VI

Juvenile Justice Administration in Nigeria: A Review of the Rights of Child Offenders, Witnesses and Victims

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Abstract

Juvenile justice administration involves the judicial and administrative proceedings employed in the prosecution of child offenders. In such process, both municipal and international legislations continue to champion the cause of child rights and always insist on practices that prioritize the best interest of the child. This basically stems from the fact that the system of juvenile justice administration is not aimed at punishing the child offender per se but to correct the errant child. In this paper, the author makes a review of the methods applied in the Nigerian jurisdiction towards protecting the child's right as a witness, an offender and a victim in the juvenile justice administration process. This paper observes that the existing framework in Nigeria affords inadequate protection to the child, whether as an offender, witness or victim, and makes recommendations towards improving the system.

Keywords: *juvenile, juvenile justice administration in Nigeria, rights of child offenders, child witnesses, child victims.*

Introduction

The juvenile justice system is an integral part of the criminal justice system.[1] It is guided by a philosophy of concern, care and reformation for young

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[1] Juvenile justice system may be regarded as a tract within the criminal justice system of a society. The criminal justice system consists of the adult and juvenile tracts.

offenders. It is a system of justice applicable solely to juveniles and is different from the justice system applicable to adults. Juvenile justice administration has been influenced by the activities of humanitarians and penal reformers who protest against cruelty to children under the guise of administering justice. Prior to the 19th century, children were harshly punished for even petty offences. However, by the 19th century, there were concerns, first, about increasing rates of delinquency, and second, about the handling of juvenile offenders.[2]

The realization of the negative consequences of the punitive treatment of child offenders, child witnesses, and child victims spurred humanitarians and penal reformers to advocate for lenient treatment of these classes of persons. Thus, Mayhew observed that:

> Each year sees an increase in the numbers of street-children to a very considerable extent, and the exact nature of their position may be thus briefly depicted: what little information they receive is obtained from the worst class - from cheats, vagabonds, and rogues; what little amusement they indulge in springs from sources the most poisonous, the most fatal to happiness and welfare; what little they know of a home is necessarily associated with much that is vile and base; their very means of existence, uncertain and precarious as it is, is to a great extent identified with petty chicanery which is quickly communicated by one to the other; while their physical sufferings from cold, hunger, exposure to weather and other causes of a similar nature are constant, at times extremely severe. Thus, every means by which a proper intelligence may be conveyed to their minds is either closed or at the least tainted, while every duct by which a bad description of knowledge may be infused is sedulously cultivated and enlarged.[3]

These observations direct attention to the sentiment that the juvenile offenders and victims deserve to be rescued and reformed, while the child witness deserves to be accorded special protection in judicial proceedings.[4] Thus, Mary Carpenter, in her advocacy for the reformation and restoration of young offenders in juvenile justice custodial institutions argued that:

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[2] J Muncie *Youth and Crime: A Critical Introduction* (1999, Sage Publications) at 55.
[3] *Ibid.*
[4] *Ibid* at 57.

> The child must be placed where the prevailing principle will be as far as practicable, carried out – where he will be gradually restored to the true position of childhood…. He must perceive by manifestations which he cannot mistake that this power, whilst controlling him, is guided by interest and love; he must have his own affections called forth by the obvious personal interest felt in his own individual well being by those around him; he must in short, be placed in a family.[5]

The philosophy that juvenile justice institutions should act in the 'best interest of the child' therefore emerged in the 19th century through humanitarian impulses.[6] This philosophy is essentially to the effect that every child in the juvenile justice system, be he an offender, witness or victim, should have certain rights which include proper and prompt notification of charges, private trial, impartial adjudication, adequate defence, examination of prosecution/defence witnesses, etc.[7] Though in this regard substantive work has been done in the international sphere, the municipal implementation of the multifarious policies and principles so formulated, particularly in Nigeria, leaves much to be desired. One may then ask: what rights are accorded the child in the Nigerian juvenile justice system? What factors negatively affect the rights of the child in that system? What more can be done towards enhancing the promotion and protection of the rights of children in the Nigerian juvenile justice system? This paper attempts a critical appraisal of the Nigerian position so as to find the right answers to the above posers.

History of Juvenile Justice Administration in Nigeria

The current system of juvenile justice administration cannot be understood without reference to Nigeria's justice administration system which was entrenched by her colonial master. The British colonizers created Nigeria over a 64-year period (1861- 1914) through conquest, deception and manipulation of about four hundred nationalities.[8] Prior to their colonial subjugation, these nationalities maintained different types and scales of

[5] *Ibid* at 59 – 60.

[6] EEO Alemika & IC Chukwuma *Juvenile Justice Administration in Nigeria: Philosophy and Practice* (2001, Centre for Law Enforcement Education (CLEEN)) at 27 – 28.

[7] H Ijaiya "Juvenile Justice Administration in Nigeria" (2009)2 *NUJS Law Rev*iew at 573.

[8] O Otite *Ethnic Pluralism and Ethnicity in Nigeria* (1991, C.I. Shanson Ltd.) cited in EEO Alemika & IC Chukwuma *Juvenile Justice Administration in Nigeria,* above at note 5 at 10.

social, political, economic and judicial organizations. They were relatively independent of one another, although some of them maintained political and economic relationships. In 1861, British colonizers seized Lagos as a colonial territory, and by 1903 when the Sokoto Caliphate fell, the various societies that make up contemporary Nigeria had been brought under British colonial rule. Through conquests and series of amalgamations between 1861 and 1914, the Northern Nigeria and Southern Nigeria Protectorates were created. In 1914, the Northern Nigeria Protectorate and Southern Nigeria Protectorate were amalgamated as a single political entity known as Nigeria. The British colonial government, in order to promote and protect its economic interests, created the Nigerian criminal justice system, of which the juvenile justice system is a component.[9]

Historically, therefore, the Nigerian criminal justice agencies were created, not as instruments of security and justice, but as weapons of oppression. This system operated oppressive penal institutions aimed at deterring and punishing offenders, as their disobedience to law was deemed detrimental to colonial interest. Reformation of such offenders, even if they were juveniles, was the least of the problem of the colonial administration. Under this system, the English legal system, with its courts, laws and other judicial forms were introduced into Nigerian territory in March 1863, and in 1872, the first prison was established at Broad Street, Lagos, with a capacity of 300 inmates. Since there was virtually no dichotomy between juveniles and other offenders in the colonial justice administration system, whatever applied to adult offenders equally applied to juvenile offenders under this system. [10] Thus, both adults and children were subject to the same penal laws and punishments which included harsh treatments like flogging, imprisonment and hanging. The only concession granted to child offenders under the common law was that children below a certain age were presumed *doli incapax.*[11] This exception was not, however, a reflection of any general benevolence towards children, but was rooted in the common law notion of

[9] O Adewoye *The Judicial system in southern Nigeria : 1854 – 1954 (1977, long man*) cited in EEO Alemika & IC Chukwuma, Ibid

[10] EEO Alemika & IC Chukwuma, *Ibid*.

