

34 CHILD RIGHT LAW, 2005: A NEW LEGAL FRAMEWORK FOR THE PROTECTION OF CHILDREN IN PLATEAU STATE

BY

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Today, in the 21st Century, children are still regarded as miniature human beings in Nigeria. They are most often times at the mercy of a society which is altogether not willing to grant the status they deserve i.e., that of future adults. Showing better understanding of children simply means providing them with the aid that is more consistent with their needs as developing individuals.

Children and women do constitute the most powerless, weak, poorest and vulnerable members of the human society. The Geneva Declaration on the Rights of the Child of 1924 heralded the advent of the legal regime for the protection and enforcement of children's rights. This declaration brought to the fore the concern that a child possesses specific rights deserving some special form of protection and accordingly outlined the obligation of adults towards the children. The Geneva Declaration on the Rights of the Child was followed by the United Nations Declaration on the Rights of the Child in 1959 which recognized the physical and mental immaturity of a child as a basis for the child's legal protection. This principle was re-enforced under Articles 23 and 24 of the International Covenant on Civil and Political Rights, and Article 10 of the International Covenant on Economic, Social and Cultural Rights which similarly recognized the need for:

“A special and separate legal regime for the promotion and protection of children's rights.”

It must be noted here that both the 1924 and the 1959 Declarations on the Rights of the Child only demonstrated the desire of nations of the world to evolve a legal framework to safeguard the needs and the provisions of care and protection for children but lacked the requisite binding force of enforcement. This apparent lacuna led the international community to take a more decisive step towards the legal protection of children's rights to adopt the United Nations Convention on the Rights of the Child. The adoption was effected at the 44th Session of the United Nations General Assembly of 20th November, 1989.

Nigeria signed the CRC in 1990 and subsequently ratified it on the 21st day of March, 1991. It must be observed here that due to the desire and the determination of the International Community to put to an end the suffering and maltreatment of children, the United Nations

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Convention on the Rights of the Child became widely accepted by nations of the world and has today become one of the most widely ratified international instruments in the realm of human rights.

Article 4 of the CRC imposes an obligation to the following effect:

State parties shall undertake appropriate legislative, administrative and other measures in the implementation of the rights recognized in the present convention

In discharging this obligation, Nigeria domesticated the CRC in accordance with the provisions of Section 12 of the Constitution of the Federal Republic of Nigeria 1999.

Section 12 (1) of the Constitution provides as follows:

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.

But for any such domesticated treaty to be applicable in the Federating states Section 12 (3) of the constitution must be complied with, that is, it must be presented to the 36 Houses of Assembly and endorsed by a $\frac{2}{3}$ of the houses.

In the instant case, the Child Rights Act, 2003 was passed without recourse to Section 12 (3) of the constitution which must be complied with, that is, it must be presented to the 36 Houses of Assembly and endorsed by a $\frac{2}{3}$ of the houses.

In the instant case, the Child Rights Act, 2003 was passed without recourse to Section 12 (3) of the constitution. This made it imperative for the Plateau State House of Assembly to pass the Child Rights Bill to enable the children of Plateau State to benefit from the universal minimum standard for the protection and treatment of children.

THE PLATEAU STATE CHILD RIGHTS LAW

This law sets out the rights and responsibilities of a child in Plateau State and provides *inter alia* for a system of child justice administration, care, supervision and adoption of children. The law is divided into parts, which address broadly rights and responsibilities; protection and welfare of children; duties and responsibilities of government, institutions for children and the education of the child.

Basis for the Child Right Law

Part two¹ stipulates that the best interest of the child should be the paramount consideration in every action undertaken or contemplated by an individual, public or private body, institutions or services, court of law, or administrative or legislative authority, in relation to a child². It is also

required that a child be given protection and care necessary for his well being.³

In every decisions affecting the child, the various possible solutions must be considered and due weight, given to the child's best interest. The Nigerian courts and other agencies in settling conflicts of interest; usually base their decisions on what is best for the child. The law has also taken to deal with cultural measures practices affecting children. Some of the specific measures taken by the law to combat harmful cultural practices against the best interest of the child include;

- Prohibition of Child Marriage and child betrothal⁴.
- Prohibition of tattoos and skin marks⁵.

