



An Account of the Practice Juvenile Justice in Nigeria Setting, Its Challenges and Recommendation

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Abstract

Judiciary is one of the three main arms in the Nigerian government after the executive and the legislative arms. This paper is and is an attempt to study what is known as the juvenile justice system in Nigeria, the history of the system, the objectives, the stages, the challenges and administration of the system in the Nigerian government. There are so many system of law and practices of justice in Nigeria since the independence of the Country to date and this juvenile is one or part of the system of justice in this Country.

Keywords: *Juvenile, Justice, Account, Practice, Recommendation.*

Introduction

Juvenile justice administration can be described as a system of justice established by the government, through statutory enactments, to take care and charge of persons defined as juveniles. It presupposes a system which is established by government to take care of persons/people within a stipulated age bracket who happen to be involved in one crime or the other.

Juvenile justice system focuses on establishing a pattern of social justice for children brought before courts of law or otherwise coming into contact with the law. It seeks to provide separate courts and flexible alternatives to imprisonment. It proceeds on the premise that the rights and needs of children are different from those of adults and that this

should be reflected in way they are treated. Juvenile justice therefore emphasizes rehabilitation instead of punishment, prevention rather than retribution, as the principal goals of the justice system. Further, it advocates special procedures, distinct correctional facilities for children in conflict with the law and deinstitutionalization for minor offences.

Definition

Juvenile justice has been referred to as “the unwanted child of State responsibilities” meaning that children in conflict with the law are not high on government agendas, and many countries are failing to implement international standards for upholding the rights of children in juvenile justice systems. This is still the case in 2007, with many of the Committee on the Rights of the Child’s concluding observations revealing stark failures in upholding the rights of children in conflict with the law.

Legal History of Juvenile Justice System

It is important to understand the history of juvenile justice in order to contextualize current developments. Juvenile justice concept was first introduced with a separate juvenile court in the United States of America in 1899 more than 100 years ago (Marilyn D. & Frank P, 2003). Afterwards, twenty more states formed special courts for children between 1899 and 1909, and by 1945 every state formed some kind of juvenile court that embodied elements of positive schooling and rehabilitation process. Over the course of time, juvenile justice system has been introduced in almost all the countries of the civilized world (Siddique, 1997). The international attention about the protection of children came in 1923 through Geneva Declaration under the aegis of League of Nations. After the establishment of the UNO in 1945, children were included in the human rights agenda and various legal instruments for their protection. Gradually juvenile justice system was formulated throughout the world (Hoque, 2009).

While eighteen years have passed since the adoption of the United Nations Convention on the Rights of the Child (CRC), the global progress made in terms of guaranteeing the rights of children in juvenile justice systems has been very uneven. Not all States Parties have child-centered, specialized juvenile justice systems for all children up to the age of 18, which are comprehensive and separate from adult criminal justice systems, and have rehabilitation and social

reintegration as their primary aims, in accordance with their obligations under the CRC. Children should be diverted away from judicial proceedings whenever possible and redirected to community support services; and, detention of children should always be a measure of last resort and for the shortest period of time.

Objectives of Juvenile Justice

The two most important objectives of juvenile justice

The first objective is the promotion of the well-being of the juvenile. This is the main focus of those legal systems in which juvenile offenders are dealt with by family courts or administrative authorities, but the well-being of the juvenile should also be emphasized in legal systems that follow the criminal court model, thus contributing to the avoidance of merely punitive sanctions.

The second objective is "the principle of proportionality". This principle is aimed at avoiding punitive sanctions, mostly expressed in terms of just deserts based on the gravity of the offence. It emphasizes the fact that the response to young offenders should be based not only on considerations of the gravity of the offence but also on the child's personal circumstances. The individual circumstances of the offender (for example social status, family situation, the harm caused by the offence or other factors affecting personal circumstances) should influence the proportionality of the reactions (for example regard may be had to the offender's endeavour to indemnify the victim or to her or his willingness to turn to a wholesome and useful life).

Administration of Juvenile Justice in Nigeria

This booklet¹⁶ examines the law and practice relating to the administration of Juvenile Justice in Nigeria. It notes that the concept of juvenile justice is anchored on the recognition of the rights of the child to growth, protection and effective participation in society. And that It is intended to be corrective as well as preventive. In Nigeria however, these ideals are fast losing their importance in the system of administration of juvenile justice. This is because of the neglect of this aspect of the justice system and dwindling resources devoted to it. There is also the problem of lack of specialist skills required for effective administration of juvenile justice. The report proffers suggestions for improving the situation.

