
Challenges of Lagos State Child's Rights Law: Social Welfare Officers' Perspective

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ABSTRACT

Child's Rights Law (CRL) was introduced in Lagos State in 2007. Six years after its domestication, it became imperative to assess the challenges in the application of the justice provisions by different child justice administrators such as social welfare officers, the police, non-governmental organization (NGO) workers, Nigerian Bar Association (NBA) lawyers, International Federation of Women Lawyers (FIDA), family court judges and magistrates. The focus of this paper is, therefore, to present the findings from social welfare officers working in family courts in Lagos State. As at the time of the study, there were six family courts but only four were functional. The study was an exploratory and qualitative survey. A focus group discussion (FGD) was organized among a purposive sample of six assessors and supervision officers. Results indicated that all the participants claimed that social workers were not invited to participate in the formulation of the CRL. The results revealed some discrepancies between sections 138 and 151 provisions. Section 138 states that all children's matters, both civil and criminal, will be heard in the family courts while section 151(2) states that a criminal case involving a child and an adult will be tried in a criminal court. It was also reported that there were some inadequacies among social workers, the police and judiciary. Corrupt practices among the police officers were some of the challenges militating against the implementation of the law. Parents of abused children were reported to be uncooperative. Some of the structures such as children's centers that were supposed to be established for successful implementation of the law were yet to be established. Based on these challenges, it was recommended, among others, that the law should be reviewed and publicized adequately. Capacity building should be organized for the implementers and activities of the police officers should be strictly monitored.

Keywords: Child Rights Law, family courts, Lagos State, social welfare officers

INTRODUCTION

The Children and Young Persons Laws (CYPLs) had been the main laws guiding juvenile justice administration in Nigeria. For more than 30 years, research studies carried out on the laws and practice of juvenile justice administration in Nigeria had indicated, amongst others, that in almost every aspect of criminal proceedings, the well-being and welfare of juvenile offenders were not preserved and protected adequately. Child's Rights Act (CRA) was adopted in Nigeria in 2003 to replace CYPLs. Subsequently, Lagos State adopted the instrument in 2007 as Child's Rights Law (CRL). This law ushered in a new legal framework with catalogues of adequate protection for child offenders. Having been implemented for six years, it became imperative that its implementation be assessed to identify areas of challenges for appropriate solutions.

The study therefore investigated the challenges in the application of the justice provisions by different child justice administrators such as social welfare officers – both those who were working in the family courts and those in custodial institutions, the police and non-governmental organization (NGO) workers. Others are Nigerian Bar Association (NBA) members, International Federation of Women Lawyers (FIDA), family court judges and magistrates.

The focus of this paper is to present the findings from the social welfare officers who were working in the family courts with a view to proffer solutions to effective application of the CRL in the State. What challenges do social workers in the family courts experience in the implementation of the CRL in Lagos State? What can be done to improve the implementation of the CRL in Lagos State? These are the questions this study set out to answer. At the time of the study, there were six family courts in Lagos State but only four were functional and the four were investigated. The study was an exploratory research which used a qualitative method to collect data via focus group discussion (FGD).

Hopefully, the findings would assist relevant stakeholders in making policy decisions. The results would also lead to a quantitative survey that would measure the level and magnitude of the challenges. The findings would assist other states in the application of their Child's Rights Laws (CRLs) or stimulate them to conduct their own independent researches.

The paper has five sections. The first one is this introductory part. In the second section, key terms were defined, normative framework of child's rights law was discussed, and earlier studies were reviewed. The third part discussed the methodology of the study while in the fourth section; the findings and their implications were presented and discussed. Finally, in the fifth section, conclusion and recommendations were highlighted.

LITERATURE REVIEW

In this section, key terms like child, child's rights and child's rights law were clarified. Normative framework of child's rights law was discussed while earlier studies were reviewed.

Clarification of key terms

Child

The United Nations Convention on the Rights of the Child (CRC) (1989), Nigerian Child's Rights Act (2003) and CRL (2007) define a child as a human being under the age of 18 years. However, CRC adds that the definition may be adjusted to accommodate laws under which a child attains maturity or adulthood at an earlier age (Nwanna and Akpan, 2003).

