

## **REHABILITATION OVER INCARCERATION: A CRITICAL EVALUATION OF JUVENILE POLICIES IN NIGERIA**

**Oluwatobi Adetona\***

### ***Abstract***

*This paper scrutinises the justice system for juvenile in Nigeria, placing attention on the divide between incarceration and rehabilitation as approaches to managing juvenile offenders. It argues that the current reliance on incarceration is detrimental to the welfare of young individuals and society at large. This research contextualizes rehabilitation as a more effective and reformative policy, emphasizing its potential to reduce recidivism and promote positive societal acceptance of juveniles. It highlights the evolution of juvenile policies in Nigeria, tracing the inadequacies of existing legal frameworks, such as the Children and Young Persons Act (1993) and the Child Rights Act of 2003. The paper also addresses the challenges faced in implementing rehabilitation programs, including societal stigma, inadequate resources, and the lack of trained personnel. Through a doctrinal research methodology which involves analysis of statutes, legal texts, existing reports, literature and case studies, the study advocates for a paradigm shift towards policies that prioritize the holistic treatment of young offenders, ensuring their rights are protected while fostering their reintegration into society. It also provides recommendations for enhancing the rehabilitation*

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\* LL.B, LL.M, Oluwatobi Adetona is currently the Executive Director of The Bonafide Advocator Initiative, an organisation that promotes social justice, legal aid, mentoring and re-entry services to juvenile and adult in correctional centers across Nigeria; Website <https://thebonafideadvocatorinitiative.com/> Email: [oluwatobijuadetona@gmail.com](mailto:oluwatobijuadetona@gmail.com)

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*dimension of juvenile justice with an examination of rehabilitative policies for juveniles in the United States of America. Ultimately, this research contributes to the ongoing discourse on juvenile justice in Nigeria, calling for urgent reforms that is attune with standards of the international system.*

**Keywords:** *Rehabilitation, Incarceration, Juvenile Justice*

### **1.1 Introduction**

Juvenile delinquency remains a significant social issue in Nigeria with growing concern on how the justice system treats young offenders. Historically, the focus has been on punitive measures, such as incarceration, which often leads to recidivism and deepens social inequalities. While this has not yielded positive results and is detrimental to society, rehabilitation stands as a better option aimed at reforming the minor into a law-abiding citizen who is better than when apprehended. In Nigeria, juvenile justice is governed by various legal instruments, including the Children and Young Persons Act (CYPA) 1993, Child Rights Act (CRA) 2003, and Criminal Code. While these laws aim to protect children, who are in conflict with the law, the execution often results in the criminalization of juvenile for minor offenses or survival activities, like hawking or begging. However, recent global trends emphasise rehabilitation over incarceration, particularly for minors, given the recognition that children and adolescents are more amenable to behavioural change through intervention and support. This paper critically evaluates Nigeria's juvenile justice policies, highlighting the shift towards rehabilitation and the challenges in implementing these reforms. This research also examines international legal framework and rehabilitative policies of juvenile in the United States and concludes with the assertion that Nigeria should embrace rehabilitative interventions over incarceration.

### **1.2 Statement of Problem**

In Nigeria, there are two major laws that govern criminal liability for juveniles: The Child Right Act of 2003 and the Children and Young Person Act. However, the notion of who is a child and what makes a child liable to a criminal offence is debatable. The Child Rights Act, which defines a child as an individual under the age of eighteen and does not categorise a certain age as a young person, merely eliminated the aforementioned disparities.<sup>1</sup> It means that a person under the age of eighteen can no longer receive a death sentence. Furthermore, the debate on the incarceration of juvenile in prison or remand home is said to be detrimental to societal good as it leads to recidivism compared to rehabilitation, which is geared towards the wholesome transformation of the juvenile. This varying position has become contentious with arguments that incarceration is a better form of punishment that deters, while the proponents of rehabilitation emphasises that this theory of punishment is reformative. Consequently, it is imperative to examine the shortfalls of incarceration and why rehabilitation is more effective and achieves better result.

### **1.3 Aims and Objectives**

The main goal of this paper is to consider the efficacy of "Rehabilitation over Incarceration" and demonstrate the necessity of reevaluating Nigeria's justice system for juveniles. Specifically, this study objectives are:

- i. To examine existing legal framework for incarceration of juvenile offenders in Nigeria and its demerits.
- ii. To advocate for the adoption of rehabilitation policies as an effective approach of punishment for juvenile offenders in Nigeria.
- iii. To draw lessons from the global sphere and the United States on why rehabilitation of juvenile is more effective.

