ROLE OF FORENSIC PSYCHOLOGIST IN JUVENILE JUSTICE ADMINISTRATION: APPRAISAL AND IMPLICATIONS FOR LEGAL POLICY REFORM.

Abstract

This study advocates for integration of forensic psychologist in Nigerian Juvenile Justice Administration (JJA). This is germane because of its role in the system particularly in bringing justice to child's matters. The Child's Right Act, merely mentioned personnel with knowledge of psychology without considering the importance of integrating forensic psychologist in the system. This omission is a serious *lacuna* in the Childs Right Act, and must be corrected for effective juvenile justice administration in Nigeria. At court level, the forensic psychologist understands the language of the courts and the child, hence he has the expertise to translate psychological information into a legal framework and make recommendations to the court on the best treatment of the child. Apart from the court, the role of forensic psychologist is very crucial in police system because he has the ability to train and evaluate the police and other enforcement agencies on the administration of juvenile justice system. The methodology used is analytically, comparative and thematic in scope for instance other jurisdictions like United States of America, United Kingdom and South Africa were compared with Nigeria. The study discovered that Nigerian Juvenile Justice Administrative system comes short of global standard. Further, the study recommends that there should be total overhauling of Nigerian juvenile justice administration and review of our legislation particularly the Child's Rights Act. Again, the 1999 Constitution needs to be amended to reflect provisions that protect children at every stage of the process within the Juvenile Justice Administration. In addition, it is the recommendation of this study that forensic psychologist be employed in juvenile courts, police institutions and custodial institutions for effective administration of juvenile justice.

Key Words: Forensic Psychologist, Juvenile Justice Administration, Child Rights Act Legal Policy Reform

1.0 Introduction

The role of forensic psychologists in juvenile justice administration can never be over emphasized because of their constructive impact in the system. Hence, integrating them in the system will protect welfare of the child in every sphere. Basically, the forensic psychologist is a person who is trained to study a person's mind and how it works. Hence, he is armed with the requisite expertise to understand the child's need and language of the courts. Thus his position makes him very strategic in juvenile

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justice administration. While, the term juvenile justice means a track within the

criminal justice system, whose sole aim is to protect children within the criminal justice system. It focuses on three categories of children namely children in conflict with the law, children in need of care and children beyond parental control. However, for the purpose of this study, we shall focus only on children that are in conflict with the law and how forensic psychologist can be employed for effective administration of juvenile justice administration. The notion of juvenile justice is hinged on the principle of first call which stipulates that in every matter that concerns the child, his interest must be protected. Hence, the major aim of juvenile justice administration is to protect the child at all times even when he commits a serious offence like felony, he must not be punished like an adult but must be rehabilitated and integrated back into the society to make positive impact. Hence, the role of the forensic psychologist becomes very cardinal to actualize this paramount need. Consequently, the absence of forensic psychologist exposes the child to violence at each level of juvenile justice administration to wit: Police Institution, Court and Correctional Institution. This study argues that, justice elude many children or young person's because of absence of forensic psychologist that understands the psychology of children. In *COP v Friday Idehen,* a juvenile was sentenced to six months imprisonment with hard labour and one hundred naira fine for assault occasioning harm. However, on appeal the High Court of Benin noted that if the magistrate had taken account of his youth, he would have been persuaded that the accused is an adolescent youth who needed correction rather than punishment. Further, in *Oyeneye v C.O.P,*[90] a juvenile was equally sentenced to three years imprisonment .These anomalies can be traced to absence of forensic psychologist in our courts to direct the mind of the court on the best treatment to be given to the child .Hence, this challenge can be corrected by integrating them in the Court for effective juvenile justice administration. Apart from the Court, the rights of children within the police institution and correctional institution are also violated due to absence of forensic psychologist that is supposed to advise the staff on the best treatment of the child. Globally children are incarcerated with adult prisoners due to ineffective juvenile justice administration[91], for instance in Michigan an estimate of 6000 young people were reportedly locked in prisons and jails with adult prison inmates. Nigeria also records a total number of six thousand innocent children in prison. These children are sexually harassed by adult inmate and suffer ill health due to overcrowding in the prisons, for instance Ogwashi Ukwu prison in Delta State, with a capacity of 64 prisoners, housed 541,while Port Harcourt Prison with a capacity of 809 prisoners, held 2,955. Ijebi – Ode in Lagos with a capacity of 49 prisoners, held

[90](1983) 1 NCR245

[91] Ryan Grim, American Horror Story: Children Are Being Housed In Adult Prisons Across The Country.It Has To Stop.,HuffpostDaily,07/01/2015wwwhuffpost.com accessed 27/3/2020.