Child's Rights

The issue of children's rights is poorly defined in legislation and by the courts, partly because many nations have not decided the rights to accord to children. For one to comprehend what a child's 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 (Akwaru *et al.*, 2010). Rights are those things to which one is entitled or allowed to enjoy. They are freedoms that are guaranteed. Human rights are defined as those rights which are inherent in our nature and without which we cannot function as human beings irrespective of our nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status (Atsenuwa *et al.*, 1999). We are all equally entitled to our human rights without discrimination. In Nigeria, different human rights are enshrined in the 1999 Constitution in Chapters II and IV. For instance, Chapter II states that every citizen shall have equal 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 etc.

In view of the above definitions, child's rights are basic entitlements every child in the world should be able to enjoy or to have. All children have the same rights. All rights are connected to each other and are equally important. Child's rights are human rights with particular attention to the rights of special protection and care afforded to minors (Amnesty International, no date). They include rights to association with 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. Child's rights are also rights to equal protection of civil rights and freedom from discrimination on the basis of the child's race,

gender, sexual orientation, gender identity, national origin, religion etc. Interpretations of children's rights range from allowing children the capacity for autonomous action to the enforcement of children being physically, mentally and emotionally free from abuse, though what constitutes "abuse" is a matter of debate. Freeman (1983) posits that child's rights are human rights which are wide-ranging and include entitlement to a name and nationality; freedom from discrimination; social security extending to adequate nutrition, housing, recreation and medical care; entitlement to free education and equal opportunities. They also include protection from all forms of cruelty, neglect and exploitation and right to love, understanding and affection. Other definitions include the rights to care and nurturing (Bandman, 1999).

Child's Rights Law

To understand child's 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. Stein (2004) in his work "*The Role of Law in Social Work Practice and Administration*", defines law as a series of rules that govern the behaviors of people in a society, that allow for resolution of disputes between the members of a society and between individuals and the government, and that provide a means for the state to control behaviors of its citizens. According to him, law embodies a philosophy of humankind and the relationship between government and the members of the society. He posits that law is important for social work because it reflects an idea of proper role of the state in caring for individuals and in protecting human welfare.

Taking this definition further, Lindsell (2008) advances that 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 behaviors of its members. 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, Holzer and Andrews (2007) define child's 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. Child's rights law also includes care and protection for children in state care; ensuring education for all children regardless of their race, gender, sexual orientation, gender identity etc.

Normative framework of the Child Rights Law

The normative framework of child's rights can be gleaned from various international instruments. The protection of children dates back to the end of the World War I between 1914 and 1918 when it became a central concern on the political agenda of the international community. Olowu (2008) observed that over the centuries, children's rights had been violated. Children had been killed, abandoned, beaten, sexually abused, thrown into rivers, and abandoned on roadsides. 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 died due to malnutrition and so; it became necessary in 1919 to protect children from child labor.

The first conscious effort to set a legal framework for the protection of children was the Minimum Age (Industry) Convention (MAC) adopted by the International Labor Organization (ILO) in 1919 (Olowu, 2008). The defunct League of Nations advanced the agenda a little further with the adoption of the International Convention for the Suppression of Traffic in Women and Children in 1921. Olowu (2008) affirmed that the language of "rights" was first employed to the protection of children in 1924 during the Geneva Declaration on the Rights of the Child. Later years were to witness the evolution of more elaborate legal instruments for the protection of the rights of children. Among them are the United Nations (UN) Declaration on the Rights of the Child (DRC) (1959) and the UN Convention on the Rights of the Child (CRC) of 1989 which stands out as the most significant global instrument in the field of children's rights.

In 1959, the United Nations adopted DRC, which affirmed the rights of children everywhere to receive adequate care from their parents and the community (Uche, 2009). This culminated in the adoption of 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. CRC is the first legally binding international instrument to incorporate the full range of human rights—civil, cultural, economic, political and social rights. Even though it appears that CRC has gained almost universal acceptance by states, there exists a marked disparity in the attitudes of states towards their effective domestic implementation. One formidable obstacle to the realization of children's rights in numerous states has been the question of cultural relativism. These states restrict the implementation of the human rights because they perceive the international human rights as western culture 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 (Wolman, 2012).

In Nigeria, prior to the 2003 Child's Rights Act, child protection was guided by the Children and Young Persons' Act (CYPA) 1943, a law relating primarily to juvenile justice. It was promulgated to make provisions for the welfare of the young and the treatment of young offenders and establishment of Juvenile Courts (Alemika,

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et al. 2005). There were inadequate guidelines on the interpretation of its provisions. It was interpreted within the larger criminal justice procedural safeguards and constitutional framework (Ogunniran, 2013). Nigerian Government ratified the CRC in March 1991.