Inspite of the prohibition against child marriage, the practice of early marriages and early pregnancy is rampant in the state. On the issue of skin marks, it is believed to be cultural in most parts of Plateau State and Nigeria in general for a child to be given tribal marks in order to be able to identify with a particular clan or settlement. Although this is fast eroding, but it is still being practiced among many tribes in the state is disregard of section 26 of the law.

Rights and Responsibilities of a Plateau Child

The law⁶ while recognizing the general Fundamental Human Rights, guaranteed in chapter iv of the constitution of the Federal Republic of Nigeria 1999, further stipulates that the child has right to: survival and development, to name and to be named as dictated by the culture of his parents or guardians, to freedom of association and peaceful assembly, to freedom of thought, conscience and religions, to private and family life, to freedom of expression, to freedom of movements, to freedom from discrimination merely on the basis of gender, religion, ethnicity, age or circumstances of birth of the child. By these provisions, all organs of government are obligated to protection children against all form of discriminatory practices in the state (Plateau). While agreeing that discrimination is prohibited under the law, we regret the absence of concrete information on the actual enjoyment of the principle of non-discrimination by children in the state. Concerns have been expressed in many quarters that children belonging to vulnerable groups, including girls, children living in poverty, children born out of wedlock, children with disabilities and children belonging to minority groups continue to face serious and wide

¹ Plateau State Child Rights Law 2005.

² id Sections 3 See also Article 3 of Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20th November, 1989.

³ Op cit Section 4.

⁴ Id Section 23, 24 and 25

⁵ id Sections 26

⁶ id part III Sections 5 (1)

spread discrimination. Also by tradition, boys tend to be favoured over girls.

Other rights of a child under the law and covered by Part III include rights to dignity of his person, rights to leisure recreation and cultural activities, right to Parental care, protection and maintenance and the right to health and health services. While it is true that recreational activities help to stimulate mental dexterity as a healthy body contributes to a healthy mind, the majority of schools and in the neighbourhood in the state lack sporting equipments and playing fields. With respect to parental care, many parents and other stakeholders in the life of the child today are victims of wrong upbringing. Therefore they may not be in proper position to take care of children under their custody. Concerning the right to health and health facilities, the alarmingly high rate of infant, child and maternal mortality, and the high incidence of major illnesses affecting children, including polio, malaria and diarrhea, malnutrition and the low level of knowledge among mothers on basic health issues is disturbing. The situation is further compounded by the incessant strike actions in the health sector.

Again, a child has right to free, compulsory and universal education, and it is the duty of the Government of Plateau State to provide such education. Although this is a welcome development, but we are concern about various number of problems in the state education system, including.

- Unavailability in all the seventeen Local Government free, compulsory and universal primary education, despite the constitutional guarantee;
- High illiteracy, particularly among girls and women;
- Gender disparities among the rural dwellers in school enrolment,
- Long period of strike actions by teachers particularly from the primary schools up to tertiary level.

It should be noted that the law also protect the rights of the unborn child against harm or injury before, during and or after the birth of the child⁷. This becomes difficult to be achieved due to inadequate health facilities and drugs in the health sector couple with inability of parents to seek medical help in private clinics as a result of poverty.

The law also provides for the responsibilities of children towards their families, society, national and the international community⁸ as well as that of parents, guardians and government towards the children for the development and care of the Plateau Child⁹.

Safeguards for the Protection of the Rights of the Child

The law recognizes the fact that millions of Nigerian children face

⁷ id. Sections 5 – 20.

