. With the philosophy of punishment in mind the study sought to address the following objective: (a) assess peoples' level of awareness of non-custodial sentencing in Ghana; (b) the extent to which non-custodial sentencing has been practiced in Ghana; (c) examine the prospects of other non-custodial sentencing in Ghana; and (d) examine the perceived challenges associated with the practice of non- custodial sentencing in Ghana.

Pragmatism was the philosophical underpinning of the analysis and the mixed approach research methodology was used to gather data (questionnaires and interviews) from 382 citizens and 25 members of the criminal justice system. Descriptive analyses of the data collected were done with the Statistical Product for Service Solution (Version 22). The overview of the study results, conclusions and recommendations is provided in this chapter.

Summary of Findings

The main results that emerged with respect to the study's goals have been summarized below. For each of each objective the major summaries are outlined below.

On assessing the peoples' awareness of non-custodial sentencing in Ghana,

- (i) Most of the respondents 84 percent, were aware of non-custodial sentence.

- (ii) The majority of the respondents 79.3 percent could describe knowledge of non-custodial sentence.
- (iii) The majority of the respondents 54.5 percent heard about non-custodial sentence through electronic media.
- (iv) Most of the respondents 35.6 percent opted for traffic offences as the crime that non-custodial sentence should be applied.
- (v) The majority, 58.4 percent of the respondents chose community service as the form of the non-custodial sentence they were aware.

Findings on Non-custodial sentence in Ghana

- (i) More than half of the respondents (57.6 percent) mentioned imprisonment as the form of the punishment they know in Ghana.
- (ii) A total majority of 71.2 percent of the respondents believed that non-custodial sentence is a good practice that will help Ghana, it is going to help the Ghana Prison Service and that Ghana has the capacity to enroll this form of punishment.
- (iii) More than three quarters of the respondents (87.2 percent) thinks that non-custodial sentence will reduce prison population, it will reduce cost of prison management, and will better rehabilitate offenders.
- (iv) It also emerged from the findings that a majority of the respondents 62.8 percent believes traffic offences should merit non-custodial sentence although other minor offence can also fall under the purview of non-custodial sentence.

- (v) The study also discovered that the modes of punishment a competent court of jurisdiction are allowed to impose on a convicted offender is too limited.
- (vi) It was also evident from the study that 69.9 percent of the respondent believe that the current forms of non-custodial sentence being practice in Ghana is not enough.

Findings on prospect of non-custodial sentence in Ghana,

- (i) An overwhelming majority of the respondents 81.4 percent thinks that non-custodial sentence can reduce crimes in Ghana.
- (ii) It emerge from the study that 57.1 percent believes that people will frown on others who will be punished through non-custodial sentence.
- (iii) It was also evident from the study that 75.9 percent of the respondents think that the criminal justice system has the capacity to roll out more forms of non-custodial sentence.
- (iv) It was also observed from the study that 84.3 percent of the respondents retreated that the practice of non-custodial sentence should be encouraged.
- (v) The study also gathered that 74.1 percent of the respondents believes that the practice of non-custodial sentence can be sustained.
- (vi) It also emerged that non-custodial is a deterrence to others who might think of committing crime.
- (vii) The study further shows that non-custodial sentence will reduce prison population thereby reducing the pressure on the prisons.

Findings on the challenges of non-custodial sentence

- (i) The study also showed that non-custodial sentence was seen as a soft punishment.
- (ii) The study showed that 77.49 percent of the respondents agreed that financial constrain was a major challenge to implement other forms non-custodial sentence.
- (iii) It also emerged from the findings that, 62.67 percent of the respondents agreed that there is no legal backing for other forms of non-custodial sentence in Ghana.
- (iv) It also came out that the respondents believed Ghana does not have adequate human resource to operate more form of non-custodial sentence.
- (v) Also, 63.09 percent of the respondents were afraid that offenders would not adhere to the rules of non-custodial sentence. They may even escape and commit more crimes.
- (vi) The study also found out that the cost of maintaining the practice is also a major challenge to the practice of non-custodial sentence. This was a shared by the views of 76.44 percent of the respondents.
- (vii) The study also pointed out that 52.09 percent of the respondent's feared possible revenge from community members.
- (viii) The study also found out that big men in the society may impede or interfere in the process of the non-custodial sentence therefore rendering it not workable.