Nigeria also ratified other international instruments that generally affect the rights of the child, such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and, the Convention on the Elimination of All Forms of Racial Discrimination. Nigeria is also a party to the International Covenant on Civil and Political Rights and to the International Covenant on Economic, Social and Cultural Rights. In addition, Nigeria ratified regional instruments such as the African Charter on Human Rights and People's Rights and the African Charter on the Rights and Welfare of the Child (ACRCW). It is important to note that protection of human rights in Nigeria is also enshrined in the 1999 Constitution of the Federal Republic of Nigeria. Chapter IV contains an elaborated Bill of Rights. Nigeria has two separate codes for penal infractions; one applies to Southern Nigeria (Criminal Code) and the other to Northern Nigeria (Penal Code).

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's Rights Act (CRA) was enacted. As at today, 26 of the 36 states have adopted the CRA (2003). Lagos State adopted the Act in 2007 and named it the Child's Rights Law (CRL) (2007). In conformity with one of the CRC's provisions which states that laws relating to children should be made accessible to them, Lagos State has simplified the Law and presented it in several quick forms. The rights protected by and provided for in this law cover the broad areas of social, economic and civil rights. The CRL is primarily concerned with four aspects of children's rights ("the four 'P's"): **participation** by children in decisions affecting them; **protection** of children against discrimination and all forms of neglect and exploitation; **prevention** of harm to them; and **provision** of assistance for their basic needs. Under the Lagos State Law, children have the right to: Life, survival and balanced development; a name and registration at birth; dignity and respect; privacy, family life and parental care, protection and maintenance. They have the right to free and compulsory primary education and encouragement of secondary and tertiary education; health and health services; leisure, recreation and cultural activities. Children also have the right to freedom of association and peaceful assembly; freedom of religion with the necessary guidance of their parents; and freedom from discrimination.

Children are also protected from child marriage and betrothal; tattoos and skin marks; exploitative labor (except non-harmful labor within the family); sale, hire or use for the purpose of hawking, begging for alms or prostitution and sexual abuse. The paramount consideration in enacting laws for these purposes is "the best interests of the child," a standard echoed throughout legal instruments on children's rights. Children on the other hand, have responsibilities under the law,

to respect their parents; work towards the cohesion of their families and communities. They are to contribute positively to society; and respect the ideals of democracy, equality, honesty and justice for all. Parents and guardians are to provide care; maintenance; proper upbringing; education; guidance; and discipline for children.

The provisions of the CRL also cover the machinery for determining matters concerning the child; law enforcement and the justice system, and how they must relate with the child; penalties for offences under the law, etc. As in the CRC, the government also has responsibilities. The State Government has the duty to protect and provide good things for children in need in the State and also help their families to take good care of them. The State is to provide a policy framework that will ensure the rights of the child; reduce infant and maternal mortality rates.

Additionally, the State should provide medical and health care; adequate nutrition and safe drinking water, hygienic and sanitized environments. It also has the duty to combat diseases and malnutrition; support and mobilize the development of primary healthcare for children through local and community resources. Other duties of the State include provision of accommodation, maintenance and/or financial support, advice and other services to children and their families.

Earlier studies

In Nigeria, there have been studies on the implementation of CRC in custodial institutions among social workers but not in juvenile courts or family courts as they are called today in Lagos State. Hence, literature in this area is particularly scant in Nigeria. However, studies on the implementation of Child's Rights Act/Law from other countries are reviewed here. For instance, Kuyini and Mahama (2009) examined the implementation of Ghana's Children's Act 560 in four districts in Northern Region of Ghana and found that the main challenges facing the implementation of the law were structural and work process barriers.

The structural barriers were related to the establishment and working of the family tribunals/child panels and the collaborative work around managing cases. The work process barriers were, among others, lack of training and lack of qualified staff to implement the law. Their study also revealed that the communities and parents were not cooperative in protecting the children. The parents were reported to be refusing to notify the authorities about violations against their children by other important members of the larger family.

