

# **LEGAL IMPLICATIONS OF CHILD ABUSE AND CATHOLIC INSTITUTIONS**

## **INTRODUCTION:**

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 and Nigeria is not left out. Given this serious effort, one would have thought that this menace will not persist. However, a look at the society shows that child abuse occurs not only at home but has found its way into the school system thus constituting a barrier to the attainment of sound educational development in the country. Child abuse can occur in different places such as homes, organisations, schools or communities, which influence the child's socialisation process. According to psychologist, child abuse has serious implications not only on the child but the larger society. The consequences could include an immediate physical and psychological effect which includes higher rates of chronic conditions, health behaviour, shortened lifespan and cases of maltreated children turning out as abusive adults. Researches have proven that 75 percent of abusive adults were once maltreated as children. Children who are abused are likely to be deficient of vital moral values and this foretells potential disaster to a society's social structure. Such persons naturally grow up to be antagonistic<sup>1</sup> to the society.

This paper discusses the legal aspects of child abuse and the Catholic Institutions and its impact on the educational development of the child. Based on the prevalence of this antisocial behaviour in the school and the society in general, there is need for public enlightenment programme and education about the Child Right Act (CRA) 2003 to sensitize the public on the rights of children and combat the mass ignorance on the acts that constitute abuse and to protect the Nigerian child against these abuses so as to benefit maximally from the provisions of the CRA.

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<sup>1</sup> <http://thenationonlineng.net/effects-of-child-abuse/>

## **Meaning of the Phrase ‘Legal Implication’**

This phrase ‘Legal implication’ is simply referred to the result or consequence of being involved in something according to the law.<sup>2</sup> A good example is the case of marriage. As a consequence of being married, all property is considered co-owned as long as you acquired after you got married. A legal implication can either be positive or negative. If you are caught driving when drunk, the legal implication is negative. The implication is considered negative because it works against your favour.

However, if your employer discriminates against you on the basis of your race or gender, then the legal implication is considered positive. If you decide to sue your employer, then the case will work in your favour as long as you prove your claims.

It is so unfortunate that legal implications are ignored in everyday life. The sad thing is that they still affect people in both positive and negative ways.

## **What is Child Abuse?**

First and foremost, a child is a person that has not attained the age of 18.<sup>3</sup> For centuries, the Nigerian child has been seen as “an instrument or property with no absolute privilege of its own”. In the traditional African society the belief was that children should merely be seen and not heard. Children were not allowed to listen to adults’ discussions/ conversation let alone make contributions. This situation was prevalent not only in the society but found its way into the educational system. Consequently, teachers only allowed children to make contributions when they deemed necessary. Recently, there has been serious concern about the fundamental rights of 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

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<sup>2</sup> Retrieved at <https://www.cleverism.com/lexicon/legal-implication-definition/>

<sup>3</sup> Mfonobong E. Unobong: “Child Abuse and its Implications for the Educational Sector in Nigeria”. Retrieved online at <https://www.ajol.info/index.php/og/article/viewFile/57927/46293>

There is no generally accepted definition of child abuse as a result of differences in the perception of what generally is acceptable as abusive or not. The African Network for Prevention and Protection Against Child Abuse and Neglect (ANPPCAN) defines child abuse as “the intentional, unintentional or well intentional acts which endanger the physical health, emotional, moral and the educational welfare of children.

Child abuse can be seen as any act of omission or commission, physical or psychological mistreatment or neglect of a child by its parents, guardians, caregiver or other adults that may endanger the child’s physical, psychological or emotional health and development. In this definition, wrongfully maltreating a child or selfishly making an unfair use of a child’s services by adults responsible for the child constitutes child abuse. Thus the adult may not be directly related to the child but a person in whose care the child is left can be an abuser. This may include the educators, healthcare workers, day care workers, or other responsible adults.<sup>4</sup>

## **Catholic Institutions**

### **An Overview on Child Abuse**

In the traditional African society, the training of the child was the sole responsibility of the parents and the members of the community who had the right to discipline and correct the child whenever they went wrong. The parents trained the child in a way that is suitable and acceptable to the standard of the society.

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<sup>4</sup> Child Welfare Information Gateway, 2008.