⁸ id Section 21.

special problems of disadvantage, discrimination, abuse and exploitation and accordingly makes provisions prohibiting certain activities in relation to children. For instance, sexual exploitation, use of children for drug trafficking, forced labour and other criminal activities¹⁰. Specifically, section 23 of the Law Prohibits child marriage and betrothal and pegs the minimum age of marriage at 18 years (for both male and female child). More importantly the law prescribes punishment for child marriage and betrothal same being made an offence and punishable upon conviction with a fine of N500,000. or imprisonment for a term of five years or with both¹¹. While acknowledging that the minimum age of marriage is fixed at 18 years, we note with concern that the customary law allows for early marriages, and girls can be forced in to marriage as soon as they reach puberty. We are particularly concerned at the reports of a large number of young women suffering cases of vesico vaginal fistula, a condition caused by giving birth when the cervix is not well developed. We are further concerned that such girls, once married, are not afforded protection and that the enjoyment of their rights as children is not ensured as enshrined in the law.

Again, part four covers restriction and or prohibition of use of children in other criminal activities and punishes abduction, removal and transfer of a child from lawful custody¹². Also exploitative child labour is proscribed under the law. Despite this provision, there is increasing vulnerability of children to exploitation and violence in the state. Children in the street are engaged in exploitative labour in order to make a living.

Section 32 of the law expressly prohibits buying, selling, hiring or otherwise dealing with children for the purpose of hawking or begging for alms, prostitutions, domestic or sexual labour or any unlawful or immoral purpose¹³. Any person who contravenes the provisions of subsection (1) of section 33 commits an offence and is liable on conviction to imprisonment for life. The writers are of the view that implementation of the existing legislation is not effective, and we are deeply concerned that the number of children who fall victims to sexual exploitation is on the increase in the state. We are also concerned that reports of sexual assault and rape of young girls are on the increase, it is sad that children victims of sexual exploitation often do not receive adequate protection and/or recovery assistance. On harmful publications, the law is ineffective, as pornographic materials are littering every where on the streets and no Penal sanction is imposed to stop such publications from being circulated.

¹⁰ id. Section 22.

¹¹ id. Section 29

¹² id. Section 25

¹³ id. Section 29.

¹⁴ id section 33

Furthermore, the law makes it an offence to have sexual intercourse with a child, with or without the consent of the child either as husband or otherwise¹⁴. Other forms of sexual abuse and exploitation of a child are equally declared unlawful¹⁵. The importation and distribution of any harmful publication is also prohibited and punished under the law. The purpose is to protect children from getting in touch with such harmful publications¹⁶. Miscellaneous provision of part four removed jurisdictional limitations of magistrate court or any other court before which the offences under this part are tried¹⁷.

Part of the law is concerned with the protection of children¹⁸ through giving the appropriate courts powers upon application to it by government or any authority to order for the assessment of the child's condition regarding his rights. This includes powers to make emergency orders for the protection of a child.

Section 43 (1) specifically provides that the government or an appropriate authority may apply to the court for a child assessment order with respect to a child and the court may make the order if;

- (a) The applicant has reasonable cause to suspect that the child is suffering or likely to suffer, significant harm;
- (b) An assessment of the state of the health or development of the child or of the way in which the child has been treated, is required to enable the applicant to determine whether or not the child is suffering or is likely to suffer, significant harm; and
- (c) It is unlikely that such assessment will be made, or be satisfactory, in the absence of an order under this section.

And subsection 2 states that a court may treat an application under this section as an application for an emergency protection order.

Children in Dare Need of Care

Part six of this law provides for children in need of care and protection¹⁹ this part describes the categories of children declared to be in need of care and protection under the law, it also identifies persons authorized to bring children in need to care before the court in appropriate instances and vests courts with necessary powers to make order for the care, control maintenance and protection of children under the law. For instance, a child development officer, a police officer, etc being persons

¹⁴ id. Section 33 (3) a & b.

¹⁵ id. Section 34 (1)

¹⁶ id. Sections 37 & 38.

¹⁷ id. Section 41

¹⁸ id sections 43 – 51.

¹⁹ id. Section 52 to 54.

vested with powers to bring a child before a court for care and protection and take children such as orphans, neglected or ill-treated child, a wandering child on the street or other public place, or a child found begging or receiving alms or accompanying any person when that person is begging or receiving alms, whether or not there is any pretence of signing, playing performing offering any thing for sale, or otherwise²⁰. This provision has not in any way help to stop children from begging in the street as people are worried about the increasing number of child beggars who roam the state freely (particularly in almost all the states in the North) in filthy, tattered clothes.

