

**"SAFE GUARDING CHILDREN AND THE CHILD RIGHTS ACT" BEING A PAPER PRESENTED BY MR ALI ANDREW MADUGU – ACTING DIRECTOR, CHILD DEVELOPMENT DEPARTMENT FEDERAL MINISTRY OF WOMEN AFFAIRS, AT THE MARKET PLACE EVENT FOR ORPHANS AND VULNERABLE CHILDREN HELD AT THE PAVALLION EVENT CENTRE AREA 11 GARKI, ABUJA ON THE 11<sup>TH</sup> OF NOVEMBER 2021.**

**INTRODUCTION:**

Since the end of World War II, the international community has become more sensitized on the need to uphold and enhance the status of human rights. Hence, the coming into operation of the various human rights instruments, from the Universal Declaration of Human Rights, through the International Covenant on Economics, Social and Cultural Rights, to the International Covenant on Civil and Political Rights, and the respective protocol to each of these instruments.

However, it soon became clear that these Rights which have been made applicable to the generality of the human race were not and still are not Child-specific. Consequently, these Rights are not sufficiently protective of children who have been recognized as having special needs despite the fact that such needs have been recognized much earlier; for example, in the Geneva Declaration on the Rights of the Child, 1924, and in the Declaration on the Rights of the Child, 1959.

Indeed, both the International Covenant on Civil and Political Rights (Articles 23 and 24) and International Covenant on Economic, Social and Cultural Rights (Article 10) Specifically recognized the need for the rights of children, as distinct from those of adults, on the grounds that the child, by reason of his or her physical and mental immaturity, needs special safeguards and care, including appropriate legal protection before, as well as, after birth. The international community ultimately, at the Forty-fourth Session of the United Nations General Assembly on the 20th day of November, 1989, adopted, in Geneva, Switzerland, the United Nations Convention on the Rights of the Child, (CRC) which Nigeria signed in 1989 and ratified on the 21st day of March, 1991. Similarly, the Assembly of Heads of State and Governments of the Organization of African Unity (Now African Union), at its Twenty-Sixth Ordinary Session in Addis Ababa, Ethiopia, in July 1990, also adopted the African Charter on the Rights and Welfare of the Child (ACRWC), which Nigeria also signed on 13th July, 1999 and ratified on 23rd July, 2001. The uniqueness of the African Charter is that it enjoined State Parties to embrace, not only the Rights of the Child, but also the

responsibilities of the Child. Nigeria enacted the principles in these international instruments into law on 31st July, 2003 in the Child's Rights Act.

## **THE CHILD'S RIGHTS ACT**

The Child's Rights Act which comes into force on 31<sup>st</sup> July 2003 is a law which incorporates all the rights and responsibility of children and consolidates all law which provide for the protection and care of the Nigerian child into one single legislation. The Child's Rights Act guarantees the rights of the child to survival, development, and protection against all forms of harm, and to participate responsibly in all matters affecting him/her.

## **BASIC PRINCIPLES OF THE ACT**

The Act demands that in all actions concerning the child, his or her best interest, welfare and well-being must be the paramount consideration.

## **THE RIGHTS OF THE CHILD UNDER THE ACT**

The Child is conferred with the rights to:

- i. Life, Survival and Balanced Development.
- ii. A Name and Registration at Birth
- iii. Dignity and Respect.
- iv. Privacy, Family Life and Parental Care, Protection and Maintenance.
- v. Education- Free and Compulsory Primary, Secondary and Tertiary Education.
- vi. Leisure, Recreation and Cultural Activities

## **MACHINERY CREATED FOR DETERMINING MATTERS CONCERNING THE CHILD**

The Act creates the Family Court, which is meant to hear and determine all matters relating to children, such as:

- ✓ Legal rights, power, dignity, liability, privilege, interest, obligation or claim in respect of a Child.
- ✓ Any penalty, forfeiture, punishment or other liability in respect of an offence committed by a child. In the determination of the cases, the family court shall be guided by the principle of conciliation and shall encourage and facilitate the settlement of the matter in an amicable manner between the parties involved or likely to be affected by the results of the proceedings, such as the Child,

Parents or guardians of the child and any other person having parental or other responsibility for the child.

- ✓ Ensure attendance in court of parents or guardians.
- ✓ Ensure legal representation, including legal aid, for the child.
- ✓ Respect the legal status of the child.
- ✓ Observe the right to privacy for the child.
- ✓ Observe the right of the child to fair hearing and due process.
- ✓ Promote the best interest and wellbeing of the child.
- ✓ Avoid harm to the child.

### **MACHINERY CREATED FOR MONITORING RESPECT FOR THE RIGHTS OF THE CHILD**

The Act establishes Child Rights Implementation Committees at the National, State and Local Government levels saddled with the underlisted functions:

- i. Ensure the observance and popularization of the rights and welfare child.
- ii. Continually keep under review the state of implementation of the rights s of the child.
- iii. Develop and recommend to the appropriate government specific programmes and projects that shall enhance the implementation of the rights and welfare of the child.
- iv. Collect and document information on all matters relating to the rights and welfare of the child.
- v. Commission inter-disciplinary assessments of the problems relating to the rights and welfare of the child.
- vi. Organize advocacy activities on the welfare of the child.
- vii. Coordinate activities of various levels of the government relating to the rights and welfare of the child.
- viii. Prepare and submit periodic reports on the state of implementation of the rights and welfare of the child to government, the United Nations and the African Union.
- ix. Perform such other functions relating to the rights of the child as may be assigned to it from time to time.

