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Children, Status and the Law in Nigeria

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Abstract

In Nigeria, people have variously described children as the future hope or as leaders of tomorrow. Such attributes are often expressed by parents, social critics, political analysts, and media commentators, who will always offer sentimental obeisance to the notion that children are indeed the greatest human asset. In effect, it means that children are appreciated, recognized, and regarded as valuable human monument worthy of investing upon for the very survival and continuous existence of the human race. This paper stresses on the need for Nigeria to adopt all the Universal Conventions or Agreements that tend to promote the protection of the rights of Nigerian citizens, including the child's rights law, so as to ensure that such rights are not rendered non-justiciable, violated or fettered with impunity. The paper calls on the National Assembly to shun procrastination by showing some serious commitment towards the ratification of these Conventions and Charters as part of Nigeria's municipal laws. It also undertakes a painstaking approach in explaining and highlighting the enviable position that children occupy in the Nigerian society and the very special recognition accorded their status under the Nigerian law. It is important to bear in mind that recognition of the inherent dignity, equality, and the inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Key Words: children, destitution, extremism, human rights, justice, juvenile, law, status, terrorism, thuggery, trafficking, vandalization, etc.

Introduction

In many societies, children generally are poorly treated with little or no warmth, affection, and compassion, while little recognition and least tolerance is accorded and extended to them in homes and at public places. That is why children are vulnerable to all forms of inhuman and reckless abuses. Also, they are inexplicably denied of their basic and fundamental rights, perhaps, due to their status as minors. However, a small minority that gets the attention of the criminal justice system is so fortunate to form a fraction of the legitimized target. Such ones are lucky enough to escape all the harshest and most destructive impulses that are inadvertently directed against their peers and contemporaries as a whole.

A close look at the role of policy makers and those that shape the direction of children reveals that they have constantly failed to allow children to express their views or participate in making decisions that really affect them. In many societies, children's views are seldom considered, tolerated or taken seriously by their parents, guardians or committee of friends. Thus, there is always a general apathy that children are only to be seen and not to be heard. In Nigeria, Africa and of course, in most world societies, children's views or ideas are considered *non compos mentis* when compared with their mental capacity and the reasoning and intelligent thinking of adults as rational human beings. This is a violation of the provisions of Article 4(2) of the African Charter.

Since the 1976 Soweto Massacre, where thousands of South African children were mercilessly and brutally killed by the Apartheid police, the United Nations had set aside the 16th of June of every year to commemorate this ugly and most gruesome event. The event has brought a lot of awareness on the plight of children, not only about children from South Africa or Africa alone, but also children from all over the world. This plight of children has had expressions in the way and manner the security and welfare of children has been jeopardized during conflicts, especially children displaced and made refugees from war-torn countries. Such children and women are usually the victims, especially when they come across the war zone and are exposed to the crossfire. They may be abandoned by their parents as they take flight to escape to neutral grounds. Sometimes, they are left without food, clothing

and shelter or may even be killed or wounded under the most chilling cold or scorching hot weather or other health-related hazards as the case may be.

Apart from poverty, malnutrition, poor healthcare services, and the absence of some basic infrastructure that should have been put in place to enhance the quality of life in many parts of the world, especially in the so-called Third World countries, where millions of children are still being affected by the severe and precarious positions that seem to place them at higher risk of their lives. Such risks become apparent during conflicts, civil wars or natural disasters. The Tsunami Flood Disaster, the Hurricane Catherina and the Haiti Earthquake, are just some of the examples of such events that usually lead to the loss of many human lives. The chances for a better quality of life for most children of the world, therefore, are circumscribed by lack of access to basic education, clean water supply, good healthcare services, and quality environmental sanitation (Onyemachi, 2003: 1).

Historical Background

The rights of children have been identified and recognized as basic and fundamental as far back as 1799, when Hannah Moore, who was quoted by McGillivray (1992, 217) as having said in her book titled, *Strictures on the Modern System of Female Education*, that:

It follows, according to the actual progression of human beings that the next influx or irradiation which our enlighteners are pouring on us will illuminate the world with grave descants on the rights of youths, the rights of children, and the rights of babies.

Hannah Moore's writing was actually in relation to the wave of articulation of the rights which became recognized under the American Declaration of Independence in 1777 and the French Declaration of Man and Citizen in 1789 respectively.