[11] Literally means incapable of wrong. However, this does not *strictu sensu* mean that such a child cannot do wrong. Rather, it means that the law does not ascribe criminal liability to any act by the child, even though the act is of such a nature that it should ordinarily connote such liability – Criminal Code, Cap. C38 *Laws of the Federation of Nigeria (LFN)* 2004, s. 30; Penal Code, Cap. P3 *LFN* 2004, s. 50; CO Okonkwo *Criminal Law in Nigeria* (1980, Spectrum Books Ltd.) at 119.

mens rea,[12] which generally was a prerequisite for criminal culpability.[13] The middle part of the 19th century, however, witnessed a crusade against the unconscionable treatment of juvenile offenders and movements for their reform.[14] The situation was aptly captured by the Supreme Court of the United States of America in the case of *Re Gault*[15] thus:

> The early reformers were appalled by adult procedures and penalties and by the fact that children could be given long prison sentences and mixed in jail with hardened criminals. They were profoundly convinced that the society's duty to the child could not be confined to the concept of justice alone. They believed that the society's role was not to ascertain whether the child was guilty or innocent … (but what could be done) … in his interest and in the interest of the state to save him from a downward career … The child … was to be made to feel that he is the true object of (the state's) care and solicitude, not that he was under arrest and on trial.

In response to these movements, Christian missionary organizations set up "approved schools" and remand homes to cater for delinquent juveniles. However, the growth in the number of young persons getting involved in crimes continued unabated, to the extent that the corrective institutions set up to reform these young offenders became over-stretched, with only minimal care available. [16]

It was against this backdrop that the colonial government enacted the Children and Young Persons Ordinance of 1934. This statute was subsequently amended through several legislations.[17] In line with its

[12] Literally means guilty mind. This is the criminal intent or state of mind which, as a general rule, the prosecution must prove to have existed in the accused at the time of the act in order to secure a conviction – BA Garner *Black's Law Dictionary* (abridged 8th ed, 2005, West Publishing Co.) at 824; CO Okonkwo, *Criminal Law in Nigeria,* above at note 10 at 49 – 63.

[13] Morris et al., *Justice for Children* (1980, Macmillan) at 3.

[14] OW Ketcham & MG Paulsen *Cases and Materials Relating to Juvenile Courts* (1967, Foundation Press Ltd.) at 3.

[15] (1967)387 U.S. 1 at 15.

[16] EEO Alemika & IC Chukwuma, Ibid.

[17] ie Ordinances 44 of 1945, 27 of 1947, 16 of 1950, as well as the *Laws of Nigeria* No. 131 of 1954 and 47 of 1955.

intendment as a national law,[18] provisions were made for the adoption of this legislation as regional laws and subsequently as state laws. As a result, the law was extended to the Eastern and Western Regions of Nigeria in 1946 by Order-in-Council No. 22 of 1946. The law was enacted for the Northern Region in 1958[19] and in Lagos State it was also adopted in 1970.[20] The law was enacted to make provision for the welfare of the young person and the treatment of young offenders and for the establishment of juvenile courts. It has since been adopted by most states of Nigeria.

However, this legislation proved inadequate in the protection of the Nigerian child and handling of juvenile offenders. As a result, the Child Rights Act[21] was enacted in 2003. This statute was modeled after the United Nations' Convention on the Rights of the Child (CRC)1989 which Nigeria had ratified in 1991. This legislation makes elaborate provisions for the protection of the Nigerian child, whether as a juvenile offender, victim, witness or otherwise. Since this Act was intended as a national legislation, many States have enacted their own Child's Right Laws, albeit with minor variations. This statute now forms the principal legislation on issues relating to the child in Nigeria.

However, Nigeria has also ratified several other international conventions which provide protection for children e.g. International Covenant on Civil and Political Rights (ICCPR) 1966, International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966, African Charter on Human and Peoples Rights (ACHPR) 1981,[22] and the African Charter on Rights and Welfare of the Child (ACRWC)1990.

Child Offenders and Juveniles – The Nigerian Perspective

The term 'child' is clearly a vague concept. Certainly, everyone is a child of some person but not everyone can rightly be regarded as a child. Thus, what constitutes the term 'child' must be garnered from the socio-cultural and

[18] Children and Young Persons Act (CYPA), Cap. 32 *Laws of the Federation of Nigeria and Lagos* 1958.
[19] It was enacted as the Children and Young Persons Law, Cap. 21 *Laws of Northern Nigeria* 1963.
[20] Children and Young Persons Law, Cap. 26 *Laws of Lagos State* 1973.
[21] Cap. C50 *LFN* 2004.
[22] Which was domesticated by Nigeria as the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9 *LFN* 2004.

legal points of view.[23] The common law generally regards any person under the age of 14 as a child.[24] The Constitution of the Federal Republic of Nigeria (CFRN) 1999[25] does not define the term 'child'. However, the Child's Rights Act, which is the current authority as regards the protection of children's rights in Nigeria, defines a child as "a person below the age of 18 years."[26]

Etymologically speaking, the term 'offender' is derived from the Latin word *offendere* which means 'to strike against'.[27] The Black's Law Dictionary, defines it as a person who has committed a crime[28] (including children and young persons).

There is no universal definition of a juvenile. The laws of different nations stipulate different age brackets for juveniles.[29] The Oxford Advanced Learner's Dictionary defines it as being "connected with young people who are not yet adults."[30] According to the Black's Law Dictionary, a juvenile is "a person who has not reached the age (usually 18) at which one should be treated as an adult by the criminal justice system."[31] Indeed, this definition is apposite the position under the Nigerian legal system. Thus, from the historical colonial linkage with the British legal system down to the current political dispensation, the term 'juvenile' has always been used in reference

[23] Under the Nigerian socio-cultural context, the definition of a child varies widely due to lack of uniformity in cultural systems. In some ethnic groups, a boy remains a child until initiated into an age-grade society or until he is old enough to contribute physically and financially to community development. In some other societies, childhood terminates at puberty - "Law and children's rights protection: the nexus for a sustainable development in Nigeria" available at <http://www.readperiodicals.com/20100 3/2061358691> last accessed on 3 April 2014.

[24] *Harrod v Harrod* (1854)1 K & J 4 at 16; *Re Carlton* (1945) 1 Ch.D 321; *Ogg-Moss v R* (1984) n2 SCR 173.

[25] Constitution of the Federal Republic of Nigeria 1999, Cap. C 23 *LFN* 2004 (as amended 2010).

[26] Child's Rights Act, above at note 19, s. 277.

[27] M Robinson *Chambers 21st Century Dictionary* (revised ed, 1999, Chambers) at 951.

[28] BA Garner *Black's Law Dictionary* (8th ed, 2004, West publishing Co.) at 1110.

[29] EEO Alemika & IC Chukwuma *Juvenile Justice Administration in Nigeria,* above at note 5 at 12.

[30] AS Hornby, *Oxford Advanced Learners' Dictionary of Current English* (7th ed, 2006, Oxford University Press) at 807.

