



EBSU JOURNAL OF INTERNATIONAL LAW & JURIDICAL REVIEW

VOLUME 2, 2012

ISSN 2141 - 4602

Legal Liabilities for Operations of Air Services Under International Law
Hemen Philip Faga

Land Tenure Law and Sustainable Economic Development: The Nigerian Experience
Dr. Solomon O. Afolabi, & Oluwabusayo T. Wuraola

A Legal Perspective of The Rights of Professional Women in Nigeria
Dr. Josephine A. A. Agbonika

The Legal Status of Evidence of A Child Under The Nigerian Evidence Act 2011
J. U. Ebuara

The use of Plea Bargaining in the Nigeria's Anti-Corruption Crusade: A Revisit
Idachaba M.A

A Critical Analysis of The Law and Child Abuse in Nigeria
Bashir Leke

The World Bank, Development Funding and Human Rights in The Third World
Enya Nwocha, Ph.D

Examining the Significance of the Budapest Convention to the Prohibition of Cybercrime in Nigeria
Mu'azu Abdullahi Saulawa

Copyright V. Copyleft – Plagiarism or Inspiration: Appraising Intellectual Property Rights in the Internet Age
Ojeih Chukwunye Augusta

Litigation in Corporate Management in Nigeria
Olatoke J.O. (SAN), Zakariyah K. L., Iroye Samuel O., Hassan I. Adebowale & Idachaba M.A

Re-Positioning Africa to maximize the Rewards to Globalization and the International Right to Development
M. E. Nwocha

Towards Integrating Domestic Violence into Court Annexed 'Adr' Processes in Nigeria: An Analysis of the experience so far
Mohammed Amin Umar, Babunu Abubakar & Haman Diram

Curbing Impunity in International Law: An Appraisal of Sanctions Enforcement for International Crimes and Egregious Abuses of Human Rights
M. E. Nwocha, Anoke Uwadiogwu

International Maritime Zones: The Relevance of National Legislation and Judicial Decisions in Nigeria
Dr. Junaidu Bello Marshall

Statutory Adjudication: A Panacea to Payment Problems in Construction Industry in Nigeria
Barakat Adebisi Badmus-Raji

International Development Law: A Legal Assessment of Private Sector Participation in the Economic Development Process in Nigeria
Enya Nwocha, Ph.D

**A Publication of the Department of International Law and Jurisprudence,
Faculty of Law, Ebonyi State University, Abakaliki.**

**EBSU JOURNAL OF INTERNATIONAL LAW
AND JURIDICAL REVIEW**



VOLUME 2, APRIL 2012

**AN ANNUAL PUBLICATION OF
THE DEPARTMENT OF JURISPRUDENCE
AND INTERNATIONAL LAW,
FACULTY OF LAW, EBONYI STATE UNIVERSITY,
ABAKALIKI, NIGERIA**

Citation (2012)2 EBSU J. Int'l L & Jur. Rev. (EBSU J.I.L.J.R)

First Published 2012

@ Department of Jurisprudence and International Law, EBSU

All rights reserved. No part of this publication may be reproduced, stored in retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopy, recording or otherwise without the prior permission of the publisher.

ISSN 2141-4602

TINK GRAPHICS
31 Port Harcourt Street
Ogui New Layout, Enugu
Tel: 08167786263

EDITORIAL BOARD

Editor - in - Chief

Dr. H.H. Mensah

Asso. Prof and former Head, Dept., of Jurisprudence and International Law, Faculty of Law, Ebonyi State University, Abakaliki.

General Editors

Hemen P. Faga

Lecturer, Faculty of Law, EBSU.

Anoke Uwadiogwu Esq.

Head, Dept. of Jurisprudence and International Law, EBSU

EDITORIAL ADVISORY BOARD

Prof. M. C. Okany

Former Dean of Law, EBSU

Prof. G. O. S. Amadi

Faculty of Law, UNN

Prof. D. Ijalaye, SAN

Emeritus Professor of Law, Obafemi Awolowo University

Prof. M. T. Ladan

Faculty of Law, ABU

Prof. A. O. Popoola

Dean, Faculty of Law, Obafemi Awolowo University

Prof. Andrew I. Chukwuemerie, SAN

Faculty of Law, EBSU

Prof. Charles Ilegbune, SAN

Faculty of Law, University of Abuja

Prof. U. J. Osimiri

Faculty of Law, Rivers State University of Science & Tech.