Conclusions

The following conclusions have been drawn, based on the results of the study:

- (i) There is a high level of awareness of non-custodial sentence and that both the participants and the respondents sampled for the study could describe what non-custodial sentence was about.
- (ii) It can also be concluded that there are four major punishments a competent court of jurisdiction can impose on a convicted offender. All these punishment has defaults attached to them with the exception of caution and discharge.
- (iii) Also it can further be concluded that one of the best ways to curb the growing over population in the Ghanaian prisons is to find an alternative not to replace the prison but to serve as a helping tool so that offenders who are convicted of not so serious crimes can be sentenced.
- (iv) Non-custodial sentence is workable in Ghana and is long overdue for its implementation in Ghana if the seeming challenges associated with it are dealt with. The advantages to be accrued from non-custodial sentence outweigh the seeming disadvantages of it.

Recommendations

The following suggestions are made based on the conclusions derived from the goals of this study:

- (i) First and foremost the Parliament of Ghana needs to pass a bill allowing for the introduction other forms of non-custodial sentence and this should be done by parliament as soon as possible. This will then grant the courts the powers to enforce other forms of non-custodial sentence.

- (ii) The implementation of non-custodial sentence will require that the law enforcement agencies need to acquire targets such as CCTV cameras and other surveillance equipment, proper addressing system, and trained personnel to be supervising and monitoring those who will be sentenced non-custodial sentence.
- (iii) The NCCE must educate the citizenry on how to handle and treat persons who will be sentenced to non-custodial sentence especially those who will be working in the communities. The education must emphasize the need to treat these people with all the respect they deserve so that their reentry into the society will be smooth after they have served their non-custodial sentence.
- (iv) Also the boundaries of non-custodial sentence must be clearly defined for members of the criminal justice system to know about what constitute a minor offence and how non-custodial sentence may deal with such repeated offences.
- (v) The study further recommends that with the introduction of non-custodial sentence, offenders will be used to perform noticeable physical structures like building of public roads. It is a belief of the study that these infrastructures may leave lasting impacts in the community's years to come.

Areas for Further Studies

Looking at the prospect of non-custodial sentence, it is recommended for this study that

- (i) Assessing the various forms of non-custodial sentence in Ghana.
- (ii) The effect of the forms of non-custodial sentence in Ghana.

REFERENCES

- Aba-Afari, S. (2011). *Investigation into guidance and counselling programmes in the Ghanaian prisons: a case study of Kumasi central prison* (Doctoral dissertation).
- Abotchie, C. (2008). *Treatment of criminals and crime prevention in Ghana*.
- Afari, S. A., Osei, M., & Adu-Agyem, J. (2015). Recidivism at the Kumasi Central Prison: A Look into Guidance and Counselling Services. *Journal of Education and Practice*, 6(9), 130-136
- Andrews, D. A., & Bonta, J. (2010). Rehabilitating criminal justice policy and practice. *Psychology, Public Policy, and Law*, 16(1), 39.
- Antwi, A. (2015). *Social reintegration of offenders and recidivism in Ghana* (Doctoral dissertation, University of Ghana).
- Ahuja, R. (2003). *Research methods*. New Delhi: Rawat Publications.
- Bah, T. (2003). Captivity and incarceration in nineteenth-century West Africa. *A history of prison and confinement in Africa*. Portsmouth: Heinemann, 71-73.
- Baker, S.E., Edwards, R. & Doidge, M. (2012). *How Many Qualitative Interviews is Enough? Expert Voices and Early Career Reflections on Sampling and Cases in Qualitative Research*. Working Paper.
- Bakare A. O. (2011) 'History of Deterrent', *LLM Seminar Paper, Faculty of Law, University of Lagos*. (Unpublished).
- Banks C, (2009). *Criminal Justice Ethics: Theory and Practice*, (London, Sage Publications, Inc.).

