

LEGAL FRAMEWORK FOR THE INSTITUTIONALIZATION AND INCLUSION OF ALTERNATIVE DISPUTE RESOLUTION (ADR) IN THE NIGERIAN CRIMINAL JUSTICE ADMINISTRATION

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ABSTRACT

Alternative Dispute Resolution (ADR) has long been embraced in civil justice systems globally, but its integration into the criminal justice sphere, especially in Nigeria, remains a contentious and evolving area. The institutionalization and inclusion of ADR in the Nigerian criminal justice system represent a paradigm shift from the traditional adversarial, retributive model of justice toward a more restorative and rehabilitative framework. While ADR mechanisms such as arbitration, mediation, conciliation, negotiation, med-arb, victim-offender dialogues, and plea bargaining have long been applied in civil contexts, their gradual integration into the criminal process in Nigeria is gaining legal and scholarly attention. ADR in criminal justice in Nigeria is evolving, with reforms aimed at enhancing restorative justice, decongesting prisons, and promoting efficient resolution of minor criminal matters, and other economic and financial crimes related matters. The integration of ADR into criminal justice is more complex, particularly for serious offenses, due to the public interest nature of criminal law. The methodology that was adopted in this study is the doctrinal research method that focuses majorly on the interpretation of legal rules, principles, and concepts. This paper discusses the legal framework governing the deployment of ADR in criminal matters, focusing on key legislative instruments such as the Constitution of the Federal Republic of Nigeria 1999 (as amended); Administration of Criminal Justice Act (ACJA) 2015, and state-level adaptations; Arbitration and Mediation Act, 2023; Laws of the Federation 2004; and emerging restorative justice policies. It further examines the roles of institutions like the police, courts, and correctional agencies in facilitating non-custodial and community-based conflict resolution. Drawing from the foregoing, the paper advocates for reforms grounded in statutory backing, institutional capacity, and human rights safeguards, thus, it recommends, among others, the need for the National and State Assemblies to enact a dedicated legal framework for ADR and codification of restorative justice practices that moves away from the conventional retributive justice system and incorporate a restorative or reparative justice system. Furthermore, the paper recommends a multi-pronged reform approach encompassing legislative harmonization, capacity development, victim empowerment, and institutional safeguards to prevent abuse which would ultimately improve access to justice and reduce recidivism.

Keywords: ADR, Legal Framework, Institutionalization, Criminal, Justice, Administration

Introduction

The Nigerian criminal justice system has historically relied heavily on adversarial courtbased adjudication. However, this approach has proven inadequate in delivering timely and effective justice, often leading to congestion in courts and prisons. The institutionalization and inclusion of Alternative Dispute Resolution (ADR) in the Nigerian criminal justice system represent a paradigm shift from the traditional adversarial, retributive model of justice toward a more restorative and rehabilitative framework.

Okoro¹ sees ADR mechanisms such as mediation, conciliation, restorative conferencing, and plea bargaining offer less adversarial, more inclusive, and potentially rehabilitative approaches to dispute resolution. Although these mechanisms have traditionally been associated with civil disputes, there is growing recognition of their potential utility in resolving certain categories of criminal matters, particularly those involving minor offences, victim-offender reconciliation, juvenile justice, and community-based rehabilitation. Incorporating ADR into Nigeria's criminal justice architecture is not merely a matter of policy innovation but a constitutional imperative. For instance, the Administration of Criminal Justice Act (ACJA), 2015 introduces limited ADR mechanisms such as plea bargaining², and compounding of offences³. The Child Rights Act 2003 and the National Policy on Justice (2017) also contain references to non-custodial and restorative options. However, the deployment of these mechanisms remains inconsistent and largely uncoordinated. Furthermore, legal practitioners, law enforcement agencies, and judicial officers often lack sufficient awareness, training, and procedural guidance on the effective use of ADR in criminal proceedings. This gap underscores the necessity of institutionalizing ADR through a comprehensive legal framework that clearly defines its scope, safeguards the rights of all parties, and aligns with constitutional and human rights obligations (Adeyemo; and Nnamani)⁴. Several jurisdictions have successfully incorporated ADR into their criminal justice systems, demonstrating its potential for reducing court caseloads, humanizing justice, and

fostering community involvement. For instance, South Africa's Child Justice Act promotes restorative justice as a central component of juvenile proceedings, while Canada's Restorative Justice Program supports victim-offender mediation across various provinces. This paper, thus, undertakes a critical examination of the legal and institutional prerequisites for the sustainable inclusion of ADR in Nigeria's criminal justice system. It investigates the adequacy of existing statutory provisions, institutional capacities, and jurisprudential developments. It also throws light on cases where ADR has been applied as well discusses best practices that could inform local reforms. Ultimately, it proposes a set of legal, policy, and institutional recommendations aimed at creating an inclusive, participatory, and efficient criminal justice system that leverages ADR as a strategic tool for justice delivery and social harmony, especially in the criminal jurisdiction.

