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REDEEMER'S UNIVERSITY LAW JOURNAL

COLLEGE OF LAW, REDEEMER'S UNIVERSITY, EDE, NIGERIA

vol. 2, 2019

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An Examination of Child's Rights and the Principles of Corporal Punishment

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Abstract

In different entities across the nations, parents, and others apply corporal punishment on children for wrongdoing. Corporal punishment is a system of discipline mechanism in which supervising adult deliberately inflicts pain upon a child in response to a child's unacceptable behavior. Africans cherish certain culturalized ways of training children among which is to spank, whip, swat or paddle children to punish them for their wrongdoing. The Holy Bible commands parents not to withhold correction from the child, because if beaten him with the rod, such shall not die. Following this biblical injunction, punishing children by an adult as reiterated in the same chapter of the bible encourages supervising adults or parents to spank, because such shall deliver a child's soul from hell. The motive behind all these correcting mechanisms has been argued to be in the best interest of the child. If beating, spanking, and other corrective mechanisms are in the best interest of the child, to what extent should a parent or guardian beat a child to train them as prescribed by culture and religious mandate? Were the law to permits beating a child, it is needful to ascertain what level of beating is acceptable under the law to prevent the commission of another offense. These are what this paper has attempted to answer. The paper concludes on a strong notion that parents, teachers, and guardians need not to necessarily beat up a child before giving such a child best training.

Key Words: Corporal punishment; African Culture, Best interest of a child; Training; Correction

1.0 Introduction

The habit of beating, spanking, whipping or paddling by either the parents or teachers in school for disobeying them has not really gone down well with the children. The reason being that beating

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children by the adult has been taken to be an infringement upon the rights of the children, though culturally and biblically, parents, teachers or guardians have genuine reasons for subjecting their children or students to any forms of corporal punishment. For instance, the Holy Bible¹ made it clear that parents should not withhold any form of correction from their children and that beating them with any light instrument or object like rod will not kill them but deliver their souls from the danger of hell. Other religious books also supports the act of punishing children as it was laid down by Prophet Muhammed through his way of life and his deeds, but Western civilization and recent pronouncement by the Nigerian parliament made the various form of corporal punishment a wrongful act. The question we must ask ourselves at this juncture is 'Should our children be left untrained?' or what method of training are we going to adopt in order not to infringe upon the rights of the children?

1.1 Rights Concept

Child's Rights

Children's rights have been defined to include what children are entitled to because of being called a human being². It provides child's access to basic needs at any given time, which has been extended to include, among other things rights to provision, rights to protection, and freedom to participate. The right to rule implies that children at any given period shall and must have right to an adequate standard of living, health care, education or apprenticeship if having education cannot be afforded by the parents or guardians; and other essential services like quality food, shelter and friendly environment³.

The rights to protection are of three types; the first one is that the biological parents of a child owe a duty to protect the children which God has given them. The school which these children are attending also owes the responsibility to take good care of the children whenever they are in school or are on an excursion outside the schools⁴. An essential aspect of it is to be exercised by the Government. Government at all levels must provide the enabling environment, laws, and facilities to ensure that children from

¹ Proverbs chapter 22 verse 13

² Land Own, G (1994) "Children's rights" in B. Mayall (ed) *Children's Childhood: Observed and experienced*. London : The Falmer Press p. 34

³ Children & Youths, Human Rights Education Association Retrieved 13-11-2018

⁴ Ibid

different backgrounds are well protected⁵. The combined effort of the concerned stakeholders is that children must be protected from any form of abuse, neglect, exploitation, torture, and discrimination. All these constituted the rights which a child must have access to at any point in time.

The third category of rights under this context is the right to participation which ordinarily comprises the rights to participate in communities activities or development such as holding views in respect of certain issues in the communities which may include children's involvement in libraries programmes, community's programmes, youth voice activities and involvement of children in decisions making process⁶.

1.2 Rights concepts and the principles of corporal punishment

Having described right to be inseparable access to fundamental things, corporal punishment is an idea that unless a child is beaten, spanked or be subjected to any form of cruel habit or discomfort in response for disobeying parents, guardians or adults⁷. It is an infliction of physical pain or discomfort to a minor child in response to some undesired behavior by such a child. In most cases, corporal punishment takes the form of spanking or slapping the child with an open hand or striking with equipment, such as a belt, cane, slippers, hairbrush or other in that form. The act can also include shaking, pinching, forced ingestion of substances, or mandating children to stay in an uncomfortable position for a long time⁸. However, some have argued that any form of corporal punishment irrespective of the motive is an infringement upon the rights of the children and as such, the habit ought to be stopped or reduced to the barest minimum. Social acceptance of corporal punishment is high in countries where the act has been taken as lawful means of training a child. For instance, in Nigeria and other African countries, corporal punishment has been considered to be legitimate because the act has the backing of culture, beliefs, and religion, even those that do not support believe in worshipping any God have culture as an institution which in most times encourage corporal punishment as a means of giving good upbringing to children⁹. Though, those who have

