

**CIVIL RIGHTS OF CHILDREN UNDER NIGERIAN LAWS: SEXUAL EXPLOITATION IN PERSPECTIVE**

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**ABSTRACT:**

All over the world sustainability has become uppermost in developmental agenda. A developmental programme that does not take account of human resources is bound to fail. Ensuring that children grow up into responsible and productive adults is a major step in sustainability of the human resources base of any nation and the world in general. Children are the future and leaders of tomorrow of all nations. This means that children are regarded as valuable human species worthy of investing upon for the continuous existence of the human race. This paper examines the Civil rights of Children under Nigerian laws, ultimately to identify and highlight the aberrations with special emphasis on sexual abuse. The paper adopts an analytical and doctrinal method using textbooks, journal and the internet as sources. The identification and analysis of the anomalies shall also elicit recommendations as to the way forward.

**Key Words:** Civil Rights, Children, Nigerian Law, Sexual Exploitation

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**I. INTRODUCTION**

The issue of children is usually lumped together with that of women. If the perception of women in most societies (lower legal, social and economic status than men, and essentially evil) is anything to go by, not much consideration is expected for children. Policy makers and those who shape the direction of children seem to have constantly failed to allow children to express their views or participate in making decisions that affect them. Their views are often not considered seriously by the stake holders like parents, guardians, school authorities and even older friends. Their ideas are considered non compos mentis compared to the rational adults in violation of Article 4 (2) of the African Charter. The Soweto Massacre of children indeed created the awareness of the plight of children, not only in Africa but all over the world.

South African children who requested to be taught in their native dialect were shot and killed by police. This plight of children has had expressions in the horrendous treatment of children especially during conflict situations. They get orphaned, abandoned by parents, starved and sometimes killed by a most gruesome manner. Children have always been vulnerable to difficult situations. One of such issues is in the area of sexual exploitation which this paper seeks to examine.

**II. WHO IS A CHILD?**

The definition of a child in Nigeria has always been expressed within the context in which it is sought to be defined. For purposes of contract a child is anybody below 21 years. This is the age in which he or she can go into an enforceable contract agreement with another person. Below this age, he can only bargain for necessities. For the purposes of franchise [1], the Constitution stipulates age of 18 years. In labour issues, age 16 [2] is normally adopted. The customary age of majority for boys is pegged at 14 and 12 for girls [3]. These are the adolescent ages for two sexes. The Child Rights Act [4] adopts the age of 18, in order to be in line with the international standard. The Child Rights Act is the law that protects all aspects of the life of a child and for the states that have adopted it, age 18 is the age of majority. Discussions in this paper are therefore based on the child as a person below the age of 18.

### III. INTERNATIONAL INSTRUMENTS PROTECTIVE OF CHILDREN

Since after Universal Declaration on Human Rights in 1948 [5], the United Nations, has produced numerous Covenants, Treaties and Conventions which bind member nations on the issue of human rights, and children have not been left out in these international instruments. In 1959, therefore, the United Nations adopted the Declaration on the Rights of the Child which affirmed the rights of children everywhere to receive adequate care from their parents and community, and this finally led to the adoption of the Convention on the Rights of the Child (CRC) in 1989. This then provided the United Nations with the platform for its steps to consolidate the International law on basic rights of children to survival, education, improved health conditions and protection from all forms of abuse and exploitation. The organization of African Unity (OAU) now African Union (AU) brought this home to Africa complemented, and reinforced it by adopting the African Charter on the Rights and Welfare of the Child in 1990. Other specialized instruments like the International Labour Organization (ILO) relating to child labour and the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) all vehemently confirm the importance attached to women and children. In addition to these, the International Decade for a culture of Peace and Violence for the children of the world in 2001 to 2010 in the year 2000 and since then, there has been a conscious awakening of a global consensus for the protection of children from all forms of violence.

