



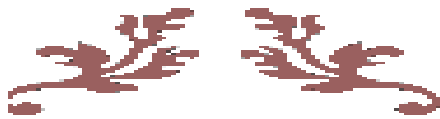
Kididdiga

Protecting the rights of children against SGBV in Kano state

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EXECUTIVE SUMMARY



There is need for steps to be taken to ensure that children are not misled from the path of achieving greatness as they are the future leaders of tomorrow’s society. Children in Kano state are vulnerable to violence as a result of inadequate proactive laws and protective environment shielding them. Despite the rich legal framework, institutions and structures supporting it, juvenile justice administration in Kano has a long way to go in addressing the challenges facing children in the state. Meanwhile the ACJL and the Penal code concentrate more on arrest, detention discharge/punishment of offenders, while abandoning the welfare of the survivors and their family.



Background and Context

The rights of children have been identified and recognized as basic and fundamental as far back as 1799, when Hannah Moore wrote in her book¹ that: “It follows, according to the actual progression of human beings that the next influx or irradiation which our enlighteners are pouring on us will illuminate the world with grave descants on the rights of youths, the rights of children, and the rights of babies”.

In recent times, Kano has been plagued with prevalence of sexual and gender-based violence cases. Although this is not an issue peculiar to Kano alone.

From 2017 to 2020, the sexual assault referral center (SARC -WARAKA) in Kano has attended to 2158 cases of SGBV. These statistics reveal that 84.9 percent of children in Kano have faced one form of violence or another in their childhood².

The world is systematically reforming the child protection system by moving from the issue or response approach to the creation of a more protective environment and strengthening the child protection legal framework. Nigeria is not left behind, albeit changes are conservatively slow.

¹Moore, H. (1799). Strictures on the Modern System of Female Education.

² Multiple Indicator Cluster Survey of 2018

Legal Framework Protecting the Rights of Children in Kano

The world is systematically reforming the child protection system to a more proactive approach by creation of a more protective environment and strengthening the child protection legal framework. Kano state has a rich legal framework for the protection of children. As it has an array of laws that see to the education, welfare, security, discipline and wellbeing of both the boy and the girl child.

The laws though many do not provide appropriate proactive protective environment for vulnerable children in Kano. The Child Rights Act and the Violence against Persons Prohibition Act, which are among the most recent and relevant laws providing a semblance of international standard on child protection are still yet to be domesticated in the State. A list of the laws that exist in the State which seek to provide protection for children are as follows:

- i. Kano State Penal Code (2014 as amended)
 - ii. Sharia Penal code (2001)
 - iii. The Administration of Criminal Justice Law of Kano State (2019)
 - iv. Fostering Edict (1984)
 - v. Petty trading (prohibition of females) (1988)
 - vi. Street Begging law (2013)
 - vii. Children and Young Persons (1948)
 - viii. Child Labour (Prohibition) law (2014)
- i. **Kano State Penal Code 2014** – The state penal code law makes abundant provisions on offences related to children and juveniles. It even caters for the unborn babies especially on miscarriage and exposure of infants. Also covered by the Penal code are cruelty to children, assault, forced labour, rape, unnatural offence and indecent offences. It puts criminal responsibility on a child at the age of 7 to 12 (relative to the child’s capacity to appreciate his act or omission) and age 17 for full responsibility.

ii. **The Administration of Criminal Justice Law of Kano State 2019 -**

This is the chief law that governs whole of administration of criminal justice in the state. The law as expected acknowledges the application of the extant law on child offenders where ever a child is involved. It is not surprising that did not acknowledge the existence of the Child’s Right Act, hence it acknowledges the application of the Children and Young Persons Law (CYPL) in its stead, as the law applicable to child offenders. This is unsurprising as the CYPL is the extant applicable law in the state, pending when the modified version of the Child Right’s Act comes into being, in the name of “Child Protection Law of Kano state”.

iii. **Children and Young person’s Law 1958-**

The law was enacted to make provision for the welfare of the young person and the treatment of young offenders and for the establishment of juvenile courts, Special trial and punishment procedure, Dealing with endangered juveniles and juveniles in need of care and attention. It defined a child as “a person under the age of fourteen years”. While, it defines a young person as “a person who has attained the age of fourteen years”, it refers to both the child and young person, as persons who have not attained the age of seventeen years, which is the age of full responsibility.

iv. **Child Labour (prohibition) law 2014 -**

This law prohibits child labour by making it an offence that attracts two years of imprisonment. The law criminalizes the engagement of under- age girls as domestic house helps. Likewise, the boy-child.