⁵ Ibid

⁶ Convention on the rights of the child, United Nations (1989) on www.unitednation.org on child's right

⁷ Children's rights on Human Rights Watch retrieved Nov. 30, 2018

⁸ Unicef – Convention on the Rights of the Child, 2000 retrieved November 20, 2018

⁹ ibid

advocated for the use of corporal punishment in child's education had forgotten that any form of it typically has the opposite side aggressive behavior in children and less long-term obedience. Another adverse effect was extended to include depression, unnecessary anxiety, anti-social behavior, or increased risk of physical abuse. Data revealed that beating, spanking, and other physical punishments embraced by parents or teachers for the purpose of discipline are inconsistently applied and often time results in the death of such child.

Injurious forms of corporal punishments which include kicking, biting, scolding, and burning have been recorded to have constituted an infringement of the rights of a child and finally led to abuse¹⁰.

2.0 Forms of Punishment

Among other groups, the Committee on Protection of the Rights of the Child described *corporal punishment* as "any punishment in which physical force is used on a minor child and intended to cause bodily harm or discomfort, though majorly light." Corporal punishment involves hitting ('smacking,' 'slapping,' 'spanking') children, with the hand or with equipment like a whip, stick, belt, shoe, wooden spoon, etc. But it can also involve, for example, kicking, shaking or throwing children, scratching, pinching, biting, pulling hair or boxing ears, forcing children to stay in uncomfortable positions, burning, scalding or forced ingestion (for example, washing children's mouths with soap or forcing them to swallow hot spices)¹¹. With the purpose of allowing them to realize that what they have done was not good or welcome by society or parents.

Accordingly, corporal punishment include the use of some form of physical injuries on the children in response to undesirable behavior, and it ranges from slapping the hand of a child or inflicting other forms of bodily harms so as to let them suffer for disobeying the instructions of their parents, guardians, and teachers as the case may be. The word "corporal punishment" on most occasions, is used interchangeably with "physical punishment."

2.1 Factors aiding Corporal Punishment

Among various things considered to be the factors necessitated the use of corporal punishment in our society is:

¹⁰ United nation conference on child, women and widows' rights held in Geneva, 2015

¹¹ http://en.wikipedia.org/wiki/corporal_punishment retrieved 11/3/2017

- (1) The experience which a parent or guardian has with physical punishment as a child,
- (2) knowledge about child development,
- (3) socioeconomic status,
- (4) parental education, and
- (5) religious ideology¹².

1. This has to do with the experience which the parents, guardians, or adults had with corporal punishment when they were young. This has been taken as one of the grounds in which corporal punishment has been adopted as a measure for punishing a child for misbehaving or disobeying their parent. The un-impeached experience that I was trained in that way and yet I am what I am today, so if I cannot add to the kind of training I have gotten from my parent, I must be able to give what had been given unto me.

2. Knowledge about child development. Erroneously, parents, guardians or any adults who knew the historical background of a child, often time adopt any form of corporal punishment in an attempt to impart knowledge or train a child in designated way of life and when a child resist or try to let such parent aware the new or modernize system of imparting knowledge on a child, such will be misunderstood that such a child is stupid or stubborn and the next step the concerned parent will take is to try to punish the child. This action is wrong, so to say, but the ego will not allow such parent or guardian to listen¹³.

3. Social-economic status: The idea of punishing a child till the extent of injuring the child is so common among the low-income earners, that is, those below the average. The moment a child mistakenly commit an offense, the next thing one would see from these parents in that category is beating or spanking or infliction of bodily harm on such a child. Those having depression was said to be among those so addicted to any form of physical punishment¹⁴.

4. Parental Education: Those who say education is power are not wrong because any parent with minimum knowledge will know when and how a child should be punished or rightly handled¹⁵.

¹² Mason, M. A. (2005) the United Nation & International Children's Right Crusader, Leader or Laggard, *Journal of Social History* Summer

¹³ African charter on human and people's rights 1983 - 1984

¹⁴ Convention on people's right (children, women and disabled) held on 28th January, 2005, India

¹⁵ *ibid*

5. Religious Ideology: Christian faith allowed children to be punished for any wrongdoing. Proverbs chapter 22 verse 13 says “parents must not withhold correction from their children and that beating them with light instruments like rod will not make them die, Proverbs chapter 22 verse 14 added and encouraged parents to apply any measure in correcting their children, such will not kill them but deliver their souls from danger of hell. Al-Quran revealed the teaching of Almighty Allah as practiced by Prophet Muhammad that canning is one of the appropriate measures that a parent or guardian or teacher in school should adopt in imparting knowledge on the children. To disregard the act as mandated by the above mentioned religious books is to disobey or depart from rightful teaching which may invariably lead to sin against Almighty God¹⁶