In addition to problems such as high-level corruption, fraud and international money laundering, the whole Nigerian society, in particular the urban areas, has been directly affected by the high incidence of armed robbery, the frequent assault on the streets, abductions and disappearances, and the rise of phenomena such as violent campus cults, gangs and vigilantism. Children are both victims and in some cases perpetrators of such criminal activities

Stages of the Juvenile Justice administration in Nigeria

The juvenile justice system can be divided into three stages. These stages differentiate the phases which a child offender passes through.

1. The Pre-Trial Stage
2. The Trial Stage
3. The Post- Trial Stage

The Pre-Trial Stage

This is where the juvenile first comes in direct contact with the justice system. When a juvenile comes into contact with the law enforcement agencies, the juvenile offender should be managed in such a way as to respect the legal status of the juvenile, promote his or her well-being and avoid harm to him or her with regard to the circumstances of the case.¹⁰ The pre-trial stage consists of arrest, detention and processing of bail.

Challenges of Juvenile Justice

In many countries around the world for example, a significant number of children are housed in adult penitentiaries. Children housed with adults are five times more likely to be sexually assaulted, twice as likely to be beaten, and 50% more likely to be attacked with a weapon than children housed in juvenile facilities.

However, the following are some of the challenges;

1. The Legal Definition of ChildDetermination of the age of children is a significant challenge in the legal system of Nigeria. The definition of a child is not uniform in the laws of Nigeria.
2. Age of Criminal Responsibility: Age of criminal responsibility is most important factor to treat the children as a juvenile delinquent.
3. Arrest of Children: Clear directions are available in the Children Act 1974 regarding arrest of juvenile offenders. In practice these legal

directives are not always being followed. Often children are deprived of their basic rights during the period of arrest and face abuse and maltreatment by the police officer which are violation of international standards (Workshop 2007). Further, police officers are empowered to arrest a person, if he is accused of a cognizable offence under the Code of Criminal Procedure 1898.

However, in practice this authority is rarely used, reportedly because police are unaware of the law, or do not have the resources to trace parents. The harsh reality however remains that children are commonly tried in the same courts as adults and are subjected to similar sentencing practices including incarceration for minor offences. Worse still, children from less privileged backgrounds often face harsher treatments than their counterparts from more privileged socio-economic circumstances.

This highlights harsh realities of our remand homes and so-called correctional facilities in this country. It observes that the Nigerian criminal justice system has completely missed the road in the handling of juveniles. It advocates better treatment of children through the proactive implementation of the standards embodied in the Child Rights Act, the Convention on the Rights of the Child and several other international instruments with a view to improving the welfare of children and reducing the number of those who might take to a lifestyle of criminality and threat to society in future.

Recommendation

- i.** Ensure the respect for basic rights immediately after the arrest and to right to habeas corpus in relation to children who are put in Center for Reception-Transit of Children and to special schools
- ii.** Amend the legislation to ensure that the decision on pre-trial detention is made by a judge and not a prosecutor
- iii.** Ensure that pre-trial detention is used only in exceptional cases;
 - 1.** The gravity of crime a child is accused of cannot be the only reason for applying pre-trial detention;
 - 2.** Other measures should be considered first and the reasoning why they can/cannot be applied is described in written form by the investigator, prosecutor and judge

- iv. Ensure access to a lawyer at all stages and eliminate all obstacles in regulations and practice when a defense lawyer's actions depends on the decision of an investigator
- v. Urgently improve conditions in pre-trial detention, including Temporary Detention Facilities (KPZ) of the Ministry of Internal Affairs
- vi. Ensure that the terms of pre-trial detention are respected, are as short as possible, and that children are separated from adults at all stages.
- vii. Preventing Juveniles from Coming into Conflict with the Law
- viii. Training and Capacity Building
- ix. Funding

Conclusion

Juvenile justice administration in Nigeria suffers from several inadequacies: legal, policy planning, implementation, education and research. There are no well-established and adequately equipped institutions and coherent programs for dealing with juvenile offenders and preventing juvenile delinquency in the country. Prior to the promulgation of the Child's Right Act, the legal and institutional framework were those inherited from the colonial government. The law predated the evolution of contemporary international standards and as a result, many of the laws on the treatment of juvenile offenders did not conform to those international standards. They therefore did not provide adequately for the rights of the child or young person brought within the criminal justice system; denied the child the benefits of humane treatment, and relevant educational, vocational and social opportunities for self-actualization. There was therefore an urgent need for a critical evaluation of the laws, policies, programs and institutions dealing with juvenile offenders in Nigeria to bring the country in line with the principles and rights that conform to international standards.

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