
ASSESSMENT OF CHILD ABUSE AND CHILD RIGHTS LAW IN NIGERIA

By

Emmanuel Amos UMANA, *PhD, FNIM, FCI Arb, FCIMC, CFE(USA)*

**Department of Sociology,
Obong University, Obong Ntak,
Akwa Ibom State.**

&

Mbuotidem UMOH ESQ. *Ph.D*

**Ime Umanah Law Library,
University of Uyo, Uyo,
Akwa Ibom Sate, Nigeria.**

ABSTRACT

Child abuse is a devastating social problem in the society. This study examines child abuse and child rights law in Nigeria. Child abuse refers to any emotional, sexual, or physical mistreatment or neglect by an adult in a role of responsibility towards someone who is under 18 years of age. It refers to any kind of action or failure to act that results in harm or possible harm for a child. The issue of child abuse has been given serious attention in many parts of the world. Children face the menace of abuse ranging from physical injuries, abandonment, sexual abuse to child labour. However child abuse is becoming alarming in the country. In spite government's efforts to combat the problem the situation stands the same as no positive result has been realized. Hence, this study seeks to investigate on how child abuse has been ameliorated with the help of child right law in Nigeria.

KEYWORDS: Child Abuse, Sexual Abuse, Physical Abuse, Child Neglect and Emotional Abuse

INTRODUCTION

Child abuse is among the most prevalent most complicated psycho-social issues in today's society. Every day thousands of children and adolescents are burnt, beaten, suffering from hunger or maltreated by their caregivers. Child abuse refers to any emotional, sexual, or physical mistreatment or neglect by an adult in a role of responsibility toward someone who is under 18 years of age. It refers to any kind of action or failure to act that results in harm or possible harm for a child. The adult may be a parent or other family member or another caregiver, including sports coaches, teachers, and so on (Khani, 2002). The Centers for Disease Control and Prevention (CDC) classify the types of child abuse as physical abuse, sexual abuse, emotional abuse, or neglect. Though certain children are not targeted as victims of various forms of physical or sexual maltreatment, yet, they do suffer from psychological maltreatment like being

ostracized, ridiculed or scared. (Khani, 2002) The consequences of child abuse could be studied in two manifestations: physical and psychological. The physical manifestations of child abuse include growth disorders, body malformation and physical disability, malnutrition leading to reduced mental abilities, bruises on the body, bone fractures and the like (Rashidi, 2007).

The mental manifestations could also be studied in a wide range of personality-psychological disorders: aggressive behavior, impulsive behavior, anorexia, psychological bulimia and hysteric suicidal behavior pretension, manifestations of phobias in men, retreating to isolation, depression, and as for sexual abuse, obsessive cleanliness behaviors, sleep disorders, lack of self-esteem and suicide commitment (Assadollahi and Baraatvand, 2005). Ebrahimi and Ghavam (2007) assert that among child victims of sexual or physical maltreatment, many psychological disorders including anxiety, aggressive behavior, paranoid ideation, post-traumatic stress disorder, depression disorder and increased risk of suicidal behavior is seen. Child victims of maltreatment by parents suffering from psychological damage, are more prone to psychological disorders than other unharmed children of same parents. Low self-esteem, analytic disorders and substance abuse is seemingly more common among child victims of sexual maltreatment (Ohadi, 2006). Behradi and Forhand (2006) concluded in their study that parents' psychological difficulties and depression correlate with child abuse. Also, Zaravin (2008) noticed in a study that child abuse is more common among depressed mothers. Fergusson (2003) during a study of mothers physically abusive concluded that abusive mothers are more depressed than normal mothers and more inclined to negative evaluation of their children. Brown and Harris (2003) during their research, managed to find indications on a correlation between having been abused as a child and anxiety in adulthood and between being neglected as a child and depression in adulthood.

Statement of the Problem

Child abuse has become a global problem that needs to be tackled if children are to be given the right to education and freedom. The issue of child abuse has been given serious attention in many parts of the world. Children face the menace of abuse ranging from physical injuries, abandonment, sexual abuse to child labour. In fact, child abuse is becoming alarming in the country. Government's efforts to combat the problem have yielded little or no result. Recently, there has been serious concerns about the child with the realization that children play important part in the family and the society. It is generally agreed that children are the future generation, the leaders of tomorrow and the potential flag bearers of any nation. To carry out these duties, the child therefore has certain rights that must be protected and not be trampled upon or denied. In recognition of the socio-cultural and educational dimension of the child, the United Nations, European Union, African Union, UNICEF and ANPPCAN have all joined efforts in advocating for protection of the right and well-being of children.

