

**JUVENILE JUSTICE ADMINISTRATION IN NIGERIA:
Philosophy and Practice**

E. E. O. Alemika
I. C. Chukwuma

Centre for Law Enforcement Education
Lagos, Nigeria

JUVENILE JUSTICE ADMINISTRATION IN NIGERIA: Philosophy and Practice

E. E. O. Alemika
I. C. Chukwuma

Centre for Law Enforcement Education
Lagos, Nigeria

JUVENILE JUSTICE ADMINISTRATION IN NIGERIA:

Philosophy and Practice

Published by:

Centre for Law Enforcement Education (CLEEN)
1 Afolabi Aina Street, P. O. Box 15456
Ikeja, Lagos, Nigeria

Tel: 234-1-493-3195

Fax: 234-1-493-5338

E-mail: cleen@cleen.org

Website: www.kabissa.org/cleen

First Published in 2001 by:
Centre for Law Enforcement Education
1 Afolabi Aina Street
Off Allen Avenue
Ikeja, Lagos, Nigeria

Copyright © Centre for Law Enforcement Education, 2001

ISBN: 978-35160-3-5

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, and otherwise, without acknowledgement of the copyright owners.

Contents

List of tables	-6
Acknowledgement	-7
Preface	-8
Chapter:	
1. Juvenile Delinquency and the Criminal Justice System	-10
2. Theories of Juvenile Delinquency	-18
3. Law and Practice of Juvenile Justice Administration	-27
4. Data Analysis and Interpretation	-44
5. Conclusion and Recommendations	-63
Bibliography	-73
Appendix:	
I. Children and Young Persons Act	-78
II. United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines)	-84
III. United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules)	-93

List of tables

1. Rights and conditions in juvenile justice system	-45
2. Common Complaints Against the Police by Juvenile - 45	
3. Adequacy of Society's Protection of the Welfare of Juveniles	-46
4. Adequacy of Facilities and Protection of Children in Juvenile Justice Institutions	-47
5. Socioeconomic Background of Juvenile Offenders	-48
6. Residence, Education, Vocation and Age of Juvenile offenders	-50
7. Criminal Records of Juvenile Offenders	-51
8. Treatment of Juveniles During Arrest and Detention by the police	-53
9. Treatment of Juveniles by Juvenile Justice Custodial Officers	-57
10. Level of Adequacy of Services and Facilities in Custody	-59
11. Frequency and Types of Punishment in Custodial Institutions	-60
12. Protection of Juvenile Offenders' Due Process Rights	-61

ACKNOWLEDGMENTS

There are many people to thank for their contributions to this study. In particular, we acknowledge the untiring efforts of our Projects Consultant, Dr. E. E. O Alemika, Associate Professor of Criminology, University of Jos, Nigeria, in making sure that the publication of this study is concluded on schedule.

We also thank Members of CLEEN's staff who took part in the field research and consultant field researchers engaged for the study. They are Anthony Opara, Clara Orji and Sylvanus Okwunodulu of CLEEN, and Damian Ugwu, Oguwike Nwachuku, Dominic Kizu, Chidi Ogbonna, Chidi Nwachukwu, Sam Smah, Emmanuel Nkemmeme and Alabi Williams. Yahaya Mohamed of the Department of Statistics, University of Lagos, did the computer analysis of the field research.

The Nigeria Police Force, Nigerian Prisons Service and states welfare departments, granted us permission to administer questionnaires and interview their inmates and personnel. Their cooperation is appreciated. Our gratitude also goes to all respondents and other individuals who contributed to the study.

Special thanks go to the **Ford Foundation** for Funding the research and publication of this book.

PREFACE

Juvenile justice administration in Nigeria suffers from several inadequacies: legal, policy, planning, implementation, education and research. As a matter of fact, there are no well-established and adequately equipped distinct institutions and coherent programmes for dealing with juvenile offenders and preventing juvenile delinquency in the country. The existing legislative and institutional frameworks were inherited from the colonial government. Moreover, the laws predated the evolution of contemporary international standards in the form of the United Nations Conventions and Charter on the Rights of the Child, the United Nations Standard Minimum Rules for the Treatment of Offenders; the United Nations Standard Minimum Rules for the Administration of Justice (the Beijing Rules), and the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines). As a result, many of the laws on the treatment of juvenile offenders do not conform to these international standards. They do not only violate the rights of the child or young person brought within the criminal justice system, existing juvenile law and related process deny him or her the benefits of humane treatment, and relevant educational, vocational, social, recreational and spiritual or religious opportunities for his or her self actualization. Therefore, a critical evaluation of the laws, policies, programmes and institutions dealing with juvenile offenders in Nigeria is long overdue.

The present work analyzes the laws, processes and institutions for juvenile justice administration in Nigeria. It also investigates the experiences and perceptions of juvenile offenders and officials responsible for the administration of juvenile laws and the management of juvenile custodial institutions in the country.

The broad findings of the study reveal gross inadequacies in Nigeria's juvenile delinquency control laws, processes and institutions. Therefore, there is need for urgent reviews of the law, policies and programmes for the treatment of juvenile offenders and juvenile delinquency control. This publication is divided into five chapters. The first chapter introduces the problem and objective of the study, discusses the problem and concept of juvenile delinquency, and defines the concept of juvenile justice.

In the second chapter, selected criminological theories of juvenile delinquency are briefly presented. The third chapter contains reviews and discussion of some important international standards on the rights of the child. The Children and Youth Persons Act and the Borstal Institution and Remand Centres Act are also discussed in the chapter. In the fourth chapter, the empirical data collected on the conditions of juvenile justice custodial institutions, perceptions and experiences of inmates and officials of juvenile justice custodial institutions in Nigeria are analysed.

The fifth and final chapter of this study discusses the implications of existing laws, policies and programmes for dealing with problematic behaviours of children and youth in the country. It advocates the need for their reforms so that greater emphasis will be given to juvenile delinquency prevention through the expansion of socio-economic and educational opportunities for the nation's children and youth. Furthermore, proper education and orientation of judicial police and prison officials who deal with juvenile offenders is recommended.

The study advocates that children in need of care and protection should be handled exclusively within social welfare departments and programmes, while juvenile offenders should be treated within a carefully balanced social welfare and correctional programmes that promote the best interests of children and youth.

E. E. O. Alemika

Associate Professor of Criminology
Department of Sociology
University of Jos, Nigeria.

Innocent Chukwuma

Executive Director
Centre for Law Enforcement Education
Lagos, Nigeria.

CHAPTER ONE

Juvenile Delinquency and the Criminal Justice System

Introduction

The police, courts and prisons are the pillars of the Nigerian criminal justice system. Although there are many other quasi-police and judicial institutions in the country, they more or less complement the roles of these “pillars of criminal justice administration” in the country. The juvenile justice system is an integral part of the nation’s criminal justice system.

Nigerian criminal justice system was created as an important instrument of oppression by the British colonial government. The British colonizers created Nigeria over 64 years (1861-1914) period, through conquest, deception and manipulation of about four hundred nationalities (Otite, 1991). Prior to their colonial subjugation, these nationalities maintained different types and scale of social, political and economic 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 amalgamation 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 Nigeria¹.

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. Colonial penal system was designed to promote British economic interests. Historically, therefore, the Nigerian criminal justice agencies were created, not as instruments of security and justice, but as weapons of oppression (Odekunle 1979; Alemika 1983, 1988, 1993a, Ahire 1991; Adewoye 1977, Tamuno, 1970; Milner 1972; Alemika and Chukwuma 2000).

There are several fundamental defects in the philosophy and practice of juvenile justice in Nigeria. These defects are to be understood, largely in terms of the evolution of the country’s legal system as a colonial institution designed to take control of ‘deprived and destitute’ natives, including children, so that they do not constitute a threat or nuisance to the colonial order. Unfortunately, since independence, successive Nigerian governments have failed to effect fundamental restructuring of the Nigerian criminal justice system towards making it serve as instrument for the promotion of security and justice as well as the protection of human dignity and rights of the citizens.

¹ One of the erroneous impression in the country is that only one amalgamation took place in the country during colonial rule that is the amalgamation of Northern and Southern Protectorates in 1914. On the contrary, the West, East and North, presently conceived as geo-political entities were created by colonial authorities through series of amalgamation of diverse nationalities. These entities did not exist before colonialism and just like Nigeria do not represent natural ethnic, cultural and linguistic boundaries as present advocates of regionalism suggest in pursuit of their parochial and ethnic interests.

The continuity of colonial forms of repressive legal and penal powers and institutions, for forty years after independence in 1960, is due to the nature, character and intrinsic logic of the post-colonial state in the country. What took place on October 1, 1960 was not an end to colonial rule and the beginning of national independence, development and democracy. On the contrary the event meant a change of personnel from white colonialists to indigenous rulers. More fundamentally, the event was a transmutation of colonialism to neo-colonialism. Thus, the concern of post-colonial rulers has been to preserve public service culture, including the arsenal of repressive power, institutions and privileges transferred to them by the foreign colonizers.

The logic of colonialism is the political subjugation and domination of a people in order to exploit their labour and resources. Colonial rule, therefore, required repressive legal system, especially vicious and oppressive penal institutions with effective capacity to repress, punish and deter individuals and groups that engage in activities that are deemed detrimental to colonial political and economic interests. Thus colonial legal and penal institutions were not designed to protect the interests of the generality of citizens but rather to defend the political and economic interests of the rulers.

Neo-colonialism is a political and economic order where the indigenous rulers continue after independence to maintain colonial institutions or promote interests that are favourable to the former colonizers to the detriment of their own nation and people. The neocolonial political economy of Nigeria sustains the colonial legal and penal forms in the country and stifles the restructuring of the entire legal system to serve the interests (justice, security and peace) of the citizens.

The legal system is arena for struggle among competing groups with divergent visions of social order. Therefore, the citizens, through the progressive fragments of civil society must interrogate or question and understand the logic, structure and practices of Nigerian legal system, in order to effectively organize and mobilize the society towards the restructuring and re-orientation of the nations criminal justice agencies. Only then will the agencies be able to serve, promote and protect the citizens instead of being instruments of oppression by the rulers.

This work attempts to contribute towards the understanding of the Nigerian juvenile justice system. Since its creation during the colonial era, the system has not witnessed significant change. The work analyses the philosophy, practice, conditions and problems of juvenile justice administration in Nigeria. It provides information, that are needed:

- (a) To increase the awareness of civil society and political authorities in Nigeria about the experience and treatment of juvenile offenders in the country;
- (b) To sensitize police officers, prisons and correctional officials, social and community development workers, educationists and other groups involved in the care and training of children and young persons to the conditions and need of juvenile offenders;
- (c) To encourage the development of a comprehensive socio-economic policy that meets the aspirations and needs of children and young persons in the country;
- (d) To encourage the use of non-custodial measures in dealing with juvenile offenders, and

- (e) To sensitize the public about the need to promote and defend the rights of children and young persons - including juvenile offenders.

The broad goal of this work, is therefore to provide scholarly information that can sensitize and mobilize the Nigerian public and government towards humane treatment of young offenders in the country. Furthermore, the work offers proposals for the restructuring of the juvenile justice system so that it may serve as instrument of youth development and juvenile offender correction. Juvenile delinquency prevention, however, require deliberate incorporation of social (especially education and health) and employment opportunities in comprehensive framework of national development planning and national governance.

The analyses in this work involved a theoretical discussion of juvenile delinquency and societal reactions to delinquency and delinquents. We also discussed the legal and institutional framework for handling juvenile delinquency and young offenders. Finally through a social survey, we gathered and analyzed data on the conditions of juvenile justice institutions and experiences of juvenile offenders within these institutions. The work offers a discussion on the imperative and direction of reform of the Nigerian juvenile justice system.

Juvenile Delinquency

Juvenile delinquency refers to the violation of the criminal codes regulating the behaviour of young persons in the society. There is no universal definition of a juvenile or delinquency. The laws of different nations stipulate different age brackets for the juveniles. Besides, the concept of a juvenile is sometimes used interchangeably with other concepts like a child, an adolescent and a youth. But the law is usually more specific in its definition of a child or juvenile or youth.

The Children and Young Persons Act² (hereafter referred to as CYPA) defines a child as “a person under the age of fourteen years”. Also, the law defines a young person as “a person who has attained the age of fourteen years”. The law did not define a juvenile. However other indicators in the law show that the term refers to a person under the age of seventeen years.

Juvenile delinquency broadly defined refers to 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 (Alemika 1978; Muncie 1999). In addition, to such conducts which constitute delinquency for the juveniles and crime for the adults. There are other behaviours that do not constitute crime for adults but which are defined as delinquency, when manifested by children and young persons. These are referred to as status offences. Such behaviours are prohibited among juveniles because of the status of the young person. Status offences under juvenile delinquency laws of different countries include diverse behaviours like truancy from school, running away from home, drinking alcohol in public, associating with disrepute persons - criminals, prostitutes, etc.

² *Children and Young Act was initially enacted as a colonial Ordinance in 1943, and severally amended in 1945, 1947, 1950, 1954 and 1955. The law made “provision for the welfare of the young and the treatment of young offenders and for the establishment of juvenile courts”.*

Juveniles are subjected to wider legal restrictions and differential treatment within the criminal justice system. As a result, it has been argued that juvenile delinquency laws are “overbroad, discriminatory and vague”(Scutt 1978). The vague, discriminatory and overbroad definitions of juvenile delinquency have been variously described as a product of humanitarian motive or repressive intent (Platt 1969; Muncie 1999). No doubt, the vague definition of delinquency leads to wide discretionary and discriminatory powers on the part of law enforcement officers and juvenile justice administrators. Block and Flynn (1956) argued, that, “not only do legal authorities and so called experts disagree over the definition of delinquent behaviour, they also have serious differences as to where delinquency under the law begins and where it should end”(p.6).

Juvenile delinquency has elicited many images of the child. Delinquency has been variously portrayed and defined as a condition of drift, maladjustment, pathology, disturbance, moral depravity and unruly behaviour. But the definition of juvenile delinquency as well as concern about its manifestation, and control are influenced by a configuration of historical, political, social and economic conditions. According to Muncie (1999:80-81):

What actually constitutes ‘young offending’ is in a constant process of (re) invention and (re) definition. 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 labour’ 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.

There is no clear-cut definition of delinquency. The definition of delinquency and the scope of behaviour covered by the term vary over time and across societies. Delinquency and crime are morally, politically, economically and socially constructed symbols and conditions. Furthermore, the definition of delinquency and concern about it 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 attribute equal as well as diminished responsibility to young persons in different areas of life, resulting in confusion over appropriate behaviour expected of young persons. According to Scranton (1997):

...there is the denial of children as rational, responsible persons able to receive information, participate in frank and open discussions and come to well reasoned and appropriately informed decisions about their interpersonal relationship (family, friends, sexual), about school and about developing sexuality. On the other hand, there is the imposition, using the full force of law of the highest level of rationality and responsibility on children and young people who seriously offend. The paradox is that the same sources appear to propose that childhood represents a period of diminished adult responsibility governing certain actions while being a period of equal responsibility governing others. (Quoted in Muncie 1999:40)

The ambivalence of society over the status and expectation of the child is also reflected in the various international Charters and Conventions on the Rights of the Child. For example, the Preamble to the Declaration of the Rights of the Child adopted by the General Assembly of

the United Nations on 20 November 1959 stated that “the child by reason of his physical and mental immaturity needs special safeguards and care including appropriate legal protection before as well as after birth”. Thus, the child is viewed as a vulnerable and dependent being, deserving of special care. This perception of the child gave rise to the creation of a different track within the criminal justice system to handle cases of children and the young persons who violate the law.

Juvenile Justice System

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.

Nigerian Criminal Justice System

The principal organs of criminal justice administration in Nigeria are the police, courts and prisons. There are other quasi-police (specialized) agencies and tribunals, which functions, complement the three core agencies of criminal justice administration in the country. The history, development, performance and problems of the Nigerian police, courts and prisons have been discussed and analysed by several scholars (Tamuno 1970, Adewoye 1977, Awe 1968; Alemika 1983, 1988, 1993a; Ahire 1991, 1993; Rotimi 1993; Alemika and Alemika 1994; Alemika and Chukwuma 2000; Eweluwa 1980; Milner 1972).

Organized state police force was introduced to the country in 1861 when the British subjugated Lagos territory and made it a colony. Modern Nigeria was constituted through colonization and colonial amalgamation of about four hundred nationalities (Oтите 1991). These nationalities were relatively independent socio-political entities. Many of them, however, maintained economic, especially trade, linkages. Furthermore, these nationalities had different types and scale of social, political and economic organizations. The forms of economic organization range from communalism to feudalism while the political systems range from the segmentary, democratic and republican form of governance to centralized monarchical and proto-state formations. These numerous nationalities were invaded, plundered and subjugated to colonial rule by the British colonizers between 1861 and 1903. As soon as each of these nationalities was brought under British colonial rule, a police force was established to enforce colonial laws and order, and to protect British interests (Tamuno 1970, Ahire 1991; Alemika 1993a). As a result, scores of police forces were created at local, protectorate, regional and national levels during the one-century colonial rule of Nigerian people (Tamuno 1970, Alemika 1993a). Colonial police forces were established for the

“prevention and detection of crime, the repression of internal disturbances, and the defence of the colony and the protection against external aggression” (Police Ordinance, 1897). The forces were routinely used to oppress the indigenous people and for punitive expeditions and expansion of colonial territory.

The Nigeria Police Force was established in 1930 by merging the Northern Nigeria Police Force and the Southern Nigeria Police Force. Throughout colonial rule, Nigeria had several local police forces, in addition to the Nigeria Police Force. From 1930 to 1966, there were national and local police forces. In Northern Nigeria, there were native authority police forces and in the Western Nigeria, there were local government police forces. These forces co-existed with the national police force - Nigeria Police Force. The Eastern Region of the country did not establish local police forces, but availed itself of the services of the Nigeria Police Force.

The local police forces were disbanded in 1966 on account of reports of widespread corruption, partisan political oppression, poor standard of recruitment, training, conduct and performance (Working Party Report 1966, Rotimi 1993, Ohonbamu 1972). The 1979 and 1999 Constitutions of the Federal Republic of Nigeria, provided for only a national police force - the Nigerian Police Force. The force is under the command of an Inspector General of Police. A command of the force under a Commissioner of Police is established for each State and the Federal Capital Territory in the federation.

The Nigeria Police Force has wide functions and power. Those functions are to prevent, investigate and detect crimes; apprehend offenders, protect life and property, preserve law and order, enforce all laws and regulations with which they are directly charged and to perform military duties (section 4, Police Act). In consonance with these duties, the Nigerian police are empowered to prosecute suspects, arrest suspects with or without warrant depending on the nature and circumstances of crime, to serve summons issued by courts, to grant bail to suspects pending appearance in courts, to search and seize property believed to have been stolen or used to commit crimes, to regulate public assembly and procession etc. The Children And Young Persons Act also assigns law enforcement duties to the police. Juvenile welfare units were established and managed in major divisional police offices. However, in recent times, the units have not been given due attention.

English legal system- courts, laws and other juridical forms- were introduced into Nigerian territory in March 1863. The English Common Laws and Equity were thereby introduced. Sources and classifications of Nigerian law include colonial laws, post-colonial statutes and military decrees, customary laws, Islamic legal system, and international conventions. Contemporary Nigerian legal system consists of a hierarchy of courts: Federal (Supreme Court, Court of Appeal, Federal High Court) and State (High Court, Customary Court of Appeal, Sharia Court of Appeal (presently in Northern States), Magistrate, Area and Customary Courts). The federal Courts are superior to state courts.

The colonial government, in 1872, introduced English type prisons. The first prison was established in 1872 at Broad Street in Lagos, with a capacity of 300 inmates. The Nigerian Prisons service is subjected to the provisions of several laws enacted over time (e.g. Prisons ordinance 1916; Laws of Nigeria 1948; 1958; Prisons Decree No 9 of 1972; federal government white paper released in 1971). The primary function of the Nigerian Prison Service is to effect safe custody of ‘criminal prisoners’ (i.e. convicted prisoners) and

'prisoners' (anyone 'legally' detained but not convicted). In addition to this primary function, there are other statements of objectives of the nations prisons service.

The Nigerian Prisons Service Staff Duties Manual listed the objectives of the Prison Department as (a) safe custody of inmates; (b) identification of the causes of the anti-social behaviour of offenders, (c) the treatment and reformation of inmates so that they will become disciplined and law abiding citizens of a free society; (d) training of inmates towards their eventual rehabilitation on discharge; and (e) generation of funds for government through prison farms and industries. But largely, Nigerian prisons, in spite of rhetoric of correction, reformation and rehabilitation, remain human warehouses (Alemika 1983, 1987) or human cages (Kayode 1987) rather than a reformatory center. As a result it was observed that:

Penal policy of reformation – rehabilitation in Nigeria is no more than a public disguise for 'modernizing' while in practice nothing has changed from the inherited penal system that was geared towards the punishment, incapacitation, and deprivation of incarcerated offenders... in spite of official declarations that the Nigerian Prisons Service goals have shifted to reformation and rehabilitation, nothing has been done in any meaningful way to change the operations and organizations of the service to fulfill such goals (Alemika 1983:137)

In essence, the Nigerian Prisons are punitive theatres characterized by overcrowding, poor hygiene, absence of meaningful educational and vocational training, poor state or absence of recreational facilities, violations of citizens' rights, etc. The nation's repressive laws and government may explain the gap between practice and official declarations in the Nigerian penal system. The nations law emphasise the punishment and custody of offenders and where reformation is prescribed, it is incidental. Idada (1972) argued that:

from the attitude of the courts, at least in this country, there is clear evidence that punishment is the primary aim of the sentencing process. Here then, is a major area of conflict, which is deep and far-reaching. The result is that roles which are expected to be complimentary are now conflicting with disruptive consequences... For various considerations, convicts who could have responded better to other forms of treatment are sent to prisons ... Hardened criminal careers have been thereby encouraged by this indiscreet use of magisterial powers and authority... (108-109).

Juvenile justice administration in the country is undertaken within and by three core criminal justice institutions - police, courts and prisons, described above. In addition, the social welfare departments of the state and local governments also play important roles in juvenile justice administration.