Supervision and Care of Children under the Law

The law²¹ provides that the court may upon application by appropriate authority or government make a care order and or supervisions order in respect of a child who has not attained the age of eighteen years. This part of the law provides for the effects or care order and authorizes parental contacts with children. It also outline the duties of persons entrusted with care of a child as well as stipulates the duties of supervisors while supervision orders are in force. Education been central to the progress and development of a child, received special attention under this part whereby the court is given the power upon application to name an order of education supervisions of a child in issue.

Use of Scientific Tests to Determine the Parenthood of a Child

With the rise in the number of disputes over the paternity or maternity of children in Nigeria today, the law therefore permits the use of scientific tests by courts in determining the biological parents of a child. Section 65 (1) provides that:

In any civil proceedings in which the paternity or maternity falls to be determined by the court hearing the proceedings, the court may, on an application by a party to the proceedings, give a direction

(a) The use of scientific tests, including blood tests and deoxyribonucleic Acid tests, to ascertain whether the tests show that a party to the proceeding is or is not the father or mother of that person; and

(b) For the taking, within a period to be specified in the direction of blood or other samples from that person, the mother of that person, the father of that person and party alleged to be the father or mother of that person or form any two of those

²⁰ id. Section 52 (1) – (6)

²¹ id. Section 55 - 64

persons.

Although the above measures will go a long way in helping the court in determining the paternity of a child especially where there is a dispute as to who is responsible for the pregnancy. The law however does not state who should bear the financial expenses for conducting the test the plaintiff or the defendant?

Parental Responsibilities

This law places emphasis on the importance of children growing up with their biological parents. But circumstances such as death or otherwise make this impossible, comprehensive provisions are enshrined in this law for the adoption, guardianship and fostering of children. The essence is to ensure that children, particularly those in need of care and attention do not fall into wrong hands and are adequately protected by law.

In this regard, the law imposes the duty of maintenance and care of children on the parents. In addition, the law places parental responsibilities in circumstances of adoption, guardianship and fostering of children. For instance part nine deals with possession and custody of children²². It borders on the acquisition of parental responsibilities and the important role to be played by the court in making custodial orders of a child having regard to his best interest²³. This part of the law recognises the family of a child as the primary unit responsible for the protection of the child. For instance, sections 70 (1) of the law states that "*where the father and mother of a child were not married to each other at the time of the birth of the child;*

- (a) The family court established under section 155 of this law may;
 - (i) On the application of the father, order that he shall have parental responsibility for the child; or
 - (ii) On the application of the mother, order that she shall have parental responsibility
 - (b) The father and mother may by agreement have joint parental responsibility for the child.

Part 10 of the law²⁴ provides for guardianship of a child. For example section 84 (1) confers powers of guardianship of a child on his or her parents and in the event of death of a parent, the surviving parent shall be the guardian of the child²⁵. A person appointed as a guardian of a child under this part except otherwise provided under section 71 of this law is vested with the parental responsibilities of the child. Under this part, existing orders and jurisdiction lawfully made and exercised by any court relating to the guardianship or custody of a child before the

²² id. Sections 70 – 83.

²³ id. Section 70.

²⁴ id. Section 84 – 94.

²⁵ id. Section 85.

commencement of this law shall continue to be in force and such court shall continue with such powers and jurisdiction on the guardianship of a child pending the establishment of the relevant court under the law²⁶.

Wardship is dealt with under part 11 and conferred the court with jurisdiction to make a child a ward of the court and how he can be maintained²⁷.

Part 12 of the law covers fostering a child, how to make an application for fostering of a child and a child that may subject to fostering under the law²⁸.

Adoption of children and the establishment of adoption services unit or centre is regulated under part 13²⁹. The method of application by an interested party for the adoption of a child is also provided under this part³⁰ the law requires the court when placing a child for adoption to take into consideration the wishes of the parents or guardian of the child as to the religious upbringing of the adopted child. This aspect conflicts with the right of the child to freedom of religion as stated in section 5 of the law. Also, the law makes provisions for the qualification of persons to adopt a child and who may be regarded as adoptable child under the law³¹.

