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Child Abuse in Nigeria: Dimension, Reasons for its Persistence and Probable Solutions

Olaitan O. Olusegun and Amos A. Idowu***

“There can be no keener revelation of a society’s soul than the way in which it treats its children.”¹

ABSTRACT

Child abuse in Nigeria negatively affects the future of children and destroys the image of the country. Children suffer from various forms of abuse such as child marriages, molestation, child labour, kidnapping, and neglect, among other forms. Many laws and policies were put into place with the purpose of protecting children from abuse. However, they have not been effective for many reasons including poor enforcement mechanisms, poverty, corruption, lack of rehabilitation of sexual offenders, negative attitude of parents, and inefficient judicial processes.

This paper examines the concepts and various forms of child abuse which exist in Nigeria. It appraises the different factors responsible for child abuse in Nigeria, identifies the laws and institutions that protect children from abuse, evaluates the effectiveness of these various laws and institutions, and facilitates further information on workable steps to curb all forms of child abuse in Nigeria. This paper concludes with the realization that the menace of child abuse and its resultant effects on children in Nigeria can only be resolved through a combination of efforts by the government and other relevant stakeholders in order to revamp

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¹ Nelson Mandela, *Famous Quotes about Children*, Compassion.com, <http://www.compassion.com/child-advocacy/find-your-voice/famous-quotes/> (last visited August 24, 2014).

Nigeria's educational system, national economy, law enforcement agencies, and judicial institutions.

I. INTRODUCTION

Section 277 of the Child Rights Act of 2003 defines "a child as a person who has not attained the age of eighteen years."² From conception, children bring joy and delight to their family and those around them. When they grow up, they serve an essential role within their community as they become the future leaders of the nation. However, despite the joy associated with the birth of children many remain victims of abuse, violence, and exploitation. They are easy victims of violence because they are weaker in size, stature, and mental capabilities.³

Child abuse is any act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, and sexual abuse or exploitation.⁴ In Nigeria, abuse against children is rampant although it is largely under-reported. Under-reporting stems from cultural justification of certain forms of abuse associated with cultural practices and the reluctance of children to speak about prior abusive experiences. Fear of their assailants' threats or their parent's reaction may be the cause of this reluctance. Also, some children may be either too young to understand their experience or unable to speak for themselves.

The African Charter on the Rights and Welfare of the Child of 1999, provides that children must be protected from all forms of torture, inhuman, or degrading treatment, physical, mental or sexual abuse, and neglect or maltreatment.⁵ The Child Rights Act of 2003 also provides that children must be protected from: child marriage; child betrothal; tattoos and skin marks; exposure and use of narcotic drugs; abduction, removal or transfer of the child from lawful custody, and; child labour, and unlawful sexual intercourse.⁶ Despite the various provisions that have been put into place to protect the rights of children, they are continuously subject to various forms of abuse, degrading treatment,

² See Child Rights Act § 277 (2003).

³ F.A. Akwara et al., *Law and Children's Rights Protection: the Nexus for a Sustainable Development in Nigeria*, Canadian Social Science Journal, Vol. 6, No. 2, pp. 26-33, (2010).

⁴ See Child Abuse Prevention and Treatment Act of 2003, The Encyclopedia of Child Abuse, at xii (3d ed. 2007).

⁵ African Charter on the Rights and Welfare of the Child Art. 16, 1990 (entered into force Nov. 29, 1999), <http://hrlibrary.umn.edu/africa/afchild.htm> (last visited Jun. 25, 2014).

⁶ See Child Rights Act §§ 21-34 (2003).

cruelty, and violence. Some of which are reported in Nigerian National daily newspapers.⁷ When children are exploited or abused, they do not enjoy their childhood, which leads to several consequences in future. On the other hand, when children are protected from abuse, children will grow up in a healthy and confident manner, achieve their potential, and contribute to the development of the nation.⁸

Several legal provisions, which seek to protect children, have been enacted internationally and within Nigeria. However, these laws have not served as an effective tool in curbing the menace of child abuse, as originally intended. The purpose of enacting laws is to prevent a certain problem and decrease the frequency of its occurrence. When these laws are not effective, the purpose is defeated.

This article examines the forms of child abuse and exploitation that exist in Nigeria, as well as the various laws that have been enacted to curb that abusive behaviour. This paper suggests the reasons for the ineffectiveness of those laws and solutions for how they can be effective in curbing all forms of abuse.

II. FORMS OF CHILD ABUSE IN NIGERIA

Child abuse can either be sexual or non-sexual. Sexual abuse consists of abuse that can either be child marriage, molestation, or female genital mutilation. While, non-sexual abuse includes child labour, kidnapping, and neglect.

A. Sexual Abuse and Child Marriages

Child marriage is the practice in which children are married to adults.⁹ A variety of rights are violated by child marriage including the right to equality on grounds of sex and age, the right to marry and start a

⁷ See *Beaten by Hajia, Raped by Two Men*, THE PUNCH, Vol 7088, No. 1578. p.16 (September 10, 2011); *If I Don't Allow Daddy To Do It, He Sleeps with my Younger Sister*, The Punch, Vol. 7184, No. 1684, pp 18 -19. (July 13, 2013).

⁸ United Nations Children Fund, *State of the World's Children 2005: Childhood under Threat*, <http://www.unicef.org/sowc05/english/sowc05.pdf> (last visited Aug. 22, 2014).

⁹ I. Ogunniran, *Child Bride and Child Sex: Combating Child Marriages in Nigeria* (2011); Nnamdi Azikiwe, *University Journal of International Law and Jurisprudence*, Vol. 2 No. 1. pp. 95-106; See also Ahmed Yerima, *Divorces his 17-year-old Egyptian Wife to Marry a Fifteen Year Old* (2003), <http://www.nigerianwatch.com/news/3400-ahmed-yerima-divorces-his-17-year-old-egyptian-wife-to-marry-a-15-year-old-#sthash.xIH43UFD.dpuf>. (last visited July 2, 2014).

family, the right to life, the right to the highest attainable standard of health, and the right to education.¹⁰

Child marriage is more common in rural communities because such communities tend to have traditional attitudes deeply entrenched in customs, which are not easily altered by external influences.¹¹ Nigeria is no exception to the prevalence of child marriage in rural communities, especially in the country's Northern states.¹² Female children are given away in marriage at a young age to increase the wealth of family members through the payment of bride prices. Another factor is the high value placed on a girl's virginity.¹³ Child marriage exposes children to adverse health effects and deprives them of the childhood-time that is necessary for them to develop physically, emotionally, and psychologically.¹⁴ The Nigerian Child Rights Act of 2003, provides that a marriage entered into with a girl younger than eighteen-years-old is null and void.¹⁵ However, Section eighteen of the Marriage Act¹⁶ provides that a child below the age of twenty-one can get married if consent is obtained from the parents. The implication of this provision is that children as young as fifteen can get married once their parents' consent, which conflicts with the clear provisions of Section 21 of the Child Rights Act of 2003.

