



Nigerian Institute of Advanced Legal Studies

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Reevaluating the Juvenile/ Child Justice System in Nigeria

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1. INTRODUCTION

Children form an integral part of any society. Children are special gifts from God. They are to be protected, guided and guarded. It is not in doubt that they constitute one of the most vulnerable and powerless members of the society.¹ Okonkwo also stated that they require gentle handling and special attention in the protection and promotion of their interests, welfare and rights.² The United Nations at the Seventh Congress approved the Standard Minimum Rules for the Administration of Juvenile Justice in 1985. In the preamble, it is stated that the United Nations recognizes:

That the young, owing to their early stage of human development, require particular care and assistance with regard to physical, mental and social development and require legal protection in conditions of peace, freedom, dignity and security.

At the regional level, the African Charter on the Rights and Welfare of the Child³ reiterated the above statement.

However, despite this special position, the child has, throughout the history of mankind, been abused, treated unkindly and their rights violated. This is one of the world's social problems and it has attracted serious concerns. As far back as the 2270 BC, references were

¹ Okonkwo C O (1997) *Administration of juvenile justice in Nigeria-Constitutional Rights Project*.

² *Ibid.*

³ OAU DOC CAB/LEG/24.9/49. 1990 Entered into force November 29 1999.

made generally to children and young persons in laws and the law provided for ways of dealing with erring children. This did not mean that at that period in time there was a separate law or system for this category of persons within the society.

The Code of Hammurabi over four thousand years (4000) ago in 2270 BC included references to runaways, children who disobeyed their parents and those who cursed their fathers.⁴ The Roman Civil Law and the Church Law over 2000 years ago distinguished between juveniles and adults based on the age of responsibility.⁵ Early Jews Law, the Talmud gave conditions under which immaturity was to be taken into account in giving punishment.⁶ Bernard in his book also stated that Moslem Law provided for leniency in awarding punishment to a young offender and they were also not to be punished to death.⁷ Under the Roman Law, children under the age of seven were classified as infants and not criminally responsible. The Anglo Saxon Common Law of the 11th and 12th Centuries in England, influenced by Roman Civil Law made reference to American Juvenile Justice because it has its roots in English Common Law.⁸ The provisions providing for ways of dealing with children was based in part on the idea that young offenders were particularly malleable and would be more responsive than adults to individualized treatment efforts.⁹

The modern Juvenile Justice System is a relatively recent invention as the history can be traced to the late 1800s. This was a period in the history of Britain, that crimes and misbehavior by children and young were redefined as separate and distinct from adult offending.¹⁰

In Nigeria, at the Federal and State levels, steps have been taken and are still being taken to ensure that the rights of children and young persons are enforced in order to meet the international standards on the rights of the child as provided for by the United Nations and other International and Regional bodies. Despite all the efforts at the various levels, children and young persons are yet to be properly positioned. The protection of children is still an issue of concern.

⁴ Lawrence R & Craig Hemmen. (2008) 'History and Development in Juvenile Justice: A text/reader.' Chapter 1 Sage Publishing co. Retrieved from http://www.sagepub.com/upm_data/19434_section1_pdf.

⁵Ibid.

⁶Ibid.

⁷Bernard (1992) *The Circle of Juvenile Justice*. New York: NY: Oxford University Press.

⁸Lawrence R & Craig Hemmens 2008 (*supra*)

⁹Taylor T. *The Juvenile Justice System: Oxford bibliographies online Research guide*. Oxford University Press.

¹⁰Whitehead J.T & Lab S.P (2006) *Juvenile Justice: An Introduction 5th Edition*. Lexis Nexis: USA Pg 1

The starting point in this paper is to give the paper a proper title in compliance with the applicable laws relating to children and young persons in Nigeria. While at the Federal level, the applicable law is the Child's Rights Act 2003, in some states of the Federation, the Child's Rights Law applies. In some other States, it is the Children and Young Persons Law that is still applicable. Under the Child's Rights Act and the Child's Rights Law, the child is only to be subjected to the Child Justice System. In States where the Children and Young Persons Law apply, the child comes under the Juvenile Justice System. Therefore, this paper will be considering the reevaluation of both the Child Justice System and the Juvenile Justice System.