309.[92] Hence, the need for this study. The study seeks to correct the anomalies prevalent in our juvenile justice system due to absence of forensic psychologist by advocating for their integration in various arms of juvenile justice system, to wit, the Police Institution, the Family Court and Correctional Homes. The study will achieve its objective by answering the following questions: whether our legal frame work provides for the integration of forensic psychologist in the administration of juvenile justice system in Nigeria. Secondly, whether the role of forensic psychologist is needed in the system. Thirdly, whether there are factors that impede the role of forensic psychologist in the administration of juvenile justice in Nigeria. Fourthly, whether there is a nexus between the forensic psychologist and the juvenile justice administration.

2.0 Juvenile Justice and the Rights of the Child

Juvenile justice is a right of the child, which cannot be ignored because of its impact on the welfare of the child. This concept is anchored on the recognition of the rights of the child to growth, protection, survival and participation in the society. Juvenile justice being the right of the child must be corrective, preventive and advocacy oriented. Hence, the enactments of legal framework at the international, regional and national level are tailored to protect the welfare of the child. Also, to protect him from the highly technical, cumbersome and harsh nature of the procedure applied by ordinary courts, for instance taking evidence of a child victim and taking collaborative evidence especially in sexual offences. This is mainly because of the belief that juvenile administration would not be so much, in the determination of guilt or innocence and the application of penal sanction, but rather the determination of the most appropriate form of treatment that will be given to the child before the child would be integrated into the society.

Accordingly, Glanville Williams[93]opined that, 'the guiding principle in the treatment of children and young person is to have regard to their welfare and punishment may be irreconcilable. Based on this, our law prohibits the imprisonment of children. As far as the young person is concerned he can only be sentenced to a prison term where he is unruly in character or depraved. Whilst in prison, he shall not be allowed as far as it is practicable to associate with adult prisoners and death sentence cannot be imposed on a young person who has committed an offence punishable with death.[94] Hence, in the case of *Odidika Anor v the State* a 15 year old boy in association with adult criminal was saved and

[92] Ini Ekott, 6000. Innocent Children held in Nigerian Prisons, Premium Times, Saturday, March 28,2020

[93] W Glanville, quoted in G Shammlleger, Criminal justice Today: An Introduction Criminal Justice the Twenty First Century (7th edn, United States of America: Pearson Education Inc: 2003) p. 583.

[94]Africa Charter on the Rights of Welfare of the Child, 1990.

released at the pleasure of the Military Government Imo state on the ground that he was under 18 years, when he committed the crime. This decision collaborates legion of legal framework that provides for the welfare of the child in juvenile justice administration particularly, **Article 17 of African Charter on the Rights and Welfare of the child** provides inter alia that:

> Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and which reinforces the child's respect for human rights and fundamental freedom of others.[95]

The principle of juvenile justice provides that the child must be protected at all times including when he commits offence against the State. While the expression right, means that, which is proper under the law[96] something that is due to a person by a just claim. Accordingly, the term human right is a claim recognized as right not merely aspirations or moral assertions but, increasingly legal claims under some applicable law. Thus, *Kayode J.S.C* in *Ransome Kuti v Attorney of the Federation*[97], described human rights as rights which stand above the ordinary laws of the land and which in civilized society recognizes the existence of human rights as a social fact that can be viewed as normative responses to experiences of oppression and domination. In fact, they represent the minimum living standards for civilized humanity. They are won through struggles of the oppressed against their oppressors.

In the recent time, juvenile justice has metamorphosed from welfare to right issue. This can be traced to the reactions by the activities of humanitarian and penal reformers who reacted against the cruelty meted out on children under the guise of administering justice. In fact, prior to the 19th century, they were concerned, first, about increasing rates of delinquency and secondly about the handling of juvenile offenders.[98]It was the realization of the negative consequences of the punitive treatment of young offenders that spurred humanitarian and penal reformers to advocate for the protection and treatment of young offenders. They argued that young offenders should be given opportunity for correction. Guidelines that regulate the promotion and protection of the rights of the child and treatment of juvenile offenders to which Nigeria is a signatory,

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[95]*ibid*

[96]*ibid*

[97](1985)NWLR(Pt.6)230

[98] J. J. Barnard, cycle of Juvenile justice (1992) http://www.ncirgo/app)publications/abstrct, accessed on 3/5/2015

the Beijing Rules of the United Nations, Standard Minimum Rules for the Administration of the Juvenile Justice, the United Nations Convention on the Rights of the child which specifically, provide that state parties shall take all appropriate legislative, administrative social and educational measures to protect the child from all form of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse while in the care of parent(s) or any other person who has the care of the child.