B. Female Genital Mutilation

The World Health Organization (WHO) defines Female Genital Mutilation (FGM) as "procedures that involve partial or total removal of the female external genitalia, or other injuries to the female genital

¹⁰ United Nations Children's Fund, *Child Marriage and the Law: Legislative Reform Initiative Paper Series* (2008) [http://www.unicef.org/policyanalysis/files/child_marriage_and_the_law\(1\).pdf](http://www.unicef.org/policyanalysis/files/child_marriage_and_the_law(1).pdf) (last visited Jun. 12, 2014).

¹¹ International Planned Parenthood Federation, (IPPF): *Ending Child Marriage: A Guide for Global Policy Action* (2006), http://www.ippf.org/system/files/ending_child_marriage.pdf (last visited Jul. 2, 2014).

¹² According to the State of the World's Children 2006, a United Nations Children's Fund (UNICEF) publication, nearly twice as many women living in rural areas were married before the age of 18, compared with those living in urban areas. See United Nations Children's Fund, *The State of the World's Children* (2006), http://www.unicef.org/sowc06/fullreport/full_report.php (last visited Jun. 11, 2014).

¹³ Ajuluchi Chika, *Factors Influencing Child Bride Practices in Anambra State*, 1 NIGERIA J. OF EDUC., HEALTH AND TECH. RES. 241, 242 (2011).

¹⁴ Gabriel Igberase, *Harmful Cultural Practices and Reproductive Health in Nigeria*, 6 CONTINENTAL J. TROPICAL MED. 27, 30 (2012).

¹⁵ See Child Rights Act (2003) § 21 (Nigeria).

¹⁶ Marriage Act (1990) Chapter 218, § 18 (Nigeria).

organs for cultural or any other non-therapeutic reasons.”¹⁷ The United Nations Convention on the Rights of the Child (UNCRC) provides that state parties to the convention should take measures to abolish traditional practices that are prejudicial to the health of children.¹⁸ FGM is rooted in cultural beliefs and traditions that have been in existence for several decades and are difficult to change.¹⁹ For example, it is believed that FGM fosters cleanliness and enhances male pleasure. Some communities also believe that if a woman’s clitoris is not removed, it will result in the death of a baby during childbirth, if it touches the baby’s head.²⁰ All types of FGM have immediate health complications including infection, pain due to the cutting of nerves and sensitive genital tissues, shock, excessive bleeding, and death. Potential long-term complications include chronic pain, infertility, sexual dysfunction, and other obstetric complications.²¹

C. Molestation

Molestation involves the forcing or enticing of a child to take part in sexual activities, but does not necessarily involve a high level of violence. The child may or may not be aware of what is happening. The activities may involve either physical contact²² or non-contact activities.²³ Molestation can have lifelong effects on children that result in which a variety resulting in the possible exhibition of many symptoms

¹⁷ *Female Genital Mutilation*, WORLD HEALTH ORGANIZATION (last visited Feb. 13, 2014), <http://www.who.int/mediacentre/factsheets/fs241/en>.

¹⁸ *Convention on the Rights of the Child*, Article 24(3), UNITED NATIONS HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER (last visited July 13, 2014), <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

¹⁹ Augustine Nalah, *Female Genital Mutilation in Nassarawa Eggon Community, Nassarawa State – Nigeria*, 13 RESEARCH ON HUMANITIES AND SOCIAL SCIENCES 7, 8 (2013).

²⁰ Amos Idowu, *Effects of Female Genital Mutilation on Human Rights of Women and Female Children: the Nigerian Situation*, 12 LAW, DEMOCRACY AND DEVELOPMENT 111, 115 (2008).

²¹ Liette Perron et al, *Female Genital Cutting*, 35 JOURNAL OF OBSTETRICS AND GYNECOLOGY 1028, 1033 (2013).

²² This includes intercourse by penetration or non-penetrative acts such as kissing, rubbing and fondling of a child’s genitals, rape, and sodomy. See KIMBERLY MCCABE, CHILD ABUSE AND THE CRIMINAL JUSTICE SYSTEM 33 (Peter Lang Publishing 2003).

²³ This includes encouraging children to behave in sexually inappropriate ways, production and distribution of child pornography, inappropriate sexual conversations with a child, voyeurism. See *id.* at 16.

such as, anxiety, bed-wetting, insomnia, nightmares, depression, suicidal behaviours, and eating disorders.²⁴

III. NON-SEXUAL ABUSE

A. Emotional and Psychological Abuse

“Emotional or psychological abuse is the persistent emotional maltreatment of a child that causes severe and persistent adverse effects on the child’s emotional development.”²⁵ Children that are constantly humiliated, shamed, or rejected, often see themselves as worthless and incapable of being successful. This can lead to depression, lack of concentration in school, lowered self-esteem, dysfunctional relationships, and ineffective coping skills.²⁶

B. Kidnapping

Kidnapping is the “unlawful detainment of persons, either by force or fraud, and the undisclosed relocation against their will, usually to extract ransom.”²⁷ Kidnapping has caused a great deal of mental and emotional trauma for victims and their relatives. It violates their rights to life, freedom of movement, and freedom from inhuman and degrading treatments.²⁸ Also, children are not exempt from the spate of kidnapping in recent times.²⁹ The United Nations Office of Drugs and Crime

²⁴ G. K. Moffatt, *Wounded Innocents and Fallen Angels: Child Abuse and Child Aggression*, 73, 74 (2003).

²⁵ Overseas Dev. Inst., N. Jones et al, *Promoting Synergies between Child Protection and Social Protection in Nigeria*, (2012) <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7579.pdf>.

