
AN APPRAISAL OF THE LAW ON CHILD ABUSE IN DEVELOPING COUNTRIES: A CASE STUDY OF NIGERIA AND UGANDA

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ABSTRACT

This paper examines the degree of the child abuse in both Nigeria and Uganda and how it has become so endemic that it has become so notorious in our society. It also discusses the various meanings of attached to child abuse, the types of child abuse such as physical, social, emotional and nutritional. The factors responsible for the child abuses were also thoroughly examined. More importantly, the various laws put in place by both the governments of Nigeria and Uganda to check the incessant abuses of the child. The last section is the solution and recommendations.

1. Introduction

It is a notorious fact that child abuse has taken a serious dimension in some of the developing countries and this is so because of the prevalent of the abject poverty that has remained to live with an average citizen of these countries. What is then surprising is the attitude of the governments of these countries to check the incessant abuse on the child which has and is reaching an alarming rate day in day out. Children of these countries have been and are being subjected to various forms of inhuman treatment, servitude, torture, cruelty, deprivation, neglect and all sorts of intimidation.

It is saddening and disheartening to see of recent about a hundred of African children brought into Nigeria illegally through child trafficking from

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Benin Republic. Not only that, one feels unhappy when one observed quite number of Nigerian children on our highways hawking petty trade, placing them in danger all in quest for money by their parents when in actual fact they are supposed to be in school. Also, it is a notorious fact that Nigerians as well as Ugandans especially most of whom who reside in rural areas preferred that wards to engage in housemaid works in order to earn ends meat. This situation is of the numerous ways by which child is subjected to various forms of ill treatment, torture and deprivation.

Against the backdrop of the above, the governments of these countries are doing little to curb the excessive abuse of the child. Despite the enactments of various laws on the protection of the child and against child abuse, little has been achieved as it thus appear that the laws put in place has been rendered toothless.. This is evident because child labour and abuse of child are on the high alarming rates especially in Nigeria despite the enactment of the Child's Right Act in the year 2003.

2. What is Child Abuse?

It should be noted that, in a wider context, child abuse now includes any form of deprivation or neglect to which a child is subjected in the family or the society. There is a false impression that it does not exist in the traditional African society. This concept has been created by the sociological concept of protection, love and care enjoyed by the child within the extended family system and his cultural milieu. Some aspects of traditional child rearing practices inflict physical and emotional on the child, such practices concern discipline and treatment of diseases as burns and scarification¹. In addition, it has been described as intentional use of physical force or intentional omission of care by a parent or guardian that causes a child to be hurt, maimed, or killed.²

It has been described as a child labour whereby a child is employed in a work that may interfere with their education or endanger their health. It is the belief that this description is in tune with the **United Nations Paragraph 9 of the Declaration of the Rights of the Child** which is to the effect that a child to engage in any occupation or employment shall not be admitted to employment before an appropriate minimum age, he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education or interfere with his physical, mental, or

1 F. Ofodile, J. Norria & A. Games (1978) Burns and Child Abuse. *East African Medical Journal*. Vol. 56 P.26

2 Microsoft © Encarta © Encyclopedia 2005.

moral development. Thus, each sovereign state is to ensure that segments of society in particular parents and children are well informed, have access to education are supposed in the use of basic knowledge of build health.¹

3. Types of Child Abuse in Nigeria and Uganda

It is pertinent to highlight the various types of child abuse for the proper understanding of the subject. Child abuse may be physical, social, emotional, nutritional or sexual. It is physical where the forms of injuries affect the muscular-skeletal system, the brain and other internal organs. Such injuries result in bruises, fractures, sudural hacmatoma, or damage of organs such as the spleen, the kidney or the eye. Physical abuse may also occur in the form of burns. Also, child abuse becomes social where there is neglect and subsequent abandonment and it may be associated with physical abuse. On the other hand, emotional child abuse arises where the child is deprived of adequate mother-child relationship, and may be ridiculed because of a handicap. There may also be persistent verbal harassment. Such a child is also likely to be abused physically. There is also a form of child abuse called nutritional child abuse. It is a form of abuse whereby the child is neglected or deprived and undergoes physical emotional and social abuses. These abuses result into a child who is severely malnourished, emotionally upset and probably mentally retarded.²