3.0 Legal Framework on the Rights of the Child

3.1 International Legal Framework

3.1.1 United Nations Convention on the Right of the Child

This is most widely endorsed human rights treaty in history, ratified by all the state parties in the world except United States of America and Somalia. It focuses on upholding the best interest of the child, which includes the protection of economic, social and cultural rights of the child, for example it upholds the right to life, survival and development, particularly **Article 37 and 40** deal directly with the treatment of juvenile offenders by the government and its juvenile justice agencies. While **article 37** provides that state parties shall ensure that, no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. It provides that capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age. Hence, no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time and shall be treated with humanity and respect for the inherent dignity of the human person and in a manner, which takes into account the needs of persons of their age. While **article 40,** provides that state parties should recognise the right of every juvenile offender to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promotion, the child's reintegration and the child's assuming a constructive role in society. Further, the Act makes elaborate provision on the rights of the child, during trial. Hence, the right to be presumed innocent until the contrary is proved must be observed by the court, the right to be informed promptly and directly of the charges against him or her and other trial rights must be observed.[99]

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The Act in subsection (3) and (4) of **Article 40** made specific provisions on legal safeguards and practices for treating juvenile offender. It further provides

[99] *Ibid* Article 40 (1).

that state parties shall seek to promote the establishment of law, procedure, authorities and institutions, specifically applicable to children alleged as accused of or recognized as having infringed the penal law and in particular the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law[100]. Accordingly, appropriate and desirable measuring for dealing with such children without resorting to judicial proceeding are made, provided that human rights and legal safeguards. Furthermore, it provides that a variety of dispositions, such as care, guidance suspensions orders, counselling, probation, foster care, education and other institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate to both their circumstances and the offence[101]. However, despite the laudable provisions stipulated in this legislation, the rights of the child are still violated because of absence of forensic psychologist in the system.

3.1.2 United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Roles)

This rule pre-dates the Convention on the right of the child and encourages the use of diversion from formal learning to appropriate community programs specifically, **Rule 5** states that the aim of juvenile justice should be to emphasize the well-being of the juvenile and ensures that in any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offender and the offence. Thus, when a child is in conflict with the law, the focus should not be on the offence but on the circumstances that have led to the commission of

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the offence. Hence, the need to integrate forensic psychologist because he has the capacity to adequately evaluate the emotional and psychology of the child in order to ascertain the major reason for indulging in the offence and proffer the best solution. Further, the rule provides that specialized training should be given to all persons dealing with juvenile's cases. It encourages promotion of research as a basis for effective and policy formation. Hence, it is not out of place to make serious advocacy for the integration of forensic psychologist for effective administration of juvenile justice in Nigeria.

Furthermore**, Beijing Rules** represent the minimum conditions acceptable by the international community for the treatment of juvenile who have run afoul of the law while not formally binding on state, the rules were adopted by the General Assembly[102] United Nations Congress on the prevention of crime and

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[100]*Ibid* Article 40 (3)

[101]Ibid Article 40(4)

[102] United Nations Guideline for the prevention of Juvenile Delinquency (the Riyadh Guidelines) Article 1.

treatment of offenders. Although, the preamble to the rules recognizes that they may seem difficult to achieve in view of existing social economic, cultural political and legal condition, the Beijing Rules nevertheless provides the normative which all members of the international community should seek to attain. In fact, international Conventions, Charter, Guideline and Rule serve as juvenile justice administration. Hence, other member states are expected to align their laws and policies to international standards.

3.2 Regional Legal Framework

3.2.1 Organization of African Charter on the Rights and Welfare of the child (OAU Charter on the Rights and Welfare of the Child)

This charter recognizes that the child, due to his physical, mental development require particular care with regard to his health, physical, mental, moral and social developments and requires legal protection in conditions of freedom, dignity and security. Taking into consideration the virtues of their cultural heritage, historical background and the values of the African civilization which should inspire and characterize their reflection. Hence, the need for integration of forensic psychologist that will assist the system in dealing with children by taking cognizance of their cultural, social, and educational background.[103]

Further, the Charter, provides for the juvenile health and health services and noted that every child shall have their right to enjoy the best attainable state of physical, mental and spiritual health. Thus, the government shall integrate basic health services, programmes in national development plans to ensure that all sectors of the society, in particular, parents, children and community workers are informed and supported in the use of basic knowledge of child health and nutrition.