²⁶ G. K. Moffatt, *Wounded Innocents and Fallen Angels: Child Abuse and Child Aggression*, 47 (2003).

²⁷ R.O. Owenvbiugie: *Kidnapping: A Threat to Entrepreneurship in Nigeria*, 1 Journal of Education, Health and Technology Research, 67, 67 (2011).

²⁸ National Human Rights Commission: *The State of Human Rights in Nigeria 2009-2010*; Homec Global LTD. Abuja. p. 152, (2013).

²⁹ See *Boko Haram Abducts 100 schoolgirls in Bornu*, THE PUNCH. (April 16, 2014), Vol. 38 No 20 p. 2 (Some Nigerian schoolgirls were kidnapped in April 2014, from their boarding school in Government Girls Secondary School, Chibok, Bornu State, Nigeria, by the militant group, Boko Haram.); E. Conant, *Nigeria’s Schoolgirl Kidnappings Cast Light on Child Trafficking*, NATIONAL GEOGRAPHIC DAILY NEWS, May 15, 2014, <http://news.nationalgeographic.com/news>. See *Women Abduct Nine-Year-Old Girl, sell her for 650,000*, THE PUNCH, Vol. 38 No 20. pp.. 4 - 5, Thursday July 3, 2014, (Also, in Lagos, the Lagos state police command arrested four women for allegedly abducting and selling a nine-year-old girl, identified as Blessing for 650,000).

(UNODC)³⁰ has categorized kidnapping as follows: kidnapping for extortion;³¹ kidnapping between or within criminal groups; kidnapping for sexual exploitation; kidnapping linked to domestic or family disputes; revenge kidnapping and kidnapping for political or ideological purposes. The menace of kidnapping is attributed to unemployment, poverty, greed, high level of crime, corruption, a history of conflict, and instability.³²

C. Child Labour

Child labour is defined as “any form of work likely to have adverse effects on the child’s safety, health, and moral development.”³³ It refers to work that is mentally, physically, socially, or morally dangerous and harmful to children, deprives them of the opportunity to attend school.³⁴ Nigerian children work in a wide range of sectors and industries. In rural areas, children mostly work in agriculture. They are responsible for planting, weeding, harvesting crops, and tending to livestock. In urban areas they work as vendors, shoe shiners, car washers, drug peddlers, and construction workers, etc.³⁵ In most cases, child labour is determined by

³⁰ Sec’y-General, *Int’l cooperation in the prevention, combating and elimination of kidnapping and in providing assistance to victims*, ¶ 7, Econ. & Soc. Council, Comm. on Crime Prevention and Criminal Justice, 12th sess., E/CN.15/2003/7 (March 5, 2003) http://www.unodc.org/pdf/crime/commissions/12_commission/7e.pdf; Mohd Kassim Noor Mohamed, *Kidnap for Ransom in South East Asia The Case for a Regional Recording Standard*, 3 Asian J. Criminology 61,68 (2008).

³¹ That is, for ransom, to influence business decisions, or to obtain commercial advantage. Kidnapping for ransom is more common in countries with high levels of crime and corruption. See R. Pharaoh: *An Unknown Quantity: Kidnapping for Ransom in South Africa* (2005) *South African Crime Quarterly*, No 14 p. 23. Inst. for Security Studies, *An Unknown Quantity: Kidnapping for Ransom in South Africa*, 14, S. Afr. Crime Quarterly, 23 (2005) <https://issafrika.s3.amazonaws.com/site/uploads/CQ14FULL.PDF>. (That is, for ransom, to influence business decisions, or to obtain commercial advantage - this was located under footnote number 32) (Kidnapping for ransom is more common in countries with high levels of crime and corruption).

³² National Human Rights Commission: *The State of Human Rights in Nigeria 2009-2010*. (2013) Homec Global ltd, Abuja. pp. 152.

³³ G. Betcherman, et al, Soc. Prot. Discussion Paper Series, *Child Labor, Education, and Children’s Rights*, at 1, No. 0412, (July 2004) http://www.ilo.org/wcmsp5/groups/public/-americas/-ro-lima/sroport_of_spain/documents/projectdocumentation/wcms_308202.pdf.

³⁴ ILO and Inter-Parliamentary Union, *Handbook for Parliamentarians, Eliminating the worst forms of child labour A practical guide to ILO Convention No. 182*, at 14, No 3 (2002), http://www.ipu.org/PDF/publications/childlabour_en.pdf.

³⁵ E.E Okafor, *Child Labour Dynamics and Implications for Sustainable Development in Nigeria*, 12 *Journal of Sustainable Development in Nigeria* 8, 9(2010). https://www.researchgate.net/profile/Emeka_Okafor/publication/265664953_CHILD_LA

the family's economic status, the size of the household, and the parent's education level.³⁶ It affects development and stands as an impediment to achieving sustainable development goals such as poverty reduction, and universal primary education.³⁷

D. Child Neglect

Child neglect has been defined as, "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's physical, intellectual, and emotional development."³⁸ There are various categories of neglect such as: physical, medical, environmental neglect, emotional neglect, and educational.³⁹ Neglected children usually have intellectual, physical, social, psychological and developmental problems. They are often socially withdrawn, suffer from malnutrition, and are susceptible to several fatalities due to the absence of caregivers at critical moments.⁴⁰

E. Physical Abuse

Child physical abuse refers to "the non-accidental use of physical force against a child that results in harm to the child."⁴¹ It includes abuse subjecting the child to degrading and inhuman conditions, severe beatings in the name of chastisement, correction, or anger. Physical abuse may result in either temporary or permanent damage to organs, bones, and brain tissues, which can be fatal.⁴²

BOR_DYNAMICS_AND_IMPLICATIONS_FOR_SUSTAINABLE_DEVELOPMENT
IN_NIGERIA/links/570c14db08ae2eb94223b9f0.pdf.

³⁶ Benjamin Chiedozie Okpukpara & Ngozi Odurukwe, *Incidence and Determinants of Child Labour in Nigeria: Implications for Poverty Alleviation*, AFRICAN ECONOMIC RESEARCH CONSORTIUM, June 2006, at 5. <http://dspace.africaportal.org/jspui/bitstream/123456789/32210/1/RP156.pdf?1>.