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<sup>1</sup> S. 277 of the Child's Right Act 2003

#### **1.4 Methodology**

The doctrinal legal research is derived from statutes both local and international, case law, legal principles and law reports and is used here. Other secondary sources are existing literatures, online materials published and unpublished, journals, seminar papers, newspapers, and special committee reports relating to the study's subject matter will all be consulted and used.

#### **2.1 The Legal Framework for Juvenile Policies and Evolution in Nigeria**

In Nigeria, the history of child right and protection can be traced to the colonial era when the Nigerian child welfare was not a top priority for them, and the issue of child protection did not exist in the country for a considerable time.<sup>2</sup> Though, it must be acknowledged that the Criminal Code Act set forth punishments for crimes including crimes of minors, and Prison Ordinance of 1917 which provides for juvenile offenders to be detached from adult inmates under the age of fourteen, was enacted during the aforementioned colonial era. With regards to criminal justice for children, the Children and Young Persons' Act (CYPA), which was made in 1943 by the Governor-in-Council of Nigeria, was the first attempt at child protection in the country which could be applied anywhere in the Protectorate of Nigeria.<sup>3</sup> The CYPA was by no means a complex or comprehensive statute protecting children's rights instead; it was narrowly focused because it only governs the criminal cases involving minors. Stated differently, the purpose of the Children and Young Persons Act was to set guidelines on treatment of juvenile offenders and the welfare of young

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<sup>2</sup> N.A. Iguh, 'An examination of the child rights Protection and Corporal Punishment in Nigeria' *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* (2011) (2) (99)

<sup>3</sup> Ibid

persons before the formed juvenile courts.<sup>4</sup> The United Nations Convention on the Rights of a Child which was adopted by the General Assembly of the United Nations in 1989, served as the background for the Child Rights Act 2003 in Nigeria.

### **2.1.2 Children and Young Persons Act (CYPA Act) 1943**

The primary piece of legislation in Nigeria pertaining to issues affecting children and young people is the Children and Young People Act II.<sup>5</sup> Accordingly, "...to make provisions for the welfare of the young, the treatment of young offenders, and the establishment of juvenile courts" is its stated goal.<sup>6</sup> Children in need of care and protection;<sup>7</sup> children beyond parental control;<sup>8</sup> and children in conflict with the law<sup>9</sup> are the three types of children who may wind up in the juvenile justice system, according to the Children and Young Persons Act.<sup>10</sup> It should be mentioned that the CYPA has regulations that forbid placing juveniles in adult jails and allowing them to be tried in conventional courts. As was already indicated, juvenile courts and facilities are established by these same statutes to deal with delinquents. Admitted schools, remand homes, borstal centers, and juvenile courts are the four categories of juvenile institutions in Nigeria.<sup>11</sup>

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<sup>4</sup> C.R. Nwanna and I. Ogunniran 'Challenges of Lagos State Child's Rights Law: Social Welfare Officer's Perspective' *African Journal of Criminology and Justice Studies*. (2019) (12) (1) p

<sup>5</sup> Nigeria: focus on the administration of juvenile justice. Humanitarian news analysis of the UN office for the coordination of humanitarian affairs < [www.irinnews.org/reports](http://www.irinnews.org/reports)>, Accessed on 10 September 2024

<sup>6</sup> Ibid

<sup>7</sup> Children who have been abandoned or left penniless by their parents, or children of criminals, beggars, or destitutes

<sup>8</sup> Children who have been brought to the attention of the authorities by their parents and are accused of truancy

<sup>9</sup> Those who have committed crimes comparable to adult crimes

<sup>10</sup> Child and Young Persons Law. *volume 1, chapter 22, Part 2 (3); Part 5, 33(2); Part 5, 34*. 1978.