The highlights of this paper are the Juvenile Justice under the traditional societies in Nigeria, the modern Juvenile/Child Justice System in Nigeria, a discourse of Juvenile Justice in selected jurisdictions, a reevaluation of the Juvenile/Child Justice System in Nigeria and finally, the recommendations and conclusion.

5. REEVALUATION OF THE JUVENILE JUSTICE SYSTEM IN NIGERIA

The Juvenile/Child Justice System has a chequered history. In Nigeria, a lot of reliance is on the received English law as a result of colonization. Whereas in England, a lot of changes have taken place with regards to the juvenile system, in Nigeria, the juvenile/child justice system is in the last decade undergoing reforms. It is not in doubt that socio-economic conditions continue to increase the susceptibility of juveniles to criminal activities in the different communities. Coupled with this fact are advances in science, public attitude especially in respect to corruption and sky rocking cost.¹¹

The enactment of the Child's Rights Act in Nigeria was a major leap for the juvenile/child justice system. However, there is the need to reevaluate the laws, the agencies and the system as a whole to have a viable Juvenile/Child Justice System in Nigeria.

a. Reevaluation of the Laws

¹¹ Scott Elizabeth & Steinberg Lawrence 2008 *Rethinking Juvenile Justice* – Harvard University Press.

The Convention of the Rights of the Child is said to be the most ratified human rights documents and also the most violated.¹² The provision in the Child's Rights Act establishing the Family Court is laudable.¹³ There are similar provisions in the laws of states that have enacted or adopted the Act, for example, Lagos,¹⁴ Ogun and Oyo States.

The provision in the Child's Rights Act and the law in Lagos State provide that the Court shall be of two levels which are the Court as a division of the High Court at the High Court level and the Court as a Magistrate Court at the Magistrate level.¹⁵ The Family Court used to be the Juvenile Court under the Children and Young Persons Law. Lagos State is an example of a State that has enacted the Child's Rights Law 2007 and the Children and Young Persons Law of Lagos State has been repealed.¹⁶ The provision of the Children and Young Persons Act which is inconsistent with the Child's Rights Act is void.

The Family Courts as they exist now are not independent courts. They are and can only be divisions under the Magistrate or High Courts. If it is otherwise, their establishment would be unconstitutional as they are not presently recognized under the Constitution of the Federal Republic of Nigeria. This is more so, when Section 152 (5) of the Child's Rights Act and Section 141 (2) ¹⁷of the law in Lagos State states that *Appeal will lie from the family court of the High court to the Court of Appeal*. The Constitution of the Federal Republic of Nigeria in Section 240 lists out courts from which appeal will lie to the Court of Appeal. The family court is not one of such courts, but the high court is one. Therefore, the family court can only be a division of the high court for appeal to lie to the Court of Appeal.

It should however be made clear that this paper is not challenging the validity of the Child's Rights Act as a Statute. However, it is the express provision in section 152(5) of the Act that may be a problem if care is not taken. The case below buttresses the concern of the Writer. In *Adeyemi (Alaafin of Oyo) & Ors v Attorney General of Oyo State & Ors*,¹⁸ the Supreme Court held that there was a vast difference between the constitutional validity of an enactment of a

¹² Muncie John 2014 The punitive turn in juvenile Justice: Cultures of control and rights compliance in Western Europe and the USA. Retrieved in <http://yjj.sagepub.com/content/8/2/107.refs>.

¹³ Section 149 Childs Rights Act 2003.

¹⁴ Section 138 Childs Rights Law 2007, Lagos State.

¹⁵ See Section 150 Childs Rights Act 2003 & Section 140 Childs Rights Law.

¹⁶ Section 263 Child Rights Laws of Lagos State.

¹⁷ There appears to be an error in the numbering of the Law as it should be 141 (5)

¹⁸ (1984) 15 NSCC 397, cited in Bamgbose Olatokunbo John (2014) Digest of Judgments of the Supreme Court of Nigeria, vol.3, Para. 45, pg 235.

statute and the constitutional validity of the express provisions of the statute thus validly enacted. The statute as statute may be validly enacted but the content may variously be in consonance with the constitution or be in conflict with it.