#### IV. CIVIL RIGHTS OF CHILDREN UNDER NIGERIAN DOMESTIC LAWS:

Nigeria in obedience to the mandate given by the Universal Declaration on Human Rights has enshrined in the various constitutions of Nigeria from 1960 to the present 1999 Constitution [6] Chapters on Human Rights. Since the ratification of the United Nations Convention on the rights of the child, the AU Charter on the rights and Welfare of the child and other relevant international instruments Nigeria has instituted various legislative and institutional measures both at the Federal and State levels aimed at addressing various forms of violence against children. These are in addition to the Criminal Code Act [7] and the Penal Code. Some of these Legislations include

- The Constitution of the Federal Republic of Nigeria 1999:

The constitution guarantees the citizenry equal right to life [8], right to dignity of the human person [9], right to liberty [10], up to right to fight for one's right when violated in S. 46. These are the Civil/Political rights, also known as the first generation rights and accrue to everybody, male, female, old and young. It is however submitted that in order to protect the Nigerian child, some of these rights may have to be controlled in children. In other words, some of these rights should not operate equally in children and adults for example, the type of permissive information either in words or in pictures in the social media makes it almost impossible for parents to respect absolutely, the right to privacy of their very young children.

- Trafficking in Persons (Prohibition) Laws Enforcement and Administration Act 2003. This law criminalizes trafficking in person which has become a veritable conduit for sexual exploitation of women especially young female children.
- Edo State Criminal Code Amendment law 2000.
- Bauchi State Hawking by Children (Prohibition) Edict of 1985.
- Cross River State Girl Child Marriages and Female Circumcision (Prohibition) Law 2000.
- The Sharia Penal Codes of Zamfara, Kano, Kebbi, Kaduna and Sokoto States of Nigeria.
- Child Rights Act (CRA) 2003 – this is the law that controls every aspect of the life of the child. It is a parietal domestication of the Convention on the Rights of the Child (CRC) 1989. Unfortunately, in Nigeria it is open to any state that desires it and therefore not uniformly applicable in Nigeria. It pegs the age of majority at 18 and provides the specific civil rights of a child to include
  - Right to Education [11].
  - Right to Survival and development [12].
  - Right to Freedom of Association and Peaceful Assembly [13]

- Right to Freedom of thought, conscience and Religion ([14].
- Right to Privacy [15].
- Right to Movement subject to parental control [16].

### **The Criminal Code Act [17]**

This Act makes it an offence of rape if one has carnal knowledge of a minor of 14 years even with her consent. This is statutory rape [18]. It also has other provisions criminalizing indecent assault and other immoral acts [19].

## **V. SEXUAL EXPLOITATION OF CHILDREN**

### **WHAT IS SEXUAL EXPLOITATION?**

Sexual exploitation is taking advantage of sexuality and attractiveness of a person to make a personal gain or profit [20]. In other words it is taking sexually advantage of the vulnerability of others. This can manifest in many ways such as – a situation in which a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution, or obscene act of pornography [21]. Sexual exploitation is also the sexual abuse of children and youth through the exchange of sex or sexual acts for drugs, food, shelter, protection, other basics of life and/or money. It also includes involving children and youth in creating pornography and sexually explicit websites [22]. Other terms that may be used to explain or define sexual exploitation are “child prostitution” and “youth sex trade”. The term sexual exploitation connotes that the use of children and youths under the age of majority (18 in Nigeria) is in itself exploitative. This could also manifest in compromising the offence of rape or sexual abuse on a child by taking gratification. When a child is sexually abused or raped some parents or guardians instead of allowing the law and justice take their course, they tend to settle for compensation on a sin and injury against the child. This gives room for dubious guardians to take compensation for the crime to be committed against the child over and over again.

## **VI. FORMS OF SEXUAL EXPLOITATION IN NIGERIA**

### **BROTHELS:**

A brothel is a house where females are kept for prostitution to the financial benefit of the owner of the brothel. The inmates in a brothel often include the under aged. These girls are made to sleep with men who pay their keeper. Even though this is against the law in Nigeria [23]. Strict enforcement is not observed and so the owners of these brothels engage in this continued sexual exploitation of these young girls by way of procuring and cajoling them into prostitution.