Synopsis and Organization of the Study

This work analyzes juvenile justice administration in Nigeria at two levels. The first level reviews the literature on juvenile delinquency and juvenile justice administration. This level also involves the discussion and analysis of the legal and institutional framework for juvenile justice administration in Nigeria. Chapter two reviews selected theories on juvenile delinquency and juvenile justice administration. Chapter three discusses and analyses the legal and institutional framework for juvenile justice administration in Nigeria. The second level of analysis in this work involves an empirical study of conditions of juvenile justice custodial institutions (Prisons, Borstal, Approved Schools and Remand Homes) and the

experiences of juvenile offenders in these institutions. Data for our discussion of issues raised at this level were obtained through a social survey of juvenile justice custodial institutions in various parts of the country. Methods of data collection and analysis are presented in chapter four. The analysis of the conditions of juvenile justice custodial institutions and the experiences of juvenile offenders in those institutions derived from the social survey are also presented in the fourth chapter. The fifth and final chapter contains the summary and discussion of issues, followed by recommendations.

CHAPTER TWO

Theories of Juvenile Delinquency

Delinquency and crime are social and political constructs. There are no acts or behaviours that are intrinsically criminal or delinquent. The application of the criminal and delinquent labels to behaviours and actions are determined by socio-economic and political factors. Simply stated, it is not all socially injurious conducts that are labeled as crimes and delinquency that actually produce grievous social injuries. Whether actions and behaviours are labeled as criminal or delinquent or not, depend on the interplay of economic, political and social factors in society at a particular point in time.

Delinquency and crime have been explained from different perspectives by several disciplines. Criminological theory of delinquency consists of perspectives from biology, medicine, neurology, psychology, sociology and other social sciences. As a result, delinquency and crime have variously been explained in terms of biological, psychological and socio-economic motivations and inadequacies. A few criminological theories of crime and delinquency are briefly discussed in this chapter in order to enhance appreciation of delinquency, its incidences, prevention and control.

Bio-Psychological Criminology

Biological criminology argues that crime and delinquency are linked to several biological inadequacies or impairments. Modern positivist criminology owes its origin to an Italian scientist, Cesare Lombroso, who after investigation of skull of prisoners, claimed that criminals have distinctive physical characteristics. According to Lombroso crime and delinquency represent an atavistic throwback or regression to the primitive and pre-social stage of human evolution (Lombroso 1913). Similarly, Ernest Hooton (1939) also in a study of prison convicts, argued that crime and delinquency could be explained as a product of physical and racial inferiority. Biological perspective also identified the genetic phenomenon of XYY as an explanation of crime and delinquency. The perspective postulates that people with XYY chromosomes are born criminal or are at least more likely to engage in criminal and delinquent behaviours.

Psychological and psychiatric perspectives on crime and delinquency hold that these behaviours are products of (a) weak restraining forces which are incapable of curbing inherent aggressive and destructive tendencies in human beings; (b) failure to control instinctual drives; (c) neurotic conflicts and excessive use of mechanisms of defence, and (d) unfavourable childhood experiences. The psychoanalytic model attributes delinquent behaviours to unresolved conflicts between the psychic elements of id, ego and super-ego. Goddard (1922) claimed that the single most important cause of crime and delinquency is feeble mindedness. Psychological theories of crime have identified several factors related to crime and delinquency. For example, Farrington (1994) argues that:

...children from poorer families are likely to offend because they are less able to achieve their goals legally and because they value some goals (e.g. excitement) especially highly. Children with low intelligence are likely to offend because they tend to fail in school. Impulsive children... are more likely to offend because they do not give sufficient consideration and weight to the possible consequences. Children

who are exposed to poor child rearing behaviour, disharmony or separation on the parts of their parents are likely to offend because they do not build internal controls over socially disapproved behaviour, while children from criminal families and those with delinquent friends tend to build up anti-authority attitudes and the belief that offending is justifiable. The whole process is self-perpetuating (558-59).

These bio-psychological constitutional theories of crime and delinquency have been continuously developed and therefore currently accepted as explaining certain kinds of aggressive and violent behaviours. Modern biological explanations within criminology attribute crime and delinquency to: 'hormone imbalances; testosterone, vitamin, adrenalin and blood sugar levels; allergies, slow brain-wave activity, lead pollution; epilepsy and the operation of the autonomic nervous system' (Muncie 1999:91).

However, as has have been argued, "the search for biological, physiological or genetic correlates of criminality is continually hampered because it is practically impossible to control for environmental and social influences and thus be able to measure precisely the exact influence of a genetic effect" (Muncie 1999:92). Although there is scientific evidence of biological and psychological influence on behaviour, it has been difficult to establish direct causal relationships between bio-psychological constitution and delinquency or crime. One of the problems in this area is that crime and delinquency are legal constructs determined by political and economic factors. Biological and psychological bases of aggression may be established, but aggression does not automatically become crime and delinquency, except when so defined by the law of a society. Law making and law enforcement are determined by the distribution of political and economic power. Thus the transformation of aggression into crime (as a legal phenomenon to be followed by law enforcement, judicial and penal procedures and consequences) requires political and moral judgment translated into public policy and law.

Sociological Theories of Crime and Delinquency

Sociological criminology proposes that crime and delinquency are caused more by the interplay of social, political, economic and cultural factors and forces than by biological and psychological pathologies. Accordingly, sociological criminological have variously explained crime and delinquency as products of anomie precipitated by disjunction between goals and means; conflict of cultures; social learning and differential association, social bonding and control, social injustice and oppression embedded in capitalist political economy and so on.

Social Disorganization Theory

Social disorganization perspective argues that delinquency is produced by social or community disorganization. Shaw and McKay who are generally regarded as the pioneers of ecological (social disorganization) theory of crime and delinquency, defined the indices of social or community disorganization as population heterogeneity, rapid population turnover, poor standard of living of residents, dilapidated building structures, weak social ties among residents and absence of dominant cultural patterns shared by most residents. Areas or zones of cities characterized by these indicators of social or community disorganization record high incidence of crime and delinquency as well as high rates of mental illness, infant mortality and other social problems. Delinquency from this perspective is caused by social

disorganization. The specific features of community disorganization that lead to delinquency were described as:

...Successive changes in the composition of population of the alien culture, the diffusion of cultural standards...result...in dissolution of the neighborhood culture and organization. The continuity of conventional neighborhood traditions and institutions is broken. Thus, the effectiveness of the neighborhood as a unit of control and as a medium of the transmission of the moral standards of a society is greatly diminished (Shaw 1951:24).

The critical argument of this perspective is that the absence of strong community and social ties, inadequate socio-economic opportunities as well as lack of dominant and consistent cultural norms in the neighborhood of cities can generate high rate of delinquency among young persons. The proponents argue that juvenile delinquency is a feature of an environment characterized by community disorganization rather than a product of individual biological or psychological disability. Applied to the Nigerian setting, the perspective suggests that crime and delinquency will be highest in areas of cities where low-income migrants from different parts of the country are concentrated. Overcrowding, poor standard of living, cultural heterogeneity and absence of dominant cultural patterns that serve as effective social control, usually characterize such areas. One of the criticisms levied against the perspective is that its explanation is tautological, as it simply postulates that 'bad conditions' beget crime and delinquency. But crime and delinquency are some of the indicators of the 'bad conditions'. Nonetheless, the perspective draws attention to the role of culture, environment and standard of living as factors that may influence the incidence and persistence of delinquency in a community.

Anomie or Strain Theory

Crime and delinquency have been explained as reactions or modes of adaptation to strain or frustration caused by disjunction between the culturally prescribed goals and institutionalized means for the realization of such goals. Robert Merton introduced this perspective. According to Merton (1968) social structures exert enormous pressures on individuals. One of such pressures is that the social structure determines the nature of the aspiration of their citizens. Thus, in Nigeria, citizens are pressured to aspire to wealth, political power, and high educational achievement. According to Merton (1968:18) aberrant behaviour including crime and delinquency "may be regarded sociologically as a symptom of dissociation between culturally prescribed aspirations and socially structured avenues for realizing these aspirations".

The point is that society prescribes goals that its citizens should pursue. However, the institutionalized means for realizing the aspirations are restricted by distribution of talents and opportunities and by structural inhibitions. Furthermore, cultural goals are emphasized without corresponding emphasis on the means of attaining those ends. Consequently, society creates the condition whereby the realization of the goal is emphasized to the detriment of the institutionalized means. Crime and delinquency result from overwhelming emphasis on goals, success or aspirations without corresponding emphasis on the means.

In Nigeria, there is overwhelming emphasis on being successful which means to be wealthy, to engage in ostentatious lifestyle and conspicuous consumption (possess expensive cars, large and expensive buildings, make huge donations at public fund-raising, etc), to be highly

educated and to wield political power. Nigerians who fail to meet these aspirations and goals prescribed by society experience tremendous pressure or strain. Because of the dissociation of goals from means, many individuals may turn to other (non institutionally prescribed) means to attain the cultural goals. According to Merton, therefore, the explanation of crime and delinquency lies in the degree of correspondence between culturally prescribed goals and institutionalized norms or means for attaining the cultural goals.

The pressure experienced by those who are excluded from the institutionalized means for realizing cultural goals can lead those individuals to adopt five modes of adaptation. These according to Merton (1968) are conformity, innovation, ritualism, retreatism and rebellion. In spite of the strain exerted on people, majority of people continue to seek the attainment of cultural goals through institutionalized means. Such people choose conformity as mode of adaptation. Some individuals, however, pursue the realization of the cultural goals through innovation (abandonment or rejection of institutionalized means and adoption of unlawful means).

A young Nigerian interested in gaining admission to the university may be annually frustrated by limited spaces and requirement of a high score in University Matriculation examination (JAMB/UME). Nonetheless he or she may continue to sit for the examination, praying and hoping that he/she will succeed and gain admission to a university and thereby meet one of the society's culturally prescribed goals for the citizens, irrespective of abilities and talents. But another Nigerian may adopt innovation, he or she devices a means of cheating at the examination or inducing university authorities to admit him/her. In both cases, the individuals were pursuing the culturally prescribed goals, the latter through innovation-an adaptation of unlawful (a criminal or delinquent) means to the realization of culturally prescribed goals. According to Merton, the adaptation of innovation entails the pursuance of the goals prescribed by society through unlawful means- for example drug trafficking, corruption and embezzlement, sale of sub-standard goods, examination and admission malpractices, election rigging and violence etc. to obtain wealth, education and political power.

Individuals who adopt ritualism mode of adaptation concentrate on the institutionalized means and de-emphasize the goals. Such individuals are satisfied to be recognized as hardworking and honest, even if they do not attain the goals (wealth, education and power) prescribed by society. The retreatist simply withdraws from society. He/she rejects the cultural goals and institutionalized means prescribed by society. An often-cited example is the drug addict, whose life revolves around sensations induced by drugs. Finally, the individual who adopts the rebellion mode of adaptation rejects the validity of cultural goals and institutionalized means prescribed by society. In place of both, new goals and means are substituted. The innovation, retreatism and rebellion mode of adaptation represent a deviant adaptation that may involve crime and delinquency.

The anomie or strain theory is probably the most popular sociological explanation of crime and delinquency since it was first formulated in the 1930's by Robert Merton. From the theory, crime and delinquency can be prevented or reduced if there is concordance between cultural goals and institutionalized means for their attainment. However, crime and delinquency will increase whenever citizens are socialized to aspire to certain goals while the means or avenues for realizing those goals are restricted to a large or significant segment of the population. Thus as Shaw and McKay (1942:439) observes:

... where there is the greatest deprivation and frustration...and where there exists the greatest disparity between the social values to which people aspire and the availability of facilities for acquiring these values in conventional ways, the development of crime as an organized way of life is most marked. Crime, in this situation, may be regarded as one of the means employed by people to acquire, or to attempt to acquire, the economic and social values generally idealized in our culture, which persons in other circumstances acquire by conventional means.

Social Learning and Differential Association Theory

In some modes of academic discourse and popular consciousness, crime and delinquency are regarded as abnormal behaviours that occur through “strange” means or pathological conditions or processes. However, differential association theory formulated by Edwin Sutherland (1939) suggests that there is nothing unusual in the process of becoming a criminal or delinquent. Criminal and delinquent behaviours are learnt in similar processes as people learn to become criminologists, lawyers, physicians, scholars, poets, and so on. Differential association theory identified the methods or processes through which criminal behaviour is learnt. The influential criminological theory involves nine propositions paraphrased below:

1. Criminal behaviour is learned (that is in the same way we learn other behaviour)
2. Criminal behaviour is learned in interaction with other persons in a process of communication.
3. The principal part of the learning of criminal behaviour occurs within intimate personal groups.
4. When criminal behaviour is learned, the learning includes (a) techniques of committing the crime, which are sometimes very complicated, sometimes very simple; (b) the specific direction of motives, drives, rationalizations, and attitudes.
5. The specific direction of motives and drives is learned from definitions of legal code as favourable and unfavourable.
6. A person becomes delinquent because of an excess of definitions favourable to violations of law over definitions unfavourable to violations of law. This is the principle of differential association.
7. Differential associations may vary in frequency, duration, priority and intensity. This means that associations with criminal behaviour and also associations with anti-criminal behaviours vary in those respects.
8. The process of learning criminal behaviour by association with criminal patterns involves all the mechanisms that are involved in any other learning (emphasis added).
9. Though criminal behaviour is an expression of general needs and values, it is not explained by those general needs and values, since non-criminal behaviour is an expression of the such needs and values.

These propositions attempt to explain the processes and mechanisms by which criminal and delinquent behaviours are learnt. The last proposition attempts to show that the same values and needs may lead some individuals to obey the law while it may lead others to violate the law depending on what they learnt as methods of realizing those values and needs. Differential association perspective has contributed largely to the significant attention paid to the influence of family, peers and mass media (especially electronic medium of mass information and entertainment) on juvenile delinquency. Peers and mass media are perceived

as important media which children and young persons learn delinquent behaviours. The theory implies, for the layperson, that people learn by association, imitation and motivation.

Differential association explains how crime and delinquency are learnt as well as crime rates between communities. The nine propositions explain the process of learning crime and delinquency. Sutherland (1947), however, also suggested that crime rates are explained by differential social organization. Every social organization consists of criminal and anti-criminal elements. The balance (of preponderance) between criminal and anti-criminal elements determine the crime rates in a society.

Some of the policies and programmes dealing with juvenile delinquency are influenced by the “common –sense assumption” embedded in differential association theory, which is that “bad company corrupts good manner”. Thus, juvenile delinquency prevention and control policies and programmes, among other things, attempts to isolate juvenile offenders from delinquent influences.

Control Theories of Crime and Delinquency

Several theorists have argued that crime and delinquency are produced by weak personal (self) or social control (Reiss 1951; Nye 1958; Reckless 1961; Hirschi 1969). Control theorists identified social and personal dimensions of control. These theorists, consciously or unconsciously assume that human beings are naturally aggressive and requires control. Where control is absent or weak, the human natural impulses towards aggression and crime are released.

Reiss (1951:196) distinguished between personal (self) control and social control. According to him personal or self control is the “the ability of the individual to refrain from meeting needs in ways which conflict with the norms and rules of the community”. On the other hand, social control is “the ability of social groups or institutions to make norms or rules effective”. The two levels of control are intertwined. Social control precedes personal control. When social values and norms are not adequately and properly inculcated by the family and other socializing institutions (e.g. schools, religious bodies and civil associations), individuals are more likely to develop or exhibit (personal) self-control.

Nye (1958) identified four dimensions of social control- *conscience* – that results from the internalization of social norms and rules; *affection* shared by children and parents; *parental regulation* of children’s choices and associations; and *availability of alternate means* to fulfill or accomplish goals. The presence and effectiveness of these dimensions of social control will strengthen self-control, induce compliance and reduce delinquency.

Walter Reckless (1961:341) attributed the incidence of crime and delinquency to weakness of containment – “the lack of well defined limits to behaviour, the breakdown of rules, the absence of definite rules for adolescents to play”. Reckless identified “push and pull” factors in crime and delinquency. Factors such as poverty, injustices, bad companions, inconsistent moral front in society may pull individuals toward delinquency. On the other hand ‘inner push factors’ like weak self-concept, aggressiveness, and restlessness may push young people towards delinquency.

Travis Hirsch (1969) developed his social control and bonding theory around four concepts- attachment, commitment, involvement and belief. Hirschi suggests that human natural

instincts lead to delinquency and crime. Consequently, the natural motivation of human beings is to deviate. Individuals will conform to social norm and rules only if there is effective social control through social bonding to society. Social bond involves attachment, commitment, involvement and belief. Attachment to others in the society restrains individuals from deviating. Commitment to and involvement in conventional activities help to bond individuals to society and minimize the chances of being involved in delinquent and criminal activities. Finally belief in the legitimacy of the rules, norms and values of society minimizes delinquency. The implication of the theory is that crime and delinquency are reflections of society's failure to create enabling conditions for attachment to people (i.e. family, friends) commitment to and involvement in conventional activities (schooling, employment, recreation and leisure), and belief in conventional norms, values and rules.

Radical and Conflict Theory of Crime and Delinquency

The radical and conflict theorists argue that the criminal laws that define certain acts as crime or delinquency do not represent the consensus of society. Laws, they argue, are instruments, which the ruling class employ to protect their interests. As a result, criminal laws prohibit the behaviours of the poor and powerless that threaten the interests of the ruling class while excusing or condoning equally or even more injurious behaviours of the rulers or those who control the politics and economy of society that harm the majority of the citizens (Reiman 1984; Quinney 1970).

Conflict theorists explain crime and delinquency in terms of inequality in the distribution of socio-economic opportunities and political power. It is this inequality that is reflected in criminal laws and the actions of the criminal justice agencies and officials. Crime and delinquency are products of socio-economic inequality and injustice as well as the political oppression that sustains them. In this light, crime and delinquency can only be minimized with the enthronement of socio-economic justice and democracy in society (Taylor et al. 1973). According to Gillis (1974):

... the troubles of the children of the poor were deeply imbedded in the economic and demographic structure of society. The growing tendency to treat these as psychological and therefore as subject to clinical, rather than political or economic solution was at least as disturbing as the phenomenon itself (p.131).

Sociological theories of crime draw attention to the social structure, economic and political systems of society as sources of crime and delinquency. The idea of correcting or reforming individual juvenile offenders without restructuring the society is to sociological criminologists ridiculous, and its implementation can only lead to further oppression, impoverishment and further drift into criminal and delinquent career.

The foregoing brief discussion of selected theories and perspectives provides us with an understanding of crime and delinquency especially their multiple and complex origins and manifestations.

Measurement of Delinquency and Crime

Politicians, citizens, mass media practitioners, moral entrepreneurs and criminologist often suggest that crime and delinquency are either on the increase or on the decline. How do they come about such conclusion? There are two broad sources employed. The first source is

impression or feeling or fear of insecurity based on the “assessment” of likelihood of victimization. Another source is crime and delinquency statistics collected, or collated and published by law enforcement, judicial and penal agencies, and by researchers, especially criminologists. Neither of the two sources are accurate information on the extent, pattern and trend of crime and delinquency.

Crime and delinquency statistics are inaccurate, for several reasons, including the following:

1. Only a fraction of crime and delinquency that occur in a community are known and dealt with by official agencies. Consequently a high proportion of crime and delinquency are hidden, unknown to the public, especially, law enforcement agencies. However, the more serious crimes are more likely to be detected, reported and recorded.
2. Many cases of crime and delinquency reported to the police are not recorded because they may be ‘informally’ resolved.
3. In the case of Nigeria, due to a combination of incompetence and non-chalance, Nigerian policing, judicial and prison agencies do not pay attention to the need for accurate recording, processing and publication of criminal statistics. Poor information management is one of the hallmarks of Nigerian criminal justice system, and one of the causes of the ineffectiveness and inefficiency of the nation’s law enforcement and criminal justice agencies (Ojomo and Alemika 1993).

There is no comprehensive statistics on juvenile delinquency at any level, from local government to federal government in Nigeria. In any serious country, attempt will be made to obtain reasonable statistical indicators of the extent, pattern and trend of crime and delinquency in order to devise and implement appropriate prevention and control strategies, to achieve and sustain effective case management system, and to promote rational and humane criminal justice administration. In many societies where criminal statistics and information management have been recognized as preconditions for effective, efficient and humane criminal justice administration has been recognized, attempts are made to obtain comprehensive crime and delinquency statistics through various sources. The main sources are:

- a. Official records – police, courts, prisons, welfare agencies.
- b. Crime surveys – These are of two general types – self report of criminal behaviours and criminal victimization survey. The first is a survey of the public, under anonymous condition. Respondents are asked what types of criminal and delinquent activities they have engaged in, whether or not discovered/detected and reported (or not reported) to the police, during the year. The second victimization surveys – obtain information from members of the public on how many times they had been victims of crime and delinquency during the year as well as the type of acts involved.
- c. Empirical research by scholars and data collected by Commissions and Panels of Enquiry.

These attempts to obtain reliable criminal statistics as tool of prevention and control; planning, operations, management and evaluation by the criminal justice system, government and public, usually entail collaboration among relevant government agencies and between the criminal justice system and criminologists. The Nigerian government as well as the criminal justice agencies are not concerned with developing reliable criminal statistics and information management in the country. It is not a surprise, therefore, that the nation's criminal justice agencies are grossly ineffective and inefficient. This is partly because they simply operate without fact. In the circumstance, prevention and control cannot be meaningful, and operations can only be haphazard.

Nigerian has no meaningful statistics on juvenile delinquency. Police statistics in this respect are very unreliable, because many cases brought to them are "informally settled and unrecorded". The police attitude towards crime statistics and information management is very poor. In the absence of statistics, therefore, it is not surprising that government officials, moral entrepreneurs and especially the mass media, decry alarming increasing incidence of juvenile delinquency, nonetheless, without facts or reliable evidence.

CHAPTER THREE

LAW AND PRACTICE OF JUVENILE JUSTICE ADMINISTRATION

Philosophy of Juvenile Justice

Juvenile justice administration has been influenced by the activities of humanitarians and penal reformers who protested cruelty to children under the guise of administering justice. Prior to the nineteenth century, children were harshly punished for even petty offences. But by the nineteenth century, there were concerns, first, about increasing rates of delinquency and second, about the handling of juvenile offenders. The Society for Investigating the Causes of the Alarming Increase of Juvenile Delinquency in the Metropolis, in its Report (1816/1970:26) underscored the tendency of law, police and penal practices to intensify criminal career among young offenders:

Dreadful is the situation of the young offender: he becomes the victim of circumstances over which he has no control. The laws of his country operate not to restrain, but to punish him. The tendency of the police is to accelerate his career in crime. If when apprehended, he has not attained the full measure of guilt, the nature of his confinement is almost sure to complete it; and discharge as he frequently is, penniless, without friends, character or employment, he is driven for a subsistence, to the renewal of deprivation (quoted in Muncie 1999: 55; see also Vold and Bernard 1986; Beccaria (1764/ 1963).