- Becker, H., Berger, P., Luckmann, T., Burawoy, M., Gans, H., Gerson, K., & Horowitz, R. (2002). Observation and interviewing: Options and choices in qualitative research. *Qualitative research in action*, 6, 200-224.
- Birungi, C. (2005). *Community service in Uganda as an alternative to imprisonment: A Case study of Masaka and Mukono districts, mini-thesis submitted to the Institute for Social Development, Faculty of Arts, University of the Western Cape, in Partial Fulfillment of the Requirement for the MA Degree in Development Studies.*
- Bronsteen, J., Buccafusco, C., & Masur, J. S. (2010). Retribution and the Experience of Punishment. *Calif. L. Rev.*, 98, 1463.
- Brown, S. R. (2006). A match made in heaven: A marginalized methodology for studying the marginalized. *Quality and Quantity*, 40(3), 361-382.
- Bryman A. (2012). *Social Research Methods*. Oxford University Press
- Coldham, S. (2000). Criminal justice policies in Commonwealth Africa: Trends And prospects. *Journal of African Law*, 44(2), 218-238.
- Constitution of the Fourth Republic of Ghana (1992).*
- Creswell, J. (2012). *Research design: Qualitative, quantitative, and mixed methods Approaches*. London and Thousand Oaks: Sage Publications.
- Creswell, J.W. & Plano Clark, V.L. (2011) *Designing and Conducting Mixed Methods Research. 2nd Edition*, Sage Publications, Los Angeles.
- Cullen, F. T., Jonson, C. L., & Nagin, D. S. (2011). Prisons do not reduce recidivism: The high cost of ignoring science. *The Prison Journal*, 91(3_suppl), 48S-65S.
- Davis, A. Y. (2011). *Are prisons obsolete?* New York: Seven Stories Press.

- De Vaus, D., & de Vaus, D. (2013). *Surveys in social research*. Routledge. London.
- Dikötter, F., & Brown, I. (Eds.). (2018). *Cultures of confinement: a history of the prison in Africa, Asia, and Latin America*. Cornell University Press.
- Durlauf, S. N., & Nagin, D. S. (2011). Imprisonment and crime: Can both be reduced? *Criminology & Public Policy*, 10(1), 13-54.
- Etikan, I., Musa, S. A., & Alkassim, R. S. (2016). Comparison of convenience sampling and purposive sampling. *American journal of theoretical and applied statistics*, 5(1), 1-4.
- Fortune, D., Thompson, J., Pedlar, A., & Yuen, F. (2010). Social justice and women leaving prison: *Beyond punishment and exclusion*. *Contemporary Justice Review*, 13(1), 19-33.
- Guba, E. G. (1981). *Criteria for assessing the trustworthiness of naturalistic inquiries*. *Ectj*, 29(2), 75
- Guba, E. G., & Lincoln, Y. S. (1989). *Fourth generation evaluation*. Sage. London.
- Guest, G., Bunce, A., & Johnson, L. (2006). How many interviews are enough? An Experiment with data saturation and variability. *Field methods*, 18(1), 59-82.
- Ghana Prison Service, (2007). *Ghana Prison Service Annual Report*. Accra.
- Ghana Prison Service, (2008). *Ghana Prison Service Annual Report*. Accra.
- Ghana Prison Service, (2009). *Ghana Prison Service Annual Report*. Accra.
- Ghana Prison Service, (2010). *Ghana Prison Service Annual Report*. Accra.
- Ghana Prison Service, (2011). *Ghana Prison Service Annual Report*. Accra.

Ghana Prisons Service (2018). *History of Ghana prisons service*, viewed on 20 August 2018 at <http://www.ghanaprison.gov.gh/brief.html>

Ghana Statistical Service (2010). *Population and Housing Census PHC*. Ghana

Ghana Statistical Service (2010). *Population and Housing Census PHC*. Ghana Statistical Service. Accra.

Greenawalt K., (1973). *Punishment, The Journal of Criminal Law and Criminology Vol. 74, No. 2.*

Greene, J. C. (2008). Is mixed methods social inquiry a distinctive methodology?. *Journal of mixed methods research*, 2(1), 7-22.

