

HUMAN RIGHTS LAW IN NIGERIA: IMPLEMENTATION FOR THE GIRL-CHILD.

by

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Abstract

Human rights are such rights that are attached to one by the mere fact of being born as a human being. These rights include Civil, Political, Social, Economic and Cultural rights. Most often, some of these rights are denied the girl-child because of gender disparity. For instance, in some families, girl-children are denied education in preference to their male children. Children and youths are entitled to certain human rights specifically linked to their status as minors and to their need for special care and protection. Girl children are particularly vulnerable to certain human rights violation and therefore require additional protection. Some parents/guardians often push their girl-children into street trading until late hours of the night. This practice is responsible for many unwanted pregnancies arising from rape, resulting to child dumping/killing. The 1979 Nigerian constitution under its Fundamental objectives and Directive Principles of State Policy has in S. 17(13) (f) prohibited any exploitation and neglect of the child. This is because every child (boy/girl) occupies a unique and privileged position in the African society. Human rights education for the youths as the nation's future men and women will go a long way to eliminate ignorance on human rights problems. It is common knowledge that, one person's right ends where the other person's right starts.

Introduction

Every human being is naturally endowed with certain rights on account of his/her humanity. Human rights are such rights that are attached to one by the mere fact of being born scientifically, as a human being. They are those rights that accrue to man in his capacity as a "homo sapiens" "(a wise and sensible animal or being)" (Egbomuche, L. 2006). Human rights are inalienable and inherent by virtue of the human condition of existence and cannot be taken away from men and women by force. While laws under different municipal legal systems may differ; the human rights to which each person is entitled are rights in international law. For instance, human right to a fair hearing is the same for a person who lives under a legal system

of common law, civil law or Roman law. The obligation is on a state to ensure that their discreet legal systems reflect and protect the international human rights of persons within their jurisdiction. Human rights differ from fundamental human rights technically in the sense that they are wider in scope. Fundamental human rights are human rights that have been recognized by the state and given state support. An important development during the World Conference on Human Right held in Vienna in 1993 is the adoption of the declaration that:

“All human rights are universal, indivisible, interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner on the same emphasis. While the significances of national and regional particularities and various historical, cultural and religions back-grounds must be borne in mind, it is the duty of the states regardless of their political, economic and cultural system to promote and protect all human rights and fundamental freedoms”. (Eze O. O. 2004).

The writer sees human rights as one of the basic rights which human society think every person should have to be treated in a fair equal way without cruelty and guaranteed by the government.

Human Rights and Children (boy/girl)

The definition of child/children is/are generally directly or indirectly related to age. A child is simply defined as any person who is not yet an adult and has not attained the age of fourteen years. These set of persons belong to what is referred to as vulnerable group because they cannot fight for themselves. In 1959, the United Nations General Assembly adopted the Declaration of the Rights of the Child. It marked the first major international concensus on the fundamental principles of children’s rights. The content of the Declaration of the Right of the Child stipulates that the child is recognized, universally as a human being who must be able to develop, physically, mentally, socially, morally, and spiritually with freedom and dignity. These declarations also highlight children’s need for special care and protection “including appropriate legal protection before as well as after birth.” Human rights are universal and civil, political, economic, social and cultural rights belong to all human beings including children and young people. Children and youths also enjoy certain human rights specifically linked to their status as minors and to their need for special care and protection. Girl-children are particularly vulnerable to certain human rights violations and therefore require additional protection. The human rights of children and girl-children are explicitly set out in the Convention on the Rights of the Child, the most widely ratified human rights treaty in history. They are also contained in other human Rights documents including the Universal Declaration, the Covenant, Convention on Elimination of All Forms of Discrimination against Women (CEDAW), and other widely adhered

to international human rights treaties and declarations. The two most important international laws on the protection and promotion of the rights of the child are the United Nations Convention on the Rights of the child (1989) and Organisation of African Unity (OAU) Charter on the Rights and Welfare of the Child (1990). The charter was adopted by the Assembly of Heads of States and Governments of the Organisation African Unity at its sixteenth Ordinary Session in Monrovia, Liberia from 17th – 20th July 1979. It recognized the need to take all appropriate measures to promote and protect the rights and welfare of the African child. Every child occupies a unique and privileged position in the African society. The 1979 Nigerian Constitution, under its Fundamental Objectives and Directive Principles of State Policy has in S. 17(3)(f) prohibited any exploitation and neglect of the child. The situation of the Nigerian child especially girl-child today seems to point to the fact that the constitutional rights of the child are totally disregarded (Akpala & Uzoho 1997).

