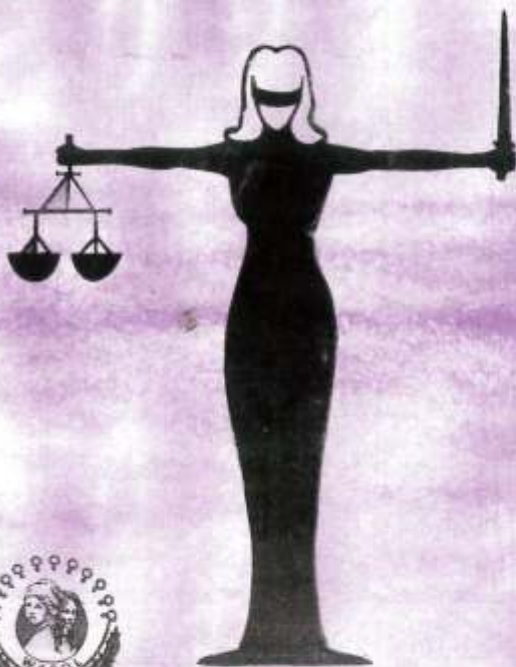

CHILD ABUSE & NEGLECT



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(WACOL)

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Legal Literacy Series 1

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PREFACE

The protection, promotion and full enjoyment of human rights is one of the most important aspirations of today's world. These rights give humanity its very value and therefore must be guaranteed. However such rights particularly the rights of children can only be guaranteed if we all have learned to respect them. Therefore the human rights of children must become an integral part of our education, our culture and our development. We must all share in the responsibility of challenging the problem of human rights abuses against children at its source by actively instilling a respect for these human rights of our children in our population. Women's Aid Collective (WACOL) is fully committed to this cause hence the publication of this legal literacy series with help from the Swedish NGO. It is our hope that through this medium, we will help to increase the level of awareness among the masses of the problem of child abuse and the provisions of the law as it affects children.

CHILD ABUSE AND NEGLECT.

WHO IS A CHILD?

The various Children and Young persons enactments define 'child' as a person who has not attained the age of 14 years and 'young person' as one who has attained the age of 14 years but has not attained the age of 17 years. However for the purposes of this write-up, the word child covers both children and young persons.

WHAT IS CHILD ABUSE AND NEGLECT?

Child Abuse and Neglect may be defined as a situation in which

1. A child is suffering serious physical injury, which was not inflicted upon him by accident, but by a deliberate act or omission.
2. Is suffering harm by reason of neglect, malnutrition or sexual abuse.
3. Is going without necessary and basic physical care.
4. Is growing up under conditions, which threaten his physical and emotional survival.

From this definition it can be inferred that child abuse and neglect are conditions related to the nurturing process provided by parents and the community.

FORMS OF CHILD ABUSE

(1) CHILD LABOUR

In every society children are required to do some work and such work may differ depending on the

society involved. This type of work is an important part of a child's basic education and a means of handing over necessary skills from parent to children. This kind of work is beneficial to the child's physical, mental, spiritual, moral and social development provided it does not interfere with schooling, recreation and rest.

Child labour in contrast is work by children under conditions harmful to their health usually for long hours and for very low wages. Such work is destructive and exploitative. Children are not physically suited to long hours of strenuous and monotonous work. They are not the precautions they should be taking.

FORMS OF CHILD LABOUR:

- (a) The domestic servant: It is the most prevalent type of Child labour in Nigeria. Such children are subjected to a heavy load with little or no pay. They are deprived of affection, schooling and leisure. In addition they are also vulnerable to physical and sexual abuse.
- (b) Child Beggars: These children are employed by adults to beg. They can be found on the major roads all over the country harassing motorists and pedestrians alike often without regard to their personal safety.



- © Street Hawking: This is another obvious form of Child Labour. The child hawkers may be children who live with their parents or domestic house helps.



- (d) **Commercial Sexual Exploitation of Children:** This is the most hazardous form of child labour because of the added risk of infection with sexually transmitted diseases especially HIV/AIDS. These children are usually coerced or enticed into working as prostitutes. In some extreme cases, such children are sold outright by impoverished parents.
- (e) **Industrial and Agricultural Child Labour:** A large number of children are found in paid employment particularly in seasonal activities such as farming and in small workshops. Many of these children have suffered physical harm, which stem from the nature of the work involved or from poor working conditions.

2. **PHYSICAL ABUSE/NEGLECT**

Physical Abuse: It has to do with the infliction of physical pain or injury on the child. The most common form of this is subjecting a child to a severe beating or extreme punishment for minor offences. Any chastisement of a child should take into consideration the child's age and should never include anything that might do real physical harm to the child. It should also be not a regular occurrence.



