

A Qualitative Analysis of Child Rights Law Implementation in the Family Courts of Lagos State

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Abstract

The main objective of this study is to evaluate the implementation of Child Rights Law (CRL) of Lagos State after its introduction in 2007; and to identify any challenges in the application of the justice provisions in the Family Courts. The study adopts a qualitative approach in collecting both primary and secondary data through key informant interviews and desk review of extant literature respectively in July 2013. The study uses transcripts of interviews with Judges and Magistrates in four Family Courts. The findings reveal that the composition of the Family Courts is most of the time less than three people because of irregular and non-attendance of the assessors which leads to precarious court sitting days. It is also found that children's cases involving adult offenders are heard in regular courts. Old court structures are converted to Family Courts as no new Family Court is constructed and this may not guarantee privacy or confidentiality. The findings further reveal that some family courts are converted to general purpose courts and deflected on family matters. There is a dearth of quality facilities due to inadequate resources especially funding. The study recommends a review of the law to make it more flexible for operation, more funding to be injected into the system and cases with adult offenders should be handled in a way that it should not jeopardize the best interest of the child.

Introduction

For about five decades, the Children and Young Persons Laws (CYPLs) of the various states of the Federation were the main laws guiding juvenile justice administration in Nigeria. Some researches were carried out on the law and practice of juvenile justice administration in Nigeria (Alemika and Chukwuma, 2001; Nwanna and Akpan, 2003). They revealed that the well being and welfare of juvenile offenders were not adequately preserved and protected in almost every aspect of criminal proceedings (Alemika and Chukwuma, 2001, Nwanna and Akpan, 2003). The Child Rights Act (CRA) introduced in Nigeria in 2003 ushered in a new legal framework with the aim of improving the protection of the rights of the child, in general, and of the child offenders in particular. The CRA was adopted as the Child Rights Law (CRL) of Lagos State in 2007. Since Lagos State domesticated the law eight years ago, no academic study has been conducted to thoroughly examine its provisions and identify its positive aspects and possibly, areas requiring review and improvement, although, its implementation was slow (Ketefe *et al.*, 2013).

The main objective of this study, therefore, is to investigate the implementation of the CRL in the Family Courts with a view to identifying their challenges and proffering recommendations for the effective application of the CRL in Lagos State. Consequently, the study investigates the use of the Law at the Family Courts. Hopefully, the findings will assist the relevant stakeholders in the formulation and implementation of their policies. The results may also assist other states in the application of their CRL as well as provide an impetus for other independent researches. What has been done in respect of the CRL of Lagos State could

be a pilot study that should stimulate further activity on a national and, perhaps, African regional levels by local and international organizations.

Research Questions

- What are the problems experienced in the application of the justice provisions in the CRL at the Family Courts?
- What is the way forward?

Literature Review

This section will review the key concepts in this study followed by an analysis of the historical frame work of the child rights laws.

Clarification of concepts

Who is a child?

A child has been variously defined by different laws both internationally and locally. The United Nations Convention on the Rights of the Child (CRC) (1989) and the African Charter on the Rights and Welfare of the Child (i.e. African Children's Charter) (1990) define a child as a human being under the age of 18 years. However, there is a clause in the CRC which stipulates that the definition of a child may be adjusted to accommodate national laws under which a child attains maturity or adulthood at an earlier age (Nwanna and Akpan 2003).

In Nigeria, Children and Young Persons Act (CYPA) of Eastern, Western and Northern Regions define a child as a person under the age of 14 years and 'young person' as a person who has attained the age of 14 years and is under the age of 17 years (Alemika *et al.*, 2005). Age of penal responsibility is also used to define who a child is in the Northern states. For instance, Article 50 of the Penal Code (North) states that no act is an offence which is done by a child under 7 years of age; or by a child above 7 years of age but under 12 years of age who has not attained sufficient maturity of understanding to judge the nature and consequence of such act (Alemika *et al.*, 2005). According to Immigration Act, any person below 16 years is a minor and the Independent National Electoral Commission (INEC) (2010) defines voting age as anyone aged 18 years or over which implies that anyone under 18 years is a child and cannot vote. With these various age disparities, it becomes difficult to define a child. However, the Child Rights Act (CRA) of 2003 adopted the definition of the international body and defines a child as a person who has not attained the age of 18 years. This implies that any person from birth to 17 years is a child but anybody who is 18 years and above is not a child. The definition of a child by Child Rights Act (CRA) of 2003 supersedes all other definitions by other laws. For this work therefore, a child is anyone under 18 years.