Sibanda and Lombard (2015) conducted a qualitative study among 18 social workers working in child protection in South Africa. They examined the challenges the social workers were experiencing in implementing the Children's Act 38 of 2005. Focus group discussions were organized to collect data. The study revealed that lack of cooperation and insufficient knowledge among the police officers were huge obstacles in the successful implementation of the Children's Act. It was

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revealed further that the police officers had no clue as to what their responsibilities were. The police officers were found untrained to work with children and as a result they were intimidating the children. Sibanda and Lombard's study also showed that there was a shortage of social workers and those available did not receive adequate training on the Children's Act.

According to the FGD participants, this affected the successful implementation of the Act. The results also indicated that there were lacunae in the Act itself with unclear and ambiguous terms and concepts. Also reported were institutional challenges which include lack of uniformity in handling Children's Court matters, attitude and unrealistic expectations from presiding officers. Others were varying expertise and insufficient number of presiding officers. The respondents reported that institutional challenges in implementing the Act stemmed from the attitude of social workers and from the fact that they had to work with untrained and uncooperative police officers.

Corroborating Sibanda and Lombard's (2015) study, Lucas and Jongman (2017) used literature search to review the Children's Act of 2009 which entrenched social work as an integral stakeholder in delivering child justice in Botswana. They observed that many social workers lacked the knowledge, skills and confidence to mobilize the law to protect the rights and welfare of children. It was also reported that different stakeholders who operated within the child justice process did not always have a common understanding of each other's roles and responsibilities as prescribed in the law. They then concluded that this lack of common understanding would breed confusion and diversionary turf contests that would derail the delivery of justice for children.

Furthermore, Lucas and Jongman (2017) found tensions between social workers and police officers. Police officers accused social workers of spoiling the children while social workers branded police officers as being insensitive to the rights and welfare of children. Magistrates and social workers subscribed to different processes. Magistrates were found to generally step into the rigid rigmarole of adversarial justice while social workers were more inclined to the 'soft' interactive psychosocial approach.

This variance, as argued by Lucas and Jongman (2017), would lead to magistrate dismissing social workers as weak and incompetent. They also reported that the law compelled social workers to make recommendations to court on the best possible remedies for dispensing with child-related matters, but this was sometimes misconstrued by magistrates as usurpation of their powers to pass judgment on matters before them. These studies discussed above on the implementation of Children's Act demonstrate that challenges in implementing Children's Act are universal.

Research Design/Methodology

The research was a cross sectional survey that adopted a qualitative method.

Study Settings

The research was conducted among social welfare officers who were designated as assessors and supervision officers working in family courts in Lagos State. Family courts were established by the Child's Rights Law of Lagos State (section 138). They replaced juvenile courts and were mandated to hear all matters relating to children both civil and criminal proceedings. In section 139, the Courts are at two levels – (a) the Court as a Division of the High Court of the State; and (b) the Court as a Magistrates' Court, at the Magisterial level. The High Court consists of a Judge of the High Court of the State; and two assessors, who are officers not below the rank of Chief Social Welfare Officers and who are experienced in matters relating to children preferably in the area of child psychology education.

At the Magisterial level, family Court consists of a Magistrate and two assessors; one of whom is a woman and the other a person who is experienced in matters relating to children, preferably in the area of child psychology education. The personnel of the Court are to be provided with professional education, in-service training, refresher courses and modes of instruction to promote and enhance the necessary professional competence required of them. 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 located at Apapa, Ikeja, Ikorodu and Surulere. However, only four of the family courts were functional at the time of the study and they are Family Court – Magistrate Court Level, Surulere; Family Court - Magistrate Court Level, Apapa; Family Court – High Court Level, Lagos Island High Court; and Family Court – High Court Level, Ikeja High Court.

Data collection

This study was largely descriptive in nature. Using literature search method, secondary data were collected from journals, books, monographs, internet sources and newspapers. The data collected from these sources were reviewed and used to describe and discuss clarification of concepts, normative framework and earlier studies. They were also used to validate or refute the findings of this study. Primary data were collected via focus group discussion (FGD) guide that was constructed to elicit required detailed qualitative information. FGDs are qualitative research methods in the social sciences which are useful for obtaining information about a particular topic, in this case, Child Rights Law of Lagos State which was domesticated in 2007 and was not yet evaluated before this study.