2.2 Culture, Religious background and Principle of Corporal Punishment

It was earlier stated that corporal punishment has a cultural history. 80% of the people's motive for adopting various forms of corporal disciplines in response to children's disobedience has reason to relate the act or habit to a culture which has become part and parcel of the people's way of life. Religion has influenced people and their way of life. In many African countries, culture has imposed it on people the forceful means of imparting knowledge on the young ones. Data revealed that in many developed countries like China, India, Italy, Kenya, Philippine and Thailand, the level of acceptance of the usage of corporal punishment as a means of correcting children had been attributed to the culture. Culture preached the use of corporal punishment and being the lover of culture; parents have no reason not to accept or follow what religion has prescribed as a measure for correcting children. The acceptance of it was not linked to anxiety, poverty, education, or aggression; instead, the emphasis was placed on the belief that culture cannot and in any way has not mislead them.¹⁷ Also, where culture allows the application of physical punishment in response to children's disobedience, abuse, violence or other forms of unrest shall be the order of the day in such a society¹⁸.

United Nations were of the view that the adoption of corporal punishment as a correcting measure for children's misbehavior, post

¹⁶ Ibid

¹⁷ UN (2012) “9 Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment via United Nations Treaty Collection retrieved 1st May, 2012.

¹⁸ UN (2012) 3, International Covenant on Economic, social and cultural rights – (treaties collection)

danger in the communities where it is being practiced and that such may lead to peace threatening agent to the whole world¹⁹. In an attempt to regulate widely acceptance of corporal punishment, and that whether spanking, beating, whipping, paddling and other forms of physical punishment be taken as an appropriate mechanism or method in correcting children, expert in the United States were of the opinion that social acceptance of spanking and other forms of physical punishment be subjected to rest and in 1979 or thereabout, the conclusion was reached and those participated in the exercise were of the view that physical punishment has no positive impact on the children applied it to and thereby the act was recommended for ban²⁰.

Despite the scientific consensus that the benefit which one would derive from the act of punishing child are as not as many as disadvantages attributed to it, people that take it as legal means of correcting the young ones still have their justification in culture and upbringing²¹. And that any parent who has ever spanked a child would find it extremely difficult that spanking and other forms of physical punishment is harmful²².

Corporal punishment was, however, regarded as an abuse, infringement upon the child's rights, and illegal. Base on the havoc and negative impact it has on the children and to reduce the trend, the act has to be banned in its entirety²³.

2.3 Impact of Corporal Punishment on Children

Children have collectively expressed their displeasure towards correcting them by applying physical punishment; they claimed that the habit often brings a lot of discomfort and negative consequences upon their lives²⁴. Those interviewed thought that spanking and other forms of physical punishment have no positive impact on their

¹⁹ Abolishing corporal punishment of children: Question & Answer Archived from Original ([http://www.cole.int/t/dg3/children/corporal/punishment/question & answer](http://www.cole.int/t/dg3/children/corporal/punishment/question%20&%20answer) 9 August, 2014

²⁰ Global initiative to end all Corporal Punishment of Children (<http://www.endcorporalpunishment.org/>) 2012 retrieved 23/11/2017

²¹ UN Committee on Economic, Social and Cultural Rights (1999) "General Comment on the Right to Education" HRI/GEN/1/REV 4:73

²² European Committee of Social Rights 2001 "conclusions XV-2" vol. 1

²³ Prohibition of all Corporal Punishment in Paraguay (2016) – Global Initiative to End All Corporal Punishment of Children CBC News retrieved 17 September, 2012

²⁴ Country report for Mongolia “([http://endcorporalpunishment.org/progress/ country-report/Greenland and html](http://endcorporalpunishment.org/progress/country-report/Greenland%20and%20html)) Global Initiative to End All Corporal Punishment of Children January, 2016

lives, that rather than doing them good, the habit has exposed them to danger²⁵. They added that physical punishment hurts them physically; for instance, the act arouses negative emotions, such as resentment, confusion, sadness, hatred, the feeling of humiliation, and anger²⁶. It often creates fear and impedes learning, both of which are not conducive or constructive to the well-being of the child and their psycho-social growth. Children unanimously concluded that violence means of correcting them has no definite advantage.

3.0 Corporal Punishment, Child abuse, and Child's rights

Right, are legal, social, or ethical principles of freedom or entitlement. That is, rights are the fundamental normative rules about what is allowed of people or owed to people, according to some legal systems, social conventions, or ethical theories. Rights are of essential importance in such disciplines as law and ethics, especially theories of justice and deontology²⁷.