What are child rights?

The issue of child rights is poorly defined in legislation and by the courts, partly because many nations have not decided how much of such rights to grant to children. For one to comprehend what a child right is, the terms 'right' and 'human rights' will have to be defined. The term 'right' is often used to describe any advantages conferred on a person by a rule of law (Akwara *et al.*, 2010). Rights are those things to which one is entitled or allowed; freedoms that are guaranteed.

Child Rights are human rights. They are wide-ranging and include entitlement to a name and nationality; freedom from discrimination (race, colour, religion etc.); social security extending to adequate nutrition, housing, recreation and medical care; entitlement to free

education and equal opportunities; protection from all forms of cruelty, neglect and exploitation and right to love, understanding and affection (Freeman, 1983).

Similarly in Nigeria, the different human rights are enshrined in the 1999 Constitution in Chapters II and IV. For instance, Chapter II states that every citizen shall have equality of rights, obligations and opportunities before the law. Chapter IV of the Constitution lists certain Fundamental Human Rights which are inalienable rights of all Nigerians whether they are adults or children. These rights are rights to life, respect for the dignity of a person, liberty, civil rights and obligations, privacy, freedom of thought, conscience and religion. Others are rights to freedom to hold opinions and to receive and impart ideas and information, freedom of association, movement, entitlement to community, ethnic group, place of origin, sex, religion or political opinion and right to acquire and own immovable property anywhere in Nigeria. Child rights, therefore, are human rights with particular attention to the rights of special protection and care afforded to minors, including their rights to association with both parents, human identity as well as the basic needs for food, universal state-paid education, health care and criminal laws appropriate for the age and development of the child, equal protection of the child civil rights and freedom from discrimination on the basis of the child's race, gender, sexual orientation, gender identity, national origin, religion, disability, colour, ethnicity, or other characteristics.¹

Child rights are basic entitlements every child in the world should be able to have. All children have the same rights irrespective of their colour or race. All rights are connected to each other and are equally important. Interpretations of child rights range from allowing children the capacity for autonomous action to enforcement of children being physically, mentally and emotionally free from abuse. Other definitions include the rights to care and nurturing (Bandman, 1999)

What is a child rights law?

To understand child rights law, it is pertinent to define law. The American Heritage (2002) defines law as the principles and regulations established in a community by some authority and applicable to its people, whether in the form of legislation or of custom and policies recognized and enforced by judicial decision. According to Lindsell (2008) law can be described as the body of official rules and regulations, generally found in constitutions, legislations, judicial opinions, and the like, that is used to govern a society and to control the behaviours of its members. In essence, law is a formal mechanism of social control. John Austin, an English jurist, defines law as a rule laid down for the guidance of an intelligent being by an intelligent being having power over him. Law is a body of rules fixed and enforced by a sovereign political authority (Lindsell, 2008). Professor Hart, an Oxford Professor of Jurisprudence, defines law as a system of rules, a union of primary and secondary rules (Lindsell, 2008).

From the foregoing, Ahearn, *et al.* (2007) define child rights law as the point where the law intersects with a child's life which includes juvenile delinquency, due process for children involved in the criminal justice system, appropriate representation, and effective rehabilitative services; care and protection for children in state care; ensuring education for all children regardless of their race, gender, sexual orientation, gender identity, national origin, religion, disability, colour, ethnicity or other characteristics, and; health care and advocacy.