The most common purpose of a focus group interview is to provide an in-depth exploration of a topic about which little is known (Steward *et al.*, 2007). Most of the questions were open-ended. The respondents were asked to state the challenges they were facing in their places of work; the ways their offices had been involved with the Police before the implementation of CRL and under the CRL; the

ways their offices had been involved with the court before the implementation of CRL and under the CRL; what the social welfare officers considered to be the challenges in implementing child justice provisions in the CRL; and what they would suggest to improve the implementation of CRL.

The units of analysis were social welfare officers (assessors and supervisors) working in the family courts. As mentioned above, there were four functional family courts in Lagos State at time of the study. Sections 141 and 142 of the Child's Rights Law stipulate that two assessors should work in each family court at the High Court and Magistrate Court levels respectively. This implies that there should be a total of eight assessors at the time of the study. There were also about four or more supervision officers who would usually go to these courts on behalf of their clients (children). This gives us a total of about twelve or more social welfare officers. FGD is usually organized for small groups of people (usually six –twelve persons). Out of the twelve social welfare officers, ten were expected to participate in the FGD.

A purposive sampling technique was used to select ten social welfare officers to participate in the FGD. However, four of them declined because of fear or secrecy that shrouds research in Nigeria particularly when it concerns government agencies and parastatals. People are afraid and/or reluctant to give out information about their agencies for fear of persecution. The FGD was held in Regency Hall, Ikeja on the 30th July, 2013. Regency Hall, Ikeja was chosen because of its proximity to Lagos State Secretariat, Alausa, which is housing the offices of the participants. At the end of the FGD, participants were given refreshment and stipend for transportation. The two principal investigators were involved in the FGD. One moderated the discussions while the other took notes of the discussions. Ethical issues were observed. The researchers ensured that informed consent of the respondents was obtained. No respondent was coerced. A major challenge was getting the participants. Some of them who turned up were late to the venue and this affected the time schedule. The discussions were tape recorded with full consent of the respondents. The data were later transcribed.

Data Analysis

Primary data collected from the FGD were transcribed and analyzed using content analysis and simple descriptive narrative of the responses. A simple descriptive narrative was found to be appropriate to analyze the data as the study was an exploratory research. Secondary data were utilized to buttress, validate or refute the findings of the primary data.

Results

The profile of the participants was characterized by sex – two females and four males who were assessors and supervisors in the family courts. At the opening of the FGD, the participants were asked to state the challenges they were really facing in their places of work.

Limitations of the Child's Rights Law of Lagos State

The respondents were asked to mention some of the challenges they had experienced in applying the law. They reported that social workers were not invited to the formulation of the law and as a result there were many flaws. It was also reported that most of the terminologies used in the law were highly technical and that hindered the implementation of the law.

The participants further complained that the law had conflicting provisions in sections 138 and 151. Section 138, Part 1 provides that a Family Court should be established for the purposes of hearing matters relating to children. Section 151, Part 1 buttresses the provision of Section 138, Part 1 while Part 2 states that the provisions of Part 1 of Section 151 would not affect the jurisdiction of other courts to try criminal cases involving a child and an adult.

One respondent reported thus:

“Yes, it is when the Child Rights Law was passed; it has come with a lot of problems which I have experienced in the court. First and foremost, there is a provision in the law that says all matters relating to children are to be done in the family court but then the same law says in criminal matters, the regular court will have to take the matter and I had a matter in one of the regular courts. I was arguing but when I saw the provision, I said yes, I agree that the matter should be taken by the regular court. The provision is there and at the end of the day the magistrate ruled against me that the regular court could hear that matter as an adult was going to be tried. The victim was a child and there is a provision in the law that the regular court could detain that child which I think was publicly done. Yes the magistrate ruled that they could take the evidence in the court and even while the defendant is giving evidence it could exclude journalists and the rest. That was the ruling of the court. Let me read the section 151 of the rights: “No other court except the family court shall exercise jurisdiction in any matter relating to children as it is specified in this booklet. The provision of section (1)... subsection... shall not affect the jurisdiction of criminal courts to try cases involving an adult. In that matter, an adult defiled a child and we are saying it is the family court that has jurisdiction. But at the end of the day when I saw this provision, I knew the court would rule against trying the case in the family court. And the court eventually ruled. The court only put the provision that we must ensure that the child is protected. They could take the evidence of the child in the chambers. And this is a court that does not sit with assessors. He is saying because it was the adult that was being tried and he was relying on this section”

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From the above, the participants perceived that the two provisions were contradicting one another. The Magistrate argued that it was not the child that was being tried but the adult and therefore the criminal court had the jurisdiction to try the case. The Magistrate said that the child could give his/her evidence inside the chambers in order to protect the child from the public. The respondents also observed some irregularities: (1) absence of assessors in the family court and (2) the child giving evidence in the main courtroom instead of the chambers as the magistrate declared although the journalists were asked to leave the courtroom. This arrangement would not provide adequate protection for the child.