The Rights of the Child (boy/girl)

Human rights are generally grouped under five sub-headings, namely: Civil, Political, Social, Economic and Cultural Rights. For the purpose of this write-up the sub-headings will be collapsed into these postulations:

- (i) The human right to freedom from discrimination based on gender, age, race, colour, language, religion, ethnicity, or any other status, or on the status of the child's parents.
- (ii) The human right to a standard of living adequate for a child's intellectual, physical, moral and spiritual development.
- (iii) The human right to a healthy and safe environment.
- (iv) The human right to the highest possible standard of health and to equal access to health care.
- (v) The human right to equal access to food and nutrition.
- (vi) The human right to life and to freedom from prenatal sex selection.
- (vii) The human right to freedom from cultural practices, customs and traditions harmful to the child, including female genital mutilation.
- (viii) The human right to education – to free and compulsory elementary education, to equal access to readily available forms of secondary and higher education and to freedom from all types of discrimination at all levels of education.
- (ix) The human right to information about health, sexuality and reproduction.
- (x) The human right to protection from economic and sexual exploitation, prostitution and trafficking.
- (xi) The human right to freedom from forced or early marriage.
- (xii) The human right to equal rights to inheritance.
- (xiii) The human right to protection from all physical or mental abuse.

- (xiv) The human right to express an opinion about plans or decisions affecting the child's life (Matthur, S. 2003).

The violation of children's human rights is manifested in various degrees and instances of child abuse and neglect abound. Child abuse has been variously defined as "Any act of cruelty and denial of parental affection to a child" (Justice Oyedepo: C.J. Kwara State 1990)

Abuse and neglect imply the failure to act properly in safe-guarding the physical health, safety and well-being of a child (Pietela and Vickers 1990). The concept of child abuse and neglect comprise of both commission of an exploitative and harmful behaviour as well as omission of positive behaviour (Cvok, 1980) (Egbomuche, L. 2006). Child abuse and neglect consist, inter alia, physical abuse and neglect, emotional or psychological abuse, child abandonment, sexual abuse and exploitation, child labour, child educational neglect, institutional neglect et. Any form of abuse or neglect is an infringement or violation on the rights of the child. Beijing Platform for Action (1995) advocated that each country should combat human right abuses against young people, particularly young women and girls, and should consider providing all youths with legal protection, skills, opportunities and the support necessary for them to fulfill their personal, economic and social aspirations and potentials. It is observed that the girl-child is the most affected in human right violation. Most often even some parents go out of their way to grossly abuse their children in various forms, believing that they have authority and the right to do so even at the detriment of the child's development. For instance the education of the girl-child in our culture, suffer great neglect and abuse. This is because education of the girl-child is neglected based on sex and gender ideologies informed by culture and tradition. Culturally, it is more acceptable to train a boy than a girl. Some illiterate parents believe that sending the girl-child to school means training her for another family because she will get married and the money used in training her would be a waste. Thus girl-children are sent to hawk or engage in other child labour to support the male children. This harmful social practice has caused many Nigerian children their lives or robbed them of their human dignity. The practice is also responsible for many unwanted pregnancies rape, resulting to child dumping/killing. It can be said that poverty and ignorance are major causes of girl-child's educational neglect, and the government, the society and the family are collective abusers of the rights of the girl-child to education. In Nigeria, there has been high incidence of child marriage with all its attendance devilish consequences, namely, denial of education to the girl-child, which affects her social, and economic status in the society, high incidence of maternal and infant morbidity and mortality.

Another serious violation of the girl-child's rights is Female Genital Mutilation (FGM). This involves a number of traditional operations that involve the cutting of parts of the female genitalia or other injury to the female genitals, whether for cultural or other non-therapeutic (curative) purpose. This is usually performed

during infancy, childhood or adolescence. FGM is female circumcision and it is a total violation of women's dignity and right to privacy. The forceful nature of the act is akin to sexual violence. Thus, there is need for legislative change and advocacy to prevent FGM, and its adverse effects on the women and girl-children.

The Role of the Government in the Implementation of human rights of the girl-child.

The Nigerian government is yet to adopt a specific document on the rights of the child. The Federal Ministry of Women Affairs and Social Development, in collaboration with United Nations Children's Fund (UNICEF), the National Child's Rights Implementation Committee and Smithklim Beecham, Nigeria Plc have produced a Booklet titled Nigeria and The Rights of the Child (1989), and the OAU Charter on the Rights and Welfare of the African Child 1990. A follow-up effort made for the protection and promotion of the rights of the child is the OAU proclamation in 1991, that the 1990's is the "Decade for the African child" The proclamation set aside June 16, of every year as the "Day of the African Child". Although the Nigerian Government has not adopted any specific instrument on the Rights of the child, yet there are several laws by which the rights and the interests of the Nigerian child are protected. First of all, the constitution of the Federal Republic of Nigeria (1979), Chapter IV, S. 39, gives a blanket protection to the rights of every citizen without any form of discrimination. In addition to this overall protection of everyone's rights, the Constitution makes special references to the interest of the child under S, 17(3)(f) which states as follows:

"The state social order is founded on the idea of Freedom, Equality and Justice. 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".