[31] BA Garner *Black's Law Dictionary*, above at note 26 at 720.

to a child or young offender under 17 or 18 years[32] (depending on the State in Nigeria where the offence is committed).[33]

It is therefore clear that there is generally no difference between the terms 'juveniles' and 'child offenders' such that both can conveniently be used interchangeably. However, it must be noted that most juvenile statutes create a distinction between a 'child' and a 'young person' for purposes of differential treatment in the administration of juvenile justice.[34]

Rights of Child Offenders, Child Witnesses and Child Victims under the Nigerian Legal System

1. Rights of the Child Offender

It must be noted that special rights accrue to juvenile offenders, over and above their adult counterparts. This is in recognition of their peculiar nature and circumstances, and also, the need to correct and rehabilitate them instead of merely to punish them. These rights are without prejudice to the general rights granted to offenders under the Nigerian legal system.

a. Bail of Juvenile Offenders

By section 35(1)(c) CFRN 1999:

> … every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save … in accordance with a procedure permitted by law… for the purpose of bringing him before a court … upon a reasonable suspicion of his having committed a criminal offence….

Indeed, such a person shall be brought before a court of law within a reasonable time otherwise, he shall be entitled to be released either unconditionally or upon such terms as are reasonably necessary to ensure that he appears for trial at a later date.[35] However, it must be noted that these

[32] Generally, the Southern States adopt the age of 17, while the Northern States adopt the age of 18 - Children and Young Persons Law, Cap. 22 *Laws of Cross River State* 1979, s. 2; Children and Young Persons Law, Cap. 23 *Laws of Katsina State* 1990, s. 2.

[33] AA Atere *Juvenile Institutions and Juvenile Corrections in Nigeria* (2010, NOUN) at 3.

[34] S. 2 of the Children and Young Persons Laws of the various States defines a child to mean "a person under the age of 14 years" and a young person as "a person below 18 years".

[35] CFRN 1999, above at note 23, s. 35(4). Note that the expression 'reasonable time' as used in the provision means one day (in the case of a person arrested or detained at a place where there is a court of competent jurisdiction within a radius of 40 kilometers) or a period of two days or such longer period as may be considered by the court to be

provisions do not apply to a person arrested or detained upon a reasonable suspicion of having committed a capital offence.[36] The above provisions apply to both adult and child offenders.[37]

Similarly, section 3 of the CYPA provides for the release of a juvenile offender, apprehended with or without warrant by a police officer. Such release may be on a recognizance entered into by him or by his parents or guardian, with or without sureties, for such an amount as will in the opinion of the officer, secure the attendance of such person upon the hearing of the charge. This bail condition, however, does not apply to a person: (a) accused of homicide or other grave crime; or (b) to situations where it is necessary in the interest of such person to remove him from association with any reputed criminal or prostitute; or (c) to a situation where the officer has reasons to believe that the release of such person would defeat the ends of justice.

The Child Rights Act adopts a more comprehensive approach to this issue. It incorporates the entire provisions of Chapter IV CFRN 1999 which includes section 35 above stated.[38] Furthermore, it makes more elaborate provisions for bail of child offenders. Thus, it provides that whenever a child is apprehended, his parents or guardian shall immediately be notified or where it is not possible to notify them immediately, same must be done within the shortest possible time after the apprehension of the child.[39] The court or police as the case may be, must without delay, consider the issue of release[40] and in any contact between the police and the child, there must be respect for the legal status of the child and his interest and well-being must be promoted. Harm to the child must be avoided regarding his situation and the circumstances of the case. [41] For this purpose, harm includes the use of harsh language, physical violence, exposure to the environment, etc.[42] Thus, it may safely be asserted that unlike the position under the Constitution and the CYPA, in the determination of bail conditions for child offenders under the

reasonable (in any other case) – S. 35(5), CFRN 1999, above at note 23; *Eda v Commissioner of Police* (1982)3 NCLR 219.

[36] CFRN 1999, above at note 23, s. 35(7).

[37] *Eda v Commissioner of Police,* above at note 33.

[38] Child Rights Act, above at note 19, s. 3(1).

[39] S. 211(1)(a)(i) & (ii).

[40] S. 211(1)(b).

[41] S. 211(1)(c)(i),(ii) & (iii).

[42] S. 211(2).

Child Rights Act, the interest and well-being of such child offenders are of paramount importance.

b. Pre-trial Custody or Detention of Child Offenders

Section 5 of the CYPA enjoins "the Inspector General of Police to make arrangements for preventing so far as practicable, a child or young person (until the age of 17) while in custody, from associating with an adult charged with an offence."[43] Section 7 deals with the remand or committal to custody of juvenile offenders, and specifies the conditions of custody or remand. It provides that:

> A court on remanding or committing for trial a child or young person who is not released on bail, shall instead of committing him to prison, commit him to custody in place of detention provided under this Act and named in the commitment, to be there detained for the period for which he is remanded or until he is thence delivered in due course of law; provided that in case of a young person it shall not be obligatory on the court so to commit him if the court certifies that he is of so unruly a character that he cannot be safely so committed, or that he is of so depraved a character that he is not a fit person to be so detained.

It will appear that the intent of the law is to ensure that young offenders are not detained in prisons, except in exceptional circumstances. Also, the law makes a distinction between the child and young person. For example, the detention of a child in prison is prohibited, while that of a young person is excused under exceptional circumstances. The places of detention referred to in many sections of CYPA are remand homes, approved institutions including borstal institutions and prisons. Section 15(3) provides that where no remand home is conveniently situated, a child or young person ordered to be detained in custody may, at the discretion of the officer or the court, as the case may be, be detained in an approved institution or in a prison: provided that if a child or young person be detained in a prison, he shall not be allowed to associate with adult prisoners.

Under the Child Rights Act, a child shall not be detained pending trial except as a last resort and it must be for the shortest possible time.[44] Wherever it is possible, detention should be replaced by alternative measures such as close

[43] This is in line with art. 37 (c) of the CRC.
[44] Child Rights Act, above at note 19, s. 212(1)(a).

supervision, care by, and placement with a family or in an educational setting or home.[45] However, while in detention the child should be given social, educational, vocational, psychological, medical and physical assistance that he may require having regard to his age, sex and personality.[46]

c. Right of Juvenile Offenders to Trial by Special Courts

Section 6 of the CYPA provides for the establishment of a Juvenile Court for the purposes of hearing and determination of cases relating to children or young persons. The court shall be constituted by a magistrate sitting with such other persons (if any) as the Chief Judge of the state shall appoint.[47] Indeed, the Juvenile Courts have powers, where it appears to them that the person charged or to whom the proceedings relate is of the age of 17 years or upwards, to continue with the hearing of the case, if the court thinks it undesirable to adjourn the case.[48] To ensure that cases involving children and young persons are handled only by the Juvenile Court, section 29 empowers any court before which a person is brought otherwise than for the purpose of giving evidence, if it appears to the court that such a person is a child or young person, to make due inquiry as to the age of that person; and for that purpose the court shall require the production of a birth certificate or other direct evidence as to the date of birth and in the absence of such certificate or evidence, a certificate signed by a medical officer in the service of the government giving his opinion as to such age.