Similarly, in 1922, Eglantyne Jebb pleaded through a memorandum, which he addressed to the 'Save the Children International Union,' an organization based in Geneva, asking for the creation of a Code for children. The Union was finally formed in 1946, but it was merged with the International Association for Child Welfare in Belgium to be known as the International Union for Child Welfare (IUCW). This merger led to serious lobbying with the United Nations Economic and Social Council (ECOSOC) by pressing for its adoption as the Declaration of Geneva. While approving its adoption,

ECOSOC posited that the child must be protected beyond and above all considerations of race, nationality or creed and also that the child must be cared for with due respect for the family as an entity.

In 1959, the United Nations adopted the Declaration on the Rights of the Child (DRC), which affirmed the rights of children everywhere to receive adequate care from their parents and the community. Thus, the United Nations Convention on the Rights of the Child (CRC) was finally adopted in 1989. This provided an enabling environment for the United Nations to make convincing attempts to consolidate the international law on the basic rights of children to survival, education, improved health conditions and protection from all forms of abuse and exploitation. The rights enunciated in the African Charter on the Rights and Welfare of the Child, which was adopted by the Organization of African Unity (OAU), now African Union (AU) in 1990 complemented or reinforced it. Also, other specialized international human rights Conventions, such as the International Labour Organization (ILO) Conventions relating to child labour and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) candidly attest to the importance attached to women and children. Furthermore, since the campaign of the International Decade for a Culture of Peace and Non-Violence for the Children of the World in the Year 2001-2010 was launched in the Year 2000 by the General Assembly of the United Nations (UNO), there has been a global consensus for the protection of children from all forms of violence. These include all forms of cruelty, such as inhuman and degrading punishments and other forms of child abuse (Article 32 of CRC).

Children and Status in Society

The emergence of States as sovereign entities provides the legal framework that regulates the conduct of the people who live in them and allows them to exercise their alienable rights under the rule and authority of such States. This trend gives room for the creation of national boundaries that compels people who live within these territories to come under the protection of the laws of the land. To this end, children whose parents eventually become citizens of any particular State come directly under the umbrella of the operations of the laws that exist in that State and to which they are obliged to obey.

It is also for the purpose of having uniformity that cuts across national boundaries without discrimination as to race, colour, religion or social status, which is capable of placing children at a disadvantage, while much emphasis

is made on the need for children to be respected and accorded human dignity (Article 2 of UDHR). This kind of role must be handled with extreme caution given the diversities inherent in culture, ethnic, and social status of children as citizens in the society (see S. 34(1) of the 1999 Constitution).

In the Nigerian society, for instance, children are seen as the gift of God. In fact, children are well admired, adorned and revered at and are often regarded as the most precious possession, not only as humans in the physical, but also in their spiritual being. In this regard, therefore, children are regarded as products of Divine Providence.

Nigerians, undoubtedly, are people that strive to place high premium and accord special recognition to the status of children both in childhood and at adulthood stage. This is because all Nigerian cultures receive the state (condition) of childlessness or barrenness with much opprobrium. Much jubilation, elaborate and expensive ceremonies usually take place when a child is to be given a name. Such a display of gratitude and appreciation of children is an indication that Nigerians have so much admiration and ascribe a lot of value or premium to the status of children (Ayua and Okagbue: 1996, 26).

Children, Parents and the State

Parents, to a large extent, are viewed as guardians of children as of right. As such, emphasis as to blood-tie (biological affiliation) of children is given primary consideration only in custody cases. The Convention on the Rights of the Child (CRC) in Paragraphs 2 and 3 of its Preamble, reiterates the conviction that the family is the fundamental unit of the society. Thus, parents provide the natural environment for the growth and well-being of all their immediate family members, including children. The role of the State in this regard is one of distant support. This is because in an ideal situation, any unbroken integrity of relationship, parental interest and influence of privacy and control is more of paramount and distinct consideration than mere presumption of shared interests. Articles 7 and 8 of CRC wholly support the view that makes provisions for the right of a child to a name, which also includes his or her right to acquire a nationality, and the right to know and be cared for by his or her parents. However, all forms of cultural and traditional practices which tend to be harmful or found to be 'repugnant to natural justice, equity, and good conscience' must be repudiated and discarded accordingly as the case was in *Mojekwu v Mojekwu* (1994).

