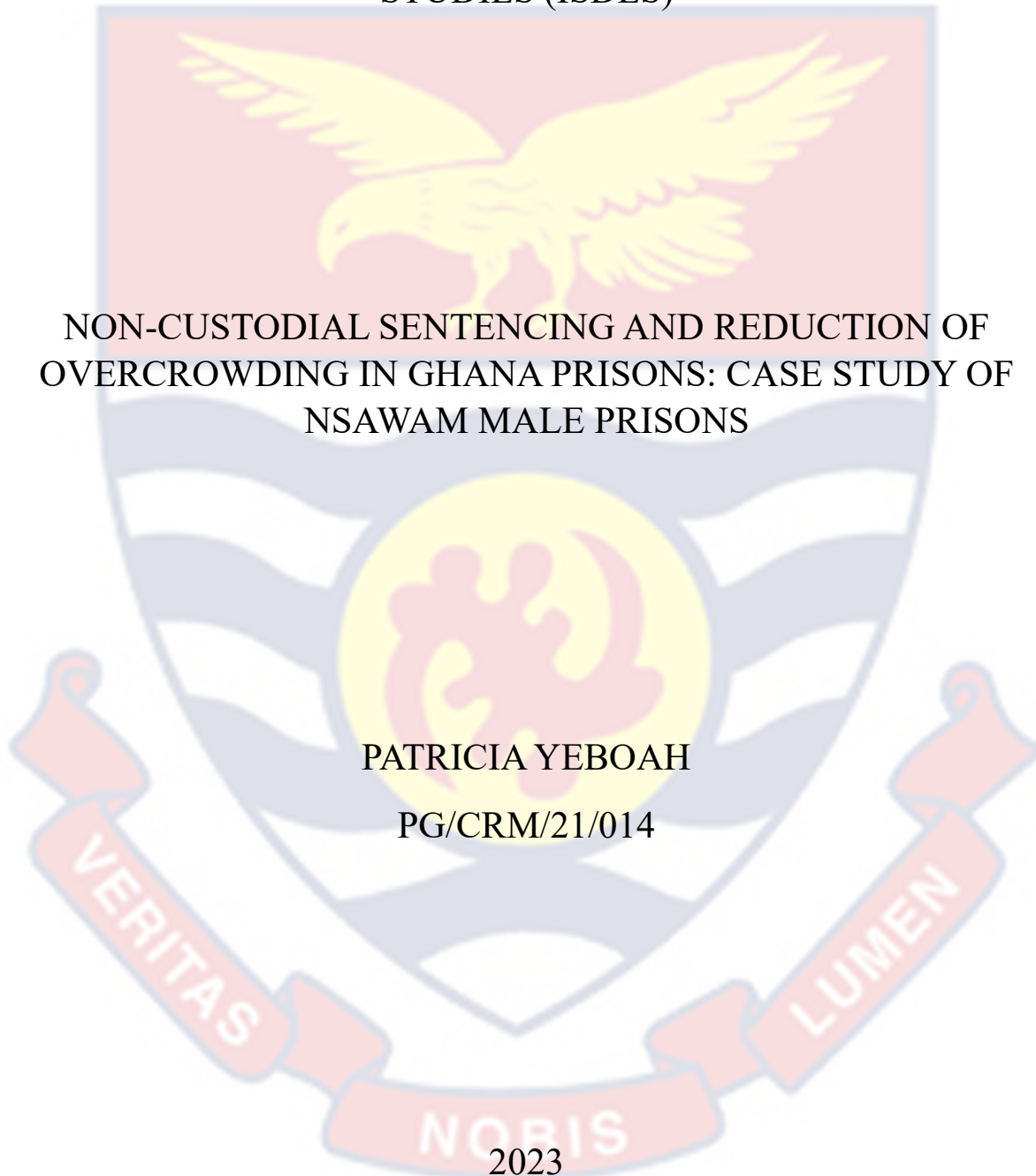


INSTITUTE FOR SECURITY, DISASTER AND EMERGENCY
STUDIES (ISDES)

NON-CUSTODIAL SENTENCING AND REDUCTION OF
OVERCROWDING IN GHANA PRISONS: CASE STUDY OF
NSAWAM MALE PRISONS

PATRICIA YEBOAH

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BY

PATRICIA YEBOAH

PG/CRM/21/014

Long Essay submitted to the Department of Criminology, Institute
for Security, Disaster and Emergency Studies, in partial fulfilment
of the requirements for the award of Master of Science degree in

Criminology

NOVEMBER, 2023

DECLARATION

I, Patricia Yeboah, hereby declare that this dissertation is the result of my own research carried out at the Institute for Security, Disaster and Emergency Studies (ISDES), under the supervision of Dr. Benard Tutu Boahene. I further declare that no part of this dissertation has been presented for a degree at any University or College.

CANDIDATE NAME:

PATRICIA YEBOAH

Sign:

Date:

Supervisor's Declaration

I hereby declare that the preparation and presentation of the long essay were supervised in accordance with guidelines on supervision of a long essay laid down by the Institute for Security, Disaster and Emergency Studies

PRINCIPAL SUPERVISOR

DR. BERNARD TUTU BOAHENE

Sign:

Date:

ACKNOWLEDGEMENTS

The Research, Findings, and Recommendations in this document are by no means the product of one individual. It stands as evidence of the extensive and invaluable contributions of many, who have upscaled into my knowledge various disciplines throughout the MSc in Criminology program. While it will be impossible to name all, I would like to give special thanks to the following individuals:

My gratitude goes to the Almighty God, my family, Dr Norman and Dr Agordzo under whose tutorials this topic was learnt. Dr. Tutu whose tolerance and assistance saw this work travel through from inception to the end. I am also grateful to the entire Ghana Police Service and comrades of the Mile 7 Police Barracks. For all those who are not mentioned, I say God bless you all and Thank You.



DEDICATION

This work is dedicated to Mr. Patrick Yeboah (blessed memory), Mr Zac Essel, Dr. Bernard Tutu and my Entire family for their various contributions and lovely support extended to me throughout my life till today. God richly bless them.



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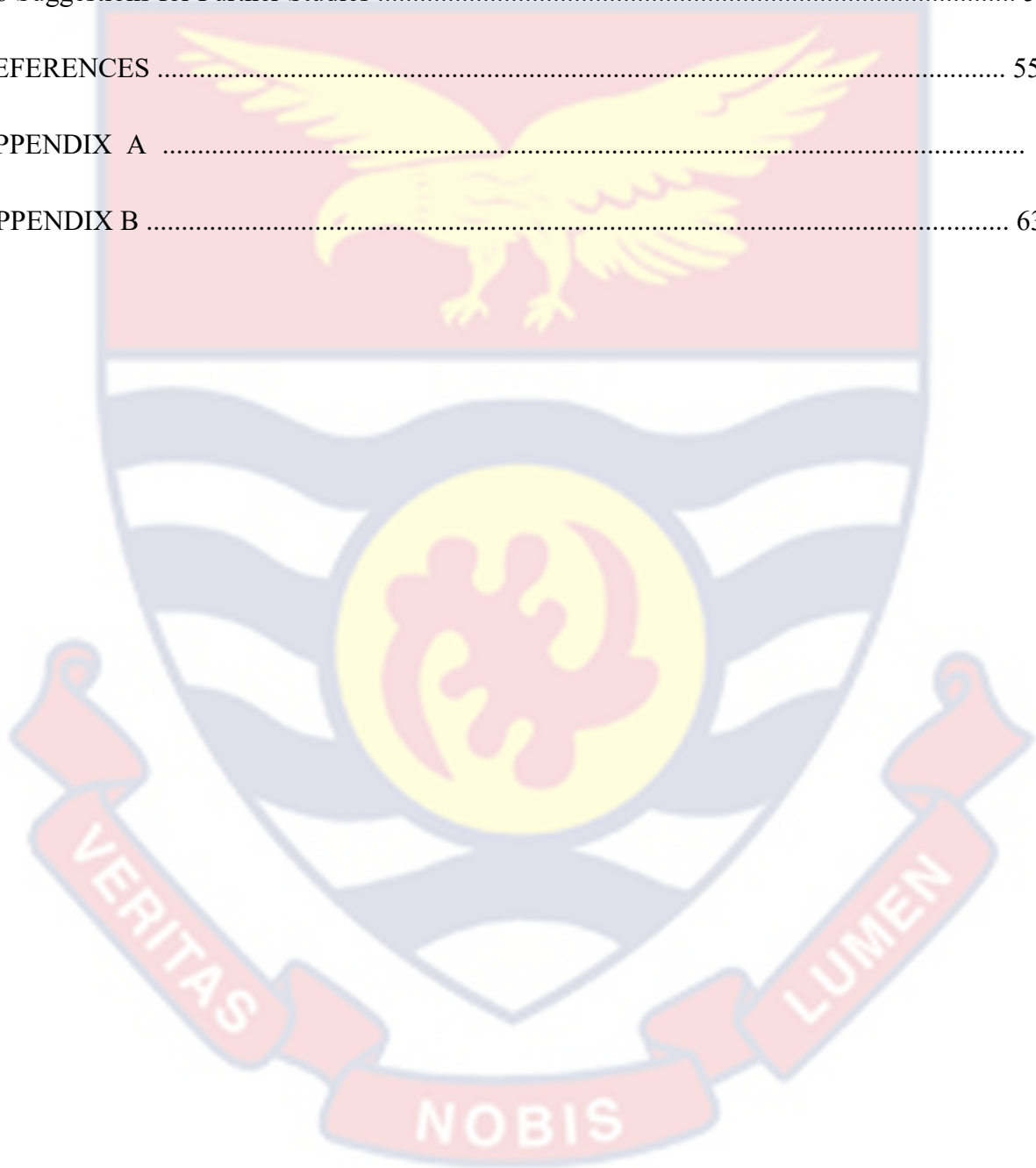
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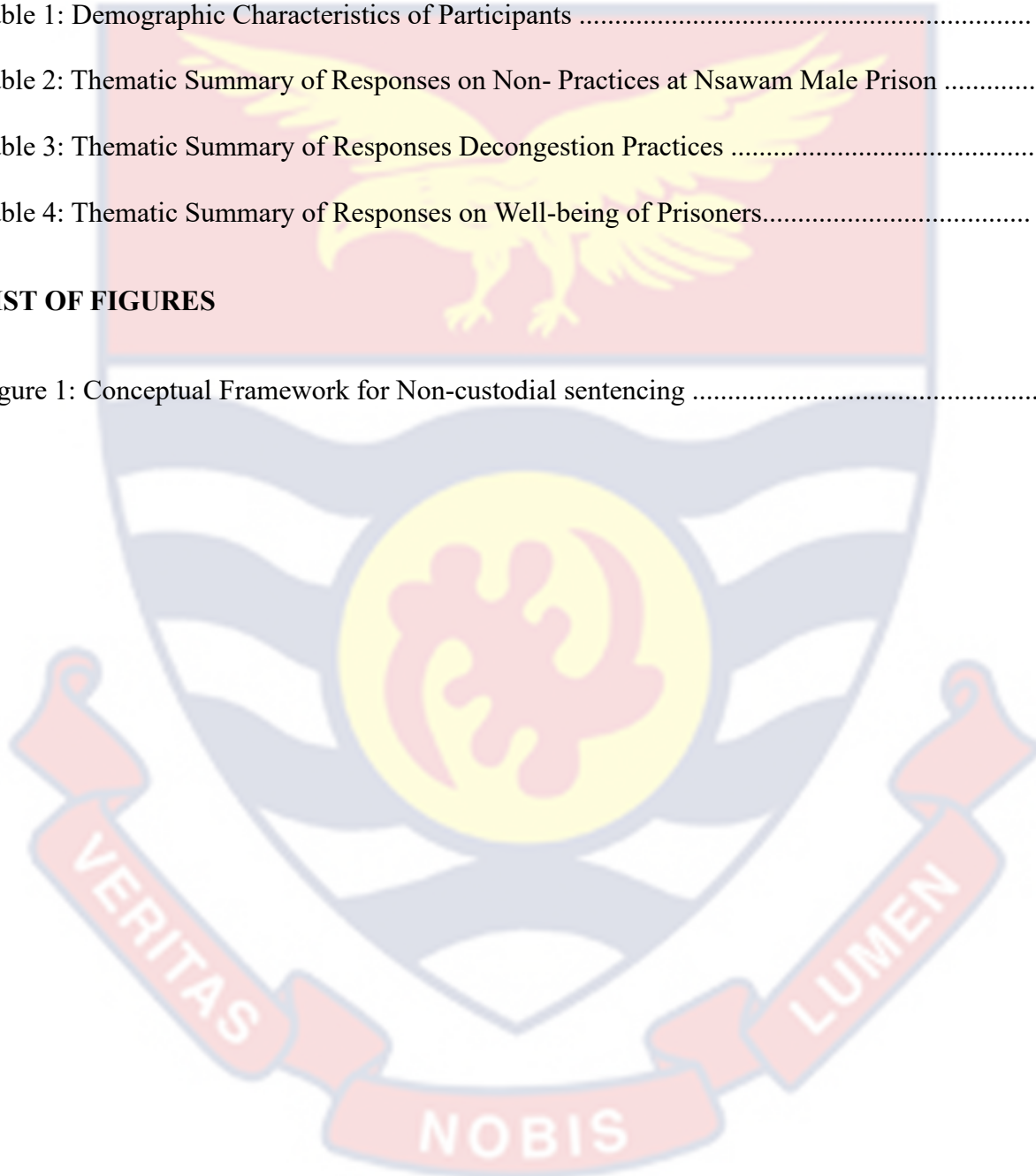