TYPES OF CHILD ABUSE

Sexual Abuse

WHO Consultation on Child Abuse Prevention stated that: Child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society. Child sexual abuse is evidenced

by this activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person (Martin, Anderson and Romans, 2003). This may include but is not limited to:

- the inducement or coercion of a child to engage in any unlawful sexual activity;
- the exploitative use of a child in prostitution or other unlawful sexual practices;
- the exploitative use of children in pornographic performance and materials.

The sexual abuse of children is a unique phenomenon; the dynamics are often very different to that of adult sexual abuse and therefore abuse of this nature cannot be handled in the same way (Wisdom, 2015). Features that characterize child sexual abuse include:

- Physical force/violence is very rarely used; rather the perpetrator tries to manipulate the child's trust and hide the abuse.
- The perpetrator is typically a known and trusted caregiver.
- Child sexual abuse often occurs over many weeks or even years.
- The sexual abuse of children frequently occurs as repeated episodes that become more invasive with time. Perpetrators usually engage the child in a gradual process of sexualizing the relationship over time (i.e. grooming).
- Incest/intrafamilial abuse accounts for about one third of all child sexual abuse cases.

Paedophiles are individuals who prefer sexual contact with children to adults. They are usually skilled at planning and executing strategies to involve themselves with children. There is evidence to suggest that paedophiles may share their information about children (e.g. child pornography). This can occur at an international level, particularly through the use of the Internet. The effects of child sexual abuse on the victim(s) include guilt and self-blame, flashbacks, nightmares, insomnia, fear of things associated with the abuse (including objects, smells, places, doctor's visits, etc.), self-esteem difficulties, sexual dysfunction, chronic pain, addiction, self-injury, suicidal ideation, somatic complaints, depression, post-traumatic stress disorder, anxiety. Roosa, Reinholt and, Angelini, (2004) assert that other mental illnesses including borderline personality disorder and dissociative identity disorder, propensity to re-victimization in adulthood, bulimia nervosa, and physical injury to the child, among other problems. Children who are the victims are also at an increased risk of sexually transmitted infections due to their immature immune systems and a high potential for mucosal tears during forced sexual contact. Sexual victimization at a young age has been correlated with several risk factors for contracting HIV including decreased knowledge of sexual topics, increased prevalence of HIV, engagement in risky sexual practices, condom avoidance, lower knowledge of safe sex practices, frequent changing of sexual partners, and more years of sexual activity.

Physical Abuse

The World Health Organisation defines physical abuse as: intentional use of physical force against the child that results in or has a high likelihood of resulting in harm for the child's health, survival, development or dignity. This includes hitting, beating, kicking, shaking, biting, strangling, scalding, burning, poisoning and suffocating. Much physical violence against children in the home is inflicted with the object of punishing. Physical abuse often does not occur in

isolation, but as part of a constellation of behaviors including authoritarian control, anxiety-provoking behavior, and a lack of parental warmth.

Durrant and Ensom (2012) write that most physical abuse is physical punishment "in intent, form, and effect". Overlapping definitions of physical abuse and physical punishment of children highlight a subtle or non-existent distinction between abuse and punishment. For instance, Paulo Pinheiro (2006) writes in the UN Secretary-General's Study on Violence Against Children: Corporal punishment involves hitting ('smacking', 'slapping', 'spanking') children, with the hand or with an implement— whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children's mouths out with soap or forcing them to swallow hot spices).

The immediate physical effects of abuse or neglect can be relatively minor (bruises or cuts) or severe (broken bones, hemorrhage, or even death). In some cases the physical effects are temporary; however, the pain and suffering they cause a child should not be discounted. Rib fractures may be seen with physical abuse, and if present may increase suspicion of abuse, but are found in a small minority of children with maltreatment-related injuries.

Child Neglect

Child neglect is the failure of a parent or other person with responsibility for the child, to provide needed food, clothing, shelter, medical care, or supervision to the degree that the child's health, safety or well-being may be threatened with harm. Neglect is also a lack of attention from the people surrounding a child, and the non-provision of the relevant and adequate necessities for the child's survival, which would be a lack of attention, love, and nurturing (Mehnaz, 2013).

