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Effectiveness of Laws Against Child Abuse: A Comparative Analysis Between Nigeria and South Africa

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[0154] Abstract

In the context of a relationship of responsibility, trust, or power, child abuse encompasses all types of physical and emotional ill-treatment, sexual abuse, neglect, or negligent treatment, as well as commercial or other forms of exploitation. This harm can be real or potential and affects the child's health, survival, development, or dignity. Child abuse is a complex issue since it affects victims in many ways, including their social and emotional lives as well as their economic and educational opportunities, as well as their physical and mental health. Anxieties, sadness, PTSD, anxiety, increased risk of becoming a victim again as an adult, psychological trauma, and physical harm to the kid are all outcomes. Despite the many domestic policies, institutional frameworks, and laws enacted by the Nigerian government to combat the threat, it continues to pose a serious problem for the country's citizens. From this vantage point, the research compares and contrasts the anti-child-abuse legislation in South Africa with that in Nigeria in the hopes that the former may teach the latter a thing or two about how to effectively combat this problem. A doctrinal approach was used in the study. Although Nigeria has a fairly strong legal framework against child abuse, the study found that many systemic issues, including poor enforcement, poverty, harmful cultural norms, social standards, an insufficient child protection system, and a lack of awareness, make it ineffective. Therefore, the study suggested that the Nigerian constitution be revised to grant children exclusive rights and that section 12 be revised so that the court can automatically apply international child law, similar to what happens in South Africa. To make sure the laws really protect children in Nigeria, it is essential to address these underlying causes in the results.

Keywords: Child Abuse, Child Labour, Child Marriages, Child Prostitution, Child Pornography, Child Rights, Child Trafficking and Effectiveness of Laws.

Introduction

According to Article 1 of the UN Convention on the Rights of the Child, every anyone under the legal age of 18 is considered a child. Section 277 of the kid Rights Act states that everyone who is not yet eighteen years old is considered a kid. In biological terms, a kid is defined as an individual whose chronological age falls somewhere between 0 and the beginning of the adolescent years (WHO). A minor, or someone less than 18 years old, is often what the legal term of "child" means. The United Nations Convention on the Rights

of the Child (1989) and the United Nations Declaration of the Rights of the Child (1959) are the two most important international documents concerning children's rights. Several concepts safeguarding children's rights are outlined in the 1959 United Nations Declaration on the Rights of the Child. The General Assembly passed the Convention on the Rights of the Child (CRC) in 1989 in November. For the benefit of children everywhere, the convention is an all-encompassing tool for safeguarding and advancing their welfare. It includes children's civil, political, social, and economic rights, which imply their rights to exist, be safe, grow, and have a say in decisions that affect them. Optional protocols to the Convention on the Right of the Child address specific issues, such as the sale, prostitution, and pornography of children; another optional protocol addresses the participation of children in armed conflict; and a third protocol addresses the sale of children generally. Nigeria and South Africa are among the several nations that have accepted and implemented this treaty as their own Child Right Act. Care and protection for children are so defined on a global scale by the 1989 UN Convention on the Right of the Child. United Nation Children Fund (2007) states that the convention aims to guarantee that children be treated humanely and equitably regardless of their race, colour, sex, language, religion, political affiliation, nationality, or physical disability. The rights of children to exist, to grow and develop, to be safe from harm (such as abuse or neglect), and to receive an education that helps them reach their full potential are at the heart of the convention. Finally, a kid has the right to denounce any infringement of his rights, and states have the responsibility to outlaw child prostitution, child pornography, and the selling of children into slavery (Lansdam, 2011). For example, children's rights are safeguarded by legislation in Nigeria. Not only does legislation shield children from harm, but it also punishes adults who prey on or otherwise harm children. In particular, the Child Rights Act of 2003 aims to protect children from abuse and neglect in Nigeria by outlining their rights and responsibilities. The right to be free from abuse in any form is one of a child's many rights. Therefore, having sexual relations with a minor is illegal, since doing so constitutes the crime of rape, which carries a life sentence upon conviction (Section 358 of the Criminal Code). When a kid is neglected or mistreated in any way, whether physically or emotionally, it is considered child abuse. To put it simply, it's when a parent does something, or doesn't do anything, that puts their kid in danger (Mba, 2003). The occurrence is widespread and affects people of various socioeconomic backgrounds, races, and religions. Sadly, the majority of children deemed vulnerable to protection have been victims of abuse at the hands of those closest to them, whether that be family, friends, acquaintances, or paid carers (Imo, 2015). A person who develops a strong attachment to a kid is more likely to commit the crime of child abuse. As a result, it's safe to say that (complete) strangers seldom commit the act of; in fact, it's considerably less typical for strangers to mistreat people in both contemporary and traditional communities. Although there are certain differences and quirks, the issue is global and impacts both industrialised and developing nations. As part of the "maltreatment" (socialisation processes) that children undergo as they develop, child labour is common in impoverished nations in Asia, Latin America, and Africa. This cultural practice motivates youngsters to work hard so that their families can sustain themselves. The methodology differs across poor and rich nations, yet child abuse is still a problem in both. Cultural factors do not support the former's acceptance of the latter's complicity in child abuse. For instance, Nnam (2021) argued that it is still a common practice in Nigeria for a poor or lower class parents to place their children/wards under the care of a perceived wealthy relative or even a non-relative