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ABSTRACT

This research focused on investigating issues related to non-custodial sentencing and reduction of overcrowding in Ghana prison. The study was limited to male prison inmates at the Nsawam prisons. Specifically, the study examined the nature of non-custodial sentencing, decongestion mechanisms and the well-being of prisoners.

The study adopted a qualitative study approach using interview as a data collection tool. The study focused on using sixteen (16) prison inmates and four (4) prison officers to explore these objectives; adoption of non-custodial sentencing, decongestion mechanism and well-being of prison inmates.

The exploration dwelt on the use of non-custodial sentencing in Ghana which is unattended to hence, the criminal justice system needs to be amended by introducing non-custodial sentencing. Also, there was no defined procedure for decongestion activities at the prison. Again, the wellbeing of prison inmates was identified to be in a deplorable state. Health, food and mental instability were significant issues related to the well-being of prison inmates.

The study recommended the enactment of the non-custodial laws as well as initiating a long-term decongestion of prison facilities including Inmates' food program was featured to ensure that diet/food is balanced enough to keep them healthy.

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Crime regulation is one important approach to maintaining safety and order in the society (Simon, 2020). Once a crime is committed, law enforcement bodies such as the court ensures that there is a corresponding punishment seeking to deter others from committing similar crimes, protecting the society from recalcitrant and also create as an opportunity for rehabilitation to offenders (Dikotter & Brown, 2018). Generally, the purpose crime checks is to address the underlying reasons that led to the crime and as a result reduce the risk that the individual would commit another crime in the future (Andrews & Bonta, 2010). Generally, individuals who are convicted of crimes by the court are likely to face either a custodial sentence or non-custodial sentence (Leipold, 2019). Sentence refers to a legal penalty imposed by a court, which entails the mandatory confinement of the offender in correctional facility known as prison (Andrews & Bonta, 2010). On the other hand, non-custodial sentencing is a form of punishment issued by a court that does not entail imprisonment (Villettaz et al., 2015).

Authors such as; Ofori-Dua et al. (2015) and Yin (2018) have emphasized on the need for adopting diversified sentencing approaches. This is simply because crimes are not the same, hence, victims should not share in the same punishment. There are certain offences for which the offender must be given a sentence; these offences are referred to as felonies. Some examples of felonies include first-degree murder, armed robbery, rape, and kidnapping (DeLis et al., 2017). Contrarily, noncustodial sentences minimize the costs involved in administering prison services and have also reduces the number of imprisoned people (Morgan, 2018), A sentence that does not involve imprisonment is known as a non-custodial sentence, which is handed down by a court of law (Yin,

2018). A fine, a limitation order, community work, a probation order, periodical imprisonment, a supervision order (parole), home arrest with electronic monitoring, drug testing and a treatment order term are all examples of such non-custodial sentences (Halm, 2020).

Despite the importance of non-custodial sentencing, it is unfortunate that Ghana's law does not support this form of punishment, as a result, minor offenders are being incarcerated or detained prior to their trial (DeLis et al., 2017). It is extremely challenging to properly reform offenders when jails are underfunded, making it more difficult to deal with overcrowding and attendant health risks. In a similar vein, Yin (2018) highlights the fact that most Commonwealth African countries, such as Ghana, are still solely relying on the use of incarceration as a means of combating crime, even though the majority of countries around the world are currently developing viable alternatives to incarceration as a means of combating crime.

A punishment that does not include imprisonment makes it possible for criminals to take part in constructive activities that are of use to the community as a whole (Graham, 2012). In the continent of Africa, before the implementation of non-custodial sentencing in Zimbabwe, the country's prison population had skyrocketed due in part to a rise in crime rates as well as an increase in the number of offenders who were unable to pay the fines imposed by the courts and therefore ended up serving time behind bars (Prison Reform Initiative, 1997). After it was implemented, there was a discernible shift toward marked improvement across the nation's correctional facilities. The services that sentenced offenders offered also benefited the community as a whole. As a result of the positive outcomes seen from the implementation of community service in Zimbabwe, the practice is now being considered at a variety of regional fora. It has been included into the legal systems of several African nations (PRI, 1997).

Non-custodial sentencing instils in the criminal or victim a feeling of moral commitment to the community. It has the potential to alter the behavior of the offender and help shift the trajectory of the crime (Wing Lo & Harris, 2004). In addition to this, there is the possibility that it may make a positive impact on the members of the community (Caputo, 1999). Roberts and Pei (2016) discovered that although the forms and structures of non-custodial sentences may differ from one jurisdiction to the next, it has nevertheless gained roots in the legislation of some countries. This is despite the fact that the forms and structures of these sentences may vary.

The Ghana Prisons Service has the goal of transforming the current criminal system into a reformatory one that is effective, humane and safe (Afari et al., 2015). A significant focus will be placed on developing human capital to guarantee high levels of competence, efficiency and effectiveness. In this regard, the service provided many officers with the opportunity to take academic and technical courses to improve their understanding and skills. Certain officers were also allowed to attend international conferences to exchange practises and procedures with the rest of the world and become familiar with new trends in the administration of prisons (Akuamoah, 2012). In addition, the service allowed officers to improve their understanding and skills in prison administration. The capabilities of officers on the job have significantly expanded due to these opportunities centred on providing service.

The Ghana Prison Service has not yielded to the goal of transforming inmates in its determination to provide vocational training in areas such as carpentry, tailoring, soap making, cooking, block laying and concreting, barbering and information communication technology (ICT). Asare (2021) opines that acquiring such marketable skills will make it simpler for beneficiaries to make economic changes when they are reintegrated into traditional society, which will assist in reducing the likelihood that they will commit another offence in the future. In addition to farming, the

productive participation of prisoners in agricultural efforts was also sought. The Ghana Prison Service placed these inmates in farming duties at one of its farm sites. The Prisons Service's aim to supplement the government's quota with agricultural goods produced internally means that farm stations will continue their obligation to produce food. This conforms with the Prisons Service's strategy.

Among the many challenges, the Ghana Prison Service seems to be constantly concerned with the issue of overcrowding in its facilities (Ofori-Dua et al., 2015). Overcrowding in prisons has become a serious problem as a direct consequence of an increase in the number of persons already incarcerated and the frequency with which the court's order individuals to serve various imprisonment terms. Because of the suffocating conditions caused by the congestion, the convicts' health is put at risk (Yin, 2018). The high expense of maintaining the jail due to the increased population leads to an increase in the cost of food that is not even sufficient to supply the inmates with a meal that is considered to be of sufficient quality.

Because of this, the purpose of the current study is to investigate the possibility of implementing non-custodial sentences in Ghana as an alternative to incarceration. This study aims to investigate the viability of alternative punishments to imprisonment in Ghana, with a particular focus on the male prison facility at Nsawam Prisons.

1.2 Problem Statement

Issues related to the appropriate ways of dealing with crimes have recently surged in Ghana. There have been issues related to irregularities and inconsistency towards the judgement of crime victims. Key issues related to sentencing or imprisonment in Ghana include; false or unjust imprisonment, delay in judgement, bribery and corruption within the judicial system (Kwasitsu, 2019). According to the Ghana Prison Service (Annual Prisons Report, 2021), as of June 2021, prisons in Ghana are

reported to have been overcrowded by 3, 247 prisoners against an authorised population of 9, 495. The report further indicated that 88.22% of prison inmates represents the convicted population, whereas 11.78% represent the remand population. This situation indicates a noticeable trend of congestion leading to contamination and the spread of diseases among inmates (Boateng & Hsieh, 2019).

Other difficulties faced by the Ghana Prison Service include the expensive cost of upkeep, insufficient funding for suitable food for the convicts, limited beds on which the detainees can sleep, and unhygienic conditions (Halm, 2022). This implies that the primary goals for which the prison institution was formed seem to be underperforming. Additionally, recidivism issues are fundamental in criminal justice, where individuals relapse into criminal behaviour often after receiving sanctions (Antwi, 2015). According to Yin (2018), some inmates even enjoy returning to prison because it looks better as an option than freedom. As a result, the relevance and role of imprisonment in the rehabilitation and reformation of convicts are in doubt.

In light of this, would a non-custodial sentence be an alternative in the aftermath of the failure of sentencing (inmate welfare, rehabilitation, and resocialisation)? Many studies on imprisonment in Ghana consider the situation from various perspectives. For instance, Aba-Afari (2011) looked at Ghanaian prisons' guidance and counselling programmes. Antwi (2015) studied the social reintegration of offenders and recidivism. A study on rehabilitation programmes of prisoners was conducted by Hagan (2013). OforiDua et al. (2015) studied the consequence of imprisonment on families. Also, the 2015 Annual Report of the Ghana Prison Service advocated for sweeping reforms to be made in the country's correctional policy, suggesting that the country should consider other options in addition to the jail. When this is finished, it is highly anticipated that our jail will be decongested, allowing for successful sentence structure and administration. This will be

accomplished while individuals convicted of felonies will be sentenced to prison terms, and those found guilty of misdemeanors will have their appropriate non-custodial sentences carried out.

Despite the plethora of studies in the area of imprisonment in Ghana, there is a literature gap with less concentration on non-custodial sentencing, which is the main focus of this study. The lack of literature to support non-custodial sentencing has left policymakers uncertain and indecisive on the strategies to be adopted to mitigate the effect of overcrowding in the Ghanaian prison.

1.3 Purpose of the Study

The purpose of this research is to investigate the possibility of adopting non-custodial sentencing as an alternative to imprisonment in Ghana with much emphasis on the male Nsawam Prison.

1.4 Research Objectives

The following objectives were formulated to support the research problem;

1. To explore the adoption of non-custodial sentencing in the Ghana court system.
2. To identify decongestion mechanisms at the Nsawam male prison.
3. To examine the health well-being of prison inmates at the Nsawam male prison.

1.5 Research Questions

The following corresponding questions were formulated to support the research objectives;

1. To what extent is non-custodial sentencing practiced within the Ghana court system?
2. What are the various decongestion practices upheld at the Nsawam male prison?
3. What is the health wellbeing of prison inmates at the Nsawam male prison?