³⁷ Gordon Betcherman et al., *Child Labor, Education, and Children's Rights*, SOCIAL PROTECTION DISCUSSION PAPER SERIES, July 2004, at 2, 28 <http://documents.worldbank.org/curated/en/721061468762634105/pdf/301610PAPER0SP00412.pdf>.

³⁸ Mfonobong E. Umobong, *Child Abuse and Its Implications for the Educational Sector in Nigeria*, www.ajol.info/index.php/og/article/download/57927/46293.

³⁹ McCabe, *supra* note 22, at 63.

⁴⁰ James M. Gaudin, *Child Neglect: A Guide for Intervention* (1993). https://www.childwelfare.gov/pubPDFs/neglect_1993.pdf (last visited Nov. 10, 2016).

⁴¹ Australian Gov't, *What is Child Abuse and Neglect?*, <https://aifs.gov.au/cfca/publications/what-child-abuse-and-neglect> (last visited Aug. 13, 2014).

⁴² GREGORY K. MOFFATT. WOUNDED INNOCENTS AND FALLEN ANGELS: CHILD ABUSE AND CHILD AGGRESSION 46 (2003).

IV. ANALYSIS OF LAWS AND CONVENTIONS FOR THE RIGHTS AND PROTECTION OF THE CHILD

A. International Conventions

International Conventions were put into place to protect children from abuse and exploitation and to develop standards and principles for the betterment of child survival and protection. Some of these conventions include: the International Labour Conventions on Child Labour, which includes the Night Work of Young Persons (Industry) Convention of 1919 (No 6); the Minimum Age Convention of 1973 (No 138); the Worst Forms of Child Labour Convention of 1999 (No. 182); the Geneva Declaration on the Rights of the Child of 1924; and the United Nations Declaration on the Rights of the Child, 1979.

Others are: the United Nations Convention on the Rights of the Child (UNCRC) of, 1989; the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts; and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; and the African Charter on the Rights and Welfare of the Child of 1999, among others.

B. National Laws

1. The 1999 Nigerian Constitution

The Nigerian Constitution⁴³ guarantees certain fundamental rights to children. Even though the Constitution does not make any distinction between the rights of adults and children, as Nigerian citizens they are expected to be able to enjoy these rights. These rights include the right to life, dignity of the human person, personal liberty; a fair hearing, the right to a private life, freedom of thought, conscience and religion; peaceful assembly, as well as the right of association and freedom of movement.⁴⁴ More specifically, under Section 17(3)(f), children should be protected against exploitation, as well as moral and material neglect. Additionally, Section 18(1) provides that the government should ensure

⁴³ CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999, ch. IV.

⁴⁴ See CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999, ch. IV, §§ 33-41.

its policies provide for equal and adequate educational opportunities at all times.⁴⁵

2. Matrimonial Causes Act Cap 220, 2010

Section 71(1) of the Matrimonial Causes Act (MCA) provides: “in proceeding with respect to the custody, guardianship, welfare, advancement, or education of children of a marriage, the court shall regard the interest of these children as the paramount consideration.” When considering the best interest of the child, the High Court will consider the following relevant factors: the wishes of the child,⁴⁶ the age and sex of the child, medical and psychological factors, and the adequacy and arrangements for the child.

Furthermore, Section 70 of MCA confers on the Court on appropriate application, the power to make orders for two types of maintenance: maintenance per se, and maintenance pending the disposal of proceedings in favour of a spouse or children of the marriage. The MCA⁴⁷ also protects children from abuse in matters relating to their adoption.

3. Criminal Code Cap C38 LFN, 2004

The Criminal Code has many provisions which deal with the rights of children in Nigeria. Section 216 deals with the indecent treatment of boys under fourteen years of age. Section 218 provides that any person who has unlawful carnal knowledge of a girl under the age of thirteen years is guilty of a felony and liable to imprisonment for life, with or without caning. Section 219 makes it an offense for a house-holder to knowingly permit the defilement of young girls on his premises. Section 295, which provides for the correction of a child, states that no correction that is unreasonable can be justified; however, the age, physical, and mental condition of the child should be considered; before corrections are inflicted on children. Other provisions relate to the offense of infanticide,⁴⁸ which is the killing of an unborn child;⁴⁹ concealing the birth of children;⁵⁰ and abortion.⁵¹

⁴⁵ See CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999, ch. II, §§ 17, 18; However, section 17 and 18 are under chapter 2 of the Constitution which are termed as Fundamental Objectives and Directive Principles of State Policy and are non-justiciable.

⁴⁶ See *Meyer v. Gerber* [1999]. 3. SA 650 (O) (S. Afr.) (The presiding judge in proceedings for custody interviews the child privately particularly where the child has attained an age when he is capable of expressing his wishes).

⁴⁷ Matrimonial Causes Act, IV M.C.A. §§ 69-71 (1990).

⁴⁸ Criminal Code Act, 27 C.C.A. §§ 306-329 A (1990).

4. Labour Act Cap L1, Laws of the Federation of Nigeria (LFN), 2004

Section 33(2)(e) of the Labour Act provides that employment of citizens below the age of eighteen is prohibited unless employed by a member of his family on light work of an agricultural, horticultural, or domestic character, and approved by the minister.⁵² Also, a child shall not be required to lift, carry, or move anything that is so heavy as to be likely to impair or injure his or her physical development.⁵³ Further, section 49(1) prohibits child slavery and exploitation by stating that young persons shall not be under apprenticeship for more than five years. Additional provisions include the prohibition of children being employed at night⁵⁴ or employed in a vessel,⁵⁵ restriction on working hours,⁵⁶ and registration of young persons in an organization.⁵⁷

5. Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003

The purpose of the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act is to establish the National Agency for the Prohibition of Traffic in Persons and Related Matters., This agency has the responsibility to enforce laws against human trafficking in persons, investigate and prosecute persons, and coordinate the rehabilitation and counselling of trafficked persons and other related matters. A person convicted of an offense under this Act shall forfeit, to the Victims of Trafficking Trust Fund, all assets and properties derived from any proceeds the person obtained directly or indirectly, as a result of such offense.⁵⁸

6. Child Rights Act, 2003

The Nigerian federal government enacted the Child's Rights Act (CRA) in December 2003. This Act is a comprehensive legislation which enacts the principles of the United Nations Convention on the Rights of

⁴⁹ Criminal Code Cap. (1990) Cap. (C38), § 327a (Nigeria).