Following the advent of western education and the introduction of nursery and pre-primary schools, parents tend to give over the responsibility of guiding, directing, counselling and role modeling of the children to the school. Thus, putting more demands on the school to do what the parents should do in addition to their normal school functions. Parents now push over the responsibility of caring for their children to the school. Many young children who would have been at home at about two years have been pushed over to the school. The tasks thus become enormous for the teachers and the school management to carry leading to many children being neglected, despised and abused on a daily basis. This clearly undermines the provision for the right of the child on 'protection against indecent and inhuman treatment like abuse and neglect' earlier stated. Rather, the child has been subjected to all kinds of maltreatment, is not protected, valued nor defended. Most times, the treatment meted out to young children as corrective measures constitutes one form of abuse or the other.

It is evident that child abuse is a serious global problem that is deeply rooted in cultural, economic and social practices and occurs in a variety of ways and places. According to the National Child Abuse and Neglect Data System (NCANDA) 2006<sup>5</sup> report; in the United States for instance, more than 900,000 children suffer severe or life threatening injury and some (1,000 to 2,000) children die as a result of abuse and those who survive often suffer emotional trauma that may take long for the bruises to be healed. In the same vein, our Nigerian society is still plagued with incidences of child labour, child maltreatment, child marriage, child trafficking, neglect, and child prostitution. The effects of such abuses are many and varied including teenage pregnancies/mothers, youth restiveness and violence, cultism, youth decadence, joblessness, armed bandits, molestations, and school dropouts. These menaces have eaten into the life of most Nigerian children.

These abuses take place not only at home and undertaken by persons known to and trusted by the child, but also in the school where the child spends a greater part of his/her early life. In most literature, child abuse is studied as it relates to the home and the society. Few authors have

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<sup>5</sup> Reported by Gelles (2009)

bordered to look into the issue of the child as it relates with the school system. The fact that the society has a strong belief in education system (school) in the task of helping children develop their abilities, attitudes, values and good judgment may make one not to think of child abuse as occurring in the school.

Yet, incidence of abuse abound in schools and sometimes in subtle ways unknown to the school authorities but at the same time posing serious dangers to children at the same time having damaging and far more consequences on the life of the child. If the school, which is supposed to be a custodian of knowledge as well as functioning as an avenue for the optimum development of the child fosters and indulges in child abuse, then one wonders how children will benefit from the process of education.

The question one is bound to ask is why are there still incidence of child abuse in the school? Is it that the school authorities do not understand what constitutes child abuse or overlook these abuses since they are ingrained in our culture? What are the implications of child abuse to the education system? It is in answer to these questions that this paper sets out to discuss the implications of child abuse and Catholic institutions in Nigeria.

### **Forms of Child Abuse**<sup>6</sup>

Child abuse can be broadly categorized into five perspectives namely physical abuse, emotional abuse, sexual abuse, neglect and child exploitation (child labour).

1. Physical Abuse: Physical abuse may be seen as the inflicting of a non-accidental bodily injury on a child. The injury may not have been intended by the parent or caretaker and is not an accident but may be due to over-discipline or corporal punishment that may not be appropriate or is unjustifiable for the child at that age.

2. Emotional Abuse: Emotional abuse is also known as verbal abuse, mental abuse or psychological maltreatment. Emotional abuse is an

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<sup>6</sup> <https://www.ajol.info/index.php/og/article/viewFile/57927/46293>

“acts or omissions by the parents or other caregivers that have caused, or could cause serious behavioural, cognitive, emotional or mental disorders”.<sup>7</sup> Emotional abuse can thus be seen as any attitude, behaviour or failure to act on the part of a caregiver which interferes with a child’s mental health, social development or sense of self-worth. It is probably the least understood, yet the most prevalent, cruelest and destructive type of abuse. It attacks the child self-concept making the child see his/herself as unworthy, worthless and incapable. When a child is constantly humiliated, shamed, terrorized or rejected the child suffers more than if he/she had been physically maltreated. The resulting effect is that most children often withdraw to themselves leading to depression and lack of concentration in school.

3. Sexual Abuse: Sexual abuse is defined as the employment, use of persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct.<sup>8</sup> It is the rape, and in cases of caretaker or interfamilial relationships, statutory rape, molestation, prostitution, or other forms of sexual exploitation of children or incest with children. As a result of the secrecy that characterizes these cases, sexual abuse is the most often under-reported form of child maltreatment. Sexually abused children experience emotional problems from a feeling of guilt and shame.<sup>9</sup>

4. Neglect: This is a failure to provide basic needed care for the child such as shelter, food, clothing, education, supervision, medical care and other basic necessities needed for the child physical, intellectual and emotional development. It is a situation where the guardians or parents fail to perform tasks that are necessary for the well being of the child which invariably can lead to the child’s health and safety being endangered.