- vi. **Street Begging Law 2013** – This law seeks to ban street begging. The law affects the “Almajiri child” and other children wandering on the street. The law was recently dusted and given more attention by the state government where it seeks to kill two birds with one stone, as it seeks to consolidate the government’s policy of “free and compulsory basic education” in the state. The law provides punishment for parents, teachers and guardians of children caught begging on the street.
- vii. **The Fostering Edict 1984** - provides a framework for the children that come into contact with the law, such as their welfare, their care givers, procedures for fostering to interested families.
- viii. **Petty Trading (Prohibition of Females) 1988** – This law is specifically made to protect the girl-child by prohibiting girls under 16 years from hawking, setting up stall, table and kiosk.
- ix. **Sharia Penal Code 2000** - According to the Sharia penal code law, Muslim children are eligible for corporal punishment, where sentences of *hadd* or *qisas* may be imposed on children from the age of puberty for “hadd” (for which the prescribed punishment is mandatory) and *qisas* (punished by retaliation) ranging from corporal punishment, capital punishment and life imprisonment. Puberty is not fixed, as it is relative to different bodily/hormonal growth, from one person to another. Thus, unlike under the child Rights Act 2003, which defines a child as under 18 years of age and prohibits capital punishment against a child under 18 years of age, a child that reaches puberty can be sentenced to death under the sharia penal code.

INSTITUTIONAL AND STRUCTURAL FRAMEWORK FOR PROTECTING THE RIGHTS OF CHILDREN IN KANO

In complementing and complying with the legal framework protecting the rights of children in Kano, the state needs to provide structures in place. Hence the following structures were put in place by the state government.

- i. The creation of juvenile courts;
- ii. Establishment of a Social Welfare Office under Ministry of Women Affairs and Social Development.
- iii. Establishment of Children Remand Home.
- iv. Creation of Women and Juvenile Welfare Center at the state Police Command and some designated divisions in the state, With the aid of some partners.

Despite the rich legal framework, institutions and structures supporting it, juvenile justice administration in Kano is still plagued with some challenges for example, the Children and Young Persons Law, being the primary juvenile law, falls short of the modern standards of investigation and prosecution of juveniles or young persons who have come in conflict with the law, mainly in its failure to provide specialization in police officers who deal regularly with children. It fails to provide sufficient protection for the child from harmful contact with the police as well as provide for the notification of the parents of an arrested child.

The ACJL and the Penal code concentrate more on arrest, detention discharge/punishment of offenders, while abandoning the welfare of the survivors and their family.

VULNERABILITY OF CHILDREN IN KANO STATE

Statistics shown by the multiple cluster survey of 2018³ shows that about 18.5% of girls in Kano state get married at the age of 15, while 44.1% get married before the age of 18 and that makes it 62.6% get married before 18 years in Kano State when compared to their male counterpart who only about 8.2% marry before the age of 18 years.

Of these numbers, 36.9% are in polygamous relationship and 47.6% are married to people who are 10 years older than they are or more. 84.9% of children in Kano have experienced some sort of violent discipline.

The data from the sexual assault referral centres (SARC/WARAKA) in Kano, between January 2017 to march 2020 show that Two Thousand Five and Eight (2158) patients have been attended to, 73% of the patients, that is, One Thousand Five Hundred and Eighty-Five (1585) are girls, and they were domestic violence and rape survivors⁴. Investment in children is part of investment in human capital development and this is important as the State contributes to the achievement of the social development goals (SDGs).

There are certain factors that make children in Kano State vulnerable to violence apart from the inadequate protective laws and some of these factors are as follows: Norms and behaviour: The norms and behaviour prevalent in Kano State are such that exposes the children. For example, the culture of silence and shaming or blaming of the girl child which makes the crime of rape and defilement go on with impunity. This is coupled with the fear of stigmatisation of not being able to get a husband. Child labour which includes hawking to alleviate poverty, use of children as housemaids, neglect and exploitation of Almajiris⁵

³ Ibid note 2

⁴ Ibid

⁵ When a child is sent out to 'study' under the custody of a mallam most times they are forgotten by their families. These children are made to undertake menial jobs which exposes them to risks. During the COVID 19 outbreak there were tagged as possible carriers of the virus.

POLICY RECOMMENDATIONS FOR REFORM

1. Kano State Government should provide standard and specialized Court rooms for Juvenile Justice Administration in the State.
2. Kano State government should build and equip more Sexual abuse referral centers at all general hospitals within the State.
3. Social Policy should be put in place by the State Government in order to address and Support sexual abuse victims, Rape Survivors and Children born as a result of Rape.
4. Creation and Establishment of Professional Counselling Center by the state government for Psycho social therapy and other related services thereof.
5. The state government should also upgrade the Children Remand Home with a Standard Plan for Rehabilitation and Reformation of Sentenced Children and Young Persons.
6. Kano State government and the Northern Governor's forum should leave the Almajiri in their schools where they are and provide safety measures under their Malam rather than exposing them to more vulnerability in isolation camps.
7. Northern Governor's forum should avoid excessive generalisations and rash actions on Almajiri.
8. Kano state government should introduce measures to alleviate the poverty situation in the State. Parents should take care of their children as Allah intended in the first place. And where they deliberately refused to do so, they should be held responsible by the concerned authority.

9. The State Government in collaboration with the Ulama's should also set up a system where the Almajiri can go to school in a formal setting and come back to their parents at the end of the day.

10. The state government should be responsive to create safe spaces for children in Kano state. This include the need for a participatory policy reform process which should be initiated by the key beneficiaries.

11. The Nigerian Government in its current declaration of SGBV as a national emergency should include a component on social policy that will address and support sexual abuse survivors, and children born as a result of rape.