Until recently in Nigeria, children's rights were conceived in terms of traditional parental rights and, as such, the State interests were basically regarded only in the context of social control. This may be the basis for the affirmation of the applicability of the rights as enshrined in the International Bill of Human Rights for Children by the Convention on the Rights of the Child (CRC) and the African Charter on the Rights of the Child on the basis of their membership of the human family. In essence, the vulnerability of an infant entitles the child's rights to life and survival during childhood. These rights entitle him or her to parental care, nurture, survival and development (Article 5 of the African Charter on Human Rights).

Certainly, the main framework or guarantee for the protection of a child is the family. Unfortunately, many family units have become a vehicle for all sorts of child abuse in recent times. This is so because the family bond has been so weakened and broken by undue exploitation, deprivation and poverty, which has eroded the traditional and cultural as well as the social and economic safety nets usually provided by the extended family system. Social exclusion and deprivation resulting in hunger, abject poverty, and disease have, in many instances, been identified as some of the main factors that have been militating against the principle of equal opportunity for all.

Children and the Law

To state the obvious once again, the social and cultural background of a child can be a determining factor for his or her growth and development. Without the operation of the Law, however, the State will not be able or capable to organize, promote, manage, and control the conduct or behaviour of people who make up the human society.

In recent times, the law in Nigeria has taken a new dimension in addressing some of the defective factors that undermine the realization of the principles that ascribe equality and justice to all citizens of the Nigerian State. The law also provides some regulatory mechanisms that encourage the attainment of opportunities for all and the alienable or fundamental rights, which provide for the survival, growth and development of the child (Chapters II and IV of the 1999 Constitution of the Federal Republic of Nigeria (CFRN)).

The Nigerian State, on her own part, has adopted the United Nations Convention on the Rights of the Child, and the African Charter on the Rights and Welfare of the Child, which appeared to have laid rest to the argument that children have no clearly definable rights in Nigeria. Both the Convention on the Rights of the Child and the Convention on the Elimination of all

Forms of Discrimination against Women (CEDAW) were adopted in 1991 and 1985 respectively. What is required is the ratification of these foreign laws and to domesticate them as part of the Nigerian Law without any disregard to Section 12(1) of Chapter II of the 1999 Constitution (CFRN), which states that “*no treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.*”

Although, the domestication of these International Conventions into the Nigerian Law serves as a veritable lee-way to promoting the rights of the child in Nigeria, yet it is gratifying to note that both the CRC and CEDAW have now been “domesticated” in Nigeria. The African Charter has also been domesticated by Nigeria. However, the National Assembly should also seriously look into these and other international laws, especially human rights issues that adversely affect the rights and fundamental freedoms of the citizenry. Thus, the problem now is how to effectively enforce and monitor the implementation of these provisions as they affect children’s and women’s rights in Nigeria. This also presupposes that all social rights should be made justiciable in Nigeria so as to empower the less privileged in the society.

It is commendable to observe that Nigeria has exceedingly demonstrated its commitment to its international obligations through the observance of the **Children’s Day**, which is celebrated on the 27th of May of every year in Nigeria with fan fare, and the **Child’s Rights Day**, which falls on the 16th of June of every year and is observed with absolute solemnity in Nigeria. The Children’s Day is celebrated in other parts the world, while the Child’s Rights Day is observed all over Africa to commemorate the **Massacre of the Children of Soweto**, which occurred on the 16th day of June 1976, when helpless South African children were mercilessly murdered in their thousands by the Apartheid forces during violent protests.

A famous poet, **Oswald Mtshali**, once described the Soweto Massacre as the most pathetic and gruesome event in his poem titled, “**Nightfall in Soweto**,” in which he presented apartheid as a symbol of serious racial discrimination. Although apartheid has been dismantled since the release of Nelson Mandela in 1990, when he later won the election on the platform of the African National Congress (ANC) to become the first Blackman to rule an independent South Africa as President. Today, Nigerians and, indeed, Africans still remember the apartheid era with loathsome disdain and have resolved not to experience its kind again throughout the African Continent.

Children and Crime

John Lea and Jock Young (1984: 56) had in their book titled, *What is to be Done_about Law and Order*, revealed how they developed a sociological approach which tried to explain criminality. They observed that crime is rooted in social conditions. They believed that crime is closely connected to deprivation, thus pointing out that deprivation will only lead to crime where it is experienced as 'relative deprivation'. Also, in their second book titled, *Ten Points of Realism*, John Lea and Jock Young (1992: 112) confidently affirmed that relative deprivation is experienced in all social strata because anybody (including children) can feel deprived and invariably crime can occur anywhere in the social structure and at any period, whether affluent or otherwise. Crime, therefore, is not synonymous with adults alone, but also with children and young persons (teenagers), who also are vulnerable and susceptible to commission of crime.