The realization of the negative consequences of the punitive treatment of young offenders spurred humanitarians and penal reformers to advocate lenient treatment of young offenders. In addition, they argued that young offenders should be given opportunity for correction, reformation, rehabilitation, and be restored into society as useful and law-abiding citizens, instead of being punished. These concern heightened as delinquency rates increased and the reformers realized that the young offenders were not “born criminals” but victims of circumstances beyond their control. Thus, Mayhew (1861:479) observed that:

Each year sees an increase of 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 (cited in Muncie 1999:55).

These observations direct attention to the fact that juvenile offending was caused more by bad environment than by bad genes or evil intention. As a result, it was considered unnecessary and undesirable to hold juvenile offenders responsible for their misconduct. The sentiments then were that the juvenile offenders deserved to be rescued and reformed rather than

punished (Muncie 1999:57). Mary Carpenter, in her advocacy of reformation and restoration of young offenders in juvenile justice custodial institutions argued that:

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 (Carpenter 1853:298 cited in Muncie 1999:59-60; emphasis added).

The philosophy that juvenile justice institutions should act in the “best interest of the child” therefore emerged in the nineteenth century through humanitarian impulses, even if the humanitarianism was called forth by moral panic over problematic behaviours of the youth.

International Law and Treatment of Juvenile Offenders

There are several international legal instruments – Conventions, Charters and Principles, – Rules and Guidelines that regulate the promotion and protection of the rights of the child and treatment of juvenile offenders, generally, and especially in custodial institutions.

The preamble to the Declaration of the Rights of the Child adopted by the General Assembly of the United Nations on 20 November 1959 stated that “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”. This statement endorses the perception of children as a vulnerable group in society deserving special protection – a perception that influences the philosophy of juvenile justice administration.

Article 19 of the United Nations Convention on the Rights of the Child, provided that:

State parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse, while in the care of parents(s), legal guardian(s) or any other person who has the care of the child.

Juvenile offenders are particularly vulnerable to the conditions that this article seeks to prevent. The provisions in Articles 37 and 40 of the United Nations Convention on the Rights of the Child deal directly with the treatment of juvenile offenders by the government and its juvenile justice agencies. Article 37 provides that state parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age.
- (b) 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;

- (c) Every child deprived of liberty 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. In particular every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have right to prompt access to legal and other appropriate assistance as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority and to a prompt decision on any such action.

These provisions have profound implications for the treatment of juvenile offenders. They form the foundational philosophy of juvenile justice administration. Some of the implications of the provisions for Nigeria juvenile justice system include:

- 1) The inconsistencies in the age of criminal responsibility in the various statutes (criminal code, penal code, criminal procedure code and the Children and Young Persons Law need to be harmonized with the provision. Besides, the age of responsibility need to be specifically stated, ambiguities and discretion minimized.
- 2) Life and death sentences are prohibited for offenders below 18 years of age.
- 3) Young offenders shall not be tortured or subjected to cruel, inhuman or degrading treatment or punishment.
- 4) Custodial treatment will be sparingly used, and only as a measure of last resort.
- 5) Treatment shall take account of the needs of persons of the juvenile offender's age – such needs may be provision of adequate health, education and vocational skills, recreation and leisure, parental counseling and guidance, etc.
- 6) Juvenile offenders shall have access to legal assistance and be entitled to impartial adjudication.

Further, the United Nations Convention on the Rights of the Child set out in Article 40, the principles that should guide the treatment of young offenders. Article 40 (1) states that:

State parties recognize the right of every child alleged as, accused of or recognized as having infringed the penal law 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 promoting the child's reintegration and the child's assuming a constructive role in society.

In essence, the handling of juvenile offenders should promote “the child's reintegration and the child's assuming a constructive role in society” rather than inflicting punishment or executing retribution and vengeance. Article 40 (2) consists of elaborate provisions on the rights of child during trial. It provides that:

- (a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions which were not prohibited by national or international law at the time they were committed.
- (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
 - (i) To be presumed innocent until proven guilty according to law;
 - (ii) To be informed promptly and directly of the charges against him or her, and if appropriate through his or her parents or legal guardian, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence,
 - (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
 - (iv) Not be compelled to give testimony or confess to guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
 - (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
 - (vi) To have free assistance of an interpreter if the child cannot understand or speak the language used;
 - (vii) To have his or her privacy fully respected at all stages of the proceedings.

The import of these provisions in Article 40 (2) is to extend the observance of rule of law or due process rights to the trial and treatment of juveniles accused of violating the penal laws.

These provisions are fully guaranteed under the Nigerian constitution, in chapter four. Nonetheless, there are several obstacles to their enforcement. First, the protracted rule by the military involves the suspension of these constitutional and due process rights, or their violations by law enforcement and security with impunity (Ajomo and Okagbue 1991; Ayua and Okagbue 1996; Alemika and Chukwuma 2000). Second, the nation inherited repressive criminal laws, law enforcement agencies and penal practices. Thus, in spite of constitutional provisions, adult and juvenile offenders are subjected to torture, inhuman and degrading treatment by the police and prisons (Alemika 1983, 1993a; Alemika and Alemika 1994; Ajomo and Okagbue 1991 and Okagbue 1996). Third, the various law enforcement and judicial institutions in the country are grossly under-funded and poorly equipped, resulting in inadequate facilities, delay in trying suspects, overcrowding, unhygienic and inhuman conditions in police and prison cells. These conditions are worsened by the reluctance and corruption that characterize bail practices by police and judges. As a result, several thousand people accused of minor offences are detained for months and years.

In addition to the provisions in Article 40 (2) that extend due process rights to children, subsections 3 and 4 of Article 40 made specific provisions for philosophy, principles, legal safeguards, institutional framework and practices for treating juvenile offenders.

Article 40 (3) provides that:

State parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of or recognized as having infringed the penal law and in particular:

- (a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
- (b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected (emphasis added)

Article 40 (4) made provisions for the disposition and treatment programmes for juvenile offenders adjudicated to have infringed the law. It provides that:

A variety of dispositions, such as care, guidance and suspension orders, counseling, probation, foster care, education and vocational training programmes 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.

These provisions serve as guidance for the treatment of juvenile offenders by member nations of the United Nations Organizations. The underlying principle of the provisions is to extend the same rights accorded to adults within the criminal justice system to juvenile offenders, and to offer guidance for the treatment of juvenile offenders.

The OAU Charter on Rights and Welfare of the Child, in its preamble, recognized that “the child due to the needs of his physical and mental development requires particular care with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security”. Article IV of the Charter provided that:

- (1) In all actions concerning the child undertaken by any person or authority, the best interests of the child shall be the primary consideration (emphasis added).
- (2) In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, an opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings and those views shall be taken into consideration by the relevant authority in accordance with the provisions of the appropriate law.

These provisions are important in the light of the peculiarity of the conditions of most African children that remain “critical due to the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger...”(Preamble to OAU Charter on the Rights and Welfare of the Child). They are important because of cultural and religious traditions in Africa that do not

give adequate opportunity to the children for self-expression. Article xvii of the Charter deals with the “administration of juvenile justice” and its provisions is similar to the provisions of article 40 of the UN convention on the rights of the child. However, the OAU Charter on the Rights and Welfare of the Child contained the following additional or explicit provisions.

Article xvii (2) (d) prohibited the press and the public from the trial of a juvenile offender. Nigeria’s Children and Young Persons Act contained similar provisions. More important, Article xvii (3) provides that: The essential aim of treatment of every child during the trial and also if found guilty of infringing the penal law shall be his or her reformation, re-integration into his or her family and social rehabilitation (emphasis added). The provision clearly prioritizes reformation, re-integration and social rehabilitation above punishment, retribution, deterrence, incapacitation that are common goals of adult criminal justice processes and practices.

Apart from the UNO Convention and OAU Charter on the Rights of the Child discussed above, there are the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)³ and the United Nations Guidelines for the Prevention of Juvenile Justice (The Riyadh Guidelines)⁴. The Minimum Rules and Guidelines provide a desirable balance between juvenile justice administration and juvenile delinquency prevention. Juvenile delinquency prevention must be embedded in national economic, social development, health, educational and youth development policies. The Guidelines especially provided that:

The need for and importance of progressive delinquency prevention policies and systematic study and the elaboration of measures should be recognized. These should avoid criminalizing and penalizing a child for behaviour that does not cause serious damage to the development of the child or harm to others.⁵

The guideline cautions that “ in the predominant opinion of experts, labeling a young person as “deviant”, “delinquent” or “pre-delinquent” often contributes to the development of a consistent pattern of undesirable behaviour by young persons”⁶. One of the implications of the observation is that young people should be sparingly subjected to the criminal process and only as a measure of last resort because of its criminalizing, stigmatizing and recidivistic consequences. The Guidelines also contain an important principle that:

The institutionalization of young persons should be a measure of last resort and for minimum necessary period, and the best interests of the young person should be of paramount importance. Criteria authorizing formal intervention of this type should be strictly defined and limited to the following situations: (a) where the child or young person has suffered harm that has been inflicted by the parents or guardians; (b) where the child or young person has been sexually, physically or emotionally abused by the parents or guardians; (c) where the child or young person has been neglected, abandoned or exploited by the parents or guardians; (d) where the child or young person is threatened by physical or moral danger due to the behaviour of the parents or guardians; and (e) where serious physical or psychological danger to the child or

³ Hereafter referred to as Minimum Rules

⁴ Hereafter referred to as the Guidelines

⁵ Guideline 5.

⁶ Guideline 5 (f).

young person has manifested itself in his or her own behaviour and neither the parents, the guardian, the juvenile himself or herself nor non-residential community services can meet the danger by means other than institutionalization⁷.

The provision attempts to delineate the conditions under which the institutionalization of a child may be inevitable or excused. However, some of the criteria set out in the provision are vague and liable to abuse by juvenile justice systems in totalitarian states. Juvenile justice administration officials can, easily manipulate the vague and overbroad criteria. For example, what constitute physical and emotional abuse or neglect or exploitation in a society like Nigeria with its socio-economic inadequacies and burden of parents?

The Minimum Rule was adopted by the General Assembly (UNO) Resolution 40/33 of 29 November 1985. It contained thirty (30) broad Rules. Section 5 states the aims of juvenile justice system as follows:

The juvenile justice system shall emphasize the well being of the juvenile and shall ensure that reaction to juvenile offenders shall always be in proportion to the circumstances of both the offender and offence.⁸

Section 7 affirms the due process outlined in the UN Convention and OAU Charters on the rights of the child. Section 13 deals with detention of juveniles pending trial:

Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in separate part of an institution also holding adults. While in custody juveniles shall receive care, protection and all necessary individual assistance-social, educational, vocational, psychological, medical and physical- that they require in view of their age, sex and personality.⁹

The prospect that young offenders may be subjected to “criminal contamination”, and descend deeper into criminal subculture, if lumped together with adult criminals in detention has been one of the major concerns of penologists and penal administrators and reformers since the nineteenth century. Formally, applicable Nigerian laws dictate the separation of juvenile offenders from adult offenders in detention. However, this is not often the case. Section 18 of the Minimum Rules recommended a variety of non-custodial measures or dispositions. Such measures or dispositions include:

- (a) Care, guidance and supervision orders
- (b) Probation;
- (c) Community service orders;
- (d) Financial penalties, compensation and restitution;
- (e) Intermediate treatment and other treatment orders;
- (f) Orders to participate in group counseling and similar activities;
- (g) Orders concerning foster care, living communities or other educational settings;
- (h) Other relevant orders.

⁷ Guideline 46.

⁸ Section 5.1

⁹ sections 13.4 and 13.5

The objectives of institutional treatment of juvenile offenders were contained in section 26 of the Minimum Rules. Provisions in the section complement the expanded relevant provisions in the Standard Minimum Rules for the Treatment of Prisoners. The section provided that:

- The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society. Juveniles in institutions shall receive care, protection and all necessary assistance- social, educational, vocational, psychological, medical and physical- that they may require because of their age, sex, and in the interest of their wholesome development.
- Juveniles in institutions shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.
- Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be assured.
- In the interest and well being of the institutionalized juvenile, the parents or guardians shall have a right of access.
- Inter-ministerial and inter-departmental co-operation shall be fostered for the purpose of providing adequate academic or, as appropriate vocational training to institutionalize juveniles, with a view to ensuring that they do not leave the institution at an educational disadvantage.

Rule 30 deals with the role of research, planning, policy formulation and evaluation in the administration of juvenile justice. It provides that:

- Efforts shall be made to organize and promote necessary research as a basis for effective planning and policy formulation.
- Efforts shall be made to review and appraise periodically the trends, problems and causes of juvenile delinquency and crime as well as the varying particular needs of juveniles in custody.
- Efforts shall be made to establish a regular evaluative research mechanism built into the system of juvenile justice administration and to collect and analyze relevant data and information for appropriate assessment and future improvement and reform of the administration.

This Rule is important in a society like Nigeria where the justice subsystems are uncoordinated. Worse still, there is wide gap between researchers, advocates and administrators within the criminal justice system. The criminal justice agencies in Nigeria - police, judiciary, prisons, legislature and the executive organ of government do not understand or appreciate the relevance of research, planning, and evaluation in criminal justice administration.

The foregoing discussion of the international laws –Convention, Charter, Guidelines and Rules serve as standard for the evaluation of Nigerian juvenile laws and juvenile justice administration. Furthermore, member states of the United Nations and the Organization of African Unity are expected to align their laws and policies on juvenile justice administration to the various provisions discussed above, and the contents of other UNO instruments, including the Standard Minimum Rules for the Treatment of Prisoners. Nigerian juvenile justice laws and especially juvenile justice administration have not been reviewed and coordinated to reflect those international rules and standards for the treatment of juvenile offenders.

The discussion of the Children and Young Persons Act in the remaining part of this chapter, and the analysis of the conditions in juvenile justice custodial institutions in the next chapter will reveal the gap in the juvenile justice laws and administration in Nigeria.

Children and Young Persons Act (Law)

Successive Nigerian constitutions since ‘independence’ from British imperialism in 1960, guaranteed the rights of accused persons to fair trial and due process. Chapter four of the constitution of the Federal Republic of Nigeria, 1999 (as in the 1979 constitution) guarantees the following rights in section 36:

- Fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such a manner as to secure its independence and impartiality.
- Public trial;
- Presumption of innocence until proved guilty
- Prompt notice of charge and details of offence in a language understood by the accused person
- Adequate time and facilities for the preparation of defence
- Presentation of evidence and witnesses
- Access to copies of judgment of court
- Prohibition of retroactive criminal liability
- Prohibition of double jeopardy, multiple trials on same charge (s) and facts.
- Prohibition of coercion of a suspect to give evidence at trial.

These provisions conform to the relevant United Nations Rules and Guidelines on treatment of offenders as well as the Charter and Conventions on human rights.

The Children and Young Persons Act was initially enacted as an ordinance in 1943. It has been subsequently amended through several legislation (i.e. Ordinances 44 of 1945; 27 of 1947; 16 of 1950 as well as the Laws of Nigeria 131 of 1954; 47 of 1955.) and Order in Council 22 of 1946). Intended as a national law (Cap 32 laws of the Federation of Nigeria and Lagos 1958), provisions were made for their adoption 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 and constituted the Children and Young Persons Law, Cap 21 of the Laws of Northern Nigeria (1963). Lagos State also adopted the law in 1970 - Children and Young Persons Law (Cap. 26 of the Laws of Lagos State). The law (CYPA) remains the most

important legislation in the country pertaining to the treatment of juvenile offenders. Subsequent discussion relies on the Children and Young Persons Act (1958).

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”. A child was defined by the law as “a person under the age of fourteen years”. The law defines a young person as “a person who has attained the age of fourteen years”. There was no explicit definition of a juvenile in the law. However, as used in the legislation, it refers to both the child and young person, that is, a person who has not attained the age of seventeen years. In order to ensure that only juvenile courts deal with children and young persons, section 29 of CYPA provided that:

Where a person, whether charged with an offence or not, is brought before any court otherwise than for the purpose of giving evidence and it appears to the court that he is a child or young person, the court shall make due inquiry as to the age of that person, and for that purpose 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...

But this provision, which appears to be aimed at preventing anyone who has not attained the age of seventeen years from being tried by juvenile courts, was negated by the provision in section 6 (3) which states that:

Where in the course of any proceedings in a juvenile court it appears to the court that a person charged or to whom the proceedings relate is of the age of seventeen years or upwards, or 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 proceeding 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.

The provision thereby created the possibility of a person who had attained seventeen years of age or older to be tried by a juvenile court and also a person who has not attained the age of seventeen years to be tried by other courts.

Bail of Juvenile Offenders

Section 3 of CYPA provided 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 situation where “it is necessary in the interest of such person to remove him from association with any reputed criminal or prostitute” or (c) to situation where “the officer has reason to believe that the release of such person would defeat the ends of justice”. The last condition (c) appears too vague and may be abused to unnecessarily deny bail to young offenders.

Pre-Trial Custody or Detention

Where a young offender was not released on bail pending trial, CYPA provides that:

The officer to whom such a person is brought shall cause him to be detained in a place of detention provided under this ordinance until he can be brought before a court unless the officer certifies-

- (a) That it is impracticable to do so; or
- (b) That he is of so unruly or depraved a character that he cannot be safely so detained; or
- (c) That by reason of his state of health or his mental or bodily condition it is inadvisable so to detain him; and the certificate shall be produced to the court before which the person is brought.

Section 5 of CYPA enjoins “ the Inspector General of Police to make arrangements for preventing so far as practicable, a child or young person while in custody, from associating with an adult charged with an offence”. This provision is to prevent the criminal contamination or indoctrination of young offenders by adult criminals. Besides, such measures are desirable for the protection of young offenders from abuse and exploitation by adult criminals. However, in reality, this provision is not always enforced, especially in police cells. Similarly, Nigerian prisons contain a large number of young offenders,¹⁰ and often they are not separated from adult inmates on the basis of age or other relevant classifications.

Section 7 dealt with the remand or committal to custody of young offenders, and specified the condition of custody or remand. It provided in S.7 (1) 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 Ordinance 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 (emphasis added).

It will appear that the intent of the law is to ensure that young offenders are not detained in prisons, except in exceptional circumstances. However, inadequate remand centers, approved schools and Borstal institution led to the detention and imprisonment of young offenders in the prisons. 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 the young person is excused under exceptional circumstances.

¹⁰ See the tables on age composition of prisoners in Nigerian prisons published in *Annual Abstract of Statistics* published by the Federal Office of Statistics.

Constitution and Procedure of Juvenile Court

The constitution of the juvenile court was regulated in section 6 of the law, which states:

A juvenile court for the purpose of hearing and determination of cases relating to children or young persons shall be constituted by a magistrate sitting with such other persons, if any, as the Chief Justice of the region shall appoint.

The different states of the Federation have adopted two approaches to the establishment and operations of juvenile courts. In a few States (especially Lagos State), a visible structure of juvenile justice administration is on the ground. But in most states, such structures are not readily visible. Instead of a permanent juvenile court, magistrates hear cases involving juveniles outside the normal courtrooms or outside normal court sessions either in the courtrooms or in their chambers. This is to comply with the provisions of the law (CYPA) in S.6 (2), which states that:

A court when hearing charges against children or young persons shall, unless the child or young person is charged jointly with any 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.

The purpose of this provision is to protect the privacy of the young offenders and also to protect him or her from the effects of stigmatization that may result from public trial. This is clear from additional provisions in section 6 (5) (b), which state that:

- (5) 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 shall except by leave of such court, be allowed to attend: provided that such bonafide representative of a newspaper or news agency shall not be excluded, except by special order of the court.
- (6) No person shall publish the name, address, school, photograph or do anything likely to lead to the identification of the child or young person before a juvenile court, save with the permission of such court or in so far as required by the provisions of this Ordinance. Any person who acts in contravention of the provisions of this subsection shall be liable to a fine of fifty pounds.

The offence of publication of identity of young offenders before a court must have been considered a serious offence to warrant a fine of fifty pounds at the time. In spite of these provisions relating to the constitution of the juvenile court, the standard anticipated by the Standard Minimum Rules for the Administration of Juvenile Justice has not been fulfilled. Of particular significance is the absence of specialized judges and police to handle cases involving juvenile offenders. For example, Rule 12 of the Standard Minimum Rules provide that:

In order to best fulfill their functions, police officers who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile crime shall be specially instructed and trained. In large cities, special police units should be established for that purpose.

In Nigeria, female police officers are often deployed to juvenile welfare departments in divisional and state police command headquarters. However, they are not given specialized training, assignment to the unit is considered a general duty posting and officers are frequently transferred in and out of the unit. Although there is no similar provision for judges in the UN Rules, it is clear that a judge who frequently switches between trials of adult offenders and juvenile delinquents in a punitive legal system as in Nigeria cannot possess the right attitude and mood for humane treatment of young offenders. The Nigerian law, however, satisfies the provision of privacy for young offenders, contained in rule 8 of the UN Standard Minimum Rules.

The CYPA in section 8 regulates the trial procedure of juvenile court. Particularly important is that the provisions in the section relate to the due process rights of the juvenile offenders. The provisions, to a very large extent satisfy the requirements of the Nigerian constitution (section 36); Standard Minimum Rule for the Administration of Justice (Rule 7); Un Convention On the Rights of the Child (article 40) ; and OAU Charter on the Rights and Welfare of the Child (article xvii). Notwithstanding the provisions, however, widespread derogation by the police, judges and parents have been reported (Okagbue 1996, Human Rights Monitor 1997).

One of the provisions under section 8 relates to pre-sentencing investigation. S.8 (7) provides that:

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 interests of the child or young person, and may put to him any question arising out of such information.

These provisions fulfil the requirements in Rule 16 of the UN Minimum Rules for the Administration of Juvenile Justice, requiring social enquiry report on the background and circumstances (social and family background, school, educational experiences etc) of juveniles prior to their sentencing by a competent authority. But in reality, such inquiry and reports are not demanded by the courts, and where produced they are so scanty and shallow (Human Rights Monitor 1997) to be of any meaningful use beyond hypocritical compliance with the law.

Section 11,12,13 and 14 of CYPA deal with the punishment of children and young persons. Section 11 (1) explicitly prohibited the imprisonment of a child. But S. 11(2) provided that no “young person shall be ordered to be imprisoned if he can be suitably dealt with in any other way whether by probation, fine, corporal punishment, committal to a place of detention or to an approved institution, or otherwise”. In case of imprisonment, a young person “shall not be allowed to associate with adult prisoners” (s11(3)). Thus, section 11(1) forbids imprisonment of a child as defined under the law, but permits in 11(2) an imprisonment of young persons, however, sparingly and only when other forms of non-custodial punishment or correctional orders are not feasible.