<sup>11</sup> Abdul-Mumin Sa'ad, 'Juvenile Justice in Nigeria' *The Nigerian Journal of Sociology and Anthropology* (2008) (73)

### 2.2.3 Child Right Act 2003

Owing to the increase in global child delinquency<sup>12</sup> and considering the Nigerian Constitution's vague section regarding "*children who are in conflict with the law*" or "*in need of care and protection*",<sup>13</sup> it is noted that after Nigeria domesticated the international and regional treaties, the Child Right Act (herein referred to as CRA) was passed, formalizing the idea of child justice administration in the country. The Child's Right Act, despite being a federal law, the Act does not automatically apply to or function in each of the 36 states that makes up the Federation because child rights are not covered by any of the legislative lists of the Constitution. Instead, it must be domesticated, as stipulated by Section 12(3) of the Federal Republic of Nigeria's 1999 Constitution. However, it is crucial to remember that the CRA has resolved the question of age when determining a person's criminal responsibility or whether they require care and protection.<sup>14</sup> This is by the provision of section 277 of the CRA, which place it as: '*a child as a person under the age of eighteen years.*' It should be noted that the fundamental aim of the CRA is that interests of the child should always come first. A child cannot be unjustly restricted of their liberty, for example, as provided in section 37 to 40 of the CRA. These sections also recognise juveniles' right to "*rehabilitation and social reintegration extending to children who are victims of neglect, exploitation, and abuse*" and grant them certain rights that are applicable to all stages of the juvenile

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<sup>12</sup> Juvenile Justice Report 'Juvenile justice in Nigeria' <http://www.britannica.com/EBcheckedtopic/kuvenilejustice/nigeria> (accessed 2 February 2012)

<sup>13</sup> Reference can only be inferred from chapter four of the 1999 Nigerian Constitution which generally protects Nigerian citizens on fundamental human rights.

<sup>14</sup> Interestingly, the Child Rights Act, 2003 draws its basis from the Constitution of the Federal Republic of Nigeria (as prescribed in chapter four); the UN Convention on the Rights of the Child, 1989 (ratification by the government of Nigeria on 16 April 1991); the Beijing Rules (n 19 above); the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990; and the UN Guidelines for the Prevention of Juvenile Delinquency, 1990 (Riyadh Guidelines) [http:// www.ncpcr.gov.in](http://www.ncpcr.gov.in) (accessed 20 April 2013).

justice system. This restores and rehabilitates the child to his or her family and society, reinforcing reverence for the rights and basic changes of the child.

However, in addition to highlighting the need of proper care, protection, treatment, and development in the administration of child justice, the CRA's provisions also address important issues and protect and defend the rights of Nigerian children.<sup>15</sup> Therefore, "*a child friendly approach in the adjudication and disposition of matters in his/her best interests*" is implemented<sup>16</sup> and the appreciated ways to ensure his or her final rehabilitation through the different institutions created by this legislation.

The provision of section 223(2) of the CRA states when a child is accused of committing a crime or who is not under parental supervision may only be confined if there is no other way of dealing with the child. The court must provide a justification for its decision to confine the child. The argument put forth in support of this CRA provision is that, as opposed to socially readjusting the child against criminal vices, a punitive approach taken for a child under the CYPA could result in criminalization, stigmatization, and recidivistic outcomes for the child offender.

The Act mandates that the word 'juvenile' be redefined<sup>17</sup> in the CYPA with 'child offender',<sup>18</sup> 'juvenile court',<sup>19</sup> in the CYPA with 'family court'<sup>20</sup> in the CRA; and juvenile justice administration<sup>21</sup> in the CYPA with 'child

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<sup>15</sup> See long title to the Nigerian Child Rights Act, 2003. See also secs 50 and 204 of the CRA.

<sup>16</sup> Sec 1 of the Child Rights Act provides that '[t]he best interests of the child shall be the primary consideration in any action taken against a child'.

<sup>17</sup> See generally Part 2 of the Children and Young Persons Act, 1965.

<sup>18</sup> S. 213 CRA

<sup>19</sup> S. 6 CYPA

<sup>20</sup> S. 149 of Part XIII CYPA

<sup>21</sup> Part 2 CYPA

justice administration'<sup>22</sup> in the CRA. Also, the change of the word 'detention'<sup>23</sup> in the CYPA with 'custody'<sup>24</sup> in the CRA; approved schools'<sup>25</sup> in the CYPA with 'children residential and children correctional centers'<sup>26</sup> in the CRA; and 'probation and probation officers'<sup>27</sup> in the CYPA with 'childcare, guidance and supervision'<sup>28</sup> in the CRA.