This is therefore to sound a note of warning to States that are yet to enact their State Laws that the Family Court, if it must be established at the High Court level, must be a division of the High Court. Anything contrary to this will be unconstitutional.

For the government to show commitment to the cause of children, it is advocated that the Family Court should be a court of record and given recognition under the Nigerian Constitution. This will enable all cases where a child is involved, whether as offender or victim to be heard in the family court, so that the philosophy of welfare, protection and rehabilitation can be achieved. It will also put a stop to the confusion arising especially with the police as to where to take a case where a child is involved either as victim or offender with an adult or child. For example, the case of a thirty two year old man arraigned at a Magistrate Court for the rape of a child of 11 years would have been taken directly to the Family Court.¹⁹

In the opinion of this writer, there may be need for a constitutional amendment to include the family court as a court of record. This will have to follow the trend of the National Industrial Court which is now a court of record recognized by the amendment in the third Alteration Constitutional Amendment.

Apart from the above fact, a proper structured Family Court should have a Magistrate/Judge depending on the adopted structure, who specializes in Child's law, who is trained and undergoes regular training and refresher courses, to achieve the aim of the court which is towards the welfare and rehabilitation and best interest of the child. The situation in many of the existing family courts where magistrates undergo training in child welfare and are only posted to the family court for a period of time and then reposted out only for a new magistrate to be posted is not the best practice for specialization and continuity.

It is opined that it is when there is specialization and training for judges and magistrates, that the family court will be in the best position to adjudicate on and have unlimited jurisdiction to hear and determine

¹⁹ Onyegbunam Esther (2014) 'Pastor Allegedly Impregnates 11 year Old' Vanguard, Wednesday, November 12, 2014, p 6.

*any civil proceeding in which the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim in respect of a child is in issue and any criminal proceeding involving or relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by a child, against a child or against the interest of a child.*²⁰

With the structure discussed above, all cases where a child is involved either as complainant or victim or as an offender would be properly situated in the family court either with similar powers as that of the High Court or the Magistrate Court as appropriate.

In this paper, the present practice in the family court at the Magistrate level in Lagos State is highly commendable. All cases involving a child with a child or a child with an adult of which is within the powers or jurisdiction of the Magistrate Court are heard and completed in the family court. This practice is in line with the aim of the Child's Rights Legislation.²¹

b. Implementation of the Childs Rights Legislation

The full implementation of the Child's Rights Legislation is a serious problem in nearly all the States of the Federation including the Federal Capital Territory to which the Child's Rights Act applies. Funding/budgeting allowance has been a major problem of many of the States. The result is the establishment of a family court only in principle as it is in Oyo State, or conversion of the old juvenile court to a family court as it is in some family courts in Lagos (though there are some newly built courts).

An unstructured interview with some magistrates manning family courts in different states shows that Section 154 (1) and (2) of the Child's Rights Act similar to Section 143 (1) and (2) of the Child's Rights Law of Lagos State is not complied with as much as it should be. This has to do with professionalization and training of court personnel.²² This is more so with the situation where magistrates and judges are not appointed to the family courts but are posted.

c. Layout of Family Court

²⁰ Section 151 of the Child Rights Act and Section 140 of the Child Rights Laws of Lagos State

²¹ Section 1 Childs Rights Act; Section 1 Childs Rights Law, Lagos State.

²² Ezeamalu B 2014 Premium Time of May 27, 2014

Another area that should be reevaluated is the layout of the family court. The idea of the family court as opposed to the adult court is found in Section 158 of the Child's Rights Act or in Section 147 of the Child's Rights Law of Lagos State. This is that the proceedings of the court shall be conducted in an atmosphere of understanding. Some family courts in some States still hold sitting as regular courts. This defeats the aim and idea of a family court even when the personnel present in the court are only those permitted by the law.