Historical framework of the Child Rights Law in Nigeria

Before the First World War (1914-1918), nobody thought of giving special protection to children. Olowu, (2008) has observed that over the centuries, children's rights have been violated. Children had been killed, abandoned, beaten, sexually abused, thrown into rivers, and abandoned on roadsides. In their own contribution, Akwara *et al.* (2010) reported that at the earlier times, children had been employed in industries, recruited into the army during wars, trafficked in commercial sex industry and a good number have died due to malnutrition and so, it became necessary in 1919 to protect children from child labour. Olowu (2008) notes that the first conscious effort at setting a legal framework for the protection of children was the Minimum Age (Industry) Convention adopted by the International Labour Organisation (ILO) in 1919. Uche (2009) states that in 1959, the United Nations adopted the Declaration on the Rights of the Child (DRC), which affirmed the rights of children everywhere to receive adequate care from their parents and the community. This culminated in the adoption of the United Nations Convention on the Rights of the Child (CRC) in 1989 providing an enabling environment for the United Nations to make concrete attempts to consolidate the international law on the basic rights of children to survival, education, improved health conditions and protection from all forms of abuse and exploitation. Even though it appeared that CRC had gained almost universal acceptance by states, it is incontrovertible that there exists marked disparity in the attitudes of states towards their effective domestic implementation. One formidable obstacle to the realisation of children's rights in numerous states has been the question of cultural relativism. These states or nations restrict the implementation of the human rights because they perceive the international human rights as western culture which is being imposed on their national and regional cultures. They believe that the coercive imposition of one's cultural norms on a foreign culture is morally illegitimate (Sloane, 2001 cited in Wolman, 2012).

In Nigeria, prior to the 2003 Child Rights Act, child protection was guided by the Children and Young People's Act (CYPA), a law relating primarily to juvenile justice (Alemika, *et al.* 2005). It was promulgated to make provisions for the welfare of the young and the treatment of young offenders and establishment of Juvenile Courts. The Nigerian Government ratified the CRC in March 1991. However, while Nigeria is a signatory without reservation to CRC, it was not domesticated and thus had no legal force in Nigeria until 2003 when the Child Rights Act (CRA) was enacted. Lagos State adopted the Act in 2007 and named it the Child Rights Law (2007). Lagos State, in conformity with one of the CRC's provisions that laws relating to children should be made accessible to them, has simplified the Law and presented it in abbreviated format.

Earlier studies on the implementation of Child Rights Law

There is limited literature on the implementation of CRL in Lagos State or any other state in Nigeria is limited. Most studies only assessed its feasibility considering the cultural milieu of the country. However, there are few studies on the implementation of Child Rights Act of Nigeria.

Lawal (2013) reported that Kwara State government had expressed its displeasure over the nonchalant attitude of parents and stakeholders for not adhering to the state's Child Rights Law enacted to protect girl child education. He further reported that the State Commissioner for Education and Human Capital Development, Alhaji Saka Onimago, stated that if the laws were strictly adhered to, it would eliminate all abuses against the girl child, especially early marriage before the age of eighteen. He also reported that the Commissioner warned that

anybody found guilty of this would be sentenced to three years imprisonment or pay a fine of ₦3,000 (Lawal, 2013).

According to Bassey (2011) and Ayodele (2013), the law relating to hawking appeared to be suffering a setback judging from the number of children seen on major roads, bridges and feeder roads hawking different items and wiping windscreens of vehicles. This, they opined, would endanger the lives of the under-aged children. Some of the children interviewed revealed that they were living with their guardians and had to contribute to the family income. They would hawk after school hours. Regrettably, they reported that they did not have time to do their home works. Ayodele (2013) further observed that the penalty for anybody who violated this prohibition of hawking is 10 years imprisonment or fine of ₦200,000 or both.

Nnorom (2010) after reviewing some cases of sexual abuse of children since the enactment of the Child Rights Act in 2003, observed that sexual abuse of children within and outside their homes was widespread and culprits were hardly ever prosecuted. She reviewed cases of sexual abuse reported to an NGO in Lagos State for two years i.e. 2004 and 2005, 17 and 10 cases were reported in 2004 and 2005, respectively. Reviewing the actions taken in respect of the crimes, she observed that some of them were not reported to the police or appropriate quarters while for those which were reported to the police or juvenile welfare centres, the culprits were either released on bail or released without being charged to court. Of all the cases charged to court only two attracted jail terms, one of which was one year imprisonment while the other was seven years. She argued that these penalties contravened the provisions of the Act, which stipulated life imprisonment for such crimes. She, therefore, concluded that the law was a toothless bull that had not achieved its purpose.