Gill, P., Stewart, K., Treasure, E., & Chadwick, B. (2008). *Methods of data collection in qualitative research: interviews and focus groups*. British dental journal, 204(6), 291.

Hagan, Michael. (2013). *The impact of the rehabilitation programmes of the Nsawam prisons on its inmates (Doctoral dissertation, University of Ghana)*.

Johnson, R. B., & Gray, R. (2010). *A history of philosophical and theoretical issues for mixed methods research*. In A. Tashakkori & C. Teddlie (Eds.), *Handbook of mixed methods in social and behavioral research* (2nd ed.) (pp 69-94). Thousand Oaks, CA: Sage

Jones, S. R., Torres, V., & Arminio, J. (2013). *Negotiating the complexities of qualitative research in higher education: Fundamental elements and issues*. Routledge.

- Kagaruki, E. J. (2015). *Assessment of the Public Knowledge on Community Service Sentence as an Alternative to Imprisonment (Doctoral dissertation, The Open University Of Tanzania)*.
- Kocher, P. H. (1963). *English Legal History in Marlowe's "Jew of Malta"*. The Huntington Library Quarterly Bah, T. (2003)., 155-163.
- Kothari, C. R. (2004). *Research methodology: Methods and techniques*. New Age International.
- Kumekpor, T. (2002). *Research methods and techniques of social research*. Accra: SonLife Press & Services.
- LeBlanc, M., Tonry, M., & Morris, N. (1990). Toward a developmental criminology. *Crime and Justice: An Annual Review of Research*.
- Lo, T. W., & Harris, R. J. (2004). Community service orders in Hong Kong, England, and Wales: Twins or cousins. *International journal of offender therapy and comparative criminology*, 48(3), 373-388.
- Lutze, F.E., Johnson, W. W, Clear, T.R., Latessa, E. J., & Slate, R.N. (2012). The Future of Community Corrections Is Now: Stop Dreaming and Take Action. *Journal of Contemporary Criminal Justice*, 28 (1), 42-59.
- MacKenzie, D. L., & Weiss, D. B. (2009). Other Countries Have Successfully Reduced Incarceration Rates Without Increasing Crime: *We Can Do It!*. *Victims and Offenders*, 4(4), 420-426.
- Marshall, B., Cardon, P., Poddar, A., & Fontenot, R. (2013). Does sample size matter in qualitative research?: A review of qualitative interviews in IS research. *Journal of Computer Information Systems*, 54(1), 11-22.
- Mason J (2002) *Qualitative researching*. London: Sage.

- Maxwell, J. A. (2012). *Qualitative research design: An interactive approach (Vol.41)*. George Mason University, VA. Sage publications.
- McLynn, F. (2013). *Crime and punishment in eighteenth century England*. Routledge.
- Meek, R. (2008). Experiences of younger siblings of young men in prison. *Children & Society, 22(4)*, 265-277.
- Miethe, T. D., & Lu, H. (2005). *Punishment: A comparative historical perspective*. Cambridge University Press.
- Morgan, A. (2018). *How much does prison really cost? Comparing the costs of imprisonment with community corrections*.
- Morgan, D. L. (2007). Paradigms lost and pragmatism regained: Methodological implications of combining qualitative and quantitative methods. *Journal of mixed methods research, 1(1)*, 48-76.
- Muiluvuori, M. L. (2001). Recidivism among people sentenced to community service in Finland. *Journal of Scandinavian Studies in Criminology and Crime Prevention, 2(1)*, 72-82.
- Musa, S. A., & Alkassim, R. S. (2016). Comparison of convenience sampling and purposive sampling. *American journal of theoretical and applied statistics, 5(1)*, 1-4.
- Ofori-Dua, K., Akuoko, K. O., & Kanwetuu, V. D. P. (2015). Unanticipated Consequences of imprisonment on families of prison inmates of Kumasi Central Prison of Ghana. *Int'l J. Soc. Sci. Stud., 3*, 185.

