



DEFENCE FOR CHILDREN
International

Universal Periodic Review: Nigeria

March 2013

Defence for Children International Nigeria
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Introduction

Nigeria has the largest population of any African country, although there have been wide discrepancies in estimates of the total. The United Nations Population Fund estimates of the 2000 population is 116.9m, with a growth rate of 2.4%, while the World Bank estimate for 2000 is 126.9m with a growth rate of 2.4%. The countries current population is placed at 167million by the National Population Commission and the nation's growth rate placed at 2.3% per annum. The population figure draws its strength from the 2006 national census which was the last known census in Nigeria (The Punch Newspaper, 6 February 2012).

According to a study titled "World Urbanization Prospects", released by the UN recently, Nigeria will see the fastest urban population growth in the next 40years, with its cities expected to add 200 million people, making her the largest black nation in Africa. It is estimated that 40.9% of the population are under 14years with a 39.23births/1,000 population (2011 est.) (www.indexmundi.com/nigeria).

Nigeria ratified the United Nations Convention on the Rights of the Child (UN CRC 1989) on 19 April 1991, as well as the African Charter on the Rights and Welfare of the Child 1999 on 23 July 2001. There are other human rights treaties ratified such as the Optional Protocol to the CRC on the involvement of Children in Armed Conflict (8th September, 2000); the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography (8th September, 2000); the Optional Protocol to the Convention on the Rights of the Child (CRC) on the sale of children, child prostitution and child pornography and the Optional Protocol to the CRC on the involvement of children in armed conflict. The Child Rights Acts 2003 is the national legal document to protect children. Nigeria has 36 States and Federal Capital Territory (FCT) in Abuja, expected to domesticate into state laws the Act for effectiveness.

Presently, only a little above 20 states of the federation have passed the child rights law and this has affected children's protection especially in the states affected. Notwithstanding this scenario, it is worthy to emphasize that the CRA is applicable to all federal agencies and institutions operating in all states even where they have not domesticated the CRA.

The Federal High Courts sitting in such states can entertain cases concerning such bodies in relation to the rights of children. More importantly, the Supreme Court has the final powers to confirm or reverse any decisions arising from cases commenced at the lower courts, and is required to consider all relevant legislation to the matter at hand before arriving at a decision. These include the CRA (as well as the CRC and the ACRWC) irrespective of whether or not it has been domesticated into law at the state level. Such decisions are binding on all state and non-state actors in the Federal Republic of Nigeria.

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Abuse against children

Violence affects a large portion of the children population, both girls and boys. Reports on violence against children are a regular feature the news media though it is arguable that a number of cases do not get reported. In spite of Nigeria's ratification of the United Nations Convention on the Rights of the Child and its optional protocols, violence against children still continue to prevail. Presently the Nigeria Child Rights Act 2003 stipulates rights and responsibilities of children in Nigeria. However, it is yet to create the impact for which it was intended.

Violence is perpetuated in high level trafficking in children with its attendant's negative influence on children's psychological, social and physical development. The National Agency for the Prohibition of Trafficking in Persons (NAPTIP), established in 2003 to confront the menace of child and women trafficking has approached this task with the joint border controls through the signing of multi-lateral and bilateral agreements with the West and central Africa regions. However, many children especially girls remain at risk of being trafficked for sex slavery since the factors giving rise to their vulnerability have not been addressed, and enough has not been done to raise awareness about the prevalence and impacts of child trafficking (Harmonization of Children's Laws in Nigeria, African Child Policy Forum).

The Child Rights Act 2003 notes that child abduction and forced exploitative labour or an industrial undertaken (Section 28 and 29), hiring or otherwise dealing in children for purpose of begging or hawking (Section 30), unlawful immoral purposes (Section 31 and 32) are made punishable by long terms of imprisonment, however child labour, street begging, early marriage and the girl child rape is widespread. It is worrying that some states in Nigeria are yet to domesticate the Act into state laws and even in states where they have been domesticated, their effective enforcement is suspect. In a country with limited social services and benefits, it is a wonder how it can stay true to the child under these laws.

Presently, institutions are not built to consolidate the enforceability of the law. One of the challenges of the Nigeria's Child Rights Act is that the act provides that a child is somebody under the age of 18. In some states in Nigeria, that is a problem because it affects the minimum age of marriage (States most involved here are primarily in the north of Nigeria).

Education

The various state governments have made remarkable commitments towards the provision of education of her children especially with the Universal Basic Education which has the objective of providing free education up to junior secondary school level. It is debatable though the level of the free education in most part of Nigeria as families still has to bear the burden of school fees and provision of writing materials amongst other such needful things for children in school.

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The underlying costs attached to schooling have made it difficult for families to manage by the schooling of children. Moreover, the quality of education provided in such public schools where education is free appears substandard. The academic performance of students attest to this where at the Senior School Certificate Exams, students from the public (government) school especially perform poorly. During the 2012 academic year, only 38.81% candidates passed the West African School Certificate Examinations as against the previous year (2011) were 30.91% passed (ThisDay Magazine, 11 August 2012). It may be an acceptable reference to conclude that inadequate infrastructure and low level quality teachers in such schools have added to the poor results and outcomes recorded steadily in the past few years. This trend is not limited to rural communities but is visible in urban areas in Nigeria and as such calls for increased grassroots mobilization and facilitation.