1.6 Scope of the Study

This study is geographically limited to the Nsawam Prison (male prison). This sect of prison is considered one of the popular prison facilities in Ghana. Again, the Nsawam prison is considered the most crowded prison arena with much remanded cases. Base on this background, the researcher assumed Nsawam Prison as a study area where the phenomenon of overcrowding could be related best.

1.7 Significance of the Study

The findings of this study contribute to understanding the concept and the practice of non-custodial sentencing. The insight obtained from this study contributed to developing a theoretical framework for explaining non-custodial sentencing and adding to the existing literature on criminology and imprisonment. It became 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 sentencing can contribute to the reformation and rehabilitation of prisoners in Ghana especially, Nsawam Prison. It is also expected that the study will generate recommendations, suggestions, and comments that could be adopted and implemented by policymakers in the Ghana Prison Service.

1.8 Organization of the Study

This study is segmented into five chapters, each of which is dedicated to providing in-depth information regarding the subject of the study. In the first chapter, an overview of the study was presented, including a background to the study, a problem description, the aims of the investigation, the study's significance, the study, the scope of the study, and definitions of words. The second chapter was devoted to a literature survey, which included a comparison of the research now being investigated to the works of formerly acknowledged industry professionals and authors.

Research methodology, which must cover the methodologies that will be employed in the study, was the topic of the third chapter, which was presented here. In Chapter four, the focus is on the research area, including the analysis of data and the presentation of research findings that are pertinent to the case study. Chapter five presents a summary, conclusion, and recommendations for the research study's continued development.

1.9 Definitions of Terms

Non-custodial sentencing

A punishment given by a court of law that does not involve a prison term, such as a fine or a restriction order.

Imprisonment

The act of putting somebody in a prison or another place they cannot escape; the state of being confined in a prison.

Recidivism

A tendency to relapse into a previous condition or mode of behavior is the rate at which an prisoner commits another crime after his or her release and is sentenced back to prison for a new offence.

Sentencing

It is a judgment pronounced by a Judge to an offender to serve a period, a fine, or other punishment.

CHAPTER TWO LITERATURE REVIEW

2.1 Introduction

This chapter covers a review of publications that are pertinent to the subject as well as the theoretical underpinnings of the investigation. The review of the chapter is broken up into three sections: the conceptual review, the theoretical review, and the empirical evaluation. A conceptual review concentrates on the history and ideas that provide the most effective explanation for the subject. The theoretical review concentrated on analysing the work's theoretical foundations. The empirical review concentrated on the relevant prior literature, which serves as the basis for the literature gap.

2.2 Conceptual Review

2.2.1 The Prison System in Ghana

Since the beginning of recorded history, humans have consistently devised new methods to execute members of their own species for actual or perceived offences (McLynn, 2013). The annals of the correctional system are replete with examples of the worst abuses and the noblest of intentions. Disciplinary practices and institutions such as galley slavery, transportation, jails and prisons, and community corrections have been designed to remove criminals from urban areas. This is done in the hopes of eradicating urban crime (Stohr et al., 2012). Stohr et al. (2012) emphasised further that such punishment could include torture, whipping, branding, mutilation, drowning, suffocation, executions, and banishment (which was equivalent to a death sentence in isolated areas), which was practiced not only by certain tribal groups but also by more advanced civilizations. Stohr et al. (2012) also noted that such punishments were not limited to primitive societies.

Those who were weaker and of lower standing were more likely to be subjected to physical punishment, while those who were wealthy and found guilty were frequently able to make amends by rewarding their families with the victim. As a result, those who were convicted and found guilty were frequently able to make amends by rewarding their families with the victim. However, regardless of the approach taken and its motivation, the retribution of some kind has always been considered necessary to keep the scales of justice in proper alignment. This may have been done to appease a deity or set an example for future wrongdoers. (Agbesi, 2016; Abotchie, 2008).

A reference to punishment can be found in a book that Confucius edited and published in the year 2000 B.C (Johnston, 2009). The author of this work was Confucius. The Old Testament of the Bible references the practice of detention in ancient Egypt, which occurred between the years 2040 and 164 B.C., as well as in Babylon and ancient Assyria. In Ancient Greece and Rome, harsh physical punishments were reserved for slaves, whereas civilians may be sentenced to fines, exile, incarceration, or death, or even a mixture of these punishments. Slaves were also subjected to the harshest punishments (Harris, 1999). In ancient Roman society, where there was a slave system, *capitis diminution maximum*, also known as the loss of citizenship, was employed as a form of punishment for wrongdoers. As a result, criminals were sentenced to serve as penal slaves. They were forced to toil in the Carrara marble quarries, metal mines, and sulphur pits in order to provide for the men who were to perish. The most usual punishment was lashing, followed by shaving the head in the case of free males; nevertheless, the slave's mark was for the head that had been shaved (Harris, 1999).

It is estimated that jails were the earliest type of correctional facility to be constructed, and they have existed for many thousand years (Schlosser, 1998). Ancient people used a variety of methods for detaining people until a verdict could be reached or an execution could be carried out. In some

cases, the imprisoned were kept in pits, dungeons, or tunnels; in other instances, they were chained to trees (Irwin, 1985).

Early prisons in Ghana were predominantly used as holding facilities for prisoners (Tankebe, 2008; Seidman, 1966). In Ghana in the year 1850, there were only a few forts that contained jails, and each of these forts could hold a maximum of 129 prisoners. During this period, guilty criminals were allowed to earn a pittance by working to repair public roads and creating straw hats for sale to the general public. Additionally, these prisoners were engaged in repairing public buildings. He argued that captives should not be shackled, even though this practice had been the norm since the beginning of the colony and up until the time when Cladstone was serving as Colonial Secretary. The Prisons Ordinance of 1860 established the role of a guard for the initial establishment of the penal system. It was simply a set of regulations that did not convey an all-encompassing philosophy of punishment to ensure the inmates' security.

In 1869 the State Secretary penned a letter to one of the Gold Coast commissioners instructing him on how to eliminate congestion without incurring the cost of constructing extra prison facilities. The letter was addressed to one of the commissioners (Asare, 2021). 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 minimum that is mandatory for safety. Additionally, the letter suggested that the mandatory minimum should be lowered to a level that will ensure the inmate's safety. The congestion of prisons has been reduced because of these measures, which include cutting down on the length of time each inmate is required to serve for their crime and lowering the overall number of inmates.

In the year 1876, the Prison Ordinance was made public. The Prisons Act of 1865 was cautiously modelled after this Ordinance, the dead hand of which now forms the basis of Ghana's jail laws.

The Ordinance was first enacted in 1865. According to these laws, incarcerated individuals were expected to spend the night locked up in separate cells, provided such accommodations could be made. Inmates were not permitted to speak to one another, make any gestures toward one another, sing to one another, whistle at one another, or even communicate worries to one another unless they were doing so to a senior prison staff member or a visitor. The sending of letters and visits was only permitted once every three months. Inmates above 16 were required to conduct brief workouts for three hours per day (Tankebe, 2008).

The unsatisfactory condition of the incarceration facilities resulted in the assignment of the police commissioner to the position of prison superintendent in 1902. The local prisons were overseen by all of the higher officers of the local police department, but other than that, the two departments were kept independent. The larger prisons recruited gaolers from Europe, but these gaolers had little authority over the local police (Asare, 2021). By 1948, the Prisons Department had been responsible for the upkeep of 29 separate penal institutions. The total number of inmates was 3,000, 400 lower than in 1947. Only three correctional officials and eleven escort guards were added due to the workers running the jails. There were fifteen officers and approximately six hundred and fifty men. Full-time superintendents managed all central prisons, penitentiary camps, and industrial institutes.

There were five central prisons and two penitentiary camps. In 1948, seventeen local convicts were under the custody of the Ghana Jail Service. Between 1947 and 1948, a new prison was constructed in Ankaful specifically for criminals suffering from leprosy or tuberculosis. All the executions listed on the death roll took place in James Fort, located within Accra Central Prison.

The establishment of the industrial school for boys between the ages of 16 and 21 was mandated by the order issued in 1945. This allowed the school to exist (Tankebe, 2008).

2.2.2 The Mandate of the Ghana Prison Service and its Current State

At this time, Ghana has a total of 45 prisons spread over its sixteen regions, with their administrative headquarters located in Accra, the nation's capital city. It is the administrative centre where prison policies are established for the proper operation of all prison institutions in Ghana and serves as the central hub for prison administration. The headquarters is home to several important office holders, including the Director-General of Prisons, two assistants, five Inspectors of Prisons, and other important positions. In addition, there are eleven open prison camps and one medium security jail.

Prison, eleven central prisons, seven women's prisons, fourteen local prisons, one Nsawam Medium Security Prison, and one Agricultural Settlement Camp. In addition, there is a Training School for Prison Officers (POTS) and an Accra Senior Correctional Centre (ASCC; formerly known as the Ghana Borstal Institution) in Accra. These institutions are intended to provide behavioural correction and socio-religious development for juvenile offenders.

The Ghana Prisons Service is tasked with carrying out the following mission:

1. The removal of convicted individuals from the jurisdiction of the courts.
2. To guarantee that the well-being of those who are incarcerated is safeguarded, as well as to provide detainees with appropriate medical care, clothing, bedding, food, and recreational, as well as lending library, resources.
3. To ensure that inmates are reformed and rehabilitated by providing them with an opportunity to enhance their talents through vocational training and moral instruction.

Another aspect that has been taken into consideration is the educational opportunities presented to convicts at the Nsawam Medium Security Prison and numerous other central prisons throughout the nation. The purpose of these services is to provide educational and vocational guidance to inmates so that they can better prepare for release (Augustina, 2014). One of the things they have accomplished is that since the beginning of the programme, the student's overall performance in the Basic Education Certificate Examinations (BECE) and the West Africa Senior Secondary Certificate Examinations (WASSCE) has been outstanding. This is one of the accomplishments that they have achieved. The problem of recidivism continues to be a significant challenge for the imprisonment system. This is large because some people want to return to the jail because they will be fed (Yin, 2018). Additionally, this is partially because inmates who have finished their terms are not treated as they should have been. In addition, it requires an overview of the rehabilitation programmes being implemented in prisons.

2.2.3 Non- Custodial Sentencing

The ramifications of offending have been believed to manifest as a severe social exclusion (Von Ness, & Strong, 2014). The criminal who performed the act was responsible for the loss of social capital, which was passed on to the victim, the group, and society, resulting in significant social and financial losses (Villettaz et al., 2006). Globally, the number of people imprisoned has increased, and it is believed that the global jail population has grown by 25-30 percent in the past 15 years (Kouyoumdjian, 2022). According to Davis (2011), statistics from around the world imply that the position of incarceration needs to be urgently examined concerning alternatives to incarceration such as community punishments, probation, and parole. This is due to the fact that alternatives to incarceration may pave the way for recovery rather than the recurrence of the offending behaviour.

The debate on methods of punishment other than incarceration is not particularly new (Bottoms, 2017). The overpopulation of prisons exposes the lack of appropriate substitutes for incarceration, which has negative effects. These effects include: mass management of individual needs; a decline in recovery programmes; 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; negative behavioural trends in prisons; and a growing problem with recidivism. In addition, there is a growing problem with recidivism (Singh, 2007; Rhodes, 2004).

Singh (2007) argued further that the use of imprisonment had had little effect in terms of preventing crime or regulating it. He stated this in the following way: Access to rehabilitative resources and services is considered a more effective, economical, and compassionate step towards the offender's care than incarceration. This is because community-based corrections allow a person to live in their community and maintain normal social relationships while being supervised and directed by a probation officer. Incarceration, on the other hand, is a step that is considered to be less compassionate and more costly.

Regarding Tett et al. (2012), the concept of rehabilitation can be understood in various ways. For instance, rehabilitation can be viewed as a method that enables an individual to alter their moral code and maintains the change in their behaviour. Alternatively, rehabilitation can be theorised as a method that protects an individual's behaviour, regardless of the individual's ethical standing; this behaviour can be seen as being synonymous with compliance with state laws. For this analysis, we will adhere to this concept (Harding, 2014), which states that rehabilitation is established in terms of reeducation within the legal system, and it is through this phase that the person achieves the capability to live in society and obey the laws established by that society.

