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The juvenile justice system in Nigeria faces the challenging task of balancing accountability with rehabilitation for child offenders. This work explores the complexities and current practices in sentencing and treatment of child offenders in Nigeria, highlighting both legal frameworks and practical implementations. It delves into the nation's adherence to international standards, and describes how children in conflict with the law should be treated.

SENTENCING AND TREATMENT OPTIONS FOR CHILD OFFENDERS IN NIGERIA: AN OVERVIEW

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1. Introduction
2. Background of Child Offenders in Nigeria
3. Importance of Sentencing and Treatment Options
4. Social Enquiry Reports
5. Sentencing Options for Child Offenders

Payment of fines, Damages, Compensation and Costs by Parents or Guardian Juvenile Detention Centers

Probation and Community Service

Diversion Programmes

1. Treatment Options for Child Offenders

Counseling and Therapy

Educational and Vocational Training

Family and Community Support

1. Summary, Recommendations and Conclusions

**Introduction**

Juvenile laws, as seen in the Child Rights Act, 2003, emphasize social norms with substantial attention to welfare reforms. Even at that, it contains some punitive options of reform, such as corrective training, where a young person found guilty of an offence deemed to be a serious offence can be sentenced to punishments of varying degrees. The offense of a serious crime attracts punitive welfare sentence options in Nigeria except for children who have not attained the age of criminal responsibility. These sentences, even though left at the discretion of the Courts should always comply with the principles guiding juvenile offenders such as the best interests of the child, child participation, and a child-friendly approach.

This Paper seeks to analyse the laid down procedures for dealing with child offenders after trial, with a view to pointing out the methods of disposal of cases involving child offenders and sentencing options provided for under the Child Rights Act which protects the health and well-being of such offenders.

**Background of Child Offenders in Nigeria.**

Expressed in the National Policy for Children in Nigeria, the traditionally constructed child must be guided and given the right kind of education, which is rooted in traditional and religious values, to enable them to grow and develop into conscious, responsible, and positively irrepressible young adults.[[1]](#footnote-1) Even though adolescence is now being institutionalized in Nigeria through contemporary child protection policy, the Nigeria Child Rights Act, the historical construction of this group continues to hinder efforts to ensure that the country's youths grow up well and strong.

The Child Rights Act defines a child as any person below the age of 18 years. In Nigeria, the concept of childhood has traditionally revolved around the construction of child space grounded upon visions of families working alongside children to support the family unit, and adjudication of age based upon a combination of chronological, biological, emotional, social, cultural, religious, and moral indicators. This is evidenced in the definition of a Child by the various states of the country to reflect their social, cultural and religious peculiarities.[[2]](#footnote-2)

**Importance of Sentencing and Treatment Options for Child Offenders**

Research and our experiences have much to offer in the challenge of enforcing the law and treating individuals, whether they are children or adults. It is important that in dealing with child Offenders, the sentencing process needs to keep up with scientific and contemporary society's understanding of adolescent behavior. Furthermore, all actors in child justice administration should keep up with the knowledge and science of child development, it is only in understanding how children act the way they act that players in this sector will be equipped to handle children most effectively. The study of the importance of novel scientific developmental research of child adolescence and the sentencing options available for persons who committed offenses as children is encouraged. It is important to consider that children do not have the same understanding of acts, culpability, and responsibilities as adults because they are not as developed. We must accept the results of scientific research on child adolescence to understand why we should have numerous sentencing options for individual children. We should consider that each child is an individual and has different needs. Some children can benefit from processes driven by a program focus rather than a sentencing focus. In recent legislation, the focus for all offenses is on appropriate, focused, and balanced sentencing. The sentence should evaluate the readiness of the parties to change. It should not only consider the child’s characteristics but also evaluate their criminogenic needs children are more likely to use their minds instead of force.