Pronouncement of sentence of death against a juvenile who has not attained the age of seventeen years is prohibited by section 12 of the law. He may, however, be committed to

custody at the pleasure of the head of state. Section 14 of CYPA listed the various dispositions at the disposal of juvenile courts. It provides that:

Where a child or young person charged with any 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 this or any other Ordinance the case should be dealt with, namely, whether-

- (a) by dismissing the charge; or
- (b) by discharging the offender on his entering into a recognizance; or
- (c) by 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
- (f) by ordering the offender to be whipped; or
- (g) by ordering the offender to pay a fine, damages, or costs; or
- (h) by ordering the parents or guardian of the offender to pay a fine, damages, or costs; or
- (i) by ordering the parent or guardian of the offender to give security for his good behaviour, or
- (j) by committing the offender to custody in a place of detention under this ordinances;
- (k) where the offender is a young person, by ordering him to be imprisoned; or
- (l) by dealing with the case in any other manner in which it may be legally dealt with.

The dispositions provided for in the law differ in a variety of ways from provisions in Rules 18 and 26 of the UN Standard Minimum Rules on Juvenile Justice Administration. Moreover, the provisions in CYPA are inclined more towards punishment. The following aspects of the provisions should be underscored (1) the continuing retention of whipping in the laws violates international standards which classify it as degrading treatment; (ii) parents and guardians are liable for the misbehaviours of their children and wards, and (iii) a charge against a juvenile offender can be dismissed even after the court is satisfied of his or her guilt (S.14 (a)).

The places of detention referred to in many sections of CYPA are remand homes, approved institutions including Borstal institutions and prisons. A native or local authority or a local government council with prior approval of competent authority “may establish remand homes and may make rules for the management, upkeep and inspection of such homes” (S.15 (i)). Section 15 (3) provides that:

Where no remand home is conveniently situated a child or young person ordered to be detained in a 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 be detained in a prison he shall not be allowed to associate with adult prisoners.

Also section 18 provides for the establishment of institution or declaration of any school or institution to be approved institution. In section 21, it was provided that a “person who has attained the age of sixteen years” shall be subject to a corrective order, and no such order

shall remain in force after the person affected by it shall have attained the age of eighteen years.

A careful analysis of the legislation (CYPA) is that too much emphasis is placed on remand in custody. This may be partly due to the fact it is an old and colonial law predating many of the contemporary international standards and encourage non-custodial sentences¹¹.

Criminalization of Destitution and Deprivation

Part five of the CYPA contained provisions that for practical purposes constitute the criminalization and punishment of destitution and deprivation and the conviction and institutionalization of the disadvantaged children in need of care and protection.

Section 26 (1) provides that:

Any local authority or any local government council, any police officer or any authorized officer, having reasonable ground for believing that a child or young person comes within any of the descriptions hereinafter mentioned-

- (a) who is an orphan or is deserted by his/her relatives; or
- (b) who has been neglected or ill-treated by the person having the care and custody of such child; or
- (c) who has a parent or guardian who does not exercise proper guardianship; or
- (d) who is found destitute, and has both parents or his surviving parent undergoing imprisonment; or
- (e) who 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
- (f) who is the daughter of a father who has been convicted of an offence under section 218 of the criminal code in respect of any of his daughters; or
- (g) who is found wandering and has no home or settled place of abode or visible means of subsistence; or
- (h) who 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 so begging or receiving alms; or
- (i) who 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
- (j) who frequents the company of any reputed thief or common or reputed prostitute; or
- (k) who is lodging or residing in a house or part of a house used by any prostitute for the purpose of prostitution, or is otherwise living in circumstances calculated to cause, encourage or favour the seduction or prostitution of a child, or
- (l) in relation to when the offence under chapter xxi of the criminal code has been committed or attempted; or
- (m) who having been born or brought within a protectorate would, but for the provisions of the law relating to the legal status of slavery be a slave; or
- (n) who is otherwise exposed to moral danger, may bring that child or young person before a juvenile court (emphasis added)

¹¹ The Federal Ministry of Culture and Social Welfare organized a workshop on review and application of the children and Young Persons law in 1991, but the laws has still not been reviewed at present.

These provisions brought problems that should fall under social welfare within the jurisdiction of the juvenile court, as if the child or young person has committed a crime. The nature of the disposition provided further illustrates the punitive, non-welfarist attitude and responses under the law. Thus, section 26 (2) provided as follows”

The court, if satisfied that the child or young person comes within any of the paragraph in subsection (1) may-

- (a) make a corrective order- (i) sending him to an approved institution, (ii) committing him to the care of a fit person whether a relative or not, who is willing to undertake the care of him; or
- (b) order his parent or guardian to enter into a recognizance to exercise proper care and guardianship; or
- (c) Without making any other order, or in addition to making an order under either of the two last preceding paragraphs, make an order placing him for a specified period, not exceeding three years, under the supervision of a probation officer, or some other person appointed for the purpose by the court.

The social welfare departments exist at the federal, state and local levels. But they are not organized to meaningfully deal with or handle children who are destitute and deprived, because appropriate legal policy and institutional frameworks as well as necessary facilities have not been established or implemented by successive governments since the colonial era.

Section 27 contains provisions for handling juveniles beyond parental control:

Where the parent or guardian of a child or young persons proves to a juvenile court that he is unable to control the child or young person, the court , if satisfied that-

- (a) that it is expedient so to deal with the child or young person, and
 - (b) that the parent or guardian understands the results which will follow from and consents to the making of the order
- may make a corrective order in respect of such child or young person or may order him to be placed for a specified period, not exceeding three years, under the supervision of a probation officer or some other person appointed for the purpose by the court.

The provision has been abused by parents who commit their children to institutions (Human Rights Monitor 1997), on account of being ‘beyond parental control’.

Juvenile Custodial Institutions

Beyond a general political rhetoric and declarations in government publications about the correction, reformation and rehabilitation of the juvenile offender, there are no explicit legal and institutional framework and commitment towards the realization of the goals. The colonial government established the first juvenile justice custodial institution in 1937 as a wing of the Enugu Prison. For several years it received inmates from the various Regions. The Children and Young Persons Act empowered native or local authority and local government council to establish remand homes (S.15) and state governments to establish approved institutions (S.18).

In a different law, provisions were made for the establishment of Borstal institutions. The law, Borstal Institutions and Remand Centre Act (No 32 of 1960) establishes Borstal and Remand Centre as federal juvenile correctional institutions. According to the legislation, the purpose of the institution is to “bring to bear upon the inmates every good influence which may establish in them the will to lead a good and useful life on release, and to fit him to do so by fullest development of his character, capacities, and sense of personal responsibilities”.

Borstal Training Institution was established in Kakuri, in the southern part of Kaduna metropolis. A Borstal Remand Center was established as a remand and reception center, prior to the transfer of committed juvenile offenders to the Borstal institution, in Kaduna. Towards the realization of the objectives or goals of reformation, there were provisions for vocational training in tailoring, photography, welding, building (masonry or bricklaying), electrical installation, etc, as well as formal educational instruction, up to General Certificate of Education (ordinary level). These facilities were fairly well managed in the 1970's (Alemika 1978). However, by the 1980's, facilities and training had deteriorated (Ahire 1987) and were virtually non-existent in the 1990's (Human Rights Monitor 1997). A consistent problem encountered in the institution is overcrowding. During a study in 1978 when the Borstal Institution had a capacity of 120 inmates, population of inmates was 145 (Alemika 1978). In 1987, the capacity remained the same (120) but a researcher discovered that there were 509 inmates (Ahire 1987). This figure is more than 300 percent overcrowding. As of January 2000, the capacity of the Borstal Institution, remains 120 but the population of inmates was 221 (unpublished data from Nigerian Prison Service, Abuja).

Borstal Institution law provides for vocational and educational training and the reformation of juvenile offenders. The law provides that a Borstal institution, will be a place where “offenders who were not less than sixteen but under twenty one years of age on the day of conviction may be detained and given such training and instruction as will conduce to their reformation and the prevention of crime”. The law also declared Borstal Remand Center as a place for the detention of persons not less than sixteen but under twenty one years of age who are remanded or committed in custody for trial or sentence”. Furthermore, the Borstal Institution and Remand Center Act specifies a maximum of three years institutionalization in the Borstal Institution, and with a possible additional one year of after care supervision. However, the laudable goals of the institution are not realized due to lack of proper policy, legal and institutional framework for juvenile offender correction and juvenile delinquency prevention. Furthermore, the objectives or goals of the institution are also compromised by lack of proper planning and implementation, gross under funding; inadequate staff- in qualitative and quantitative terms, and lack of necessary training facilities in the workshops and educational programmes.

CHAPTER FOUR

Data Analysis and Interpretation

Conditions and Perceptions of Juvenile Justice

The study analyses the conditions in the juvenile justice system, and investigates the perceptions and experiences of officials and inmates within the system. Empirical data collected in these respects are analyzed in this chapter.

Sources of Data

The data analyzed in this chapter were obtained through interviews and questionnaires administered to:

- Judicial officers;
- Police;
- Prison officials;
- Officials and inmates of remand homes and approved institutions
- Officials and inmates of Borstal training institution Kaduna
- Officials and inmates of Borstal remand center Abeokuta.

Accordingly, information were obtained from judicial officers, police, prison officials and inmates of remand homes and approved institutions in fifteen states, at least two institutions from each of the geo-political zones of Nigeria. The states covered are : Abia, Adamawa, Bauchi, Benue, Delta, Ebonyi, Edo, Enugu, Imo, Kaduna, Kano, Lagos, Ogun, Plateau and Rivers. The responses/respondents are distributed as follows:

- (1) Juvenile offenders in detention at police stations, remand homes, approved institutions, prison and Borstal training institution/remand center (502), distributed thus: police (40), remand homes (291), approved schools (21), Borstal (100), Prisons (23) others (27).
- (2) Officials (119) distributed as follows: police (32), remand homes (44), approved schools (11), Borstal (21), prison (4), others (7).
- (3) Judicial officers (156).

The total responses /respondents from the interviews and questionnaires were 767.

Judicial Officers and Juvenile Justice Administration

One hundred and fifty six judicial officers responded to questionnaires. 19.9%, of them were 29 years old or younger, 58.9% (86) were in the 30 to 44 years bracket, and 21.2% (31) were 45 years and older. Nearly two thirds (62.8%) of them had a university law degree and another 30.3% had post secondary diploma in law. More than one half (55.6) were magistrates, 21.4% were area/ customary judges. More than two thirds (45.9%) of the judicial officers had ten or more years experience as legal practitioners, 39.8% had four or less years of experience. Also, only 18.4% of them claimed to have “very much” experience

in handling juvenile offenders while and 36.1 had little or no experience in dealing with juvenile offenders.

The judicial officers were asked of their understanding of the most important objectives of juvenile justice system. Most of them (88.4% of 129 respondents) identified correction, reformation and rehabilitation of juvenile offenders, while 5.4% identified isolation and incapacitation. But a significant 64.1% reported that the objectives were poorly or very poorly realized.

Juvenile offenders are entitled to due process rights, and when committed to institutions, they are entitled to various rights. The judicial officers were asked the extent to which the following rights and conditions prevailed within the juvenile justice system. Table 1 presents their responses.

Table 1: Rights and Conditions in Juvenile Justice System

Realization of rights and conditions	Very well	Well	Poorly	Very poorly
1. Presumption of innocence	16.9 (24)	44.4 (63)	26.1 (37)	12.7 (18)
2. Prompt trial	13.4 (19)	30.3 (43)	38.7 (55)	17.6 (25)
3. Protection against forced confession	11.3 (16)	36.9 (52)	39.7 (56)	12.1 (17)
4. Protection against torture and brutality	5.8 (8)	33.6 (46)	43.1 (59)	17.5 (24)
5. Protection against threats of being beaten, tortured and imprisoned	8.1 (11)	28.9 (39)	44.4 (60)	18.5 (24)
6. Adequate legal representation	8.5 (12)	26.1 (37)	42.3 (60)	23.2 (33)
7. Understanding legal process by juvenile offenders	4.3 (6)	18.4 (26)	53.9 (76)	23.4 (33)
8. Educational and vocational training programmes	8.5 (12)	17.6 (25)	51.4 (73)	22.5 (32)
9. Protection of the rights of juveniles within the criminal justice system.	9.2 (13)	11.3 (16)	57.7 (82)	21.8 (31)

The data in the table reveal that judicial officers perceive that the promotion and protection of the rights of children and young persons are not adequately promoted within the Nigerian juvenile justice system. This pattern of response is very important given the critical role and position of judicial officials within the system.

The judicial officials were asked about the common complaints against police by juvenile offenders brought before them for trial. Table 2 presents their responses.

Table 2: Common Complaints against Police by Juveniles

Complaints	% (N)
Verbal abuse	10.0 (8)
Physical assault	30.0 (24)
Sexual abuse	2.5 (2)
Poor conditions of police cells	28.7 (23)

Threat of beating	8.8 (7)
Threat of long detention	11.3 (9)
Poor feeding	5.0 (4)
Others	3.8 (3)

Their responses show that physical assault and poor conditions in police cells were the most common complaints against the police by juvenile offenders. In a similar study by the Nigerian Institute of Advanced Legal Study reported that: “42% of the [juvenile inmate] sample stated that their arrest involved verbal abuse while 40% reported that their arrest involved the use or threat of physical abuse” (Okagbue 1996: 254).

Asked about the adequacy of the provisions of the Children and Young Persons Act (CYPA) for dealing with juvenile crimes, 7.1% (9) responded that they are ‘very adequate’, 35.4% (45) considered them adequate. But majority, 57.5% (73), of the respondents considered the provisions either inadequate or very inadequate. The data described above indicate the gross inadequacy of the laws and conditions of juvenile justice, as perceived by the judicial officials, who play important roles within the criminal justice system.

Custodial Officers and the Juvenile Justice Administration

One hundred and nineteen custodial officials from various institutions across the country were interviewed. The distribution is as follows: police (32); remand homes (44); approved schools (11), Borstal (21) and prisons (4). More than two thirds (71.8%) of the officials were in the 30-44 years age bracket. Also, 69.6% were males and the remaining 30.4% were females. Their educational attainments were as follows: primary (5.9%), secondary (30.5%), post secondary diploma and certificate (37.3%), university degree and equivalents (26.3%). The distribution of the rank of officials was junior (20.9%), intermediate (24.5%), senior (46.4%) and management (8.2%)¹². As regards their work experience within the criminal justice system, 47.8% reported having worked for 9 years or less, while the rest had working experience of ten years and more. Most of them (92.6%) believe that youths are getting more involved in crimes than in the past.

The study also investigates the officials’ perception of the extent and adequacy of provisions for children by society in basic areas of health care, education, moral and psychological development , food and shelter. Their responses are presented in table 3.

Table 3: Adequacy of Society’s Protection of the Welfare of Juveniles

Has Nigerian society made adequate provision:	Yes	No
1. For health care of children?	23.0 (23)	77.0 (77)
2. For education of children?	18.8 (18)	73.8 (76)
3. For moral development of children?	15.5 (15)	81.3 (78)
4. For psychological development of children?	15.5 (15)	84.5 (82)
5. For food and nourishment of children?	17.3 (17)	82.7 (81)

¹ the classification of the ranks are junior (levels 01-05), intermediate (levels 06-07), senior (levels 08-13) and management (levels 14-17)

6. For shelter of children	15.3 (15)	84.7 (83)
----------------------------	-----------	-----------

More than 70% of the officers felt that the Nigerian society has failed to make adequate provisions for the health care, education, moral development and shelter of the child. The introduction of Structural Adjustment Programme (SAP) in 1986, its implementation and the festering corruption under successive regimes led to unprecedented economic crisis, deterioration of social services, high cost of education, health, food and shelter in the country (Alemika 1998). It is therefore not surprising that the vast majority of the officials perceive these inadequacies. The responses show that the Nigerian society has not adequately promoted and protected the rights of the child (Alemika 1996; Ayua and Okagbue 1996).

The study investigates the adequacy of funding, facilities and services in the nations juvenile justice institutions, which the officials manage. Their responses are summarized in table 4.

Table 4: Adequacy of Facilities and Protection of Children in Juvenile Justice Institutions

Nature of facilities for juvenile inmates	Very adequate	Adequate	Inadequate	Very inadequate.
1. Funding	15.0(16)	15.9 (17)	68.2 (73)	0.9 (1)
2. Accommodation	11.7 (13)	32.4 (36)	43.2 (48)	12.6 (14)
3. Food and feeding	10.8 (12)	32.4 (36)	44.1 (49)	12.6 (14)
4. Sleeping materials	4.5 (5)	25.9 (29)	52.7 (59)	17.0 (19)
5. Medical care	7.3 (8)	15.5 (17)	54.5 (60)	22.7 (25)
6. Personal hygiene (i.e. bathing soap)	1.8 (2)	18.8 (21)	56.3 (63)	23.2 (26)
7. Toilet facilities	7.0 (8)	39.5 (45)	37.5 (43)	15.8 (18)
8 Protection from verbal abuse from officials	8.5 (10)	56.4 (66)	25.6 (30)	9.4 (11)
9. Protection from physical abuse	18.1 (21)	50.9 (59)	25.0 (29)	6.0 (7)
10. Protection from verbal abuse by fellow inmates	10.4 (12)	50.4 (58)	26.1 (30)	13.0 (12)
11. Protection from physical abuse	12.9 (15)	54.3 (63)	22.4 (26)	10.3 (12)
12. Counseling services for juveniles	22.2 (26)	48.7 (57)	20.5 (24)	8.5 (10)
13. Access to parents.	27.2 (31)	49.1 (56)	18.4 (21)	5.3 (6)
14. Access to formal education	13.9 (16)	26.1 (30)	36.5 (42)	23.5 (27)
15. Access to vocational training	13.9 (16)	21.7 (25)	42.6 (49)	21.7 (25)
16. Moral and religious training	26.7 (31)	40.5 (47)	24.1 (28)	8.6 (10)
17. Interaction between staff and inmates.	26.5 (31)	56.4 (66)	11.1 (13)	6.0 (7)
18. Interaction among inmates	23.1 (27)	56.4 (66)	13.7 (16)	6.8 (8)
19. Recreation and leisure.	12.1 (14)	31.9 (37)	40.5 (47)	15.5 (18)

Due to small inmate population in majority of the juvenile institutions, it was not possible to examine these responses by types of institutions, e.g. Borstal institutions, approved schools and remand homes. However, observations during the fieldwork as well as responses of the officials to unstructured interviews, clearly indicate that facilities are barely available in the Borstal and approved institutions, and almost non-existent in remand homes.

The information summarized in the table reveal important patterns. First, majority of them reported that funding for implementing the objectives of the institutions, and for providing needed services to the juveniles was grossly inadequate. Second, majority of the officials consider the level and quality of accommodation, food, sleeping materials, medical care, hygiene, education, vocational training, recreation and leisure to be inadequate. Third, the officials however, reported that adequate provisions exist for the protection of inmates against physical and verbal abuse by officials and fellow inmates.

The findings of gross inadequacies of facilities are consistent with those reported in previous researches by Ahire (1987) and Human Rights Monitor (1997). A field officer for this project summarized his observations of facilities in the juvenile justice institution he visited as follows: “ there was near complete absence of medical and educational facilities at both the Yola and Bauchi remand homes”¹³. Another field officer reported that:

The so-called objectives of the institutions- correction, rehabilitation and reformation of young offenders are not being realized. There are numerous factors militating against proper and efficient functioning of the institutions. They include shortage of personnel, lack of fund, inadequate facilities... It is noteworthy as well that due to the poor conditions of those institutions, juvenile offenders are now kept in prisons with adult criminals and under the same facilities. For instance, at Owerri Prison there are many young offenders in their custody.¹⁴

The judicial officers and custodial officers agreed on the inadequacy of the conditions and facilities in Nigerian juvenile custodial institutions. They also reported that these inadequacies militate against the realization of the objectives of the institutions. These also confirm reports of various researches on those institutions (Alemika 1983, 1987, 1988, Ahire 1987, Okagbue 1996 and Human Rights Monitor 1997). A serious danger to the rights and welfare of children and young persons is the arrest and detention of juveniles for possession, use and sale of drugs – especially Indian hemp and manufactured psychotropic drugs, by officials of the National Drug Law Enforcement Agency NDLEA. Juvenile suspects are kept for long periods in company of adult suspects without trial. They are denied access to legal representation, and in many cases their parents and significant others are not notified by drug law enforcement officials. The detention centres and arrest practices of the NDLEA need to be properly regulated and monitored, and subjected to public scrutiny.

Conditions and Perceptions of Institutionalized Juvenile Offenders

Five hundred and two juveniles detained in several police cells, prisons, remand homes and approved institutions in various states and the Borstal Training Institution Kaduna were interviewed with a view to obtaining information on their conditions in and perceptions of the juvenile justice system in Nigeria. Among the 502 respondents, 8.4% (40) were in police cells, 61.3 (291) in remand homes, 4.4% (21) in approved schools; 21.1% (100) in Borstal and 4.8% (in prisons). Most of the respondents (87.0%) were males and the remaining 13% were females. The average age of the juveniles was 16.04 years, the youngest was 9 years old, and the oldest inmate was 26 years old instead of the statutory maximum of 21 years. This anomaly is due to the age declaration racket in committal of young persons to juvenile institutions (Human Rights Monitor). In some cases age is under-declared by parents and offenders at sentencing stage to avoid imprisonment in adult prisons. The average number of children in their parent’s family was 7.2.

The socioeconomic backgrounds of the inmates are presented in table 5. The data in table 6 and 7 reveal the following patterns:

¹³ Okey Ndiribe ‘field report’

¹⁴ Chidi Ogbonna ‘field notes and report’

- The inmates of juvenile custodial institutions are predominantly male, and reflect the pattern of gender distribution and criminal statistics, widely published in criminology.
- The parents of nearly two third (65.3%) of the juvenile offenders were married, (37.4%) monogamous, and (27.9%) polygamous. This is contrary to the postulations of a model of criminology that blames broken home for delinquency. Majority of the institutionalized juvenile offenders in the study were not from broken homes. However, data on residence prior to arrest show that only 38% of the juveniles were living with both parents, while 10.9% and 16.8% respectively were living with their father and mother. Thus, more than marital status of parents, residence of juveniles prior to arrest may indicate family disorganization and alienation factors in delinquency and decision to institutionalize juvenile offenders. Nearly one tenth of the juveniles were living with either stepfather (2.8%) or stepmother (6.3%), another indicator of separation (either by divorce or death) and re-marriage.
- The parents of institutionalized offenders were concentrated in unskilled self-employed occupations. Thus 48.6% and 66.0% of the fathers and mothers of the juveniles respectively belong to the category. But more than 20% of the male parents belonged to the intermediate and professional staff category.
- More than two fifths (42.2%) of the inmates had secondary (40.1%) and post secondary (2.7%) education, which is not poor by standard or level of literacy in the wider population. The socioeconomic background of the juveniles, rather than being distinct, reflect the distribution in the population, characterized by poverty and low literacy rates.