Conceptual Framework

The conceptual framework for this paper is grounded in the theoretical and jurisprudential foundations of ADR as applied within criminal justice systems. ADR signifies a departure from the adversarial model of criminal litigation toward a more restorative and participatory approach that emphasizes healing, restitution, and community reintegration. Aina⁵ asserts that Restorative justice theory serves as the primary conceptual underpinning. It is a model of justice that views crime not only as a violation of legal norms but as a breakdown

¹ C C Okoro, "Restorative Justice and Criminal Law Reform in Nigeria" (2022) 8 *Nigerian Journal of Criminal Law* 45.

² Administration of Criminal Justice Act, 2015, s 270

³ Administration of Criminal Justice Act, 2015, s 89

⁴ D D Adeyemo "Restorative Justice Ideals and Victims of Crime in Nigeria: Towards a Reparative Justice Approach" *Law and Social Justice Review* (2021) 2(2) *Law and Social Justice* 120; U O Nnamani "ADR and the Future of Criminal Justice in Africa" (2021) 10 *University of Lagos Law Review* 123.

⁵ O T Aina, 'Beyond Retribution: Rethinking Justice in Nigeria's Penal System' (2020) 14 *Obafemi Awolowo University Law Journal* 88.

in human relationships. Rather than focus on punishment, restorative justice seeks to repair harm, reintegrate offenders, and empower victims through inclusive dialogue (Braithwaite)⁶. This model aligns with several ADR processes including mediation, victim-offender conferencing, and family group conferencing, which are increasingly considered for integration into criminal justice policies.

From the Nigerian legal perspective, the conceptual framework for ADR in criminal justice finds expression in statutory, constitutional, and policy-based foundations. Statutorily, the Administration of Criminal Justice Act (ACJA) 2015 provides for plea bargaining, compounding of offences, and non-custodial sentencing⁷ which form part of a restorative ADR model. Also, the Child Rights Act 2003 in Section 204 endorses the diversion of children from formal judicial

processes using restorative principles (Olaniyan)⁸. Constitutionally, the principle of fair hearing as enshrined in Section 36 of the 1999 Constitution (as amended) is broad enough to support consensual justice processes such as ADR, provided that such procedures are transparent, voluntary, and respectful of human rights. In addition, Section 17(2)(a) of the Constitution promotes social justice and equal opportunity, laying the normative basis for restorative and community-centered alternatives to punitive justice.

Also, the conceptual framework engages with criminological and socio-legal scholarship that supports ADR. Restorative justice advocates such as Zehr⁹ emphasize values of participation, reparation, and transformation. Similarly, research in African jurisdictions, including Nigeria, demonstrates the efficacy of informal, community-based dispute resolution systems rooted in customary law and communal values (Ojo)¹⁰. These traditional frameworks, although often undervalued, contribute meaningfully to the conceptual basis for ADR in Nigerian criminal justice. Furthermore, international instruments and comparative jurisprudence reinforce the legitimacy of ADR in criminal justice such as the United Nations Economic and Social Council (ECOSOC) Guidelines on the Use of Restorative Justice Programmes in Criminal Matters (2002) encourages member states to adopt restorative processes that respect the rights of offenders and victims. Similarly, the Rome Statute of the International Criminal Court recognizes restorative elements such as reparations and victim participation in post-conviction processes. Therefore, the conceptual framework underpinning this study is multidimensional. It draws from restorative justice theory, constitutional guarantees, statutory innovations, customary practices, and global normative standards.

Alternative Dispute Resolution (ADR) in Criminal Justice in Nigeria

The Nigerian criminal justice system continues to grapple with various challenges such as prolonged trials, overcrowded prisons, and inadequate victim participation. These systemic issues have necessitated a shift towards more flexible, participatory, and restorative mechanisms of justice, notably ADR. While ADR has been predominantly utilized in civil and commercial disputes, it is increasingly gaining recognition as a viable tool for addressing certain categories

of criminal matters in Nigeria, especially minor and non-violent offences.

The incorporation of ADR into Nigeria's criminal justice process has a legal foundation in various legislative instruments. Notably, the Administration of Criminal Justice Act 2015 (ACJA) and the Edo State Administration of Justice Law 2018 (ACJL) provide statutory backing for noncustodial and conciliatory

⁶ John Braithwaite, *Restorative Justice and Responsive Regulation* (Oxford University Press 2002).

⁷ Administration of Criminal Justice Act 2015, ss 270, 89 and pt 44.

⁸ Tejumola Olaniyan, 'Juvenile Justice and the Promise of Diversion under the Child Rights Act' (2019) 6 *Nigerian Bar Journal* 67.