### **HUMAN TRAFFICKING**

Some people travel to engage in child sex tourism [24] and sex tourism and trafficking generate revenue for a country [25]. Many people are involved in the act of child sexual exploitation but it takes a few people to run a brothel and procure the children. Four parties are identified in a transaction in the child sex market. The perpetrator, the vendor, the facilitator and the child. The perpetrators are mostly men who try to rationalize their sexual involvement with children [26]. The vendors are the procurers and pimps for the children. They add to the profit in trafficking and under their reign trafficking itself is made possible. The facilitators are those who allow child sex trafficking to occur. This class of people will include parents and guardians who sell their daughters and wards to vendors. In Nigeria the vendors may be relatives who promise to take the female child to greener pastures and meanwhile spoil her poor mother with gifts of money and other items. In this scenario, all except the child are beneficiaries. The child remains the one who is sexually abused and exploited.

### **NEIGHBOURS**

Male neighbours remain a threat to unsuspecting innocent girl children. Instances abound where children have been sexually abused by neighbours who lure them into their rooms in the guise of sending them on errands. One such incidence exists where a little girl of six years was asked to go and buy biscuit by her neighbor (a married man). On her return he put her on his laps and defiled her. She reported the incident to her mother who in turn reported to the caretaker of the premises where they all

lived. The police came into the matter, and even though the girl was infected, the police insisted that they were not infected by the same organism. In other words, they did not have the same type of infection [27]. The alleged rapist turned round to sue the parents of the girl claiming N2M for defamation. Lawyers, including the writer rallied round to get the parents off the hook. Another instance where the vulnerability of young girls is exploited sexually where older relatives, like cousins, step fathers and family friends defile or rape young girls especially where they go on holidays to relatives or where they live with their mothers who have re-married.

### **HOUSEMAIDS**

Parents sometimes find the need to send their daughters out for domestic services. This may be done directly or through relatives who pose as agents for the procurement of house maids. Boys are also involved in this but the indigence of girls going out as house maids is more than boys. Many children both boys and girls have been sexually abused and exploited by shameless bosses. This may be madam's husband for the girls or even madam herself for the boys. Some of these children may also be used as hawkers making them more vulnerable to sexual attacks, abuses and exploitation than they already are. Nothing has come as close to slavery as the practice of engaging children as domestic helps or labourers.

The situation in the cities where everybody is a breadwinner has contributed immensely to this practice. Very little can be achieved in the home front where both husband and wife are busy pursuing careers and economic wellness. In other to solve this, the burden is pushed on domestic servants who in most cases are children of financially disabled parents seeking for succor. Some of these maids are not entitled to the fruit of their labour which may go either to the agent or to the parents of the maid. Other maids may be lucky and have their education seen to, by the magnanimous boss. Many of these children work long hours and hardly have enough time for their books outside the school walls, if they are in school. Some of these children are sexually abused and exploited among other forms of abuse and violations. The prohibition of domestic subservience appears to be a mere declaration of intent, as the Act seems to have been a party in merely identifying a problem it actually lacks the capacity to solve.

## **VII. CHALLENGES TO COMBATING THE PROBLEM IN NIGERIA**

A lot of issues have made it difficult to combat sexual exploitation of child and indeed other forms of child exploitation in Nigeria. Some of the challenges are discussed hereunder.

### **POVERTY**

Poverty seems to be at the base of many ablations and violations in Nigeria. Poverty has been defined as a condition in which a person or community is deprived of, and or lacks the essentials for a minimum standard of well-being in life [28]. These essentials may be material resources such as food, safe drinking water and shelter or, they may be social resources such as access to information, education, health care, social status, political power [29] or the opportunity to develop meaningful connections with other people in society [30]. Internationally, poverty has been defined within the confines of economics, as living below a dollar a day which implies living below three hundred and fifty naira a day for Nigerians. This means increasing poverty line since the poverty line has increased for Nigerians. More than one billion people in the world today live in unacceptable conditions of poverty. The number of such people is equally, rather on the increase especially in the developing countries of which Nigeria is one. Poverty pushes people into a lot of evil deeds that turn out detrimental to their own welfare. It is poverty that would make a family send their daughter out as a housemaid sometimes even to relatives who now constitute agents for the purpose of procuring house maids to those who can afford to pay them. It is also poverty that would make a family sit down complacently while somebody takes their under aged daughter to a foreign land in search of greener pastures. Some greedy poor mothers even advice their daughters to be nice to their male bosses with the hope that the maid may take the place of madam. For many girls, it is equally poverty that pushes them to the brothel, for others it is greed, discontentment and insatiability.