Physical Neglect: It is the denial of care, adequate nutrition and medical care. The most glaring form of this neglect is the various incidents of abandoned babies. Also the problem of street children is a direct result of this type of neglect. Many unloved and unwanted children run away from home and take to the streets exposing themselves to further abuse.

3. **SEXUAL ABUSE**

It is taking advantage of a child's tender years and innocence in order to subject the child to engage in sexual activities that he/she does not fully understand and to which they cannot give any informed consent.

Sexual abuse can take many forms and may differ considerably between cultures. It is not restricted to sexual intercourse and covers a wide range of behaviours. It may be purely verbal rather than physical. Sexual abuse can have long-term consequences. Many abusers have a history of being sexually abused themselves.

Some of the more frequently cited kinds of sexual abuse are:

(a) **Incest:** It is sexual relations, which occur between two people in the same family such as father and daughter or mother and son. However situations, which are almost as disturbing, may involve those who are not blood relations such as stepfather and stepdaughter. Incest may include sexual activity, which falls short of intercourse. Incest is a particularly difficult subject for the child involved for reasons, which include shame, embarrassment and often a sense of guilt that they have consented or encouraged it.

(b) **Rape:** It is the forcing of sexual intercourse on an unwilling male or female. Rape is particularly traumatic for a child with no prior experience of intercourse and it may be accompanied by additional physical as well as psychological abuse. Sexual intercourse with a minor however defined

ought to be treated as raped even if the child consents since the child is not considered to be mature enough to make an informed judgment.

(c) **Prostitution:** This is the involvement of children in exchanging sex for money or other favours and is often seen as sexual abuse. Most children were forced into this, some do it out of desperation and others are too young to make a mature voluntary choice.

(d) **Paedophilia:** This refers to sexual attraction towards the very young. A child may be either obliged or persuaded to have sex with an older person to fulfill the latter's sexual desire and is a form of sexual abuse because of the immaturity of the child.

(e) **Sexual Harassment:** It may take many forms including repeated teasing or embarrassment often, but not always by boys or men towards girls.

1. **EMOTIONAL ABUSE/NEGLECT**

This includes instances of verbal abuse for example subjecting a child to constant criticism and humiliation. Never commending a child for his/her efforts. Normally this results from having an unreasonable expectation from a child. Also many parents fail to express the love their children need. Such attitudes shatter a child's fragile ego and convey the message that the child is unloved and unwanted. It may also lead to feelings of depression, guilt and fear. The emotional well being of a child will ensure that he/she grows into a balanced and well-adjusted adult.

LAWS PROTECTING CHILDREN IN NIGERIA

1. ***The Nigerian Labour Act, Laws of Federation of Nigeria 1990 CAP 198.***

The Act protects the child from being employed under exploitative circumstances or circumstances that may be injurious to his health. Under this Act a child can only do work of a light nature. It also forbids the employment of a young person under the age of sixteen years to work underground, on machine work or in any employment, which is dangerous or immoral.

2. ***The Criminal Code Act Laws of the Federation of Nigeria 1990, CAP 77.***

Certain provisions of the Criminal Code deal specifically with the Child. These include;

a) *Duty to provide necessities*

The Criminal Code imposes a duty on the person who has charge of a child to provide necessities for such a child. The person will be held responsible for any eventuality to the life or health of the child, which is caused, by the failure or omission to perform the duty.

b) *Abandoning or Exposing Children*

It is a crime for any person unlawfully abandons or exposes a child under the age of seven in a manner likely to cause it grievous harm.

c) *Child stealing:*

It is an offence for any person to steal a child under the age of twelve years.

d) *Indecent treatment:*

This involves making any sexual bodily contact with another person or treating somebody as a sex object. It can also be verbal in nature like offensive remarks or jokes of a sexual nature. The Criminal Code forbids the treatment of a child in such a manner.

E) Defileme

It is engaging in sexual activity with a child through natural or unnatural means and is an offence punishable with life imprisonment under the code because of its damaging effect on the child's emotional and physical development.

f) Abduction:

Abduction of a girl under eighteen with intent to have carnal knowledge. Under the Code, it is a crime to kidnap a girl under the age of eighteen with the sole purpose of having sexual intercourse with her.

3. Children and Young persons Law:

This legislation specifically protects children from physical and mental injury.

4. The Constitution of the Federal Republic of Nigeria, 1999

The constitution protects and respects the fundamental rights of all citizens, adult and children alike. Chapter four of the constitution provides an array of such rights.

a. Right to Life Section. 33

The Nigerian Child's right to life, survival and development are guaranteed under the Nigerian constitution.

b. Right to dignity of human persons

Section 34 of the 1999 constitution ensures the child's right to the dignity of his/her person and accordingly the child shall not be subjected to any form of torture or inhuman or degrading treatment. Also the child shall not be required to perform forced or compulsory labour.