It has been shown in several studies that sentencing alternatives that do not involve jail time are effective in terms of the services they provide (Singh, 2007; Yekini & Salisu, 2013). The departments of social welfare in several nations worldwide responsible for administering sentences that do not involve incarceration have been confronted with enormous challenges (Yekini & Salisu, 2013). This is not to argue that there aren't any challenges ahead. Some of the issues that were discovered include: insufficient numbers of officers who are frequently requested to perform other community work; heavy caseloads for the few available officers; inadequate supervision of probation orders; misconduct on the part of probation officers; and inadequate rewards, amongst many other issues (Fasanmi, 2015).

2.2.4 Non-custodial Sentencing Options

Non-custodial sentencing pertains to alternate modalities of punishment or monitoring implemented by the criminal justice system, which do not entail incarceration (Meijer & Tigges, 2021). These penalties are commonly employed for less grave transgressions or for those who may derive advantages from rehabilitation, community service, or alternative methods of supervision as opposed to imprisonment (Halm, 2020). The next section talks about the various forms of noncustodial sentencing,

Probation

An offender who has been sentenced to probation is allowed to live in the community but is subject to specific restrictions and ongoing supervision. Probation is one of the most prevalent alternatives to incarceration. These limitations typically include required attendance at predetermined meetings with a probation officer, mandatory drug testing, curfews, and prohibitions from associating with particular individuals or locations.

Community Service

Offenders may be required to do a certain number of hours of community service as part of their sentence. This may encompass activities such as working at a charity, cleaning up public areas, or carrying out other errands that are conducive to the betterment of the community.

Fines

The offender is required to make a monetary payment in the form of a fine as a kind of punishment for their offence. The sum is often based on the gravity of the crime as well as the financial situation of the perpetrator.

Restitution

Under the terms of restitution orders, the offender is required to reimburse the victim for any financial damages that were incurred as a direct result of the crime. This may involve making restitution for stolen goods or paying for necessary medical care.

House arrest

The practice of confining a criminal to their home or to a predetermined place for a predetermined amount of time is known as house arrest or electronic monitoring. In order to keep track of the offender's whereabouts, electronic monitoring devices such as ankle bracelets are often utilised.

2.2.5 Advantages of Non-custodial sentencing

This section discusses some advantages of non-custodial sentencing as mentioned by Villettaz et al. (2015).

Rehabilitation

Offenders who are given sentencing alternatives that do not involve incarceration are permitted to stay in the community, where they have access to rehabilitative and supportive programmes. This can assist offenders reintegrate into society as law-abiding citizens while also addressing the fundamental causes of criminal behaviour, such as addiction to substances or mental health problems.

Reduced Recidivism

Non- punishments can assist lower recidivism rates if the emphasis of the sentence is placed on restoration and the underlying reasons of criminal behaviour is addressed. It is statistically proven that repeat offences are less likely to be committed by offenders who get community-based therapy, counselling, and support.

Community Safety

A significant number of sentence alternatives to incarceration involve the imposition of conditions designed to improve public safety. For instance, the offender may be required to have regular check-ins with a probation officer, submit to drug testing, or be ordered to abstain from specific people or places as part of their probation, all of which contribute to the monitoring and management of the offender's behaviour.

Cost Effective

A sentence that does not involve jail is frequently preferable from a financial and practical standpoint. The construction and upkeep of prisons can be quite pricey, whereas the implementation of non- options, such as probation or community service, often requires a lower financial investment.

Overcrowding Reduction

Non-treatment can assist ease overcrowding inmate difficulties by redirecting certain offenders away from prisons. This makes it simpler for the judicial system to concentrate on more severe and dangerous offenders, which is one of the goals of not custody-based sentencing.

2.3 Theoretical Review

The theory underpinning this study is the deterrence theory.

2.3.1 The Deterrence Theory

The deterrence theory is a theory within the field of criminology and criminal justice which posits that the presence of punishment or the implementation of punishment might serve as a deterrent to potential offenders and dissuading them from engaging in illegal behaviour (Pratt et al., 2017). The underlying premise of this concept posits that individuals who may engage in illegal activities engage in a rational decision-making process, wherein they carefully evaluate the advantages and disadvantages associated with their possible actions (Piquero et al., 2011). Consequently, if the perceived disadvantages, including but not limited to legal repercussions, outweigh the potential benefits of committing a crime, the likelihood of their involvement in criminal behaviour diminishes. The deterrence theory is founded upon the premise that individuals who possess rationality will opt for choices that optimise their self-interest while refraining from engaging in actions that may result in punishment or injury.

Again, the deterrence theory holds the assumption that people do not commit crimes because they are terrified of being detected rather than being motivated by some profound moral sense (Jervis, 1979).

The idea of deterrence is that, people are most likely to be dissuaded from committing a crime if the penalty is prompt, certain and severe (Piquero et al., 2011). This is because of the way the

theory describes punishment. According to the deterrence hypothesis, for instance, if there is a minimal possibility that you'll get caught or the punishment for getting caught is merely a warning, you are more likely to steal the candy bar. This is because the punishment for getting caught is not as severe.

The deterrence theory is a form of punishment theory that is comprised of the following three parts:

1. Certainty: the offender is required to be aware that the sanction will be carried out
2. Celerity: The penalty must be carried out promptly.
3. Severity: The punishment should be severe enough to discourage people from committing crimes in the future.

2.4 Empirical Review

This section captured previous studies related to the concept of imprisonment and sanctions. For instance, a study by Hagan (2013) investigated the impact rehabilitation programmes have had on inmates at Nsawam State Prison. In his study, he investigated the various educational and vocational programmes offered at the Nsawam Medium Security Prisons and the influence that participation in these programmes had on incarcerated individuals. He employed the strategy of the mixed process in his work. According to his research findings, the most critical aspects of the rehabilitation offered at the Nsawam Prisons are the educational and vocational programmes.

The study also indicated participation in a vocational training programme. In addition, the results of his study indicated that the type of rehabilitation services that former inmates choose to participate in does not influence their ability to find work in the greater community once they are released from prison. This investigation focused exclusively on the Nsawam Correctional Facility; other jails may have different circumstances. The research may have been improved by analysing

the similarities and differences between the rehabilitation programmes offered at various correctional institutions across the country.

Similarly, Antwi (2015) investigated the social reintegration of criminals and the rate of recidivism in Ghana. In his research, he looked into the process of rehabilitation for former criminals in Ghana. He employed a hybrid approach to technique, with a particular emphasis on the qualitative research design being conducted. According to his study, most convicted felons commit new crimes due to their characteristics, the dynamics of their families and communities, and the legal system. Detention, punishment, and retribution were identified as the primary focuses of Ghana's criminal policies, according to the study's findings.

Instead of providing therapy, the fact that states are not required to pay for rehabilitation services renders prison-based approaches unsuccessful in rehabilitating incarcerated individuals into lawabiding members of society.

It also demonstrated that the social organisation outside of the prison is intimidating and unsupportive: when formerly incarcerated individuals return to their communities, they are confronted with interpersonal relationships that are intimidating, and because of the stigma associated with a prison record, they do not obtain the support they desire from the larger community. The study's findings suggest that correctional policy should shift its emphasis from punitive to rehabilitative measures if it is to continue holding governments responsible for funding rehabilitation programmes within Ghana's prisons. In addition, former offenders in Ghana should be re-engaged in civic activities to strengthen the reception they receive after returning to their communities. Because this study focused just on a single correctional facility, its findings cannot be generalised to all of Ghana's other correctional facilities. The investigation did not uncover the general population's perspectives, another limitation of the study. If the general public's thoughts

had been included in the research, then the researchers would have been able to know what the general population felt.

Research by Ofori-Dua et al. (2015) titled "Prison without Walls: Perception regarding Community Service as an Alternative to Imprisonment in Kumasi Metropolis, Ashanti Region, Ghana," community service is seen as a viable alternative to incarceration in the area. They surveyed the people living in the metropolitan area of Kumasi to find out how they felt about community service being offered as an alternative to jail time. Their thesis adopted the study methodology of a sociological survey to investigate the perspectives of two hundred respondents on community service as a substitute for incarceration as a form of punishment. The study's findings show that the vast majority of people in the general population had a solid understanding of community service and favoured it over 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 rather than imprisonment. This value was related to the fact that the stigma is normally attached to people who have been convicted of a crime. All of the respondents were in agreement that minor offences might be handled by community service. In addition, those with contagious diseases, pregnant women and mothers who are breastfeeding their children, single parents, and first-time offenders should be required to perform community service with a social focus. Additionally, the scope of their research was limited to a single alternative to incarceration, and neither the perspectives of corrections officers nor those working in the criminal justice system were incorporated into their analysis.

Birungi (2005) carried out research on the topic of community service being used as an alternative to incarceration in Uganda. In the course of his research, Birungi intended to investigate whether

or not the community service programme, which is a relatively recent and innovative addition to Uganda's justice system, appears to be effective. The second step is to analyse the benefits and drawbacks that have been cited by members of the affected communities, as well as criminals, victims, and the relatives of those affected by crime, as well as members of the judicial system.

His investigation was carried out using the qualitative research methodology. According to his study, the community service programme in Uganda is beneficial. It helps foster reconciliation while also quickening the process of reintegrating criminals into their respective communities.

He pointed out that some people in the community still subscribed to the view that community service was a "soft" punishment and that incarceration was the more appropriate option. His analysis also revealed that the use of community service as a sole alternative punishment cannot accomplish much in addressing the problems caused by many people being incarcerated. To bring about a genuine shift in Uganda's approach to criminal justice, it is necessary to investigate other approaches, such as the traditional African practises for resolving conflicts within communities. This study might have contrasted the many different types of non-custodial sentences to better understand the benefits that each sort of non-custodial sentence has on the country. Additionally, this study could have covered other types of non-custodial sentencing.

2.5 Conceptual Framework

The conceptual framework is built on the premise that non-custodial sentencing will be a good practice that will contribute to decongestion in the Ghanaian prisons. When the prison is decongested, there will be enough resources to improve on the wellbeing of prison inmates.

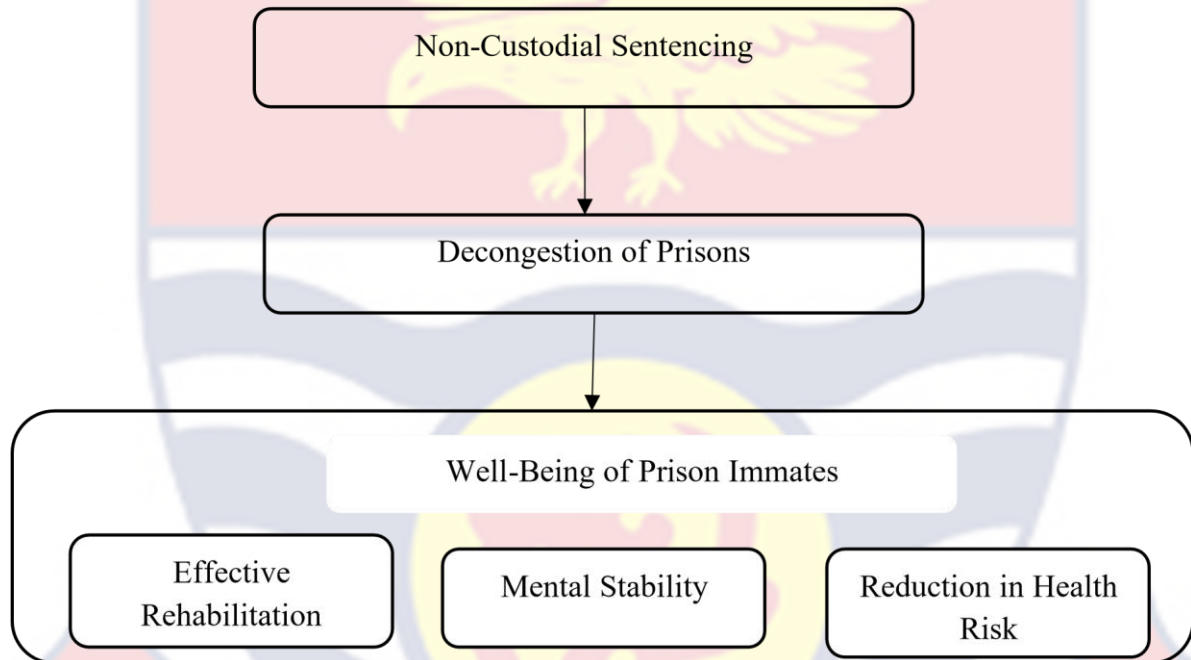


Figure 1: Conceptual Framework for Non-custodial sentencing Source:

Author's Construct

2.6 Summary of Chapter

This chapter focused on Ghana's prison system's historical evolution and associated punishments. Additionally, the non-custodial sentence section of Ghana's status book was investigated. The

function of the Ghana Prison Service was dissected in this conversation. Additionally, the necessity of non-custodial sentencing as well as the difficulties involved with it were discussed in this chapter. Alongside theoretical literature and empirical evidence, this topic was also covered. The creation of a conceptual framework was the culmination of the study.