Furthermore, the respondents observed that the CRL was resolute particularly in the areas of rights of the children. They observed that the rights given to children by this law were too many and feared that parents might lose control over their children and would subsequently breed indiscipline among the children. One of the respondents remarked:

I have some doubts about the Child's Rights Law. I think there cannot be any law without some limitations. When you look at the rights of the child, they are so many. Let's look at section 6 sub-section (1) for example, "Every child has the rights to freedom of thought, conscience and religion". Are you saying if my 5-year-old child now says he wants to practice traditional religion, I must leave him because he is a child? What do I do? Let's assume, he/she is 16 years old, he is still a child. If at 15 or 14 he now decides to go ahead because, in line with this provision, he has the right to go there. I cannot stop him. So there should be at least something that would provide that we can guide the child because as a child he does not really know what is right or wrong. But if he says that is what he wants to do as a child, I would be helping him. Then again on privacy... telephone conversation, internet and whatever. If he decides to go into porno can I stop him, looking at this law? He can simply rely on this provision.

Supporting the above, another participant noted that age of responsibility was omitted in the CRL unlike in the Children and Young Persons' Law (CYPL). The respondent said:

In the Children and Young Persons' Law, there is something they called age of reasoning. It's missing here. At least, a child that is not up to 10 years during the Children and Young Persons' Law had not attained the age of reasoning. So he is still to be guided. Let me read the section 7 "Every child is entitled to his privacy, family life, room, correspondence, telephone conversation and telegraphic communications". If he decides to do that, if I want to talk and he says daddy the Child's Rights Law gives me the right to do certain things. What do I do? I think the draft memo of this law did not take that into

consideration. This child still needs to be guided at that age. So a lot of these problems like that are in Child Rights Law.

The above response observed that CRL failed to include age of responsibility. The implication here is that children who have not attained the age of responsibility may capitalize on this law and become undisciplined or be exposed to harm or do something beyond their capacities.

Another challenge was lack of trust among the members of the family court. For instance, a social worker in a Family Court at the Magistrate level investigated a case of custody of a child and presented the report and its recommendation to the court. The social worker was accused by the counsel of the opposite party of being bias and partial, supporting one of the parties to the case. Based on this accusation, the social welfare officer's report was not accepted. The social welfare officer then filed an application to a High Court.

Rejection of the report was seen as an aberration by the social workers since the CRL assigns the social welfare officers the responsibility of conducting inquiries on children's cases and make recommendations to the family courts. Based on all these, the respondents argued that the counsels lacked in-depth knowledge of the procedures of the family courts. One respondent reported his observation in a family court and based on this he concluded that some counsels did not have adequate knowledge of the family courts:

I had a matter in the high court and I discussed it with my colleague that this provision must be creating a problem. What happened was that the matter was in the family court of Magistrate Court level. The assessors were there. The social worker now brought his report about the father of the child. The report was tendered in the court. The counsel on the other side took offence to that and asked why would the social worker be the person to tender the report? Now the report was not accepted and the Child's Rights Law says the report of the social worker shall be one of the factors to rely on and that she is the person that could bring such an application because she mediated in the matter. Based on that, she filed an application at the High Court and that is what I think is one of the irregularities. The mother or whoever is aggrieved should be able to file an application. There are so many of these problems. Although, I believe that many counsels do not have in-depth knowledge of the procedure of the family courts because if he is familiar with the family courts he would not have protested and I tried to indicate in my response to his application that this is the provision of the Child's Rights Law.

The two responses above indicated that there was a misunderstanding of the roles and responsibilities of the social welfare workers. The counsel misconstrued the role of the social worker. The social workers then concluded that the counsel did

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not have in-depth knowledge of the CRL. It was reported that the social worker filed an application at the high court challenging the decision of magistrate court. The respondents claimed that the law empowered the worker to conduct inquiries on children's matters and present the findings and recommendations to the family court. On the contrary, one respondent argued that the law should have allowed the aggrieved person to file the application instead of the worker. One other respondent felt that since the assessor was in the court he/she should have defended the social worker and said this:

That would have been the work of the assessor then. The assessor should have mediated into the matter.