According to Roger Park

*The importance of rights in any given society cannot be over-emphasized; it is the pillar upon which every other thing is built on and often time it is being regarded as a bedrock for all developments. Taking rights away from a bundle of all struggle, one would discover that nothing is left..... And it is a concept which gives room to all other benefits?*²⁸

3.1 Child's Rights:

Children's right are the perceived rights of children with particular attention to the right of special protection and care afforded to the young, including their right to association with both biological parents, human identity as well as the basic needs for food, universal state-paid education, health care and criminal laws appropriate for the age and development of the child. Interpretations of children's rights range from allowing children the capacity for autonomous action to the enforcement of children being physically, mentally and emotionally free from abuse, though what constitutes

²⁵ "To spank or not to spank? – debate at Canada) CBC News retrieved 17th September, 2012

²⁶ "Country report for Peru" (<http://www.endcorporalpunishment.org/progress/country-report/Peru.htm>) Global Initiative to End All Corporal Punishment of Children January 2016

²⁷ Olugbemi Fatula Feminism, women, family and children law (2015), Afribic Law Centre, Ile-Ife.

²⁸ See R. Park, The essence of rights, Sage Publications, 2005, at p 14.

'abuse' is a matter of debate. Other definitions include the rights to care and to nurture.²⁹

A child has been defined to include person or group of persons below the age of maturity, usually below the age of eighteen (18)³⁰

A child is a person, not a sub-person, and the parent has absolute interest and possession of the child. The term "child" does not necessarily mean minor but can include adult children as well as adult nondependent children.³¹ There are no definitions of other terms used to describe young people such as "adolescents," "teenagers," or "youth" in international law³². The field of children rights spans the fields of law, politics, religion, and morality.

As minors by law, children do not have autonomy or the right to make decisions on their own for themselves in any known jurisdiction of the world. Instead, their adult caregivers, including parents, social workers, teachers, etc. take decisions on their behalf. Some workers and others are vested with that authority, depending on the circumstances.³³ Some believe that this state of affairs gives children insufficient control over their own lives and causes them to be vulnerable³⁴ Louis Althusser has gone so far to describe this legal machinery, as it applies to children, as "repressive state apparatuses".³⁵

Government policy has been said to mark the ways adults abuse and exploit children, resulting in child poverty, lack of educational opportunities, and child labour. Children are to be regarded as a minority group towards whom society needs to reconsider the way they behave.³⁶ Children need to be recognized as participants in

²⁹ Bandman, B. (1999) *Children's rights*, sage Publications, 2005, at p 14.

³⁰ (1999) *Convention on the rights of the Child" United Nations Retrieved 2/23/08

³¹ Children and youth human rights Education association Retrieved 24/11/2017

³² Olugbemi Fatula *Feminism, Women, Family and Children Law* (2015) ibid

³³ Lansdown, G, "Children's welfare and children's rights," in Hendrick, H (2005) *child welfare and social policy. An essential reader. The policy press* p. 117

³⁴ Lansdown, G. (1994) 'children's rights', in B. Mayall (ed) *children's childhood: observed and experienced* London: The Falmer press p. 33

³⁵ Jenks C. (1996) "conceptual limitations," *childhood* New York: Routledge. P 43

³⁶ Thorne, B. (1987) "Re-visioning women and social change: where are the children?" *gender & society* 1 (1) p. 85-109.

society whose rights, and responsibilities need to be recognized at all ages.³⁷

Though defining children's rights have become clearer in the last fifty years³⁸ - contrary to a 1973 publication by Hillary Clinton that children's rights were a "slogan in need of a definition,"³⁹ that is not to say that the notion of children's right is still well defined. This point is that there can be no singularly accepted definition or theory of the rights held by children.⁴⁰

Children's rights law is defined as the part where the law intersects with a child's life. That includes Juvenile delinquency, due process for children involved in the criminal justice system, appropriate representation, and effective rehabilitative services; care and protection for children in state care; ensuring education for all children regardless of their origin, race, gender, disabilities, or abilities, and health care and advocacy (sic)⁴¹.