Research in social studies and psychology has shown that lack of resources; opportunities to work and leisure, opportunity to earn good and reasonable income, ability to have access to good learning, and access to good food and recreation are responsible for a child's criminality. Other major factors that could be responsible for a child's criminality may include lack of decent housing and clean environment, suffering from health inequalities, and living among people with indecent behaviour, questionable character and dubious life style as well as living in a disadvantaged neighbourhood or overcrowded environment. In fact, these factors often work together to reinforce some of the social ills and adversities.

Consequently, where people (particularly children) experience several aspects of poverty and social exclusion, they become susceptible to behaviours that give room for the commission of serious crimes. For instance, children living in particular residential areas, such as slums, shanties, street stalls and in make-shift shops, in dilapidated buildings and under the bridge may experience different health-related problems more than those living in a more decent and desirable neighbourhood. Sometimes, poverty and social exclusion are transmitted throughout a child's lifetime, even to the extent of passing it on to his offspring and spanning it across many generations, for instance, leprosy and tuberculosis.

In a nutshell, economic and family status of parents or guardians as well as the environment has far-reaching effects on the growth and development as

well as survival of children (Onyemachi and Tenshak: 2000, 206; Chesney-Lind and Pasko: 2004, 24).

Children Graduating from Minor Offences to Serious Crimes

In the past, children were known to be involved in minor offences ranging from stealing some pieces of meat from the cooking pot to robbing their peers and playmates of their food or toys. But, nowadays, a lot of children have been found to have graduated from such minor offences to more serious crimes, such as rape, girl-child prostitution, drug trafficking, armed robbery, arson and vandalism; child-soldiering, suicide bombing and other acts of terrorism. Recently, a 23-year old Nigerian suicide bomber-suspect was prevented from blowing up an American-bound Delta Air-plane carrying about 300 passengers from Amsterdam Airport.

Children Conniving with Adults to Commit Crime

Although it has not been possible to categorically and comprehensively compute the number of serious criminal cases in which children must have been involved without the aid of adults in Nigeria. Many Police reports from Nigeria and different parts of the world have variously indicted children of involvement in most notorious criminal activities, especially street and highway crimes (Olutayo: 1994, 28).

Child-Soldiering, Youth Militancy, Ethno-Political Extremism and Religious Terrorism

According to the African Security Review Publications (2002: 44), child soldiering is defined as the enlistment of under-age children into the military force as combatant soldiers. Sadly enough, this new trend has been widely reported in many parts of the world, which includes Africa, Europe, Asia, Latin America, and the Middle East, particularly Lebanon and Palestine. Many of such children have carried out some deadly military operations using small arms or light weapons (*African Security Review Publications, 2003: 115*). This has inevitably increased much military presence and operations in and across many national boundaries and international borders, giving rise to a spate of armed conflicts from different parts of the world (*African Security Review Publications, 2001:167-197*).

Terrorism is the most disturbing aspect of all, which is now sweeping across the entire globe, especially in the Arab World, where children take the most risky vocation of their lives as suicide bombers, notably sponsored by Osama bin Laden, the Al-Qaeda religious extremists and the Hammas militant groups (*African Security Review Publications, 2001: 123*). Such deadly

attacks led to the destruction of both the World Trade Centre (WTC) and the Pentagon Buildings in the United States of America on September 11 2001, which claimed more than 5000 lives in the most inhuman, cruel, and indisputable manner.

Children have also been involved in ethnic chauvinism and religious bigotry, for instance, when the *Maitatsine* Islamic fanatics in Kano and Yola (Northern Nigeria) had mercilessly hacked down and killed people, burnt and destroyed their property, in order to force people to become Islamic converts. A more recent case was the *Boko Haram Islamic Sect*, which under their leader, Mohammed Yusuf, carried out bloody killings in Bauchi, Kano, and Maiduguri (Northern Nigeria). The most recent being the *Dogo Nauwa Massacre* in Plateau State of Nigeria, where more than 500 helpless children and women were killed in cold blood by the Hausa-Fulani armed herdsmen on 17th January 2010, a reminiscent of the *Soweto Massacre* of 1976 in South Africa. Other instances abound in Afghanistan (Taliban) and in Somalia where Islamic religious-political extremists have been fighting to take control from the Central Government of their countries.