⁹ Howard Zehr, *The Little Book of Restorative Justice* (Good Books 2002).

¹⁰ A O Ojo, 'Customary Dispute Resolution and Restorative Justice in Nigeria' (2021) 12 *African Journal of Legal Studies* 103.

approaches by allowing for the compounding of offences where permissible by law, enabling parties to settle matters outside the courtroom¹¹. Moreover, these laws make provisions for restitution and compensation to victims, in alignment with restorative justice values¹². The Act¹³ and the Law¹⁴ also recognize plea bargaining under Section 270, permitting negotiated agreements between prosecution and defence that often lead to lighter sentences in exchange for a guilty plea. Just like Edo State, other states have also domesticated the ACJA. For example, the Lagos State Administration of Criminal Justice Law (ACJL) 2011 (as amended) stands out for its progressive embrace of ADR. It makes express provisions for restorative justice, community-based solutions, and the establishment of Restorative Justice Centres¹⁵. Similarly, the Child Rights Act 2003 (CRA), which has been domesticated in many states, encourages diversion, family conferencing, and mediation for children in conflict with the law¹⁶.

It should be noted that several forms of ADR have now been adapted to suit criminal justice purposes in Nigeria, chief among them is restorative justice, which prioritizes repairing the harm caused by criminal behaviour through victim-offender dialogue and mutual agreement which may take the form of victim-offender mediation, community conferencing, or healing circles hence Oludoro maintained that plea bargaining, as institutionalized in the ACJA and ACJL, allows parties to avoid lengthy trials through a negotiated plea, and moreover, mediation, often facilitated by institutions such as Citizens Mediation Centres and police complaints units, also serves as another avenue for resolving minor disputes and community-based infractions.¹⁶

The advantages of employing ADR in criminal justice are numerous. It provides quicker resolution of disputes, reduces the burden on courts and correctional facilities, and fosters victim satisfaction by involving them directly in the justice process. It also encourages the rehabilitation and reintegration of offenders, particularly first-time and juvenile offenders¹⁷ (UNODC, *Restorative Justice Guidelines*, 2020). Importantly, according to Okafor¹⁸, ADR can contribute to reduced recidivism, as it addresses underlying social and psychological causes of criminal conduct.

Despite its promise, however, ADR in criminal justice still faces several hurdles in Nigeria as there is low public awareness of its potential, and legal professionals often lack the requisite training to handle ADR mechanisms in the criminal jurisdiction effectively. Additionally, concerns about power imbalances, especially in cases involving domestic violence or vulnerable parties, highlight the need for appropriate safeguards.¹⁹ According to Akinseye-George²⁰, institutional barriers such as funding constraints, lack of dedicated infrastructure, and skepticism from traditional legal actors further impede the broader adoption of ADR in criminal matters. However, recent developments suggest a growing momentum toward institutionalizing ADR within the criminal justice system. For instance, the Federal Ministry of Justice²¹, with

¹¹ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 14.

¹² Constitution of the Federal Republic of Nigeria 1999 (as amended), s 12.

¹³ Administration of Criminal Justice Act 2015.

¹⁴ Edo State Administration of Criminal Justice Law 2018.

¹⁵ Lagos State Administration of Criminal Justice Law 2011 (as amended), s 248. ¹⁶ Child Rights Act 2003, s 204.

¹⁶ Olubayo Oluduro, 'Mediation in Criminal Justice: Lessons from the Arbitration and Mediation Act 2023' (2023) 65(3) *Journal of African Law* 331–345.

¹⁷ United Nations Office on Drugs and Crime (UNODC), *Handbook on Restorative Justice Programmes* (2nd edn, United Nations 2020).

¹⁸ I C Okafor, 'Limitations of ADR in Criminal Justice under Nigerian Law' (2023) 14(1) *Nigerian Bar Journal* 66.

¹⁹ Ernest Ojukwu, 'Mainstreaming ADR in Criminal Justice Reform: The Nigerian Experience' (2019) *ACJR Monograph Series* No 5.

²⁰ Yemi Akinseye-George, 'Restorative Justice and Non-Custodial Measures in Nigeria' (2016) 7 *NIALS Journal of Legal Studies* 45.

²¹ Federal Ministry of Justice (FMJ), *Draft National Policy on Restorative Justice in Nigeria* (Abuja 2022) (unpublished).

support from international partners, has proposed a National Policy on Restorative Justice aimed at guiding state and federal implementation²². To this end, Oluduro²³ noted that pilot Restorative Justice Centres have been launched in Lagos, Abuja, and Kaduna, while diversion programs for juveniles are increasingly being tested in family courts across many states of the Federation.