3.3 National Legal Framework

3.3.1 The Child's Right Act/Child Right Laws of Various States of the Federation

Legislation on Child's Right in Nigeria consists of the Child's Right Act 2003 (CRR), and the Child's Right Laws (CRLS) of the various state of the Federation, Part xx of the CRA **(section 204-238)** and the corresponding part and sections of the Childs Right Law provides for child justice administration, which has now replaced the Juvenile Justice Administration, which had been in existence in the various parts of the country for well over six decades. The Acts/Laws prohibit the subjection of any child to criminal justice process and to criminal sanction. Hence, the Family or Juvenile Court shall apply the justice model to child justice

[103] *Ibid* Article 11.

administration in Nigeria, thereby guaranteeing respect for the legal status and the fundamental rights of the child[104], including the rights to the observance of privacy, fair hearing compliance with due process[105] presumption of innocence,[106] the right to be notified of charges[107] to remain silent,[108] the right to have his parents or guardian present in legal proceedings[109]and the right to legal representation at all the stages of investigation[110] adjudication[111]and disposition[112] of the case[113]. These laws apply the welfare model that stipulates that every act (administration) should be given to the best interest and well-being of the child[114], the Act enjoins state parties to ensure that all proceedings be conducive so that the child should participate fully and express himself freely; throughout the proceedings .[115]However, these noble objectives are frustrated due to lack of forensic psychologist in the system, particularly at the police institution, court and custodial institutions.

3.3.2 The 1999 Constitution (as amended)

The 1999 Constitution makes lucid protection for children who are in conflict with the law as stipulated in Chapter (iv) of the Constitution and they include the following rights:

3.3.3 Right to Fairhearing

The Constitution provides the right of the child to fairhearing as stipulated in section 36 (a) of the 1999 Constitution, that an accused has right to be informed in the language he understands and in detail, of the nature of the offence with which he charged. This must be done prior to trial either at the point of arrest or at the beginning of trial that is, during arraignment[116]. Apart from that, the Constitution

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[104] Child's Right Act 2003 section 204.
[105] *Ibid* section 210.
[106] *Ibid* section 214 (1).
[107] *Ibid* section 210 (a).
[108] *Ibid* section 210 (b).
[109] *Ibid* section 210 (d).
[110] Section 211 and 212, CRA.
[111] *Ibid* section 213-232.
[112] *Ibid* section 220.
[113] *Ibid* section 210.
[114] *Ibid* section 214 (2) (b) and 215 (1) (a).
[115] *Ibid* section 204.
[116] *Mukailu v State* (2001) 2 NWLR (Pt.25) 765 *MAJA v State* (1980) 1 NCR 212, Kalu Uwainke D.C. "A Case for the Demise of the 'Holding Charge' in Nigeria Justice 'System', Benin Journal of Public Law, vol.5- 7 2007-2009 pp. 179-207 on some of these constitutional safeguards to fair trial as therein discussed- see CAP section 179, CPC section 218, *Umaru v the state* (2002) 9 NWLR (Pt. 771) 90 at 108-109; *Babaloa v the State* (1989) 7 S.C: (Pt.1) 94 at 102.

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provides the child should be given sufficient time to prepare for trial his defence. As it complements the right to fair hearing, the court in exercise of this power, should grant adjournment to every accused person either to obtain the services of a counsel or to call a witness that is material to his matter[117]. Another important provision is section (36) (6) (c) which stipulates that every accused has the right to defend himself in person or by a legal practitioner of his choice[118]. The court must inform the accused person of his right to be represented by counsel where he has none[119].However, in juvenile proceeding the child is denied this fundamental right, for example in taking evidence of the child with respect to sexual offences courts often violate the rights of the girl child due to lack of forensic psychology. In the case of **Sambo v State**, the appellant was charged with the rape of ten years old girl, the court took the evidence of the child on oath but did not take the evidence of the appellant but sentenced the accused. Furthermore, on appeal the Supreme Court held that before taking the evidence of a child the court must be satisfied that the child understands the nature of the oath knows the duty of telling the truth and possesses sufficient intelligence to understand the questions before her. This position is different in other jurisdictions where the services of forensic psychology are readily available. In United Kingdom, the court usually adopt a principle known as 'achieving best evidence'(A.B.E) to elicit the best evidence from the child without harming the child. Thus, in sexual offences the child may not be physically present; they use video camera, screen television, lay television links, communication and examination of the witness through an approved intermediary to uphold the welfare of the child. In the case of W(children),the court held that fair trial in child proceeding includes taking cognizance of all factors that relate evidence of the child which include the feeling of the child, hence where the child is reluctant to give evidence she should not be compelled to do so. This position is achievable in our Family Courts if the services of forensic psychology would be engaged. Infact absence of forensic psychologist has jeopardised the right to life and development[120]. The particular right is very cardinal because life is the foundation upon which all other rights are predicated and is most precious gift to every citizen, thus no one shall be deprived of his life. Furthermore, lack of forensic psychologist has also violated the child's right to dignity of human person and personal liberty as provided by the 1999 Constitution[121].

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[117]*Udo v The State* (1989) 3 NWLR 316 Yanor & Anor v The State (1965) 1 ANLR 193-316.
[118] CPA 204 section 2, 4, 6 and 23, *Awolowo v Sarki* (1966) 1 ANLR 178.
[119]*Arior v Elemo (*1983) SCNLR 1; Okon State (1995) 2 SCNJ 174.
[120]*Ibid.*
[121]*Ibid* section 38.

