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Juvenile Justice Administration and Child Prisoners in Nigeria

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Abstract

This article looks at the juvenile justice administration and child prisoners in Nigeria and finds that while there has been an uptick in juvenile crime, there are no meaningful provisions for juvenile offenders in Nigeria despite the fact that provisions exist within Nigeria's legal framework. The article also shows that juvenile offenders are in most cases, lumped with adult offenders, leading to their being hardened criminals and inhibiting rehabilitation. The article makes use of secondary data such as articles and newspaper publications, and is discussed based on the frustration-aggression theory. The article recommends the creation of separate institutions for the trial and rehabilitation of juveniles. The article also calls for more effort on the part of parents, Non-Governmental Organizations, and the government in order to reduce juvenile crime.

Keywords: Child Prisoners, Juvenile Justice System, Juvenile Administration, Delinquency

Introduction

Juvenile delinquency is a clear and present danger in Nigeria. While there have been some debates about the challenges posed by juvenile delinquency and child prisoners, there seems to be no end in sight given Nigeria's inefficient juvenile justice system. In the words of Adegoke (2015), the issue of juvenile delinquency is an age long problem; it seems that the juvenile delinquency of the past cannot be compared with that of the present era. The anti-social behaviors often associated with the juvenile delinquents, such vices as vandalism, drug abuse, weapon carrying, alcohol abuse, rape, examination malpractices, school violence, bullying, cultism, truancy, school drop-outs, to mention but a few. Obviously, unless something is done to roll back the wave of juvenile offenders, the prospect of a better, safer and more prosperous society emerging in Nigeria will remain elusive.

Delinquency and crime are morally, politically, economically and socially constructed symbols and conditions. Furthermore, the definition of delinquency and concern about it,

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usually reflect the confusion over such terms like a child, a teenager, an adolescent, a juvenile and a youth. There is also confusion about how to deal with problems of adjustment to the various pressures encountered by children and young persons. The society selectively attributes equal as well as diminished responsibility to young persons in different areas of life, resulting in confusion over appropriate behavior expected of young persons (Alemika & Chukwuma, 2001, p. 13). Relatedly, Muncie (1999, pp. 80-81) argued that what actually constitutes ‘young offending’ is in a constant process of reinvention and redefinition. In the early nineteenth century, the juvenile delinquent was created in the midst of wider concerns about unemployment, lack of discipline and moral degeneration. In the early twentieth century, the troublesome adolescent was invented in the midst of concerns for ‘boy labor’ street leisure and imperialism. In the mid twentieth century, notions of troubled offenders were constructed reflecting the increased presence of welfare agencies and professionals at the time. Social concern may be persistent and recurring but the practices, issues and concepts through which it is articulated are subject to change.

According to Adeboye (2015), the term “juvenile delinquency” was established so that young lawbreakers could avoid the disgrace of being classified in illegal records as criminals. Adeboye (2015) went further to define juvenile delinquency as the resistant antisocial, illegal or criminal behavior by children or adolescents to the level that it cannot be controlled or corrected by the parents, endangers others in the community and becomes the concern of law enforcement agency. Similarly, Edet (2012) saw juvenile delinquency as a crime committed by a young person under the age of 18 years as a result of trying to comply with the wishes of his peers or to escape from parental pressure or certain emotional stimulation. In the words of Chukwuma (2001, p. 12), “juvenile delinquency is the violation of the criminal codes regulating the behavior of young persons in the society”. Relatedly, Shoemaker (2010, p. 3) as recorded in Ugwuoke and Duruji (2015) defined juvenile delinquency as “illegal acts, whether criminal or status offences, which are committed by youth under the age of 18”. Also, Muncie (1999) defined juvenile delinquency as “any act in violation of criminal law, committed by a person defined under law as a juvenile, which if had been committed by an adult will be treated as crime or criminal conduct”.

In view of the above, Igbo (2007, p. 84) noted that:

Children and young persons are not only immature physically and mentally, they can hardly distinguish between right and wrong. Their idea of right and wrong depends on the nature and extent of the socialization process. They are not as rational as adults in making decisions. Whereas very often, children and young persons act before thinking, adults generally think before acting (p.84).