Scope of the Arbitration and Mediation Act, 2023 to Criminal Jurisdiction

The Arbitration and Mediation Act 2023 (AMA), a landmark legislation that repeals the Arbitration and Conciliation Act²⁴ is primarily concerned with regulating the procedure and

enforcement of arbitration and mediation agreements between parties in both domestic and international contexts. The Act is divided into three main parts: arbitration, mediation, and supplementary provisions. Notably, the Act applies to written arbitration agreements in disputes that are capable of settlement by arbitration, and others, by mediation, whether institutional or adhoc, provided it involves disputes which the parties can settle themselves²⁴²⁵.

Mediation under the AMA 2023 and Implications for Criminal Matters

The most relevant aspect of the AMA 2023 in relation to criminal jurisdiction is its detailed framework on mediation, which is extensively addressed in Part II of the Act. Section 68(1)²⁷ defines mediation as “*a process, whether referred to as mediation or otherwise, in which parties request a third person to assist them in their attempt to reach an amicable settlement of their dispute*”. The Act sets out the rights and obligations of mediators, the confidentiality of proceedings, and the enforceability of settlement agreements through Section 82²⁶, which permits mediated settlement agreements to be enforced as judgments of the court, provided the agreement meets the statutory criteria.

However, it should be noted that the Act does not explicitly contemplate the application of mediation in criminal cases, nor does it define “disputes” to include criminal offences. This is consistent with international arbitration and ADR norms, where criminal liability is generally considered non-arbitrable and non-mediable because it involves public interest and state prosecution, rather than private rights alone (Okafor)²⁸. As such, the AMA 2023 does not authorize parties to mediate or arbitrate criminal liability, such as murder, robbery, or corruption. Nevertheless, there is a growing space for restorative justice mechanism such as victim-offender mediation and community conferencing in minor or non-violent offences, particularly where the dispute is private in nature and the parties are willing to settle. In such contexts, the AMA 2023 may be used to structure and formalize agreements arising from criminal justice diversion programs, especially for first-time or juvenile offenders, provided such resolution is authorized by other applicable laws like the ACJA 2015²⁹ or the Child Rights Act 2003²⁷.

Enforceability of Criminal²⁸-Related Mediation Settlements

An important innovation in the AMA 2023 is the treatment of settlement agreements. Section 82(1) permits a party to apply to the High Court for the enforcement of a mediated settlement agreement as if it were a judgment, provided the agreement is in writing and signed by the parties and the mediator. In theory, this could

²² Olubayo Oluduro, ‘Restorative Justice in Nigeria: An Alternative to Criminal Prosecution’ (2018) 62(3) *Journal of African Law* 453–472.

²³ Child Rights Act, Cap A18, Laws of the Federation of Nigeria 2004.

²⁴ Arbitration and Mediation Act 2023, ss 1(1) and 67(1).

²⁵ Arbitration and Mediation Act 2023. ²⁷ *Ibid*.

²⁶ I C Okafor, ‘Limitations of ADR in Criminal Justice under Nigerian Law’ (2023) 14(1) *Nigerian Bar Journal* 66. ²⁹ Arbitration and Mediation Act 2023, ss 14–15.

²⁷ Child Rights Act 2003, s 204.

²⁸ Yemi Akinseye-George, ‘Arbitrability and Criminal Jurisdiction in Nigerian Law: Unpacking the 2023 Arbitration and Mediation Act’ (2023) 11 *NIALS Journal of Law and Society* 25.

extend to restorative settlements reached in criminal justice contexts (e.g., restitution for theft), if such settlements fall within the purview of other statutes authorizing such outcomes. Oluduro²⁹ is of the opinion that it positions the AMA 2023 as a potential tool for formalizing agreements arising from ADR practices in the criminal justice system.

Institutional Capacity and Human Rights Safeguards in the use of ADR in Criminal Matters in Nigeria

Institutional capacity refers to the ability of justice sector institutions such as courts, police, correctional services, legal aid bodies, and ADR centers, etc. to implement and manage ADR processes effectively, fairly, and in accordance with legal standards. In Nigeria, the Administration of Criminal Justice Act (ACJA) 2015 and the various state-level Administration of Criminal Justice Laws (ACJLs) provide the legal framework for diversion, restitution, plea bargaining, and reconciliation in minor criminal cases.³⁰ However, actual implementation depends on institutional structures. For instance, the Family Support Unit of the Nigeria Police Force, the Restorative Justice Centre in Lagos State, and legal aid clinics attached to law faculties and the Legal Aid Council of Nigeria (LACoN) are examples of institutional responses supporting ADR in criminal contexts. Despite these developments, Akinseye-George³¹ stated that many states lack dedicated restorative justice units or trained mediators within their criminal justice architecture. Also, the Legal Aid Council, under the Legal Aid Act 2011³² is empowered to provide representation and guidance for parties involved in ADR proceedings, but, regrettably, it is grossly underfunded.