- Ogbozor, E. N., Odoemena, A., & Obi, F. O. (2006). *From Hell to Hell: The Travails of Ex-prisoners in Nigeria*, Paper presented at the 11th International Conference on Penal Abolition (ICOPA XI), held in Tasmania, Australia)
- Ogula, P. A. (2005). *Research methods*. Nairobi: Catholic University of Eastern Africa Publications.
- Pager, D. (2006). Evidence based policy for successful prisoner reentry. *Criminology & Public Policy*, 5(3), 505-514.
- Pager, D. (2003). The mark of a criminal record. *American journal of sociology*, 108(5), 937-975.
- Peté, S., & Devenish, A. (2005). Flogging, fear and food: punishment and race in Colonial Natal. *Journal of Southern African Studies*, 31(1), 3-21.
- Patton, M. Q. (2002). Two decades of developments in qualitative inquiry: A personal, experiential perspective. *Qualitative social work*, 1(3), 261-283.
- Reinhart, C. M., & Rogoff, K. S. (2009). *This time is different: Eight centuries of financial folly*. Princeton University press.
- Rhodes, L. A. (2004). *Total confinement: Madness and reason in the maximum security prison (Vol. 7)*. University of California Press.
- Robinson, P. H. (2001). Punishing dangerousness: Cloaking preventive detention as criminal justice. *Harvard law review*, 114(5), 1429-1456.
- Sadler, G. R., Lee, H. C., Lim, R. S. H., & Fullerton, J. (2010). Recruitment of Hard to reach population subgroups via adaptations of the snowball sampling strategy. *Nursing & health sciences*, 12(3), 369-374.
- Sarantakos, S. (2012). *Social research*: Palgrave Macmillan.

- Sarkin, J. (2008). Prisons in Africa: An evaluation from a human rights perspective. *Sur. Revista Internacional de Direitos Humanos*, 5(9), 22-51.
- Saunders, M., Lewis, P. & Thornhill, A. (2012). *“Research Methods for Business Students” 6thed.* Pearson Education Limited
- Schlosser, E. (1998). *The prison-industrial complex. The Atlantic Monthly*, 282(6), 51-77.
- Seidman, I. (2013). *Interviewing as qualitative research: A guide for researchers in education and the social sciences.* Teachers College Press.
- Seidman, R. B. (1966). *The Ghana prison system: An historical perspective.* Ghana LJ, 3, 89. <http://www.ghanaprison.gov.gh/brief.html>. Assessed on 8th December, 2018
- Seiter, R. P., & Kadela, K. R. (2003). Prisoner reentry: What works, what does not, and what is promising. *Crime & Delinquency*, 49(3), 360-388.
- Silverman, D, (2006). *Interpreting qualitative data: Methods for analyzing talk, text and interaction.* Sage Publication. London.
- Simon, F. H. (2005). *Prisoners' work and vocational training.* Routledge.
- Singh, S. (2007). *Alternatives to imprisonment in South Africa: a historical perspective, 1980's to present.*
- Stern, V. (1999). Alternatives to prison in developing countries: Some lessons from Africa. *Punishment & Society*, 1(2), 231-241.
- Stohr, M. K., Walsh, A., & Hemmens, C. (2012). *Corrections: A text/reader (Vol. 3).* Sage.

- Tankebe, J. (2008). Colonialism, legitimation, and policing in Ghana. *International Journal of Law, Crime and Justice*, 36(1), 67-84.
- Teddle, C., & Yu, F. (2007). Mixed methods sampling: A typology with examples. *Journal of mixed methods research*, 1(1), 77-100.
- Thomas, D. R. (2006). A general inductive approach for analyzing qualitative evaluation data. *American journal of evaluation*, 27(2), 237-246.
- Tonry, M. H., Hamilton, K., & Hatlestad, K. (Eds.). (1997). *Sentencing reform in Overcrowded times: A comparative perspective*. Oxford University Press, USA.
- United Nations Office on Drugs and Crime, (2007). *Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment*, United Nations publication.
- United Nations. Office of the High Commissioner for Human Rights, & International Bar Association. (2003). *Human Rights In The Administration Of Justice: A Manual On Human Rights For Judges, Presecutors And Lawyers (No. 9)*. New York and Geneva: United Nations.
- Van Ness, D. W., & Strong, K. H. (2014). *Restoring justice: An introduction to restorative justice*. Routledge.
- Verhoef, H., & Michel, C. (1997). Studying morality within the African context: A model of moral Analysis and construction. *Journal of Moral Education*, 26(4), 389-407.