In this regard, the children and young offenders are seen as persons who are immature physically and mentally, that is why the juvenile justice system is established to provide the opportunity for proper reformation and reintegration of these children and young offenders into the larger society by making them part ways with crime. It is expected to give them directions that will enable them live normal lives again and inculcate in them the need to be law-abiding. This is done through teaching them marketable vocational

skills, teaching them moral education and providing them the opportunity to receive formal education especially for the disadvantaged and vulnerable ones among them, enhancing their familial ties and future employability and engaging members of the community so that they can feel accepted by the society.

However, it is disheartening to see that Nigeria's juvenile justice system is performing below expectations and has deviated from its established objectives. According to Bella, Atilola and Omigbodun (2010), despite the vocational and formal educational instruction that are put in place in order to realize the goals of reformation, rehabilitation and reintegration of the children and young offenders, these facilities have undergone a marked deterioration since the 1980's due to lack of proper policy, legal and institutional frameworks, gross under funding, inadequate staff, and lack of necessary training facilities.

The present article theoretically analyses the current situation of juvenile justice administration in Nigeria and the problems faced by the child prisoners in Nigeria and provides suitable recommendations to ameliorate the related issues.

1. Overview of the Juvenile Justice Administration in Nigeria

The need for effective rehabilitation and reintegration of juvenile offenders as good citizens in society calls for juvenile justice administration. Juvenile Justice Administration is described as a system of justice which is applicable to juveniles all over the world and which is different from the justice system applicable to adults (Ijaiya, 2009). According to Adofikwu (2017), the term juvenile justice refers to laws and procedures as they relate to criminal offenders who are not yet adults. It involves the treatment of juvenile offenders, the efforts to understand the root of their criminal behavior and ways to prevent such behavior. Upholding human rights principles and standards is at the heart of the rule of law including justice for children. This therefore means that there is the need for a separate system of justice for juveniles because of their obvious peculiarities.

Alemika and Chukwuma (2001, p. 14) argued that the juvenile justice system may be regarded as a track within the criminal justice system of a society. The criminal justice system consists of several tracks –adult and juvenile process, and the rich and poor tracks to justice. Adult and juvenile tracks of justice administration were purposively designed and officially recognized. However, the differential tracks for the poor and wealthy are invisible and formally unrecognized, indeed denied, because to recognize class-based tracks of justice, will negate the ideology of equality of all (poor and rich) before the law. But in all societies, the poor are more likely to be arrested, detained, denied bail, convicted and sentenced to severe or harsh terms of punishment more than their wealthy and politically influential counterparts. The juvenile justice system is guided by a philosophy of concern, care and reformation. Young offenders are deemed to be immature and should not be treated as adult offenders. On the contrary, juvenile delinquents should be considered 'misguided' and therefore rescued or subjected to treatment, or reformation and rehabilitation programmes within correctional institutions (Alemika & Chukwuma, 2001, p. 14).

The current system of juvenile justice in Nigeria is modeled after Nigeria's colonial past (Eteete, 2013). Most of the laws guiding juvenile justice administration in Nigeria were entrenched by the British, Nigeria's colonial master "whose philosophy on justice required a repressive legal system with oppressive penal institutions whose aim was to deter and

punish offenders, as their disobedience to law was deemed detrimental to colonial interests" (Alemika & Chukwuma, 2001).

The laws on juvenile justice administration in Nigeria include the Constitution of the Federal Republic of Nigeria (1999; 2011), the Children and Young Persons Law (CYPL, 1958), the Penal Code, Criminal Procedure Code, the Child Rights Act, 2003. Prior to the 2003 Child Rights Act, Nigerian child protection was defined by the Children and Young Persons Law (CYPL). Originally the law was passed by the Colonial Government in 1943 and revised and incorporated into Nigeria's Federal Laws in 1958 (formerly chapter 32 of the Laws of the Federation of Nigeria and Lagos). However, its legal provisions fell short of the international standard. However, while Nigeria is a signatory to CRC and AUCRWC, the Conventions have not been incorporated into domestic law and thus have no legal force in Nigeria (Dauda, 2016).