⁵⁰ Criminal Code Cap. (1990) Cap. (C38), § 328 (Nigeria).

⁵¹ Criminal Code Cap. (1990) Cap. (C38), § 22 (Nigeria).

⁵² Labour Act (2004) Cap. (L1), §59(1) (Nigeria).

⁵³ Labour Act (2004) Cap. (L1), §59(1)(b) (Nigeria).

⁵⁴ Labour Act (2004) Cap. (L1), §60(1) (Nigeria).

⁵⁵ Labour Act (2004) Cap. (L1), §§61(1) (a)-(b) & 59(7) (Nigeria).

⁵⁶ Labour Act (2004) Cap. (L1), §59(8) (Nigeria).

⁵⁷ Labour Act (2004) Cap. (L1), §62 (Nigeria).

⁵⁸ Trafficking in Persons (Prohibition) Law Enforcement and Administrative act (2003) No. 24, § 35 (Nigeria).

the Child (UNCRC) 1989, and is aimed at protecting and promoting the well-being of all children, improving the quality of relationships between children, families, and communities, and establishing the use of facilities to improve the quality of children's lives.⁵⁹ It incorporates all the rights and responsibilities of children and specifies the duties and obligations of government, parents, organizations, and other authorities.⁶⁰ The Act, divided into twenty-four parts, has provisions regarding the following: rights and responsibilities of the child: prohibition of various forms of child abuse, care and supervision orders, custody, ward ship, child justice administration, family courts, state government support for children and families; community homes, voluntary homes and organizations, registered children's homes; supervisory functions and responsibilities of the minister, and child justice administration.

C. Policies Protecting Children from Abuse in Nigeria

Nigeria has developed a number of policies, plans, and strategies that provide an enabling environment for child survival and protect them from abuse. Some of the policies are as follows:

1. National Strategic Framework for the Elimination of Obstetric Fistula in Nigeria, 2011-2015

According to the World Health Organization,⁶¹ "obstetric fistula is an abnormal opening between a woman's vagina, bladder, and/or rectum, through which her urine and/or feces continually leak." This condition may be complicated by recurring infections, infertility, damage to vaginal tissues, and paralysis of the muscles in the lower legs. However, the possibility of occurrence of fistulae can be reduced if pregnancy is delayed until sexual maturity is attained. According to the policy, there are three elimination strategies for obstetric fistula. One is a primary prevention strategy that requires the creation of a political, legal, and social environment, and promotes improvement in the status of women and girls, therefore preventing obstetric fistula. Other elimination

⁵⁹ I.T. Kamaldeen et al., *An Appraisal of the Child Rights Act 2003 from The Sharia Perspective* (2010), www.Unilorin.Edu.Ng (last visited April 25, 2012).

⁶⁰ Muhammed Tawfiq Laden, *The Child Rights Act, 2003 and the Challenges of Its Adoption by State Governments in the 19 Northern States* (2009), www.Abu.Edu.Ng/Publications (last visited April 25, 2012).

⁶¹ Gwenth Lewis & Luc de Bernis. *Obstetric Fistula: Guiding Principles for Clinical Management and Programme Development*. World Health Organization (2006) http://apps.who.int/iris/bitstream/10665/43343/1/9241593679_eng.pdf.

strategies are the secondary level prevention strategies⁶² and the tertiary level prevention strategies.⁶³

2. National Policy on Child Labour, 2013

The Nigerian government launched the National Policy and National Action Plan on Child Labour in 2013 to facilitate the elimination of child labour in Nigeria. The National Policy on Child Labour defines child labour as, “work that harms children’s well-being while, hindering their education, development, and future livelihood.” It also gives examples of what is considered to be the worst forms of child labour.⁶⁴ According to the policy, there is a need to make concrete efforts to harmonize child labour projects and interventions in the country, while fostering network and collaboration among local, national, and international organizations. The mission of the policy is to eliminate child labour in its worst form, and to ensure that every child gets an opportunity to aspire and attain the apex of his or her potential. It also aspires to be a just society devoid of child exploitation and abuse.

3. National Policy and Plan of Action on the Elimination of Female Genital Mutilation in Nigeria, 2002

The Federal Ministry of Health drafted the National Policy on the Elimination of Female Genital Mutilation (FGM), which was passed in October 2002. The policy’s stated goal is to eliminate the practice of FGM in Nigeria in order to improve the health and quality of life for girls and women. Its specific objectives are to: increase awareness of the dangers of FGM (particularly among family decision makers and FGM

⁶² FED. MINISTRY OF HEALTH, NATIONAL STRATEGIC FRAMEWORK FOR THE ELIMINATION OF OBSTETRIC FISTULA IN NIGERIA (2011-2015) https://fistulacare.org/archive/files/5/5.4/Nigeria_National_Strategy_2011-2015.pdf. (This strategy will focus on the training of all skilled birth attendants to prevent fistula formation or to enable closure of very small fistula without surgery by the use of an indwelling urinary catheter for all mothers who have survived an obstructed labour).

⁶³ FED. MINISTRY OF HEALTH, NATIONAL STRATEGIC FRAMEWORK FOR THE ELIMINATION OF OBSTETRIC FISTULA IN NIGERIA (2011-2015) https://fistulacare.org/archive/files/5/5.4/Nigeria_National_Strategy_2011-2015.pdf. (This strategy deals with rehabilitation, reintegration and stigma reduction. Rehabilitation includes psychological counselling, microenterprise loans or grants, income generating activities, skills acquisition, literacy education and physical competence to live a productive life of interdependence, including management of inoperable cases).

⁶⁴ Fed. Ministry of Labour and Productivity, *National Policy on Child Labour*, 6 (2013) (These include all forms of slavery, prostitution, or pornography, use of the child for illicit activities e.g. production and trafficking of drugs and work which is likely to harm the health, safety and morals of children).

providers,); increase the number of health personnel who undergo training on prevention and treatment of FGM; and to provide educational programs directed at health workers, women's and men's groups, traditional rulers, religious and other community leaders, and traditional birth attendants.