Note that inter-state adoption is prohibited. The adoption law of Plateau State provides that person adopting or fostering a child should come from the community or locality where the child resides. A Plateau child cannot, therefore, be validly adopted outside the state³². It is our humble opinion that nothing stop a reasonable person who resides for instance in Bauchi or Nasarawa State from adopting a child from Plateau State.

The Family Court, other institutions and homes for children

The law, in terms of nature and scope of rights and responsibilities, concept and principles of child justice, is a step further in the creation of an enabling environment on child protection issue by making provisions for the establishment "Family Courts"³³ the Court which will operate at the High Court and Magistrate Court levels have been vested with the jurisdiction to hear all cases in which the existence of a legal rights, power, duty, liability, privilege, interest, obligation or claim in respect of a child is in issue and criminal proceeding, relating

²⁶ id. Section 94 (1)

²⁷ id. Section 95

²⁸ id. Sections 102 – 126.

²⁹ id. Sections 127 – 150.

³⁰ id. Section 128.

³¹ id. Section 128.

³² id. Section 131.

³³ id. Section 118 see also convention on the Rights of the Child. Nigeria's 3rd & 4th Country Periodic Report, May 2008. P. 48.

thereto. The law makes provisions for the constitution of the court at both High Court and Magistrate levels³⁵. Persons to attend the court are specified and restricted, child's name and identity is also protected as the law prohibits the publication of such child's name³⁶. On the whole proceedings in the court must be conductive in the best interest of the child.

Child minding and day care of young children³⁷, state government support for children and families³⁸, community homes³⁹, voluntary homes and voluntary organization⁴⁰, registered children's home⁴¹, supervisory functions and responsibilities of the commissioner or matters relating thereto⁴² are provided for under parts fifteen, sixteen, seventeen, eighteen nineteen and twenty respectively.

The law under the above mentioned parts appears to recognize the importance of institutions and centres including government communities, and non-governmental organizations in the upbringing and protection of children. The law thus provides for regulations and tends to coordinate how these institutions and agencies can operate for the best interest and growth of the Plateau child.

CHILD JUSTICE ADMINISTRATION, SUPERVISIONS OFFICERS IMPLEMENTATION COMMITTEES, ETC.

The law⁴³ has provided for child justice Administration, to replace the juvenile justice, Administration, which has been in existence for several decades in Nigeria. The provisions prohibit the subjection of any child to the criminal justice process, and guarantees that due process be given to any child subjected to the child justice system, at all the stages of investigation, adjudication and disposition of any case against such a child. It has prohibited the use of capital punishment, use of imprisonment and use of corporal punishment for children under 18 years⁴⁴, and further provides for the use of scientific test in deciding paternity cases. These all are novel provisions, as no such prohibition previously existed under the previous legislations guiding children matters (Children and Young Person Law CYPL). Nevertheless, corporal punishment is still widely practiced in penal system as a sanction, as well as in the family, in schools and in other institutions and is also based on

³⁴ id. Part 14, Section 151 – 164.

³⁵ id. Section 154 & 155.

³⁶ id. Sections 158 & 159.

³⁷ id. Sections 165 – 172.

³⁸ id. Sections 173 – 187.

³⁹ id. Section 188 – 192.

⁴⁰ id. Sections 193 – 196.

⁴¹ id. Section 197 – 199.

⁴² id. Section 200 – 205.

⁴³ id. Part 21, Sections 206 – 239.

⁴⁴ id. Section 222 (1)

traditional beliefs and practices.

Other issues such as bail of children arrested, their custody, when not granted bails, association with convicted adults while in custody, conditions under which a parent or guardian may attend court etcetera are equally covered under part twenty one. Other matters included in part - twenty one are jurisdiction of the court to try child offenders, the rights of the child accused to fair hearing and compliance with due process, effective implementations of institutional orders for treatment of children in institutional and non institutional centres for the rehabilitation and training of the child offenders⁴⁵. It is sad note that eight years after the was passed the government is yet to set up the family courts to take handle children issues.