**CORRUPTION:**

Corruption which is now the bane of the Nigerian society equally the root and mother of all evils in the Nigerian society. If kidnappers do not have a kingpin who watches their back and supports them, if they did not have ready guns from those authorized to have them, it may be very difficult for them to operate. If some adults did not have the hardened heart to recruit innocent young children into prostitution, they would probably not get drafted into it. If some men were not licentious enough to sleep with little children, they would not be sexually exploited. These scenarios are all some form of corruption that has made sexual exploitation of children thrive. It is all about making money and for these people, it does not matter who they destroy to make the money.

Weak Enforcement of the Law; If laws were enforced and perpetrators of evil punished accordingly, the evil will lessen. Starting from the Child Rights Act, the provisions of the Child Rights Act are not uniformly applicable in Nigeria because issues about children are in the residual list and so only states that desire it adopt it and enact it into their own laws. Naturally with the ethnic, religious, and cultural multiplicity, this Act cannot apply to all children in Nigeria. The Criminal Justice Administration machinery is also weak. Tracking of culprits, sometimes by the sole testimony of a child is difficult. The family Courts sought to be established in the states are really not yet functional and even where those who engage, procure, or encourage prostitution on the under aged are not adequately punished [31]. The punishment of 2 years imprisonment is not deterrent enough to scare off those who may want to go into the business of child sexual exploitation.

**VIII.CONCLUSION AND RECOMMENDATION**

Nobody doubts the truth in the saying that children are the future of any society yet many actions of faceless adults negative this saying. The child occupies a central position in our lives and in the society. It is therefore pertinent that those ills which for sometimes now, have plagued the society, and in which it is said to note that children have been to a large extent victims be highlighted, exposed and solutions sought. This requires the effort of all stake holders viz – teachers, parents, community leaders, law enforcement agent and indeed every well meaning member of the society. For this purposes, the following recommendations are proffered.

**GOVERNMENT INVOLVEMENT**

It is necessary that the government gets involved to salvage the children and the society at large. Unfortunately many adults and even governmental officials turn a blind eye to child sexual exploitation and just as many encourage it. Laws in many countries are directed not at the prostitutes or her client but against those who gain from this trade such as the brothel keepers, procurers and pimps. The police in Nigeria tows the line of raiding brothels and hotels which harbour prostitutes. The prostitutes are rounded up and charged to Court as idle and disorderly person. A sterner attack on those who drive and exploit prostitution of children should be launched. In other words, better efforts should be made to apprehend the brothel owners, pimps and traffickers and deal with them as the law requires.

**EDUCATION**

One of the many ways to prevent child sexual exploitation is through education. Young girls in all spheres especially in the schools should be educated on the ills of sexual exploitation and what they would be getting into when they are sexually exploited. The police personnel should also be trained on how to handle trafficking situation and how to identify children in sexual exploitative situations. The public especially families should also be educated on the dangers of sex truism and trafficking. In all there should be massive advocacy against sexual exploitations of children in whatever form.

**ERADIATION OF POVERTY**

Poverty drives all manners of evil in the society including the sexual exploitation of children. The eradication of poverty becomes imminent here. A rights-based approach to eradicated poverty and the consequent positive effect it will have on the enjoyment human rights by children makes a shift from meeting basic needs based on charity or goodwill. In Nigeria the Millennium Development Goals sum up

the needs, rights and cravings of the populace. The goals embody the individual's day to day concerns. The achievement of the goals will certainly mark a turning point for the millions of Nigerians wallowing in poverty with resultant and brazen violations of even children.

### STEMMING CORRUPTION

Corruption is mostly responsible for none apprehension and punishing of culprits. Corruptions equally breed other ills and must be stemmed.

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