Children's rights include a wide spectrum of civil, cultural, economic, social, and political rights. Rights tend to be of two general types; those advocating for children as autonomous persons under the law and those placing a claim on society for protection from harms perpetrated on children because of their dependency. These have been labeled as the right of empowerment and as the right to protection⁴². One Canadian organization stated that children's rights had been categorized into three: provision,⁴³

³⁷ Lansdown, G. (1994). "children's rights," in B. Mayall (ed) *children's childhood: Observed and experienced* London: The Falmer press. P. 34

³⁸ Franklin, B. (2001) *The new handbook of children's right comparative policy and practice* routledge. P. 19

³⁹ Rodham, H. (1973) "children under the law" *Harvard Educational Review* 43: 487-514

⁴⁰ Mangold, S. V. (2002) "Transgressing the Border between protection and empowerment for domestic violence victims and Older children: empowerment as protection in the foster care system," *New England School of Law*, Retrieved 4/3/08

⁴¹ Ahearn, D., holzer, B. with Andrew L (2000, 2007) *children's rights law; a career guide* harvest law school, retrieved 2/23/08

⁴² Mangold, S. V (2002) "Transgressing the Border between protection and empowerment for domestic violence victims and older children: empowerment as protection in the foster care system", *New England School of law* retrieved 4/3/08

⁴³ Children have the right to an adequate standard of living, health care, education and services and to play. These include a balanced diet, a warm bed to sleep in, and access to schooling.

protection,⁴⁴ participation⁴⁵. This is done about those related to the conditions necessary to meet basic human needs such as food, shelter, education, health care, and gainful employment. Included are rights to education, adequate housing, food, water, the highest attainable standard of health, the right to work and rights at work, as well as the cultural rights of minorities and indigenous peoples.⁴⁶

Amnesty international advocates four particular children's rights, including the end to juvenile incarceration without parole, an end to the recruitment of children for military use, ending the death penalty for people under 21, and raising awareness of human rights in the classroom. To these four, Human Rights Watch added freedom from child labour, juvenile justice, the rights of orphans and abandoned children, refugees, street children, and freedom from corporal punishment.⁴⁷

A child's rights to a relationship with both their parents are recognized as an important factor for determining the best interests of the child in divorce and child custody proceedings. Some governments have enacted laws creating a rebuttable presumption that shared parenting is in the best interests of children.⁴⁸ The opposition to children's rights far outdates any current trend in the society, with recorded statements against the rights of children dating to the 1200s and earlier.⁴⁹ Opposition to children's rights believes that young people need to be protected from the adult-centric world, including the decisions and responsibilities of that

⁴⁴ Children have the right to protection from abuse, neglect, exploitation and discrimination. This includes the right to safe places of children to play, constructive child rearing behavior, and acknowledgement of the evolving capacities of children.

⁴⁵ Children have the right to participate in communities and have progress and service for themselves. This includes children's involvement in libraries and community programs, youth voice activities, and involving children as decision-makers "respecting children's rights at home", children and families in Canada Retrieved 10/11/2017,; (1997) "children's rights in the Canadian context", interchange 8 (1-2) springer

⁴⁶ These are sometimes called "third generation rights", and including the right to live in safe and healthy environment and that groups of people, have the right to cultural, political, and economic development

⁴⁷ Children's right, human rights watch. Retrieved 10/11/2017

⁴⁸ What is equal shared parenting?" fathers are capable too: parenting association. Retrieved 2/24/08

⁴⁹ Starr, RH (1975) children's rights: countering the opposition, paper presented at the 83rd annual meeting of the American psychological association in Chicago, Illinois, Aug., 30 Sept., 3, 1975. ERICK= ID# ED121416

world.⁵⁰ In the adult-dominated society, childhood is realized as a time of innocence, a time free of responsibility and conflict, and a time dominated by play.⁵¹

The majority of the opposition stems from concerns related to national sovereignty, states, rights, and the parent-child relationship.⁵² Financial constraints and the “undercurrent of traditional values in opposition to children’s right are cited, as well.⁵³ The concept of children’s rights has received little attention in the United States.⁵⁴

4.0 International Legal Framework on Child’s Right

The Universal Declaration of Human Right (UDHR) is seen as a basis for all international legal standards for children’s rights today. There are several conventions and laws that address children’s right around the world. A number of the current and historical documents affect those rights, including the 1923 Declaration of the Rights of the Child, drafted by Eglantyne Jebb and her sister Dorothy Buxton in London, England in 1919, endorsed by the League of Nations in 1946. It later served as the basis for the Convention on the Rights of the Child.

The United Nations’ 1989 Convention on the Rights of the Child (CRC) or CRC is the first legally binding international instrument to incorporate the full range of human rights - civil, cultural, economic, political and social rights. Its implementation is monitored by the Committee on the Rights of the Child. National governments that ratify it commit themselves to protect and ensuring children’s right and agree to hold themselves accountable for this commitment before the international community.⁵⁵ The CRC is the most widely ratified human rights treaty with 190 ratifications. Somalia and the USA are the two countries which have not agreed to the Convention on the Rights of the Child (CRC). The CRC is based on four core principles,⁵⁶ namely the

⁵⁰ DeLamater, J. D (2003) Handbook of social psychology. Springer. P. 150

⁵¹ Lansdown, G. (1994) ‘children’s rights,’ in B. Mayall (ed) Children’s childhood; observed and experienced London: The Falmer press. (P. 33-34).