4.0 Challenges of Inherent in Juvenile Justice Administration

These challenges shall be discussed under the following heads: legal, cultural and social factors.

4.1 Legal Factors:

4.1.1 Lapses in 1999 Constitution (as amended)

Despite the lofty laudable provisions in international, regional and national level, the rights of the child to justice is still fraught with so many inadequacies, for example the 1999 Constitution particularly chapter (ii) specifically, **section 17 (3) (f)** provides that children young persons and the aged are protected against exploitation whatsoever, and against moral and material neglect. However, in practice these vulnerable ones are not protected against exploitation but are exposed to all kinds of abuse due to lack of implementation of Chapter (ii) of our 1999Constitution. Apart from that provision **section 12 (1) of 1999 Constitution** makes it practically impossible for any treaty between the federation and any other country to have the force of law except if such treaty has been enacted into law by the National Assemble. As if, those draw back were not enough, **Section 6 (6) (c)**[122] ousts the power of the court to entertain matters within (chapter ii) of the 1999 Constitution. The judicial powers vested in accordance with the foregoing provisions of this section shall not except as otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person or as to whether. The question is how it affects the child or the forensic psychologist employed to assist in the administration of juvenile justice system. The effect is that it creates a lee way for the violation of the child's right as those rights remain ornamental, consequently does not protect the child. Thus in *Fawehinin v Abacha***,**[123] the courts of Appeal held that, since the human rights provision of the African charter was protected by international law, the Federal Military Government cannot legislate out of it and military ouster clauses cannot affect the operation of the African Charter.

Accordingly, it is suggested that Nigeria, should borrow a leaf from other African countries like South Africa and Ghana and make our Chapter (ii) justifiable. In fact, the fourth Republic Constitution of Ghana 1992[124] relating to justifiable fundamental human rights and freedom provides for enforceable economic, educational and cultural rights. Specifically, **article 34 (2)** states that the president of Ghana is enjoined to report to parliament at least once a year steps taken to ensure realization of basic human rights, as regards to health, economy, the right to work, the right to good health care and the right to education. Similarly, the

[122]1999 Constitution (as amended)
[123](2000)6NWLR(Pt660)288
[124]*Ibid* Article 34 (2).

South African Constitution has provided for justifiable rights to employment, housing and shelter, healthy water, light, social and food.[125] Although, it is being argued that enjoyment of the ECOSOC rights can only be contingent on a good and prosperous economy, if the Nigerian economy is properly managed.

4.2 Non-Compliance/Implementation of the Law

The problem is not the law but implementation of various legal frameworks that are provided for administration of juvenile justice. In fact, the Constitution provides for plethora of rights such as right to fair hearing, right to protect the dignity of human person, however, in practice these lofty, provisions, are not complied with for instance, the Child's Right Act[126]provides that child proceedings should be conducted in camera and no child shall be subjected to criminal justice process or to criminal sanctions.[127] However, in practice, children mingle with adult prison inmates and are sanctioned like criminals. Thus in the case of COP v *Friday Idehen*[128], the accused offender was sentenced to 6 months imprisonment with hard labour or one hundred naira fine for assault occasioning harm by the trial court however, on appeal, the High Court of Benin observed that:

> If the magistrate had taken account of his youth he would have been persuaded that the accused is adolescent youth who needed correction rather than punishment.

In the above case, the appellant was charged with stealing a vehicle worth ten thousand naira, before sentence was passed, it was pointed out to the court, that the accused was young and a first offender. However, in *Oyeneye v C.O.P*[129] the court taking into account the prevalence of vehicle theft the Chief Magistrate sentenced him to four years imprisonment. While reducing the sentence to two years, **Justice Kuforiji observed that:**

> This court is of the view that the Chief Magistrate did not give these matters due consideration as required by the relevant authorities and that a 4 years jail sentence for a young offender is more likely to harden than reform and it is therefore against public interest. This shorter term while

[125]Fourth Republic of Ghana's Constitution 1992.
[126] Child's Right Act Section 205.
[127]*Ibid* section 204.
[128] (Unreported) B/BCA/71, High Court Benin.
[129] (1983) INCR 245.

> enabling the gravity of the offence and the reaction to the society to this serious and prevalent crime will also help to reform in.