Prof. Ibidapo Obe

Faculty of Law, University of Lagos

Prof. B. O. Okere

Faculty of Law, UNN

A CRITICAL ANALYSIS OF THE LAW AND CHILD ABUSE IN NIGERIA

Bashir Leke*

ABSTRACT

The rate and dimension of child abuse in Nigeria is alarming. It requires urgent attention of not only government but also parents as well as the society at large. The giant strides taken by government through various mechanisms to check the incessant abuse of children is encouraging, but much still needs to be done. The enactment of various laws both at the national and state levels to check the abuses has yielded some results. However, more obviously needs to be done to reduce the spate of child abuse in Nigeria. This paper examined the various laws enacted by government to arrest the incessant abuse of children in Nigeria. It assessed the efficacy of these laws especially at the state level with particular reference to Kwara State Laws

1. INTRODUCTION

It is a notorious fact that child abuse has become so endemic in Nigeria that one then wonder whether it has been legalized and if not, what is the government is doing to curb the menace in our society. Nigerian children have been and are subjected to various forms of inhuman treatment, servitude, torture, cruelty, deprivation, neglect and all sorts of intimidation.

It is saddening and disheartening to see the hordes of children on our highways hawking, petty trading and being exposed to danger all in quest to earn a living for their families. In the rural areas children are also subjected to different forms of labour disproportionate to their ages and status, where they are made to work as house boys or girls, often in dehumanizing circumstances. Although, child abuse in the form of child labour is widespread in Nigeria, little effort is made by government to enforce the law, where available against perpetrators to deter others from continuing to engage in the practice. Thus, it seems the law has been rendered moribund, toothless and ineffective against this hydra-headed problem in our society. This paper examines the concept of child abuse in Nigeria, types and causes of child abuse, the various laws against child abuse and different methods of

*Lecturer, Faculty of Law, University of Ilorin, Kwara State, Nigeria.

prevention of the menace in Nigeria. Lastly, the paper will make recommendations on how to arrest the pandemic of child abuse in Nigeria.

In the next section that follows, the definition, types and causes of child abuse will be discussed. Section three assesses the existing child abuse laws in Nigeria. Section four discusses the likely measures that can be sued to prevent child abuse in Nigeria. The conclusion is contained in the last section.

2. CHILD ABUSE

2.1 What is Child Abuse

It should be noted that, in a wider context, child abuse now includes any form of deprivation or neglect to which a child is subjected in the family or the society, there is a false impression that it does not exist in the traditional African Society. This concept has been created by the sociological concept of protection, love and care enjoyed by the child within the extended family system and his cultural milieu. Some aspects of traditional child rearing practices inflict physical and emotional trauma on the child especially in the areas discipline and treatment of diseases involving burns and scarifications.¹

2.2 Types of Child Abuse in Nigeria

It is pertinent to highlight the various types of child abuse for the proper understanding of this concept. Child abuse may be physical, social, emotional, nutritional or sexual. It is physical where the forms of injuries affect the musculo-skeletal system, the brain and other internal organs. Such injuries result in bruises, fractures, suduralhacmatoma or damage of organs such as the spleen, kidney or eye. Physical abuse may also occur in the form of burns.

Also, child abuse becomes social where there is neglect and subsequent abandonment and it may be associated with physical abuse. On the other hand, emotional child abuse arises where the child is deprived of adequate mother-child relationship, and may be ridiculed because of a handicap. There may also be persistent verbal harassment, such a child is also likely to be abused physically.² According to Klaus et al., another form of child abuse is called nutritional

¹F. Ofodile, J. Norria and A. Ganes, "Burns and Child Abuse", *East African Medical Journal*. Vol. 56, (1978). p.25.

²*Ibid*, p.27.

child abuse.³ It is a form of abuse where the child is neglected or deprived and undergoes physical, emotional and social abuse. These abuses result into a child who is severely malnourished, emotionally upset and probably mentally retarded.