Furthermore, the AMA (2023), while providing a comprehensive framework for civil and commercial mediation, does not address the special institutional needs of criminal justice mediation such as victim-offender conferencing, diversion protocols, or prosecutor involvement. Therefore, while legal provisions exist, institutional weaknesses often limit the practical reach of ADR in Nigeria's criminal justice system.

The use of ADR in criminal justice must respect the constitutional and international human rights of all parties, particularly suspects, victims, and vulnerable groups. ADR processes, by their informal nature, can sometimes lack the procedural protections available in the formal justice system. This is especially concerning where power imbalances exist such as in cases of domestic violence, child abuse, or gender-based crimes. Sections 34, 35 and 36 the Constitution³³ guarantees the right to fair hearing, freedom from torture, the presumption of innocence, and access to legal counsel. These rights must not be undermined in ADR processes. For example, where mediation is used in criminal justice, it must be voluntary, non-coercive, and conducted by neutral and trained facilitators. Similarly, the ACJA 2015³⁴ on plea bargaining stipulates that agreements must be made voluntarily and with legal representation to avoid abuse or forced confessions. In the same vein, international standards, such as the UN Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (2002), affirm that ADR should never substitute due process, and should be used only where the accused

²⁹ Olubayo Oluduro, 'Mediation in Criminal Justice: Lessons from the Arbitration and Mediation Act 2023' (2023) 65(3) *Journal of African Law* 331–345.

³⁰ Arbitration and Mediation Act 2023, ss 14 and 15; Administration of Criminal Justice Act 2015, s 270.

³¹ Olubayo Oluduro, 'Restorative Justice in Nigeria: An Alternative to Criminal Prosecution' (2018) 62(3) *Journal of African Law* 453–472.

³² Constitution of the Federal Republic of Nigeria 1999 (as amended), s 17.

³³ Constitution of the Federal Republic of Nigeria 1999 (as amended).

³⁴ Administration of Criminal Justice Act 2015, s 270(6).

admits responsibility and where victims give informed consent³⁵. However, the Nigerian courts have held that restorative settlements, especially in rape and child molestation cases, cannot replace state prosecution³⁶. Another major concern is the risk of re-victimization in mediation. For instance, forcing a victim of domestic violence to face their abuser in a reconciliation meeting may violate their dignity and safety. Hence, special protocols, including victim support services, psychosocial assessments, and safety planning, are essential before ADR is considered in such cases.

Judicial Attitudes towards ADR in Criminal Jurisdiction in Nigeria: A Review of Case Law

ADR mechanisms such as plea bargaining, mediation, and victim-offender conferencing

have gained formal recognition in statutory frameworks like the ACJA, 2015 and state-level criminal procedure laws, Nigerian courts have had to determine the legality, scope, and enforceability of such processes in criminal matters in plethora of cases. For instance, in *State v. Sadiq*³⁷, the Court of Appeal confronted a situation where the parties attempted to settle a criminal matter, rape of a minor outside court through private arrangements. The lower court had accepted a "settlement" facilitated by the parties' families and discontinued prosecution. The appellate court strongly condemned the practice, holding that criminal offences, particularly those involving public interest and serious harm, cannot be settled privately or diverted informally without legal basis. The court emphasized that such offences are not subject to negotiation or ADR, as they implicate the state's prosecutorial authority and duty to protect the society. In the view of the researcher, this case clearly establishes the non-negotiability of certain crimes, especially sexual and gender-based offences, and the judicial resistance to using ADR in serious criminal cases.

In the case of *State v. Blessing*³⁸, the Court of Appeal reiterated that while reconciliation or settlement between parties may influence sentencing or withdrawal in non-capital offences, it does not extinguish the criminal liability itself. The matter involved theft, and the victim had written to the police to withdraw the complaint after being compensated. Nevertheless, the court held that once an offence has been reported and prosecution commenced, the state acquires control, and any withdrawal must comply with statutory procedures under the Criminal Procedure Law or ACJA as applicable. This reinforces the idea that ADR-induced settlements may have persuasive value, but they do not override procedural safeguards or prosecutorial discretion. However, the case of *FRN v. Osahon*³⁹ focused on prosecutorial authority where the Court held that the principle of *nolle-prosequi* must be exercised in good faith and with regard to justice, including emerging principles like restorative justice. Though not strictly an ADR case, it suggests that diversion programs or settlement processes, if endorsed by the prosecution and consistent with law, can be constitutionally permissible. This case provides constitutional space for ADR use in criminal matters where institutionally permitted and not contrary to public interest.

Similarly, in *Adekeye v. The State*⁴⁰, the Supreme Court affirmed the limited but

evolving role of restorative mechanisms in criminal justice. The case involved restitution as a sentencing option

³⁵ United Nations Economic and Social Council (ECOSOC), *Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters*, UN Doc E/RES/2002/12 (2002).