**Social Enquiry Report**

The Child Rights Act[[3]](#footnote-3) provides that:

*(1) The appropriate officers shall, before a case, other than that involving a minor offence, is finally disposed of by the Court‐*

*(a) properly investigate‐*

*(i) the background of the child;*

*(ii) the circumstances in which the child is living; and*

*(iii) the conditions under which the offence has been committed;*

*(b) inform the Court of all relevant facts, relating to the child, including his social and family background, school career and educational experience, arising out of the investigation under paragraph (a) of this subsection.*

This is known as the social inquiry report. A social inquiry report plays a crucial role in cases involving children within the legal system. It provides valuable insights into the child's background, including family dynamics, socioeconomic factors, educational history, and any previous interactions with the law.[[4]](#footnote-4) This information is essential for understanding the context in which the alleged offense occurred and assessing the child's needs and vulnerabilities. The report also helps in assessing the level of risk the child may pose to themselves or others and identifies their specific needs. This assessment is critical for determining appropriate interventions, such as counseling, education, or rehabilitation programs, to address underlying issues and reduce the likelihood of reoffending.

Furthermore, as is a known fact by most, in cases involving children, the best interest of the child is given primary consideration. A social inquiry report contributes to a comprehensive analysis of what would serve the child's best interests, taking into account their developmental stage, emotional well-being, and future prospects. For judges and legal practitioners, a social inquiry report provides essential information for making informed sentencing decisions. It helps in determining the most appropriate and proportionate measures, considering factors such as the seriousness of the offense, the child's level of culpability, and the potential for rehabilitation.

A social inquiry report supports the goal of rehabilitation and reintegration of child offenders into society.[[5]](#footnote-5) By identifying underlying issues, addressing root causes of delinquent behavior, and facilitating access to support services, the report contributes to a holistic approach that promotes positive outcomes for the child and reduces the risk of future criminal behavior. Incorporating a social inquiry report into legal proceedings enhances fairness and equity in the justice system. It helps to mitigate biases, ensures due process, and promotes a child-centered approach that prioritizes the well-being and rights of the child throughout the legal process.

**Sentencing Options in Cases Involving Children**

The Nigerian justice system provides several sentencing options for child offenders, though their application and effectiveness remain uneven. The court has a variety of options when it comes to disposing of cases involving children, including but not limited to:

**Payment of fines, Damages, Compensation and Costs by Parents or Guardian**

Where a child is charged before the Court with an offence and the Court decides that the case would be best disposed of by the imposition of a fine, damages, compensation or costs, whether with or without any other measure, the Court shall order that the fine, damages, compensation or costs awarded be paid by the parent or guardian of the child instead of the child,[[6]](#footnote-6) unless the Court is satisfied that‐

(a) the parent or guardian of the child cannot be found; or

(b) the parent or guardian has not condoned to the commission of the offence by neglecting to exercise due care, guidance of and control over the child;

(2) Where a child is charged with an offence, the Court may order his parent or guardian to give security for his good behaviour.

(3) Where the Court thinks that a charge against a child 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 that the child committed the act.

(4) An order under this section may be made by the Court against a parent or guardian who, having been required to attend the Court failed to do so, but no such order shall be made Without the Court giving the parent or guardian an opportunity of being heard.

(5) A sum imposed and ordered to be paid by a parent or guardian under this section, or any forfeiture or any security as given under this section, may be recovered from the parent or guardian by distress 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 was charged.

(6) A parent or guardian may appeal against an order under this section to the Court at the High Court level or the Court of Appeal, as the case may be.[[7]](#footnote-7)

**Probation**

Allowing the child to remain in the community under the supervision of a probation officer, with conditions such as regular check-ins, curfews, and community service.

**Custodial sentences**

Incarceration in a juvenile detention center, often for more serious offences[[8]](#footnote-8). Incarceration shall however be used as a measure of last resort. The Law provides that:

(1) Notwithstanding anything in this Act to the contrary, where a child is found to have attempted to commit treason, murder, robbery or manslaughter, or wounded another person with intent to do grievous harm, the Court may order the child to be detained for such period as may be specified in the order.

(2) Where an order is made under subsection (1) of this section, the child 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 Court may direct, and the child whilst so detained shah be deemed to be in legal custody.

**Diversion programmes**

These are Alternative pathways that take the child away from the formal justice system, such as community-based rehabilitation, counseling, or restorative justice initiatives. Globally, the introduction of diversion has been at the core of most national juvenile justice reform strategies.[[9]](#footnote-9) In many countries, diversion is now the main response to all first‐time child offenders who commit non‐violent crimes, and is increasingly being used for repeat or more serious offenders. Diversion is commonly practiced because it has been demonstrated to be a more effective and efficient way to resolve children’s offending behaviour and to prevent re‐offending.