The respondents mentioned that some laws did not have penalties for the violators. They also pointed accusing fingers at the police officers for collecting bribes from the offenders and refusing to prosecute them particularly in rape and physical abuse cases. In order to overcome this challenge, the social workers devised a means of circumventing the police corrupt practices by encouraging the victims to report directly to them instead of going to the police stations first. This is what one of the respondents said:

The police are not helping matters at all. That is why we now devise a means. We encourage people not to go to police stations. Just come and report to us. We will now go and meet the people and we use the police task force to prosecute the offenders because by the time the matter gets to the regular stations they will mess it up. Once they collect money, that is the end. They will say "Ehn we will treat her... sebi na him pikin. Oga make you no do wahala now. He won't do that again" (meaning "Is it not his/her child? Social welfare officer should not proceed with the case. The perpetrator will not do that again). And the offender will just go like that. If the matter of physical abuse or even sexual abuse is reported to Alausa Police Station, it would be advised to go to Alakara or Adeniji whichever is nearer to them. That is where we have some police men who are trained in these areas. They will know what to do rather than any other police station where the matter would be handled anyhow.

Another respondent supporting the above said:

Once police officers do not know what to do at the right time especially when it comes to issue of rape, by the time you get to the court, there is nothing you would use to prosecute the offender. Most of them believe that it is the girl's fault by going there. They will ask: why should she go there? They would become judgmental.

Another discussant remarked – *"but again there are some situations where the parents of the abused child will collect money from the offender and will*

not show interest in the matter and they will say police will initiate the settlement thing. "Sebi she is my child" (meaning after all it is my child) .

Probing further, the researchers wanted to know what would happen to the victim, the child. The response was that the workers would insist that the case would be referred to the court because it is now the case of the State against the man. It is no more within the parents' power to stop the case but the case is now Lagos State versus the perpetrator. This does not affect only the case of rape but also physical abuse.

One other challenge mentioned by the respondents was the absence of some centers that should have been established. For instance, section 236 of the CRL mandates the establishment of (i) Children Attendance Center, (ii) Children Center, (iii) Children Residential Center, (iv) Children Correctional Center, (v) Special Children Correctional Center; (vi) Youth Correctional Center, (vii) Special Youth Correctional Center; (viii) Mothers' Centers; and such other institutions in any part of the State, or any part of the Local Government Area. These centers have not yet been established or are not really functional. As one of the participants noted:

Like the youth correctional center and the one for teenage pregnant mothers. We don't have such in Lagos and the law makes provision for them. So if we really want to practice this law to the best interest of the child, the state should make provisions because Lagos state has the challenges of street children, abused children and all that and we need to create a place to keep all of them. This youth correctional center takes care of children of 15 years going to let's say 22 years. It is assumed that they are still young and can still be corrected.

Another respondent supporting the above described the youth correctional center further by saying:

It's a replica of the foster home. Yeah foster home which this law has empowered the state to establish. The state is empowered to have youth correctional center. If you are talking of foster home that is for federal but the state is empowered to have youth correctional center.

Discussion of the results

The results showed that the respondents complained that there were many flaws and most of the terminologies used in the law were highly technical for people to comprehend. For instance, the participants reported that some of the laws did not have penalties for the violators. This finding was validated by Sibanda and Lombard's (2015) study which revealed that there were lacunae in the law. Terms and concepts used in their law were unclear and ambiguous.

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The respondents also complained that they were not part of the team that formulated the law. This is one of the challenges social workers are facing in Nigeria. Social work, as a profession, is not yet recognised in Nigeria and so, the government does not assign social workers any responsibility. Social Work Professionalization Bill had been passed by the Senate and was pushed to the President for his assent. Unfortunately, there was a hitch that it had to be stepped down. Social workers are lobbying to see that it receives president's assent. Not until then, social work will not have its rightful place in formulation of laws and policies.

The study also revealed that the provision in section 151 contradicted that of section 138 which established the family courts. Section 138 states *inter alia* that family courts should "hear all matters relating to children both civil and criminal proceedings". This led to the confusion and misunderstanding of roles and responsibilities among all the implementers of the CRL in the family courts. The study of Sibanda and Lombard (2015) supports this result. Their findings revealed that there was a lack of uniformity in terms of handling Children's Court matters among presiding officers.