The most common form of child abuse is the sexual abuse-Although not common in the Nigerian Society, but commonly practiced in Uganda where child girl are defiled by adults on daily basis. Interestingly, the government of Uganda is not leaving any stone unturned to see that culprits caught and found guilty of this offence are accordingly punished. This type of abuse occurs particularly where young girls are hired out as childminders to other families. A form of sexual abuse seen in Nigeria is one in which young adolescent girls are introduced by older women to men in important positions. Such older women often do so in expectation of special or financial rewards. This is very uncommon in Uganda too and the resultant effect of this is that these girls became single parents who eventually physically abandon their children. It is to be noted that, there are some very few cases of incest reported in both Nigeria and Uganda. However, sexual abuse it is observed could be hidden paediatric problem.³

1 Conventions on the Rights of the Child- The Child Convention 1991.

2 Ibid P.27

3 C. H. Kempe (1978) Sexual Abuse, Another Hidden Paediatric Problem: The 1997 C. Anderson Aldrich Lecture. *Paediatric Vol. 62 Pp. 382-389.*

Furthermore, child abuse covers a wide range of actions that result in physical, emotional or mental harm being inflicted on children of all ages. The kind of abuse inflicted, however, tends to vary with the child's age. Infants and pre-school children are most likely to suffer deliberately inflicted fractures, burns, and bruises. Historically, reported cases of sexual abuse ranging from molestation to incest and ritual abuse (allegedly involving satanic or other religious significance), primarily involve male perpetrators and school-aged adolescent female victims. More recently, however, a growing number of pre-school and male victims have been identified. Perhaps the most prevalent type of abuse is neglect—that is, physical or emotional harm resulting from a parent's failure to provide a child with adequate food, clothing, shelter, medical care, or education, or education. A common form of neglect among young children is underfeeding; an undernourished infant often fails to thrive and may even die.¹

4. Causes of Child Abuse in Nigeria and Uganda

Child abuse problems are not of course, limited to developing countries. They occur wherever there is poverty as poverty is one of the causes that brought about an abuse of a child. For instance, most-abusing child parents are themselves abused as children. Parents who abuse their children have infantile personalities. Other parents who abuse among all religious, ethnic, and racial groups and in all geographic an area unrealistically expect their children to fulfil their (parents) psychological needs; when disappointed, the parent experiences severe stress and becomes violently angry and abusive. In spite of this emphasis on individual mental disorders, few child abusers can be considered to be true psychotics or sociopaths, because they function well, socially and psychologically, in other respects. In fact, the incidents of abuse occur among all religious, ethnic, and radical groups and in all geographic areas. The relationship between poverty and abuse is strong, perhaps because the lack of educational and other opportunities that enable parents to deal with the emotional and financial frustrations is greater; the vast majority of child-abuse fatalities involve parents and guardians from the poorest families.

Indeed, child abuse also exists in some countries in Europe and United States. In Great Britain for example, the low pay recently estimated that up to 2 million children were engaged in part-time work: the worst record in the

¹ See note 2 above.

European Union. A growing concern in recent years has been the increase in prostitution among youngsters in urban cities.¹

In Nigeria and Uganda, some of the causes of the child abuse are basically societal influenced. A worldwide study reveals that child abuse is being recognized as a social problem which is alarmingly increasing due to rapid urbanization, high birth rate, unemployment, single parenthood, separation, divorce, financial and other social stresses.² It has been estimated by the National Centre for Child Abuse and Neglect that one million cases occur annually in the United States of America and that up to 2, 000 deaths occur.³ Child abuse may be considered as the outcome of abnormal interactions between the child, parents or guardians and society.