The most common form of child abuse is the sexual abuse – although not common in the Nigerian society. It occurs particularly when young girls are hired out as child-minders to other families. A form of sexual abuse seen in Nigeria is one in which young adolescent girls are introduced by older women to men in important positions. Such older women often do so in expectation of special or financial rewards. Some of the girls became single parents who eventually physically abandon their children. Very few cases of incest have been reported in Nigeria. However, sexual abuse may be a hidden pediatric problem.⁴

2.3 Causes of Child Abuse in Nigeria

It is pertinent to highlight some causes of child abuse in Nigeria most of which are socially influenced. According to Kempe, child abuse is increasingly recognized as a social problem, especially with the rapid rate of urbanization, childbirth, unemployment, single parenthood, separation, divorce, financial and other social stress.⁵ The U.S. National Centre for Child Abuse and Neglect estimates that at least one million cases of child abuse occur annually in the United States of America, which results in about 2,000 deaths. Child abuse may be considered as the outcome of abnormal interactions between the child, parents or guardians and society.⁶ Another significant cause of child abuse in Nigeria is the rate of poverty in the country. The average Nigerian uses all manner of ways to survive given the deplorable living conditions most people face, without any regard to societal values, norms and the law of the land.

3. LAWS ON CHILD ABUSE IN NIGERIA

It is pertinent to know that child abuse has become not only the concern of sovereign states but also that of the international community. The United Nations through its numerous regional and subordinate organizations have stood in defense of incessant child abuse and have put machineries in place to prevent the menace. One of such

³H.H.Klaus and J.H.Kenneli, *Maternal-Infant Bonding: The Impact of Early Separation or Loss on Family Development*, (Saint Louis: The C.V. Mosby Co. 1976), p.23.

⁴C.H.Kempe, "Sexual Abuse. Another Hidden Pediatric Problem", The 1977 C. Anderson Aldrich Lecture. *Pediatrics*, Vol. 62, (1978), pp. 382-389.

⁵*Ibid.*, p.390.

⁶See British Medical Association, (Editorial). "Child Abuse: The Swing of the Pendulum". *British Medical Journal*, Vol. 283, 1981, pp. 170-173.

organizations is the United Nations Educational Fund (UNICEF), which has as its main objective the task of ensuring that a child attain an appreciable level of education. That is, education and learning must be provided to the child by government. This, it is believed will automatically breathe an air of belonging to a child thus, saving him or her from abuse.

In Nigeria however, although there are legislations on the subject of child abuse, many non-governmental organizations still exist that defend the incessant abuse of children, such as the Women Trafficking and Child Labour Eradication Foundation (WOTCLEF). Interestingly, Nigerian children are protected by laws against all forms of abuse including assault, intimidation, torture and deprivation under such laws as the Children's and Young Persons Laws of Kwara state.⁷ The protection is also enshrined under Section 17(3) of the 1999 Constitution (as amended) which provides as follows:

That the state shall direct its policy towards ensuring that children, young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect.⁸

Under the Children's and Young Persons Laws of Kwara State 2006, juveniles in need of care include an orphan or child deserted by his parents, a child neglected or ill-treated by the person having care and custody, a child found begging and receiving alms, and a child exposed to moral danger. Such a child may be brought before a juvenile court and a committal order may be issued: -

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

The law further stated that, it is an offence:

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

⁷Cap 49, Laws of Kwara State of Nigeria, 2006.

⁸Constitution of the Federal Republic of Nigeria, 1999 (as amended).

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

- (i) willfully assault, ill-treats, neglects, abandons or exposes the child or causes or procures the child to be assaulted, ill-treated, neglected, abandoned or expose in a manners likely to cause the child unnecessary suffering or injury to health, including injury to or loss of sight or hearing or limb or organ of the body or any mental derangement, or
- (ii) exposes the child to the risk of burning by allowing him to be in any place near an open fire without any protection or guard against the risk of the child being burnt or scalded or without taking any reasonable precautions against the risk, or
- (iii) leaves the child unattended to by any person over the age of seventeen in a motor vehicle-shall be guilty of an offence and liable upon conviction to a fine not exceeding one hundred pounds or to a term of imprisonment not exceeding two years.

Furthermore, the law states that any person who causes or allows a juvenile to be used for the purpose of begging or for the purposes of trading or hawking between the hour of 8:00p.m. and sunrise shall be guilty of an offence and liable upon conviction to a fine not exceeding one hundred pounds or to a term of imprisonment not exceeding two years.

It is however very saddening and disheartening to observe that in spite of these enactments and legislation on child abuse, our society is yet to be rid of the menace of child abuse. It has become so endemic that the law is rendered ineffective in curbing the menace. It is important to observe however, that the situation is not surprising because the government has been unresponsive to the living conditions of the people, especially in reducing the rate of poverty in the land. People cannot but resort to trading with their children in order to make ends meet.