residents in cities, hoping to see these children trained either in school or trade and ultimately improve their family standard of living. It is common for people to mistake the long-standing cultural practice of child fostering within extended families for the more modern phenomenon of "internal child trafficking," according to Olateru-Olagbegi and Ikpeme (2006). His position is that these wards and children are not only neglected, but also mistreated and used in many ways, including sexual exploitation and other sorts of slave work, whether they are aware of it or not. In Nigeria, child abuse may stem from a wide variety of sources. According to Nnam, a child's likelihood of experiencing abuse or protection depends on the socialisation they get from adults, as well as the kind of home and community in which they grow up. According to him, children who grow up in abusive environments may internalise the harmful behaviours as normal and appropriate ways to deal with the world. Marriage instability, domestic violence, bad parental relationships, arguments, and conflicts of interest may lead to lower responsiveness and weaker parent-child relationships, according to Ezeoke et al. (2009). Instability in families and certain cultural rites can enhance the likelihood of child maltreatment. He wrapped off by saying that stressed-out parents could pass their anger, social anxieties, and environmental stresses on to their kids. Changes in Mba's employment status, financial situation, and the quality of her work environment pose a threat to the stability of her family. The stress induced by such adjustments might lead to child abuse and neglect of various dimension and degree. Some researchers have proposed a link between psychopathology and child maltreatment, either alone or in combination with other forms of disordered personality traits and social and environmental stresses (Ajala, 2009). Those parents who experienced abuse or neglect as children are more prone to mistreat their own children or wards; nevertheless, they may rationalise their behaviour by saying that it is a necessary component of socialisation. Characteristics of psychopathology, abusive family disorders, and environmental stresses are prevalent among those who abuse children, even while child abuse may be traced to hostile social and cultural situations, poor family relationships, and physically and socially disordered environments. Adults suffering from these difficult social, cultural, and mental health issues may be more likely to harm children. The traditional feeling of community connected with rural villages has been shattered by the expansion of urban centres (commercial and industrial particularly), according to Haralambos et al. (2008). This has undermined the informal system of social control and created leeway for crimes like child abuse. Nwadiaro and Nkwocha (2011) bolster this view when they argue that child abuse and other forms of crime have increased due to the fast urbanisation that has occurred as a result of the industrialisation of metropolitan areas.