From the foregoing, it could be deduced that there had not been any empirical study to assess or evaluate the implementation of CRL. This study, therefore, was set to fill this gap in relation to the family courts. These are specialised courts across the world with the aim of offering professional service to stabilise and preserve the family. Apart from legal representation and fair hearing; the CRL vests in the family courts international adjudicatory standards such as best interest of the child and participatory rights (Ogunniran, 2014).

Methodology

Research Design

The study was an exploratory and a cross sectional survey that adopted a qualitative method in collecting data.

Study Settings

The research was conducted in four family courts such as Magistrate Court Level, Surulere; Family Court - Magistrate Court Level, Apapa; Family Court – High Level Court, Lagos High Court; Family Court and High Level Court, Ikeja High Court. These courts were the ones functioning at the time of the study.

Study Population

The units of analysis were Judges and Magistrates working in the above-mentioned settings.

Sample size and Sampling techniques

A purposive sampling technique was used to select two Judges and two Magistrates.

Data collection

Desk review of extant literature was done to collect secondary data while primary data were collected via research instruments constructed for data collection. To collect primary data, the research adopted Key Informant Interviews (KII) and Participant Observation. KII guide was constructed to gather the required information. Since the study was a qualitative one, most of the questions were open-ended. The Judges and Magistrates were asked the same questions. The key informant interview guide contained sixteen items of open ended questions on the jurisdiction of the family court in relation to child offenders, the composition of the Family court, the structure of the court: sitting days, privacy of proceedings in the court and how rules of procedure were used. Others include how evidence of child offenders was handled, the measures taken to achieve fair hearing, how the best interest and right of participation for child offenders could be achieved, to state whether there were any problems with the assessors, how the role of assessors and supervision officers could be enhanced, the disposition method used in the CRL, the challenges faced in implementing CRL in the family courts and to suggest ways for improvement.

Court proceedings were also observed in the four family courts. Field work took place between 7th July and 30th September, 2013. The interviews were tape-recorded and transcribed.

Ethical Issues

Ethical issues were observed. The research protocol and the instruments were assessed and approved by Institutional Review Boards (IRBs) of the various respective institutions, viz University of Lagos Central Research Committee, Lagos State Ministry of Justice and Ministry of Youths and Social Development. The researchers ensured that informed consent of the respondents was obtained before interviews. No respondent was coerced. The interviews were tape-recorded with full consent of the respondents.

Data Analysis

Secondary data were analysed adopting content analysis of extant literature while data of both KII were transcribed and then analysed qualitatively.

Results and their Discussions

Due to the nature of this study, findings are discussed as they are presented.

Composition and structure of the Family Court

As at the time of the study, there were two family courts at the High Court level located at Ikeja and Lagos Island and four family courts at the Magistrate Court level in Lagos State located at Apapa, Ikeja, Ikorodu and Surulere.

The study wanted to know about the composition of the family courts. The Magistrate at the Ikeja Family Court pointed out that three people are supposed to constitute the members of the family courts e.g. a Judge or Magistrate and two assessors but this is not always possible because sometimes the assessors will not be in court. The Magistrate had this to say:

In the Magistrate Court, we, the Chief Magistrates, just the Chief Magistrate and two Assessors, in the High Court the same thing, we have the Judge and two Assessors. One of the Assessors is usually from the social welfare office in Alausa, a senior officer, and then the other one is usually a respected

member of the society, parent or whomever. That is the composition. The challenge we have in that aspect, sometimes, the law says, that we must all be there, the three of you, the three persons must be seated together, that is what the law says but sometimes the Assessors will not be there and then the work cannot go on so for criminal matters, we are looking also if the Magistrate or Judge can sit alone; that is what we are kind of advocating. The Magistrate or Judge can sit alone when it is a criminal matter, and then if it is a civil matter, at least two of them, the Judge and one Assessor. I have had the experience of one Assessor retiring from service and some of the courts will have months of nothing doing and that is why we are advocating that at least for civil matter cases at least two people, one of them the chairman; and for criminal, the chairman can sit alone.