#### **2.2.4 International Legal Framework on Juvenile Policies**

International legal framework on juvenile justice and rehabilitation is rooted in human rights principles, which is aimed at protecting children's right and to promote their rehabilitation rather than punishment. Various international treaties, conventions, and guidelines emphasize the need for child-friendly justice systems that focus on the well-being and future reintegration of juvenile offenders into society. Nearly all nations have ratified the 1989 United Nations Convention on the Rights of the Child (CRC), which is the most recent international law document pertaining to children's rights. The treatment of children who are charged with or found guilty of crimes is expressly covered under the article 40 provision. It further mandates that states support children's reintegration into society and favors rehabilitation over punishment. It requires that children be held for the least amount of time and only as a last option.

United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("*The Beijing Rules*"), 1985 creates thorough rules for the dispensation of juvenile justice that support a child-centered strategy that considers each child's unique situation. They place a strong emphasis on policies that concentrate on juvenile rehabilitation and social reintegration,

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<sup>22</sup> Part XX of the CRA

<sup>23</sup> S. 16 CYPA

<sup>24</sup> S. 223(1)(f) CRA

<sup>25</sup> S. 19 CYPA

<sup>26</sup> S. 248 CRA

<sup>27</sup> S 18 CYPA

<sup>28</sup> Part XXI CRA

alternatives to incarceration, and diversion from the formal judicial system. The Rules promote community service, therapy, and probation as alternatives to criminal procedures.

Furthermore, the United Nations Guidelines for the Prevention of Juvenile Delinquency ("*The Riyadh Guidelines*"), 1990 The Riyadh Guidelines focus on preventive measures, aiming to address the social, economic, and environmental factors that contribute to juvenile delinquency. It calls for a supportive environment that promotes the good state of children, which includes access to education, employment, and recreational opportunities. The guidelines encourage states to develop social policies that prevent the marginalization of juveniles and ensure that vulnerable youth have access to services that prevent delinquency.<sup>29</sup> These guidelines emphasize the role of prevention in reducing juvenile crime, highlighting the importance of proactive social policies that address the causes of delinquency.

United Nations Rules for the Protection of Juveniles Deprived of their Liberty ("*The Havana Rules*"), 1999 established minimum standards for the treatment of juveniles who are detained. It emphasises that detention should only be used as a measure of last resort and for limited period. The rules specify that juveniles deprived of their liberty should have access to education, vocational training, and recreational activities. It also call for juveniles to be separated from adult offenders to protect them from abuse and negative persuasion.<sup>30</sup>

Other international agreements that deal with children right and juvenile justice include the African Charter on the Rights and Welfare of the Child

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<sup>29</sup> Ghadah Abdulrahman Abahussain, 'The Implementation of Children's Rights as Identified Through the UNCRC (1989) in Primary Education in Saudi Arabia: Principals', Teachers', and Children's Perspectives' (Dissertation submitted to the University of Sheffield, 2019)

<sup>30</sup> Ibid

(ACRWC), 1999<sup>31</sup> and the United Nations General Assembly Resolution 45/112: Guidelines for Action on Children in the Criminal Justice System, 1997.<sup>32</sup> Furthermore, Sustainable Development Goal (SDG) 16, which is a United Nations goal, preaches strong institution and justice. This justice is inclusive of juvenile justice and the need to create institutions that will promote it.<sup>33</sup>

At the International level, the legal framework on juvenile policies emphasizes the protection of children's rights, focusing on rehabilitation and reintegration rather than punitive measures. Instruments like the CRC, Beijing Rules, and Havana Rules guide countries, including Nigeria, to establish justice systems that respect the dignity and developmental needs of children. These frameworks encourage alternatives to detention, prevention strategies, and restorative justice, shaping how juveniles in conflict with the law are handled by nations.

### **3.1 Present Practice of Incarceration of Juveniles in Nigeria**

Incarceration of juveniles is still an issue under Nigeria justice sector and so, this segment explores the current practice of incarceration of juveniles in Nigeria and the consequences for such action. The Children and Young Person Act distinguishes between individuals who are yet to attain the age of fourteen and those who are fourteen but not yet older than sixteen. Whereas the latter is a "young person," the former is a "child." Therefore, a crime, not a delinquent act, is committed by anyone over the age of sixteen. Three classifications of juvenile offenders are recognized by the CYPA:

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<sup>31</sup> The African Charter on the Rights and Welfare of the Child was adopted by the Organization of African Unity (OAU) in 1990 and was entered into force in **1999**

<sup>32</sup> Pursuant to Economic and Social Council resolution 1996/13 of 23 July 1996, the present Guidelines for Action on Children in the Criminal Justice System were developed at an expert group meeting held at Vienna from 23 to 25 February 1997 with the financial support of the Government of Austria. In developing the Guidelines for Action, the experts considered the views expressed and the information submitted by Governments.