Child abuse causes a lot of complications. Victims of child abuse suffer immediate and long-term harm to their social, emotional, psychological, financial, academic, and health-related lives. According to Terr (2010), a child's capacity to create meaningful relationships is hindered when they are abused. He thinks that mistreated children are typically nonconformist and exhibit socially unacceptable behaviours all the time. As a result, the youngster may struggle to form and sustain positive connections and exhibit a wide range of problematic behaviours. As a result, this aberrant conduct raises the odds of a child's decreased productivity, economic dependence as an adult, and overall dissatisfaction with life. Consistent with the findings of both Obaji (2003) and Oluwole (2002), the psychological and social effects of child abuse are so severe that the afflicted child often finds it extremely challenging, if not impossible, to recover to his or her pre-

abuse self. According to Ubom (2003), these kids deal with a broad variety of personality disorders. Some of them end up despising their parents, having trouble in school, becoming armed robbers, drug addicts, or traffickers. Additionally, they display signs of anxiety, sadness, and psychosis. Victimized youngsters may act out in suicidal ways, resist punishment, or inflict violence on others, according to Ocholi (2003) and Evans (2004). Fear, anxiety, sadness, rage, antagonism, improper sexual conduct, and low self-esteem are some of the long-term consequences of child abuse. The socialisation process of a kid may be impacted by the presence of child abuse in several settings, including households, organisations, schools, and communities. Abuse of children affects not only the victim but also society at large. Nnam (2021) argues that a society's social system is at risk when children are abused since they are likely to lack important moral qualities. Abuse of children may have far-reaching effects, such as an increased risk of developing chronic diseases, unhealthy lifestyle choices, and premature death (Jina and Thomas, 2013). Depression, PTSD, anxiety, a predisposition to become a victim again as an adult, psychological trauma (particularly in cases of parental incest), and physical harm to the kid are all outcomes of child abuse. Injuries sustained in an attack might need medical attention, which can put a strain on a victim's already-limited financial resources (Jina and Thomas, 2013). Ajayi and Ezegebe (2023) found that victims of sexual abuse and violence are more likely to become pregnant unintentionally or contract HIV and other STDs because they are afraid their attackers will punish them if they report the incident or seek medical treatment. Male hegemonic cultures perpetuate sexual abuse of children, particularly girls, according to scholars (Peterson, Bhana and Mackay, 2007). This is because these cultures see women as second-class citizens and presume that males may exploit their sexuality. Poverty is a significant risk factor for child maltreatment and sexual assault, alongside male hegemonic culture (Greco, 2007). Because sexual abusers often target vulnerable and impoverished women and children, and because victims of sexual abuse are less likely to report the crime or have their stories accepted, this demographic suffers from a disproportionately high prevalence of sexual abuse. It is very concerning that the rate of child abuse is on the rise, despite the existence of laws intended to combat this problem. Despite the fact that child abuse and violence are punishable crimes under current legislation, many cases go unreported. This is likely due to the fact that child abuse is frequently a covert crime, with victims' parents or guardians being unaware of the extent of the harm they have endured. According to scholars, there are numerous obstacles that must be overcome in order for perpetrators of child sexual abuse to be prosecuted. One of these obstacles is that the majority of parents and guardians of victims either do not know where to report the crime or are unwilling to do so for various reasons, such as financial constraints or social stigma. Another issue is that even when parents and guardians are aware of agencies that provide free legal and medical services, they may still be afraid to report the crime for fear of retaliation from the perpetrators. On the other hand, there are those who believe that the prosecution was unable to get a conviction because crucial medical forensic reports or evidence were unavailable. For them, the most important piece of evidence is the victim's medical forensic examination, which provides solid proof to support or disprove the accusations against the accused. Child sexual crime investigations and prosecutions are notoriously difficult because, in addition to physical evidence, a psychiatric evaluation of the perpetrator's mental health is crucial to a successful conviction. The court's practice of granting baseless petitions to defer trials makes it no exception to the difficulties inherent in administering criminal justice. Child abuse in South