Table 5: Socio-Economic Background of Juvenile Offenders

Socio-economic background	% N
1. Sex	
Male	87.0 (402)
Female	13.0 (60)
2. Marital status of parents	
Married (monogamous)	37.4 (157)
Married (polygamous)	27.9 (117)
Separated	14.0 (59)
Divorced	8.1 (34)
Mother deceased	6.0 (25)
Father deceased	6.7 (28)
3. Occupation of father	
Unskilled, self employed (petty trading, farming etc)	48.6 (203)
Semi-skilled, self employed (mechanics, drivers etc)	19.9 (83)
Junior employees in government and companies	6.0 (25)
Intermediate employees in government companies	9.8 (41)
Professionals	10.8 (45)
Others (unemployed, retiree etc)	5.0 (21)
4. Occupation of mother	
Unskilled self-employed (petty trading farming etc)	66.0 (282)
Semi-skilled self –employed (tailoring, hair dressing etc)	6.3 (27)
Junior employees in government and companies	4.0 (17)
Intermediate employees in government and companies	5.6 (24)
Professionals	3.3 (14)
Others (unemployed, full time house wife, retiree etc.)	14.8 (63)

Table 6: Residence, Education, Vocation and Age of Juvenile Offenders

1. Residence prior to present arrest/ committal	
With both parents	38.0 (174)
Father alone	10.9 (50)
Mother alone	16.8 (77)
Father and step mother	6.3 (29)
Mother and step father	2.8 (13)
Relatives	14.0 (64)
Non relatives	5.9 (27)
Alone	5.2 (24)
2. Level of education prior to arrest and committal	
None	14.6 (71)
Primary school	38.5 (187)
Secondary school	40.1 (195)
Post secondary	2.7 (13)
Other	4.1 (20)
3. Vocation prior to arrest and committal	
None	24.4 (115)
Schooling	41.5 (196)
Apprenticeship	21.0 (99)
Self employed	5.5 (26)
Employed in family enterprise	1.5 (7)
Employed in government or company	0.6 (3)
Others	5.5 (26)
4. Age	
Average	16.04 years
Minimum age/ maximum age of offenders	9/26 years
5. Parents family size	
Average number of children in family	7.2
Maximum/minimum number of children in family	36.0/1.0
Average number of mothers children	5.0
Average number of fathers children	7.1

The juveniles were overwhelmingly committed for property offences (table 6). More than three-fifths (63.2%) of the inmates were committed for property offences.

Criminal Records of Juvenile Offenders

Criminological literature indicates that juvenile delinquency peaks between 16 and 18 years. The average age of 16 years among the institutionalized juvenile offenders confirms this trend. Moral and status offences, which in most cases do not count as crimes for adults, were grounds for the committal of 20.6% juveniles to juvenile penal institutions (table 7). Table 7 presents information on prior arrest and committal record. More than two thirds (68.7%) had no prior arrest record and 81.8% had not been previously remanded or committed to any juvenile penal institution or police custody. The juveniles were, therefore, largely ‘first offenders’, who in most cases were involved in minor misconduct, which under a regime of humane juvenile justice would not have led to institutionalization, especially in view of its costs and adverse consequences.

About three fifths of the juveniles were arrested by law enforcement agents. However, 15.7% and 3.0% respectively were handed over by their father and mother for arrest and committal. Observations (Human Rights Monitor 1997; Alemika 1978) show that elites are commonly involved in this way of handling their “unruly children” ostensibly under the “beyond parental control” provisions in the Children and Young Persons Act. This practice among the elites (especially public office holders) is to save them from public

embarrassment, by pushing their “unruly children” behind the wall and beyond visibility and scrutiny of the public (Human Rights Monitor 1997, Alemika, 1978). In doing so, however, the elites prefer the Borstal institution which is better equipped and staffed.

Table 7: Criminal Records of Juvenile Offenders

Criminal records	% N
1. Present offence:	
Property (theft, fraud, robbery, burglary, etc)	63.2 (285)
Personal (assault, fighting, rape, etc)	13.3 (60)
Public order (demonstration, rioting etc)	2.9 (13)
Moral and status offences (i.e. beyond parental control)	20.6 (93)
2. Number of previous arrests	
None	68.7 (318)
Once	19.7 (91)
Twice	6.5 (30)
Thrice and more	5.2 (24)
3. Number of previous remands and committals	
None	81.8 (364)
Once	15.1 (67)
Twice	2.2 (10)
Thrice and more	4 (0.9)
4. Source of arrests and committal	
Father	15.7 (68)
Mother	3.0 (13)
Both parents	6.7 (29)
Relative	8.1 (35)
Law enforcement agents	59.7 (258)
Parents and police	2.3 (10)
Others	4.4 (19)

Treatment of Juveniles during Arrest and Detention by Police

There is a wide consensus among police researchers, human rights advocacy organizations, government officials and the public that Nigerian policemen and women exhibit brutality and incivility in their relationship with citizens and offenders (Odekunle 1979; Alemika 1988; 1993a; Rotimi 1993; Ahire 1991, 1993; Ohonbamu 1972; Working Party Report, 1966, Tamuno, 1970; Alemika and Chukwuma 2000, Okagbue 1996, CLO Annual Reports 1988-1996).

Table 8 presents the responses of the juveniles to the question on how they were treated by the police during arrest and detention. About two-thirds of the juveniles reported being verbally abused (66.5%); physically assaulted (64.7%) and threatened with beating (68.5%). They were therefore, overwhelmingly subjected to verbal, physical and psychological abuse by police. They were also subjected to mental torture, by means of threat of denial of food and long detention.

Another dimension of the experience of juveniles within the juvenile system, especially the police, which priority is dealing with adult offenders, is the poor state of facilities and funding in the system. For example, only 13.7% reported being well fed in police cells; and only 12.9% were provided with adequate materials for personal hygiene (i.e. washing soap,

bath and toilet). These failures must be attributed more to the attitude of society and government inconsistency to the rights, plight and welfare of suspects and offenders. The Nigerian government (supported by IMF and the World Bank) since 1986 when Structural Adjustment Programme (SAP) was introduced has been notorious in the abdication of its responsibility to protect and promote the welfare of citizens.

The poor and inhumane conditions in the country's police, prisons and juvenile custodial institutions has a longer history in colonial oppression, repressive attitudes towards suspects and offenders; and a governmental culture that does not give due premium to human rights. More than three fifths of the juveniles reported being denied access to parents and friends (61.1%) and opportunity to defend themselves (64.0%). They also reported that they were forced to confess to a crime and were ill-treated by police (table 8). Overall, the interests, rights and welfare of juvenile suspects and offenders are not adequately protected within the Nigerian juvenile justice system.

Table 8: Treatment of Juveniles during Arrest and Detention by Police

Type of treatment	% (N)
1. Verbal abuse	
Yes	66.5 (234)
No	33.5 (118)
2. Physical abuse	
Yes	64.7 (225)
No	35.3 (123)
3. Threatened with beating	
Yes	68.5 (233)
No	31.5 (107)
4. Threatened with denial of food	
Yes	40.8 (138)
No	59.2 (200)
5. Threatened with long detention	
Yes	48.5 (163)
No	51.5 (173)
6. Counseled and advised by police	
Yes	33.1 (112)
No	66.9 (226)
7. Properly fed by the police	
Yes	13.7 (47)
No	86.3 (295)
8. Provided with adequate facilities foe sleeping	
Yes	12.9 (44)
No	87.1 (296)
9. Provided with adequate facilities for personal hygiene.	
Yes	14.0 (45)
No.	86.0 (276)
10. Granted access to parents and friends	
Yes	38.9 (128)
No	61.1 (201)
11 Granted opportunity to defend self	
Yes	36.0 (118)
No	64.0 (210)
12. Forced to confess to crime	
Yes	36.4 (121)
No	63.6 (211)
13. Well treated by the police	
Yes	18.1 (60)
No	81.9 (272)

The Treatment of Juveniles by Custodial Officers

It is misleading or wrong to assume that maltreatment of juvenile suspects and offenders are limited to the police. Nonetheless, variations in the degree and type of violations and maltreatment should be expected and investigated. The institutionalized juvenile respondents were interviewed regarding their treatment in the various institutions. Table 9 presents their responses. About 40% of the respondents stated that they had been verbally abused (43.5%); physically assaulted (39.1%) and threatened with beating. Although, these rates are lower than those reported for the police, they are nonetheless very high. It is remarkable to observe that less than a quarter of the juveniles claimed that either the police or the court admitted them to bail.

The custodial officers in remand homes, approved institutions and Borstal are expected to adopt measures that will reform and rehabilitate the juveniles. In this light, it is noteworthy that 85.9% of the juveniles reported that they received advice and counseling from the custodial officers while 68.2% state that they have been well treated. A high proportion of juvenile offenders were subjected to mental or psychological torture by means of threat of beating (45.9%), denial of food (30.0%) and long detention (31.7%). However, more than one half reported having adequate facilities for sleeping (58.5%); and materials for proper hygiene (51.0%), and (47.5%) claimed that they were properly fed. Certainly, the conditions reported in these institutions were better than those in police cells, but they are far from satisfactory, by international standards, or even by declared objectives of the relevant institutions and other youth and correctional development policies in the country (Social Development Policies for Nigeria, 1988).

The provision of educational, vocational and religious /or moral training for inmates are considered by officials as measures for the correction, reformation and rehabilitation of offenders. In essence, the provision of education, vocational training, and moral/religious education along with the safe custody of the offenders are considered the primary responsibilities of juvenile correctional and penal institutions in the country. But in reality, these facilities and opportunities are grossly inadequate both in quantitative and qualitative terms, within the Nigerian juvenile institutions (Ahire 1987, Human Rights Monitor 1997) and the wider criminal justice system (Alemika 1980, 1988; Alemika and Alemika 1994; Alemika 1994).

Less than one-half (48.3%) of the juveniles had access to educational opportunities and 52.8% had access to vocational training. But these figures do not indicate the quality of training provided. However, workshop facilities in the nation's juvenile institutions and prisons are in a state of obsolescence and unserviceability (Ahire 1987 and the Human Rights Monitor 1997). Observations during the field work for this study in August and September 2000 showed that the workshops lacked serviceable equipment, and those available are obsolete and often cannot be used because of poor maintenance and under-funding.

The problem of inadequate staff to teach as well as overcrowding also militated against the effective utilization of the even obsolete facilities in the workshops (Ahire 1987). In some cases, inmates were allowed to continue their education through attendance at any nearby school, or if not, through non-formal classes organized within the institutions. These are clearly inadequate and unsatisfactory arrangements through which the children/ juveniles can receive and acquire proper education. Sections 10, 11 and 12 of the Approved Institutions Regulations provided for the education, vocational training and religious training of inmates respectively. Of particular note is the provision in section 10, which states that:

Every inmate shall receive education according to his age and development and *such education shall be at least the equivalent of that which he would receive in his own special circumstances, were he attending school in the usual way of education* (emphasis added).

This provision is not observed in the few approved schools in the country where the education of inmates is dictated more by convenience or accessibility or availability of facilities

The conditions for training and reformation in juvenile custodial institutions are similar to those in the adult prisons. The Nigerian Law Reform Commission, in its study of several Nigerian prisons observed that;

Pragmatic measures are yet to be taken to enable the prison system involve prison inmates throughout the country in beneficial training programmes capable of enabling them acquire useful educational and professional skills that could make them become gainfully employed on discharge.

Training programmes for prison inmates are disorganized. Facilities including qualified teachers and relevant books ... are most inadequate ... prison inmates in the tailoring, welding and carpentry sections had no equipment to work with, sewing machines could not go round. Invariably, prison inmates interested in acquiring professional skills while in prison, with the hope of setting up their own business on discharge, end up becoming frustrated and dejected... [because of] poor conditions of service, lack of adequate equipment and meaningful programmes, the warders have resorted to being aggressive toward the prisoner (1983:3).

The conditions are similar to that observed in the Borstal Training Institution, a federal juvenile custodial institution expected to be a model of juvenile custodial correction, reformation and rehabilitation. Phillip Ahire, in his study of Borstal Training Institution, Kaduna, observed that:

Although the workshops for vocational training are well organised, and the enthusiasm of the inmates visible and transparent, there is a marked shortage of basic workshop equipment. It is not uncommon to find an entire workshop with only one, or even non-functioning piece of equipment. For instance at the time of our investigation, the welding and plumbing workshop was out of welding gas. In such situation, the instructions are compelled to improvise and operate the functioning equipment while the inmates merely watch. Even then, it is difficult for each inmate to catch a glimpse of the demonstration because of acute overcrowding in each of the workshops.

Educational training at the Borstal is a pitifully lackluster affair. There is hardly any conscientious effort made to provide any meaningful educational training at the Borstal, and a visitor can observe the highly enthusiastic inmates struggling to tutor themselves with little or no material There is such an acute shortage of accommodation facilities that many inmates use cardboard papers to sleep on the floor... it is hardly surprising to see many inmates going about with one form of skin infection or another... The diet of the inmates at the Borstal lacks needed variety to ensure a healthy body... (1987; 10-12).

The conditions in the prisons and juvenile custodial institutions have deteriorated since they were studied by Ahire (1987) and the Nigerian Law Reform Commission (1983). These inadequacies led the Nigerian Law reform Commission to observe that:

From all indications, the Nigerian prison system as at present, is not geared towards the reformation of prisoners to enable them live a more useful life ... instead our prison system appears more punitive and retributive... (1983:2); emphasis added).

Majority of the juveniles reported that the institutions adequately protected them from physical abuse by officials (69.7%) and from sexual abuse by fellow inmates (68.4%). A very large percentage also reported that they had opportunity for interaction with staff

(71.9%), with fellow inmates (90.7%) and also opportunity to express grievances and complaints (77.1%). These responses are noteworthy because they suggest a high level of interaction between staff and inmates and among inmates in an atmosphere where protection against sexual and physical abuse is relatively secured. But the response of over 30% inmates who felt protection against physical and sexual abuse in the institution is inadequate is high and should elicit concern from the public and government.

Table 9: Treatment of Juveniles by Juvenile Justice Custodial Officers

Type of treatment	% (N)
1. Verbal abuse	
Yes	43.5 (170)
No	56.5 (221)
2. Physical assault	
Yes	39.1 (149)
No	60.9 (232)
3. Threatened with beating	
Yes	45.9 (177)
No	54.1 (209)
4. Threatened with denied of food	
Yes	30.0 (115)
No	70.0 (268)
5. Threatened with long detention	
Yes	31.7 (122)
No	68.3 (263)
6. Counseled	
Yes	85.9 (329)
No	14.1 (54)
7. Well treated by officials	
Yes	62.2 (260)
No	31.8 (121)
8. Properly fed	
Yes	47.5 (179)
No	52.5 (198)
9. Adequate facilities for sleeping provided	
Yes	58.5 (220)
No	41.5 (156)
10. Materials for personal hygiene adequately provided	
Yes	51.0 (183)
No	49.0 (176)
11. Access to parents and relatives	
Yes	77.0 (288)
No	23.0 (86)
12. Access to recreational facilities	
Yes	76.0 (285)
No	24.0 (90)
13. Access to educational facilities	
Yes	48.3 (180)
No	51.7 (193)
14. Adequate protection against physical abuse	
Yes	69.7 (264)
No	30.3 (115)
15. Adequate protection from sexual abuse	
Yes	68.4 (258)
No	31.6 (119)
16. Access to vocational training	
Yes	52.8 (197)
No	47.2 (176)
17. Access to moral and religious training	
Yes	82.1 (307)
No	17.9 (67)
18. Adequate opportunity for interaction with staff	
Yes	71.9 (269)
No	28.1 (105)

19. Adequate opportunity for interaction with fellow inmates	
Yes	90.7 (343)
No	9.3 (35)
20. Opportunities for expressing grievances and complaints.	
Yes	77.1 (283)
No	22.9 (84)
21. Admitted to bail by police prior to trial	
Yes	23.3 (75)
No	76.7 (247)
22. Admitted to bail by court prior and during trial.	
Yes	23.2 (66)
No	76.8 (218)

Adequacy of Facilities and Services

Empirical studies of Nigerian prisons have identified various inadequacies in services and facilities (Alemika 1980; 1983, 1988, Ahire 1987 and Alemika and Alemika 1994; Alemika 1994). The inmates were asked to evaluate the level of adequacy of services and facilities in the police cells and in the remand, approved institutions, and the Borstal . Provisions for sanitation, personal hygiene; feeding, bed and sleeping, medical care, personal security and protection of human rights were reported to be inadequate in police cells (table 10)

The juvenile inmates also considered provisions for feeding, bed and sleeping, medical care, educational and vocational training in remand homes, approved institutions, and Borstal to be either inadequate or very inadequate. These evaluations confirm the observations on gross material, financial and personnel inadequacies in the Nigerian law enforcement, criminal justice and penal institutions (Ahire 1987, Alemika 1983; Alemika and Alemika 1986-1990, Nigerian Law Reform Commission 1983)

Table 10: Level of Adequacy of Services and Facilities in Custody

Types of service and facilities	Very inadequate	Adequate	Inadequate	Very inadequate
A. Police				
1. Personal security	16.2 (56)	25.2 (87)	25.5 (88)	33.0 (114)
2. Sanitation and personal hygiene	8.2 (281)	10.6 (36)	36.2 (123)	45.0 (153)
3. Feeding	7.6 (26)	8.8 (30)	33.7 (115)	49.9 (170)
4. Bed and sleeping materials	7.0 (24)	7.9 (27)	30.5 (104)	54.5 (186)
5. Respect for human rights	9.9 (34)	11.7 (40)	35.4 (121)	43.0 (147)
6. Medical facilities	7.4 (25)	8.0 (27)	28.3 (96)	56.3 (191)
B. Remand homes and approved institutions and Borstal				
7. Personal security	25.6 (105)	38.5 (158)	18.0 (74)	17.8 (73)
8. Sanitation and personal hygiene	26.2 (107)	32.8 (134)	18.4 (75)	22.5 (92)
9. Feeding	16.5 (68)	24.6 (101)	29.7 (122)	29.2 (120)
10. Bed and sleeping material	17.6 (73)	34.3 (142)	24.2 (100)	23.9 (99)
11. Medical facilities	11.9 (49)	24.8 (102)	34.8 (143)	28.5 (117)
12. Educational training	11.1 (45)	22.2 (90)	36.2 (147)	30.5 (124)
13. Vocational training	17.2 (68)	27.8 (110)	31.3 (124)	23.7 (94)
14. Respect for human rights.	15.0 (58)	50.0 (193)	24.4 (94)	10.6 (41)

The inadequacies in juvenile custodial institutions reflect the insensitivity and priority of Nigerian government towards human rights and dignity, and in particular to the welfare of suspects and convicts. Those inadequacies are extension of conditions in the adult prisons that have been documented (Alemika 1993c, 1988; Alemika and Alemika 1994; Ehonwa 1993, 1996; Nigerian Law Reform Commission). The Nigerian Law Reform Commission reported that:

Nigerian Prisons are too congested, and poor ventilation is one of their glaring features. Prisoners and detainees are cramped together in cells with no adequate accommodation facilities... hardened criminals are made to live together with first offenders.... Prisoners sleep in double decker beds with no mattresses and pillows provided. In these congested cells, not all prisoners are fortunate to be provided with beds. The unlucky ones are made to sleep on the dirty, bare floor... (1983:12)

Frequency and Types of Punishments in Custody

The United Nations Minimum Rules on the Treatment of Offenders forbids corporal punishment. However, the Penal Code and the Children and Young Persons permit its use.

Table 11: Frequency and Types of Punishment in Custodial Institutions

	Very frequent	Frequent	Sometimes	Never
1. Flogging	25.7 (115)	12.8 (57)	44.1 (197)	17.4 (78)
2. Kneeling	25.9 (113)	13.8 (60)	33.0 (144)	27.3 (119)
3. Frog jumping	26.3 (114)	9.4 (41)	33.9 (147)	30.4 (132)

4.Tough physical drill	14.1 (60)	20.6 (88)	30.4 (130)	
------------------------	-----------	-----------	------------	--

Table 11, shows that corporal and other punishments are frequently used in the various juvenile custodial institutions. Indeed the high frequencies of various types of punishment – flogging or beating, kneeling, frog jumping and tough physical drill- indicate that those institutions are oriented more towards punishment than correction, reformation and rehabilitation of juvenile offenders through the impartation of skills and positive attitudes. The high frequency of the use of corporal punishment may be attributed to traditional attitudes in the country that favour its use and reflected in the statutory provisions for whipping (flogging) in the Children and Young Persons Act and the Penal Code of (Northern States). Provisions on discipline in juvenile custodial institutions can also engender inmate-on-inmate violence. For example, section 18 of the Approved Institutions Regulations provided that:

Where possible the principal shall arrange that inmates themselves shall be responsible for the maintenance of discipline and obedience to rules and for the *punishment of offending inmates by other inmates.*

This provision is subject to abuse, especially in the light of what is known of the ‘inmate social system’ with its reproduction of the authoritarian system in society and penal system. It should be understood that the provision is not synonymous with inmate self-governance or inmates participation in the management of their institution, but rather the devise of ‘divide and rule’ to cause mistrust among inmates and thereby break down their cohesion and bonding.

Rule of Law and Due Process

Any citizen accused or charged of crimes has certain rights. These rights are guaranteed through due process and rule of law enshrined in the nation’s constitution and statutes. Such rights include proper and prompt notification of charges, public trial (in the case of juveniles- trial in privacy), impartial adjudication, adequate defence, examination of prosecution witnesses etc. Table 12 presents information on the extent to which these rights were protected during the arrest and trial of the juvenile offenders.

Table 12: Protection of Juvenile Offenders' Due Process Rights

Elements of due process	% (N)
1. Offence explained by the police at the time of arrest.	
Yes	68.8 (232)
No	31.2 (105)
2. Offence explained by court at the time of trial	
Yes	75.1 (256)
No	24.9 (85)
3. Represented by a lawyer	
Yes	35.4 (116)
No	64.6 (212)
4. Parents or guardian in court during trial	
Yes	45.7 (150)
No	54.3 (178)
5. Trial in privacy or public	
Privacy	54.4 (173)
Open court	44.3 (141)
Other place	1.3 (4)
6. Plea of guilt or innocence taken	
Yes	75.6 (257)
No	24.4 (83)
7. Adequate opportunity to defend self in court	
Yes	48.5 (160)
No	51.5 (170)

The responses show that the police and the courts, to a very large extent, respected the right of juveniles to proper and prompt notification of charge. The court, also in large majority of cases, took the plea of the young offenders. Nearly two thirds of the juveniles were not represented by a lawyer. Only 54.4% of the respondents were tried in privacy. As a result 44.3% claimed they were tried in open courts, which may in some cases violate the United Nations Minimum Standard (Beijing Rule) or the provisions of the Children and Young Persons Act.