<sup>33</sup> Ibid

"beyond parental control," "wanderers, beggars, truants, and the like," and "juvenile offenders." "Juvenile offenders" are those who commit crimes or are suspected of committing crimes that they would not have committed as minors. Also, people who are deemed "beyond parental control" are people whose parents have determined they are unable to discipline and mold positive behaviors in them. People in need of care and protection are referred to as "wanderers," "beggars," "truants," and similar individuals.<sup>34</sup>

There are two main approaches to differentiate delinquency from crime. On the first approach, crime is a narrower phrase than delinquency; it encompasses, in addition to breaking the law, a variety of additional acts or behaviors such as "beyond parental control," "wandering," "truancy," "begging," and being exposed to "moral danger," "risk of slavery," and similar situations. In essence, these actions and/or behaviors are not illegal. Second, delinquents differ from criminals in that they are less than sixteen years old, making them immature.<sup>35</sup>

### **3.2 Consequences of Incarceration of Children in Nigeria**

In a paper by Annie Cassey Foundation, they posited that public safety is undermined by young people who have undergone incarceration,<sup>36</sup> *"The evidence leaves no doubt: Incarceration is a failed strategy for rehabilitating youth and protecting the public"*<sup>37</sup> This is true, especially in Nigeria, as the

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<sup>34</sup> EEO Alemika & IC Chukwuma Juvenile justice administration in Nigeria: Philosophy and practice (2001) 10; O Bamgbose 'An exposition of the laws of crime and health implications in cases of child abuse in Nigeria' (1998) 7 Nigerian Journal of Health Education 112.

<sup>35</sup> Ibid

<sup>36</sup> Annie Cassey Foundation <  
<https://www.courts.wa.gov/subsite/wscrr/docs/JDAI%20Data%20Capacity%20Assessment.pdf> > accessed on 10 November 2024

<sup>37</sup> Annie Casey Foundation, 'How Youth Incarceration Undermines Public Safety' <  
<https://www.aecf.org/blog/reviewing-the-evidence-how-youth-incarceration-undermines-public->



- iii. **Interruption of Education and Development:** When children are incarcerated, their education is often disrupted, which hampers their cognitive development and future opportunities. The UNICEF Nigeria Child Protection Report notes that many children in detention are denied their right to education, with few facilities offering any form of structured learning or rehabilitation.<sup>41</sup> This neglect leaves young offenders ill-prepared for life after incarceration.
- iv. **Stigmatization and Social Exclusion:** Children who have been incarcerated often face significant stigma upon release, making it hard for them to be adapted into society. Often labeled as "*criminals*," it leads to discrimination in schools, communities, and the job market. This social exclusion can create a repetition of marginalization and poverty.<sup>42</sup>
- v. **Health Risks and Poor Living Conditions:** Many Nigerian correctional facilities are overcrowded, unsanitary, and lack proper healthcare services. Incarcerated children are often exposed to diseases such as tuberculosis, malaria, and HIV/AIDS. Poor nutrition and inadequate medical care further compromised their physical health. It has been reported on the substandard conditions in Nigerian detention centers, noting that incarcerated juveniles often exposed to overcrowded cells with poor ventilation and limited access to clean water, increasing their risk of illness and disease.
- vi. **Violation of Children's Rights:** The incarceration of children often violates several international legal standards, including those set by the United Nations Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the

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<sup>41</sup> Statement by Ms. Cristian Munduate, UNICEF Representative in Nigeria, on the signing of Child Protection Law in Adamawa State

<sup>42</sup> Ibid

Child.<sup>43</sup> They emphasize that only as a last resort should children be detained and it should be done within the shortest possible time with respect to their dignity and development. The Child Rights Act of 2003 aims to protect children's rights, which is inclusive of their right to proper treatment in conflict with the law. It should be noted that reports by Human Rights Watch indicate that the enforcement of these protections is inconsistent, and children continue to be subjected to conditions that breach international and domestic legal obligations.<sup>44</sup>

- vii. **Increased Risk of Recidivism:** Children are more likely to reoffend if incarcerated, primarily because the prison environment fosters criminal behavior rather than rehabilitating offenders. It is noted that children in detention, particularly those without access to rehabilitation programs, are significantly more likely to become repeat offenders, creating a cycle of criminal behavior that incarceration fails to address.<sup>45</sup> Also, the lack of re-entry support leads to recidivism as it is no news that juveniles often leave prison without any follow up which ultimately leads to reoffending.