The above postulations are good but unfortunately the government is not doing much to see them enforced. Hawes, (1975:17) reminds us that good intentions are of little value, unless they are followed with constructive planning and backed by the means, the men and the materials to make the plans work. In her own opinion, Funmi Falana contends that the problem of Nigerian women today is not the absence of legal provisions as to their rights; it is more of age-long disregard for gender equality (Kalu & Osinbajo 1989). The laws which are supposed to protect these women's rights have not performed up to expectation and have rather impeded the status quo of the womenfolk and girl children tremendously. For instance, The Marriage Act, (1956) Section 3(1) provides that "a marriage between or in respect of persons either of whom is under the age of sixteen shall be void". Thus under the law, 16 years is the minimum age for marriage. Unfortunately, what happens today is a 60 year old man marrying a 13 year old girl and the government keeps silent about it. The high incidence of child marriage in the country is pitiable because the

girl-child is exposed to many dangers. If she becomes pregnant at that age there is the possibility that if child labour is prolonged it may lead to the damage of the bladder and the surrounding organs resulting to Visco-virginal fistula (VVF), and the so called husband will abandon her. Her education and career are also ruined.

Most often, the girl-child is sent as a house – help to another family where she is discriminated against and all forms of maltreatment meted out to her. This is because the government that promised free education has failed the masses. Some of the parents who cannot afford to pay school fees/levies often send their children to hawk, work (child labour) or as house-helps. It is high-time the government did something about these deplorable situations.

Know your “Rights” awareness education.

Education inculcates the skills that are required to provide the services for maintaining the society and at the same time provides the means of livelihood to those with such skills (Obinna, 2008). Furthermore, it provides the means for perpetuating the values, and attitudes required in such society for cooperative co-existence. Therefore education in human rights and the dissemination of proper information, both theoretical and practical, will play an important role in the promotion and respect of human rights with regards to individuals without distinction of any kind such as race, sex, language or religion, and thus should be integrated in the education policies at the national and international levels. Supporting this human right education, The United Nations declared the period of 1995 – 2004 as the United Nations decade for human rights education. Furthermore, governments are being encouraged by the High Commissioner for Human Rights to adopt, in commemoration of 50th Anniversary of the Universal Declaration of Human Rights (1988), a national plan of action for Human Rights Education (1995 – 2004) as mentioned earlier. Contributing, (Akpala & Uzoho 1997) opined that taking up human rights education at the level of Senior Secondary School (SS1 – SS3) will increase the rate of growth of human rights awareness among Nigerians. According to them, this class of children will have enough understanding of the subjects of discourse to be able to take the knowledge acquired during the human rights education back to their respective homes and communities. Having imbibed the human aspects of life through the human rights seminars/workshops, the children will grow up to appreciate the necessity to accord their fellow human being equal rights, respect and equal opportunities as well as accept to discard traditional harmful practices which hamper human development and which constitute grave danger to human existence.

Contributions of Non-governmental Organisation in the Promotion and Protection of the Rights of the child (girl).

The efforts being made by non-governmental organisations (NGOs) in the protection and promotion of the rights of the child are commendable. Some of these Nigerian NGOs include, The African Network for the Protection and Prevention Against Child Abuse and Neglect (APPCAN), Federation of Female Lawyers (FIDA) Yordel Africa, Development Education Centre (DEC), Society for the Welfare of Women Prisoners (SWEWP) and women. In Nigeria (WIN). These organisations in collaboration with United Nations Children's Emergency Fund (UNICEF), the British Council and other Donor Agencies have been involved in massive campaigns against violations of the rights of the child. It is worthy of note that some of the organisations have produced publications to support such campaigns. All these efforts made by these notable organisations point at the fact that the child, especially the girl-child, needs to be protected as she is the most vulnerable in the society.

Recommendations

The writer believes that observation of human rights law is an imperative for human development and existence and therefore recommends as follows:

1. The government must ensure that her discreet legal systems reflect and protect the international human rights of persons within their jurisdiction;
2. Special attention must be paid to the rights of the child as the child cannot protect or fight for herself;
3. All forms of child abuse, e.g child labour, child marriage, child abandonment should be punishable by law;
4. Government to adopt a specific document on the rights and privileges of the child;
5. Government to partner with NGOs to see that the child's right act is enforced in the society;
6. Government to include in the school curriculum education on human rights as part of social studies.

Conclusion

Human rights are such rights that are attached to one by the mere fact of being born as a human being. Human rights are generally grouped under five sub-headings namely: Civil, Political, Social, Economic and Culture Rights. Human rights differ from fundamental human rights technically in the sense that they are wider in scope. However, there are rights which are peculiar to the child. The Declaration of the Rights of the child stipulates that the child is recognized, universally, as a human being who must be able to develop, physically, mentally, socially, morally, and spiritually with freedom and dignity. Child abuse is a grave offence and should be discouraged. Efforts of the Non-governmental Organizations

(NGOs) are recognized in their contributions in fighting the violation of the right of the child especially the girl-child. Human Rights education should be inculcated in the school curriculum so that the child will know his/her right. It is hoped that this write-up will achieve its major objective of reducing the social ills and conflicts which have resulted to incessant violation of human rights of the girl-child.

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