5. Child Exploitation: Child exploitation often referred to as child labour or child trafficking involves the use of a child in work or other

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<sup>7</sup> The National Clearinghouse on Child Abuse and Neglect Information (2006)

<sup>8</sup> CAPTA (Khartri, 2004)

<sup>9</sup> (Corwin & Olafson, 1997).

activities for the benefit of others. Child exploitation is a systematic process of using children to work with little or no compensation and consideration for their health and safety.<sup>10</sup> These children are used to do hard works in the farms that are above their ages and some are made to hawk wares for long hours without food. Such children rarely benefit from education and will eventually drop out of school. By the time these children reach adulthood, they are physically, emotionally, morally and intellectually damaged.

### **A Glance into the Child Rights Act**

The Nigerian child is protected under the Child's Right Act and the constitution of the federal republic of Nigeria. These laws are put in place to ensure that a child is treated properly and with dignity.<sup>11</sup>

The United Nations General Assembly on 20<sup>th</sup> November 1989 adopted the Convention on the Rights of the Child (CRC), whilst the OAU Assembly of Heads of States and Governments (now AU) adopted the African Union Charter on the Rights and Welfare of the Child (CRWC) in July 1990.

In September 2003, Nigeria adopted the Child Rights Act to domesticate the Convention on the Rights of the Child. Although this law was passed at the Federal level, it is only effective if State Assemblies also adopt it. The Children's Rights Act 2003 (CRA) was created to serve as a legal documentation and protection of children rights and responsibilities in Nigeria.

However, more than 10 years after, only 24 States in the country have adopted the Act in their various states for onward enforcement.<sup>12</sup> These include; Abia, Akwa Ibom, Anambra, Benue, Cross River, Delta, Edo, Ekiti, Enugu, Imo, Jigawa, Kwara, Kogi, Lagos, Nasarawa, Niger, Ogun, Ondo, Osun, Oyo, Plateau, Rivers, Taraba etc. The implication of this passage ordinarily would mean that children are well protected and a breach of such act attracts a punishment to the offenders. But then the

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<sup>10</sup> (Newton, 2001).

<sup>11</sup> 15 Nigerian Children's Rights You shouldn't Toy with else You will be Jailed, by Bar. Princess Ogono. December 30, 2015. Available online at <https://infoguidenigeria.com/nigerian-childrens-rights/>

<sup>12</sup> <https://www.vanguardngr.com/2017/05/childrens-day-28-years-child-rights/>

question is, even in these states where the bill has been passed, to what extent are the child rights protected and enforced? If you visit motor workshops for instance, you will observe that 10 children of between 6-8 years old work in the mechanic village, (a small workshop) when they should be in school instead of going to learn how to repair motor. Most states, where the State Houses of Assembly has passed the CRA for instance, children are still branded witches and wizards and beaten and starved. In virtually all of these States, is a record of one instance of child abuse or the other. It may be sexually related, children may be denied basic means of livelihood, forced into labour, trafficking, hawking, etc. Some States that have assented to the law appear reluctant to enforce it because they believe that it would make children grow wild, but this in my view is not true. This same misconception probably is at the root of the reluctance to pass the Bill by states like Adamawa, Bauchi, Borno, Gombe, Kaduna, Kano, Katsina, Kebbi, Sokoto, Yobe, Zamfara States etc.<sup>13</sup> Advocacy should be widely accepted as the only way out. There is need to improve understanding of the issues contained in the Act. With proper understanding of the Act, I believe it will not take the remaining states time to pass the Act.

The law has three primary purposes:

- i). to incorporate the rights of the Convention on the Rights of the Child (CRC) and the African Charter into the national law,
- ii). to provide the responsibilities of government agencies associated with the law, and
- iii). to integrate children-focused legislation into one comprehensive law. It also acts as a legislation against human trafficking since it forbids children from being separated from parents against their will, except where it is in the best interests of the child,

The child is conferred with the right to life,<sup>14</sup> survival and balance development, right to a name and registration at birth, right to dignity and respect, right to privacy, family life and parental care, protection and maintenance. The child has right to free, compulsory and universal primary education, etc., right to health and heal services, leisure,

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<sup>13</sup> [https://www.unicef.org/nigeria/Child\\_rights\\_legislation\\_in\\_Nigeria.pdf](https://www.unicef.org/nigeria/Child_rights_legislation_in_Nigeria.pdf)

<sup>14</sup> <http://www.nigeriavillagesquare.com/articles/right-of-the-child-the-nigeria-experience.html>

recreation and cultural activities. The child has right to freedom of association and peaceful assembly and thought, conscience and religion, with the necessary guidance and direction of his or her parents, freedom from all forms of discrimination, right to be protected from child marriage and betrothal, tattoos and skin marks, exploitative labour within the family, sale, hire or use for the purpose of hawking, begging for alms, or prostitution.