The CRL prescribes in sections 141 (3) and 142 (3) that the High Court shall be duly constituted if it consists of: *(a) a Judge; and (b) two assessors, one of whom is experienced in matters relating to children preferably in the area of child psychology education, and the Court at the Magisterial level shall be duly constituted and consist of: (a) a Magistrate, (b) two assessors; one of whom shall be a woman and the other a person who is experienced in matters relating to children, preferably in the area of child psychology education respectively.* These provisions imply that three people must always sit in a Family Court, be it at the Magistrate Court level or High Court level. However, it is revealed that the absence of one or the two assessors has been shown to constitute a challenge which prevents the courts from sitting. The reasons advanced for the absence of the assessors are that the assessors are wearing dual caps working in the ministries and at the same time working in the Family Courts. Secondly, they are poorly remunerated and cannot, therefore, be visiting the courts daily. The implication here is that some of the trials will be delayed and we know that justice delayed is justice denied.

The respondents were asked to comment on the structure of the courts: sitting days, privacy of proceedings in the courts. All the respondents asserted that every day sitting was impossible. Sitting days depend on the set of applications. One Magistrate stressed that courts are different from one another and with different functions. For instance, the Magistrate noted that in one Family Court, it is only one sitting day in a week because there are other jobs. According to the Magistrate, this Family Court is a “general purpose” court taking cases such as landlord and tenants’ cases, criminal cases or anything. The Magistrate bemoaned that two Family Courts have been totally saddled with other issues instead of family matters and at the High Court level, two courts are in similar situation. The Magistrate remarked:

Each court is different from the other; I only have one sitting day because I am doing other jobs so sitting days depend on the Magistrate and the time. Now at least I know that two Family Courts are now totally deflected on family matters. And in the High Court I believe that two courts are totally deflected since, so they normally sit every day or every other day as the case permits.

One High Court Judge corroborated the assertion of the Magistrate by saying that a Family Court Judge before July 2013 was handling any matter given the constitutional jurisdiction of a High Court Judge. However, Family Courts handle children issues such as adoptions, welfare, children in conflicts with the law etc. Here again, absence of assessors is mentioned to be affecting the regularity of sittings as reported by the Magistrate in one Family Court. According to the Magistrate, few days are designated for applications because assessors are reported to be working in other ministries in Alausa. The Magistrate notes that the assessors are poorly remunerated and cannot afford to come to court every day:

We sit everyday but we have different sets of applications or matters that are handled by the Family Court, we have adoptions, juvenile cases, children in conflicts with the law. Few days for the applications, because the assessors are people who are regularly working somewhere else, but they are badly remunerated.

To corroborate the above assertion, a Judge opined that the Court sits only once a week precisely Tuesdays because of the inability of the assessors to come to court daily due to poor remuneration. The Judge had this to say:

Well, what I try to do is this: because the assessors are people who are also regularly working somewhere else, as at now, they are badly remunerated. What they are being paid hardly covers their fuel cost. So, it is not fair to have them come and sit with you on a daily basis. So what I do is, I pack all my Family Court sittings involving civil cases to one day of the week (Tuesday) and criminal sittings on Fridays. Now, the criminal matters are not so many, so we may end up not sitting more than twice a month. But the civil ones are billed for every Tuesday and then privacy is guaranteed, of course. What we do is once the first case is called, everybody, be it lawyer, be it litigant that is not involved in that case is excused from the court. Outside the court room, sitting arrangement has been provided as a waiting area. So, if we finish, the Court Registrar goes to that waiting area to invite parties and counsel for the next case and they are the only ones in court when the matter is taken.

The above findings on the structure of the courts reveals that no new structure was constructed. Rather, old courts were converted to family courts. This constitutes a challenge because the courts were not built in such a way as to encourage privacy. Asking those who are not concerned with or involved in a child's case to stand or wait outside does not guarantee privacy or confidentiality. Walls are porous. There is an adage that says walls have ears. People waiting outside can still hear what is being said in the inner chambers. Therefore, this does not guarantee privacy.

The results show that some Family Courts have been converted to general purpose courts while some have been totally deflected on family matters. The results further show that the courts had irregular sitting days due to the absence of assessors. Every day sitting is impossible. The implication of all these is that some Family Courts are being saddled with

duties outside the purview of the main goal of their creation and this may have affected their role in successful implementation of CRL.