The appellate court is highly commended for reversing the judgment of the trial court, thereby upholding the rights of the child. However, what will be the position where the juvenile cannot appeal? The answer is simple; he will suffer violation of his human rights. Further, the decision of the trial court would have been different, if there were forensic psychologist to direct the court appropriately in child matters. Apart from that, the Childs Right Act provides, that only Family Courts should entertain child's matter but the question is, how many states in Nigeria have adopted Child's Rights Act, eleven states in the North have not adopted it and they are Bauchi, Yobe, Kano, Sokoto, Adamawa, Borno, Zamfara, Gombe, Katsina and Jigawa. Consequently, the rights of the child remain a mirage to many children in Nigeria.[130]

4.2.1 The Structure of the Family Court

One of the factors that hamper the rights of the child under the juvenile justice administration is the structure of the Family Court, which exposes the child to violence. The Family Courts are not separate from the normal court and often times judges administer ordinary proceedings in Juvenile justice administration. In fact, it is only in the High Courts that Family Court operates in two levels but at Magistrate Court as a Magistrates Court, at the Sharia Court as Sharia Court. Hence, due to this structure, many children are denied justice because there is no separate court for children. Despite the provisions of Child's Right Act to establish Family Courts in Nigeria, only twenty states out of thirty states have ratified that, while many states in the Northern part of the country have given deaf ears to that, subjecting children to all manner of violence .Accordingly, it is recommended that Family Court be restructured to be child friendly ,for example the dock should be replaced with table conference, all the legal paraphernalia like wig and gown should be made away with, all the members of the court should be dressed normally, while forensic psychologist be employed to elicit best evidence from the child.

4.2.2 Cultural/ Traditional Practices:

Another factor that impedes the rights of the child, under our juvenile justice administration is obnoxious cultural and religious practices that violate the rights of children to justice. These practices conflict with the provision of child's legislation that provide for the adequate protection of the child. For example in Zamfara State a seventeen year old juvenile was subjected to one hundred and

[130]www.premiumesng.com/news/-news/more-news/329511-12....accessed on 29/6/2020

eighty lashes for indulging in pre-marital sex and becoming pregnant outside marriage.[131] While, Abdulahni Abubakar was equally amputated for stealing a bundle of textile material.[132]

4.2.3 Lack of Basic Facilities

The dearth of remand homes is a serious draw back in our juvenile justice administration. In fact reveals ardent dearth of remand homes and correctional institutions for juveniles, for instance only few states like Lagos, Benue Sokoto, Edo, Kaduna, Kano, Oyo, Rivers, Akwa-Ibom and Kogi have remand home. While Eastern states like Anambra, Enugu, Imo etc., do not have functional remand homes and this expose children to a lot of harm and violence because they are kept to mingle with adult prisoners in prisons. In the course of this study, it was discovered that a lot of children are languishing in Nigerian correctional centre. Hence, there is need for a paradigm shift in order to protect the child offender.

4.3.1 Lack of Research and Training of Juvenile Justice Administrators

The study reveals that in service training or refresher courses are not given to juvenile justice administrators. Research and training of administrators will provide enabling environment for the forensic psychologist to function. It is therefore suggested that appropriate modes of instruction should be given to administrators of juvenile justice system in Nigeria, particularly; knowledge of psychology can help to educate these personnel in handling children.

5.0 The Role of the Forensic Psychologist in the Juvenile Justice Administration vis avis the Institutional Framework.

Generally, forensic psychology entails the application of clinical specialties to legal institution and study of people who come in contact with the law. It emphasizes the application of research and experimentation in other areas of psychology (cognitive, psychology, social psychology) to the legal arena. It involves the application of results from studies in areas such as cognitive psychology to legal questions. Hence, forensic psychologist helps in child custody evaluation, screening and selection of law enforcement applicants, the assessment of post-traumatic stress disorder and the delivery and evaluation of intervention and treatment programs for juvenile offenders. Hence, forensic psychologist uses investigation, research studies, assessment, consultation design and implementation of treatment programs and expert witness in court rooms'

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[131] Human Rights Violating under Sharia in Northern , available at http://wwwhrw.org accessed on 30/9/2016.

[132] This Day vol. 8 No 2495 of 30th February 20002 p.5.

testimony. They utilize current research and practice based knowledge in forensic developmental psychologist to improve the judicial and juvenile justice system.

5.1 The Role of Forensic Psychologist in the Court

The forensic psychologist assists judges and attorneys to make important decision about minors involved in the juvenile justice system. Hence, by virtue of their expertise, they make forensic evaluations and provide the court with important information about the juvenile's emotional behavioural and cognitive functioning, thereby aiding the court in making best decisions about the child. Accordingly, he can help the court to determine the type of treatment to be given to the child for protection of his welfare, for example to determine whether the child would be remanded in correctional institution or released to his parents. In cases of divorce, he assesses the maturity, emotional and development stage of the child and parental capacity to take care of the child. He also assists the courts in determining a juvenile's, amenability to treatment, eligibility to be tried in adult court and psychiatric diagnosis. They also evaluate young people insanity defence and also help the court to ascertain the major reason for committing offense and gives best recommendation for the protection of the child.