Acts considered violation of the rights of a child:

1. A child can under no circumstances, enter into a contractual agreement. A child can also not be married before the age of 18. This is however subject of debate, considering the fact that some traditions permit such marriage with the consent of the parents.
2. A child must not be given any tattoo or skin marks, this offence is punishable with one month imprisonment and a fine of five thousand naira only.
3. A child cannot be used to produce or traffic narcotic drugs, this carries an imprisonment for life sentence.
4. Children cannot be used in criminal activities also, this carries a prison term of fourteen years if found guilty.
5. Any person who has unlawful sexual intercourse with a child commit an offence of rape and is liable on conviction to imprisonment for life. It is immaterial that the child gave her consent to the sexual intercourse or that the offender believed that the child was above eighteen years at the time of the intercourse.
6. Children cannot also be recruited into the army. This is expressly prohibited. If any of these rules are flaunted, a child development officer, a police officer, or any other person so directly by the state has the right to take the child from the parents or guardians to the court and present evidence of the child's neglect, abuse or maltreatment and the court will give notice to the parents of guardians of the child to rebut these claims. If it is found true, the court may send the child to a foster home or institution for destitute children.

## **CONCLUSION AND RECOMMENDATIONS:**

This paper has been able to show that child abuse and neglect is a global problem that takes place in many settings one of which is the school. Child abuse as discussed has serious implications on the educational system in Nigeria. It presents a serious drawback on the child educational development and thus hinders societal growth and development. The problem of child abuse in the education system requires adequate and efficient handling in order to improve educational development.

In the light of the serious consequences of child abuse as contained in the CRA 2003, especially when carried out in the education system,<sup>15</sup> it is therefore recommended that:

- i). There should be public enlightenment programmes to combat mass ignorance and public awareness on the right to freedom from all forms of child abuse;
- ii). As much as possible, teachers/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;
- iii). There should be provision of nurturing and supportive child friendly school, learning environment free from noise, distractions, discrimination and abuse of any kind;
- iv). A child should not be disciplined when the adult's anger is out of control;
- v). Intense awareness should be created among teachers and school managers using seminars, workshops and training programmes about what constitutes child abuse;
- vi). 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;

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<sup>15</sup> Available at <https://www.ajol.info/index.php/og/article/viewFile/57927/46293>

- vii). Teaching profession should be professionalized to ensure that there is no one teaching as a second best option, this would ensure that people in this profession really see it as their contribution to society's development; and
- viii). Penalty for teachers' who commit sexual abuse with their students should be severe enough to deter other perpetrators.
- ix). The Ministry of Education and National Teachers' Institute should ensure that teachers are equipped with counselling skills. This can be done by introducing short courses on counselling or ensure that such courses are compulsory at teachers' training institutions.
- x). Abused learners should be referred to professional counsellors for counselling. Abused learners need many counselling sessions for them to cope with their situations. Counselling is not a once off activity. Where such cases are reported, school administrations should invite professional counsellors to assist abused learners in their healing process.
- xi). Parents, school administrators, teachers should work hand-in-hand in handling abused learners in order to help them improve academically.

Based on the results of this study, it is recommended among other things that the effects of child abuse on children's classroom behaviour and later academic performance should receive attention in education policy forum; and that parents should always relate to their children with love and affection and also provide for their needs. In schools, these symptoms manifest themselves through students' inability to concentrate, complete school work in time, or understand schoolwork; being fearful, frustrated, stupid or bad about themselves; achieving low grades; and or being told they are lazy or slow.<sup>16</sup>

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<sup>16</sup> Larkin, H. (2009). Adverse childhood experiences linked to health risk behaviours. Policy and Practice of Public Human Services, 67(3), 14-16. Available online at <http://wje.sciedupress.com>