A court when hearing charges against children or young persons shall, unless the child or young person is charged jointly with any other person not being a child or young person, sit either in a different building or room from that in which the ordinary sittings of the court are held or on different days or at different times from those at which the ordinary sittings are held.[49]

Indeed, it appears from the provisions of section 6 and 29 of the Act that there are two approaches to the establishment of juvenile courts in Nigeria. The first approach, which is adopted in Lagos State, envisages a special building for juvenile justice administration. In most of the other states in Nigeria, the second approach is popular. The magistrates hear cases involving juveniles outside the normal courtrooms or outside normal court

[45] S. 212(1)(b).
[46] S. 212(2).
[47] S. 6(1).
[48] CYPA, above at note 16, s. 6(3).
[49] S. 6(2).

sessions either in the courtrooms or in their chambers. The second approach often results in some difficulties because a magistrate, in the process of handling both adult offenders and juvenile delinquents, may lose sight of the procedure to be adopted.[50]

Under the Child Rights Act, no child shall be subjected to the criminal process or to criminal sanctions and where a child commits an act that would have amounted to a criminal offence were he an adult, he shall be subjected only to the child justice system and processes set out in the Act.[51] The Act establishes for each state of the Federation a Family Court for the purposes of hearing and determining matters relating to children.[52] The Child Rights Act provides that the court shall be at two levels - (a) as a Division of the High Court at the High Court Level; and (b) as a Magistrate Court at the Magistrate Court Level. The Court, subject to the provisions of the Act, has unlimited jurisdiction to hear and determine civil matters regarding the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim in respect of a child.[53] It also has unlimited jurisdiction to hear and determine any criminal proceeding 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.[54] The Court at the High Court Level has the power, inter alia, to deal with all offences punishable with death or terms of imprisonment for up to ten years or more and to hear appeals from the Court at the Magisterial level.[55] Appeals shall

[50] H Ijaiya "Juvenile Justice Administration in Nigeria", above at note 6 at 576.

[51] Child Rights Act, above at note 19, s. 204. It appears that this is contrary to the provisions of section 6(3) of CYPA which provides that where in the course of any proceedings in any court other than a Juvenile Court it appears that the person charged or to whom the proceedings relate is under the age of seventeen years, nothing in this section shall be construed as preventing the court if it thinks it undesirable to adjourn the case, from proceeding with the hearing and determination of the case. It is submitted that by virtue of the doctrine of implied repeal (as expressed in the Latin maxim – *leges posteriores priores contrarias abrogant*), the provisions of the Child Rights Act is deemed to prevail over that of the Childrens and Young Persons Act – *Stop Youth Addiction Inc. v Lucky Stores Inc.* 950 P.2d 1086, 1096 (Cal. 1998); *Vauxhall Estates Ltd. v Liverpool Corp.* (1932)1 KB 733; *Ellen Street Estates Ltd. v Min. of Health* (1934)1 KB 590. This view is also supported by the fact that the provisions of section 6(3) of the CYPA is inconsistent with the entire spirit of the CYPA whose provisions were meant to confer jurisdiction in all matters involving juveniles only to Juvenile Courts established under that Act.

[52] Child Rights Act, above at note 19, s. 149.

[53] S. 151(1)(a).

[54] S. 151(1)(b).

[55] S. 152(4) & 153(5).

lie to the Court of Appeal on any matter decided by the Court at the High Court Level.[56] One important thing that has been introduced by the Child Rights Act is the requirement that every Judge, Magistrate and other judicial officers appointed to the Court shall be trained in sociology and behavioural sciences to ensure effective administration of the child justice system. They shall also receive in-service training, refresher courses and other instructions necessary to maintain professional competence.

d. Procedure for Trial of Juvenile Offenders

Section 6(5) of the CYPA provides that in a Juvenile Court, no person other than the members and officers of the court and the parties to the case, their solicitors and counsel, and other persons directly concerned in the case, shall, except by leave of the court, be allowed to attend, although bona fide representatives of a newspaper or news agency shall not be excluded, except by special order of the court.[57] The CYPA states that provision shall be made for preventing persons apparently under the age of 17 years whilst being conveyed to or from court, or whilst waiting before or after their attendance in court, from associating with adults charged with or convicted of any offence other than an offence with which the person apparently under the age of 17 years is jointly charged or convicted.[58] No person shall publish the name, address, school, photograph, or anything likely to lead to the identification of the child or young person before a Juvenile Court, except with the permission of such court or in so far as is required by the provisions of this Act and a person who acts in contravention of the provisions of this subsection is liable to a fine of one hundred naira.[59]

By section 8(1) of the CYPA, where a child or young person is brought before a Juvenile Court for an offence, it shall be the duty of the court as soon as possible to explain to him in simple language the substance of the alleged offence. Where a child is brought before a Juvenile Court for any offence other than homicide the case shall be finally disposed of in such court, and it shall not be necessary to ask the parent whether he consents to the child being tried by the Juvenile Court.[60] After explaining the substance of the alleged offence the court shall ask the child or young person whether

[56] S. 152(5).
[57] CYPA, above at note 16, s. 6(5).
[58] S. 6(4).
[59] S. 6(6).
[60] S. 8(2).

he admits the offence.[61] If the child or young person does not admit the offence, the court shall then hear the evidence of the witnesses in support thereof and at the close of the evidence-in-chief of each witness, the court shall ask the child or young person, or if the court sees fit, the child's parent or guardian, whether he wishes to put any questions to the witness.[62] If the child or young person instead of asking questions wishes to make a statement he shall be allowed to do so but it shall be the duty of the court to put to the witnesses such questions as appear to be necessary and the court may put to the child or young person such questions as may be necessary to explain anything in the statement of the child or young person.[63]

If it appears to the court that a prima facie case is made out, the evidence of any witnesses for the defence shall be heard, and the child or young person shall be allowed to give evidence or to make any statement.[64] If the child or young person admits the offence or the court is satisfied that it is proved, he shall then be asked if he desires to say anything in extenuation or mitigation of the penalty or otherwise. Before deciding how to deal with him, the court shall obtain such information as to his general conduct, home surroundings, school record, and medical history, as may enable it to deal with the case in the best interest of the child or young person, and may put to him any question arising out of such information.[65] If the court decides that a remand is necessary for purposes of obtaining such information, the court may cause an entry to be made in the court records that the charge is proved and that the child or young person has been remanded and the court before which a child or young person so remanded is brought may, without further proof of the commission of the offence, make any order in respect of the child or young person which could have been made by the court which so remanded the child or young person.[66]

By section 9 of the CYPA, where a child or young person is charged with any offence, his parent or guardian may in any case and shall if required by the court attend the court before which the case is heard or determined during all the stages of the proceedings and the court may make such orders as are necessary for the purpose of enforcing attendance. By section 10(1), where a