⁵² Frequently Asked Questions about children’s rights”, amnesty international USA, Retrieved 2/24/08

⁵³ Covell, k. and Howe, R. B. (2001) The challenges of Children rights for Canada Wilfrid laurier University press p 158

⁵⁴ Mason, M.A. (2005) ‘the U.S. and the international children’s rights for Canada Wilfrid laurier University press p. 158

⁵⁵ Convention on the rights of the child, UNICEF, retrieved 10/11/2017

⁵⁶ Convention on the rights of the child

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⁵² Frequently Asked Questions about children’s rights”, amnesty international USA, Retrieved 2/24/08

⁵³ Covell, k. and Howe, R. B. (2001) The challenges of Children rights for Canada Wilfrid laurier University press p 158

⁵⁴ Mason, M.A. (2005) ‘the U.S, and the international children’s rights for Canada Wilfrid laurier University press p. 158

⁵⁵ Convention on the rights of the child, UNICEF, retrieved 10/11/2017

⁵⁶ Convention on the rights of the child

principle of non-discrimination, the best interest of the child, the right to life, survival, and development, and considering the views of the child in decisions which affect them (according to their age and maturity). The CRC, along with international criminal accountability mechanisms such as the international criminal court, the Yugoslavia and Rwanda tribunals, and the special court for Sierra Leone, is said to have significantly increased the profile of children's rights worldwide.⁵⁷

A variety of enforcement organizations and mechanisms exist to ensure the awareness of children's rights and the successful implementation of the convention. They include the child rights caucus for the United Nations General assembly special session on children. It was set up to promote full implementation and compliance with the convention on the rights of the child, and to ensure that child rights were given priority during the UN general assembly Special Session on children and it's a preparatory process. The United Nations Human Rights Council was created "with the hope that it could be more objective, credible, and efficient in denouncing human rights violations worldwide than the highly politicized Commission on Human Rights. The NGO group for the convention on the rights of the child is a coalition of international non-governmental organizations originally formed in 1983 to facilitate the implementation of the United Nations convention on the right of the child.

Many countries around the world have children's rights ombudspeople or children's commissioners whose official governmental duty is to represent the interest of the public by investigating and addressing complaints reported by individual citizens regarding children's rights. Children's ombudspeople can also work for a corporation, a newspaper, an NGO, or even for the general public.

4.1 Effects of Corporal Punishment or Physical Punishment on the Behaviour of Children and Development

Corporal punishment by parents has been linked to increased aggression, mental health problems, impaired cognitive development, and drug and alcohol abuse. Many of these results are based on large longitudinal studies controlling for various confounding factors. Joan Durrant and Ron Ensom write that "Together, results consistently suggest that physical punishment has

⁵⁷ Arts, K. popvoski, V. (2006) international criminal accountability and the rights of children. "from peace to justice series". London Cambridge university press ISBN 978-906704-227-7

a direct causal effect on externalizing behavior, whether through a reflexive response to pain, modeling, or coercive family processes.”

Physical punishments have shown that it is not more effective than other methods in eliciting children's compliance. Also, it was found that spanking children was not more effective than giving children time-outs in eliciting immediate compliance, and that spanking led to a reduction in long-term compliance. Corporal punishment may actually decrease a child's moral internalization of positive values. Corporal punishment of children predicts weaker internalization of values such as empathy, altruism, and resistance to temptation. It should, therefore, not be surprising that corporal punishment consistently predicts increased levels of antisocial behavior in children, including aggression against siblings, peers, and parents, as well as dating violence.

Information revealed that spanking type of corporal punishment hurts the children because often time it inflicts injuries on the children which in most occasions have resulted in their untimely death.

There is no doubt that ‘slapping’, ‘spanking’, ‘hitting’, and ‘smacking’ forms of corporal punishment have resulted into unpleasant experience and in the long run linked with nine negative outcomes in children⁵⁸, including increased rates of aggression,⁵⁹ delinquency⁶⁰, mental health problems,⁶¹ problems in relationships with parents⁶², and likelihood of being physically abused. Others include the fact that children who experienced any form of corporal punishment suffered more mood disorders, such as depression,

⁵⁸ Pinheiro, Paulo Sérgio (2006). "Violence against children in the home and family" (PDF). World Report on Violence Against Children. Geneva, Switzerland: United Nations Secretary-General's Study on Violence Against Children. ISBN 92-95057-51-1.

⁵⁹ Committee on Psychosocial Aspects of Child and Family Health (April 1998). "Guidance for effective discipline". *Pediatrics*. American Academy of Pediatrics. **101** (4 Pt 1): 723–8. PMID 9521967.