The layout of an adult court in this writer's opinion is not conducive for child proceeding due to several factors, and does not eventually meet the need of the child. The above thought on this issue is aligned with that of Judge Julian Mach, one of the first judges in the first juvenile court in Chicago, Illinois in the United States of America about the hearing in the juvenile court compared to the adult court:

The ordinary trapping of the Court (adult court – emphasis mine) are out of place in such hearing. The judge on a bench looking down upon a boy standing at the bar can never evoke proper sympathetic spirit. Seated at the desk with the child at his sides, where he can on occasion put his arm around his shoulder and draw the lad to him, the judge while losing none of his judicial dignity.²³

d. Governmental Bureaucratic/Proactive Action

The actions of government may hamper or enhance the effective running of the juvenile justice system in the States in Nigeria, creating a hybrid structure of family courts. According to a report by Ogunsola, the Child's Rights Law in Oyo State has been passed twice in less than ten years and yet the Law is not being implemented in the State.²⁴ In 2003, a Child's Rights Law of Oyo State was passed. In 2006, a review of that law was done under another government. Presently, the Family Courts provided for under the 2006 Law has not been created. A hybrid structure is in existence. This is because the Juvenile Courts as operated under the Children and Young Persons Law still exist in structure, layout and composition. However, the magistrates in charge of the

²³ Mack Julian (190) "The Juvenile Court" Harvard Law Review Vol 23 1909 pp 120.

²⁴ Ogunsola Oladele 2014 Groups blame Oyo Government over child abuse: *Daily Independent* October 6 2014. Retrieved in <http://dailyindependentnig.com/2014/10/groups-blame-oyo-govt-child-abuse/>

court try as much as possible to adopt some provisions of the Child's Rights Law as much as it feasible.

Rather than being bureaucratic, a proactive action on the part of government will enhance the juvenile/child justice system. For example in Ogun State, a new Child's Rights Law was passed in August 2013.²⁵ This new law in 2013 removed the flaws and lacuna in the 2006 Child's Rights Law of the State. A major flaw and a lacuna in the 2006 Law of Ogun State was the non-provision for the establishment of a family court. The 2013 law has taken care of this "first and major step towards the protection of Childs rights in the State"²⁶, and the Ogun State government has embarked on the construction of a family court which will soon be in operation.²⁷ This proactive step is commendable

e. Overriding Child Interest versus Religious Interest

The introduction of Sharia Law has brought about a new dimension to the juvenile/child justice system in Nigeria. This new dimension is in conflict with the aim that "in every action concerning a child undertaken by any individual, public or private body, institution, court of law, Administrative or Legislative authority, the best interest of the child shall be the primary consideration".²⁸

The implication of the conflict arising from cultural and religious interest and the child's interest is the non passage of the Child's Rights Law in some States in the Northern part of Nigeria. In an unstructured interview with government officials in States in Northern Nigeria, it was found that previous attempts to pass the law at the House of Assembly generated a lot of noise and was violently resisted by some members of the house and members of the larger society. The Child's Rights Act was condemned by the States for not taking into consideration the provisions of the Children's Rights Convention which provides that State parties in domesticating the convention should take cognizance of cultural and social conditions.

²⁵ Adebowale Segun 2013 Ogun Assembly passes Bill on Childs Rights in Eagle online. Retrieved <https://theeagleonline.com.ng/ogun-assembly-passes-bill-on-childs-rights/> August 2 2013. Accessed on 7 November 2013.

²⁶ Ogunsola Oladele 2014

²⁷ Ogun news 2013 *Ogun commences implementation of Child Rights Law*. Retrieved in <http://www.ogtv.com.ng/ogun-commences-implementation-of-the-childs-rights-law/> October 11 2013. Accessed Nov 7 2013

²⁸ Section 1 of the Childs Rights Act; Section 1 Childs Rights Laws of Lagos and Ogun States

The argument is that some provisions of the law contravene the Islamic religion especially in relation to marriage. The bone of contention is that whilst the Sharia Law provides for the age of puberty in defining a child, the Child's Rights Act on the other hand defines a child as one under the age of eighteen years. It should be taken into cognizance that culture is dynamic. While realizing that children belong to the society where law will be operated, the child's best interest should override culture and religious interest that may hinder the full harmonious, physical, mental development of the child.

f. *Definition of a Juvenile/Child*

The common criterion for the definition of a juvenile is the use of age. For example, under the repealed Children and Young Persons Law of Lagos State, this was the same pattern adopted²⁹. In section 2 of the above repealed law, a child was defined as a person under the age of fourteen.