5.2 The Role of Forensic Psychologist in Police

Forensic psychologist aids the police in solving criminal cases and also ascertains the mental and emotional state of the juvenile delinquent. Hence, he can work in specialized children unit to advance the system. The Child Right Act provides that there shall be a specialized police unit which shall be charged with the prevention and control of child offences, the apprehension of child offenders and such other function as may be referred to the unit by the Act or by any enactment. However, studies show that many police do not have them .It is therefore suggested that these units be established and forensic psychologist employed to assist them in protecting the child from incessant violation .Further, the Act provides that police, under the children unit, shall be trained and instructed in child matters. However, the poser is who will give them appropriate training if not the forensic psychologist. The forensic psychologist acts like a mediator between the child and the police during investigation. They help the police to understand the nature, patterns and motives of the child by offering expert psychological opinion in legal matters. Further, they can offer counsel and administrative therapy to the delinquent child .Furthermore, they play instrumental role in determining whether or not a juvenile can be tried as an adult especially in foreign jurisdiction. He valuates whether the child offender had purposeful intent to commit the crime but also takes into account other factors which indicate the mental and environmental

state of the offender.[133]However, our juvenile justice administration lacks this, hence, the need to integrate them in our juvenile justice administration. In other jurisdictions like America, forensic psychologist in police setting has been part of America policing since late 1960, which is why delinquent children are given adequate protection and integrated back to the society.[134]The role of forensic psychologist is very cardinal because he looks beyond the offense, analyses the challenge and proffers the best treatment to be given to each child according to circumstances of his case. In fact, by virtue of his knowledge in law and psychology he helps the court to ascertain the reason for the commission of the offense, for instance where, a child commits a serious offence, a forensic psychologist looks beyond the offence by taking a comprehensive survey of his social, educational and cultural background to ascertain the main cause of the offence to enable him recommend the best treatment for the protection of the child.

Furthermore, a forensic psychologist may also take into account other relevant factors, such as the maturity, emotional and developmental stage of the juvenile, his attitude to his environment, his educational background, past criminal history, medical history, mental and over all physical health or disability and the youth overall bio psychological and educational background to enable the court take the right decision. Consequently, after considering all these factors, the forensic psychologist will give his expertise opinion to protect the welfare of the child. In fact, where he discovers that the offence was committed as a result of drug, the child would be taken to the rehabilitation centre for treatment. Conversely, where it is discovered that his problem stems from broken home or he discovers that the child is a first offender his case may be diverted without taking him to court.

5.3 The Role of Forensic Psychologist in Correctional Institution Administers Cognitive Psychotherapy.

Studies reveal that children that come in contact with correctional institution like the prison, remand and borstal institutions often develop mental disorder and at such need the help of forensic psychologist. Hence, the forensic psychologist administers cognitive psychotherapy on the juvenile offenders in order to ascertain the suitable treatment that will aid his reform and rehabilitation. He further assists the social worker on the best treatment and training to be given to

[133] M A Crowford: Forensic Psychology Roles in policing context://www.researchgate.net accessed on 10/10/2019.

[134]http://www.allcriminaljsutice.://www.alcriminal.schoolscom.

the child to avoid recidivism. He engages the child offender in vocational activities, so that he will be very useful to the society. He monitors child offender treatment while in correctional institution and gives report to relevant authorities on how to treat the child.

6.0 Conclusion and Recommendation

6.1 Conclusion

The study observes that our juvenile justice system is fraught with so many inadequacies due to lack of forensic psychologist. It also discovers factors that impede the rights of the child in the system and makes serious case for the integration of forensic psychologist in our legal framework in order to beef it up to international standard. Furthermore, it observes that the role of forensic psychologist cannot be neglected as his roles pervade through the whole gamut of juvenile system, for example the court, the police institution and correctional institutions. Hence, the study recommends the best approach to deal with each child, particularly those that are in conflict with the law. Further, he works with the police to investigate the real cause of the offences by evaluating the psychology of the child, his environment and ascertaining the reason for the commission of the offence. Furthermore, the study discovers that dearth of correctional institutions like remand and borstal homes in Nigeria particularly in the South East have mitigated the welfare of the child because these facilities are very crucial, for the forensic psychologist to carry out his work. This challenge has made many children to be incarcerated in adult correctional centres, thus exposing them to all kinds of violence such as sodomy, corporal punishment etcetera. Hence, the integration of forensic psychologist is very cardinal so that the child will access Justice in Nigeria.