### **JUSTICE SYSTEM CREATED FOR CHILDREN IN CONFLICT WITH THE LAW**

The Act established the Child Justice System for children who come in conflict with the Law. Under this system-

- i. A Child is not to be subjected to the regular criminal justice process or to criminal sanctions, where he or she is alleged to have committed an act which would constitute a criminal offence if he or she were an adult.
- ii. A Child offender shall be handled by a specialized Children Police Unit
- iii. Efforts shall be made by the police, the prosecutor, or the Family Court to dispose of the case of a child offender without resorting to formal investigation, trial or disposition. To this end, efforts shall be made to employ other means of settlement, such as-
  - Conciliation
  - Supervision
  - Guidance
  - Restitution
  - Compensation

### **RESPONSIBILITIES OF THE CHILDREN UNDER THE ACT**

The Act also sets out the responsibilities of the Child as follows:

- Contribution to cohesion of family and community;
- Respect for parents, superiors and elders;
- Placing physical and intellectual abilities at the service of Nigeria;
- Contribution to the moral well-being of society;
- Preservation and strengthening of social and national solidarity;
- Preservation and strengthening of the independence and integrity of Nigeria;
- Respect for the ideals of democracy, freedom, equity, humaneness, honesty and justice for all person
- Relating with other members of the society, with different cultural values in the spirit of tolerance, dialogue and consultation;
- Contribution to the promotion and achievement of national, African and World unity as well as
- Contribution to the solidarity of the African people and the human race.

### **RESPONSIBILITIES OF PARENTS UNDER THE ACT**

Parents, guardians or others responsible for the upbringing of the child must provide the following for the child:

- i. Care
- ii. Maintenance
- iii. Proper upbringing
- iv. Education
- v. Guidance
- vi. Discipline
- vii. Socialization training

## **RESPONSIBILITIES OF GOVERNMENT UNDER THE ACT**

The Government at all levels must strive to:

- i. Reduce infant and maternal mortality rates
- ii. Provide medical and health care
- iii. Provide adequate nutrition and safe drinking water, hygienic and sanitized environments
- iv. Combat diseases and malnutrition
- v. Support and mobilize, through local and community resources, the development of primary health care for children.
- vi. Provide accommodation, maintenance and/or financial support, advice and other services to children and their families

## **ACHIEVEMENTS BY THE FEDERAL MINISTRY OF WOMEN AFFAIRS IN SAFE GUARDING CHILDREN'S RIGHTS**

Children are gifts from God. They are the future of any nation and must be nurtured and assisted to develop into responsible and productive adults. They require special safe guards, care, as well as appropriate protection both before and after birth to enable them develop a full and balanced personality within the family environment in an atmosphere of happiness, love and understanding in conditions of freedom, dignity and security.

Some interventions made by the Ministry to safeguard the Child including the vulnerable ones are as follows:

1. Through continuous advocacy we now have 26 States that have domesticated the Child Rights Act. The Act is also being considered for review to incorporate emerging issues.

2. The review process of the National Strategy to End Child Marriage in Nigeria in collaboration with Food Foundation and a coalition of CSOs working on ending Child Marriage in July, 2021 are ongoing.
3. The National Priority Agenda for Orphans and Vulnerable Children (OVC) is also being reviewed as the first edition elapsed in 2020. The second edition when completed will be valid from 2021-2030.
4. The Ministry successfully hosted a National Policy Dialogue on Ending Violence Against Children in collaboration with IUNICEF, where Mr. President recommitted to ending violence against children in Nigeria.
5. In an effort to ensure the wellbeing of vulnerable children in Nigeria, the Ministry reviewed the National Priority Agenda (NPA 2021-2030) which focuses on interventions addressing children's basic needs and strengthening family to provide for the children.
6. The Ministry has upgraded the National Orphans/Vulnerable Child Information Management System (NOMIS) database to improve on data generation and reporting to inform decision making and formulation of policies.
7. Provision of Nutritional support to women and children in IDP camps and orphanages.
8. Enhance collaboration and partnerships with MDAs, Development Partners and NGOs for effective delivery of child promotion and protection interventions.

## **CHALLENGES**

- Inadequate funding
- Proliferation of NGOs, Orphanages and other child care institutions
- Lack of current and reliable data form effective planning and programming for vulnerable children
- Effect of COVID 19, poverty, insecurity and other social vices leading to increased vulnerabilities for children

## **RECOMMENDATIONS**

- ✓ Advocacy at various levels for increased investment for child protection issues
- ✓ Strong support from relevant stakeholders towards the conduct of a National Assessment on Vulnerable children as the last assessment was done in 2008
- ✓ Effective collaboration and partnerships by relevant stakeholders
- ✓ Advocacy for enforcement of laws and relevant policies on children

## **CONCLUSION**

The Child's Rights Act guarantees the rights of the child to survival, development, and protection against all forms of harm and to participate responsibly in all matters affecting him/her.

It is pertinent to note that a Government led and coordinated response to strengthen family and community capacity to care for vulnerable children is the most effective strategy. This however requires concerted effort by all, to strengthen existing safety nets and the provision of additional resources in a manner that does not undermine community and family values and capacity.

I urge all programmers to continually monitor and assess the quality and quantity of interventions for vulnerable children and their families for optimal results that will enhance their quality of life.