#### **4.1 Rehabilitation as a Policy Option**

Rehabilitation is reformatory and more beneficial to the child and the society but sadly has not been fully utilised in Nigeria. The essence of rehabilitation is to ensure that the delinquent minor is transformed and no longer see the need to victimize the public with his or her acts.

##### **4.1 .1 Nigeria Efforts towards Rehabilitation**

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<sup>43</sup> Marie Claire Van Hout, Simon Fleibner, Ullan-Britt Klankwarth, and Heino Stover, "Children in the prison nursery": Global progress in adopting the Convention on the Rights of the Child in alignment with United Nations minimum standards of care in prisons' *Child & Neglect* (2022) (134) (1)

<sup>44</sup> Ibid

<sup>45</sup> Ibid

The Child Rights Act (CRA) of 2003 is the recent legislation on the juvenile justice system to checkmate Nigeria's commitment towards rehabilitation of juveniles. The CRA incorporates international law such as the United Nations Convention on the Rights of the Child (CRC)<sup>46</sup> and emphasizes the protection of children's rights, inclusive of alternatives to incarceration. It advocates the need of Specialized Juvenile Courts which have been established to handle cases involving minors, focusing on rehabilitation over punishment. Currently the Nigeria Juvenile justice system provides for Borstal institutions, Approved Schools and Remand homes with the latter more common and known as correctional centers or special correctional centers. These centers are designed to reform and rehabilitate young offenders through education, vocational training, and counseling.<sup>47</sup> Some of the vocational training in skill includes carpentry, tailoring, barbing, catering, artistry works and mechanics to equip young offenders with employable skills.<sup>48</sup> Educational programs are also provided to ensure juveniles continue learning while in detention, which helps their reintegration upon release.

#### **4.1.2 Benefits of Rehabilitation**

The benefits of rehabilitation of juvenile cannot be overemphasized as it offers far more lasting positive impacts than incarceration. Some of the benefits are:

- i. **Reduction in Recidivism and Reintegration into Society:** Rehabilitation should focus on tackling the causes of delinquent behavior, such as poverty, lack of education, or trauma, reducing the likelihood that juveniles will reoffend. Through intentional acts

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<sup>46</sup> Hon. Justice Zaynab Bashir, Judge, National Industrial Court of Nigeria, 'An Evaluation of the Impact of the Child Rights Act in Regulating the Rights of a Child in Nigeria' <[https://www.iawj.org/content.aspx?page\\_id=2507&club\\_id=882224&item\\_id=4600](https://www.iawj.org/content.aspx?page_id=2507&club_id=882224&item_id=4600)> Accessed on 10 October, 2024

<sup>47</sup> Ibid

<sup>48</sup> Ibid

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like providing education, counseling and vocational training, these programs help break the cycle of crime.<sup>49</sup> Successful rehabilitation enables juveniles to reintegrate into society as productive members. By equipping them with life skills, education, and a positive outlook, they can contribute to their communities and avoid the social stigma associated with incarceration.

- ii. **Protection of Children's Rights and Cost-Effectiveness:** Rehabilitation aligns with Nigeria's commitment to ensuring children's rights are protected under the Child Rights Act and international law like the United Nations Convention on the Rights of the Child (CRC). It ensures that juveniles are treated in ways consistent with their dignity and developmental needs.<sup>50</sup> Additionally, Rehabilitation is more cost-effective than incarceration. Incarceration requires significant resources for building and maintaining prisons, while rehabilitation programs can be community-based, reducing the burden on the state and improving outcomes for society.
- iii. **Economic Empowerment:** It is noted that vocational and educational training provided in rehabilitation programs helps juveniles gain the knowledge and skills needed for employment and reintegration into society, reducing unemployment and dependence on criminal acts.<sup>51</sup> This is crucial to their mental well-being, building self-esteem, and developing positive relationships, both personally and within the community.
- iv. **Ending the Cycle of Poverty and Crime:** Juveniles in conflict with the law often come from poor backgrounds. By rehabilitating these youths, they are given an opportunity to improve their