Some observable signs of child neglect include: the child is frequently absent from school, begs or steals food or money, lacks needed medical and dental care, is consistently dirty, or lacks sufficient clothing for the weather. The 2010 Child Maltreatment Report (NCANDS), a yearly United States federal government report based on data supplied by state Child Protective Services (CPS) Agencies in the U.S., states, "as in prior years, neglect was the most common form of maltreatment".

Neglectful acts can be divided into six sub-categories (Mehnaz, 2013):

- Supervisory neglect: characterized by the absence of a parent or guardian which can lead to physical harm, sexual abuse or criminal behavior;
- Physical neglect: characterized by the failure to provide the basic physical necessities, such as a safe and clean home;
- Medical neglect: characterized by the lack of providing medical care;
- Emotional neglect: characterized by a lack of nurturance, encouragement and support;
- Educational neglect: characterized by the caregivers lack to provide an education and additional resources to actively participate in the school system; and

- Abandonment: when the parent or guardian leaves a child alone for a long period of time without a babysitter.

Neglected children may experience delays in physical and psychosocial development, possibly resulting in psychopathology and impaired neuropsychological functions including executive function, attention, processing speed, language, memory and social skills.

Emotional Abuse

Child abuse can cause a range of emotional effects. Children who are constantly ignored, shamed, terrorized or humiliated suffer at least as much, if not more, than if they are physically assaulted (Thornberry and Henry, 2013). According to the Joyful Heart Foundation, brain development of the child is greatly influenced and responds to the experiences with families, caregivers, and the community. Abused children can grow up experiencing insecurities, low self-esteem, and lack of development. Many abused children experience ongoing difficulties with trust, social withdrawal, trouble in school, and forming relationships.

Babies and other young children can be affected differently by abuse than their older counterparts. Babies and pre-school children who are being emotionally abused or neglected may be overly affectionate towards strangers or people they haven't known for very long. They can lack confidence or become anxious, appear to not have a close relationship with their parent, exhibit aggressive behavior or act nasty towards other children and animals (Thornberry and Henry, 2013). Older children may use foul language or act in a markedly different way to other children at the same age, struggle to control strong emotions, seem isolated from their parents, lack social skills or have few, if any, friends (Thornberry and Henry, 2013). Children can also experience reactive attachment disorder (RAD). RAD is defined as markedly disturbed and developmentally inappropriate social relatedness that usually begins before the age of 5 year (Starr and Wolfe, 2001) RAD can present as a persistent failure to start or respond in a developmentally appropriate fashion to most social situations.

Domestication of the Convention on the Rights of the Child: the Child's Rights Act

The Convention on the Rights of the child enjoins that "*Member States shall undertake to disseminate the Conventions principles and take all appropriate legislative, administrative and other measures for the implementation of the Rights recognized in the present Convention.*"

Against this background, a draft Child's Rights Bill aimed at principally enacting into Law in Nigeria the principles enshrined in the Convention on the Rights of the Child and the AU Charter on the Rights and Welfare of the Child was prepared in the early 90's. But it is only after about ten years with several Heads of Government and heated debates by the Parliamentarians that the Bill was eventually passed into Law by the National Assembly in July 2003. It was assented to by the President of the Federal Republic of Nigeria, Chief Olusegun Obasanjo in September 2003, and promulgated as the *Child's Rights Act 2003*.

Structure and Content of the CRA

The structure of the *Child's Rights Act 2003 (CRA)* has been informed by the mandate to provide a legislation which incorporates all the rights and responsibilities of children, and which

consolidates all laws relating to children into one single legislation, as well as specifying the duties and obligations of government, parents and other authorities, organizations and bodies.

Definition of a Child

The Act defines a child as one who is below the age of eighteen years. It categorically provides that such a child's best interests shall remain paramount in all considerations. A child shall be given such protection and care as is necessary for its wellbeing, retaining the right to survival and development and to a name and registration at birth.