4. PREVENTION OF CHILD ABUSE IN NIGERIA

To arrest the incessant abuses of Nigerian children, the government, parents as well as the society has major roles to play. The government is recommended to ensure effective and efficient enforcement of laws that protect children against abuses by

putting in place monitoring groups to identify and prosecute defaulters. It is also recommended that efficient and effective educational policy with more emphasis on health education be adopted. This should be taught especially to young families and the importance of love, care and close parental attachment to the child from birth should be emphasized. The unique child rearing practice of breast-feeding which enhances maternal-infant bonding is rapidly on the decline in Nigeria especially among urban elite mothers. It has been suggested that early mother-child separation may lead to subsequent battering of the child. Breast-feeding must be encouraged not only for its intensive advantage, but also for its psychosocial importance. Infants, who require prolonged hospitalization such as those with low birth weight or congenital malformations, should be visited frequently and touched by their mothers.⁹

Burstein, observed that the large number of infants abandoned in urban areas is a result of influx of young unmarried girls from rural areas who remain without any gainful and decent employment thereby involving and indulging themselves in the nefarious job of prostitution in urban centres.¹⁰ There is also the need for public enlightenment and education of parents of children affected by disability not to subject them to public ridicule and torture but to make available adequate health and medical care. At the same time, there should be improvement of health facilities in order to correct and manage the outcome of child abnormalities and the eventual rehabilitation of such children.

It is strongly advocated that parents play significant roles in the prevention of child abuse. Parents are thus advised to resist inflicting injury on their children or their wards. Guardians or child-minder also contributes to child abuse. A mother who is strict and metes out corporal punishment on her child may unwittingly precipitate physical abuse on her child during her absence from home. It is not unusual for a child to have as many as four child-minders within the first year of life. This frequent change of the mother substitute does not enhance attachment and distorts the emotional development of the child.

Most importantly, the society can play significant roles in arresting the incessant child abuse in Nigeria. This can be achieved where adequate accommodation, recreational facilities, regular water and electricity are supplied. People should be re-

⁹B.Egeland and L.A.Sronfe. "Attachment and Maltreatment", *Child Development*, Vol. 52, (1981), pp.56-61.

¹⁰M.H.Burstein. "Child Abandonment: Historical, Sociological and Psychological Perspective-Child Psychiatric", *Human Development* Vol. 11, pp. 213-21.

oriented to find for themselves self-employed job to do, so as to minimally provide these basic necessities of life. A child born into a large family which lives in an overcrowded one-room accommodation in the peri-urban slum is likely to be abused by an irritable and stressed parent. Lack of provision of adequate educational and recreational facilities in the society contribute to emotional and social neglect of the child. The unemployed single parent is likely to abandon her child to the society.

It may still be relevant, effective and efficient to re-enact specific laws against this malpractice but the lukewarm attitude towards enforcement of these legislations should be stopped. Children who are at risk in such circumstances could be fostered or adopted to other families outside the community. The survival and success of these children in later years will convince these people about the facility of their inhuman traditional beliefs and practices.

5. CONCLUSION AND RECOMMENDATIONS

Finally, it is the responsibility of all and sundry, the government, parents and the society to see to the eradication of the child abuse. The drastic and prompt steps taken by the Federal and State Governments to establish Child Welfare Committees to carry on the objectives of the International Year of the Child - namely to uphold the Rights of the Child as embodied in the Declaration adopted by the General Assembly of the United Nations in 1959 is commendable. It is therefore hoped that, these Child Welfare Committees will, in addition to other functions, keep Registers of children of risk especially those who have already been exposed to abuse.

Also commendable is the effort of the Chairperson and founder of Women Trafficking and Child Labour Eradication Foundation (WOTCLEF), in the eradication of child abuse and trafficking which has resulted in a bill been passed to law on the subject by the National Assembly.

More importantly, those who persistently indulge directly or indirectly in any form of child abuse should be made to face the wrath of the law. Not only that, the children too who are grown up should not always be seemed to be victim as punitive measures can also be laid down to discourage perpetration from the child abuser and the victim. This it is advocated would not make our laws and legislation on the subject to exist only in our statute books thereby making them ineffective, inefficient and unenforceable.