4. The National Plan of Action on Orphans and Vulnerable Children (2006-2010) of 2007

The Orphans and Vulnerable Children's (OVC) National Plan provides a framework for policy makers, program planners, and implementers of all levels, for carrying out interventions to mitigate the impacts on orphans and other causes of vulnerability in children. When children are deprived of their parents they can be vulnerable to various forms of abuse which include prostitution, lack of education, starvation, and molestation. To abate this, the plan includes strategies to strengthen the capacity of caregivers and the vulnerable children themselves, as well as providing support and community-based responses. According to Mrs. Inna Maryam Ciroma, the former Minister of Women Affairs and Social Development,⁶⁵ the plan is, "an important milestone in the field of child rights promotion and protection and will also serve as a concrete guide for programme implementers."⁶⁶

5. The National Policy on Education, 2004

As a result of the 1996 National Curriculum Conference, the National Policy on Education was created when dissatisfaction was expressed with the existing education system. The prior system had become irrelevant to national needs, aspirations and goals.⁶⁷ The National Policy on Education in Nigeria is based on the formulation of educational policies, which is most appropriate for a developing country and multi-ethnic nation like Nigeria.⁶⁸ The policy provisions provide for Nigerian children six years of primary school, three years of junior

⁶⁵ *Maryam Ciroma, CEO of NIWA resigns*, THE NEWS (May 27, 2015), <http://thenewsnigeria.com.ng/2015/05/maryam-ciroma-ceo-of-niwa-resigns/> (Mrs. Inna Maryam Ciroma is now the new managing director of National Inland Waterways Authority in Nigeria).

⁶⁶ UNICEF, *Nigeria launches a national action plan for orphans and vulnerable children*, (May 17, 2007), http://www.unicef.org/media/media_39655.html (last visited Oct. 27, 2016).

⁶⁷ *The Current Policy on Education in Nigeria*, THE GUIDE, <http://getguide.blogspot.com/2008/08/current-policy-on-education-in-nigeria.html> (last visited Oct. 27, 2016).

⁶⁸ Hauwa Imam, *Educational Policy in Nigeria from the Colonial Era to the Post-Independence Period*, ITALIAN JOURNAL OF SOCIOLOGY OF EDUCATION, 181, 196 (2012).

secondary school, three years of senior secondary school and four years of university education (6.3.3.4). It has a broad curriculum which aims to create learning opportunities for all children, irrespective of their sex, peculiar background, or ability.

V. FACTORS AFFECTING THE EFFECTIVENESS OF LAWS ON CHILD ABUSE IN NIGERIA

Despite all of the national and international legal instruments put in place for the protection of children, many children in Nigeria still suffer from various forms of child abuse. It has been implied that the laws created to protect children are not effective. There are multiple factors responsible for the ineffectiveness of such law and policies in Nigeria.

A. Poor Enforcement Mechanisms of Laws and Policies

Laws are only effective when they are well implemented and enforced. Lack of implementation leads to a wide gap between intentions and results, which makes a mockery of enacted laws and policies.⁶⁹ Law enforcement agents play a primary role in enforcing child rights laws. However, these agents are not specifically trained to respond to child rights issues and usually treat such with ineptitude. Oftentimes, complaints regarding child rights are ignored, agents are slow to respond, or the wrong decisions are being made on how to handle the complaints. The fact that they are not adequately remunerated does not help matters, as this does not motivate them to go out of their way in aiding to children when necessary.

B. Lack of Awareness

Many people are not aware that some cultural practices serve as an infringement on the rights of children, and are considered abuse. Many of these practices are viewed as normal, especially because they are culturally accepted and have been in existence for a long time. The negative consequences that arise from these practices are thereafter ignored or termed as challenges that are part of the experiences of life. For example, some Nigerian parents beat their children excessively because they believe they need discipline, and do not view it as a form of abuse; This also applies to as the practice of Female Genital Mutilation.

⁶⁹ RUDI KLAUSS, INTERNATIONAL DEVELOPMENT ADMINISTRATION: IMPLEMENTATION ANALYSIS FOR DEVELOPMENT PROJECTS 3 (George Honadle & Rudi Klaus eds., Praeger Publishers 1979).

Also, many people are not aware of the existence of the Child Rights Act of 2003 and its provisions.

C. Poverty

Poverty is one factor that has led to the persistence of child abuse in Nigeria. Poverty causes educational disadvantages. It causes children to be out of school and into the streets, with the aim of earning a living or combining the money they earn with their parents' income.⁷⁰ This predicament exposes children to the wrong people allowing them to become criminals or possibly victims of road accidents or endure sexual or physical abuse. Parents marry off their daughters at an early age, mostly to improve the economic position of the family; many neglecting their children in their bid for the purpose of making more money and sustaining the family. Poverty also forces some children to participate in dangerous activities like prostitution, drug trafficking, and robbery.

D. Non-adoption of the Child Rights Act of 2003

The Child Rights Act of 2003 (CRA) has not been adopted in some states in Nigeria. In the states where the CRA has been adopted, there is very little commitment by the government to fully implement its provisions; lack of implementation has led to a continuance of menacing child abuse. One reason for the lack of commitment is the cost implication in order to implement the provisions of the CRA. To facilitate the CRA effectively, states will have to provide facilities, including schools, as well as other equipment. Judges, magistrates, law enforcement agents, and officers working for government-approved institutions will also have to be trained in child abuse protection processes; an abundance of resources will be required to achieve this goal.⁷¹

E. Inefficient Judicial Process

Courts must not be influenced by other branches of government when deciding matters. Despite the provisions in the constitution, which

⁷⁰ Olaitan Olusegun & Oyeniyi Ajigboye, *Realizing the Right to Development in Nigeria: An Examination of Legal Barriers and Challenges*, 6 J. OF SUST. DEV. LAW & POLICY 145, 159 (2015).

⁷¹ Eunice Uzodike, *New Legislative Approach Towards Child Protection and Other Family Law Developments in Nigeria*, <http://www.law2.byu.edu/isfl/saltlakeconference/papers/isflpdfs/Uzodike.pdf> (last visited Oct. 27, 2016).

seek to ensure the courts' independence,⁷² there have been allegations of corruption against judicial officers. There are also procedural obstacles to obtaining justice through the courts when the parents are the culprits of their children's abuse. This is because children rely heavily on their parents for judicial relief and cannot take such actions themselves. Furthermore, the cost of the litigation process and the duration could discourage some people from reporting abuse. Also, justice might not be obtained through judicial proceedings because technicalities often result in the offender prevailing. These factors do not deter offenders from abusing children. Due to the various technicalities, such as inadequate evidence, there is a presumption that they can do anything and get away with it.