Basic Provisions of the Child Rights Acts

- Provisions of freedom from discrimination on the grounds of belonging to a particular community or ethnic group, place of origin, sex, religion, the circumstances of birth, disability, deprivation or political opinion; and it is stated categorically that the dignity of the child shall be respected at all times.
- No Nigerian child shall be subjected to physical, mental or emotional injury, abuse or neglect, maltreatment, torture, inhuman or degrading punishment, attacks on his/her honor or reputation (Nigeria Country Programme, 2007).
- Every Nigerian child is entitled to rest, leisure and enjoyment of the best attainable state of physical, mental and spiritual health.
- Every government in Nigeria 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 children.
- 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 development.
- 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 immunization against diseases, or face judicial penalties.
- Betrothal and marriage of children are prohibited.
- Causing tattoos or marks, and female genital mutilation are made punishable offences under the Act; 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 home or family environment.
- Child abduction and forced exploitative labor (which is not of a 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 anything heavy that is likely to adversely affect its moral, mental, physical spiritual or social development.
- Buying, selling, hiring or otherwise dealing in children for purpose of begging, hawking, prostitution for unlawful immoral purposes are made punishable by long terms 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 unborn.

Children's Responsibilities

Children under the Act, 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 wellbeing of the society, strengthening social and national solidarity, preserving the independence and integrity of the country, respecting the ideals of freedom, equality, humaneness, and justice for all persons, relating with others in the spirit of tolerance, dialogue and consultation, and contributing to the best of their abilities solidarity with and unity with Africa, and the world at large. To these end, the Act 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 responsibilities (UNICEF, 2007).

Recommendations

The following are recommended:

1. There should be public enlightenment programmes to combat mass ignorance and public awareness on the right to freedom from all forms of child abuse.
2. As much as possible, caregivers should avoid the use of corporal punishment because it only teaches children that violence is the best way of maintaining control and it encourages them to hit other children.
3. A child should not be disciplined when the adult's anger is out of control.
4. All forms of abuse should be exposed to this class of caregivers so as to draw their attention to some of the unintentional acts that bother on child abuse.

REFERENCES

- Assadollahi, R. and Baraatvand, M. (2005). The pattern of the relationship between child abuse and criminal mischief parents of abused children. *Journal of Social Welfare*, Issue 19, P35-48.
- Brown, P. & Harris S. (2003). *"Patterns of skeletal fractures in child abuse: systematic review"*. *BMJ*. 337 (oct02 1): a1518
- Durrant, J. & Ensom, R. (2012) *"Physical punishment of children: lessons from 20 years of research"*. *Canadian Medical Association Journal*. 184 (12): 1373–1377.
- Ebrahimi, D. and Ghavam, H. (2007) Characteristics of psychological, behavioral, social, and sexual abuse [victims] paper presented at the conference of Iranian children and adolescents. 1997; 88-93
- Fergusson (2003). The effect of maternal depression on maternal ratings of child behavior. *Journal of Abnormal Child Psychology*, 1993; 21, 245-270
- Khani, G. (2002) Preparation, Validity and reliability of self-report measures of child abuse (CASRS) Students in SIran]. *International Journal of the Islamic Republic of Iran*. 2003; 17(1): 26-38.
- Mehnaz, A. (2013). *"Child Neglect: Wider Dimensions"*. In RN Srivastava; Rajeev Seth; Joan van Niekerk (eds.). *Child Abuse and Neglect: Challenges and Opportunities*. JP Medical Ltd. p. 101. ISBN 978-9350904497.
- Ohadi, (2006). Human sexuality. Eighth Edition. Sadegh Hedayat publishing; 2006. pp: 285-
- Paulo Pinheiro S. (2006). *"Violence against children in the home and family"*(PDF). *World Report on Violence Against Children*. Geneva, Switzerland: United Nations Secretary-General's Study on Violence Against Children. ISBN 978-92-95057-51-7.
- Rashidi F. N., (2007). Demographic factors and personality characteristics of child abuse and neglect in a group of adolescents Ahar. *Journal*, Third Year, No. 4, p. 67-75
- Roosa, M. W., Reinholt, C. & Angelini, P. J. (2004) *"The relation of child sexual abuse and depression in young women: comparisons across four ethnic groups"*. *Journal of Abnormal Child Psychology*. 27 (1): 65–76. PMID 10197407.
- Starr R. H. & Wolfe D. A. (2001). *The Effects of Child Abuse and Neglect* (pp. 1–33). New York: The Guilford Press. ISBN 978-0-89862-759-6
- Thornberry T. P. & Henry K. L. (2013). *"Intergenerational continuity in maltreatment"*. *J Abnorm Child Psychol*. 41 (4): 555–569.
- Zaravin (2008) Child abuse, child neglect and maternal depression; Is there a connection? In National Centre on Child Abuse and Neglect (Ed.) Child neglect monograph: Proceedings form a symposium. Washington, DC: Clearinghouse on Child Abuse and Neglect, 40-55