- Villettaz, P., Killias, M., & Zoder, I. (2006). The effects of custodial vs non custodial sentences on re-offending. A systematic review of the state of knowledge. *Campbell Collaboration Crime and Justice Group, Lausanne.*
- Vivar, C. G., McQueen, A., Whyte, D. A., & Armayor, N. C. (2007). Getting started with qualitative research: developing a research proposal. *Nurse researcher, 14*(3).
- Von Ness, D. & Strong, K.H. (2002). *Restoring Justice* (2nd Ed.). Cincinnati, Ohio: Anderson.
- Walmsley, R. (2015). *World prison population list*. London: Institute for Criminal Policy Research.
- Walmsley, R. (2005). *World Prison Population List*, London: International Centre for Prison Studies, King's College London.
- Weiss, D. B., & MacKenzie, D. L. (2010). A global perspective on incarceration: how an International focus can help the United States reconsider its incarceration rates. *Victims and Offenders, 5*(3), 268-282.
- Wilson, J. Q. & Herrnstein, R.J. (1986). *Crime and Human Nature*, New York: Simon & Schuster, Inc.
- World Prison Brief, *Institute for Criminal Policy Research*. Assessed on July 9, (2018). World Prison Brief, Institute for Criminal Policy Research. https://www.prisonstudies.org/sites/default/files/resources/downloads/wpp1_12.pdf Assessed on July 9, 2018

Yekini, A. O., & Salisu, M. (2013). Probation as a non-custodial measure in Nigeria: Making a case for adult probation service. *African Journal of Criminology and Justice Studies: AJCJS*, 7(1).

Yin, E. T. (2018). Religion, Rehabilitation, and Reintegration of Prison Inmates Into Mainstream Society. In Handbook of Research on Trends and Issues in Crime Prevention, Rehabilitation, and Victim Support (pp. 398-414). IGI Global.



APPENDICES

APPENDIX A

QUESTIONNAIRE FOR ADULT RESIDENTS IN CAPE COAST

UNIVERSITY OF CAPE COAST

COLLEGE OF HUMANITIES AND LEGAL STUDIES

DEPARTMENT OF SOCIOLOGY AND ANTHROPOLOGY

RESEARCH TOPIC: NON-CUSTODIAL SENTENCE AN

ALTERNATIVE TO IMPRISONMENT IN GHANA

QUESTIONNAIRE

Dear Respondent, thanks for your acceptance to participate in this study. Your contributions will help towards the success of this research project. Your responses are purely for academic purposes. To the best of your knowledge, kindly provide responses to all questions. You are assured of confidentiality and anonymity. Kindly tick (✓) the appropriate answers

The main objective of this study is to explore non-custodial sentencing as an alternative to imprisonment in Ghana. The information attained will only be used for the purpose of this research study and therefore will be confidential.

Section A. Background information of the respondents

Questions	Tick as appropriate
Q1. Age	
1. 18-27	
2. 28-37	
3. 38-47	
4. 48-57	
5. 58-67	
6. 68+	
7. 65+	
Q2. Sex	
1. Male	

2. Female	
Q3. Marital Status	
1. Married	
2. Single	
3. Divorce	
Q4. Educational level	
1. Primary	
2. Senior High	
3. Tertiary	
4. Others
Q5. Religious affiliation	
1. Christian	
2. Islam	
3. African Traditional	
Religion	
4. Others
Q6. Employment	
1. Formal	
2. Informal	
Section B. Awareness of non-custodial sentencing	
Q7. Have you heard about non-custodial sentencing?	
1. Yes	
2. No	
Q8. If yes to Q7, how did you hear of it?	
1. Electronic Media	
2. Court	
3. In a Movie	
4. Newspapers	
Q9. If yes to Q7, do you have any knowledge of it?	
1. Yes	
2. No	
Q10. If yes to Q9, describe how it works?	
Q11. What crimes do you think it applies	
1. Victimless Crimes	
2. Non-violent crimes	
3. Traffic offences	
4. First offenders	
5. Violent crimes	