Child Justice

The minimum age of criminal responsibility varies. The federal Children's Rights Act 2003 does not specify a minimum age of criminal responsibility, but it defines a child as under 18 and states that a child in conflict with the law must be dealt with under the Act. The Children and Young Persons Law defines a child as under 14 and a young person as aged 14-16. It sets the minimum age of criminal responsibility at seven but states that children below that age who have allegedly committed a crime must be brought before the Juvenile Court. It provides for special measures for persons under 16 in conflict with the law, but persons older than 16 are tried as adults.

In the southern states of Nigeria, the Criminal Code Act 1916 sets the minimum age of criminal responsibility at 7. The Criminal Procedure Act 1945 defines an infant as under 7, a child as under 14, a young person as aged 14-16, a juvenile offender as under 17 and an adult as aged 17 and over. In the northern states, the Penal Code 1960 specifies that 7 is the minimum age of criminal responsibility and categorizes juvenile offenders as those under 17 (<http://www.crin.org/violence/campaigns/sentencing/>). Lack of clear cut statement in the Child Rights Act 2003 on the minimum age of responsibility has made it almost an acceptable fact that the age of criminal responsibility be placed at 7.

In 2007, Amnesty International researchers expressed shock at the appalling situation in Nigerian prisons. Visits made to 10 Nigerian prison's revealed three out of every five people in Nigeria's prison are awaiting trial, often for years. Protracted pre trial detention is so commonplace in Nigeria that periodic amnesties by either the president or state governors are routinely extended to those who have spent more time in prison awaiting trial than the maximum sentence they could receive if eventually convicted. The research reveals that children were held together with adults in four of the prisons. For instance, in the Kuje prison in the FCT, 30 boys, some as young as 11 and 12 shared a dormitory with over 175 adult men. (Nigeria: Prison conditions appalling –New findings, Amnesty International UK, 2008)

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More states have established the family courts including Enugu State where the child rights bill is yet to be passed into law. But the question is how many of such cases involving children have been prosecuted by the family courts? Children continue to be remanded in police and prison custody alongside adult criminals in Nigeria making it very difficult for their proper rehabilitation, the aim to which the law promotes the use of prisons for discipline. There is obviously an implementation deficit of the child rights law owing to lack of capacity of not just the legal personnel for this task. Also the lack of empowerment of the various members of the child rights implementation committee is a key factor that mitigates its implementation.

The juvenile justice system in Nigeria is still very weak with scanty records on the number of juveniles in custody. However, it is a known fact that many children are made to face the law in regular courts and they do not have enough legal representation. Many children are detained for simple status offences like truancy and this has affected their ultimate development in the community. Often regular detention of children has fuelled violent attitudes among the already impoverished within very low income families.

Government policies and services available for children including their accessibility

Various states within the Nigeria federation work independently to promote the rights of children with Lagos state doing a great work in this area. Apart from trying hard to ensure that all children are protected, the Lagos State Child Right Law 2007 has tried to articulate the rights and responsibilities of children within the state. To ensure that children understand their rights and can defend them appropriately when exposed to abuse, the state government has provided user friendly copies of the law to children in schools. This has assisted the children to see in clear terms their rights as well as obligations which will be guaranteed.

The state has also tried to work with various stakeholders in the community, strengthening the school and government relationship with those of the family. This is helping families to identify more with the school as partners in ensuring that their children are protected from abuse. Several agencies have been set up to assist in protecting citizens including the children. One of this is the Ministry of Justice Office of the Public Defender which has been working at no cost to assist children and families where abuse has taken place. The success of this agency has been on the information it receives from well meaning citizens who have reported cases of abuse to it. But a serious setback has often been in reportage, as not many Nigerians feel obligated to report other peoples especially when they feel the issue on hand is family affair.

Given the aforementioned challenges facing Nigeria in legislating and implementing an effective and humane child rights and juvenile justice system, in particular, Defence for Children Nigeria recommend the following:

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1. Effort should be doubled to improve the juvenile justice system in Nigeria. The Federal government should amend the Child Right Act 2003 to make provision for grey area and this should clarify the legal status of children in conflict with the law (i.e. the minimum age of criminal responsibility) and ensure their right to legal assistance
2. We recommend an urgent government action to tackle the enormous human misery and child injustice of the prisons. This should spell out in clear terms that deprivation of child liberty should be a measure of last resort as articulated in Article 37 of the UN CRC
3. Various community stakeholders (community groups, community leaders, religious institutions, etc) must undertake campaign in partnership with existing government agencies and ministries that promote child protection in Nigeria to raise public awareness of the laws related to children (especially juvenile justice)
4. Sustained training for practitioners such as the police and legal professionals on the best way to manage juvenile cases and offenders and also, by extension trainings provided across board for linked professionals working on issues around children. This will include media reporters of cases, the social workers, legal practitioners as well as the police. Booster sessions should be provided for these category of persons to share the positive and inherent challenges or experience on their application of skills received during trainings
5. To ensure effective participation of parents and communities by enhancing the existing School Based Management Committees (SBMC) in all Schools in Nigeria to ensure that the issue of school governance is given priority. This will also enable the committee members to assist in school development planning and improvement.
6. Centre where parents and children converge and are helped to deal with a variety of social problems should be established nationwide and funded. Apart from being closer to the people, it brings community together as issues are resolved without the likelihood of adjournment of cases over time



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