Criminal charges are postponed while the child completes an agreed diversion undertaking. If the child successfully complies with the diversion undertaking, then criminal proceedings are not initiated. If the child fails to live up to his or her commitments, then criminal charges are initiated in relation to the original offence.

The Child Rights Act,[[10]](#footnote-10) provides that

(1) In view of the varying special needs of children and the variety of measures available, a person who makes determination on child offenders shall exercise such discretion, as he deems most appropriate in each case, at all stages of the proceedings and at the different levels of child justice administration, including investigation, prosecution, adjudication and the follow‐up of dispositions.

It further states that[[11]](#footnote-11)

The police, prosecutor or any other person dealing with a case involving a child offender shall‐

(a) have the power to dispose of the case without resorting to formal trial by using other means of settlement, including supervision, guidance, restitution and compensation of victims; and

(b) encourage the parties involved in the case to settle the case, as provided in paragraph (a) of this section.

(2) The police, prosecutor or other person referred to in subsection (1) of this section may exercise the power conferred under that Subsection if the offence involved is of a non‐serious nature and‐

(a) there is need for reconciliation; or ‐

(b) the family, the school or oilier institution involved has reacted or is likely to react in an appropriate or constructive manner; or

(c) where, in any other circumstance, the police, prosecutor or other person deems it necessary or appropriate in the interest of the child offender and parties involved to exercise the power.

(3) Police investigation and adjudication before the court shall be used only as measures of last resort.

**Treatment of Child Offenders under Section 223 of the Child Rights Act**

When a child is charged with an offense and brought to trial, the court, upon being convinced that the child has indeed committed the offense, must consider various ways to handle the case as outlined in the relevant Act. The court has several options at its disposal, which are designed to address the child's behavior in a manner that aligns with the principles of juvenile justice.

One approach the court can take is to dismiss the charge entirely. Alternatively, the court might discharge the child offender on the condition that they enter into a recognizance, which is a promise to abide by certain conditions. Another option involves placing the child under a care order, guidance order, or supervision order. This can include discharging the child and placing them under the supervision of a designated officer or committing them to the care of a guardian or a suitable relative through a corrective order. The court may also send the child to an approved accommodation or institution as part of a corrective measure.

In some cases, the court might order the child to participate in group counseling and similar rehabilitative activities. The child could also be required to pay a fine, damages, compensation, or costs. Alternatively, the child may be ordered to undertake community service under supervision.

Parents or guardians of the child offender can also be held accountable. They might be ordered to pay fines, damages, compensation, or costs. Additionally, they could be required to provide a guarantee of their child’s good behavior or enter into a recognizance to ensure proper care and control of the child.

In more severe cases, the court might commit the child to custody in a place of detention as provided under the Act. Other options include making a hospital order or prescribing some form of intermediate treatment. The court may also consider orders related to foster care, guardianship, community living, or other educational settings. Lastly, the court has the discretion to handle the case in any other legally permissible manner under the Act.

Placement of a child in approved accommodation or a government institution is considered a last resort. Such an order should only be issued when no other option is viable, and the court must document the reasons for this decision in writing. The order must facilitate the return of stolen property and enable the court to issue restitution or delivery orders similar to those for adult offenders, while still providing the protections accorded to child offenders under the Act.

The court is prohibited from issuing an institutional order unless it is confirmed that there is a vacancy in the intended institution. Moreover, an approved institution has the right to refuse admission to a child if there are no available spots, regardless of a court order. This ensures that the institution can maintain appropriate conditions for all its residents. The Law specifically provides thus:

*(1) Where a child charged with an offence is tried by a court and the Court is satisfied that the child actually committed the offence, the Court shall take into consideration the manner in which under the provisions of this Act, the case should be dealt with, namely, by‐*

*(a) dismissing the charge; or*

*(b) discharging the child offender on his entering into a recognisance; or*

*(c) placing the child under care order, guidance order and supervision order, including‐*

*(i) discharging the child offender and placing him under the supervision of a supervision officer; or*

*(ii) committing the child offender by means of a corrective order to the care of a guardian and supervision of a relative or any other fit person; or*

*(iii) sending the child offender by means of a corrective order to an approved accommodation or approved institution; or*