CHAPTER THREE

METHODOLOGY

3.1 Introduction

This chapter addresses the technique and analysis of the data collected. The researcher began by discussing the structure of the research, the methods and tools used for data collecting, the characteristics of the population, the sampling techniques and the sample size. For this study, both primary and secondary sources of data were consulted. The data obtained from primary sources were analysed using a thematic approach.

3.2 Research Paradigm

A research paradigm encompasses a collection of fundamental beliefs, attitudes, methodologies, and assumptions that provide guidance for a certain domain of scientific investigation. The framework provided by this concept guides researchers in their approach, influencing the formulation of research questions, the selection of methodologies, and the interpretation of findings.

Various research paradigms can result in distinct methodologies for investigating identical phenomena. Research Paradigms include; positivism, interpretivism/constructivism and pragmatism (Creswell, 2008).

Positivism is a paradigm frequently linked to the natural sciences characterized by the conviction in the existence of an objective world that can be examined by empirical observation and measurement (Creswell, 2009). Positivist research attempts to achieve objectivity, quantifiability and generalizability. The process frequently incorporates hypothesis testing and deductive reasoning. Interpretivism, also known as constructivism, diverges from positivism by placing significant emphasis on comprehending subjective experiences, meanings and social situations

(Creswell, 2008). In this particular paradigm, scholars frequently employ qualitative methodologies like as interviews, observations, and content analysis to investigate and understand the subjective dimensions under examination. Pragmatism is a philosophical perspective that places emphasis on practicality and advocates for both quantitative and qualitative methodologies (Creswell, 2008).

In this context, the researcher aligns the study with constructivism paradigm where qualitative approach using interviews to investigate non-custodial sentencing and reduction of overcrowding in the Ghanaian prisons.

3.3 Research Design

The research design serves as an organisational structure or a roadmap for carrying out research tasks. It describes in great depth the processes that must be carried out to acquire the data that must be gathered to resolve a research issue (Maholtra, 2015). There are three distinct approaches to conducting research: an exploratory research design, a descriptive research design, and an experimental/causal research design (Maholtra, 2015). In most cases, exploratory research is carried out because the researcher has a limited amount of prior knowledge on the topic of the study and desires to broaden their understanding of the subject matter. Descriptive research is typically conducted to describe a phenomenon, event, or scenario. In most cases, it provides descriptions of the responses to the queries of who, what, where, when, and how. Research with a causal approach is typically carried out to elucidate the chain of events that leads from one variable to another.

The research design for this study was exploratory, and its primary purpose was to unearth undiscovered difficulties with the use of non- punishment as an alternative to imprisonment in

Ghana. It has been determined that the exploratory design is acceptable for this study since the purpose of the design corresponds to the nature and goals of the investigation. It has been suggested by academics such as Brown (2006) and Saunders et al. (2012) that exploratory design is utilised in situations where there are either a limited number of or no preceding studies to refer to for a specific research subject. As a result, the emphasis is placed on acquiring knowledge and becoming accustomed to the subject matter in preparation for a later investigation or for work that will be done when problems are in the preliminary stage of research (Saunders et al., 2012).

3.4 Research Approach

Research can be conducted using these three methods: quantitative, qualitative, or mixed methods (Saunders et al., 2019). The authors recommended using quantitative, qualitative, or mixed methods depending on the nature of the study and the depth of information the researcher seeks to discover. While the quantitative method allows the researcher to establish larger social patterns and relationships between variables, assigning figures and adopting scientific approaches to objective phenomena, the qualitative method concentrates on subjective aspects of social reality, emphasising words rather than quantifying data and analysis. The mixed method combines the efforts of the quantitative method with the qualitative method (Cresswell, 2009).

The qualitative research approach was chosen as the approach for this study. The decision to use a qualitative method was influenced by the realisation that access to non-custodial sentencing is a social problem and a highly complex phenomenon that cannot be conveyed using quantitative terms. According to Cresswell (2009), the predominant shape that social issues take is that of a qualitative nature. Since scientific procedures typically use objective standards, it might be challenging to analyse social issues using such approaches. Unlike quantitative, the fundamental of the issue of this study cannot be deduced only from a numerical background. The researcher

consequently concluded that relying on a qualitative approach for gathering and analysing data would be appropriate to get in-depth information on the phenomenon using interviews and observation.

3.5 Study Population

The term "population" refers to the total number of people or other types of units of observation from which a researcher would attempt to draw generalisations or conclusions (Cresswell, 2009). The target population for this study captured prison officers and male prison inmates. The legal obligation to offer welfare, reformation, and rehabilitation falls on the shoulders of the prison officers. On the other hand, prisoners are currently being held within the confines of a jail.

3.6 Sample Size

Concerning a qualitative study, the question of how many participants is adequate has always been asked. Several researchers have given their opinions on the best possible sample size. According to Becker et al. (2012) and Boddy (2016), the number of participants in a qualitative study that are considered appropriate might range anywhere from 12 to 30.

In spite of these assertions, several academics, such as Guest et al. (2006), believe that the sample size could be changed during the data collection process to consider the idea of saturation and the concept of adequateness in qualitative data collecting. As a result, the sample size for the qualitative component was established in the field of study.

The study used four (4) senior prison officers and sixteen (16) prison inmates. In total, the study adopted twenty (20) participants for the study.

3.7 Sample Technique

According to Cresswell (2009), there are two distinct methods for taking samples: probability and non-probability. The methodology known as probability (simple random, systematic, stratified and cluster) sampling describes the conditions under which each respondent has an equal opportunity to be sampled. A technique known as non-probability (convenience, purposive, quota and snowball) sampling is one in which respondents are not provided with equal possibilities to be picked or sampled.

The purposive sampling approach was utilised to sample the participant for the qualitative research project. When picking the units (e.g., individuals, cases/organisations, events, bits of data) to be investigated, purposeful sampling relies on the researcher's judgement. The primary objective of purposive sampling is to zero down on specific aspects of a population that interest the researcher. This provides the researcher the best opportunity to find answers to the research questions (Etikan et al., 2016). In this particular instance, senior prison officers (with more than two years working experience) and prison inmates (with at least one year jail experience) were considered to be the groups of people who could best answer the research questions.

3.8 Research Instrument

Qualitative data collection entails gathering information from a relatively small purposive sample by conducting in-depth interviews with the participants (Hox & Boeije, 2005).

When the data collection is to gain a more in-depth understanding of the organisational experience, the interview is the suitable method (Saunders et al., 2012). Interviews with a semi-structured format were used for this study. The phrase "semi-structured interview" refers to an interview in which the researcher, while the interviewer, has a general strategy for what they want to ask; the

questions do not have to follow a particular phrasing or order. This type of interview is called a "semi-structural interview" (Bryman & Bell, 2007). In semi-structured interviews, the order of the questions can be followed flexibly due to the choice of interview format.

Audio and written responses were made of the interviews. The participants are allowed to elaborate on their topic of interest, and the researcher can ask follow-up questions to obtain clarification when necessary. The replies are left open-ended (Denscombe, 2007). The interview was done to capture participants' experiences from various language backgrounds. Participants who could not express themselves in the English language were considered in this study. Questions were read to them in a language they could best understand.

Interviews were conducted with prison officers and inmates at the Nsawan prison to get information about their perspectives on non-custodial sentencing and other concerns considered essential to the study objectives. The most crucial qualitative research tool used for this study was the interview guide, which can be found in Appendix A.

3.9 Data Collection Procedure

Interviews with a semi-structured format are used as the data collection method in this study. When the researcher paid a visit, a letter of introduction from the Institute of Security, Disaster and Emergency Studies (ISDES) was presented to the officials in charge of the Nsawam Prisons. This was done to ensure that permission to gather data was granted and to explain the study's significance. The time allotted for data collection did not exceed seven days in total. Writing and audio tapes were used in the collection of data. It was requested of the participants that they take part in the research exercise voluntarily and provide the data. On the other hand, any respondent who did not wish to participate in the study was offered the option to opt out.

3.10 Validation of Instrument

The researcher established content validity as a means of bolstering the reliability of the study by having two magistrate judges read through the instruments to assist in locating appropriate parameters for the study. The instruments were updated with the inputs that were made during this stage. After that, the researcher handed over the instruments to the supervisor, who not only added vital inputs of their own but also contributed to the ease with which the questions could be understood.

3.11 Data Analysis

Thematic analysis is the analytical technique used for the study. Thematic analysis is one of the qualitative research's most common forms of analysis using interviews (Braun & Clarke, 2006; Guest et al. 2012). It emphasizes identifying, analysing and interpreting patterns of meaning (or themes) within qualitative data. Maguire and Delahunt's (2017) steps for conducting thematic analysis was adapted;

The initial step is the transcription of the interviews' comments, converting them into written textual formats. In the second step, the interview questions are organised in an Excel spreadsheet, with each question represented as a row and the participants listed along the column axis. The responses for each interview are provided in separate cells. The third step involves the identification and documentation of keywords in each response. The process of selecting keywords is determined by identifying crucial elements inside the sentence. In step four, a question that has a set of responses is partitioned into distinct rows. The header of each row that contains several

filled cells corresponds to the provided response. The selection of the header is predicated upon the terminology spoken by the interview participants, as opposed to being grounded in academic definitions. In the final step, the cells that have been filled are visually highlighted, serving as a means of identification. The columns of the interviewees are also reorganised in order to group together interviews that exhibit similar trends.

3.12 Ethical Consideration

The researcher upheld certain ethical norms that intended to safeguard the participants' right to secrecy, privacy, and anonymity during the research.

Participants in this research project were not coerced into participating for ethical or legal reasons; they were given free will. Participants were made aware that their participation was entirely voluntary, and sufficient information regarding the study was provided for them to decide whether or not they would like to participate.

In addition, because it was essential to safeguard the information obtained from participants, the researcher took precautions to ensure that the responses provided by participants would not be tied back to the participants themselves when the data was analysed. In addition, a person has the right to privacy if they can select when, when, to whom, and to what extent their attitude, beliefs, and behaviour are revealed. This is known as the right to control one's own privacy. As a consequence, the report of the findings did not include the names of the participants or anything else that could have led to their identity.

CHAPTER FOUR

DATA ANALYSIS AND DISCUSSION OF RESULTS

4.1 Introduction

This chapter consistently establishes results that were evidenced after collecting and analysing responses. The section captured the explanation of the various demographic details of participants as well as the results and discussions for each objective formulated in this study. The study adopted a qualitative approach to analysis to work using thematic analysis.