[61] S. 8(3).
[62] S. 8(4).
[63] S. 8(5).
[64] S. 8(6).
[65] S. 8(7).
[66] S. 8(8).

child or young person is charged before any court with any offence for the commission of which a fine, damages, or costs may be imposed, and the court is of opinion that the case would be best met by the imposition of a fine, damages, or costs, whether with or without any other punishment, the court may in any case, and shall if the offender is a child, order that the fine, damages, or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child or young person. Where a child or young person is charged with any offence, the court may order his parent or guardian to give security for his good behaviour.[67] Where a court thinks that a charge against a child or young person is proved, the court may make an order on the parent or guardian under this section for the payment of damages or costs or requiring him to give security for good behaviour, without proceeding to find the child or young person guilty of the offence.[68]

Under the Child Rights Act, where the acts of a child amount to a criminal offence the parent or guardian must attend all stages of the proceeding. The court may even make an order requiring them to attend.[69] The child's right to fair hearing and other due process must be observed during trial.[70] Indeed the procedure established by the child justice system under the Act requires that during trial, the child's legal status must be respected, his best interest and well-being promoted and harm to him avoided.[71] The proceedings must be conducted in an atmosphere conducive enough to enable the child participate and express himself fully.[72]

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[67] S. 10(2).

[68] An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but, save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard. Any sums imposed and ordered to be paid by a parent or guardian under this section, or on forfeiture of any such security as aforesaid, may be recovered from him by distress or imprisonment in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child or young person was charged. A parent or guardian may appeal against an order under this section to the High Court - S. 10(3)-(6).

[69] Child Rights Act, above at note 19, s. 216.

[70] S. 214(1).

[71] S. 214(2).

[72] S. 215(1)(a).

In constituting a court handling a matter concerning a child, consideration must be given to the circumstances and the needs of the child, particularly the age, sex, religion or other special characteristics of the child.[73] Moreover a child has the right to be represented by a legal practitioner and is entitled to free legal aid in the hearing and determination of any matter concerning him in the court.[74] No person except members and officers of the court, the parties to the case, their lawyers, parents or guardians and other persons directly concerned in the case shall be allowed to attend the court. Indeed members of the press are expressly excluded.[75] The identity of the child is to be strictly guarded so that it is not allowed to publish the name, address, school, photograph or anything likely to lead to the identification of the child whose matter is before the court.[76] A contravention of this rule is an offence which attracts a fine of fifty thousand naira or imprisonment for five years or to both such fine and imprisonment.[77]

Respect for the child's right to privacy at all stages of child justice administration in order to avoid harm being caused to him by undue publicity or libel is further reinforced by section 205 of the Act. Consequently no information that may lead to the identification of a child offender shall be published and the records of such a child must be kept strictly confidential.[78] They must not be used in adult proceedings in subsequent cases involving the same child offender.[79]

The fundamental rights of the child must be respected and therefore he must be presumed innocent and be notified of the charges against him.[80] He has a right to remain silent and to have his parent or guardian present.[81] As much as possible, the court shall ensure that the child is not deprived of his personal liberty and it is only where he is found guilty of a serious offence involving violence against another person or of persistently committing other serious offences that the child may be personally restricted.[82] Hence a

[73] S. 154(3).
[74] S. 155.
[75] S. 156 (a-d). Indeed, the records of a child offender shall be strictly confidential – S. 205(3).
[76] S. 157(1).
[77] S. 157(2).
[78] S. 205(3)(a).
[79] S. 205(3)(c).
[80] S. 210(a) & (b).
[81] S. 210(c) & (d).
[82] S. 215(1)(d)(i) & (ii).

balance is struck between the child's interest and that of the public whose safety must also be protected. This apart however, the well-being of the child should be the guiding factor in the consideration of his case.

The child's parents or guardians while in the court are allowed to participate in the trial. They, like the child, may question witnesses and make statements if they so wish.[83] If the child admits the offence or the court is satisfied that the offence is proved, the court, before deciding on how to deal with him, shall obtain information as to his general conduct, home surroundings, school record, medical history etc, to enable it make a decision as to how best to deal with the child. A child who admits the commission of an offence may be remanded for the purpose of inquiry or observation. He will be remanded at a state government accommodation and where necessary the court will impose a security requirement, which means that the child in question will be placed and kept in secure accommodation. However, a security requirement can only be imposed in respect of a child who has attained the age of 15 years and who is charged with or has been found to have committed a violent or sexual offence, or an offence for which an adult can be imprisoned for up to 14 years or more. Such an order can only be imposed where the child has a recent history of absconding while remanded at a state government accommodation and is charged with or has been found to have committed an offence punishable with imprisonment while he was so remanded, and the court is of the opinion that only such an order would be adequate to protect the public from serious harm from the child. The state government may, when it deems fit, apply to vary or revoke any condition or requirement imposed under the order. This will depend on the progress made with the child who is under detention. The court has power to order a parent or guardian to pay the fine, damages or compensation or costs awarded by it. It may also order them to give security for his good behaviour.

e. Punishment of Juvenile Offenders

By section 11(1) of the CYPA, no child shall be ordered to be imprisoned. No young person shall be ordered to be imprisoned if he can be suitably dealt with in any other way such as probation, fine, corporal punishment, committal to a place of detention or to an approved institution, or otherwise.[84] A young person ordered to be imprisoned shall not be allowed to associate with adult prisoners.[85] By section 12 of the CYPA, sentence of

[83] S. 216(1) & (2).
[84] CYPA, above at note 16, s. 11(2).
[85] S. 11(3).

death shall not be pronounced or recorded against an offender who had not attained the age of 17 years at the time the offence was committed, but in lieu thereof the court shall order the offender to be detained during the President's pleasure and if so ordered, the provisions of section 302 of the Criminal Procedure Code shall apply.[86] Where a child or young person is found guilty of an attempt to commit murder or of manslaughter, or of wounding with intent to do grievous bodily harm, the court may order the offender to be detained for such period as may be specified in the order, and where such an order is made, the child or young person shall, during that period, be liable to be detained in such place and on such conditions as the Minister may direct, and whilst so detained shall be deemed to be in legal custody.[87] By section 14 of the CYPA:

> Where a child or young person charged with an offence is tried by a court, and the court is satisfied of his guilt, the court shall take into consideration the manner in which under the provisions of the CYPA or any other Act the case should be dealt with, namely, whether-
>
> a. by dismissing the charge; or
> b. by discharging the offender on his entering into a recognisance; or
> c. by so discharging the offender and placing him under the supervision of a probation officer; or
> d. by committing the offender by means of a corrective order to the care of a relative or other fit person; or
> e. by sending the offender by means of a corrective order to an approved institution, or by ordering the offender to be caned; or
> f. by ordering the offender to pay a fine, damages, or costs; or
> g. by ordering the parent or guardian of the offender to pay a fine, damages, or costs; or
> h. by ordering the parent or guardian of the offender to give security for his good behaviour; or

[86] Cap. C42 *LFN* 2004.
[87] CYPA, above at note 16, s. 13.

i. by committing the offender to custody in a place of detention provided under this Act; or
j. where the offender is a young person, by ordering him to be imprisoned; or
k. by dealing with the case in any other manner in which it may be legally dealt with.