*(d) ordering the child offender to‐*

*(i) participate in group counseling and similar activities;*

*(ii) pay a fine, damages, compensation or costs; or*

*(iii) undertake community service under supervision; or*

*(e) ordering the parent or guardian of the child offender to‐*

*(i) pay a fine, damages, compensation or costs; or*

*(ii) give security of his good behaviour; or*

*(iii) enter into a recognisance to take proper care of him and exercise proper control over him; or*

*(f) committing the child offender to custody in a place of detention provided under this Act; or*

*(g) making a hospital order or an order prescribing some other form of intermediate treatment; or*

*(h) making an order concerning foster care, guardianship, living in a community or other educational setting; or*

*(i) dealing with the case in any other manner in which it may be legally dealt with under this Act.*

*(2) The placement of a child m an approved accommodation or Government institution shall‐*

*(a)* ***be a disposition of last resort****; and*

*(b) not be ordered unless there is no other way of dealing with the child, and the Court shall state, in writing, the reason or reasons for making the order.*

*(3) Where an order under this section is made by the Court, the order shall, for the purpose of‐*

*(a) reverting or restoring stolen property; and*

*(b) enabling the Court to make orders as to the restitution or delivery of property to the owner and as to the payment of money upon or in connection with the restitution or delivery, have the like effect as a restitution order upon a conviction of an adult offender, subject however to any protection provided for the child offender under this Act.*

*(4) A court shall not make an institutional order in respect of a child unless it is satisfied that there is a vacancy in the approved institution to which it intends to commit the child.*

*(5) An approved institution may refuse to accept or admit a child where there is no vacancy in the institution for the child notwithstanding an order of a Court committing the child to that institution.*

**Summary, Conclusion and Recommendations**

Handling cases involving child offenders requires a balanced approach that prioritizes rehabilitation, accountability, and the best interests of the child. To sum up what has been discussed, the following approaches to dealing with juvenile offenders are advised:

Diversion Programs: Implement diversion programs to steer children away from the formal judicial process. These programs can include counseling, community service, and educational workshops, helping children understand the consequences of their actions while avoiding the stigma of a criminal record.

Restorative Justice: Utilize restorative justice practices, which focus on repairing harm and involving all stakeholders, including the victim, the offender, and the community. This approach encourages accountability and empathy, promoting healing and reconciliation.

Counseling and Therapy: Provide access to counseling and therapeutic services tailored to the needs of the child. Addressing underlying issues such as trauma, substance abuse, or mental health problems can prevent future offending.

Educational and Vocational Training: Offer educational and vocational training programs to help child offenders develop skills and gain qualifications. This approach enhances their future prospects and reduces the likelihood of reoffending.

Supervision and Mentorship: Place children under the supervision of trained officers or mentors who can provide guidance, support, and positive role models. Regular check-ins and progress monitoring help ensure compliance with court orders and personal development.

Community-Based Programs: Engage children in community-based programs that encourage social integration and positive peer interactions. These programs can include sports, arts, and volunteer activities, fostering a sense of belonging and purpose.

Parental or Guardian Involvement: Involve parents or guardians in the rehabilitation process. Providing them with training and support can enhance their ability to care for and supervise their children effectively.

Care Orders and Foster Care: When necessary, place children under care orders or in foster care to ensure they receive a stable and supportive environment. This option is particularly important for children coming from abusive or neglectful homes.

Specialized Juvenile Courts: Establish specialized juvenile courts with judges, prosecutors, and defence attorneys trained in child psychology and juvenile justice. These courts can provide more informed and compassionate handling of cases involving child offenders.

Tailored Sentencing: Ensure sentencing is tailored to the individual needs and circumstances of each child. Consider factors such as the child’s age, background, and the severity of the offense when determining appropriate dispositions.

Regular Review and Assessment: Conduct regular reviews and assessments of the child’s progress and the effectiveness of the interventions. Adjustments can be made to the rehabilitation plan as needed to ensure the best outcomes.

By implementing these strategies, the juvenile justice system can better address the unique needs of child offenders, reduce recidivism, and promote their development into responsible and productive members of society.

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10. S. 208 [↑](#footnote-ref-10)
11. S. 209 [↑](#footnote-ref-11)