6.2 Recommendation

6.2.1 Restructuring of Family Courts

Establishing of separate Family Court will protect the rights of the child, for instance **section 150 of Child Right Acts,** provides that Family Court shall be at two levels for example a division of the High Court at the magistrate level and magistrate court at Magistrate Court. However, this challenge exposes the child to adult proceeding because courts are used to adult proceedings and hence, does not observe child proceedings in dealing with the child. Further, the court provides that the court at the High Court level shall be duly constituted, if it consists of a judge and two assessors, one of whom has attributes of dealing with children and matters relating to children preferably if in the area of child psychology education. However, this study advocates that a forensic psychologist should be employed as an assessor to help the court in dealing with the child since; he understands the emotions of the child and the language of the court. Apart, from that, this type of

structure exposes the child to cultural and religious abuse. Hence, independent court will provide enabling environment for the forensic psychology to work and give adequate protection to the child.

6.2.2 Legislative Review

The review of our legislation is very cardinal for effective juvenile justice; for example, the laws should be reviewed to integrate forensic psychologist in administration of juvenile justice in Nigeria. Similarly, the age of responsibility should be reviewed so that the child would be adequately protected. The provisions of Child's Right Act, 1999 Constitution (as amended), the Marriage Act, Labour Act, and etcetera should be harmonized in order to have effective juvenile justice administration.

6.2.2 Legislative Oversight: Apart from, making laws, it is recommended that legislators should take up their oversight function in order to have effective juvenile justice system, with respect to treatment and care of juvenile, legislators shall take up their legislative oversight by mounting structures that will enable them monitor the implementation of various laws that provide for effective juvenile justice administration so that, juvenile offenders will enjoy their right as provided by the Constitution.

6.2.3 Establishment of Remand and Borstal Institutions: The dearth of remand and borstal institution can be resolved by establishing them in every state in Nigeria as provided by the Act. It is therefore recommended that at the Federal State and Local Governmental Level Government should build remand and borstal institution in order to reduce congestion in correctional institution in order to reduce congestion from the prison and prevent adult inmate from violating the rights of child offenders.

6.2.4 Provision of Fund: Funds should be channelled into building and establishment of remand and borstal Institutions in every state in Nigeria. The Government should fund the Nigerian prison and also build new facilities for them because most facilities are already dilapidated for instance in the whole of eastern region like Abia, Enugu, Anambra, Imo etcetera there is no fictional remand homes for treatment of children in juvenile justice and the few in the west, like Boys Remand Home Oregun and Girl's Remand Home Idiaraba need reconstruction to be *in tandem* with international standards. The forensic psychologist will not operate in a vacuum; hence provision of enabling environment is very crucial.

6.2.5 Implementation of the Law: For there to be effective juvenile justice administration all the laws that provide for children's welfare should be implemented. The problem is not the law but with non-implementation of laws, for instance the Child Right Act provides for the establishment of the Child Justice System for children who are in conflict with law. Under

the system, no child shall be subjected to the criminal justice process or to criminal sanctions, but a child alleged to have committed an act which would constitute a criminal offence, if he were an adult he shall be subjected only to the child justice system and processes set out in this Act[135]. But then, a child offender shall be handled by a specialized children police unit[136], whilst efforts shall be made by the police, the prosecutor, and the Family Court to dispose of a case of a child offender without resorting to formal investigation, trial or disposition[137]. To this end, efforts shall be made to employ such other means of settlement, including conciliation, supervision, guidance, restitution, or compensation. They also provide that parents shall be immediately notified by the police of their initial contact with the child. The terms conviction and sentence are prohibited from being used in relation to a child dealt with by the court within the context of the child justice system; whilst it enjoins the avoidance of the use of detention, at the pre-trial, trial and post-trial stages, except as a measure of the last resort, in which case, it must be for the shortest possible period of time. The child justice system, further enjoins the use of social inquiry reports, which must contain information about the background of the child, including the social and family background, school career and educational experience, circumstances in which the child is living, and conditions under which the offence has been committed. Where the child is charged with an offence, the court may order his parent or guardian to give security for his good behaviour; or to pay damages or costs, or to give security for his good behaviour without proceeding to find that the child committed the Act. The system further provides that, where the child is found to have committed the offence he was charged with disposing measures such as dismissing the charge, discharging the child offender and placing him under care order, guidance order etcetera. However, despite the laudable provisions of the Act, the rights of the child are rarely complied with respect to the police, they do not have functional specialised children unit as recommended by the Act neither do they resort to alternative dispute resolution to solve the needs of the child. The courts do not often make use of social enquiry report as provided by the Act. All these anomalies can only be corrected by the government taking adequate measures to implement the law.

[135]Childs Right Act *section* 204and the corresponding provisions of the CRLs of the various States.
[136]*Ibid section* 207 and the corresponding provisions of the CRLs of the various States.
[137]*Ibid section* 209 (1) (a) and the corresponding provisions of the CRLs of the various States.

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