Generally, the juvenile justice system is comprised of those concerned with the apprehension, adjudication, and correction of delinquent behavior of juveniles. Therefore, the police, the court, the prison, and remand homes are the mainstream of juvenile justice administration. They are interwoven in their functions (Dauda, 2016).

2. Child Prisoners in Nigeria

According to Ekot (2013), a report by the African Union on the rights and welfare of the Nigerian child found an estimate of 6,000 children living in prisons and detention centers. He argues further that, "Despite a government order to identify and release such children and their mothers, authorities had not done so by year's end" (Ekot, 2013).

In the same vein, Vanguard (2013) asserted that as at March 31, 2013, there were 69 babies and 847 juveniles in the Prisons system in Nigeria, making a total of 916 children in Nigerian prisons. Vanguard (2013) also noted that it is an anomaly for children to be incarcerated alongside their mothers in unsanitary conditions given the deplorable and unhygienic conditions of detention facilities in Nigerian prisons. These children are denied the chances of having a normal childhood with no provision by the government to ensure that those within school age have access to education.

Vanguard (2013) further argued that women and children in the Nigerian prisons across the country are plagued with several concerns. These issues range from minors serving time or awaiting trial alongside adult detainees in the same prison facility, pregnant women serving time in prisons, to the more disturbing reality of nursing mothers incarcerated alongside their babies in the prisons. Vanguard (2013) also noted that in Katsina state, a female detainee has been on death row alongside her infant child for two years. It is noteworthy that she was sentenced to death for an offence she was alleged to have committed as a minor. In view of the foregoing, Nyoroh (2012) noted that it is unfortunate that we have a situation where children were left to live in the prison environment with no parental care in Nigeria. Okagbue (n.d) noted that it is evident that the welfare and best interests of young offenders are not adequately preserved and protected in Nigeria. The reasons range from outdated legislation to poorly trained and insufficient personnel, inadequate facilities and lack of resources.

According to Irin news (2012), children who were either born in jail or were taken along by jailed parents because there was no one outside to look after them usually lack educational and recreational facilities, proper health care and the special diets that infants and nursing mothers require. Matters are compounded by the fact that their presence in prison is not legally recognized by the authorities.

3. The Problem

The increasing rate of children and young person's getting involved in criminal activities in Nigeria poses a great threat to the peace, security and harmony of the society. Perhaps that is why Onyemachi (2010) noted that in the past, children were known to be involved in minor offences ranging from stealing some pieces of meat from the cooking pot to robbing their peers and playmates of their foods or toys. But nowadays, a lot of children have been found to have graduated from such minor offences to more serious crimes, such as rape, girl-child prostitution, drug trafficking, armed robbery, arson and vandalism, child-soldiering, suicide bombing and other acts of terrorism (Onyemachi, 2010).

Similarly, despite the challenges being faced by Nigeria as a result of the rising rate of crime among young offenders, the institutions that are set up to reform these children and young offenders are performing below expectations. There are instances where these children and young offenders become hardened and more criminal minded after being to these institutions. It should also be noted that these institutions are overcrowded with minimal available care. It is in this regard that Edet (2016) noted that the Nigerian juvenile justice services are grossly inadequate, in quantitative and qualitative terms, to meet the rights of the juveniles. These inadequacies impair the capacity of the courts, police, remand homes, approved institutions and borstal home, to meet the United Nations Rules and Guidelines as well as other international standards on the treatment of juvenile offenders. The inadequacies which are due to policy defects, inadequate funding, incoherent and punitive programs reduced these institutions to fortresses of punishment instead of correctional and rehabilitation institutions. Many Nigerians barely know about the existence of these services. Relatedly, Adegoke (2015) observed that in present day Nigeria, the fear of crime permeates every aspect of human live. This includes violent crimes such as aggravated robberies, rape, drug abuse, hijacking and bank heists, which are mainly committed by juveniles. In fact, a careful analysis of the scenario by experts and scholars reveals that the trend is still on the increase.