4.2 Demographic Characteristics of Participants

The demographic characteristics of participants included information gathered from prosecutors and male prisoners at the Nsawam prisons. Table 1 gives details of all demographic characteristics of participants. For prosecutors, the demographic characteristics captured included; gender, educational background and the position or rank. For prisoners, age, years spent in custody, crime committed and prison status was sought for. These attributes assisted the researcher to identify the participants who understands the phenomenon with in-depth knowledge.

Table 1: Demographic Characteristics of Participants

Prosecutors				
s/n	Gender	Educational	Working Experience	Rank Background
1	Male	A Level	30 years	Chief Inspector of Police
2	Male	First Degree	15 years	Chief Inspector of Police
3	Male	First Degree	8 years	Inspector of Police
4	Male	First Degree	11 years	Inspector of Police
Prisoners				
s/n	Age	Years spend in custody	Crime Committed	Prison Status
1	27	Six years	Mobile phone theft	Remand
2	34	Eleven years	Wife Assault	Prison
3	44	Eight years	Fund embezzlement	Prison
4	33	Nine years	Family conflict	Prison
5	27	Four years	Un-lawful driving leading to severe accident	Prison
6	55	Three years	Illegal connection of electricity	Prison
7	41	Three years	Weed Smoking	Remand
8	24	Two years	Internet Fraud	Remand
9	51	Fourteen years	Bribery at work premises	Prison
10	26	Five years	Verbal abuse on wife	Prison
11	61	Eleven years	Physical assault on a landlord	Prison
12	38	Four years	Weed smoking	Remand
13	28	Five years	Accused of rape	Prison
14	44	Nine years	Land litigation which led to murder	Prison
15	29	Three years	Reckless driving leading to an accident	Remand
16	49	Ten years	Assault of employee which led to disability	Prison

Source: Field Data (2023)

With regards to the gender of senior prison officers, all senior officers were found to be male prison officers. Participants' educational backgrounds included three-degree holders and one prosecutor with an A (Advanced-level). Most of the participants have had much working experience concerning prison responsibilities. Work experience ranged between eight (8) to thirty (30) years. These years of working experience is considered appropriate for a participant to have acquired much knowledge on the job and issues related to sentencing. The highest level of qualification among prosecutors interviewed is the assistant director of the prison. One other participant had the rank of chief superintendent of the prison, and two were ranked superintendents of prison.

Additionally, with prisoners, the age attribute of prisoners ranged from young ages to retirement ages. Most of the participants were themed; youth (24 years to 35 years), adult youth (38 years to 44 years) and ages (45 years to 61 years). It was revealed that most of the prisoners were in their young ages. Only a few of them were considered "grown-ups". This implies that more active workers are incarcerated, contributing to labour inefficiency among industry and prominent sectors. Again, it was evident that most of the prisoners had been there for many years. The prisoner with the least years of prison experience had spent not less than two (2) years. The maximum number of prison years experienced was fourteen (14) years. The study also considered the forms of crimes committed which led to incarceration. The crimes were broadly grouped under felony and misdemeanor. Though some of the crimes were considered a felony (murder), most were categorised as misdemeanors (theft, assault, road crimes etc). Finally, it was investigated whether the prisoners were on remand or sentenced. Most of the prisoners were sentenced by the court, except for a few on remand (See Table 1).

4.3 Discussion of Results

This section identified the objectives set and their corresponding outcome using qualitative features (interview and thematic analysis).

4.3.1 Adoption of Non-custodial sentencing at Nsawam Male Prison

Responses concerning explaining non-custodial sentencing were retrieved from participants. The participants agreed that non-custodial sentencing is any form apart from imprisonment. It could be in the form of fine or communal labour. Some participants had this to say;

"I understand non-custodial sentencing to be a form of sentencing that is not subjected to imprisonment. It is usually fine, and you are good to go. Most of these forms of sentencing are associated with trivial crimes" (Sample Participant 1, 2023).

"Well, I will say non-custodial sentencing is a form of sentencing that is not restricted to you staying in prison custody. Rather, other forms of punishment can be levelled against the offender such as fines and communal labour" (Sample Participant 2, 2023).

All participants agreed on the practice of non-custodial sentencing because of congestion, disease spread, and unclear description of the crime.

"See, non-custodial sentencing is the best, especially when we don't have enough prison structure to house prisoners. There are more prisoners than the prison can contain, leading to overcrowding and quick spread of diseases" (Sample Participant 2, 2023).

"Non-custodial sentencing is practiced in most developed countries. We can also practice the same. The point is that most of these prison inmates have different crimes that have landed them in the same place. I think prisoners who have stolen mobile phones and minor-minor things should not be imprisoned" (Sample Participant 3, 2023).

Prosecutors are not aware of non-custodial Laws in Ghana. Some of the participants had this to say;

"Well, there is no law coated black on paper that I can refer to as non- custodial law, but I know it somehow exists" (Sample Participant 4, 2023).

"Ohw not all. I am not aware of any law like that. But recently, I think I heard some like that has gone to parliament" (Sample Participant 1, 2023).

Participants agreed that crimes related to misdemeanors (assault and theft) should be attracted noncustodial sentencing:

"Ohk. I think assault is not a first or second degree felony crime, hence it should be considered as a misdemeanor leading to non-custodial sentencing" (Sample Participant 2, 2023).

"I am not too sure about that, but I think issues of petty offences like stealing and pick-pocketing should attract non-custodial sentencing" (Sample Participant 3, 2023).

Participants opined that the number of challenge associated with non-custodial sentencing is the continuity of crime.

"The challenge here is that if it is fine, what it is means that those who have money will continue to commit the crime because they can afford to pay"

(Sample Participant 2, 2023)

"Somehow it is not considered as severe hence people may not be afraid to commit a crime if that is the only punishment for him" (Sample Participant 4, 2023)

Table 2: Thematic Summary of Responses on Non- Practices at Nsawam Male Prison

Q.N	Themes	SP1	SP2	SP3	SP4
1	Fine				
	Communal Labour				
2	Yes				
	Congestion				
	Spread of Disease				
	Unclear description of a crime				
3	Not aware				
4	Misdemeanors				
	Theft				
	Assault				
5	Continuity of crime				

Source: Field Data (2023)

Notes: SP = Sample Participant, Q.N = Question Number

The adoption of non-custodial sentencing looked very promising in the Ghanaian setting. Most prosecutors recommend the initiation of non-custodial sentencing. From the perspective of the prosecutors, non-custodial sentencing was viewed as any legal form of sentencing that does not lead to incarceration (imprisonment). It was suggested that the nature of imprisonment should be associated with fines and communal labour. Fine has to do with the substantial amount levied against the offender of the crime leading to compensating the court or the other party who has been offended. At the same time, communal labour is a form of punishment that desists the offender of a crime from imprisonment but is ascribed to a temporary communal duty such as weeding, cleaning, construction etc.

Significant issues that triggered the need for non-custodial sentencing were included in this theme; congestion, disease spread, and unclear descriptions of crimes. Congestion is one major issue that threatens the effectiveness of prison activities. Empirical evidence has observed imprisonment's nature to be very poor and non-consistent with human sustenance (Antwi, 2015). As a result of congestion in prisons, issues of human-health disorders have emerged, leading to a quicker spread of diseases and other forms of contamination. This evidence is in line with the findings of OforiDua et al. (2015) suggesting that the health conditions of prison inmates deteriorate day-in-dayout.

It is rather unfortunate that despite the appraisal of most prosecutors in relation to the relevance of non-custodial sentencing, it was revealed that no concrete law backed the activities of noncustodial sentencing. This, in a way, makes it difficult for the court to pronounce sentences related to non-custodial sentencing. This evidence is in line with the assertion of Ofori-Dua et al. (2015), which suggests that most developing countries like Ghana have weak laws that support noncustodial sentencing.

In exploring the nature of non-custodial sentencing. It was revealed that not all crimes should attract prison sentencing. Rather other forms of crimes described to be misdemeanors should attract non-custodial sentencing. Misdemeanors in this context refer to crimes that are trivial and do not have much negative impact on society. Crimes associated with misdemeanors include; assault and theft. This evidence is in line with the findings of Hagan (2013), who opined that crimes are not the same. Hence, different crimes should attract different punishments.

One major challenge perceived to have been a challenge to non-custodial sentencing is the slightest possibility of rehabilitation of the offender, especially in situations where the offender is charged with a fine. That simply means that there will be more offences as far as the offender can pay for the crime.

4.3.2 Decongestion Practices at Male Nsawam Prison

The second objective sought to investigate decongestion practices at the male Nsawam prison in Ghana. Participants explained the nature of imprisonment. Some of the participants had these to say;

"Erhm, I think the nature of imprisonment in Ghana takes a long period. The court procedures usually keep the case pending for longer than expected. Some inmates are remanded until their cases are heard" (Sample Participant 2, 2023)

"Erhm, it is difficult to say this but it is the truth. I have observed higher levels of injustice since I took on this profession. The elite in society is mostly freed even when there are evidence to prove them guilty. The less privileged in society suffers for crimes they haven't committed. Some don't even have the financial capacity to hire professional lawyers who would speak for them" (Sample Participant 1, 2023)

Issues related to the number of prisoners were investigated.

"There are close to hundred (100) inmates against a sizeable prison facility that is meant to contain a maximum of thirty (30) prisoners" (Sample Participant 2, 2023)

The causes of prison congestion were investigated and revealed that congestion, the prime cause, are themed as follows; insufficient prison facilities and non-appreciation of non-custodial sentencing.

"You see, our prison rooms are very small. These prisons were built many decades ago with a sizeable population. Now the population has more than doubled, hence there is the

need to have spacious prison cells to accommodate prison inmates" (Sample Participant 3, 2023)

"Well, I think we have old judges in the system who do not appreciate non- sentencing. Hence most of their judgement of punishment are sentenced based"

(Sample Participant 1, 2023)

There was a general assertion among participants concerning whether something can be done about congestion in Ghanaian prisons. This is how participants explained their viewpoints;

"I think one of the best ways we can ensure decongestion in our prisons is when we highly adopt the Alternative Dispute Resolution (ADR) system. The court who has the power to sentence imprisonment should be left out of menial crimes and issues to be resolved by other authorized parties apart from the court" (Sample Participant 2, 2023)

"I don't have a problem with the number of prisoners in the prison quarters if there are enough prison facilities to accommodate all of them" (Sample Participant 4, 2023)

"All the noise about non-custodial sentence will not yield any tangible results if there is no law to back it. There should be a law passed by parliament to support non-custodial sentencing else we are not going anywhere"(Sample Participant 1, 2023)

Table 3: Thematic Summary of Responses Decongestion Practices

Q.N	Themes	SP1	SP2	SP3	SP4
1	Delayed Processes				
	Injustice				
2	Between 18 to 30 prisoners				
3	Small prison cells				
	Non-appreciation of non-custodial sentencing				

4	Yes				
	ADR				
	Adequate Prison facilities				
	Non-custodial sentencing Law				

Source: Field Data (2023)

Notes: SP = Sample Participant, Q.N = Question Number

It is unclear the decongestion practices upheld at the male Nsawam prison. The issue of congestion is beyond the control and duties of prosecutors. The prisons are concentrated with more prison inmates than expected. The average number of prison inmates ranges between 80 prison inmates to 100 inmates. This situation appears to be unsatisfactory as a result of the small size of the prison cells.

Issues of remand, delayed court processes and injustices were themed from the nature of imprisonment. The processes associated with sentencing are cumbersome, leading to many offenders remanding. Court cases are usually left unheard for an extended time. Again, injustices have been speculated to be somehow an issue in sentencing. The less privileged are always disadvantaged. The elite and more influential people in society are treated as special in favour of the law. It is unclear why prisoners have been sentenced because they couldn't meet acceptable thresholds. Another issue related to congestion issues at the male Nsawam prison is insufficient prison cells. Participants asserted the fact that the prison is an old prison facility. They were built to suit the population by then. The population has increased increase, as well as crimes. It means more facilities are needed to accommodate more law offenders. Non-appreciation of the noncustodial sentencing is another reason there are congestion issues. It was revealed that most the judges are not trained to familiarize themselves with non-custodial sentencing. Hence, they are more inclined towards sentencing than non-custodial sentencing.