Another significant cause of child abuse in Nigeria and Uganda is the prevalent of abject poverty. The prevalence of poverty in Nigeria is evident in the deterioration of living standard of the populace due to the collapse and inadequate of public infrastructures and utilities. This is also coupled with low income and lack of food resulting in hunger. Poverty is so endemic in Nigeria to the extent that very few proportions of the populace have access to education, health care services, and good drinking water. For instance, in 1995 about 43% of the adult population are illiterates in Nigeria and only 67% and 43% of the total population have access to health care services and clean drinking water respectively⁴

Nigeria to day, in spite of her oil and gas resources, is a poor country with 80- 90 million Nigerians of the estimated 140 million people living in poverty. Only Indian and China have more poor people. Her GDP stood at about \$45billion in 2001 and a per capital income of \$300. She has earned over \$300billion from oil exports since the mid 70s but her current per capital income is about 20% less than the 1975 level. She suffers under an excruciating external debt burden of about \$33billion equivalent of 60% of the GDP.⁵ Thus, most citizens in search of means of survival do involve in child

1 Ibid

2 See note 5 P. 392

3 British Medical Association Editorial (1981) Child Abuse: The Swing of the Pendulum. *British Medical journal* 1981. Vol. 283 Pp. 170-173

4 World Bank (1997) *World Development Indicators. World Development Report. New York: Oxford University. Pp 25.*

5 Ribadu, N (2004) *Implication of Economic and Financial Crime on the Nation's Economy. A Paper presented at a Defence Adviser Conference, Abuja on the 10th September 2004. Pp 2*

abuse unmindful of the societal norms, values, and most importantly the law against child abuse, tortures, inhuman treatment and deprivations. The child abuse in these countries is presently at the alarming rate that different non-governmental organizations have sprung up launching serious campaign against the incessant abuse on child as well as sensitizing the populace on the serious adverse effects such may have on the child in particular and the society at large. More importantly, the Nigerian government had in its effort to get rid of child abuse in the Nigerian society enacted a Childs right Act and Trafficking in Persons (Prohibition) Law Enforcement and Administration Act in the year 2003 which deals comprehensively with the issue of child trafficking and abuse and economic empowerment. This step taken by the Nigerian government has been yielding compliance as many defaulters are now been tried across the States High Courts of the Federation.

5. Child Abuse Laws

It is pertinent to note that child abuse has become not only the concern of sovereign states but also of international community. The united Nations through its numerous regional and subordinate organizations have stood in defence of incessant child abuse and have put machineries on ground in defence of the same. One of such organizations is the United Nations Children's Fund (UNICEF) this organization's main object is to ensure that a child attain an appreciable level of education. That is, education and learning must be provided a child by the government. This, it is belief will automatically breathes a air of sense of belonging to a child thereby saving the child from being abused.

The most important efforts to eliminate child-labour abuses throughout the world come from the International Labour Organization (ILO), founded in 1919 and now a special agency of the United Nations. The organization has introduced several child-labour conventions among its members, including a minimum age of 16 years for admission to all work (whether within the family or not), a higher minimum age for specific types of employment, compulsory medical examinations, and regulation of night work. The ILO however does not have the power to enforce these conventions; it depends on voluntary compliance of members nations. The United Nations Convention on the Rights of the Child, adopted in 1989, includes restrictions on child labour and is formally binding on all countries that have ratified it, but it also has no enforcement mechanisms attached. A new treaty, known as the Worst Forms of Child Labour Convention, taking effect in late 2000 and intended to outlaw

the most serious abuses of children, such as slavery, debt bondage, and child prostitution, was passed unanimously by members of the ILO in June 1999. Again, the treaty is dependent on ratifying nations enforcing it within their borders, and contains no sanctions against violating parties. United Nations estimates there were 375 million child labourers worldwide.¹

Also, at the regional level, the African Union through its African Charter on the Rights and Welfare of the Child provides that every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development; thus states parties to the Charter shall take all appropriate legislative measures to ensure minimum ages for admission to every employment; provide for appropriate regulation of hours and conditions of employment; provide for appropriate penalties or other sanctions to ensure the effective enforcement of the legislation and most importantly to disseminate information on the hazards of child labour to all sectors of the community.²

In addition, State parties to the Charter are enjoined to take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of a parent, legal guardian or school authority or any other person who has the care of the child.³ It is also provided that a child shall be protected from all forms of sexual exploitation and sexual abuse and shall in particular be protected from any sort of inducement, coercion or encouragement to engage in any sexual activity; shall not be used in prostitution or other sexual practices and more importantly shall not be used in pornographic activities, performances and materials.⁴