In the words of Ugwuoke (2015), the juvenile services in Nigeria suffer great knocks where most parents, the police, and judicial officers saddled with the responsibility of Juvenile Justice Administration are hardly aware of the array of laws, protocols and conventions that have been promulgated to safeguard the fundamental rights of juveniles in judicial processes. The abuse can be more felt where most juveniles that are taken to police stations are just thrown into the cells where hardened criminals are kept. The police quite often do not make efforts to trace and inform the parents of these juveniles of their having ran afoul of the law. Adetilo (1990) noted that in 1989, out of 26,259 crimes committed as recorded by the Lagos state police command, 13,782 of them were committed by young persons between the ages of thirteen (13) and twenty one (21) years. Such crime ranges from shop looting, drug abuse, fighting, raping, stealing, etc. Also, Okagbue (n.d) observed that it is evident that the welfare and best interests of young offenders are not adequately preserved and protected. The reasons range from outdated legislation to poorly trained and insufficient personnel, inadequate facilities and lack of resources.

Dauda (2016) observed that juvenile offenders are often tried, jailed and incarcerated with adults instead of being given reform-oriented, non-custodial forms of punishment. This treatment goes contrary to international and national legal framework guiding the

administration of juvenile justice (Saad, 2008). Surprisingly, there have been efforts to review juvenile justice services and recommendations and suggestions have been made by scholars, professional bodies and non-governmental organizations on how to better the operation of juvenile justice administration in Nigeria but little or nothing has been done in terms of implementation.

4. Challenges facing Child Prisoners and Juvenile Justice Administration in Nigeria

According to UNICEF (2009), at least 73 percent of the children in custody are first offenders. The prisons are congested so juveniles are usually not separated from adult, hardened criminals, contrary to the provisions of the law. They also face all the hazards and dehumanizing conditions of incarceration, including poor feeding and clothing, exposure to disease, and the risk of physical and sexual abuse. Irin news (2002) noted that police officers often falsified the ages of juvenile offenders to pass them off in court as adults, in order to avoid adhering to the legal requirements for their treatment.

UNICEF (2009) further argued that remand homes are sometimes used as a dumping ground for children that do not fit anywhere else. It is also observed that the poor living conditions at the remand homes constitute a violation of the children's rights to health, nutrition, education and recreation. According to the organization, lack of appropriate medical treatment can be said to be seen in the children's skin rashes and sores. In some cases, the older children are said not to go to school or receive any education at remand homes because of lack of facilities including teachers.

In the words of Obidinma and Obidinma (2012), in spite of election campaign promises, there are no known borstals or residential facilities for the reformation of juvenile offenders whose interest or welfare does not exist in the scheme of the government. This is why juvenile offenders are often detained together with adults who are in conflict with the law. Juvenile offenders are also either tried in open courts or they are remanded in prison custody indefinitely because the judicial officer is either totally ignorant of the procedure to be adopted or is confused about it. Either way, the juvenile offender suffers and this detracts from the philosophy of juvenile justice which is anchored on the recognition of the rights of the juvenile to survival, growth, protection and effective participation in the society. It destroys the guiding philosophy of correction, prevention and welfare of the juvenile. The few corrective institutions established by the Christian missionary organizations to cater for juvenile delinquents have dilapidated and no longer exist. This is not good enough. A report by Amnesty International (2012) showed that corruption among juvenile justice officers is militating against the reformation and reintegration of young offenders. Similarly, Irin news (2002) observed that the introduction of Islamic or Shari'ah law in parts of northern Nigeria has created new deficiencies in the administration of juvenile justice in Nigeria. Under Shari'ah, the age of criminal responsibility is taken to be either 18 years or puberty. In cases involving fornication or adultery, which may attract flogging or the death penalty respectively, the age of responsibility is set at 15. The implication is that, in cases where children reach puberty earlier than 18 years, no distinction is made between them and adults in dispensing Shari'ah punishments.