Jurisdiction of the Family Courts in Relation to Child Offenders

There is a unanimous response by the Magistrates and Judges that the Family Courts have unlimited jurisdiction in nature in cases involving child offenders as stipulated in section 140 of the CRL that states *inter alia*: “*subject to position of this law and such other legal issue, the court shall have unlimited jurisdiction to hear and determine (a) any civil proceeding in respect of a child.....; and (b) any criminal proceeding involving an offence committed by a child or against a child or against the interest of a child.*” (CRL, 2007:74). This has raised some constitutional issues. The Nigerian Constitution provides that a High Court is duly constituted with a Judge.

A Judge at the Family Court - High Court, opines that when a child’s case involves an adult offender, that case will be heard in a regular court. The Judge’s response is presented below:

My interpretation of this is that we should not confuse situation where children are victims with where children are offenders. When an adult offends a child, it is the right of that adult that is up for determination, not that of the child. The child is at best a witness and the evidence of that child can be taken in a protected manner that will guarantee the dignity and all that is necessary for the child. Otherwise, we might be running into problems of having adult offenders being taken to children’s courts which are meant to be friendly, whereas these are adults who are fully aware and are deemed to fully know the implications of their conducts and should be held responsible before regular courts. So, my understanding which I have always advocated is that child molesters, traffickers or whatever, when children are victims, it is right of adults that are up for determination and adults should be tried before regular courts. It is when children are offenders that the Family Courts will come into play.

Probing further, the Judge was asked if there is any conflict between Family Court and the regular court. The response was in the negative.

Use of Rules of Procedure, Proceedings and Privacy

With respect to the use of rules of procedure, there were different responses. A Judge asserted that rules of procedure are not regularly used because they are new. They were only introduced in June 2012 and a workshop was organized in July 2013 to sensitize the Judges. The second Judge on the other hand, stated that the rules of procedure now only cover civil matters. There are no rules of procedure for criminal matters other than one or two provisions in Child’s Rights Law. The Judge concluded by saying that Judges use their discretion. One Magistrate reported that sections 145 and 148 of the CRL are being used. Section 145 prescribes that ‘*no person shall be allowed to attend a Court other than (a) the members and officers of the Court; (b) the parties to the case, their solicitors and counsel; (c) parents or guardian of the child; and (d) other persons directly concerned in the case*’. Section 148 states in subsection (1) that “*in any proceedings in which the Court is hearing an application for an order under this Law, or is considering whether to grant an order, the Court shall*

order the parent, guardian and the child concerned to attend such or stages of the proceedings as shall be specified in the order". The Magistrate opines that the law allows a child to express himself/herself based on his/her interest. A Magistrate from the other Family Court added that rules in Magistrate courts are the ones being used presently. However, the Magistrate observed that rules of procedure for Family Courts have issues that are being considered presently.

Giving evidence by a child offender is less rigid compared to that of an adult. Child offenders are treated in a friendly manner in the Family Courts. The offence is treated as civil and not criminal. For instance, one Judge reported that child offenders are not supposed to stand in the dock. They will sit quietly with their counsel in the front row of the gallery and only talk when they are to do so. Most often, reconciliation is encouraged. Below is how a Magistrate described how evidence of child offenders is handled:

Well, first, normally in the child justice system, child offender is not called a child offender, it is treated civil. He does not stand in the dock, he sits with the counsel in the front row of the gallery just sits quietly there, not in the dock and listens to everything only that the other witness has against him. And when it is time for him to testify, everything he has to say is also led by his counsel. I can also say that because Child Rights Law encourages reconciliation, what we also encourage is for parties to speak, is for the defendant to interact with the victim's family to show that what every error that would have been made by the defendant doesn't become an indelible mark on him, in a way that at the end of the day, one achieves harmony between the parties. We once had one like that that the family of the victim came, the mother, and was her only son that the child offender killed. She withdrew the case, prayed for the child offender in court. The child offender too went before her, wept and wept. So that is the whole atmosphere; it is not an atmosphere of adversarial adjudication

In addition, a Judge stressed that corroboration of the child's sentence is not mandatory, but the voice of the child is important. Evidence Act (Federal Act) will be fully applied but a lot of discretion is used to establish the truth.