In Nigeria on the other hand, apart from the notorious fact that there are legislations on the legislations that have stood in defence of the child abuse which has become so endemic in our society. Such body is the Women Trafficking and Child Labour eradication Foundation (WOTCLEF), the organization that geared up the Federal Government of Nigeria through its

1 See note 2 above.

2 Article 15 of the African Charter on the Rights and Welfare of the Child 1999.

14 Article 16 Ibid.

3

4 Article 27 Ibid.

campaign in the enactment of Childs Right Act. Thus, the first legislation that readily comes to my mind on the subject is the Constitution of the Federal Republic of Nigeria which is to the effect that the state shall direct its policy towards ensuring that children, young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect.¹ Also under the Children's and Young Persons Laws² which is available in all the states of the Federation of Nigeria, juveniles in need of care include an orphan or child deserted by his parents, a child neglected or ill-treated by the person having care and custody, a child found begging and receiving alms, and a child exposed to moral danger. Such a child may be brought before a Juvenile Court and a committal order may be issued: -

- i Sending him to an "approved school;
- ii Committing him to care of any fit person, whether a relative or not, who is willing to undertake the care of the child;
- iii Order his parents or guardian to enter into recognizance to exercise proper care and guardianship and to protect the child from social exploitation.

The law further stated that, it is an offence: -

- a. To barter or sell a juvenile;
- b. To place the juvenile in moral danger or in a danger of exploitation;
- c. To give a child into custody, possession, control, or guardianship of any person other than the grand parent of such juvenile whether or not for pecuniary other benefits.

To effectively and efficiently ensure that the child is protected against neglect the Children's and Young Persons Law also states that any person who has attained the age of seventeen years or who has the custody, charge or care of any child or young person who has not yet attained the age of fourteen years and who: -

- i. Wilfully assaults, ill-treats, neglects, abandons or express the child or causes or procures the child to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause the child unnecessary suffering or injury to health, including injury to or loss of sight or hearing or limb or organ of the body or any mental

1 Section 17 (3) of the Constitution of the Federal Republic of Nigeria, 1999.

2 Children's and young Persons Law, Cap 29 , Laws of Kwara State of Nigeria

derangement, or

- ii. Exposes the child to the risk of burning by allowing him to be in any place near and open fire without any protection or guard against the risk of the child being burnt or scalded or without taking any reasonable any reasonable precautions against the risk or
- iii. Leaves the child unattended to by any person over the age of seventeen years in a motor vehicle-shall be guilty of an offence and liable upon conviction to a fine not exceeding one hundred pounds or to a term of imprisonment not exceeding two years.

Furthermore, the law also states that any person who causes or allows any juvenile to be used for the purpose of begging or for the purposes of trading or hawking between the hour of 8 P. M and sunrise shall be guilty of an offence and liable upon conviction to a fine not exceeding one hundred pounds or to a term of imprisonment not exceeding two years.

More importantly, the Child's Right Act¹ provides very comprehensive provisions on the rights and protection of a child against abuse. It is provided that no child shall be subjected to any forced or exploitative labour; or employed to work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character; or required, in any case, to lift, carry or move anything so heavy as to be likely to adversely affect his physical, mental, spiritual, moral or social development; or employed as a domestic help outside his own home or family environment.²

Also, no child shall be employed or work in an industrial undertaking and nothing in this subsection shall be apply to work done by children in technical schools or similar approved institutions if the work is supervised by the appropriate authority.³ The Act thus provides penalties for any person who contravenes any provision of this Section. A person who contravenes any of the provision of this Section commits an offence and is liable on conviction to a fine not exceeding fifty thousand Naira or imprisonment for a term of five years or to both such fine and imprisonment; and where the offence is committed by a body corporate, any person, who at the time of the commission of the offence was a proprietor, director, general manager or other similar officer, servant or agent of the body corporate shall be deemed

1 The Child's Right Act 2003 of the Federal Republic of Nigeria.

2 Section 28 (1) a, b, c, d ibid

3 Section 28 (2) Ibid

to have jointly and severally committed the offence and may be liable on conviction to a fine of two hundred and fifty thousand Naira.¹