³⁶ *State v Sadiq* (2019) LPELR-47369(CA).

³⁷ (2019) LPELR - 25538 (CA)

³⁸ (2015) LPELR - 47369 (CA)

³⁹ (2006) 5 NWLR (Pt. 973) 361

⁴⁰ (2012) 9 NWLR Pt. 1306) 618

under the then Criminal Code, which the court supported. Though not a mediation case per se, the court recognized that compensation and reconciliation could serve justice in appropriate circumstances, especially for first-time offenders and juvenile delinquents. This ruling supports the broader restorative ethos now codified under ACJA 2015, the Edo State Administration of Criminal Justice Law, 2018, Child Rights Act, and Lagos State Restorative Justice Law 2021, which permit ADR-type solutions under judicial oversight.

Notable Cases in Nigeria involving ADR of Plea Bargain

Plea bargaining has emerged as a pragmatic component of Nigeria's criminal justice system, particularly for economic and financial crimes. Recognized statutorily under Section 270 ACJA 2015, and that of Edo State ACJL 2018, plea bargain allows a defendant to plead guilty to lesser charges or accept a negotiated punishment in exchange for leniency and expedited justice. While the practice has attracted both praise and criticism, Nigerian case law demonstrates how the courts have gradually shaped and refined its boundaries in such notable cases below:

Duru v. FRN

The case of *Duru v. FRN*⁴¹ involves plea bargaining where the Court of Appeal upheld the validity of a plea agreement between the accused and the prosecution under Section 180 of the Criminal Procedure Act (now Section 270 of ACJA). The court emphasized that ADR mechanisms like plea bargaining must be governed by statute, and not left to informal negotiation. This case affirms that structured ADR mechanisms within criminal justice, such as plea bargains and restitution agreements, are acceptable, so long as they are clearly authorized by law and supervised by the court.

The jurisprudence from Nigerian Courts demonstrates a cautious but evolving recognition of ADR in criminal justice. While the courts have repeatedly rejected informal or extrajudicial settlements of serious crimes, especially those involving violence, sexual offences, and public wrongs, they have shown support for regulated ADR processes like plea bargaining, restitution, and court-annexed mediation in appropriate minor offences.

FRN v. Tafa Balogun⁴²

One of Nigeria's earliest and most prominent plea bargain cases involved Tafa Balogun,

the former Inspector General of Police. He was arraigned by the Economic and Financial Crimes Commission (EFCC) on 91 counts of corruption and money laundering amounting to ₦13 billion. He entered into a plea agreement, pleaded guilty to eight amended counts, and was sentenced to six months imprisonment, with most of his sentence served in a hospital. He also forfeited significant assets.

FRN v. Lucky Igbinedion⁴³

In another high-profile corruption case, Lucky Igbinedion, former Governor of Edo State, was charged with **191 counts** of fraud and money laundering totaling over ₦4.3 billion. Through a plea bargain, the charges were drastically reduced, and he was fined ₦3.5 million and sentenced to a suspended jail term after forfeiting some assets.⁴⁷

FRN v. Cecilia Ibru⁴⁴

In what is widely seen as a benchmark for successful plea bargaining, Cecilia Ibru, former Managing Director of Oceanic Bank, faced charges of mismanaging over ₦190 billion. Through a plea deal, she pleaded guilty to three counts, received six months imprisonment, and forfeited over 100 properties and ₦1.2 billion in assets to the Federal Government.⁴⁸

⁴¹ (2018) LPELR – 19944 (CA)

⁴² Unreported case at the Federal High Court, Abuja (2005)

⁴³ Unreported case at the Federal High Court, Enugu (2008)

⁴⁴ Unreported case at the Federal High Court, Lagos (2010) ⁴⁹ (2020) LPELR

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FRN v. John Yakubu Yusuf⁴⁹

In 2021, Yakubu Yusuf, a director in the Police Pension Office, was charged with embezzling over ₦23 billion. After entering a plea bargain and pleading guilty to three counts, he was sentenced to a fine of ₦750,000 representing ₦250,000 per count without any custodial sentence. However, it should be noted that the public outcry led the EFCC to appeal, and the Court of Appeal overturned the sentence, describing it as “a travesty of justice” and grossly inadequate given the amount involved, and declared that “A plea bargain does not absolve the court from its duty to impose a sentence that reflects justice, deterrence, and public interest.”⁴⁹ This case firmly established that courts have discretion to reject plea bargains if the proposed sentence is manifestly unjust.

FRN v. Olisa Metuh⁴⁵

In the course of the prosecution of Olisa Metuh, former PDP spokesperson, for allegedly receiving ₦400 million from the Office of the National Security Adviser without due process, plea bargain negotiations were considered but ultimately collapsed, and he opted to stand trial and was eventually convicted and sentenced to 7 years imprisonment in 2020. It should be noted that the plea agreement broke down and was not finalized hence he opted for full trial. This case demonstrates how plea negotiations can be strategically used by both prosecution and defence, and how their breakdown can influence trial dynamics.