The use of age has its advantages and disadvantages. It has been argued by a religious group, as seen in the discussion earlier, that the age fixed in the Child's Rights law contravenes Islamic law. Bamgbose also argued that relying on age sometimes fails to take into consideration social, physical and psychological development of the child.³⁰ This was illustrated in the case of *Joseph Uwa v. State*.³¹ The Supreme Court held that the age of an Ibo villager who says he is thirteen years old may not actually be thirteen, as would have been, if said by an English boy. According to the Court, this may not be the exact age of the boy as ages are reckoned by certain festivals and by saying he is thirteen years, he may be about twelve years plus and not actually thirteen as in the English sense.

The problem created by the definition of juveniles and child, appears to have been laid to rest in States that adopted the Child's Rights Act and in the States that have stated the definition of age in their State laws.

g. *Importance of Parental, Family and Community Values*

The question arises if there can be a viable juvenile/child justice system without reference to the values from parents, family and the community. As far back as 1870, the role of the parents in

²⁹ Cap 10

³⁰ Bamgbose Oluyemisi 1991 Juvenile justice System in Nigeria op cit

³¹ 1965 ANLR 356

the socialization of a child was reiterated. In the case of *People v. Turner*, the Illinois Supreme Court said

*In our solicitude to form youths for the duties of evil life, we should not forget the rights which inhere both in parents and children. The principle of the absorption of the child is and its complete subjection to the despotism of, the State, is wholly inadmissible in the modern civilized world. The parent has the right to the care and custody and assistance of his child. The duty to maintain and protect it is a principle of natural law.*³²

As far back as 1909, a judge of the juvenile court in Denver, in the United States of America stated thus:

*All the courts or probation scheme on earth, can never effectively correct the faults of the child as long as there remains the fault of those who dealt with children in the home, schools, in neighborhood – in the community itself.*³³

The importance of the family as a social unit cannot be overemphasized especially in the treatment of delinquent children and those in need of protection. Many countries of the world have incorporated the ideals of the family into the child justice system. The Child's Rights Act recognizes the importance of parents in Section 174 (5) of the Child's Rights Act and family ties in Section 178 (2) (a) (i) & (ii) in the treatment of a child under the child justice system.³⁴ A child rights activist and lawyer has advocated that issues of child and parents are better settled outside the court.³⁵

In New Zealand, the youth justice system recognizes that children and young persons cannot be dealt with in isolation and therefore involves families in responding to youth

³² 1466, 58 S. Ct. 1019

³³ Becroft A.J & Thompson Rhonda (2006) Youth Offending: Factors that contribute to how the systems respond. Retrieved in <http://www.justice.govt.nz/courts/youth/publications-and-media/speeches/youth-offending-factors-that-contribute-and-how-the-system-respond>

³⁴ See also Section 166 (3)(a); 167 (2)(a)(i)&(ii) and 167 (4)(a)&(b) and 167 (6)(a)&(b). Childs Rights Law of Lagos State 2007

³⁵ Ogunsola Oladele 2014. Daily Independent Op cit note ____?

offending.³⁶ Except for child offenders between the ages of ten to thirteen who commit murder or manslaughter and are tried in adult courts in all other cases, child offenders are treated by way of a family group conference.³⁷ This process allows the family, the community, the victim and the offending child or young person to have a say on an issue that may affect all those involved in the conference. This gives the victim a voice which is believed to facilitate healing process. It shifts the burden from the State to the family and community, therefore allowing the State to focus on more serious problems and if necessary intervene.³⁸ It is a form of restorative justice.³⁹

The age of criminal responsibility in New Zealand is ten years. Persons between the ages of fourteen to below seventeen who are unmarried are regarded as young persons and may appear before a youth court for offending. Becroft and Thompson argues that research shows that there are four pillars that hold the key to understanding and addressing child and youth offending. These are family, schools, peers and community.⁴⁰

There is the need to go back to the basics. The family is no doubt the best unit to settle issues between parents and children. The Yoruba saying “*A ki lo si kootu, ki a tun se ore*” literally translated to mean a person who has instituted a case against another in court does not expect that they will ever be friends again.