Supervisions and appointment of supervision officers of children are covered in part twenty two⁴⁶. While part twenty three⁴⁷ deals with approved institutions, released and post release supervisions of children. The law frowns at institutionalisation for pregnant children/teenagers and expectant mothers. But where institutionalisation is desirable or unavoidable, it mandates the establishment of special mothers' centre for pregnant mothers/teenagers, while Children Residential Centres and Children Correctional Centres are to be established to replace the present Approved schools created under the CYPL. Where the court decides against institutionalisation, it should utilize such disposition measures as dismissing the charge, placing the child under care, guidance and supervisions which is now a replacement for probation and probation officers.

Much along the principle of creation of institutions for servicing the needs and welfare of children living under difficult circumstances like orphans, street children and those physically challenged are provisions for the establishment, registration and control of such institutions⁴⁸.

The law under part twenty - four⁴⁹ sets up the state and local government Child Rights implementation committee. The implementation committee is the administrative body saddled with the responsibilities of implementing the rights recognised in the Child Rights Law. Other functions of the committee are as spelt out in section 262 of the law.

⁴⁵ id. Section 237.

⁴⁶ id. Sections 240 - 246.

⁴⁷ id. Sections 248 - 260.

⁴⁸ "Information sheet (unicef)" www.unicef.org/wcaro/WCAP_Nigeria last visited 27/08/08.

⁴⁹ Op. ct. section 261 - 267.

Miscellaneous matters affecting children, like offences by bodies corporate, service of documents, delegation of powers by the commissioners, interpretation and suspension and inconsistency of existing legislation or laws affecting Plateau Child are extensively dealt with in Part twenty five⁵⁰. For instance, Section 271 (1) states that the provisions of the following enactments are hereby repealed relating to:

- (a) Children and Young Persons Law
- (b) Probation of Offenders Law
- (c) Borstal Training Edict No. 8, 1968
- (d) Adoption Edict No. 9, 1989
- (e) Adoption and fostering of Juveniles Edict No. 8, 1988.

OTHER BASIC PROVISIONS OF THE LAW

- No Child of Plateau State shall be subjected to physical, mental or emotional injury abuse or neglect, maltreatment, torture, inhuman or degrading punishment, attack on his/her honour or reputation⁵¹. Yet no measures have been put place by the government to ensure strict compliance.

- Every child is entitled to rest, leisure and spiritual health⁵²

The Plateau State Government shall strive to reduce infant mortality rate provide medical and health care, adequate nutrition and safe drinking water, hygienic and sanitized environments, combat diseases and malnutrition, support and mobilize through local and community resources, the development of primary health care for children⁵³. As stated earlier in this work, the health system as a whole has been plagued by problems of service quality, including inadequate skills, decaying infrastructure & chronic shortage of essential drugs. Many primary health care facilities are dilapidated.

- Provisions for children in need of special protection measures (mentally, physically challenged, or street children): they are protected in a manner that would enable them achieve their fullest possible social integration, and moral development⁵⁴. The Nigerian constitution⁵⁵ recognises physically and emotionally challenged children as a vulnerable group that needs to be supported financially, materially, technically and be protected against all forms of exploitation and abuse and their welfare adequately promoted and protected. In a country where most parents live below the poverty level, the realization of these objectives becomes a mirage.

The cumulative effect of the Child Rights Law, 2005 (sections 13, 15 & 18)⁵⁶ guarantees the rights of physically and emotionally

⁵⁰ id. Sections 269 – 273.

⁵¹ id. Section 13.

⁵² id. Sections 14 & 15 (1) See also Nigeria and the Convention on the Rights of the Child, UNICEF country office Lagos 2000 p. 25.

⁵³ id. Section 15

⁵⁴ id. Sections 13, 15 & 18.

⁵⁵ 1999 Sections 16 (2) (d) & 17 (3).

challenged children to dignity, self-reliance, active participation in community as well as access to training, health care and rehabilitation services.