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<sup>49</sup> T.O. Ihinmoya and O.M. Folami, 'Child Labour and Protection: An Exploration of Vulnerable Children in Lagos State' *Humanities and Social Sciences Letters* (2018) (6) (4) pp. 171-179

<sup>50</sup> Ibid

<sup>51</sup> O.S. Akinwumi, 'Legal Impediments on the Practical Implementation of the Child Rights Act 2003'. *International Journal of Legal Information* (2009) (37) (10) P.391

socioeconomic standing, reducing their risk of them and future generations falling into cycles of poverty and crime. Also, rehabilitation fosters a restorative justice approach that emphasizes healing, accountability, and reconciliation between the offender, the victim, and society. This helps restore the social fabric that can be damaged by crime and punishment.

#### **4.1.3 Challenges to Rehabilitation in Nigeria**

There are several impediments to rehabilitation of juvenile in Nigeria such as:

- i. Lack of Data and Monitoring:** A significant lack of data on juvenile offenders, the outcomes of rehabilitation programs, and recidivism rates in Nigeria.<sup>52</sup> This makes it difficult to access the success or failure of rehabilitation efforts and identify areas for improvement. Without proper evaluation mechanisms, the objectives of various programs remain unclear and juvenile justice policies may not be evidence-based.
- ii. Corruption and Mismanagement:** Corruption within the criminal justice system and juvenile correctional facilities undermines rehabilitation efforts. Funds intended for rehabilitation programs may be misappropriated, and there may be cases of bribery or exploitation that allow juveniles to be mistreated. Also, mismanagement within the facilities can result in the neglect of essential services, abuse of power, and poor living conditions for juveniles, reducing the chances of successful rehabilitation.
- iii. Social Stigma and Reintegration Challenges:** Juveniles in conflict with the law often face social stigma upon release, making reintegration into their communities difficult.<sup>53</sup> They may be labeled as criminals, which affect their self-esteem and future opportunities, leading to social isolation and higher rates of

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<sup>52</sup> Ibid

<sup>53</sup> G.A. Arowolo, 'An Appraisal of the Legal Framework for Child Justice Administration in Nigeria' *Journal of Law and Criminal Justice* (2018), (6), (1), p. 89

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recidivism. Families and communities may be reluctant to accept rehabilitated juveniles, making it harder for them to rebuild their lives outside of correctional facilities.

### **4.2 Rehabilitation of Juveniles in the United States**

The main goal of juvenile justice system in the United States of America is rehabilitation rather than punishments. The law recognizes the fact that instead of treating children as adult they must look in-depth at their potential for change. The US department of justice in collaboration with the Criminal Resources Manual contextualize a juvenile as "a person who has not attained his eighteenth birthday" and "Juvenile Delinquency" as the violation of a law of the United States which has been committed by a person before his or her eighteenth birthday and would have been a crime if committed by an adult.

The juvenile justice system meddles in delinquency through the use of police; court and correctional services with the purpose of reformation.<sup>54</sup> The aim of rehabilitation for juveniles is to provide youths with resources, aid and guidance to address the reason they committed the crime. This is done through counseling and therapy, education and job training, giving back to the community, foreseeable positive future etc.

The nation's first juvenile court was created pursuant to the Illinois Juvenile Court Act of 1899 and was established in Chicago.<sup>55</sup> The court was given jurisdiction by virtue of the act to deal over neglected, dependent, and delinquent children under age 16.<sup>56</sup> Prior to this, children faced trial alongside adults and were given similar punishments with at least many

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<sup>54</sup> Thompson v Oklahoma 487 U.S. 815 (1988)

<sup>55</sup> On July 3, 1899, the Illinois Juvenile Court Act took effect, marking the beginning of a separate court experience for children 16 and under. The new court focused on rehabilitation and differed from criminal courts by treating the child as a person in need of assistance rather than punitive justice for the crime

<sup>56</sup> Ibid

youths executed for their crimes committed before reaching fourteen. The court streamlined its focus on reformation rather than be punitive towards juvenile.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is established by national laws such as the Juvenile Justice and Delinquency Prevention Act of 1974 and Public Law 93–415, as amended. Its mission is to assist states and local initiatives to prevent delinquency, safeguard children and enhance the juvenile justice system. The OJJDP establishes policies and priorities to drive federal juvenile justice concerns, disseminates information about juvenile justice issues, funds state-level programming, and sponsors research, program, and training efforts. Over 37,500 juvenile offenders nationwide are listed by the agency as being placed in residential settings.