The data presented in this chapter reveal the range of facilities and services in the Nigerian juvenile justice system. They also reveal that facilities and services in the system are grossly inadequate in quantitative and qualitative terms. These inadequacies impair the capacity of the institutions 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 programmes, etc,- reduced these institutions to warehouses, or human cages and fortresses of punishment instead of correctional and rehabilitation institutions (Alemika 1983, 1987, 1988, 1993c; 1990; Kayode 1987, 1990; Ahire 1987).

CHAPTER FIVE

Conclusion and Recommendations

Summary of Findings

The analysis and discussion of the juvenile justice law and administration in Nigeria, presented in the previous chapters, show several inadequacies in the philosophy, legal framework, administration and facilities for the treatment of juvenile offenders. At the philosophical level, juvenile offenders are held to be immature and deserve to be handled with compassion. But the penal practice runs counter, to the philosophy as emphasis is on the institutionalization and punishment. Thus, while officials are enjoined to act in the best interests of the child, the dispositions prescribed are preponderantly punitive.

The legal philosophy and framework for the treatment of juvenile offenders were articulated during the colonial era. As a result, emphasis was given to institutionalization (incarceration or imprisonment) as punishment and incapacitation. The provisions in the Children and Young Persons Act do not satisfy a range of international and continental standards, including United Nations Convention on the Rights of the Child; Organization of African Unity Charter on the Rights and Welfare of the Child; United Nations Standard Minimum Rules for the Treatment of Offenders; United Nations Standard Minimum Rules for the Treatment of Juvenile Offenders, and the United Nations Guidelines for the Prevention of Juvenile Delinquency.

The defective philosophical and legal platforms gave rise to several problems in the administration of juvenile justice in Nigeria. The areas of inadequacy revealed in this study include:

- Punitive orientation and institutional concerns.
- Lack of coherent and sustained programmes of correction, reformation and rehabilitation.
- Gross under-funding and mismanagement of resources, thereby aggravating resource inadequacies.
- Inadequate protection against the violation of the rights of juvenile offenders at all levels in the juvenile justice process.
- Grossly inadequate provisions (in qualitative and quantitative terms) of food and nutrition, bed spaces, sanitation and personal hygiene materials, and health care services.
- Inadequate staffing in terms of quality and diversity of skills.

In spite of official statements and rhetoric, the juvenile justice institutions (courts, police, remand homes, approved institutions and Borstal) have not fulfilled the goals for which they were established. For example, due to poor funding and resource mismanagement, young offenders remanded in remand homes, approved institutions and Borstal were poorly fed and clothed. They were not provided with adequate facilities for sleeping, privacy, health care, educational and vocational training.

The staff and inmates of the remand homes, approved schools and Borstal reported that important and necessary facilities and provisions like food, bed spaces and materials, sanitation and personal hygiene, educational and vocational training were either grossly inadequate or non-existent. Data obtained from inmates revealed high incidence of verbal and physical abuse, and denial of violation of inmates' rights by officials. Judicial officials confirm these reports. According to the responses of the judicial officers, complaints frequently made by juvenile offenders against police as well as officials of remand homes include physical and verbal abuse; poor conditions of detention in cells; threat of long detention. These inadequacies have been reported in earlier studies of juvenile justice institutions (Ahire 1987, Alemika 1978, Okagbue 1996; Human Rights Monitor 1997) and for the prisons (Alemika 1983, 1987, 1990; Nigerian Law Reform Commission 1983; Working Party Report 1966; Alemika and Alemika 1994).

A large majority (64.1%) of the judicial officers reported that the objectives for the establishment of remand homes, approved institutions and Borstal and for the institutionalization of young offenders are not being realized. Most (88.4%) of the respondents (Judicial Officers) identified the objectives of the juvenile justice custodial institutions as correction, reformation and rehabilitation of juvenile offenders. Majority of the judicial officers also reported that the juvenile justice system in the country does not adequately promote prompt trial or protect the young offender from forced confession, torture and brutality, and threats of beating and imprisonment. Most significant, (73.9%) of the judicial officers reported that education and vocational training programmes for the correction and rehabilitation of juvenile offenders are either poor or very poor.

This and other studies on Nigerian juvenile justice system indicate the need for the re-conceptualization of the philosophy of juvenile justice system and the reform of the laws and programmes for the treatment of juvenile offenders. These require actions at the legislative and institutional levels. The prevention of juvenile delinquency through comprehensive and multi-sectoral social, economic and cultural programmes must be given priority over repression or punishment of juvenile offenders. Four major juvenile justice policies have been identified. They are:

- Welfare-based interventions designed to help young people in trouble and to secure their rehabilitation and reintegration into mainstream society;
- Justice-based interventions designed to give young people the same legal rights as those afforded to adults;
- Diversionary interventions designed to prevent young offending and keep young people out of court and custodial institutions;
- Custodial interventions designed to punish offenders and to prevent further offending through punitive deterrence (Muncie 1999:254).

In reality, juvenile justice policy in a society consists of a mixture of elements of these policies. Nonetheless, the tendency towards the incarceration of offenders, including juvenile offenders, is very strong. This is in spite of the continuous demonstration of the counter-productive effects of incarceration, especially of young offenders. Such effects include:

... broken links with family, friends, education, work and leisure and causes stigmatization and labeling. Rather than reintegrating young people into the

communities where they must learn to live, custody results in increased alienation and greater risk of further offending (Muncie 1999:282).

It is important for society to prioritize juvenile delinquency prevention programmes over measures designed to punish or treat juvenile offenders. Programmes designed for reform of criminal justice system that fail to address the structural roots of crime and delinquency will merely aid continuous repression of victims of structurally induced socio-political and economic disabilities and exclusion. The observation made by Quetelet (1842:108) should serve as useful guide for the understanding of the prevalence, severity and persistence of crime as well societal reactions to offenders in society. According to him, we need to look more to the structure of society for the explanation of criminality:

Society includes within itself the germs of all the crimes committed, and at the same time the necessary facilities for their development. It is the social state, in some measure, which prepares these crimes, and the criminal is merely the instrument to execute them. Every social state supposes, then, a certain number and a certain order of crimes, these being merely the necessary consequences of its organization (quoted in Muncie 1999:100).

The wisdom in this observation is that we will do well to organize our society such that it generate minimal amount of crimes rather than divert resources towards criminalisation and legal repression while sustaining crimogenic and criminogenic social system.

Recommendations

In the light of the findings of this study on conditions of young offenders in custodial institutions, and considering the inadequacies unraveled by our analysis of the legal and institutional framework for the treatment of juvenile delinquents in Nigeria, the following measures are recommended:

Structural Reforms

In order to design effective juvenile delinquency prevention and control programme, it is necessary to understand the features of juvenile delinquency and the elements of social structure that create or precipitate, aggravate, perpetuate and control delinquent and criminal behaviours. According to Akeredolu – Ale, Kayode and Omogbehin (1977):

... juvenile maladjustment and neglect are closely associated with income status of families – low-income families contributing more than proportionately to the population of problem juveniles in most societies. As a result ... even with the best organized network of custodial institutions such as Remand Homes and Approved Schools, the treatment of problem juveniles (maladjusted and others) is, essentially, a treatment addressed to symptoms. The incidence and severity of juvenile welfare problems can only get worse as long as gross inequalities persist in the distribution of resources, especially in family incomes and individual life-chances.

Akeredolu-Ale, et al; therefore suggested that:

Juvenile welfare problems are, essentially only an aspect of the social development problem and their dynamic and long-term solution lies in more sensitive and more conscientious 'social planning' especially in those measures designed to raise the quality of life of low income families and to minimize the scourge of poverty not only through the raising of the nation's productive capabilities but also through the elimination of gross inequalities and exploitation in economic and social relations (quoted in Akeredolu – Ale 1979: 17-18).

The incidence and prevalence rates as well as patterns of delinquency are largely determined by the way a society is organized, (a) the way resources are mobilized and distributed; (b) the pattern of distribution of political power; (c) the degree of popular and democratic participation in law-making; (d) the extent to which judicial and police powers are subject to democratic control and public scrutiny in order to protect human rights, and (e) the character of laws and law enforcement. Nigerian political and economic structures are characterized by injustice and corruption resulting in highly skewed distribution of power and wealth. This has created mass poverty, high level of illiteracy, high and growing unemployment levels especially among the youth- resulting in crime, delinquency, family instability and other social problems. Structural reforms towards economic efficiency and equity, democracy, popular participation in public policy formulation, social justice and equity between individuals and groups, protection of human rights and observance of rule of law, transparency and accountability are required. These conditions will enhance better resource management, improved social, economic and political conditions and thereby reduce pressures towards crime and delinquency. The structural reforms will reduce the incidence and prevalence rates of delinquency and minimize the repression and brutalization of youths by the state crime and delinquency control apparatuses.

Philosophy of Juvenile Justice

The existing philosophy of juvenile justice in Nigeria largely views juvenile offenders as objects of control and punishment through institutionalization in remand homes, approved institutions and Borstal. More significantly, it lacks a focus on prevention of juvenile delinquency. Consequently, juvenile justice is not incorporated into social (especially family and child welfare, health and education) and economic (employment, vocational training and skill acquisition) planning in the country. The philosophy of juvenile justice should be anchored in provisions for social and economic welfare of the child and the prevention of juvenile delinquency instead of the present emphasis on the punishment and institutionalization of juvenile delinquents.

The United Nations Guidelines for the prevention of juvenile delinquency ('the Riyadh Guidelines) contains fundamental principles for juvenile delinquency prevention. The Guidelines provide that:

The need for and importance of progressive delinquency prevention policies and systematic study and elaboration of resources should be recognized. These should avoid criminalizing and penalizing a child for behaviour that does not cause serious damage to the development of the child or harm to others. Such policies and resources should involve:

- (a) The provision of opportunities, to meet the varying needs of young persons and to serve as a supportive framework for safeguarding the personal development of all young persons, particularly those who are demonstrably endangered or at social risk in need of special care and protection;
- (b) Specialized philosophies and approaches for delinquency prevention, on the basis of laws, processes, institutions and facilities and a service delivery network aimed at reducing the motivation, need and opportunity for, or condition giving rise to, the commission of infractions;
- (c) Official intervention to be pursued primarily in the overall interest of the young person and guided by fairness and equity;
- (d) Safeguarding the well-being, development, rights and interests of young persons;
- (e) Consideration that youthful behaviour or conduct that does not conform to overall social norms and values is often part of maturation and growth process and tends to disappear spontaneously in most individuals with transitions to adulthood;
- (f) Awareness that, in the predominant opinion of experts, labeling a young person as “deviant”, “delinquent” or “pre-delinquent” often contributes to the development of a consistent pattern of undesirable behaviour by young persons (Guideline 5)

These ideas constitute a good foundation for the development of philosophy of juvenile justice, which should contain two components - prevention and management of delinquency. Hitherto, Nigeria’s effort has been concentrated on the management (control, repression and deterrence) of delinquency by punishing offenders. There is no explicit recognition of the roots of delinquency in the nation’s political and socio-economic structure. Only such an understanding can lead to the development of comprehensive and multi-sectoral approaches to the prevention of delinquency and to the correction and rehabilitation of juvenile offenders, with the overall effect of minimizing the rates of incidence and prevalence of juvenile delinquency. Nigeria needs to and should develop a broad based philosophy of juvenile justice that transcends the punishment of offenders, but primarily grounded in the prevention of youth deviance through socioeconomic programmes and social welfare services that promote child and family welfare, access to education, vocational training and skill acquisition, employment opportunities, and “active role and partnership within society”.

Legislative Initiative and Legal Reforms

The provisions of the Children and Young Persons Act or laws of the various states in very many respects violate several international legal instruments- Conventions, Charters, Rules and Guidelines- on the treatment of offenders. Therefore, they require amendment, especially in the following areas:

1. The philosophy of juvenile justice should be explicitly stated to conform to relevant international standards. The overall goal of the law should be to prevent delinquency. In cases of remand and committal, emphasis should be on the correction and rehabilitation of offenders rather than on the punishment of the offender.

2. The provision for flogging or whipping should be expunged. It constitutes a cruel punishment and degrading treatment, which violate international standards and the nation's constitution.
3. The emphasis on fines, compensation and other forms of punishment in the law should be reduced.
4. Provisions for non-custodial treatment of juvenile offenders should be emphasized.
5. The law should prohibit remand or detention of young offenders in remand homes for a long period.
6. Provisions should be made in the law for the establishment of well equipped, properly staffed approved institutions by each of the states. The institutions should be properly equipped and staffed to provide educational and vocational training, to properly feed and clothe inmates, and to provide adequate health care, sanitation and personal hygiene, bed spaces, and recreational facilities for institutionalized offenders. In all cases, institutionalization or custodial treatment of juvenile offenders should be a last resort.
7. The provisions for parole and probation should be implemented.
8. Provisions should be made for progressive social work services in primary and secondary institutions to complement the socialization roles of parents.
9. The provisions relating to juveniles in need of care or protection should be excised and made a separate legislation, and cases under it should be treated as social welfare concerns rather than matter deserving custodial treatment in juvenile penal institutions.
10. The law should prohibit the committal of children to custody through conspiracy between parents and judicial officers under the guise that the children are 'beyond parental control' without full and fair process of adjudication. Penal institutions should not be used as a dumping ground or warehouse for children by parents who fail in their responsibilities to bring their children under control.
11. The law should protect the rights and dignity of the juvenile offender throughout the juvenile justice process.
12. The various definitions of age and responsibility (i.e. child, young person, etc.) should be harmonized to avoid ambiguity.
13. The juvenile justice custodial institutions should at all levels of government be made part of the social welfare department. However, provisions for visitations by judicial officers, justice ministry's legal officers, and civic groups should be statutorily mandated.

14. The law should emphasize the central and critical role of education in human development and self-actualization. This role is underlined by the United Nations Guidelines as follows:

Governments are under obligation to make public education accessible to young persons. Education systems should, in addition to their academic and vocational training activities, devote particular attention to the following:

- (a) Teaching of basic values and developing respect for the child's own cultural identity and patterns, for the social values of the country in which the child is living, for civilizations different from the child's own and human rights and fundamental freedoms;
- (b) Promotion and development of the personality, talents and mental and physical abilities of young people to their fullest potential;
- (c) Involvement of young persons as active and effective participants in, rather than mere objects of the educational process;
- (d) Understanding activities that foster a sense of identity with and of belonging to the school and the community;
- (e) Encouragement of young persons to understand and respect diverse opinions, as well as cultural and other differences;
- (f) Provision of information and guidance regarding vocational training, employment opportunities and career development;
- (g) Provision of positive emotional support to young persons and the avoidance of psychological maltreatment;
- (h) Avoidance of harsh disciplinary measures, particularly corporal punishment (U.N Guideline 21).

These conditions and processes of education envisaged in the Guidelines are lacking in Nigeria's educational system, thereby rendering the young persons disoriented. Since 1986, when General Ibrahim Babangida introduced Structural Adjustment Programme (SAP), the quality or standard of education has continued to decline. The decline is due to several factors, including poor working and learning environments, brain drain (to foreign countries and from education sector to more lucrative sectors within the domestic economy); poor quality of teachers and school administrators at all levels due largely to the politicization of admission of students, employment of teachers and appointment of school administrators (Headmasters/Headmistresses, Principals, Provosts, Rectors and Vice Chancellors). These conditions either produced or aggravated indiscipline, and diverse forms of deviant behaviour among students and staff of primary, secondary and tertiary educational institutions in the country. In essence, the poor management of Nigerian educational institutions has rendered them criminogenic environments. A good public education system must be introduced and sustained in Nigeria as a means of human development as well as a measure for the prevention and management of juvenile delinquency.

The United Nations Guideline further provided that:

Schools should serve as resource and referral centers for the provision of medical, counseling and other services to young persons, particularly those with special needs and suffering from abuse, neglect, victimization and exploitation. Through a variety of educational programmes, teachers and other adults and the students body should be sensitized to the problems, needs and perceptions of young persons, particularly those belonging to under-privileged, disadvantaged, ethnic or other minority and low income groups (U.N Guidelines 26, 27).

The significance of the United Nations Guidelines for the Prevention of Juvenile Delinquency is its elaborate philosophy and strategy for creating conducive environment for the development and welfare of young persons. Further, it provides a framework for the development of a legal regime for the prevention of delinquency and treatment of young offenders. For example, in the area of status offences, it provides that:

In order to prevent further stigmatization, victimization and criminalization of young persons, legislation should be enacted to ensure that any conduct not considered an offence or not penalized if committed by an adult is not considered an offence and not penalized if committed by a young person (U.N Guideline 56).

This provision, is particularly important in the light of wide ranging status offences-including 'beyond parental control' and 'unruly behaviour' and the treatment of children in need of care and protection within the ambit of penal system in Nigeria. Review of the Children and Young Persons Act should reflect the United Nations Guidelines.

The Guidelines also recognize the critical role or significance of research and policy coordination in the prevention of delinquency and treatment of young offenders. It provides that:

Efforts should be made and appropriate mechanisms established to promote, on both a multidisciplinary and intradisciplinary basis, interaction and coordination between economic, social, education and health agencies and services, the justice system, youth, community and development agencies and other relevant institutions...Collaboration should be encouraged in undertaking scientific research with respect to effective modalities for youth crime and juvenile delinquency prevention....(U.N Guidelines 60, 64).

Nigerian laws on the treatment of juvenile offenders and the prevention and control of deviant behaviour by youths should reflect the important principles embedded in the United Nations Guidelines highlighted above.

Institutional Reforms and Capacity Building

The Nigerian Juvenile justice agencies - police, courts, remand homes, approved schools, Borstal and prisons –lack adequate and qualified workers that are able to meet the needs, concerns and aspirations of juvenile offenders. Respondents in this study and findings of other studies (Alemika 1996, Okagbue 1996) show that the Nigerian society has failed to make adequate provisions for the protection of the rights of the child, and for the development and welfare of young persons. This is in spite of the realization by the government that poor planning in the past has caused or aggravated several social and

economic problems including “gross economic inequalities, poverty and destitution, juvenile delinquency, youth disorientation ...” (Social Development Policy 1988). The government and society has failed to fulfill the statement of objectives in the Social Development Policy which are:

...to guarantee for the Nigerian child adequate environment and opportunities for the total development of his and her personality, encourage the development of his [her] capacity for coping with the challenges of contemporary living; and ensure a satisfactory overall life quality, thus enabling him [her] make contributions towards the development and well-being of the country (1988: 20).

But this objective has not been translated to reality as social and welfare services provided by the state have not only deteriorated but have become increasingly less accessible due to a combination of drastic reduction of public expenditure and inflation of their costs. Thus, welfare services for children and young person have declined during the past two decades as a result of economic decline, corruption and mismanagement of resources and inadequate attention to children and youth concerns in national development planning and programmes.

The various areas of operational inadequacies within the juvenile justice system include:

- (a) Inadequate staffing in qualitative and quantitative terms. The staff of the police, courts, remand homes, approved institutions, Borstal and prisons are either not trained or inadequately trained to properly handle young offenders. Staff involved in the handling of young offenders should be given necessary training in political economy, sociology, psychology, UN standards, criminology, law, social work and counseling to enable them acquire necessary skills and sensitivity to handle juvenile offenders.
- (b) Inadequate food and nutrition; health care, sanitation, sleeping materials, educational and vocational training. These inadequacies are due to the punitive orientation of the institutions, poor funding, mismanagement of resources and poor maintenance culture. Government should employ highly qualified people to run juvenile institutions. The institutions should be managed by Social Welfare Department at all levels of government. Furthermore, the programmes in the institutions should be revised and tailored to enhance the life long development and welfare of young persons. Government should properly fund the institutions to meet the UN standards and to protect the rights of the child and young offenders. Facilities for vocational and educational training should be provided or upgraded to enable them contribute to the reformation and rehabilitation of offenders. Juvenile offenders should not be detained alongside adult offenders, as widely practiced, in spite of the law and the regulations against such practice.

Civil society should contribute to the provision of facilities and services for the development and welfare of young persons, and be active in the monitoring of conditions in juvenile justice institutions, advocacy for progressive correctional, rehabilitation and non-custodial programmes for the treatment of young offenders in the country.

Nigerian government should in its development planning, policies and programmes, and in resource allocation be guided by what the UNICEF prescribed as the principle of ‘first call’. The principle advocates that:

the growing minds and bodies of children should have first call on society's capacities, and that children should be able to depend upon that commitment in good times and in bad. Whether a child survives or not, whether a child is well nourished or not, whether a child is immunized or not, whether a child goes to school, should not have to depend on whether interest rates rise or fall, or whether commodity prices go up or down, or whether a political party is in power or whether the economy has been well managed, or whether a country is at war or not, nor on any other trough or crest in the endless undulation of political and economic life in the modern nation state (UNICEF Information Document on the World Summit for Children)

This principle, if adopted and translated to welfare and social security services, and effectively implemented, can create a relatively stress free, and less criminogenic environment in which children and young persons can grow and blossom.