It was perceived that the issue of congestion could be resolved through an unofficial settlement (alternative dispute resolution), expansion of prison facilities, and enactment of non- laws, alternative dispute resolution is a form of dispute resolution which involves an official notice from the court to ensure that both the victim of the crime and offender come to a consensus or agreement outside of the court processes. Usually, these crimes are noted to be trivial and less offensive to society. Alternatively, constructing more prison facilities is suggested to expand the prison to accommodate more inmates. Finally, the results revealed that non-custodial sentencing would be appreciated when it is enacted as law and measures are implemented to enforce it.

4.3.3 Well-being of Prisoners at Male Nsawam Prison

This section sought to analyse results concerning the well-being of prison inmates. First, prison inmates were made to describe their prison experience over the period they have been there. This is what some of the prisoners had to say;

"My experience from the beginning have been torture and bullying from senior prison inmates. Initially I was wondering why prison officers are not worried about this character, but with time I got used to" (Prison Inmate 2, 2023)

"For here, bullying is a language for the weak. There is some form of bullying especially when you have entered fresh. It just in few instance where the inmate is a previous inmate that is when he is not bullied when he comes. But I think bullying has become a norm her" (Prison Inmate 4, 2023)

"Hmnn, the level of discomfort is such intense. For the first week I came here I couldn't sleep. The entire place was dirty, hygiene was poor and could not feel

that bond I had with my family. See, there is no comfort in this prison" (Prison Inmate 11, 2023).

"You don't have that liberty ooo. The only liberty you have is within the walls of the prison yard. Even with that you are monitored by the prison officers" (Prison Inmate 7, 2023).

"The sense of belonging to a group of family is just not there. I miss being with my family. If I had the opportunity to be reverse situations, I would have considered my family before causing troubles" (Prison Inmate 16, 2023).

"You know what I am a family person and family is all that I have. I have simply lost contacts with family because of this trivial crime. I have been here for three years and don't even know where my family are" (Prison Inmate 6, 2023).

In understanding the extent to which imprisonment has contributed to the rehabilitation of prisoners, these are some of the responses;

"May be this imprisonment has helped those who committed crimes and they are here. I can promise on anything alive that I didn't commit this crime, yet I am here. I think this experience has rather worsen my mental rehabilitation. The police who arrested me simply needed money from me" (Prison Inmate 15, 2023).

"Mr. Man, I always say that prison experience is what I don't wish for anyone. It is very bitter and non-appreciative. I have learnt my lessons and promised not to go back to such unlawful act if I get the opportunity to leave here" (Prison Inmate 12, 2023).

"Though the experience is bad, I think I have learnt my lessons. Next time I will be careful dealing with assault issues" (Prison Inmate 2, 2023).

The possible consequences prison inmates are likely experience as a result of imprisonment was investigated.

"As I seat here, I sometimes feel like I have lost everything. I have been here for over fourteen (14) years. What good thing is out there for me? I have lost a lot of opportunities such as job and further education" (Prison Inmate 9, 2023).

"I should have considered on the greater opportunities out there before engaging myself in such crime. Now I am here and I can't explore all those opportunities" (Prison Inmate 14, 2023).

"The social stigma out there has been my headache. I cannot imagine going back to my society where everyone knows about my situation. Would forgive me and accept me as the person they knew?" (Prison Inmate 1, 2023)

"My pain is society will not allow you to explain yourself. Society is quick to judge and condemn you. I wander society will treat me as one of them" (Prison Inmate 5, 2023).

"I think I have lost that confidence to go about my normal duties if I am freed. Though I don't agree with the court decision. I am not guilty of this crime but what can I do. They did their investigations and they claimed I was guilty" (Prison Inmate 15, 2023).

Prisoners were made to describe their well-being. And this is what they had to say;

"Most of us have sick as a result of how congested the prison is. Diseases spread faster among us. This is because of how compacted we are in each prison" (Prison Inmate 2, 2023).

"The hygiene condition is not encouraging at all. Over sixty (60) of us share one toilet which is closer to where we sleep. You can imagine. The initial years I came here I fell sick rapidly due to that" (Prison Inmate 6, 2023).

"Prison officers claim government hardly disburse funds for them to provide us with food. We eat once in a day. And sometimes I feel like the food does not contain salt" (Prison Inmate 1, 2023).

"Hmnn, the nature of food is not suitable at all. The food is usually one-way. It is only maize and grain products" (Prison Inmate 3, 2023).

"The torture and the treatment at the prison cells is not suitable at all. It obsesses my thinking" (Prison Inmate 5, 2023).

"I have not been stable in mind since I came here. Always ask myself what have I done to disserve all these?" (Prison Inmate 8, 2023).

How prisoners are protected against health-related issues were investigated.

"If there is any mechanism for health protection, I am not aware of. Here, no one cares about your health. People die as a result of illness they have battled with for weeks and no one does anything about it" (Prison Inmate 4, 2023).

"For health-related issues we are virtually on our own. I think health protection starts from proper food. On the contrary, they serve us food that cannot boost health conditions" (Prison Inmate 6, 2023).

"I am afraid to say this but, these people are not concerned about our health conditions. They simply don't care about our health" (Prison Inmate 11, 2023).

Table 4: Thematic Summary of Responses on Well-being of Prisoners

Q. N	Themes	PI 1	PI 2	PI 3	PI 4	PI 5	PI 6	PI 7	PI 8	PI 9	PI 0	PI 1	PI 2	PI 3	PI 4	PI 5	PI 6
	Bullying																
	Discomfort																
1	Detachment from family																
	Improved																
2	Worse																
	Social Stigma																
	Loss of Confidence																
3	Loss of other opportunities (job, education)																
	Poor health condition																
	Malnutrition																
4	Mental Instability																

Prisoners' experience was revealed to have been characterized by bullying, discomfort and a sense of isolation from family members. Senior prison inmates made it almost impossible to go through the rehabilitation process smoothly. Strict measures are not set in place to minimize bullying issues. Fresh prisoners cannot cope with living standards early in prison. Again, the prison is characterized by great discomforts such as unhygienic conditions, poor ventilation and food that is not nutritious. Prisoners also suffer a lot from isolation from family members. Some are attached to families; hence not being allowed to meet families affects their rehabilitation process.

It is not clear how imprisonment contributes to rehabilitation. Some have attained moral standards upon imprisonment. On the contrary, others have become worse. They have cultivated attitudes

worse than before. Some prison inmates have not appreciated their prison sentences. Others feel they are wrongly accused, which has led to their imprisonment. Consequences of imprisonment include; social stigma, loss of confidence and social opportunities. Society is not educated on receiving prisoners, leading to recidivism (not receiving society's acceptance). The results also indicated most prisoners lose confidence in themselves after imprisonment. Also, prison inmates iterated that they miss many opportunities due to imprisonment (especially those imprisoned unlawfully).

The results also noted that the well-being of prisoners is very much appalling and key issues related to prison inmates include; poor health conditions, malnutrition and mental instability. According to Hagan (2013), most developing countries consider health issues the worst of all prison cases. First, prisoners occupy small spaces of shelter leading to compartment in movement and closeness in sharing body fluids. Leading to quick spread of contaminated diseases.

Again, hygiene issues are not well-checked. Most prison cells have toilet facilities just close to the prison cells that are not adequately ventilated. Water conditions are not favourable to enhance cleanliness activities.

Malnutrition is another problem yet to be addressed. According to prison officers, the allocated funds per prison inmate is nothing more than Ghs 2.00. There are not enough funds to take care of prisoners. Hence food is not balanced enough to contribute to their growth and development. Most prisoners are prone to health-related issues. Even before serving their prison terms, most suffer from mental instability.

CHAPTER FIVE

CONCLUSION, SUMMARY AND RECOMMENDATIONS

5.1 Introduction

This chapter is limited to concluding the findings of the study. This chapter summarizes key findings, recommendations, and suggestions for further study.

5.3 Summary of Key Findings

This section captured key findings from analysing the objectives formulated to guide the study. The first explored the nature of adopting non-custodial sentencing at the Nsawam male prison.

In exploring the extent of adopting non-custodial sentencing, it was evidenced that the relevance of non-custodial sentencing could not be less emphasised. It is essential that non sentencing be adopted to support sentencing (imprisonment). It was evidenced that though there are perceived challenges of making the less privileged more vulnerable, this contribution is a result of the congestion of male prison inmates, which has contributed to health contamination issues such as the quick spread of diseases and other hygienic-related issues.

The second objective considered decongestion practices at the male Nsawam prisons. It was not the main decongestion mechanism. However, it was perceived that the issue of congestion could be resolved through an unofficial settlement (alternative dispute resolution), expansion of prison facilities, and enactment of non- laws, alternative dispute resolution is a form of dispute resolution which involves an official notice from the court to ensure that both the victim of the crime and offender come to a consensus or agreement outside of the court processes. Usually, these crimes are noted to be trivial and less offensive to society. Alternatively, constructing more prison facilities is suggested to expand the prison to accommodate more inmates. Finally, the results revealed that

non sentencing would be appreciated when it is enacted as law and measures are implemented to enforce it.

The third objective examined the well-being of prison inmates at the Nsawam male prisons. The results also noted that the well-being of prisoners is very much appalling. Issues related to prison inmates include; poor health conditions, malnutrition and mental instability. Issues of health are considered the worse of all prison cases. Besides prisoners occupying small prison cells, hygiene issues are not well-checked. Most prison cells have toilet facilities just close to the prison cells that are not properly ventilated. There is the quick spread of diseases among inmates. Again, malnutrition is another problem yet to be addressed. According to prison officers, the allocated funds per prison inmate is nothing more than Ghs 2.00. There are not enough funds to take care of prisoners. Hence food is not balanced enough to contribute to their growth and development. Most prisoners are prone to health-related issues. Even before serving their prison terms, most suffer from mental instability.

5.2 Conclusion

This study is focused on non-custodial sentencing and the reduction of overcrowding in Ghanaian prisons. The study is limited to the male Nsawam prisons. The study formulated three main objectives; exploring the nature of non-custodial sentencing, decongestion mechanism at the prison and examining the health well-being of prison inmates.

The qualitative approach to investigation supported this work. The study population involved 20 participants; four (4) prison officers and sixteen (16) male inmates of the Nsawam prison. Data was collected using interviews, which were further analysed using thematic analysis (forming themes from subjective responses).

After analysing the responses, the relevance of non-custodial sentences was emphasized. The nature of non-custodial sentencing in Ghana is unattended; hence, the Criminal Act needs to be amended by introducing non-custodial sentencing. Also, there was no defined procedure for decongestion activities at the prison. Again, the well-being of prison inmates was identified to be in a deplorable state. Health, food and mental instability were significant issues related to the wellbeing of prison inmates.

5.4 Recommendations

The following recommendations were suggested for government and managerial implementations based on the findings above;

Firstly, non- laws should be enacted by parliament to support the existing laws. Additionally, formal education (teaching and learning curricula) and a no formal education system (public awareness and education) should be intensified to familiarize offenders and future offenders with its cause and consequences. Again, non-custodial laws should be spelt out clearly to capture crimes that could be considered for non-custodial sentencing. Alternatively, law courses should be adjusted to include the importance of non-custodial sentencing. This will also inform future judges on the need to consider non-custodial sentencing.

Secondly, the study recommends implementing a long-term decongestion plan to capture stakeholders' contributions, sentencing process and government support. This long-term plan should focus on engaging individuals and corporations willing to support the expansion of prison cells. Again, there should be an amendment to the criminal and sentencing law. Cases should be dealt with as per the required timelines. This will reduce the length of keeping inmates on remand,

leading to overcrowding. The government should begin to prioritise the prison issue in the annual budget and nation-building projects. This may include allocating funds to expand prison facilities across the countries.