The study further demonstrated that the respondents reported that the rights given to children by this law were too many. They feared that parents would not be able to control their children. The implication is that children could become imperious and beyond parental control which is another problem.

The study indicated that there was no cooperation between some counsels and social workers in the family courts. It revealed that in a custody case, the counsel did not understand the roles and responsibilities of social workers. This poses a challenge. Although, section 64(1) of the CRL, provides that the "Court may, on the application of the father or mother of a child— (a) grant such order as it shall deem fit with respect to the custody of the child and the right of access to the child of either parent, having regard to: the welfare of the child and the conduct of the parents. In a case in a family court, a social welfare officer conducted an investigation to assess which of the parents was fit to take custody of the child. The worker found that the father was not capable of taking care of the child and therefore recommended that the mother be given the custody of the child. The law says the person that is best fit will be recommended to have the custody. The counsel still misconstrued social worker as being sentimental, bias and partial. This indicates mistrust and lack of in-depth knowledge of the CRL on the part of the counsel.

Sibanda and Lombard (2015) and Lucas and Jongman (2017) had similar findings in their studies. Sibanda and Lombard (2015) found that there was lack of understanding of roles and responsibilities among the different stakeholders. Supporting this finding, Lucas and Jongman (2017) revealed that different stakeholders who operated within the child justice process did not always have a common understanding of each other's roles and responsibilities as prescribed in the law. They also found that social workers' intents were misconstrued.

The findings showed that at times the family courts could sit without the assessors. This is contrary to the provision of section 142 (3b) which stipulates that the members of the family court at the Magistrate level should constitute a magistrate and two assessors. The implication is that the rights of that child might not be adequately protected. The studies of Kuyini and Mahama (2009) and Sibanda and Lombard (2015) validate this finding. Both studies revealed that there was shortage of social workers.

Police corrupt practices have been found to be a barrier to the successful implementation of the CRL. This implies that most offenders will not be prosecuted and they will continue to commit the offences with impunity knowing that they will be scot free after bribing the police officers. It was also observed that it was not only the police corrupt practices that could obstruct the successful implementation of the CRL. Parents' attitudes were also impediments to CRL implementation. After being bribed by the offenders, they would order for the closure of the case. This finding is confirmed by the studies of Kuyini and Mahama (2009), Sibanda and Lombard (2015) and Lucas and Jongman (2017). Kuyini and Mahama (2009) found that the communities and parents were not cooperative in protecting the children. The parents were refusing to notify the authorities about violations against their children by other important members of the larger family. The results also showed that some of the centers that were supposed to be established had not been constructed. The question is: where are the children who need these centers kept currently? These children may be languishing somewhere not conducive for them. In other words, the CRL is seriously deficient. Corroborating this finding, Kuyini and Mahama (2009) found that there were challenges in the establishment and working of the family tribunals/ child panels.

CONCLUSION

This study reviewed the implementation of CRL (2007) in Lagos State to assess the challenges hindering its success. Using literature search, the study found that there were many challenges confronting the implementation. The challenges are: social workers were not part of the groups that formulated CRL; many of the terminologies used in the law were highly technical; conflicting provisions in sections 138 and 151; rights given to children by the law were too many and feared indiscipline among the children. Other challenges include the fact that some laws did not prescribe penalties for the violators. Role conflict between the social workers and the counsels in the family courts, misunderstanding and lack of knowledge of the social workers' roles and responsibilities were highlighted. Some centers had not yet been established as stipulated in section 236 of the CRL and/or if established they were not really functional.

Recommendations

Based on the findings the following are recommended:

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- There should be a total review of the law taking all the stakeholders into consideration.
- The law should make provisions for parents to guide their children in making decisions about their rights.
- The state government should incorporate age of responsibility in the law when a child could be allowed to make decisions about his/her rights.
- For a successful implementation of the law, there should be cooperation among all stakeholders implementing it. Their responsibilities should be spelt out and they should be educated on the law and children's rights.
- Police officers should be well trained and enlightened particularly on the dangers of not prosecuting the offenders of child abuse.
- The state government should try and establish those centers that have not been created to serve the needs and welfare of children.

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