Also, there are juvenile codes for each of the 50 states at the state level, including the following: Alabama Administrative Code, Alaska Administrative Code, Arizona Administrative Code, etc. The purpose of juvenile rehabilitation in Washington is to help young people plan for the future and reintegrate into their communities by offering therapy, resources, and skill development. In the United States, the law is set up to give each child individualized reformation, which involves separating them from their loved ones for a while in order to teach, nurture, and train them for the benefit of the public as well as their own best interests.

### **5.1 Conclusion and Recommendations**

In conclusion, this paper has thoroughly examined issues on juvenile justice in Nigeria, highlighting the urgent need for a paradigm shift from punitive incarceration to rehabilitative interventions. This study has shown that incarceration do not only fail to rehabilitate young offenders but also exacerbates psychological trauma and societal inequalities. By focusing on rehabilitation, we can foster an environment that promotes personal growth, accountability, and reintegration into society, ultimately leading to a

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reduction in recidivism rates. Also, while the existing legal frameworks provide a foundation for reform, its implementation remains fraught with challenges. It is imperative that the Nigerian government, alongside relevant stakeholders, prioritizes the allocation of resources towards rehabilitation programs, invests in training for personnel, and strengthens community-based support systems. Furthermore, drawing lessons from international best practices can guide the development of effective rehabilitation strategies tailored to the unique context of Nigeria. By embracing a rehabilitative approach, we can protect the rights of children and also nurture them into responsible and law-abiding citizens. The time for reform is now, and it is our collective responsibility to advocate for a system that prioritizes the well-being and future of our youth. Therefore, the following recommendation are proposed towards rehabilitation of juvenile offenders in Nigeria:

- i. **Increase Funding and Resources for Rehabilitation Programs:** The Nigerian government should allocate more funding to juvenile rehabilitation programs to improve infrastructure, provide adequate facilities, and ensure access to educational and vocational training services.<sup>57</sup> Partnerships with international donors and organizations should be explored to supplement local funding and provide technical support to these programs.
- ii. **Training and Capacity Building for Personnel:** Investment in training for social workers, counselors, educators, and law enforcement officers. Training should focus on child psychology, rights-based approaches, and rehabilitation techniques.<sup>58</sup> Furthermore, these personnels should be trained to handle juvenile offenders in a rehabilitative rather than punitive manner.
- iii. **Offer Post-Release Support:** Re-entry support systems should be established for juveniles who leave the correctional facilities. This

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<sup>57</sup> N.A. Iguh, 'An examination of the child rights Protection and Corporal Punishment in Nigeria' *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* (2011) (2) P.99

<sup>58</sup> Ibid

should include personalized counselling, skill acquisition and empowerment programs, constant monitoring, accommodation support, financial and educational support to help these young offenders integrate successfully. Community-based reintegration programs involving family, community, charitable organisations should also be integrated into their projects post-release support for juvenile rehabilitation into a more supportive environment.

- iv. **Strengthen Restorative Justice Programs and Enforcement of the Child Rights Act (CRA):** Diversion programs that keep young people out of the official criminal justice system should be used more often. This can include restorative justice models that emphasize accountability and reconciliation, family group conferences, and community-based solutions. Restorative justice programs should be implemented and overseen by the government in collaboration with civil society organizations and local communities, making sure that young people are kept out of jail wherever feasible. To guarantee adherence to the CRA, monitoring systems should be established, such as routine evaluations of juvenile detention centers and rehabilitation initiatives.
- v. **Local and international Organizations Collaboration to Enhance Legal Aid for Juveniles:** Nigeria should continue to work closely with local and international organizations, such as UNICEF and the UN Office on Drugs and Crime (UNODC), to strengthen its juvenile justice system. These organizations can provide technical assistance, training, and resources to enhance rehabilitation efforts.<sup>59</sup> By aligning with these organizations, Nigeria can ensure that its juvenile justice policies are effective and in line with global best practices.<sup>60</sup>

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<sup>59</sup> Ibid

<sup>60</sup> The Bonafide Advocate Initiative is a social justice NGO that currently provides mentoring, empowerment and re-entry support through its “Aftercare Program” for juvenile who leaves the correctional center”