Thirdly, to improve the well-being of prison inmates, there should first be an orientation on the importance of prison inmates. Most of these prisoners need to be well-catered to be used effectively for communal activities. As a result, their health conditions are essential. The study recommends a prison health facility that prioritises health issues related to prisoners. Again, rehabilitation facilities should be set up at prisons across the country. Psychologists should assist in stabilizing the mental strength of prisoners. Above all, stakeholders and government should consider inmates' food programmes to ensure that diet/food is balanced enough to keep them healthy.

5.5 Limitations of the Study

Though this study has unearthed many discoveries, it should be noted that the study was limited to the male Nsawam prisons. In contrast, the study could have considered other prisons across the country. The study also adopted a qualitative approach using nonprobability sampling and interviews to collect data.

Again, the study was limited to gathering information from male prison inmates and prison officers only although information could have also been gathered from female prison inmates and judges.

The researcher's challenges in completing this study included; challenges in collecting data, limited time allocation and issues in analysing textual data. The researcher was challenged with accessing information from prison officers. The prison institution insisted on a confirmation letter that guaranteed data collection. As a result, a confirmation letter was secured from the Institute for Security, Disaster and Emergency Studies before data was collected.

Time allocations for this study were found to be limited to the researcher. This was because the researcher had to combine the activities involved in the research and other personal duties from work and home. This delayed the speculated time allocated for the study. The challenge related to analysing subjective responses was that the researcher found the responses detailed yet confusing because most were from different perspectives.

5.6 Suggestions for Further Studies

Based on the limitations associated with the study, the study suggests the following for future studies;

1. Future researchers could consider investigating the issues of non-custodial sentencing from other geographical jurisdictions apart from Nsawam prisons. Again, other observation units could be considered apart from male prison inmates.
2. A mixed-method or quantitative dimension may also be considered to test for existing findings. Again, quantitative findings could be generalised for a larger population rather than qualitative.
3. The respondents used for this study may include female prison inmates and other state agencies who contributes to sentencing such as the police and court.

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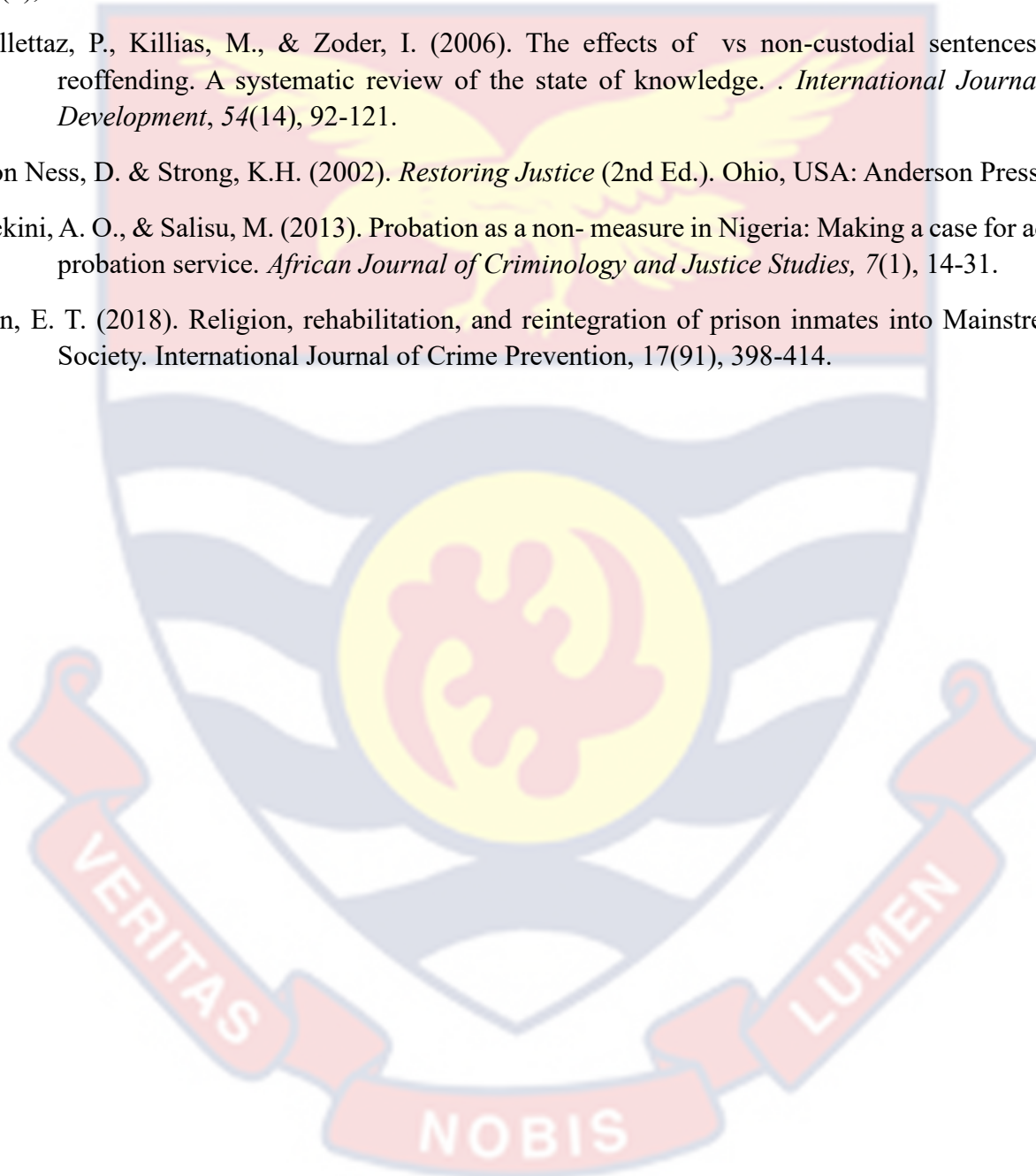
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APPENDIX A

INTERVIEW SCHEDULE FOR PRISON OFFICERS

The information being requested is purely for academic research on the topic, “*Non-Custodial Sentencing and Reduction of Overcrowding in Ghana Prisons: Case Study of Nsawam Male Prison*” Please, fill in the spaces provided, and where answers have been provided, tick or underline the appropriate one.

PARTICIPANTS’ BACKGROUND INFORMATION (PRISON OFFICERS)

1. Gender _____

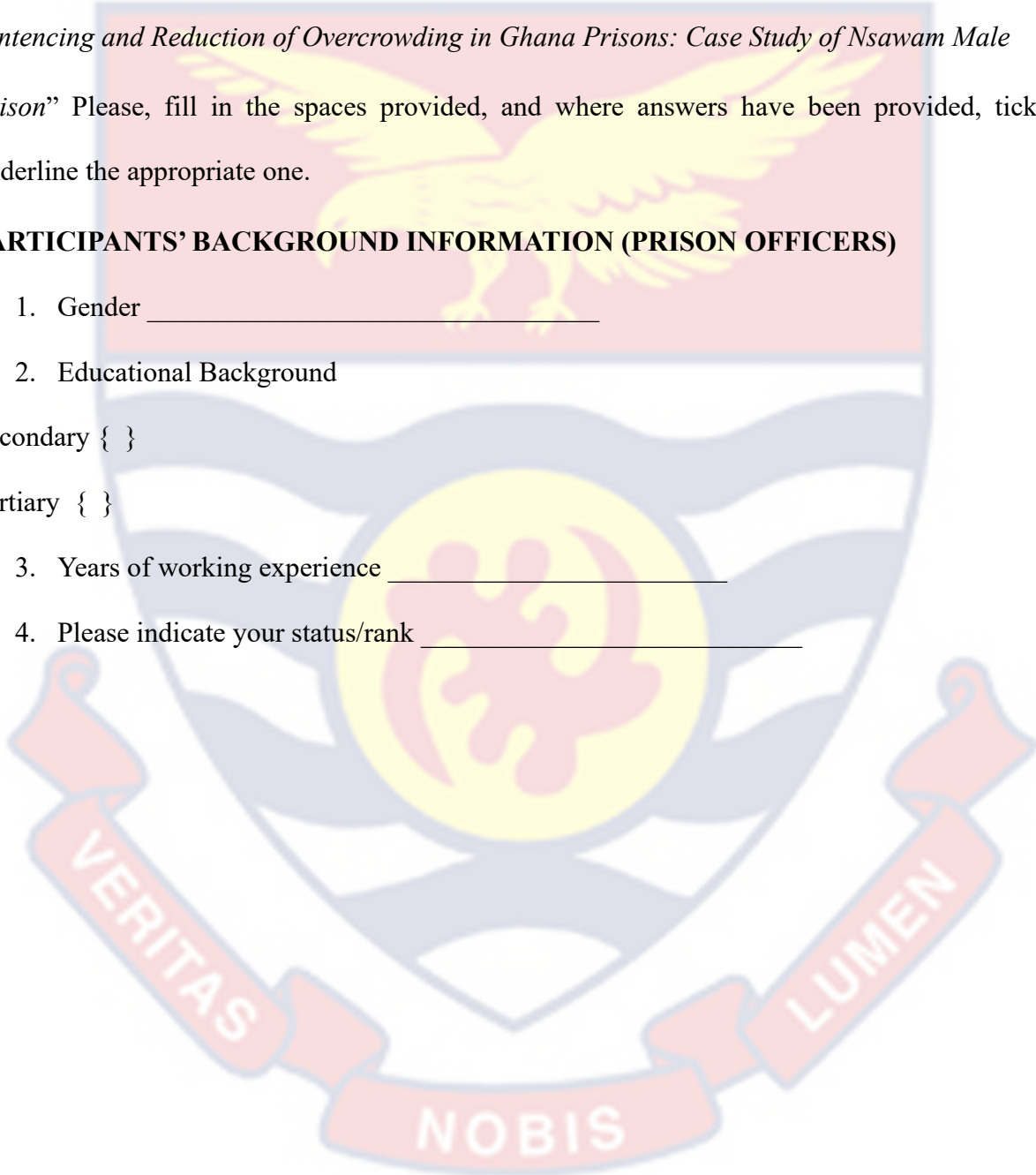
2. Educational Background

Secondary { }

Tertiary { }

3. Years of working experience _____

4. Please indicate your status/rank _____



PRACTICE OF NON-CUSTODIAL SENTENCES

1. Briefly explain what you understand by non-custodial sentencing.

2. Do you think non-custodial sentences should be practiced in Ghana and why?

3. Are you aware of any law that supports non-custodial sentencing?

4. What form of crime do you suggest should be related to non-custodial sentencing?

5. What are some of the challenges associated with non-custodial sentencing

DECONGESTION PRACTICES

1. Briefly explain the nature of imprisonment at the Nsawam Prison

2. Are you aware of the idle size of prisoners in one prison hall?

3. What are the prime causes of congestion at the prison?

4. Do you think there is something that can be done about overcrowding in this prison?

APPENDIX

B

INTERVIEW SCHEDULE FOR PRISON INMATES

The information being requested is purely for academic research on the topic, “*Non-Custodial Sentencing and Reduction of Overcrowding in Ghana Prisons: Case Study of Nsawam Male Prison*” Please, fill in the spaces provided, and where answers have been provided, tick or underline the appropriate one.

PARTICIPANTS’ BACKGROUND INFORMATION (PRISON INMATES)

1. Please indicate your age _____
2. How many years have you been in prison? _____
3. What particular crime led to your imprisonment? _____
4. Indicate your prison status

Convict { } Remand { }

WELL-BEING OF PRINSON INMATES

1. Briefly explain your experience as a prisoner

2. To what extent do you agree that your incarceration has led to a complete rehabilitation?

3. Kindly share some possible consequence of this imprisonment

4. Describe your wellbeing in prison in terms of health, food and mental stability

5. Explain the extent to which you are protected from health issues (contamination, personal hygiene and spread of diseases)