In Canada, a territory has also adopted a system known as sentencing circles in the treatment of juvenile offenders. It is an updated version of the traditional sanctioning and healing practices of Canada’s aboriginal people.⁴¹

In the United States of America, similar community courts have been established in many States and its prominence continues to grow.⁴² This has also been introduced in Britain.

³⁶ Becroft AJ & Thompson Rhonda

³⁷ Ibid. See also Young offenders Act 1993 (South Australia. Part 3 DIV 3). This was first Australia Jurisdiction to give statutory backing to conferencing.

³⁸ Becroft A.J & Thompson Rhonda op cit note ____?

³⁹ Wundersitz J (1996) *Juvenile Justice* in Hazlehurst K (ed) Crime and Justice: An Australian Textbook in Criminology LBC. Information services: Sydney 1996 137-141

⁴⁰ Becroft A J & Thompson, Rhonda paper delivered at a symposium on child and youth offenders: what works Tuesday 22 August 2006 The youth court of New Zealand Retrieved in <http://www.justice.govt.nz/courts/youth/publications-and-media/speeches/youth-offending-factors-that-contribute-and-how-the-system-responds> Accessed on 14 November 201

⁴¹ Bazemore G and Griffith CT 2003 Conferences Circles< Board and Meditations: The “new wave” of community justice decision making. In McLaughlin G, Fergusson R, Hughes G and Westmarland (ed) *Restorative Justice: Critical Issues*: London: Sage or 1997 Federal Probation 61 (2) December 1996 25-37

There are different models adopted by different countries to suit their legal system. The aims are all the same. The parties are the Magistrate, youth workers, family members, offender victims and respected elders. The major difference between this form of approach and the family court is that the family courts under the Child's Rights Legislations is that it is no held in a formal court setting, it is informal and it diverts the child from the court system. The belief is that contact with the formal system may contaminate the young offender.

It is the opinion of this writer that there can be a fusion of the traditional and modern child justice system to create a system which will serve the best interest of the child.

h. Funding

Studies show that institutional facilities for children in Nigeria are in very deplorable conditions and generally lack the minimum comfort. The States are finding it difficult to fund and build new facilities.⁴³ There is a disparity between the care promised juveniles or children in court and the care actually provided. It is said to be more abusive than parental. Krisberg described the inhumane living condition as exploitation rather than training.⁴⁴

The Act generally frowns at institutionalization as a form of treatment except where it is desirable or unavoidable.⁴⁵ It is provided that placement in an approved accommodation or Government Institution shall be a disposition of last resort.⁴⁶ Section 221 (1) (a) of the Child's Rights Act also provides that no child shall be ordered to be imprisoned except where the provisions of Section 222 (1) applies. These include where a child is found to have committed serious offences like treason, murder, robbery, and like offences.⁴⁷

In such unavoidable cases, where the child has to be taken into custody, the Child's Rights Act and Law provide different types of custodial facilities. The objective of the institutional treatment is to provide care, education and vocational skills to assist the child to assume socially constructive and productive roles in the society.⁴⁸ However, due to budgetary constraints, States are not able to fund or construct the list of laudable custodial facilities in

⁴² Johnstone, Gerry, Daniel W. Van Ness. 2007 Handbook of Restorative Justice. Devon, UK: Willan Publishing, 2007

⁴³ Akinseye George Y 2009 Juvenile Justice in Nigeria. Centre for socio-legal studies. Abuja: Nigeria

⁴⁴ Krisberg B 2005 Juvenile Justice: Redeeming our Children. Thousand Oak, CA: Sage

⁴⁵ Section 215 Childs Rights Act

⁴⁶ Section 223 (2)(a) of the Childs Rights Act. See also Section 211 (2) of Childs Rights Law of Lagos State 2007