Another instance of children's criminal involvement is found in the youth's militancy and political extremism, as a strategy for the actualization of economic emancipation and political freedom through self-determination of the people of the Niger Delta region of Nigeria. The militant youths have been engaging Government forces in bloody armed battle. The youths who were recruited to join the militant outfit had employed kidnapping and hostage taking of foreign and local oil workers as a way of forcing the Federal Government into negotiating and addressing their pitiable situation. In addition, they had been vandalizing oil and gas pipelines, in order to slow down the sustainability of the Nigerian economy. Among their demands include participation in the management and control of the resources that come from their God-given land. Thus, oil exploitation, environmental pollution and ecological degradation, and infrastructural decay had become a debilitating feature for almost five decades. However, Government has drawn attention to their plight and blight by granting general amnesty to all the fighting militants with a condition that they should surrender their arms. Meanwhile, a ministry (Ministry of the Niger Delta) had been established to draw up a Master Plan for the sustainable development of the Niger Delta.

Adoption of Juvenile Justice System for Children in Custody

The involvement of children in criminal activities has made it imperative for the setting up of the juvenile justice system (JJS) for the purpose of ascertaining and addressing effectively the special challenges posed by young offenders in Nigeria. This is at the backdrop of the fact that large number of young offenders in the society, including many infants, are living in prison not because they are under custodial sentence, but because they were born in prison or were brought there by their mothers.

The adoption of the concept of juvenile justice or young people and youth justice system for children in custody for criminal offences is based on the notion that the mental and intellectual capacity of children cannot be equated with those of adults. This concept is meant to discourage the State from exposing children to any formal criminal processes or subjecting them to any unwarranted ill-treatment. This is in order not to foreclose their rehabilitation and reintegration into the society (Haines and Drakeford: 1998:125).

Because children do not have the ability or maturity as adults to influence their own social situation and make choices within it presupposes that children should act within the social situations established by adults. Other important reasons for the adoption of this concept are, perhaps, not to inadvertently over-react to minor delinquency; not doing or causing any harm to worsen a young person's prospects; and not inappropriately using criminal justice interventions where welfare needs are appropriate, adequate and present. This vividly brings to mind the principle expressed in Article 3 of the Convention of the Rights of the Child (CRC) that:

In all actions concerning children, whether undertaken by public, or private social welfare institutions, courts of law, administrative authorities, or legislative bodies, the best interests of the child shall be a primary consideration.

Juvenile justice system or administration is internationally recognized as a special arm of the wider system of administration of justice to treat a child or young offender in a manner different from the way adult offenders are normally treated. In Nigeria, for instance, the juvenile justice system is statutorily founded on the Children and Young Persons Act (CYPA) of 1943, which was later revised as Chapter 32 of the Laws of the Federation of Nigeria and Lagos in 1958.

Although the word 'juvenile' is not defined in any legislation dealing with children in Nigeria, the CYPA only defined a "child" as a person under the age of 14 years, while it defined a "young person" as a person who has attained the age of 17 years (Section 2 of CYPA). It may be of interest to state emphatically that this definition contrasts greatly with the provisions of the Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (African Charter), both of which defined a "child" as a human being under the age of 18 years (*Modupe v The State* (1984)1 SC).

Under the United Nations Standard and Minimum Rules for the Administration of Juvenile Justice, otherwise known as the Beijing Rules, which were adopted by the General Assembly in 1985 pursuant to the 7th United Nations Congress on the Prevention of Crime and Treatment of Offenders, gave a definition of a juvenile as that which is dependent on the respective legal system under consideration. Also under the Criminal Law in Nigeria, for instance, several provisions have been made to protect children from harm and sexual exploitation. The Criminal Procedure Act of Southern Nigeria and the Penal Code of Northern Nigeria prohibit acts of indecent treatment of boys under 14 years (Section 216) and of girls under 16 years (Section 222); the abduction of girls under 18 years with intent to have carnal knowledge (Section 225); the killing of an unborn baby (abortion) (Section 328); the desertion (abandon) of a child under 12 years old (Section 372), and trading in children (child trafficking) were also outlawed by the CYPA (Section 30). In addition, the protection under the Common Law in Tort (civil wrongs) exists for actionable wrongs (civil procedure) by adults against children or their families, even though the benefit of redress may go to the parents rather than the children, who are usually the victims.