Discussion

Frustration- aggression theory developed by Leonard Berkowitz (1969) states that aggression is the result of blocking or frustrating a person's efforts to attain a goal. Against this background, it is not difficult to find a link among the social phenomena of juvenile justice administration and child prisoners in Nigeria. An observation of the Nigerian society, particularly of the dying decades of the 20th century and the dawn of the 21st century shows that Nigeria and the Nigerian juvenile justice system is pervaded with frustrating events and frustrating circumstances, one in which it could be said that frustration is endemic.

Also, frustration often pushes juveniles to crime. The unemployment rate in Nigeria remains very high by any standards while injustice and corruption remains prevalent. Parents and guardians find it difficult to adequately cater for their dependents. As a result, children are exposed to unwarranted hardship at their formative age. Consequently, they resort to crime due to frustration with a rigged system. The Boko Haram insurgents have widely made use of child soldiers and teenage suicide bombers (this is frequently reported in the news); this is because frustration at the lack of necessary structures necessary for optimal development has pushed juveniles to crime.

There is also frustration in the criminal justice system as laws promulgated are not enforced while reports suggesting improvements to the criminal justice system gather dust. These frustrating events and circumstances have hindered the ability of Nigeria's juvenile justice administrators to achieve their desired set goals. For instance, the reformation and rehabilitation facilities in remand homes, approved schools and borstal homes have deteriorated due to lack of proper policy, legal and institutional frameworks, gross under funding, inadequate staff, and lack of necessary training facilities. The juvenile courts, approved schools, remand homes and borstal institutions in Nigeria are bedeviled by poor performances, unnecessary delays and inefficiencies that made the juvenile justice administration in Nigeria to be a monumental failure and threaten their ability to deliver justice. It is also interesting to note that, the specific events that trigger delinquent behaviors among children and young offenders in our societies are usually the particular environment of a given society, and can often be seen to involve the frustration or denial some basic needs.

Conclusion and Recommendations

The administration of criminal justice for adults in Nigeria is already terrible, with insufficient facilities, overcrowded prisons; long time spent awaiting trial, and gross inefficiencies in handling cases. The fact that juveniles are somehow incorporated into this system that is inhumane even for the adults is unacceptable. While Nigeria's legal instruments recognize the existence of juveniles within the framework of criminal justice, provisions have not been made to deliver on these laws leaving child offenders lost in a repressive and highly punitive system that offers no rehabilitation.

The Child's Right Act (CRA) of 2003 is a valuable piece of legislation that is a great improvement from the previous repressive laws that were instruments of colonization. The CRA meets international standards for the procedures and punishments prescribed for juvenile offenders, the CRA calls for separate institutions for the trial and 'punishment' of child offenders and focuses on rehabilitation. However, despite the commendable provisions in the CRA, there has been no full implementation of the law as marked

separate institutions do not exist for the administration of juvenile justice. The status quo, rather than bring about the rehabilitation of juveniles, unwittingly ensures that these juveniles become hardened criminals after their stint with more criminal adult offenders with whom they were warehoused.

The CRA needs to be speedily implemented by Federal and State governments. Implementation of the CRA goes beyond the adoption of the Act in legislative houses but also requires the establishment of the structures, and abiding by procedures called for in the Act. There is also need to provide education and training to officials involved in the administration of juvenile justice (this was also called for by the CRA). Separate structures need to be established for juveniles, and the focus of juvenile justice administration should be on total rehabilitation, not retribution. In addition, government should partner with parents and Non-Governmental Organizations to reduce the rate of juvenile crime. The government can reduce frustration (which, as has been seen, contributes to juvenile crime) by ensuring that opportunities exist for employment, security, and development in an effort to reduce juvenile crime as there would be little motivation for juveniles to commit crime. Finally, while this paper is exploratory in nature, its purpose is to serve as the basis for future research. It is only through additional research that this important topic will be fully understood.

Acknowledgements

We wish to extend our profound gratitude to Innocent Okoro, who proved to be a very resourceful research assistant. This work would have been impossible were it not for the help of Dr. Curt Blakely, the Managing Editor of IJCJS, who was always available to provide clarifications and offer valuable insight.

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