In addition, the law also provides that no person shall buy, sell, hire, let or hire, dispose of or obtain possession of or otherwise deal in a child; A child shall not be used for the purpose of begging for alms, guiding beggars, prostitution, domestic or sexual labour or for any unlawful or immoral purpose; or as a slave or for practices similar to slavery such as scale or trafficking of the child, debt bondage or serfdom and forced or compulsory labour; for hawking of goods or services on main city streets, brothels or highways; or for any purpose that deprives the child of the opportunity to attend and remain in school as provided for under the Compulsory Free Universal Basic education Act; procured or offered for prostitution or for the production of pornography or any pornographic performance; and procured or offered for any activity in the production or trafficking of illegal drugs and any other activity relating to illicit drugs as specified in the National Drug Law Enforcement Agency Act Cap 253 laws of the federation of Nigeria. A person who contravenes the provision of this Section commits an offence and shall be liable on conviction to imprisonment for a term of ten years.²

It is also the law that no person shall have sexual intercourse with a child and any person who contravenes this Section commits an offence of rape and shall be guilty on conviction to imprisonment for life. It is immaterial whether or not the offender believed that the person sexually assaulted is above the age of eighteen years or whether or not the sexual intercourse was with the consent of the child.³

On the other hand, the rights and welfare of a child is also protected under the Constitution of the Federal Republic of Uganda⁴. The law is to the effect that subject to laws enacted in their best interests, children shall have the right to know and be cared for by their parents or those entitled by law to bring them up. Also, a child is entitled to basic education which shall be the responsibility of the State and the parents of the Child. It is also provided no child shall be deprived by any person of medical treatment, education or any social or economic benefit by reason of religious or other beliefs. More importantly, the Article of the Constitution that readily comes within the

1 Section 28 (3) and (4) *ibid*.

2 Section 30 (1), (2) and (3) *Ibid*.

3 Section 31 (1), (2) and (3) (a) and (b) *Ibid*.

4 Article 34 (1), (2), (3) and (4) of the Constitution of the Federal Republic of Uganda.

protection of the rights of a child against abuse is that one that provides that children are entitled to be protected from social or economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education or to be harmful to their health or physical, mental, spiritual, moral or social development.

Another major legislation on child abuse in Uganda is the Children Act.¹ The Act is to the effect that it shall be the duty of a parent, guardian or any person having custody of a child to maintain that child and, in particular, that duty gives a child the right to education and guidance; immunization; adequate diet; clothing; shelter; and medical attention. Any person having custody of a child shall protect the child from discrimination, violence, abuse and neglect. Not only that, it shall also be unlawful to subject a child to social or customary practices that are harmful to the child's health. More importantly, no child shall be employed or engaged in any activity that may be harmful to his or her health, education or mental, physical or moral development.²

6. Prevention of Child Abuses

To arrest the incessant abuse of child which has become endemic in most developing countries especially Nigeria and Uganda, the government, the parents as well as the society has major roles to play. The government is commended to ensure that effective and efficient machineries for the enforcement of these various laws are put in place to sanction defaulters. It is also recommended that efficient and educational policy with more emphasis on health education should be adopted. This should be taught especially to young families and the importance of love, care and close parental attachment to the child right from birth should be emphasised. The unique child rearing practice of breast-feeding which enhances maternal-infant bonding is rapidly on the decline in the developing countries especially Nigeria among the urban elite mothers. It has been suggested that early mother-child separation may lead to subsequent battering of the child. Breast-feeding must be encouraged not only for its intensive advantage, but for its psychological importance. Infants, who require prolonged hospitalization such as those with low weight or congenital malformations, should be visited frequently and touched by their mothers.³

It has also been observed that the large number of infants abandoned in

1 Cap 59 Laws of federal Republic of Uganda 2000

2 Sections 5 (1), (2), 6 (1), (2), 7 & 8

3 B. Egeland & L. A. Sronfe (1981) Attachment and Maltreatment. Child Development Vol.52

the urban areas is as a result of influx of young unmarried girls from the rural areas who remain without any gainful and decent employment thereby involving and indulging themselves in the nefarious jobs in the urban areas.¹

¹ M. H. Burustein (1981) Child Abandonment: Historical, Sociological and Psychological Perspectives-Child Psychiatric. Human development Vol. II Pp. 213-215