⁴⁷ See also Section 209 of the Childs Rights Law of Lagos State 2007

⁴⁸ Section 236 Childs Rights Act: See also Section 224 of the CRL of Lagos State

Section 248 and 249 of the Child's Rights Act.⁴⁹ However the provision creating these Institutions is commendable. The plea is that the government should be committed to the establishment of these Institutions as soon as possible.

i. Language

It has been argued that the use of gender neutral language may seem unnecessary. It is also argued that the masculine pronoun "he" and "his" refers to both men and women.⁵⁰ Arguments like these cannot stand. It has been said also that "there is no good reason for keeping our legal terms anachronistic and with words that do not respect our current contemporary times".⁵¹ This paper agrees with this statement.

In many countries, attempts have been made to pass new laws to root out gender bias from the statute. In many states in the United States of America, this is being done.⁵² It is important to note that changing words can change what we think about the world around us.⁵³

In the repeals and reforms of laws in Nigeria, the legislators should take note of this important but yet ignored issue. In Washington State for example, while the State had passed a law as far back as 1983 requiring that new laws be gender neutral, there is a more pro-active step in "combing through State statutes every law passed since the State's founding in 1854".⁵⁴ While in this paper, it is not yet advocating that laws passed decades ago should be "tweaked", an attempt should be made to make new laws gender neutral. This especially applies to the Child's Rights Act and Laws. States that are yet to adopt or enact the legislation should take note of this fact.

j. Functions of assessors

⁴⁹ Section 236 and 237 of the Childs Rights Law of Lagos State

⁵⁰ Grinker, Marc A (1994) Gender Neutral Language. Retrieved in http://www.kentlaw.edu/academics/irw/grinker/lwtaGender_Neutral_Language.htm

⁵¹ Nye James 2013 Farewell to freshman – Washington State to remove 40,000 pieces of legislation of "gender biased language" ... but manhole survives in Mail Online July 2 2013. Retrieved in <http://www.dailymail.co.uk/news/article-2353939/farewell-freshman-washington-state-remove-40,000-pieces-legislation-gender-biased-language>

⁵² Ibid

⁵³ Fox news 3 February 2013 *Washington State considers final gender-neutral language bill*. Retrieved in <http://www.foxnews.com/politics/2013/02/03/washington-state-considers-gender-neutral-language-bill/>

⁵⁴ Scott Dylam 2013 Gender Neutral Language written into State laws. ... in *Governing* April 2013. Retrieved in <http://www.governing.com/topics/politics/gov-gender-neutral-language-rewritten-into-states-law.html>

A reevaluation of the composition of the family court is another issue considered. The Child's Rights Act and the applicable laws in the States where they have been enacted provides for a two tiered system in the structure of the family court. This is at the High Court level and also at the Magistrate Court level. At both levels, the composition of the court is a judge and two assessors at the High Court or Magistrate Court respectively. The judges or magistrates are qualified legal practitioners. However, the assessors as provided by the law are non lawyers. It is important that the role of assessors should be spelt out in the legislation to avoid conflicts which according to some magistrates in an unstructured interview has arisen in some cases in the family court. Issues of law should only be looked into and decided by the judge or magistrate. Opinions of the assessors should be restricted to their areas of specialization.

1. RECOMMENDATIONS

A few recommendations are made for a more purposeful juvenile/child justice system.

a. Collective responsibility

There is a duty on everyone to ensure the proper development, the promotion and protection and welfare of the child. This function should not and must not be left to a group of people or section of the society, but it is the collective responsibility of all.

b. Parental involvement in Juvenile system

Parenting process includes protecting, nourishing and guiding the child. It involves a series of interaction between the parent and the child through the life span.⁵⁵ In particular, the law should encourage greater parental responsibility as the family unit is critical to much social behavior.

c. Use of Alternative/Diversiory Approaches

The diversionary principles are being advocated in the Child's Rights Law. Child offenders should as much as possible be divert from the formal and harsh criminal justice system. The judicial officers in the family court should avoid the errors of their counterpart in the adult courts