Co-defendants in FRN v. Diezani Alison-Madueke (Ongoing)

In the ongoing corruption investigations involving former Petroleum Minister Diezani Alison-Madueke, several co-defendants have entered plea bargains, leading to significant asset forfeitures including luxury apartments, cash, and vehicles. The courts have accepted these bargains and issued forfeiture orders. From this, it is obvious that where plea bargain results in recovery of looted assets and expedites resolution of complex cases, it promotes judicial economy and restorative justice.⁴⁶

The above cases highlight the value of plea bargaining in complex, multi-party economic crimes.

However, the absence of a unified and comprehensive framework for ADR in criminal matters has resulted in inconsistencies across jurisdictions, limited application, and lack of institutional support. Moreover, the constitutional mandate as provided for in the 1999 Constitution of the Federal Republic of Nigeria (as amended)⁴⁷, which guarantees fair hearing, implies that ADR processes when properly institutionalized can complement the formal justice system while still preserving legal safeguards. Therefore, institutionalizing ADR within the criminal justice framework is not only necessary for reducing court congestion and pre-trial detention but also critical for restoring social cohesion, especially in non-violent and community-based offences.

Conclusion

The integration of ADR into the Nigerian criminal justice administration presents a progressive pathway toward a more restorative, participatory, and efficient system as the traditional adversarial model has often proven inadequate in addressing the underlying causes of crime, ensuring victim satisfaction, and achieving timely justice. As evidenced by the foregoing and Administration of Criminal Justice Act 2015, and other relevant laws on ADR, provisions such as plea bargaining, non-custodial sentence, and restorative justice provide a legislative foundation for ADR in the criminal justice system, which represent both a pragmatic and philosophical shift in the country’s approach to crime, punishment, and societal harmony. Historically,

⁴⁵ Unreported case at the Federal High Court, Abuja (2020)

⁴⁶ FRN v. Amosu & Ors (Unreported case at the Federal High Court, Lagos (2018)

⁴⁷ Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 36

Nigeria's criminal justice framework has been anchored on adversarial litigation, which in the course of ensuring procedural safeguards has often resulted in congested court dockets, protracted trials, and outcomes that inadequately address the needs of victims, offenders, and communities. The global trend towards restorative and non-adversarial justice has demonstrated that ADR, when properly institutionalized, can complement the formal justice system by fostering reconciliation, promoting offender accountability, and facilitating victim healing, while simultaneously reducing the burden on the courts. However, the institutionalization of ADR within criminal justice in Nigeria is still at a formative stage hindered by legislative gaps, inconsistent policy frameworks, and cultural perceptions that equate justice solely with punitive measures. Therefore, a coherent legal framework embedded within existing statutory instruments such as the ACJA, and corresponding state laws needs to be developed to clearly define the scope, procedures, and enforceability of ADR mechanisms such as restorative justice conferences, victim-offender mediation, and negotiated pleas in criminal matters. At the moment, there are series of ongoing seminars in Edo State and other states within the country on non-custodial sentencing and the application of other ADR related mechanisms in the administration of criminal justice geared towards decongestion of prisons and restorative justice.

Recommendations

This Research recommends amongst others the following:

- The National Assembly and various State Assemblies should enact a comprehensive Criminal Justice (Alternative Dispute Resolution) Bill to regulate the scope, procedure, and enforceability of ADR in criminal matters. This will ensure legal certainty and standardization across all states in line with Section 4 of the 1999 Constitution.
- The Ministry of Justice should work with stakeholders to develop restorative justice guidelines and regulations, particularly for juvenile justice and non-indictable offences. This is in line with international standards such as the UN Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (2002).
- Prosecutors, judges, police officers, correctional officers, and ADR practitioners should be made to undergo compulsory structured training on ADR mechanisms, including victimoffender mediation, restorative conferencing, and community-based dispute resolution. This aligns with Section 106 of the ACJA, and other relevant laws that permit the AttorneyGeneral to engage non-formal dispute resolution.
- The Nigeria Police Force, in collaboration with the Legal Aid Council and civil society organizations, should establish ADR units to handle minor criminal complaints and precharge diversion. Similarly, courts should create Criminal ADR Desks under the supervision of trained Magistrates or Registrars.