⁶⁰ Gershoff, E.T. (2008). Report on Physical Punishment in the United States: What Research Tells Us About Its Effects on Children (PDF). Columbus, OH: Center for Effective Discipline.

⁶¹ Ateah C.A.; Secco M.L.; Woodgate R.L. (2003). "The risks and alternatives to physical punishment use with children". *J Pediatr Health Care*. **17** (3): 126–32. PMID 12734459. doi:10.1067/mp.2003.18.

⁶² Gershoff, Elizabeth T. (Spring 2010). "More Harm Than Good: A Summary of Scientific Research on the Intended and Unintended Effects of Corporal Punishment on Children". *Law & Contemporary Problems*. Duke University School of Law. **73** (2): 31–56.

anxiety, and mania, along with increased dependence on drugs or alcohol in adulthood.

Also, such may cause a reduction of grey matter in brain areas associated with performance on the Wechsler Adult Intelligence Scale, as well as certain alterations to brain regions which secrete or are sensitive to the neurotransmitter dopamine, linked with a risk of drug and alcohol abuse.

Corporal punishment also has links to domestic violence. Studies revealed that the more corporal punishment children receive, the more likely they are as adults to act violently towards family members, including intimate partners.

5.0 Concluding Remarks

An end to the adult justification of violence against children, whether accepted as 'tradition' or disguised as 'discipline.' Children's uniqueness, their potential, and vulnerability, their dependence on adults, make it imperative that they have more, not less, protection from violence" The General Assembly of the United Nations on Child's Rights recommends prohibition of all forms of violence against children, including corporal punishment in the family and other settings.

The United Nations Committee on the Rights of the Child was of the view that all forms of corporal punishment, along with non-physical punishment which "belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules" children were found to be "cruel and degrading" and therefore incompatible with the Convention on the Rights of the Child. In the Committee's view, 'in addressing the widespread acceptance or tolerance of corporal punishment of children and eliminating it in the family, schools and other settings, it is not only an obligation of States parties under the Convention to end it but also a key strategy for reducing and preventing all forms of violence in societies'.

The Committee on the Rights of the Child advocates legal reform banning corporal punishment that is punitive rather than educational. The first purpose of law reform to prohibit corporal punishment of children within the family is prevention - to prevent violence against children by changing attitudes and practice, underlining children's right to equal protection and providing an unambiguous foundation for child protection and for the promotion of positive, non-violent and participatory forms of child-rearing. While all reports of violence against children should be appropriately investigated and their protection from significant

harm assured, the aim should be to stop parents from using violent or other cruel or degrading punishments through supportive and educational, not punitive, interventions.

The European Commission for Human Rights notes that the defense of "reasonable chastisement" is based on the view that children are property, equating it with former legal rights of husbands to beat wives and masters to beat servants. The Commission stresses that human rights, including the right to physical integrity, are the primary consideration in advocating an end to any form of corporal punishment no matter the purpose it target. It should therefore not be necessary to prove that alternative and positive means of socializing children are more effective. However, research into the harmful physical and psychological effects of corporal punishment in childhood and later life and about the links with other forms of violence do indeed add further compelling arguments for banning the practice and thereby breaking the cycle of violence.

The Parliamentary Assembly of the Council of Europe maintains that corporal punishment is a breach of children's "fundamental right to human dignity and physical integrity," and violates children's "equally fundamental right to the same legal protection as adults." The Assembly urges a total ban on "all forms of corporal punishment and any other forms of degrading punishment or treatment of children" as a requirement of the European Social Charter. The European Court of Human Rights has found corporal punishment to be a violation of children's rights under the European Convention on Human Rights, stating that bans on corporal punishment did not violate religious freedom or the right to private or family life.

The Inter-American Commission on Human Rights concluded in 2009 that corporal punishment "constitutes a form of violence against children that wounds their dignity and hence their human rights," asserting that "the member states of the Organization of American States are obliged to guarantee children and adolescents special protection against the use of corporal punishment."

UNESCO also recommends that corporal punishment be prohibited in schools, homes, and institutions as a form of discipline, and contends that it is a violation of human rights as well as counterproductive, ineffective, dangerous and harmful to children.

In Nigeria, following the trend of damage which Corporal punishment and its cohort have caused to the lives of the young children both home and schools, a report by Amnesty international

in 2014 titled “Welcome to hell fire: torture and other ill-treatment in Nigeria” and based on visit to Police Stations and Prisons throughout Nigeria with interviews with hundreds of former detainees revealed the widespread of torture and ill-treatment, including of children in detention. An NGO called Transforming Education for Girls in Nigeria and Tanzania (TEGINT) project, a 2007-2012 initiative found that in Nigeria, at least 71% of community members and 72% of young children including girls agreed that it is not okay for teachers and parents or guardians to whip a young child including girls who do things wrong either in school or at home⁶³.