Child Abuse

Generally speaking, child abuse refers to a sum total of all forms of abuse and violation of a child's rights, particularly in situations where a child suffers from serious physical injury inflicted upon him by reason of child battering or cane flogging, torture, and sexual exploitation. It is about abandonment and neglect, malnutrition and maltreatment. It is also about a situation where the child is going through hardship without the necessary support of basic physical care or where the child is living under conditions that pose a threat to his or her physical growth, mental development, and emotional survival (Kempe: 1980, 38).

Child Labour

According to Article 32 of CRC, child labour occurs when children, especially the young ones, are exposed to long hours of work in a dangerous or unhealthy environment with too much responsibility for their age, especially when that is being done at the expense of their schooling and social recreation. However, *child labour* should be distinguished from *child work*. By child work, we mean work in which the primary emphasis is to equip the child by developing his potentials through the learning, training and socializing processes, which invariably is a way of preparing the child for future challenges when he attains full adult life.

Regrettably, though, Nigeria has not yet ratified two important International Labour Organization (ILO) Conventions on child labour, namely; Convention No. 138 of 1973, which sets a minimum age for hazardous work, and Convention No. 182 of 1999, which targets at the elimination of the 'worst forms of child labour.' These "worst forms of child labour" may be defined to include all forms of slavery and practices akin to slavery, such as the sale and trafficking of children, debt bondage and forced labour.

Although the actual number of children involved in *exploitative or hazardous works* in Nigeria is not known, however, a recent assessment by Oloko (1999, 13) succinctly puts the figure at 8 million children. This may be owing to the wide dispersion of children workers, on one hand, while it could be attributed to the fact that their employment is usually based in the informal sector, that is, domestic house-help and street hawking, and other manual labour carried out in the agricultural sector, on the other.

Street hawking, perhaps, is still by far one of the largest forms of child labour. This problem accounts, to a large extent, for well over half of the total urban child labour. For instance, in the southern part of Nigeria both boys and girls operate as street hawkers, while in the northern part only girls carry out this form of activity. This is a complete violation of the Convention No. 138 of 1973, which sets a minimum age for hazardous work, and Convention No. 182 of 1999, which targets at the elimination of the 'worst forms of child labour.'

Children Living Outside the Family Setting

According to Oloko (1992, 12), the number of children who lived and slept in the streets and under the bridges in Lagos State alone were estimated at 8,000 in 1986. Ebigo (1999, 17) observed that "street families" were becoming prominent in certain urban slums in Nigeria. According to him, the "street

families” are of two categories, namely; the first is the family that is completely homeless, while the second category is the family in which the children work and spend most of their daytime activities in the streets, but return to their homes at night.

Abandoned Children and Orphans

Abandoned children and orphans are children whose surrogate parents cannot be found. Such children are sent to any of the available orphanages which are owned and administered by private individuals and organizations. For instance, the 1999 National Demographic and Health Survey (NDHS) Report indicated that more than 1 percent of children under the age of 15 years in Nigeria were orphans who have lost both parents (Ikediashi: 1986, 6). This figure, probably, has arisen significantly over the last few years as a result of the HIV/AIDS epidemic, which has ravaged the Nigerian society since 1991 (Ikediashi: 1986, 17).

Early Child Marriage

Early marriage is one of the risks in social relationships which the girl-child has to really contend with for a long time in her life. This trend is predominantly rampant in the Northern part of Nigeria, where parents marry off a number of their child-girls in their early teens, even when they are too young for their consent to be reasonably obtained. Senator Yerima’s controversial marriage with a 13-year old Egyptian girl is a recent example of this type of marriage. Thus, the girl-child is entrusted with early marital and reproductive responsibilities for which she is physically or mentally immature to handle. According to the National Demographic and Health Scheme (NDHS) 1999 Report, about 27 percent of teenagers aged 15-19 years had given birth to their first child before they were 18 years old. This is more pronounced in the Northwest and Northeast Geo-political Zones (Muslim-concentrated areas) of Nigeria, where girls tend to marry early. The above figures seem to be much higher than those of the Southwest Geo-political Zone, where the figure stands only at 8 percent comparatively.

Among the numerous implications of early child marriage is the increase in early pregnancies with their attendant maternal mortality and morbidity risks. Moreover, this practice has given rise to the prevalent cases of vagina vesicular fistula (VVF), which creates a continual leakage of urine and faeces, thereby causing holes between the bladder and the vagina, resulting in social ostracization by their husbands, who would prefer to maintain a far-distant approach.