F. Corruption

Corruption is defined as "an abuse of position or inducement of an abuse of position for an undeserved benefit, advantage, or relief."⁷³ Corruption is a major factor contributing to the low level of recognition and protections that is given to children. Sometimes, even when funds are released to the states or a local government for the purpose of working on a project benefiting the welfare of children, the money is not fully utilized for that particular purpose and is diverted to personal pockets. Corruption is also a major reason why people perform acts like kidnapping and trafficking children.

G. Negative Attitude of Parents

Parents have a duty to provide an environment for their children where they are protected and cared for, and to facilitate the child's well-being and growth. Children without proper parental care and supervision are easily abused, particularly sexual abuse. Parents who send their daughters on errands at night, give them goods to sell, leave them for several hours or days in the hands of housemaids, or allow them freedom of choice in lifestyle and clothing are putting them at a higher-risk of being abused. Unfortunately, laws cannot abate such abuse from re-occurring. Despite the creation of laws to protect children from abuse, lack of proper care from parents will likely cause abuse to occur and persist.

⁷² CONSTITUTION OF NIGERIA (1999), § 291-292 (provides for the removal, tenure, and remuneration of judges so as to ensure their protection from influence and pressure).

⁷³ Osita Ogbu, *Combating Corruption in Nigeria: A Critical Appraisal of the Laws, Institutions and the Political Will*, 14 ANNUAL SURVEY OF INTERNATIONAL AND COMPARATIVE LAW 99, 103 (2008).

H. Sex Offender Treatment Programs

Sexual offenders, especially those who violate children, usually repeat such acts on a continuous basis over a long period of time. Dual treatment should be offered to sex offenders: mental health services as well as criminal punishment.⁷⁴ Jail terms are not sufficient for adults who violate children because after they are released they still pose a great risk to children in society; physical detainment is not enough.⁷⁵

I. Cultural and Traditional Influences

Cultural norms are rules of behaviour within a specific cultural or social group. Individuals are discouraged from violating such norms by threats of social disapproval, punishment, and feelings of guilt and shame.⁷⁶ There are many cultural values and practices that are harmful to children, especially girls. Examples include: female genital mutilation, early marriage, skin marks, and tattoos. Thus, laws and policies that direct people to put an end to such practices will hardly be obeyed because communities that practice such traditions find it difficult to do away with cultural behaviour.

J. Lack of Political Will

Political will can be defined as the determination of the government to do things that will produce a desired outcome for the benefit of the citizens of a country. Leaders are reluctant to serve the interests of the nation and the vulnerable citizens, more specifically children, who cannot protect themselves. This problem persists because some leaders run for a particular position for their own selfish interests, and not because of the need to change the plights of the less disadvantaged or to further develop the nation. Therefore, they lack the willingness to implement laws and develop other creative ways to curb the various forms of abuse and exploitation experienced by children. Without serious and sustained political will at the top levels of governments and throughout societies, interventions will remain limited in comparison to the scope and magnitude of the problems children are facing.⁷⁷

⁷⁴ Laura J. Zilney and Lisa Anne Zilney, RECONSIDERING SEX CRIMES AND OFFENDERS: PERSECUTION OR PROSECUTION? 40-41 (2009).

⁷⁵ Tony Ward et. al., THEORIES OF SEXUAL OFFENDING 20-21 (2006).

⁷⁶ Changing Cultural and Social Norms that Support Violence, WORLD HEALTH ORG. (last visited January 15, 2015), http://www.who.int/violence_injury_prevention/violence/norms.pdf.

⁷⁷ Kathleen Fitzgibbon, Modern-Day Slavery? The Scope of Trafficking in Persons in Africa, Vol. 12 AFR. SEC. REV. 81, 88 (2013).

K. Domestic Violence against Women

Women who are victims of domestic violence cannot adequately take care of their children because they are more pre-occupied with their own abuse. Children need their mothers, and when the mother's rights are violated, the children are at greater risk. Implementation of women's rights will have a positive impact on the lives of children. Women who are in the right frame of mind and are respected in their homes are in a better position to care, protect, and provide for their children. Furthermore, pregnant women who suffer violence are at a high-risk of giving birth to deformed babies, who are usually neglected after birth.

VI. RECOMMENDATIONS

A. Public Awareness

Public enlightenment programs should be implemented in order to help correct the misconceptions related to child abuse in Nigeria. Agencies and non-governmental organizations should campaign against harmful cultural practices that are perpetrated against children, particularly female genital mutilation and child marriage. This crusade can be done through seminars, workshops, and training programs. The media can advocate for a particular policy that will benefit children and encourage a change of attitude among members of the community through advertisements, dramas, special programs and documentaries.⁷⁸ Information about the Child Rights Act and its salient provisions should also be made available.

B. Alleviation of Poverty

Poverty is a menace that must be eradicated; there is a parallel effect on children. The Federal Government should make efforts to facilitate poverty reduction in urban and rural areas by providing basic inputs to enhance people's livelihood and income. Agricultural inputs, credit facilities, training programs to develop skills, and adequate wage and salary are suggestions of where to start.⁷⁹

⁷⁸ Shannon Tyler, Kelly Allison, and Adam Winsler, *Child Neglect: Developmental Consequences, Intervention, and Policy Implications*, 35 *CHILD & YOUTH CARE F.* 1, 16 (2006).

⁷⁹ Fidelis O. Ogwumike, *An Appraisal of Poverty Reduction Strategies in Nigeria*, 39 *CBN ECON. & FIN. REV.*, 1, 15 (2001).

C. Child Rights Act, 2003

Every state legislature should enact the Child Rights Law following the model of the Child Rights Act of 2003. By enacting the law in all states, the rights and welfare of children will be taken seriously. Adequate funds should also be provided for the appropriate authorities in order to aid in the proper implementation of child rights laws.