- Expectant and nursing mothers shall be catered for, and every parent or guardian having legal custody of a child under the age of two years shall ensure its immunisation against diseases, or face judicial penalties⁵⁷. Although this provision has been complied with to a greater extent, many families are still unwilling to avail their children for immunization on the ground that it is against the principles of their religion and no legal action has been taken against such persons.

Children under the law, are also given responsibilities which include working towards the cohesion of their families, respecting their parents and elders, placing their physical and intellectual capabilities at the service of the state, contributing to the moral well being of the society, strengthening social and national solidarity, preserving the independence and integrity of the country, respecting the ideals of freedoms, equality, humaneness, and justice for all person, relating with other in the spirit of tolerance, dialogue and consultation, and contributing to the best of their abilities solidarity with and unity of Africa. And the world at large⁵⁸.

To this end, the law mandates parents, guardians, institutions and authorities in whose care children are placed, to provide the necessary guidance, education and training to enable the children live up to these responsibilities⁵⁹.

- Causing tattoos or marks, and female genital mutilation are made punishable offences under the law, and so also is the exposure to pornographic materials, trafficking of children, their use of narcotic drugs, or the use of children in any criminal activities, abduction and unlawful removal or transfer from lawful custody, and employment of children as domestic helps outside their own homes or family environment⁶⁰. This provision is rather observed in the breach as children mostly in the rural areas are taken away from their parents to work as domestic helps in the city.

Child abduction and forced exploitative labour (which is not of a

⁵⁶ Op. cit supra

⁵⁷ id. Section 15 (3) (f) (4) & (5)

⁵⁸ Id. Section 21.

⁵⁹ Id. Section 22.

⁶⁰ Id. Sections 26, 27, 28 see also concluding observation and recommendations on Nigeria "2nd periodic report on the United Nations CRC 28 1/2005 p. 24

light nature) or in an industrial undertaking are also stated to be offences. The exceptions to these provisions are where the child is employed by a family member, in work that is of an agricultural or horticultural or domestic in nature, and if such a child is not required to carry or move any thing heavy that is likely to adversely affect his moral, mental, physical spiritual or social development⁶¹.

- Buying, selling, hiring or otherwise dealing in children for purpose of begging, hawking, prostitution or for unlawful immoral purposes are made punishable by long years of imprisonment. Other offences considered grave include sexual abuse, general exploitation which is prejudicial to the welfare of the child, recruitment into the armed forces and the importation / exposure of children to harmful publications. It further preserves the continued application of all criminal law provisions securing the protection of the child whether born or unborn⁶².

OBSERVATIONS

There is under reporting of violence against children. The prevalence of violence against children in homes and families is not known, and lack of reliable information on this type of violence against children is acknowledged as a gap and problem by all and sundry. It is a major area of concern even in cases where people believe that physical, sexual or other violence against children is problematic, they are reluctant to get involved in what they consider to be a "private matter" If the matter is serious enough to be reported and the family is willing to break the silence, the family is often coerced to use customary means to settle the matter, and withdraw the matter from the courts.

The lack of awareness by the people particularly in the rural areas of the elaborate provisions of the child rights law simply signify that the right of the child cannot be claimed in places where the people are not informed. The whole idea of sensitization is predicated on the realization of the fact that the success or otherwise of the law in protecting the rights and upholding the responsibilities of the Plateau child is predicated on the attitude of the people to the law.

Akin to the above, Plateau State government has failed in her commitments to the spirits and letters of the law. The failure of the state to curb the violation of child rights can be traced to a failure to educate the people on human rights generally and child rights specifically. Plateau passage of the child rights into law puts an obligation on her to disseminate it to the people.

⁶¹ id. Section 30.

⁶² id. Sections 32, 36, 37 & 42

The obligation of the government to educate children on Human Rights as expressed in articles 4,7,19 & 29 of the Convention on the Rights of the Child and section 17 of the Plateau State Child Rights Law has also been shunned with impunity.

The increase in the number of poor beggars' children in Plateau State, the number of children without basic education, and the number of children in one form of servitude or the other indicates the lack of enforcement of the provisions of the law.