6. Petty crimes	
7. Misdemeanor	
Q12. Do you know of case where Non-custodial sentence was applied?	
1. Yes	
2. No	
Q13. Can you mention any forms of non-custodial sentence	
Section C. Non-custodial sentencing in Ghana	
Q14. L Mention the forms of punishment you know in Ghana	
Q15. What do you think about the practice	
Q16. Should the practice continue in Ghana?	
Q17. To your best of knowledge which category of offences merit non-custodial sentence	
.....	
Q18. What is your view on the practice in Ghana?	
.....	

Q19. Do you think non-custodial sentencing can reduce crime in Ghana	
1. Yes	
2. No	
Q21. In your opinion, do you think the current forms of non-custodial sentencing being practice is enough?	
1. Yes	
2. No	
Section D. Prospects of non-custodial sentencing in Ghana	
Q20. What are some of the benefit	
.....	
.....	
.....	
.....	
.....	
Q21. Do people frown on others who have been punished through non-custodial sentencing?	
1. Yes	
2. No	
Q22. Does the criminal justice system in Ghana has the capacity to roll out more forms of non-custodial sentencing?	
1. Yes	
2. No	
Q23. If yes, to Q24, Should the practice of non-custodial sentencing be encouraged?	
1. Yes	
2. No	
Q24. Will the practice of non-custodial sentencing be sustainable?	
1. Yes	
2. No	

Q24. What do you think are some of the reasons why non-custodial sentencing is not being fully practiced in Ghana? (Kindly tick where appropriate)

Statement	Strongly Agree	Agree	Strongly Disagree	Disagree
Financial Constrain				
Fear of community rejecting offenders				
No formal legal backing				
In adequate human resource				
Fear of offenders not adhering to its rules				
Cost of maintain the practice				
Possible revenge from community members				
The practice will be seen as soft punishment				
Inadequate manpower for its management				

Thank you

APPENDIX B

INTERVIEW SCHEDULE FOR JUDGES, POLICE, PRISONS AND

SOCIAL WELFARE OFFICERS

UNIVERSITY OF CAPE COAST

COLLEGE OF HUMANITIES AND LEGAL STUDIES

DEPARTMENT OF SOCIOLOGY AND ANTHROPOLOGY

RESEARCH TOPIC: NON-CUSTODIAL SENTENCE AN

ALTERNATIVE TO IMPRISONMENT IN GHANA

Dear Respondent, thanks for your acceptance to participate in this study. The increase in prison populations around the world and its enormous financial burdens on governments has warranted the review of non-custodial sentencing. Your contributions will help towards the success of this research project. Your responses are purely for academic purposes. To the best of your knowledge, kindly provide responses to all questions. You are assured of confidentiality and anonymity.

The main objective of this study is to explore non-custodial sentencing as an alternative to imprisonment in Ghana.

Section A. Background information of the participants

1. Age
2. Rank/position
3. Level of education
4. Describe your job schedule
5. Explain your role in the penal system
6. What is the process involvement in handling case of crime?
7. What can you say about the number of cases you have been receiving?

Section B. Awareness of non-custodial sentencing

8. What can you say about the mode of punishment of crimes in Ghana?
9. What are the available modes of punishment?
10. Do you think they are effective? If not why

Section C. Prospects of non-custodial sentencing in Ghana

11. What is your view non-custodial sentence as a mode of punishment?
12. What does the penal system say about it?
13. Do you think it can be effective in Ghana?
14. What are its advantages?
15. What are its disadvantages?

Section C. Challenges of non-custodial sentencing

16. Why is it not wide spread in its usage in Ghana?
17. Are there any cases where it has been applied in your work?
18. What should the country do to popularize it?
19. Do you think there are challenges with it practices?
20. What recommendation will you give

Thank you