⁵⁵ D'Souza Ajith & D'Souza Renita. Role of parents in upbringing children in <http://www.articlesbase.com/parenting-articles/role-of-parents-in-upbringing-children-543148.html>

that have contributed to the congestion of the prisons by leaning too much on custodial methods of punishment.

d. Juxtaposition of traditional and modern methods

There is the need for a rediscovery of a distinctive indigenous system of justice that can be juxtaposed with the modern justice system. The question may be asked if the informal control of juvenile offenders is a solution to reoffending. This concept used under the traditional juvenile justice system may be adapted taking into cognizance contemporary trends in addressing youth matters. The traditional concept of controlling children with all its advantages should be considered in developing the juvenile justice program taking into consideration modern trends.⁵⁶ Countries like the United Kingdom and the United States of America have discovered this and used it in the treatment of young offenders with the introduction of family group conferences in the juvenile justice system.

e. Use of Non custodial methods

The state of the facilities for young offenders is in a deplorable state. It is therefore advocated that non custodial remedies should be adopted in the treatment of children and young offenders. As a matter of urgency, it is recommended that the institutions that are to be established under the Act in the Federal Capital Territory by the Minister⁵⁷ and in the States by the Commissioner charged with the responsibility for matters relating to children in the state⁵⁸ should be established as a matter of urgency.

One of the instances where a child can be deprived of his or her personal liberty is where the case is of a serious nature.⁵⁹ It is important that what constitutes *serious offences* be properly defined in terms of offences. It is also said that children under the age of 14 years can only be

⁵⁶ Asuni T 1979 Traditional and Innovation in Child care in Nigeria in <https://www.ncjrs.gov/App/publications/abstract.aspx?ID=49299>

⁵⁷ Section 248 Childs Right Act; see also section 277 of the same Act

⁵⁸ Section 236 Childs Rights Law of Lagos State; see also section 262 of the same law

⁵⁹ Section 215 (d) (i) &(ii) of the Childs Right Act

given a custodial sentences if he or she is a persistent offender.⁶⁰ It is also recommended that the definition of persistent offender must be outlined.

The child between the age of 10 but less than 12 years can only be given custody sentence if it is in interest of the public to keep them in custody. Period of detention should also be clearly stated.

f. Reparation as Treatment Method

Reparation as a sentence or treatment method was introduced in the English 1998 Act⁶¹ and of Powers of Criminal Court Sentencing Act 2000.⁶² Reparation is a non custodial treatment for a young offender, either to the victim or society at large.⁶³ It is recommended as one of the treatment methods in addition to the numerous ones in Section 223.⁶⁴ It is said to be a valuable way of making young offenders face the consequences of their actions and see the harm they have caused. It can be a catalyst for reform and reforms and rehabilitations can also benefit victims.⁶⁵

g. Coordination of overlapping agencies

The administration of the juvenile system involves a number of overlapping systems and agencies. This makes implementation not very easy. There is need for coordination amongst the different systems to take a holistic approach in tackling matters relating to the young persons

2. CONCLUSION

Is juvenile Justice really the unwanted child in the United Nations system?⁶⁶ Regardless of the bottlenecks in the juvenile justice system in Nigeria, a lot of improvement has occurred in the juvenile justice system in Nigeria in the twenty first century. There is however need for a

⁶⁰ Section 215 (d) ii

⁶¹ Section 67 and 68 of

⁶² See also Section 73

⁶³ See also Government paper in the Home Office 1997 Paragraph 4:14

⁶⁴ Child Rights Act 2003

⁶⁵ Ashworth Andrew 2000 Sentencing and Criminal Justice 3rd Edition. London Butterworth.

⁶⁶ Abramson B 2001. Juvenile Justice: The 'unwanted child' of state responsibilities, International Network on Juvenile Justice, Defence for Children International. Cited in Juvenile Justice: Modern Concepts of Working with Children in Conflict with the Law . Retrieved in https://www.essex.ac.uk/armedcon/story.../save_jj_modern_concepts.pdf on 14 November 2014

periodic review of the law relating to children and young persons in Nigeria and an adoption of a holistic approach in addressing issues of these category of persons in Nigeria in order to fully achieve the aims of or philosophy behind the legislations protecting them.

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