- c. **Right to personal liberty Section. 35**
A child has a right to personal liberty. Any infringement of this provision is liable to prosecution both under the constitution and the Criminal Laws.
- d. **Right to freedom of thought, conscience and religion Section. 38**
Section. 38 of the 1999 Constitution guarantees the child's right to freedom of thought, conscience and religion. Therefore a child is entitled to change his/her religion or belief and he/she is free to manifest and propagate his religion or belief in worship, teaching, practice or observance.
Parents and guardians have a duty to direct their children in the exercise of this right.
- e. **Right to freedom of expression Section 39**
Children also have a right to freely express their views and opinions without fear. However such a right should be exercised under the proper guidance of adults.
- f. **Right to peaceful assembly and association Section. 37.**
Under this right a child is entitled to assemble freely and to associate with other persons for the protection of his/her interest. The only exception is that a child cannot be a member of a political party.
- g. **Right to freedom of movement Section. 41**
The constitution also ensures this right except where the child is in conflict with the law. However under the administration of juvenile justice the child is not liable to capital punishment or life imprisonment for offense committed by him. Where the child is under the age of twelve years, he/she is not criminally responsible for any act or omission.

- h. Right to private and family life:**
Section 37 of the 1999 constitution guarantees and protects the privacy of the child, his/her home, correspondence, telephone conversations and telegraph communications.
- i. Right to freedom from discrimination**
The constitution in Sec. 42 (2) stipulates that no child shall be discriminated against due to the circumstances of his birth.
- 5. Cinematography Act of 1990 protects the child from exposure to indecent and obscene materials, publication and films.
- 1. Tobacco and Alcohol advertisement decrees/Act forbid the use of children in the advertisement of cigarette and alcoholic beverages.

The United Nations Conventions on the Rights of the Child.(1989)

The summary of the rights of the child under the Convention is as follows:

- (a) Every child has the right to life and to be allowed to survive and develop.
- (b) Every child is entitled to a name, family and nationality.
- (c) Every child is free to belong to any association or assembly according to the law.
- (d) Every child has the right to express opinions and to freely communicate them on any issues subject to restriction under the law.

- (e) Every child is entitled to protection from any act that interferes with his or her privacy, honour and reputation.
- (f) Every child is entitled to adequate rest and recreation according to his or her age and culture.
- (g) Every child is entitled to receive compulsory basic education and equal opportunity for higher education depending on individual ability.
- (h) Every child is entitled to good health, protection from illness and proper medical attention for survival, personal growth and development.
- (i) Every child must be protected from indecent and inhuman treatment through sexual exploitation drug abuse, child labour, torture, maltreatment and neglect.
- (j) No child should suffer any discrimination irrespective of origin, birth, colour, sex, language, religion, political and social beliefs, status or disability.

THE WAY FORWARD

The issue of child abuse has now been recognized as a worldwide problem. Children are among the most vulnerable people on the face of the earth and are frequently the defenseless victims of the most degrading abuses. Many international conferences have helped in giving the needed attention to this problem. Consequently, many countries have sought to better the lives of children by passing legislations to protect them. In spite of such laudable actions, it must be acknowledged that child abuse has deep tentacles in human society and cannot easily be eradicated by mere legislation. However, despite all these parents, guardians

and adults in charge of children can still do much to protect them.

A CHECKLIST FOR PARENTS.

1. Express your love for the child and provide a secure environment for the child.
2. Communicate with your child.
3. Adopt discipline to the needs of each child. Such discipline should be balanced and should include teaching children about boundaries and limits in ways other than by physical chastisement or in an abusive manner.
4. Teach the children what their private body parts are for and teach them that these are not to be violated.
5. Teach your children how to react if sexually threatened.
6. At all times know where your children and who is with them.
7. Do not expect more from the child than is reasonable (Always remember that you are dealing with a child), given its physical and mental maturity.
8. Reassure the child when threatened and give commendation regularly.
9. Learn to manage and keep anger in check when dealing with children.
10. Listen to them and take their views into account.
11. Always act in the best interests of a child.

ABOUT WACOL

Women's Aid Collective (WACOL) is a non-governmental, non profit making organization registered as a company limited by guarantee with Corporate Affairs Commission (No. RC. 388132) and has an observer status with the African Commission on Human and People Rights. WACOL is committed to promoting human rights of women and young people. We are gender conscious and work towards gender equality and human rights for all. Our vision is a society free from violence, all forms of abuses, where human rights of all, in particular women and young people are recognized in law and practice.

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