REFERENCES

Books & Monographs

- Akinseye-George, Y., *Plea Bargaining in Nigeria: Legal Framework and Reform Agenda*, NIALS Working Paper Series (2021).
- Akinseye-George, Y., *Restorative Justice in Nigeria: Judicial Responses and Legislative Gaps*, NIALS Policy Paper (2022).
- Braithwaite, J., *Restorative Justice and Responsive Regulation* (Oxford University Press 2002).
- Okonkwo, C.O., *Criminal Law in Nigeria*, 2nd edn (Spectrum Books, Ibadan 2010) 331–340.
- Zehr, H., *The Little Book of Restorative Justice* (Good Books 2002).
- Ojukwu, E., *Mainstreaming ADR in Criminal Justice Reform: The Nigerian Experience* (2019) ACJR Monograph Series No 5.

Journal Articles

- Aina, O.T., ‘Beyond Retribution: Rethinking Justice in Nigeria’s Penal System’ (2020) 14 *Obafemi Awolowo University Law Journal* 88.
- Akinseye-George, Y., ‘Arbitrability and Criminal Jurisdiction in Nigerian Law: Unpacking the Arbitration and Mediation Act’ (2023) 11 *NIALS Journal of Law and Society* 25.
- Akinseye-George, Y., ‘Institutionalising Restorative Justice in Nigeria: Issues and Prospects’ (2022) 3 *NIALS Journal of Criminal Justice Reform* 55–72.
- Akinseye-George, Y., ‘Restorative Justice and Non-Custodial Measures in Nigeria: Prospects and Challenges’ (2016) 7 *NIALS Journal of Legal Studies* 45.
- Deborah D. Adeyemo, ‘Restorative Justice Ideals and Victims of Crime in Nigeria: Towards a Reparative Justice Approach’ (2021) 2(2) *Law and Social Justice Review* 120–XX.
- Nnamani, U.O., ‘ADR and the Future of Criminal Justice in Africa’ (2021) 10 *University of Lagos Law Review* 123.
- Ojo, A.O., ‘Customary Dispute Resolution and Restorative Justice in Nigeria’ (2021) 12 *African Journal of Legal Studies* 103.
- Okafor, I.C., ‘Diversion and Restorative Justice in Nigeria: Reviewing Legal Trends’ (2021) 12(2) *Nigerian Bar Journal* 66.
- Okafor, I.C., ‘Limitations of ADR in Criminal Justice under Nigerian Law’ (2023) 14(1) *Nigerian Bar Journal* 66.
- Olaniyan, T., ‘Juvenile Justice and the Promise of Diversion under the Child Rights Act’ (2019) 6 *Nigerian Bar Journal* 67.
- Oluduro, O., ‘Human Rights Risks in Victim-Offender Mediation: Nigerian Legal Perspectives’ (2021) 21(2) *African Human Rights Law Journal* 403–421.
- Oluduro, O., ‘Mediation in Criminal Justice: Lessons from the Arbitration and Mediation Act’ (2023) 65(3) *Journal of African Law* 331–345.
- Oluduro, O., ‘Restorative Justice in Nigeria: An Alternative to Criminal Prosecution’ (2018) 62(3) *Journal of African Law* 453–472.

Statutes

- Administration of Criminal Justice Act 2015.
- Administration of Criminal Justice Law 2018.
- Arbitration and Mediation Act 2023.
- Child Rights Act 2003.

Constitution of the Federal Republic of Nigeria (as amended).
Criminal Procedure Act (Cap C41, LFN 2004) [now replaced by ACJA].
Lagos State Administration of Criminal Justice Law 2011.
Lagos State Restorative Justice Law 2021.
Legal Aid Act 2011.
Police Act 2020.
National Human Rights Commission Act 2010.
Economic and Financial Crimes Commission (Establishment) Act 2004, s 14(2).

Case Law

Adekeye v. State [2012] 9 NWLR (Pt. 1306) 618.
FRN v. Amosu & Ors, Unreported, Federal High Court, Lagos (2018).
FRN v. Cecilia Ibru, Unreported, Federal High Court, Lagos (2010).
FRN v. Lucky Igbinedion, Unreported, Federal High Court, Enugu (2008).
FRN v. Olisa Metuh, Unreported, Federal High Court, Abuja (2020).
FRN v. Osahon [2006] 5 NWLR (Pt. 973) 361.
FRN v. Tafa Balogun, Unreported, Federal High Court, Abuja (2005).
Duru v. FRN [2013] LPELR-19944(CA).
Yusuf v. FRN [2020] LPELR-50403(CA).
State v. Sadiq [2019] LPELR-47369(CA).

International Instruments

United Nations ECOSOC, *Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters*, Resolution 2002/12.
United Nations, *Handbook on Restorative Justice Programmes* (2nd edn, United Nations 2020).
United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) 1985.
United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules) 1990.
United Nations Convention on the Rights of the Child (CRC) 1989.
International Covenant on Civil and Political Rights (ICCPR) 1966.
African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9 LFN 2004.
Child (CRC), 1989
United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), 1990
United Nations ECOSOC, *Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters*, Resolution 2002/12.