BIBLIOGRAPHY

- Adeyemi, A.A (1972) “ Scientific Approach to Sentencing” in T.O. Elias (Ed.) *The Nigerian Magistrate and the Offender*. Lagos: Faculty of Law University of Lagos.
- Adeyemi, A.A. (1993) “ Information Management for National Development, Planning and Security” in T.N Tamuno; I.L Bashir; E.E.O. Alemika and A.O.Akano (Eds.) *Policing Nigeria: Past, Present and Future*. Lagos: Malthouse Press Ltd.
- Adewoye, O. (1977) *The Judicial System in Southern Nigeria: 1854-1954*. London: Longman.
- Ahire, P.T. (1987) “ Juvenile Delinquency and the Handling of Young Prisoners in Nigerian Borstal Institutions” in *The Nigerian Prisons Service and the Public*. Abuja: The Nigerian Prisons Service
- Ahire, P.T. (1991) *Imperial Policing* Milton Keynes: Open University Press.
- Ahire, P. T. (1993) “Native Authority Police in Northern Nigeria: End of an era?” in T. N. Tamuno, I. L. Bashir, E. E. O. Alemika and A. O. Akano (Eds.) *Policing Nigeria: Past, Present and Future* (Lagos: Malthouse Press Ltd.).
- Akeredolu – Ale, E. O. (1979) “Achieving the Goals of Social Development” in E.O. Akeredolu – Ale, N. Chibogu and O. A. Odiakosa (Eds.) *Social Problems and Criminality in Nigeria* (Lagos: Federal Ministry of Health and Social Welfare).
- Akeredolu – Ale, E. O.; Kayode, O., and Omogbehin, V.A. (1977) *Custody, Correction and Rehabilitation of Problem Juveniles in Oyo, Ondo and Ogun States: A survey of Approved Institutions* (Ibadan: NISER)
- Alemika, E.E.O. (1978) “ A Study of Socio-Cultural and Economic Factors in Delinquency Among Kaduna Borstal Inmates.” Unpublished B.Sc. Sociology Original Essay, University of Ibadan, Ibadan Nigeria.
- Alemika, E.E.O. (1983) “ The Smoke Screen, Rhetoric and Reality of Penal Incarceration In Nigeria” *International Journal of Comparative and Applied Criminal Justice* 7 (1): 138-149.
- Alemika, E.E.O. (1987) “ Professionalism in the Nigerian Prisons Service” in *The Nigerian Prisons Service and the Public*. Abuja: Nigerian Prisons Service.
- Alemika, E. (1988a) “Policing and Perception of Police in Nigeria” *Police Studies: International Review of Police Development*, 11 (4) 161-176.
- Alemika, E.E.O. (1988b) “ Socio-Economic and Criminological Attributes of Convicts in Two Nigerian Prisons” in *Journal of Criminal Justice* 16 (3), 197-207.

Alemika, E.E.O. (1990) “ Social Structural and Penal System” Paper presented at the National Conference on Prison Reforms in Nigeria organized by the Federal Ministry of Internal Affairs in collaboration with the Federal Ministry of Justice, and held at the International Conference Center Abuja, 18-20 June.

Alemika, E.E.O. (1993a) “Colonialism, State and Policing in Nigeria” *Crime Law and Social Change*_(20): 187-219.

Alemika, E.E.O. (1993b) “ Criminology Criminal Justice and Philosophy of Policing” In T.N. Tamuno and A.O. Akano (Eds.) *Policing Nigeria: Past, Present and Future*. Lagos: Malthouse Press Ltd, pp 30-78.

Alemika, E.E.O (1993c) “Trends and Conditions of Imprisonment in Nigeria” *International Journal of Offenders Therapy and Comparative Criminology* 37(2): 147-162.

Alemika, E.E.O (1996) “ Child Welfare” in I.A. Ayua and I.E. Okagbue (Eds.) *The Rights of the Child in Nigeria*. (Nigerian Institute of Advanced Legal Studies), pp.142-173.

Alemika, E.E.O and Alemika, E. I. (1994) “ Penal Crisis and Prison Management in Nigeria”. *Lawyer's Bi-Annual*, 1: (2) 62-80.

Alemika, E.E.O and Kayode, O. (1981) “ Some Predictors of Recidivism: A study of Inmates of a Nigerian Prison” *International Journal of Comparative and Applied Criminal Justice*_ 5 (2): 187-195.

Alemika, E.E.O. and Chukwuma, I. (2000) *Police-Community Violence in Nigeria*. Lagos: Center for Law Enforcement Education.

Alemika, Emily I. (1986-1990) “Pre-Trial Detention and Prison Congestion in Nigeria” *University of Jos Law Journal*, vol. 3, 120 – 128.

Ajomo, M.A. and Okagbue I.E. (Eds.) (1991) *Human Rights and the Administration of Criminal Justice*. Lagos: Nigerian Institute of Advanced Legal Studies).

Awe, B.O (1968) “History of the Prison System in Nigeria” in T.O. Elias (Ed.) *The Prison System in Nigeria* Lagos: Faculty of Law, University of Lagos.

Ayua, I.A. and Okagbue I.E. Eds. (1996) *The Rights of the Child in Nigeria*. Lagos: Nigerian Institute of Advanced Legal Studies.

Block, H.A and Flynn, F.T. (1956) *Delinquency: The Juvenile Offender in America Today*. New York: Random House.

Chikezie, F.O (1987) “Shape, Size and Capabilities of the Nigerian Prisons Service by the Year 2000” in *The Nigerian Prisons Service and the Public* Abuja: Nigerian Prisons Service.

Cloward, R. and Ohlin, L (1961) *Delinquency and Opportunity: A Theory of Delinquent Gangs*. London: Routledge and Kegan Paul.

Cohen, A. (1955) *Delinquent Boys: The Culture of the Gang* Chicago: Chicago Free Press.

- Ehonwa, O.L (1993) *Prisoners in the Shadows*. Lagos: Civil Liberties Organization.
- Ehonwa, O.L (1996) *Behind the Wall* Lagos: Civil Liberties Organization.
- Elias, T.O (ed.) (1972) *The Nigerian Magistrate and the Offender* Lagos: Lagos University Press.
- Eweluwa, D.I.O (1980) “ Administration of Justice” in C.O. Okonkwo (ed.) *Introduction to Nigerian Law*, London: Sweet and Maxwell.
- Farrington, D. (1994) “Human Development and Criminal Careers” in Maguire, M; Morgan, R. and Reinner, R. (Eds.) *The Oxford Handbook of Criminology* Oxford: Claredon.
- Goddard, H. (1922) *Human Efficiency and Levels of Intelligence*. N.J.: Princeton, University Press.
- Hirschi, T. (1969) *Causes of Delinquency*. Berkley, Cal: University of California Press.
- Hooton, E.A. (1939) *The American Criminal* Cambridge, Mass: Harvard University Press.
- Human Rights Monitor (1997) *Administration of Juvenile Justice: the Example of The Borstal Training Institution* Kaduna: Human Rights Monitor.
- Idyorough, A.E (2000) “The Development of Formal Social Welfare Services under the Colonial State in Northern Nigeria: 1900-1960,” Unpublished Ph.D. thesis in Sociology, University of Jos.
- Kayode, O. (1983) “Nigeria” in E.H. Johnson (Ed) *International Handbook of Contemporary Developments in Criminology* Westport, Conn: Greenwood Press.
- Kayode, Y. (1987) “ Beyond the Human Cage: Alternatives to a Decaying Institution” Paper presented at the Seminar on Crime and Social Control, organized by the Department of Sociology and Anthropology, Ile - Ife: Obafemi Awolowo University, July 27-30.
- Kayode-Adedeji, O. (1990) “ The Prison, Our Means and Our Conscience” Paper presented at the National Conference on Prisons Reform in Nigeria, held at the International Conference Center, Abuja June 18-20.
- Kayode, O. and Alemika, E.E.O (1984) “ An examination of Some Socio-economic Characteristics of Inmates of a Nigerian Prison” in *International Journal of Comparative and Applied Criminal Justice* 8 (1): 86-91.
- Lombroso, C. (1913/1968) *Crime: It's Causes and Remedies* Montclair, N.J.: Patterson Smith (Reprinted).
- Merton, R. (1938/1968) “Social Structure and Anomie”, respectively, in *American Sociological Review* 3: 672-682, and R. K. Merton *Social Theory and Social Structure* Glencoe, Ill., The Free Press.

- Miller, W.B. (1958) "Lower Class Culture as a Generating Milieu of Gang Delinquency" *Journal of Social Issues*, 14: 5-19.
- Muncie, J. (1999) *Youth and Crime: A Critical Introduction* London: Sage Publications.
- Nigerian Law Reform Commission (1983) *Report and Draft Bill for Reform of Prisons in Nigeria*. Lagos: Nigerian Law Reform Commission.
- Nye, F.I. (1958) *Family Relationships and Delinquent Behavior* New York: John Wiley.
- Odekunle, F. (1979) "The Nigeria Police Force: A Preliminary Assessment of Functional Performance", *International Journal of Sociology of Law*.6: 73-78.
- Ogbolumani, B. O. I. (1972) "Institutional Treatment of Juveniles" in T.O. Elias (ed.) *The Magistrate and the Offender*. Lagos: Lagos University Press.
- Ohonbamu, O. (1972) "The Dilemma of Police Organization under a Federal System: the Nigerian Example" *The Nigerian Law Journal*, 6: 73-78.
- Okonkwo, C. O. (1966) *The Police and Public in Nigeria*. London: Sweet and Maxwell.
- Okoye, F. (1999) "The Borstal Training Institution and the Administration of Juvenile Justice in Nigeria", *The Witness* (A Quarterly Publication of Human Rights Monitor, Kaduna) vol.2, No 11, August 1999.
- Otite, O. (1991) *Ethnic Pluralism and Ethnicity in Nigeria*. Ibadan: Shanson C.I. Ltd.
- Platt, A. (1969) *The Child Savers* (Chicago: Chicago University Press
- Reiss, A.J. (1951) "Delinquency as the Failure of Personal and Social Controls" in *American Sociological Review* 16: 196-207.
- Rotimi, K (1993) "Local Police in Western Nigeria: End of an Era" in T.N Tamuno, I. L. Bashir, E.E.O. Alemika and Akano A.O. (Eds.) *Policing Nigeria: Past, Present and Future*. Lagos: Malthouse Press Ltd.
- Scranton, P. (1997) "Whose childhood"? What crisis?" in P. Scranton (Ed) '*Childhood in Crisis?*' London: U.C.L Press.
- Scutt, J. A. (1978) "Liberation of the Female Law Breaker" *International Journal of Criminology and Penology*.6, (1)
- Shaw, C. R. (1951) *The Natural History of a Delinquent Career*. Philadelphia: Alfert Saifer.
- Shaw, C. R. and McKay, H. .D. (1942) *Juvenile Delinquency and Urban Areas* Chicago: University of Chicago Press.
- Siegel, L.J. and Senna, J.J. (1991) *Juvenile Delinquency: Theory, Practice and Law*, St Paul, MN: West Publishing Co.

Sutherland, E.H. (1947) *Principles of Criminology*, Philadelphia: Lippincott.

Tamuno, T.N. (1970) *The Police in Modern Nigeria*. Ibadan: Ibadan University Press.

Vold, G.B.; Benard, T.J. and Snipes, J.B (1998) *Theoretical Criminology* 4th Edition New York: Oxford University Press.

APPENDIX I

Children and Young Persons Act

Part I - Preliminary

1. This act may be cited as the Children and Young Persons Act.

2. In this act, unless the context otherwise requires-

“approved institution” means an institution established under section 18 of this Act or any place or institution declared to be an approved institution under the provisions of that section;

“authorised officer” means a person appointed by a divisional officer for the purposes of this Act, and includes a probation officer;

“Child” means a person under the age of fourteen years;

“Corrective order” means a corrective order issued under sections 14 or 26 in accordance with Part IV of this Act;

“Guardian” in relation to a child or young person included any person who, in the opinion of the court having cognizance of any case in relation to a child or young person or any case in which a child or young person is concerned, has for the time being the charge of or control over the child or young person;

“Juvenile court” means a court constituted under the provisions of section 6 of this Act for the hearing and determination of cases relating to children or young persons;

“Probation officer” means a person appointed under this Act to be a probation officer and where the context so admits includes a deputy probation officer or an assistant probation officer; “young person” means a person who has attained the age of fourteen years and is under the age of seventeen years.

Part II – Juvenile Offenders

3. Where a person apparently under the age of seventeen years is apprehended with or without warrant, and cannot be brought forthwith before a court of summary jurisdiction, the police officer in immediate charge for the time being of the police station to which the person is brought, shall inquire into the case and may in any case, and shall –

- (a) unless the charge is one of homicide or other grave crime; or
- (b) unless it is necessary in the interest of the person to remove him from association with any reputed criminal or prostitute; or
- (c) unless the officer has reason to believe that the release of the person would defeat the ends of justice.

4. Where a person apparently under the age of seventeen years having been apprehended is not so released as provided in section 3 of this Act, the officer to whom, the person is brought shall cause him to be detained in a place of detention

provided under this Act until he can be brought before a court, unless the officer certifies –

- (a) that it is impracticable to do so; or
- (b) that he is of so unruly or depraved a character that he cannot be safely so detained; or
- (c) that by reason of his state of health or his mental or bodily condition it is inadvisable so to detain him,

and the certificate shall be produced to the court before which the person is brought.

5. It shall be the duty of the Commissioner of Police to make arrangements for preventing, so far as practicable, a child or young person while in custody, from associating with an adult charged with an offence.
6.
 - (1) A juvenile court for the purpose of the hearing and determination of cases relating to children or young persons shall be constituted by a magistrate sitting with such other persons, if any, as the Chief Judge of the Federal capital Territory, Abuja, shall appoint.
 - (2) A court when hearing charges against 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.
 - (3) Where in the course of any proceedings in a juvenile court it appears to the court that the person charged or to whom the proceedings relate is of the age of seventeen years upwards, or where in the course of any proceedings in any court other than a juvenile court it appears that the person charged or to whom 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.
 - (4) Provision shall be made for preventing persons apparently under the age of seventeen 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 seventeen years is jointly charged or convicted.
 - (5) 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 so however that *bonafide* representatives of a newspaper or news agency shall not be excluded, except by special order of the court.
 - (6) 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 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.

7.
 - (1) 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 a 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.
 - (2) In the 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.
 - (3) A commitment under this section may be varied or, in the case of a young person who proved to be so unruly a character that he cannot be safely detained in such custody, or to be of so depraved a character that he is not a fit person to be so detained, revoked by any court acting in or for the place in or for which the court which made the order acted, and if it is revoked the young person may be committed to prison.
8.
 - (1) 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.
 - (2) 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 that the child shall be dealt with in the juvenile court.
 - (3) After planning the substance of the alleged offence the court shall ask the child or young person whether he admits the offence.
 - (4) 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.
 - (5) 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.
 - (6) If it appears to the court that a *prima facie* case is made out, the evidence of any witnesses for the defense shall be heard, and the child or young person shall be allowed to give evidence or to make any statement.
 - (7) 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 or for special medical examination or observation the court may from time to time remand the child or young person on bail or to a place of detention.

- (8) If the child or young person admits the offence or the court is satisfied that it is proved, and the court decides that a remand is necessary for purposes of inquiry or observation, 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.
- (9) 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 at 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.
- (10)1 Where a 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 conducted to the commission of the offence by neglecting to exercise due care of the child or young person.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.

- (6) A parent or guardian may appeal against an order under this section to the High Court.
11. (1) No child shall be ordered to be imprisoned
- (2) No young person shall be ordered to be imprisoned if he can be suitably dealt with in any other way whether by probation, fine, corporal punishment, committal to a place of detention or to an approved institution, or otherwise.
- (3) A young person ordered to be imprisoned shall not be allowed to associate with adult prisoners.
12. Sentence of death shall not be pronounced or recorded against an offender who had not attained the age of seventeen 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.
13. Notwithstanding anything in this act to the contrary where a child or young person is found guilty of an attempt to murder or 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, notwithstanding anything in the other provisions of this act, 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.
14. 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 this of 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
 - (f) by ordering the offender to be caned; or
 - (g) by ordering the offender to pay a fine, damages, or costs; or
 - (h) by ordering the parent or guardian of the offender to pay a fine, damages, or costs; or
 - (i) by ordering the parent or guardian of the offender to give security for his good behaviour; or
 - (j) by committing the offender to custody in a place of detention provided under this Act; or
 - (k) Where the offender is a young person, by ordering him to be imprisoned; or

- (1) By dealing with the case in any other manner in which it may be legally dealt with.

15. (1) 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.
 - (2) Where a remand home is conveniently situated it shall be the place of detention for the purposes of section 4,7 and 14 of this Act.
 - (3) 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 that if a child or young person is detained in a prison he shall not be allowed associate with adult prisoners.

16. 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.

APPENDIX II

United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)

Adopted and proclaimed by General Assembly resolution 45/112 of 14 December 1990

I. Fundamental Principles

1. The prevention of juvenile delinquency is an essential part of crime prevention in society. By engaging in lawful, socially useful activities and adopting a humanistic orientation towards society and outlook on life, young persons can develop non-criminogenic attitudes.
2. The successful prevention of juvenile delinquency requires efforts on the part of the entire society to ensure the harmonious development of adolescents, with respect for and promotion of their personality from early childhood.
3. For the purposes of the interpretation of the present Guidelines, a child-centred orientation should be pursued. Young person should have an active role and partnership within society and should not be considered as mere objects of socialization or control.
4. In the implementation of the present Guidelines, in accordance with national legal systems, the well-being of young persons from their early childhood should be the focus of any preventive programme.
5. The need for and importance of progressive delinquency prevention policies and the systematic study and the elaboration of measures should be recognised. These should avoid criminalizing and penalizing a child for behaviour that does not cause serious damage to the development of the child or harm to others. Such policies and measures should involve:
 - (a) The provision of opportunities, in particular educational opportunities, to meet the varying needs of young persons and to serve a supportive framework for safeguarding the personal development of all young persons, particularly those who are demonstrably endangered or at social risk and are in need of special care and protection;
 - (b) Specialized philosophies and approaches for delinquency prevention, on the basis of laws, processes, institutions, facilities and a service delivery network aimed at reducing the motivation, need and opportunity for, or conditions giving rise to, the commission of infractions;
 - (c) Official intervention to be pursued primarily in the overall interest of the young person and guiding by fairness and equity;
 - (d) Safeguarding the well-being, development, rights and interests of all young person;
 - (e) Consideration that youthful behaviour or conduct that does not conform to overall social norms and values is often part of the maturation and growth

process and tends to disappear spontaneously in most individuals with the transition to adulthood;

- (f) Awareness that, in the predominant opinion of experts, labeling a young person as “deviant”, “delinquent” or “pre-delinquent” often contributes to the development of a consistent pattern of undesirable behaviour by young person.
6. Community based services and programmes should be developed for the prevention of juvenile delinquency, particularly where no agencies have yet been established. Formal agencies of social control should only be utilized as a means of last resort.

II. Scope of the Guidelines

7. The present Guidelines should be interpreted and implemented within the broad framework of the Universal Declaration of Human Right, The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Declaration of the Rights of the Child and the Convention on the Rights of the Child, and in the context of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), as well as other instruments and norms relating to the rights, interests and well-being of all children and young persons.
8. The present Guidelines should also be implemented in the context of the economic, social and cultural conditions prevailing in each Member State.

III. General Prevention

9. Comprehensive prevention plans should be instituted at every level of Government and include the following:
- (a) In-depth analyses of the problem and inventories of programmes, services, facilities and resources available;
 - (b) Well-defined responsibilities for the qualified agencies, institutions and personnel involved in preventive efforts;
 - (c) Mechanisms for the appropriate co-ordination of prevention efforts between governmental and non-governmental agencies;
 - (d) Policies, programmes and strategies based on prognostic studies to be continuously monitored and carefully evaluated in the course of implementation;
 - (e) Methods for effectively reducing the opportunity to commit delinquent acts;
 - (f) Community involvement through a wide range of services and programmes;
 - (g) Close interdisciplinary co-operation between national, State, provincial and local governments, with the involvement of the private sector, representative citizens of the community to be served, and labour, child-

care, health education, social, law enforcement and judicial agencies in taking concerted action to prevent juvenile delinquency and youth crime;

- (h) Youth participation in delinquency prevention policies and processes, including recourse to community resources, youth self-help, and victim compensation and assistance programmes;
- (i) Specialized personnel at all levels.

IV. Socialization Processes

10. Emphasis should be placed on preventive policies facilitating the successful socialization and integration of all children and young persons, in particular through the family, the community, peer groups, schools vocational training and the world of work, as well as through voluntary organisations. Due respect should be given to the proper personal development of children and young persons, and they should be accepted as full and equal partners in socialization and integration processes.

A. Family

- 11. Every society should place a high priority on the needs and well being of the family and of all its members.
- 12. Since the family is the central unit responsible for the primary socialization of children, governmental and social efforts to preserve the integrity of the family, including the extended family, should be pursued. The society has a responsibility to assist the family in providing care and protection and in enduring the physical and mental well-being of children. Adequate arrangements including day-care should be provided.
- 13. Governments should establish policies that are conducive to the bringing up of children in stable and settled family environments. Families in need of assistance in the resolution of conditions of instability or conflict should be provided with requisite services.
- 14. Where a stable and settled family environment is lacking and when community efforts to assist parents in this regard have failed and the extended family cannot fulfill this role, alternative placements, including foster care and adoption, should be considered. Such placements should replicate, to the extent possible, a stable and settled family environment, while, at the same time, establishing a sense of permanency for children, thus avoiding problems associated with “foster drift”.
- 15. Special attention should be given to children of families affected by problems brought about by rapid and uneven economic, social and cultural change, in particular the children of indigenous, migrant and refugee families. As such changes may disrupt the social capacity of the family to secure the traditional rearing and nurturing of children, often as a result of role and culture conflict, innovative and socially constructive modalities for the socialization of children have to be designed.
- 16. Measures should be taken and programmes developed to provide families with the opportunity to learn about parental roles and obligations as regards child development and child care, promoting positive parent – child relationships, sensitizing parents to

the problems of children and young persons and encouraging their involvement in family and community-based activities.

17. Governments should take measures to promote family cohesion and harmony and to discourage the separation of children from their parents, unless circumstances affecting the welfare and future of the child leave no viable alternative.
18. It is important to emphasize the socialization function of the family and extended family, it is also equally important to recognise the future role, responsibilities, participation and partnership of young person in society.
19. In ensuring the right of the child to proper socialisation, Governments and other agencies should rely on existing social and legal agencies, but, whenever traditional institutions and customs are no longer effective, they should also provide and allow for innovative measures.

B. Education

20. Governments are under an obligation to make public education accessible to all young persons.
21. Education systems should, in addition to their academic and vocational training activities, devote particular attention to the following:
 - (a) Teaching of basic values and developing respect for the child's own culture identity and patterns, for the social values of the country in which the child is living, for civilizations different from the child's own and for human rights and fundamental freedoms;
 - (b) Promotion and development of the personality, talents and mental and physical abilities of young people to their fullest potential;
 - (c) Involvement of young persons as active and effective participants in, rather than mere objects of, the educational process;
 - (d) Undertaking activities that foster a sense of identity with and of belonging to the school and the community;
 - (e) Encouragement of young persons to understand, respect diverse views and opinions, as well as cultural and other differences;
 - (f) Provision of information and guidance regarding vocational training, employment opportunities and career development;
 - (g) Provision of positive emotional support to young persons and the avoidance of psychological maltreatment;
 - (h) Avoidance of harsh disciplinary measures, particularly corporal punishment.