Early marriage for the girl-child is one of the negative traditional and cultural practices that are in violation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which states that both partners share "the same right freely to choose a spouse and to enter into marriage only with their free and full consent." (Article 16).

Girl-Child Trafficking

Trafficking in children mainly for the purpose of domestic services has now taken a new dimension as children are used exploitatively for prostitution and cultic rituals (Adedoyin and Adegoke: 1995, 22; *Tell Magazine*, September 24 2007; *Thisday*, 21 October 1996, p. 4). For instance, in the last two decades, there has been large-scale trafficking of adolescent girls and young women from Nigeria to different parts of Europe, particularly Italy, for commercial sex work and forced labour (Nwafor: 1997, 17). However, children from the former Biafra enclave who were trafficked to Gabon during the Nigerian Civil War (1967-1970) were rather evacuated to prevent a holocaust. Today, only a few numbers of these children have actually been repatriated back to Nigeria, while many others were still left behind in Gabon (Nwafor, in the *Guardian*, 9 August 1998, p. 23).

Children in Prisons and Custodian Centres

There are four types of recognized custodian institutions for juvenile offenders in Nigeria. These are the *Remand Homes*, where juvenile offenders are detained (Section 3(1)(a) of the *Borstal Institutions and Remand Centres Act*, Cap 38, Laws of the Federation of Nigeria (LFN) 1990). Another is the *Borstal Centre*, which is a federal institution for the detention of convicted offenders between the ages of 16 and 21 years. Other custodian institutions include *Approved Schools* for the care and protection of juvenile offenders, while the *Prisons or Police Cells*, which are meant for the detention of young persons who are of unruly or depraved characters (Section 111(1) of the *Children and Young Persons Act (CYPA)*; Article 30 of the *African Charter on the Rights and Welfare of the Child*). However, not all children found in the prisons are juvenile. Some were born there by pregnant mother convicts, while some were taken into the prisons to live with their convicted mothers serving various jail terms (Elesho: 2000, 23).

It is a thing of great regret to find children being charged and convicted with adult offenders. In most cases, instead of sending the children to remand homes as the law specified, many children offenders are often remanded in prison custody with adult offenders and are punished alongside adult convicts

in Nigeria. Sometimes doubts are expressed as to the real age of offenders. This kind of situation provides possible avenue for the mitigation of injustice against the child (*Modupe Johnson v The State*, supra).

Destitution of Children

Destitution is the sum total of social inadequacies that create a state of dependence for everything that can make any meaningful impact on human life. This condition, in essence, develops as a result of lack of essential means of livelihood, which includes food, clothing, and shelter (home). It is also a condition that is manifestly characterized by hunger, neglect, rejection, deprivation, dejection, absolute poverty, which invariably results into death.

Children as Victims of HIV/AIDS Pandemic

The most devastating disease that is currently ravaging across our country, Nigeria, the Continent of Africa in particular and the rest of the world in general, where children have become vulnerable, has been the HIV/AIDS pandemic. With a rising prevalence rate and multiple modes of transmission, the HIV/AIDS scourge has spared nobody from its devastating dehumanizing impact. This is because not those who are directly infected become victims alone, but also those who are indirectly affected usually suffer under the most ravaging scourge.

The mode of transmission of HIV/AIDS has been attributed to three principal sources, namely; by sexual contact, mother-to-child transmission (MTCT), and parental transmission. Other causes are through blood transfusion and contaminated instruments. Under the mother-to-child transmission (relevant for this topic), for instance, infected mothers pass on the virus to their babies, either in uteri during pregnancy, or at the time of delivery or through breast-feeding.

Implementation and Enforcement of the Laws

The effectiveness of any existing law lies in its applicability, implementation and enforcement mechanisms. As such, adequate measures should be provided to enforce these laws through the appropriate legal and non-legal mechanisms. Another important point is to ensure the ratification and domestication of all international conventions or laws to which Nigeria is a signatory, so as to make them justiciable in the local courts of the land.