By section 15(1) of the CYPA, the Minister or a local authority with the prior approval of the Minister, may establish remand homes and may make rules for the management, upkeep and inspection of the homes. Where a remand home is conveniently situated it shall be the place of detention for the purposes of the provisions of the CYPA.[88] Where no remand home is conveniently situated, a child or young person ordered to be detained in custody may, in the discretion of the officer or the court, as the case may be, be detained in an approved institution or in a prison, provided that if a child or young person is detained in a prison he shall not be allowed to associate with adult prisoners.[89]

By section 16 of the CYPA, the words 'conviction' and 'sentence' shall cease to be used in relation to children and young persons dealt with in a Juvenile Court and any reference in any Act to a person convicted, a conviction or a sentence shall, in the case of a child or young person, be construed as including a reference to a person found guilty of an offence, a finding of guilt or an order made upon such a finding as the case may be.

Under the Child Rights Act, a child offender shall be tried in the Family Court but the terms 'conviction' and 'sentence' shall not be used in relation to him.[90] The Child Rights Act also provides that no child shall be ordered to be imprisoned or subjected to corporal punishment or to the death penalty.[91] Death penalty shall also not be recorded against him. However, section 17 of the Criminal Code provides that "subject to the provisions of any other written law, the punishments which may be inflicted under this Code are death, imprisonment, caning, fine and forfeiture." Section 18 of the Criminal Code provides that "whenever a male person who, in the opinion of the court,

[88] S. 15(2).
[89] S. 15(3).
[90] S. 213(2).
[91] S. 221(1)(a), (b) & (c).

has not attained 17 years of age has been found guilty of any offence, the court may, in its discretion, order him to be caned in addition to or in substitution for any other punishments to which he is liable.[92] These provisions of the Criminal Code are clearly not in conformity with Section 221(1)(b) of the Child Rights Act and it appears that the Child Rights Act will prevail over that of the Criminal Code since the provisions of the latter are made subject to the provisions of any other written law.

2. Rights of Child Witnesses

It must be stated that no special rights accrue to child witnesses under Nigerian law, such that they only benefit from whatever protection that the law affords witnesses generally. Thus, no child who gives evidence shall be compelled to disclose any confidential communication which has taken place between him and a legal practitioner consulted by him, unless he offers himself as a witness in which case he may be compelled to disclose any such communications as may appear to the court necessary to be known, in order to explain any evidence which he has given, but no others.[93] In other words, communications between the child and his legal practitioner are privileged and evidence of same cannot be compelled unless the child gives evidence as a witness, in which case, only such parts of the communication as are necessary for the explanation of whatever evidence the child has given can be compelled.[94] The legal practitioner of a child cannot be compelled to disclose any such confidential communication unless with the child's

[92] The Penal Code and the Sharia Penal Code applicable in different Northern states generally allows caning as a form of punishment.

[93] Evidence Act 2011, s. 195. *Lyell v Kennedy* (1883) App. Cas. 86; *Jones v Central Railways* (1910) AC 45; *Wheeler v Le Merchant* (1881)17 ChD 675. However, it must be noted that this does not extend to confidential communications between the witness and other classes of professionals eg doctors, accountants, etc. – *R. v Gibbons* (1823) LC & P 97; *Chantery, Martin & Co. v Martin* (1953)2 WB 286. Note that for the privilege to arise, there must be a relationship of solicitor-client such that when the solicitor is merely consulted as a friend, no privilege attaches to any communication between him and the child – *Smith v Daniel* 44 LJ Ch 189. The communications must also have passed during the subsistence of that relationship. Neither those before or after the relationship has ceased are privileged, although the relationship of solicitor-client may exist independently of any retainer. – *Greenough v Gaskell* (1833)1 My & K 98; *Minter v Priest* (1930) AC 558.

[94] However, it must be noted that communications made in furtherance of any illegal purpose or facts showing that a crime or fraud is to be committed are not privileged otherwise, a prospective juvenile may seek legal advice to escape being caught by the law - *R. v Cox and Railton* (1884)14 QBD 153.

consent,[95] such that the mere fact that the child gives evidence in the suit or proceeding, whether at his own instance or otherwise, shall not be deemed to amount to consent on his part for the legal practitioner to disclose such confidential communication. If any party to the suit or proceedings calls such legal practitioner as a witness, the child shall be deemed to have consented to such disclosure only if he questions the legal practitioner on such matters.[96]

Furthermore, by virtue of section 183 of the Evidence Act, no child who gives evidence is bound to answer any question if the answer to it would, in the opinion of the court, have a tendency to expose him to any criminal charge, or to any penalty or forfeiture which the judge regards as reasonably likely to be preferred or sued for. However, where the child is charged with an offence, and testifies as a witness in pursuance of section 180 of the Evidence Act, he may be asked and is bound to answer any question in cross-examination notwithstanding that it would tend to incriminate him as to the offence charged.[97] Also, the child witness shall not be excused from answering any question only because the answer may establish, or tend to establish that he owes a debt or is otherwise liable to any civil suit either at the instance of the Federal, State, or Local Government or any other person.[98] Moreso, a child witness shall not be excused at any inquiry by the direction of the Attorney-General of the Federation or of a State, under Part 49 of the Criminal Procedure Act from answering any question required to be answered under section 458 of that Act.[99]

3. Rights of Child Victims

The role of the child victim in the juvenile justice system is increasingly gaining prominence in the Nigerian legal system. Hitherto, attention was centered principally on the offender and the protection of society while the victim of crime was left to his plight. According to Oputa, JSC, "justice is not a one way traffic. It is not justice for the accused only. Justice means justice for the person accused of a crime; justice for the victim, and finally justice for the society at large"[100] Certain rights accrue to child victim under the Nigerian legal system. Thus, penal enactments in Nigeria contain

[95] Evidence Act, above at note 91, s. 192.
[96] S. 194.
[97] S. 183(a)*; Boyle v Wiseman* (1855)10 Ex. 647; *Ex parte Fernandez* (1861)30 LJCP 321.
[98] Evidence Act, above at note 91, s. 183(b).
[99] S. 183(c).
[100] *Godwin Josiah v The State* (1985)1 NSCC 132.

provisions empowering the court, upon conviction of an offender, to award compensation to the victim(s) of the crime, whether or not they are children. Section 78 of the Penal Code provides that any person who is convicted of an offence may be adjudged to make compensation to any person injured by his offence and such compensation may be either in addition to or in substitution for any other punishment. Similarly, section 270(1) of the Criminal Procedure Act[101] provides that where any person is convicted of having stolen or having received stolen property, the court convicting him may order that such property or part thereof be restored to the person who appears to it to be the owner thereof, either on payment or without payment by the owner to the person in whose possession such property or a part thereof then is, of any sum named in such order. Section 261 of Criminal Procedure Act provides that where in a charge of stealing or receiving stolen property, the court is of the opinion that the evidence is insufficient to support the charge, but that it establishes a wrongful conversion or detention of property, the court may order that such property be restored and may also award damages. By section 356 of the Criminal Procedure Code,[102] whenever under any law a criminal court imposes a fine, the court may in passing sentence order that in addition, the offender shall pay a sum compensating in whole or in part the victim for the injury caused by the offence; or compensating an innocent purchaser of the property which is the subject of the offence and who has been compelled to give it up; or for defraying the medical expenses of any person injured by the accused in connection with the offence.