The Child Rights Law was adopted in the state in 2005, yet eight years later many local governments (Particularly those in the remote areas) in the states are not aware of the existence of the law. This explains the wide gap between the promises of the Act, and the actual practice.

Again, the Family Courts are yet to be established in the state to adjudicate on issue involving children.

Notwithstanding the laudable aspirations of the provisions of the law towards the rights of the child, children in many parts of the state are still being trafficked on daily basis for different forms of exploitative labour.

The law also make provision for a system of institutions to protect children who are found to be in need of care outside of the family. However, it is clear that the government is not able, due to financial constraints, to either establish such institutions, or to ensure regular inspections of such places. This role is often fulfilled by private organizations which are then not monitored and there have been stories of children being abused and/or killed in the places where they are suppose to find protection.

Most detained children are not kept in separate prisons or detention centers from adult offenders and are therefore subjected to abuse and violence.

The diversity of cultures, religion and illiteracy also contribute in frustrating the effective implementation of the law. Experience has shown that the practice of giving out children in marriage at early states of their life without formal education or trade is predominant among the grass roots people especially the illiterates.

There has been various arguments supporting the fact that Islamic religion is against 18 years as the marriage able age. This

explains why most parents marry out their daughters at a very tender age (say between 12-16 years old).

It is a very difficult task for the custodians of the life of the child to play their roles when they are made to carry loads that are meant for the state to carry for them as citizens, from whom the state receives tax.

RECOMMENDATIONS

As stated above, child abuse and violence against children is underreported. This may be alleviated by exploring issues around mandatory reporting, which is currently not the case in the state. More likely, however, education and awareness raising to make people understand why child abuse and exploitation is unacceptable so that communities take the lead in ensuring that violence against children is addressed will make a difference.

Awareness and publicity need to be carried out about the provisions of the Child Rights Law 2005 across the Seventeen Local Government of Plateau State against child labour and the punishment made public to serve as deterrence. Parents and guardians should be discouraged from carrying out activities that involve child labour.

More attention should be paid on the education needs of children. Increased funding of the educational sector is imperative. Teachers should be well taken care of in terms of remuneration and better working condition. There should be provision of adequate infrastructural facilities and increased allocation for recurrent expenditure.

The government should as a matter of urgency address the high mortality rates among infants and children by *inter-alia*, stepping up the immunization programmes and improving ante- and post natal care. Health infrastructure should be improved particularly in rural areas, in order to ensure access to basic health care and services which should be adequately staffed and stocked with appropriate resources, including basic medicines for all children.

The government should take appropriate legislative measures and develop an effective policy to prevent and combat sexual exploitation of children and child pornography, including the factors that place children at risk of such exploitation.

The government should abolish or amend all legislation prescribing corporal punishment as a penal sentence. Awareness raising campaign should be carried out to ensure that positive participatory, non violent forms of discipline are administered in a manner consistent with the child

human dignity and in conformity with the Child Rights Law especially section 223 as an alternative to corporal punishment at all levels of society.

Concerning trafficking in person, the government is urged to create jobs for youths to avoid being lured by traffickers under the guise of offering them jobs.

It is our candid opinion that the government as a matter of urgency, take all necessary measures to eradicate all traditional practices harmful to the physical and psychological well being of children by strengthening awareness raising programmes.

We are suggesting that government increase its efforts to ensure implementation of existing law guaranteeing the principle of non-discrimination, and to adopt appropriate legislation, where necessary to ensure that all children within its jurisdiction enjoy all rights set out in the law without discrimination, in accordance with section 5 of the law.

For the effective implementation of the Child Rights Law, the government should as a matter of urgency establish family courts in all the 17 local governments to entertain cases which border on violation of the rights of the child.

In conclusion, the Child Rights Law 2005 was enacted into law by the Plateau State Government in order to take care of and protect the best interest of the Plateau Children who for some obvious reasons are being neglected, maltreated, and abused by their parents and or guardians. The domestication of the law in the state therefore emphasize its importance. Thus, there is the urgent need for a quick and effective implementation, awareness and conscientisation by all and sundry. The government, non-governmental organizations, parents and individuals should support the full realization of the provisions of the law in its entirety.