With regards to proceedings and privacy, it is reported that proceedings are usually private because only the officers of the court, parties to the case, their solicitors, counsel and members of the family would be allowed in the court as prescribed in section 145. The proceedings are said to be held in the chambers to satisfy the need for privacy of proceeding. The structure of the Family Court is found not to be ideal as the courts were not restructured before the commencement of the law. A Judge observed that the structure is not ideal but they had to start the implementation of the law in 2008 with the available resources. They use their ingenuity to make the structure adaptable.

A Magistrate remarked:

As regards the issue of privacy, our courts are not created in such a way as to encourage privacy, so we create the privacy ourselves. What I do is I start with first of all announcing that

anybody who is not in that matter should go out but you still see some guardians waiting behind you to catch what is going on. But one thing I want to stress upon is that journalists are not allowed inside the family court, so what I now do is I use my court room as a reception room and then I will invite each family, into my chambers, we arrange it in such a way that we can have a private discussion, that is how I treat it

Measures to achieve fair hearing

For the measures taken to achieve fair hearing, the respondents said that the child will be represented by a legal practitioner, if the parents can afford it, otherwise they will get representation through the Office of Public Defender (OPD) or the court will appoint one. The child will sit at the gallery or with his counsel and will not be allowed to stand in the dock. It is ensured that there is no discussion without his presence. Thereafter, every bit of the procedure which the child cannot comprehend will be explained to the child offender. In sum, the court does not go through rules of procedure as obtained in regular trials.

How the best interest and right of participation for child offenders is achieved

This is said to be less rigid in terms of procedure and conferences with the parents. Necessary social investigations will be conducted; a child offender will be in court to listen to the charge and to all that will be said. His/her demeanour will be watched. The respondents stressed further that it is similar to a regular criminal process except that the child will be represented by a lawyer and the parents will be in court. Whenever there is an indication that there is an improvement in the relationship between the family of the victim and that of the child offender, the court will encourage it. It was also revealed that the right of participation is through the counsel who is employed to speak on behalf of the child offender but if the child needs to talk he/she will indicate by raising up his/her hand and the court will permit him/her to do so.

Use of discretionary provisions and disposition methods

The study finds that Judges and Magistrates use a lot of discretion particularly because it involves child offenders. The study also asked question on the disposition methods used in the law. They are non-custodial such as counseling.

Challenges experienced in implementing CRL in the Family Courts

The respondents were further requested to mention the challenges they experience in implementing CRL in the family courts. One Magistrate reiterated that the challenges are dearth of quality facility and inadequate resources, specifically quality personnel and funding. This view is supported by that of the other Magistrate who added inadequate funding. The Magistrate emphasises that funding is very key to the success of CRL. Inadequate infrastructure such as remand homes was also mentioned. The magistrate exclaimed:

There is a lot ooo, funding is most important, you know and if you need to expand, if the child is guilty and we need to exercise some penal sanctions, do we really have enough remand homes? There was one child, for instance, there is one in custodial institution in Oregun, it is too small, to send a child from Lagos to Abeokuta, there is another one in Kaduna,

Conclusion and recommendations

Two Family Courts at High Court level and two at Magistrate Court level were studied. In them, two Judges and two Magistrates were interviewed to identify challenges in the application of the justice provisions in the CRL. Based on the findings, the following are recommended:

- The issue of trying an adult and a child in a regular court should be revisited. The government should clarify how cases with adult offenders should be handled in a way that should not jeopardize the best interest of the child.
- The state government should review the law to make it more flexible for operation by permitting one assessor to be present. This composition of the court is said to be raising a constitutional issue since a Judge can sit alone according to the Nigerian constitution as noted by a Judge in the Lagos High Court.
- The assessors should be given a stipend as transport allowance and to augment their salaries and also to motivate them. If possible, government should deploy some of them to work only in the family courts in order to achieve the objectives of the CRL. Their remuneration should be improved. This section of the CRL should be revised
- The government should construct new family courts purposely for children's matters in such a way that privacy and confidentiality are strictly maintained as distinct from the current presence of using improvised structures.

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