Furthermore, by section 17(1) of the Child Rights Act, a child may bring an action for damages against a person for harm or injury caused to the child willfully, recklessly, negligently or through neglect before, during or after the birth of that child. This provision essentially guarantees the right of the child to adequate compensation for any injury caused to him. By section 41 and 42 of the Child Rights Act, a child is entitled to have a child assessment order or an emergency protection order respectively made in his favour when there are reasonable grounds to believe that he is suffering or likely to suffer significant harm. Such an order entitles the child to be removed from his usual place of abode for purposes of examination and other measures directed at protecting the child. By section 44 of the Child Rights Act, a child is entitled to be taken into police protection where there is reasonable cause to believe that he is otherwise likely to suffer significant harm. By section 45

[101] Cap. C41 *LFN* 2004.
[102] above at note 84.

of the Child Rights Act, where a state government is informed that a child who lives, or is found, in the state is the subject of an emergency protection order, or has been taken into police protection; or has reasonable cause to suspect that a child who lives, or is found in the state is suffering, or is likely to suffer, significant harm, the state government shall make, or cause to be made, such enquiries as it considers necessary to enable it to decide whether it should take any action to safeguard or promote the welfare of the child. Pursuant to such enquiries, where the state government concerned concludes that it should take action to safeguard or promote the welfare of the child, it shall take that action, if the action is within its power and it is reasonably practicable for it to do so.

By section 50 of the Child Rights Act, a child development officer, a police officer or any other person authorized by the Minister may bring a child before the court if he has reasonable grounds for believing that the child is an orphan or is deserted by his relatives; or has been neglected or ill-treated or battered by the person having the care and custody of the child; or has a parent or guardian who does not exercise proper guidance and control over the child; or if found destitute, has both parents or his surviving parent undergoing imprisonment or mentally disordered or otherwise severely incapacitated; or is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child; or is the daughter of a father who has been convicted of the offence of defilement or indecent treatment of any of his daughters; or is found wandering or has no home or settled place of abode, is on the street or other public place, or has no visible means of subsistence; or is found begging or receiving alms, whether or not there is any pretence of singing, playing, performing, offering anything for sale or otherwise or is found in any street, premises or place for the purpose of begging or receiving alms; or accompanies any person when that person is begging or receiving alms, whether or not there is any pretence of singing, playing, performing, offering anything for sale, or otherwise; or frequents the company of a reputed thief or common or reputed prostitute; or is lodging or residing in a house or the part of a house used by a prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage or favour the seduction or prostitution of the child; or is a child in relation to whom an offence against morality has been committed or attempted; or is otherwise exposed to moral or physical danger; or is otherwise in need of care, protection or control; or is beyond the control of his parents or guardians. The court, if satisfied that a child brought before it falls within any of the above, may cause the parent or guardian of the child to

enter into a recognizance to exercise proper care and guardianship over the child; or make a corrective order committing the child to the care of any fit person whether a relative or not, who is willing to undertake the care of the child; or send the child to an approved institution in exceptional circumstances where a non-institutional measure is impracticable or inappropriate. The court may, without making any other order, or in addition to making any of the above orders, make an order placing the child for a specified period, not exceeding three years, under the supervision of a supervision officer, or of some other person appointed for the purpose by the court.

Findings and Recommendations

Having made an in-depth analysis of the rights of child offenders, witnesses and victims under Nigerian law, the following observations become glaring:

1. The legal framework in Nigeria does not provide for a mandatory report by a probation officer on the background and circumstances of a child offender. This results in a situation where the court trying the juvenile has no knowledge of the background and peculiar circumstances of the juvenile. This is unlike the situation in Ghana where by section 24 of the Juvenile Justice Act, the Juvenile Court must order for a social enquiry report to be made and submitted by a probation officer who shall visit the home of the juvenile, which report shall be taken into account by the court trying the juvenile.[103]
2. No provision is made for diversion of less serious offenders away from the criminal justice system. Thus, no matter how slight the child's misfeasance is, provided it amounts to an offence, he is subjected to the full wrath of the law. This is unlike the situation in Ghana where by section 25 of the Juvenile Justice Act, the court, after the consideration of the social enquiry report, shall decide whether the juvenile charged with an offence should be diverted from the criminal justice system with or without conditions.[104]
3. Nigerian law does not provide for one-stop child justice centres that provide integrated services such as probation, police and diversion services. This leads to situations where bureaucratic bottlenecks cause undue delay in the juvenile justice administration process.

[103] The social enquiry report shall include particulars on the background of the juvenile, the present circumstances of the juvenile, the conditions under which the offence was committed and recommendations for sentence.

[104] See also the South African Criminal Procedure Act No. 51 of 1977, s. 6.

4. The current legal framework in Nigeria does not afford adequate protection to child witnesses. First, a child below 14 years cannot give sworn evidence and thus, in the absence of corroboration, the probative value attached to such evidence is highly impugned.[105] The law does not provide that the child be allowed to give evidence by whatever means that is best convenient for him/her. There is no provision for the use of intermediaries or the taking of the child's evidence in camera so as to reduce the level of contact between the child and our usually hostile adversary adjudication procedure.
5. The rights of child victims are poorly articulated and provided for under existing law in Nigeria. This is quite unlike the situation in South Africa where there are series of legislations that specifically guarantee and protect the rights of child victims.[106]

In view of the above observations, the following recommendations are made towards enhancing juvenile justice administration in Nigeria:

1. The legal framework in Nigeria should be amended to provide for the preparation and submission of a probation officer's report on the background and circumstances of a child offender. This will equip the court trying the juvenile with adequate background information on the child. After the trial of the child but before his conviction (if he is adjudged guilty), a preliminary inquiry should be held by the court towards ascertaining the most suitable punishment for the child based on the probation officer's report.
2. Provisions should be made for diversion of less serious offenders away from the criminal justice system whilst allowing for the fast-tracking of children charged with serious offences through the courts. Comprehensive guidelines should be developed on diversion in which

[105] Evidence Act 2011, s. 175 & 209. Even where the child is 14 years and above, he must pass certain preliminary tests, otherwise, corroboration will still be required - *Okon v The State* (1988) 1 NWLR (pt. 69) 172; *IGP v Suara Sunmonu* (1957) WRNLR 23; *Ogunsi v State* (1994)4 NWLR (pt. 322) 10; *Onyegbu v The State* (1995)4 NWLR (pt. 391) 510; *Mbele v The State* (1990)4 NWLR (pt. 145) 484; TA Aguda *The Law of Evidence* (1999, Spectrum Law Publishing) at 301 – 304; F Nwadialo *Modern Nigerian Law of Evidence* (2nd ed, 1999, University of Lagos Press) at 465.