Consequently, corruption among government functionaries and public officials is another factor that hinders equitable distribution of social and economic dividends to poverty-stricken Nigerians, while this undesirable

monster tends to frustrate every effort put in place to permanently support the effective implementation and enforcement of social rights and other human rights laws (e.g. the Bureau for Code of Conduct, the EFCC and the ICPC). These are coupled with the weak institutional foundations, corrupt insensitive judicial system, where cases brought before the courts are not only delayed indefinitely by intermittent court procedures in the form of *injunctions*, *ex parte motions* and *unwarranted adjournments*, but also by creating possible loopholes for miscarriage of justice. Thus, cases are inadvertently allowed to drag on for many years unabated. For instance, the *Aguleri v Umuleri* Land Dispute had taken 25 years before a final settlement was realized! This state of affairs is responsible for the rampant cases of court and prison congestion in Nigeria.

In the area of healthcare delivery in respect of children, the law has also made provisions for the protection of unborn child by making abortion illegal in Nigeria, while countries where abortion is legitimized have put in place certain precautionary measures and restrictions that provide some kind of safeguards. Recently, some medical personnel were charged with death penalty for injecting children with the HIV/AIDS virus in Libya. They were later pardoned and freed at the intervention and outcry of the international community.

Although permanent cure has not yet been found for other diseases that have been identified as being responsible for child mortality and infant morbidity in the tropics, such as malaria, poliomyelitis, measles, whooping cough, sickle cell and cerebral spinal meningitis, they still constitute the deadly threats that call for immediate approach to eradicate them. Furthermore, efforts of NAFDAC in the fight against fake drug peddling and trafficking and also the NDLEA in combating the cultivation, production and sale of narcotics and hard drugs should be commended and improved upon, to rid our society of mental health-related diseases that reduce the life span of many children and adolescent youths.

Prospects and Challenges

The adoption of the Convention on the Rights of the Child by the General Assembly of the United Nations and the African Charter for the Rights of the Child by the African Union is, indeed, the most welcome development in the right direction. These Charters have provided the guidelines for the protection of the rights of the child in all its ramifications, beginning from childhood to adulthood. This includes proper healthcare, good and quality

education, sanitation and secured environment, as well as other social needs that provide for the growth, sustainable development, survival and well-being of the child.

Moreover, children who have suffered from cultural and social disadvantages, such as gender discrimination, exclusion and deprivation as well as all other exploitative abuses can now challenge their perpetrators through the services of the Legal Aid Council in their respective locality to seek for a redress.

Consequently, from the points enumerated above, several major problems still stand out crystal clear as being particularly serious, among which are the female genital mutilation, early girl-marriage, risks involved in child soldiering, child labour, sexual exploitation, and other forms of child abuse. Another striking issue that should worry the mind is the problem of increasing number of children living outside the family setting as a result of violence and poverty within the home (Onyemachi and Tenshak, *ibid*). This has forced children to take refuge in the most disadvantaged environment. Other problems are the condition of orphans living in orphanages and children abandoned by their parents due to poverty, religious or political persecution, conflicts, wars, and natural disasters. The Hurricane Katrina which swept across many parts of America and the Tsunami Flood Disaster in Asia as well as the Haiti Earthquake are some of the typical examples of such unprecedented and horrifying natural phenomena that occurred in the most recent times.

Conclusion

All societies the world over support the safety, growth, development and the survival of children, notwithstanding the legalization of abortion by some western developed countries. Many efforts have been made and are still being intensified by Governments and non-governmental organizations, individual philanthropists, corporate bodies and their agencies to improve the welfare of children through the provision of legal framework and appropriate mechanisms to protect the rights the child. As it is generally believed that children are the leaders of tomorrow and the hope of future generations, more efforts are needed to ensure their survival, growth and development. All hands, therefore, must be on deck to ensure that the protection of children in the new millennium does not become a mirage. This is by protecting their welfare and from all forms of child labour, sexual exploitation, and other child-related abuses. This may be made possible by sensitizing, advocating

and making parents, guardians and other stakeholders to become aware and by educating children to refrain from criminal acts and to restrain them from taking part in conflicts, such as religious riots, ethnic militancy, and political thuggery, include being recruited as child-soldiers to fight in wars, and to refuse and resist from being turned into suicide bombers or terrorists.

Furthermore, the use of dialogue to resolve conflicts should be intensified rather than military confrontation that leads to wars, thereby creating refugee problems. It is pertinent that serious efforts must be made to persuade people from resorting to violent acts as a means of resolving conflicts. By so doing, lots of children will no longer be subjected to all forms of risks that cause hazards and other debilitating sufferings which give rise to situations that are likely to lead to the imminent destruction of not only the entire human race, but also the ecosystems and the biological diversity to near extinction!

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