22. Educational systems should seek to work together with parents, community organisations agencies concerned with the activities of young persons.
23. Young persons and their families should be informed about the law and their rights and responsibilities under the law, as well as the universal value system, including United Nations instruments.
24. Educational system should extend particular care and attention to young persons who are at social risk. Specialized prevention programmes and educational materials, curricula, approaches and tools should be developed and fully utilized.
25. Special attention should be given to comprehensive policies and strategies for the prevention of alcohol, drug and other substance abuse by young person. Teachers and other professionals should be equipped and trained to prevent and deal with these problems. Information on the use and abuse of drugs, including alcohol, should be made available to the student body.
26. Schools should serve as resource and referral centres for the provision of medical, counseling and other services to young persons particularly those with needs and suffering from abuse, neglect, victimization and exploitation.
27. Through a variety of educational programmes, teachers and other adults and the student body should be sensitized to the problems, needs and perceptions of young persons, particularly those belonging to underprivileged, disadvantaged, ethnic or other minority and low-income groups.
28. School systems should attempt to meet and promote the highest professional and educational standards with respect to curricula, teaching and learning methods and approaches, and the recruitment and training of qualified teachers. Regular monitoring and assessment of performance by the appropriate professional organizations and authorities should be ensured.
29. School systems should plan, develop and implement extracurricular activities of interest to young persons, in co-operation with community groups.
30. Social assistance should be given to children and young persons who find it difficult to comply with attendance codes, and to “drop-outs”.
31. Schools should promote policies and rules that are fair and just; students should be represented in bodies formulating school policy, including policy on discipline, and decision-making.

C. Community

32. Community-based services and programmes which respond to the special needs, problems, interests and concerns of young persons and which offer appropriate counseling and guidance to young persons and their families should be developed, or strengthened where they exist.
33. Communities should provide, or strengthen where they exist, a wide range of community-based support measures for young person, including community

development centres, recreational facilities and services to respond to the special problems of children who are at social risk. In providing these helping measures, respect for individual rights should be ensured.

34. Special facilities should be set up to provide adequate shelter for young person who are no longer able to live at home or who do not have homes to live in.
35. A range of services and helping measures should be provided to deal with the difficulties experienced by young persons in the transition to adulthood. Such services should include special programmes for young drug abusers which emphasizes care, counseling, assistance and therapy-oriented interventions.
36. Voluntary organisations providing services for young persons should be given financial and other support by Governments and other institutions.
37. Youth organisation should be created or strengthened at the local level and given full participatory status in the management of community affairs. These organisations should encourage youth to organise collective and voluntary projects, particularly projects aimed at helping young persons in need of assistance.
38. Government agencies should take special responsibility and provide necessary services for homeless or street children; information about local facilities, accommodation, employment and other forms and sources of help should be made readily available to young person.
39. A wide range of recreational facilities and services of particular interest to young persons should be established and made easily accessible to them.

D. Mass Media

40. The mass media should be encouraged to ensure that young persons have access to information and material from a diversity of national and international sources.
41. The mass media should be encouraged to portray the positive contribution of young persons to society.
42. The mass media should be encouraged to disseminate information on the existence of services, facilities and opportunities for young persons in society.
43. The mass media generally, and the television and film media in particular, should be encouraged to minimize the level of pornography, drugs and violence portrayed and to display violence and exploitation disfavouredly, as well as to avoid demeaning and degrading presentations, especially of children, women and interpersonal relations, and to promote egalitarian principles and roles.
44. The mass media should be aware of its extensive social role and responsibility, as well as its influence, in communications relating to youthful drug and alcohol abuse. It should use its power for drug abuse prevention by relying consistent messages through a balanced approach. Effective drug awareness campaigns at all levels should be promoted.

V. Social Policy

45. Government agencies should give high priority to plans and programmes for young persons and should provide sufficient funds and other resources for the effective delivery of services, facilities and staff for adequate medical and mental health care, nutrition, housing and other relevant services, including drug and alcohol abuse prevention and treatment, ensuring that such resources reach and actually benefit young persons.
46. The institutionalization of young persons should be a measure of last resort and for the minimum necessary period, and the best interests of the young person should be of paramount importance. Criteria authorizing formal intervention of this type should be strictly defined and limited to the following situations: (a) where the child or young person has suffered harm that has been inflicted by the parents or guardians; (b) where the child or young person has been sexually, physically or emotionally abused by the parents or guardians; (c) where the child or young person has been neglected, abandoned or exploited by the parents or guardians; (d) where the child or young person is threatened by physical or moral danger due to the behaviour of the parents or guardians; and (e) where a serious physical or psychological danger to the child or young person has manifested itself in his or her own behaviour and neither the parents, the guardians, the juvenile himself or herself nor non-residential community services can meet the danger by means other than institutionalization.
47. Government agencies should provide young persons with the opportunity of continuing in full-time education, funded by the State where parents or guardians are unable to support the young persons, and of receiving work experience.
48. Programmes to prevent delinquency should be planned and developed on the basis of reliable, scientific research findings, and periodically monitored, evaluated and adjust accordingly.
49. Scientific information should be disseminated to the professional community and to the public at large about the sort of behaviour or situation, which indicates or may result in physical and psychological victimization, harm and abuse, as well as exploitation, of young persons.
50. Generally, participation in plans and programme should be voluntary. Young persons themselves should be involved in their formations, development and implementation.
51. Government should begin or continue to explore, develop and implement policies, measure and strategies within and outside the criminal justice system to prevent domestic violence against and affecting young persons and to ensure fair treatment to these victims of domestic violence.

VI. Legislation and Juvenile Justice Administration

52. Governments should enact and enforce specific laws and procedures to promote and protect the rights and well-being of all young persons.

53. Legislation preventing the victimization, abuse exploitation and the use for criminal activities of children and young persons should be enacted and enforced.
54. No child or young person should be subjected to harsh or degrading correction or punishment measures at home, in schools or in any other institutions.
55. Legislation and enforcement aimed at restricting and controlling accessibility of young persons should be pursued.
56. In order to prevent further stigmatization, victimization and criminalization of young person, legislation should be enacted to ensure that any conduct not considered an offence or not penalized if committed by an adult is not considered an offence and not penalized if committed by a young persons.
57. Consideration should be given to the establishment of an office of ombudsman or similar independent organ, which would ensure that the status, rights and interests of young persons are upheld and that proper referral to available services is made. The ombudsman or other organ designated would also supervise the implementation of the Riyadh Guidelines, the Beijing Rules and the Rules for the Protection of Juveniles Deprived of their Liberty. The ombudsman or other organ would, at regular intervals, publish a report on the progress made and on the difficulties encountered in the implementation of the instrument. Child advocacy services should also be established.
58. Law enforcement and other relevant personnel, of both sexes, should be trained to respond to the special needs of young persons and should be familiar with and use. To the maximum extent possible, programmes and referral possibilities for the diversion of young person from the justice system.
59. Legislation should be enacted and strictly enforced to protect children and young persons from drug abuse and drug traffickers.

VII. Research, Policy Development and Co-ordination

60. Efforts should be made and appropriate mechanisms established to promote, on a multidisciplinary and an interdisciplinary basis, interaction and co-ordination between economic, social, education and health agencies and services and other relevant institutions.
61. The exchange of information, experience and expertise gained through projects, programmes, practices and initiatives relating to youth crime, delinquency prevention and juvenile justice should be intensified at the national, regional and international levels.
62. Regional and international co-operation on matters of youth crime, delinquency prevention and juvenile justice involving practitioners, experts and decision makers should be further developed and strengthened.
63. Technical and scientific co-operation on practical and policy related matters, particularly in training, pilot and demonstration projects, and on specific issues

concerning the prevention of youth crime and juvenile delinquency prevention and the findings of such research should be widely disseminated and evaluated.

64. Appropriate United Nations bodies, institutes, agencies and offices should pursue close collaboration and co-ordination on various questions related to children juvenile justice and youth crime and juvenile delinquency prevention.
65. On the basis of the present Guidelines, the United Nations Secretariat, in co-operation with interested institutions, should play an active role in the conduct of research, scientific collaboration, the formulation of policy options and the review and monitoring of their implementation, and should serve as a source of reliable information on effective modalities for delinquency prevention.

APPENDIX III

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)

Adopted by General Assembly resolution 40/33 of 29 November 1985

PART ONE

General principles

1. Fundamental perspectives

- 1.1 Member States shall seek, in conformity with their respective general interests, to further the well-being of the juveniles and her or his family.
- 1.2 Member States shall endeavour to develop conditions that will ensure for the juvenile a meaningful life in the community, which during that period in life when she or he is most susceptible to deviant behaviour, will foster a process of personal development and education that is as free from crime and delinquency as possible.
- 1.3 Sufficient attention shall be given to positive measures that involve the full mobilization of all possible resources, including the family, volunteers and other community groups, as well as schools and other community institutions, for the purpose of promoting the well-being of the juvenile, with a view to reducing the need for intervention under the law, and of effectively, fairly and humanely dealing with the juvenile in conflict with the law.
- 1.4 Juvenile justice shall be conceived as an integral part of the national development process of each country, within a comprehensive framework of social justice for all juveniles, thus, at the same time, contributing to the protection of the young and the maintenance of a peaceful order in society.
- 1.5 These Rules shall be implemented in the context of economic, social and cultural conditions prevailing in each Member State.
- 1.6 Juvenile justice services shall be systematically developed and co-ordinated with a view to improving and sustaining the competence of personnel involved in the services, including their methods, approaches and attitudes.

2. Scope of the Rules and definitions used

- 2.1 The following Standard Minimum Rules shall be applied to juvenile offenders impartially, without distinction of any kind, for example as to race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status.

2.2 For purposes of these Rules, the following definitions shall be applied by Member States in a manner which is compatible with their respective legal systems and concepts:

- (a) A juvenile is a child or young person who, under the respective legal systems, may be dealt with for an offence in a manner which is different from an adult;
- (b) An offence is any behaviour (act or omission) that is punishable by law under the respective legal systems;
- (c) A juvenile offender is a child or young person who is alleged to have committed or who has been found to have committed an offence.

2.3 Efforts shall be made to establish, in each national jurisdiction, a set of laws, rules and provisions especially applicable to juvenile offenders and institutions and bodies entrusted with the functions of the administration of juvenile justice and designed:

- (a) To meet the varying needs of juvenile offenders, while protecting their basic rights;
- (b) To meet the needs of society;
- (c) To implement the following rules thoroughly and fairly.

3. *Extension of the Rules*

3.1 The relevant provisions of the Rules shall be applied not only to juvenile offenders but also to juveniles who may be proceeded against for any specific behaviour that would not be punishable if committed by an adult.

3.2 Efforts shall be made to extend the principles embodied in the Rules to all juveniles who are dealt with in welfare and care proceedings.

3.3 Effort shall also be made to extend the principles embodied in the Rules to young adult offenders.

direction of more fair, equitable and humane justice for all juveniles in conflict with the law.

4. *Age of criminal responsibility*

4.1 In those legal systems recognizing the concept of the age of criminal responsibility for juveniles, the beginning of that age shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity.

5. *Aims of juvenile justice*

5.1 The juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be in proportion to the circumstances of both the offenders and the offence.

6. *Scope of Discretion*

- 6.1 In view of the varying special needs of juveniles as well as the variety of measures available, appropriate scope for discretion shall be allowed at all stages of proceedings and at the different levels of juvenile justice administration, including investigation, prosecution, adjudication and the follow-up of dispositions.
- 6.2 Efforts shall be made, however, to ensure sufficient accountability at all stages and levels in the exercise of any such discretion.
- 6.3 Those who exercise discretion shall be specially qualified or trained to exercise it judiciously and in accordance with their functions and mandates.

7. *Rights of juveniles*

- 7.1 Basic procedural safeguards such as the presumption of innocence, the right to be notified of the charges, the right to remain silent, the right to counsel, the right to the presence of parent or guardian, the right to confront and cross-examine witnesses and the right to appeal to a higher authority shall be guaranteed at all stages of proceedings.

8. *Protecting of privacy*

- 8.1 The juvenile's right to privacy shall be respected at all stages in order to avoid harm being caused to her by undue publicity or by the process of labeling.
- 8.2 In principle, no information that may lead to the identification of a juvenile offender shall be published.

9. *Saving clause*

- 9.1 Nothing in these Rules shall be interpreted as precluding the application of the standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations and other human rights instruments and standards recognised by the international community that relates to the care and protection of the young.

PART TWO

Investigation and Prosecution

10. *Initial Contact*

- 10.1 Upon the apprehension of a juvenile, her or his parents or guardian shall be immediately notified of such apprehension, and, where such immediate notification is

not possible, the parents or guardian shall be notified within the shortest possible time thereafter.

- 10.2 A judge or other competent official or body shall, without delay, consider the issue of release.
- 10.3 Contacts between the law enforcement agencies and a juvenile offender shall be managed in such a way as to respect the legal status of the juvenile, promote the well-being of the juvenile and avoid harm to her or him, with due regard to the circumstances of the case.

11. Diversion

- 11.1 Consideration shall be given, wherever appropriate, to dealing with juvenile offenders without resorting to formal trial by the competent authority, referred to in rule 14.1 below.
- 11.2 The police, the prosecution or other agencies dealing with juvenile cases shall be empowered to dispose of such cases, at their discretion, without recourse to formal hearings, in accordance with the criteria laid in accordance with the principles contained in these Rules.
- 11.3 Any diversion involving referral to appropriate community or other services shall require the consent of the juvenile, or her or his parents or guardian, provided that such decision to refer a case shall be subject to review by a competent authority, upon application.
- 11.4 In order to facilitate the discretionary disposition of juvenile cases, efforts shall be made to provide for community programmes, such as temporary supervision and guidance, restitution, and compensation of victims.

12. Specialization within the police

- 12.1 In order to best fulfill their functions, police officers who frequently or exclusively deal with juveniles or who are primarily engaged in the prevention of juvenile crime shall be specially instructed and trained. In large cities, special police units should be established for that purpose.

13. Detention pending trial

- 13.1 Detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time.
- 13.2 Whenever possible, detention pending trial shall be replaced by alternative measures, such as close supervision, intensive care or placement with a family or in an educational setting or home.

- 13.3 Juveniles under detention pending trial shall be entitled to all rights and guarantees of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.
- 13.4 Juveniles under detention pending trial shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.
- 13.5 While in custody, juveniles shall receive care, protection and all necessary individual assistance – social, educational, vocational, psychological, medical and physical – that they may require in view of their age, sex and personality.

PART THREE

Adjudication and Disposition

14. Competent Authority to Adjudicate

- 14.1 Where the case of a juvenile offender has not been diverted (under rule 11), she or he shall be dealt with by the competent authority (court, tribunal, board, council, etc.) according to the principles of a fair and just trial.
- 14.2 The proceedings shall be conducive to the best interests of the juvenile and shall be conducted in an atmosphere of understanding, which shall allow the juvenile to participate therein and to express herself or himself freely.

15. Legal Counsel, Parents and Guardians

- 15.1 Throughout the proceedings the juvenile shall have the right to be represented by legal adviser or to apply for free legal aid where there is provision for such aid in the country.
- 15.2 The parents or the guardian shall be entitled to participate in the proceedings and may be required by the competent authority to attend them in the interest of the juvenile. They may, however, be denied participation by the competent authority if there are reasons to assume that such exclusion is necessary in the interest of the juvenile.

16. Social Inquiry Reports

- 16.1 In all cases except those involving minor offences, before the competent authority renders a final disposition prior to sentencing, the background and circumstances in which the juvenile is living or the conditions under which the offence has been committed shall be properly investigated so as to facilitate judicious adjudication of the case by the competent authority.

17. Guiding principles in adjudication and disposition

- 17.1 The disposition of the competent authority shall be guided by the following principles:
- (a) The reaction taken shall always be in proportion not only to the circumstances and the gravity of the offence but also to the circumstances and the needs of the juvenile as well as to the needs of the society;
 - (b) Restrictions on the personal liberty of the juvenile shall be imposed only after careful consideration and shall be limited to the possible minimum;
 - (c) Deprivation of personal liberty shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response;
 - (d) The well-being of the juvenile shall be the guiding factor in the consideration of her or his case.
- 17.2 Capital punishment shall not be imposed for any crime committed by juveniles.
- 17.3 Juveniles shall not be subject to corporal punishment.
- 17.4 The competent authority shall have the power to discontinue the proceedings at any time.

18. Various disposition measures

- 18.1 A large variety of disposition measures shall be made available to the competent authority, allowing the flexibility so as to avoid institutionalization to the greatest extent possible. Such measures, some of which may be combined, include:
- (a) Care, guidance and supervision orders;
 - (b) Probation;
 - (c) Community service orders;
 - (d) Financial penalties, compensation and restitution;
 - (e) Intermediate treatment and other treatment orders;
 - (f) Orders to participate in group counseling and similar activities;
 - (g) Orders concerning foster care, living communities or other educational settings;
 - (h) Other relevant orders.
- 18.2 No juvenile shall be removed from parental supervision, whether partly or entirely, unless the circumstances of her or his case make this necessary.

19. Least possible use of institutionalization

- 19.1 The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period.

20. Avoidance of unnecessary delay

- 20.1 Each case shall from the outset be handled expeditiously, without any unnecessary delay.

21. Records

- 21.1 Records of juvenile offenders shall be kept strictly confidential and closed to third parties. Access to such records shall be limited to persons directly concerned with the disposition of the case at hand or other duly authorized persons.
- 21.2 Records of juvenile offenders shall not be used in adult proceedings in subsequent cases involving the same offender.

22. Need for Professionalism and Training

- 22.1 Professional education, in service training, refresher courses and other appropriate modes of instruction shall be utilized to establish and maintain the necessary professional competence of all personnel dealing with juvenile cases.
- 22.2 Juvenile justice personnel shall reflect the diversity of juveniles who come into contact with the juvenile justice system. Efforts shall be made to ensure the fair representation of women and minorities in juvenile justice agencies.

PART FOUR

Non-Institutional Treatment

23. Effective implementation of disposition

- 23.1 Appropriate provisions shall be made for the implementation of orders of the competent authority, as referred to in rule 14.1 above, by that authority itself or by some other authority as circumstances may requires.
- 23.2 Such provisions shall include the power to modify the orders as the competent authority may deem necessary form time to time, provided that such modification shall be determined in accordance with the principles contained in these Rules.

24. Provision of Needed Assistance

- 24.1 Efforts shall be made to provide juveniles, at all stages of the proceedings, with necessary assistance such as lodging, education or vocational training, employment or any other assistance helpful and practical, in order to facilitate the rehabilitative process.

25. Mobilization of Volunteers and other Community Services

- 25.1 Volunteers, voluntary organisations, local institutions and other community resources shall be called upon to contribute effectively to the rehabilitation of the juvenile in a community setting and, as far as possible, within the family unit.

PART FIVE

Institutional Treatment

26. Objectives of Institutional Treatment

- 26.1 The objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skill, with a view to assisting them to assume socially constructive and productive roles in society.
- 26.2 Juveniles in institutions shall receive care, protection and all necessary assistance – social, educational vocational, psychological, medical and physical – that they may require because of their age, sex, and personality and in the interest of their wholesome development.
- 26.3 Juveniles in institutions shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.
- 26.4 Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured.
- 26.5 In the interest and well-being of the institutionalized juvenile, the parents or guardians shall have a right of access.
- 26.6 Inter-ministerial and inter-departmental co-operation shall be fostered for the purpose of providing adequate academic or, as appropriate, vocational training to institutionalized juveniles, with a view to ensuring that they do not leave the institution at an educational disadvantage.

***27. Application of the Standard Minimum Rules for the Treatment of Prisoners
Adopted by the United Nations***

- 27.1 The Standard Minimum Rules for the Treatment of Prisoners and related recommendations shall be applicable as far as relevant to the treatment of juvenile offenders in institutions, including those in detention pending adjudication.
- 27.2 Efforts shall be made to implement the relevant principles laid down in the Standard Minimum Rules for the Treatment of Prisoners to the largest possible extent so as to meet the varying needs of juveniles specific to their age, sex and personality.

28. Frequent and Early Recourse to Conditional Release

- 28.1 Conditional release from an institution shall be used by the appropriate authority to the greatest possible extent, and shall be granted at the earliest possible time.
- 28.2 Juveniles released conditionally from an institution shall be assisted and supervised by an appropriate authority and shall receive full support by the community.

29. Semi-Institutional Arrangements

- 29.1 Efforts shall be made to provide semi-institutional arrangements such as half-way houses, educational homes, day-time training centres and other such appropriate arrangements that may assist juveniles in their proper reintegration into society.

PART SIX

Research, Planning, Policy Formulation and Evaluation

30. Research as a basis for Planning, Policy Formulation and Evaluation

- 30.1 Efforts shall be made to organise and promote necessary research as a basis for effective planning and policy formulation.
- 30.2 Efforts shall be made to review and appraise periodically the trends, problems and causes of juvenile delinquency and crime as well as the varying particular needs of juveniles in custody.
- 30.3 Efforts shall be made to establish a regular evaluative research mechanism built into the system of juvenile justice administration and to collect and analyse relevant data and information for appropriate assessment and future improvement and reform of the administration.
- 30.4 The delivery of services in juvenile justice administration shall be systematically planned and implemented as an integral part of national development efforts.

About CLEEN

Centre for Law Enforcement Education (CLEEN) is a non-governmental organisation that promotes respect for human rights and cooperation between civil society and law enforcement agencies in the lawful discharge of their duties in Nigeria. Our priorities are pursued through research and publications, human rights education, legislative advocacy and community empowerment programmes.

Board of Directors

Prof. (Mrs.) Isabella Okagbue - Chairperson
Ambassador Lamidi Maliki - Vice Chair
Eziuche Ubani - Treasurer
Dr. Mohamed Tabiu
Rev. (Fr.) John Offie
Chidi Odinkalu
Josephine Effah-Chukwuma
Melissa Crow
Jide Nzelibe
Innocent Chukwuma

Secretariat

Innocent Chukwuma - Executive Director
Anthony Opara - Programmes Officer
Clara Orji - Legal Officer
Gloria Ekpo - Accountant
Sylvanus Okwunodulu - Admin Officer
Falilat Ibrahim - Secretary

Other publications by CLEEN

- Policing Elections: A Pocket Book for Law Enforcement Officials on the Prevention and Control of Electoral Violence in Nigeria;
- Journey to Civil Rule: A Report on the Presidential Primaries in Nigeria;
- Policing a Democracy: A Survey on the Role and Functions of the Nigeria Police Force in a Post Military Era;
- Police-Community Violence in Nigeria;
- Constable Joe: A Drama Series on Police-Community Relations in Nigeria
- Law Enforcement Review (a quarterly magazine on law enforcement in Nigeria) published since January 1998.