[106] Children's Act No. 38 of 2005; Children's Amendment Act 41 of 2005; Child Justice Act No. 75 of 2008; Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, etc. The totality of the rights accruing to victims (both adult and children) under South African law is articulated in the Service Charter for Victims of Crime in South Africa (The Victims Charter) 2004.

the roles and limitations of community members, police and probation officers/social workers are clearly defined.

3. One-stop child justice centres that provide integrated services such as probation, police and diversion services under one roof should be established all over the country so as to make the overall machinery of juvenile justice administration available at the grassroots.
4. The guidelines and rules for the arrest, detention and investigation of suspected child offenders as set out in the Beijing Rules,[107] the Riyadh Rules,[108] the CRC and the ACRWC should be reduced into a handbook for use as reference material by the police training school, law enforcement officers and child protection personnel. This will make them acquainted with the law on juvenile justice administration and enhance the overall efficiency of the system.
5. All matters involving children should be handled and investigated by a single unit within the police. Such special unit of the police should be spread all over the country and its personnel trained in relevant skills needed for juvenile justice administration.
6. The Family Courts and the Juvenile Courts should be transformed into superior courts of record and taken over by the Federal Government. They should be well-funded so as to enable them function better. Adequate awareness should be created about the availability of these courts and their role in juvenile justice and other matters related to the child in Nigeria.
7. Remand homes for juveniles should be provided where they are non-existent and the existing ones should be rehabilitated and provided with adequate security, health, educational and recreational services. Staff of the remand homes should be trained in counseling, mediation, substance abuse and prevention, etc. This will help rehabilitate the children sent to such homes.
8. All victims of abuse should have access to free medical services from hospitals and health centres. The general public should also be sensitized on the current legal framework available for handling cases of child victims. There should also be an amendment of the Nigerian law to adequately articulate and address the rights of child victims.
9. There should be an amendment of the current legal framework to adequately address the issue of child witnesses. Such amendment

[107] The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) 1985.

[108] United Nations Guidelines for the prevention of juvenile delinquency (Riyadh Guidelines) 1990.

should make the evidence of a child seised with rational intellect at par with the evidence of an adult (whether or not the child gave evidence on oath). Moreso, the child should be allowed to give evidence by whatever means that is best convenient for him/her. The use of intermediaries should be allowed, as well as the taking of the child's evidence through closed circuit monitor so as to reduce the level of contact between the child and our usually hostile adversary adjudication procedure.

10. Government in partnership with other stakeholders should organize programmes that would prevent children from committing crimes. This could be done through the creation of job opportunities, recreational facilities, peer mediators etc. Government must find ways of improving the living conditions of parents so that they can adequately cater for the basic needs of their children.
11. Each state legislature should enact a Child Rights Law modeled after the Child Rights Act. This is primary evidence that the rights and welfare of children is being taken seriously. The Federal Government should set up a special fund for the implementation of the Child Rights Act /Laws. In addition, the annual budget of states must reflect a genuine commitment towards enhancing the rights and welfare of children. Education should be a priority, with the construction of more schools, refurbishment of old ones, purchase of books and other educational tools as the primary focus.

Conclusion

It is undeniable that the philosophy and principles underlying juvenile justice administration, with particular emphasis on the rights of child offenders, child witnesses and child victims are of immense value to every legal system and indeed, the entire human race. Indeed, the fact that children are persons in their own right and possess rights and obligations which have to be considered and respected by both administrative and judicial authorities cannot be over-emphasized. Little wonder that all recent legislations, especially human rights instruments dealing with children emphasize the fundamental rule that in all issues involving a child, the overall best interest of the child should be the paramount and guiding consideration.

It is however pitiable that despite the rich and attractive legal framework existing on the international sphere, and also, the not so-adequate statutory provisions obtainable in Nigeria as regards the issue of child rights, it appears that no concrete steps are being taken towards the implementation of these

rights. Indeed, issues relating to the rights of the child in Nigeria are better considered as textbook theories with no pragmatic application to the everyday life of the Nigerian child. To this end, the Nigerian child is greatly brutalized, victimized and unjustly treated by a legal system that has callously continued to show remarkable indifference to his overall welfare. As an offender, recourse is not had to the philosophy underlying juvenile justice administration which requires the juvenile to be seen as a victim in need of help, rather than as an offender who deserves retributive judgment. Indeed, in the so-called juvenile courts (*i.e.* where one does exist), it is difficult to determine any difference between the trial of adult offenders in regular courts and the procedure adopted in the juvenile courts. As a witness, the child is brought into close contact with a brutish adversary system of adjudication and under cross-examination, is exposed to the fury of the 'battle-hardened' counsel who care for nothing more than the defence of their client. To this wise, they pose questions to the child witness in a manner and in an atmosphere which seriously affects the psychological disposition of the child. As a victim, the position of the Nigerian child is nothing to write home about. Till date, the Family Courts which are expected to take care of such cases are yet to commence sittings. Payment of compensation to victims of crime (children inclusive) is unheard of in our jurisprudence, in that in cases were an offender is made to make payment, such payment usually is in form of fine which is made payable into government coffers, without any recourse to the victim. It is these and many more that has reduced the Nigerian child to the position of a second class citizen in his own country.[109]

If such ugly situation is to be made history, then the time is now. The Nigerian state must become alive to reality. Sentiments and lip-service must be done away with. There should be a total overhaul of the juvenile justice administration system in line with the international standards. The justice system, whether criminal or otherwise, must at all times be guided, *inter alia*,

[109] Indeed, it is arguable that the society is the root cause of criminality such that the explanation for juvenile delinquency lies in the structure of the society. Society includes within itself the germs of all the crimes committed and produces the necessary facilities for the development of those germs. It is the society, in some measure, that prepares these crimes, and the juvenile is merely the instrument to execute them. Every society therefore supposes a certain number and order of crimes as the necessary consequences of social organization. The wisdom in this observation is that the society will do well to organize itself in such a way that it will generate minimal amount of juvenile delinquencies rather than divert scarce resources towards criminalization of deviants in a criminogenic social system.

by the overriding principles of non-discrimination, the best interests of the child, the child's right to life, development and fair hearing. In order to make these principles a reality, all relevant international rules must be incorporated into our domestic law. Indeed, the interpretation of our domestic laws related to child matters must be approached from the fundamental assumption that the legislature never intended to legislate contrary to international standards on such matters. Without such wholehearted and concerted efforts on the part of the Nigerian state, the problems confronting her growing population of children may continue to pose insurmountable challenges.