D. Sex Offender Treatment Programs

Sometimes, laws which aim to protect children are not fully effective because most sex offenders are psychologically ill and cannot be deterred by imprisonment alone. Prisons, private companies, non-governmental organizations, and individuals can play a helpful role in sex offender treatment in Nigeria. The private sector can contribute in key areas, such as program planning and legal consultation. Multi-national corporations can build facilities as part of their corporate social responsibility programs in order to enhance the treatment for offenders. Notable members of society can also give their support by counselling and mentoring such offenders.⁸⁰

E. The Role of Parents

In a child's life, a parent's role is important in determining whether or not a child will be abused. It is of utmost importance for parents to find time to be with their children in order to provide direction, attention, and supervision. Parents should train and educate their children, and not solely rely on the formal education system to do it for them. Children should be taught about the dangers involved in talking to strangers, and the importance of being careful even with those they are familiar with. Parents should ensure that their children get the best from life and not become menaces to society. As an alternative to selling items on the street, children could display wares for sale in the home, or people who are old enough to take care of themselves could be the ones to sell. Parents should also reasonably discipline their children with methods that are appropriate based on the age of the child.

F. Implementation of Laws

Adequate measures should be provided to enforce laws through appropriate mechanisms. Since law enforcement officers have the

⁸⁰ Marlon Shemfe ET AL., Effective Measures to Improve Offender Treatment Programmes and Interventions through Community Involvement (last visited Dec. 22, 2014), http://www.unafei.or.jp/english/pdf/RS_No84/No84_21RS_Group2.pdf.

greatest role to play, there is a need to increase their remuneration, and provide them with incentive to work. Training on child issues should be implemented to enable a better response to child abuse situations that are reported or encountered. Also, sanctions for violations of child protection laws should be sufficiently severe to serve as a deterrent. These laws should be made known and easily accessible to the entire population.

G. Collaboration and Cooperation between Government and Non-Governmental Organizations (NGO)

Various Non-Governmental Organizations (NGOs) are being created with the purpose of taking care of orphans and other homeless children. The role they play goes a long way in getting some children off the streets. A number of them are engaged in the fight against trafficking, child marriage, and sexual molestation. Governmental and non-governmental organizations should collaborate and play a complementary role in addressing the best interests and welfare of children. The government should create more orphanages and children's homes to ensure that homeless children receive adequate care and are kept off the streets. Credible members of staff should be placed over the affairs of these children to prevent exploitation, molestation, and neglect. The government can also financially support NGOs by raising awareness through building capacity, implementing provisions, and by providing institutions for rehabilitation and vocational training. Likewise, NGOs can support the government by providing accurate data, information, and advice.

H. Good Governance

Good governance is necessary for the prevention of child abuse and exploitation. When the motive of leaders in a country is to loot public funds, the citizens suffer, as their needs will not be met, including children's. State and local governments should execute poverty alleviation programs or projects and ensure that basic necessities such as food, water, security, and education, sanitation, and health facilities throughout are provided. It should also improve monitoring and evaluation, communal participation, proper planning, budgeting, implementation, and accountability.⁸¹ Policies should also be extended to rural communities through local governments in which they can provide basic amenities like schools, clean water and health facilities.

⁸¹ Sirajo Aliyu and Abdullahi Garba, *The Implications of Child Poverty on the Nigerian*, 6 EUR. J. of GLOBALIZATION & DEV. RES., 360, 368-69 (2012).

I. Judiciary

Judges should dispense justice without interference from the other arms of government and efforts should be made to ensure that cases are resolved quickly. Family courts have been inaugurated in some states in Nigeria, such as Ekiti and Lagos, for the purpose of ensuring justice for children and promoting peace in the family. States in Nigeria who have not introduced family courts to deal with matters concerning children should do so. Parents should encourage their children to report any instance of abuse. Upon such a report, it should not be swept under the carpet, but rather be prosecuted to serve as a deterrent to other offenders. An ineffective judiciary will promote child abuse despite the enactments of several laws prohibiting it. Furthermore, in a bid to reduce the procedural limitations involved in children obtaining justice through courts when they are being abused by their parents, institutions such as NGOs, should be empowered by the law to serve as a form of succour to them. Children can report abuse by their parents to these institutions, who can then file claims in court. Some institutions are already making efforts to intervene in such matters. When they are empowered by law, they will have a legal basis for pursuing punishment of abuse and will be more effective.

J. Domestic Violence against Women

Domestic violence affects a woman's health, development, and security. This consequently affects the welfare of her child. Men should be counselled and informed of the risks involved in beating their wives. There is a need for the 'Violence against Persons (Prohibition) Bill' (VAPP) to be passed and for law enforcement agents to be educated so that erring individuals will be punished appropriately. Women should be encouraged to report incidents of abuse by being offered a justice system that does not humiliate and embarrass them, with a system of counselling involved.⁸² For the states that currently have laws, people should be educated on them so, they can get help if they are victimized.

VII. CONCLUSION

Children are the future generation and the leaders of tomorrow. The way they are treated reflects the level of development of a particular country. Child abuse has to be tackled quickly before its consequences become too difficult to handle. While much has been done over the years

⁸² Adeyemo Olaitan O. and Bamidele Ifeoluwayimika, *The Menace of Domestic Violence: Improving the Lives of Women in Nigeria*, 15 U. OF BENIN L. J., 196 (2014).

through implementation of law, policies, and education, more effort needs to be made to protect children from child marriages, female genital mutilation, kidnapping, child labour, molestation, neglect, and other forms of abuse. Laws put in place to protect children in Nigeria are not effective because so many other factors exist which inhibit their effective implementation. To ensure effectiveness of these laws and to decrease the prevalence of child abuse, issues such as poverty, cultural attitudes, corruption, lack of implementation of laws, and attitude of parents need to be addressed. Laws and policies, despite their importance, cannot eliminate child abuse solely on their own..

Public awareness is key; people need to be aware of the laws on child abuse, its consequences, and requirements of compliance. Laws encouraging child abuse in any way should be amended to set strong foundations for the fight against child abuse in Nigeria. Section 18 of the Marriage Act should be amended to comply with the provisions of Section 21 of the Child Rights Act, which provides that children below the age of eighteen are incapable of contracting to marry. Parents, schools, and non-governmental organizations (NGOs) have to work together, as the efforts of the government will not yield positive results if other stakeholders are not cooperating.