According to UNICEF Multiple Indicator Cluster Survey Programme (MICSP), there was a record of 91% of children age between two and fourteen years that experienced violent “discipline” – physical punishment and psychological aggression in the home for at least one month, 79% of the persons interviewed said they experienced physical punishment while 34% were subjected to serve physical punishment (being hit or slapped on the face, head or ears or being hit over and over with an object) and 81% of the children were made to go through psychological aggression i.e. being shouted at, yelled at, screamed at or insulted⁶⁴.

Another survey carried out by an Independent Organization came out with a report that in a Survey of 172 elementary school’s teachers in Ilorin, Kwara State, 80% of the respondent said they had seen pupils being punished by elementary school teachers with cane; 46% had seen pupils being punished with a horse-whip (Koboko), and 30% with a hand⁶⁵.

African Child Policy Forum in Burkina Faso, Cameroon, Democratic Republic of Congo, Nigeria, and Senegal found that hitting, beating and forced hard work were the most of the physical violence experienced by these pupils was corporal punishment; and in Nigeria, 84% had been hit during their childhood and 17%

⁶³ Iyabo Lawal – the case against Corporal punishment (young pupils have been maimed, sometimes incapacitated by their teachers who, in the process of teaching, resorted to corporal discipline) reported by the Guardian, Thursday October 19, 2017, pg 51

⁶⁴ Nigeria’s first natural violence against children survey (VACS), survey conducted 2014 – reported Guardian Thursday, October 19, 2017 pg 51S

⁶⁵ Welcome to Hell Fire: Torture and other Ill-treatment in Nigeria. As reported by Amnesty International, 2014 via Guardian October 19, 2017 pg 51

choked or burned. According to them, teachers are among the common perpetrators of physical violence in schools⁶⁶.

While calling for prohibition of corporal punishment, attention have been drawn to section 295(4) of the Criminal Code (South) which states that "a schoolmaster or a person acting as a schoolmaster is automatically considered as having been entrusted with authority for correction, including the power to determine in what cases correction ought to be inflicted"; and section 55 of the Penal Code (North), which states: "Nothing is an offense which does not amount to the infliction of grievous hurt upon any person and which is done by a schoolmaster for the purpose of correcting a child under eighteen years of age entrusted to his charge⁶⁷."

In an attempt to abolish all forms of physical violence against children, the Government, by virtue of section 11 of the Child Rights Act which states that "every child is entitled to respect for the dignity of his or her person and that no child shall be subjected to torture, inhuman or degrading treatment or punishment" and even chapter iv of 1999 Constitution of the Federal Republic of Nigeria (As Amended) preserved certain rights for the children⁶⁸. As contained by the Child's Rights Act and Constitution of the Federal Republic of Nigeria 1999 (As Amended) it has become an offense for any parent or guardian or teacher to adopt any form of corporal punishment mechanism in disciplining any child either in school or at home. This cultural habit has to be dealt with decisively to bring it to hurt the habit of spanking, hitting or beating child whenever they misbehave, the act is obsolete and uncivilized and ought to be dealt with.

Finally, the questions to ask are, "what is punishment and what is the purpose it is meant to serve? Punishment is to make corrective measures based on what has been done wrong but it does not have to be corporal. Experts advocate that more persuasion should take the place of corporal punishment; according to them, the era of bullying children is gone, therefore, civilized and modernized methods of discipline a child are encouraged to be adopted.

To achieve more on the campaign and the need to abolish corporal punishment, there is need to embark more on orientation and enlightenment in order to get the desired results in our children

⁶⁶ The Transforming Education for Girls in Nigeria and Tanzania (TEGINT) project 2007=2012

⁶⁷ Section 295(4) of Criminal Code & Section 55 of Penal Code

⁶⁸ Section 11 of Child Rights Act.

instead of using force or other bodily harm in an attempt to correct our children.

Recommendations

Our Child Rights Law must be reviewed from time to time to meet daily development;

Nigeria as a country must try to domesticate all resolutions that deal with the rights and protection of children;

Standing Committee on the right of Nigerian Children must be inaugurated at both the House of Representatives, The Senate and respective States Houses of Assembly;

Any matters involving the right or interpretation of rights of children in Nigerian Court must be given a speedy trial;

Non-governmental Organizations (NGOs) must be given right atmospheric environment to operate and carry out unrelenting sensitization on the rights of children and protection of these rights;

Door-to-door sensitization must be adopted by both government agencies and Non-governmental Organizations so that the illiterate and the unreached may be given comprehensive education and enlightenment;

Government and NGOs must take Child Rights protection campaign to remote and rural areas so that everybody may hear and be aware of their message;

National Human Right Commission must take up the issue of Child Rights protection more seriously.