Africa and Nigeria has been the subject of a great deal of written work. The majority of research on child abuse has focused on the many sociocultural factors at play, rather than the underlying reasons, legal framework, or regulations that prevent sexual assault. Again, the majority of the provisions on child rights legislation that attempt to deal with this threat seem to be nebulous, leaving room for interpretation to be as broad or narrow as the state party desires. Child abuse continues to be a major problem in society, especially in rural areas and informal sectors, despite this intellectual endeavour and the numerous domestic, continental, and international policies and legal frameworks put in place to combat it. Basically, the current laws have failed to effectively combat the problem of child abuse, contrary to their original intent. We pass rules to make sure certain things don't happen or at least to make them happen less often. This is all for nothing if these rules don't work. In this light, the research compares and contrasts the anti-child-abuse legislation in South Africa with that in Nigeria in an effort to draw conclusions on how to reduce child abuse in Nigeria if the country were to follow those guidelines. At its core, the report posits that until Nigeria makes a concerted effort to address poverty, illiteracy, corruption, and traditional fosterage, it will not be able to fully remove the issue of child abuse. Given this, it's reasonable to wonder: how does Nigeria's judicial system address the issue of child abuse? Is Nigeria's legislation against child abuse working? Please tell me the obstacles that are making it harder to prevent child abuse and the steps that people are doing to combat it.

Theoretical Explication of the Discourse

In order to analyse the subject matter, the research used two theoretical models: positivism and the Natural Law theory. According to Udofa (2006), the common understanding of Natural Law is that it is the Law of All Peoples, not just the law of any one country. Natural Law, in its most basic form, denotes what is reasonable, equitable, and moral. That all men, regardless of their skin colour or ethnicity, are born with innate moral principles that guide their actions and teach them to reject evil is a central tenet of this school of thinking (Piate, 2024). This is the inherent morality of the human race. They believe that man has a rational mind and a moral conscience that lead him to do what is right. In order to be respected and followed, laws that are created by humans must align with principles of fairness, justice, and righteousness. They contended that if laws were to harmonise with man's thinking, conscience, and morality, then the ultimate goal of laws would be to ensure compliance. Natural law principles of fairness, righteousness, and justice make it clear that laws that are too severe, insulting, or otherwise objectionable will not be observed and should be deemed unlawful. Furthermore, no activity that is deemed to have transgressed the norms of natural law may be excused or supported by such legislation. The principles of natural justice, rule of law, and basic rights have all benefited greatly from natural law. The legitimacy of positive law or man-made law may be evaluated using this criteria. Abuse of children is morally reprehensible, unethical, and condemnable; this is the theory's contribution to the research. In terms of positivism, Ogbu (2013) said that legal positivism is a school of jurisprudence that maintains that society's authoritative figures are the one and only sources of legitimacy for laws. According to this school of thinking, the rule of law is based on preexisting institutional frameworks. They care more about the structure of laws than their contents. Legal positivism's imperative or command theory, championed by Jeremy Bentham and John Austin, posits that the rule of law should be seen as an order from above, with the support of sanction, passing down via successive political tiers. Any order given by a king to his subjects or by a superior to his subordinates is, in Bentham's

view, fundamental. John Austin, who is also an advocate, argues that the word "law" refers to rules established by a superior intelligent person to govern a subordinate intelligent creature. A kind of command, positive laws are what Austin calls them. Any time a superior wishes for an inferior to do or refrain from something, and then threatens to do something bad to the inferior if the inferior doesn't do what the superior wants, that's a command. A punishment is the bad thing that will happen if someone disobeys an order. A command comes with an objective and the authority to penalise disobedient individuals. A command is a demand that binds one or more individuals to a certain action. A rule must come from a specific person or group of people and be accompanied by a threat of punishment for disobedience in order to be considered a command. A command differs from other forms of want expression not in the method of expression but in the authority and intent of the one issuing the order to cause harm or suffering in the event that the desire is rejected. In order for an order to be legally binding, both the authoritative source (if any) and the recipient (if any) must be at different political levels. In a political society, a sovereign is someone or something that the majority of the community routinely obeys (i.e., no internal rival) and who does not routinely obey someone or something else (i.e., no external subordination). Essentiality, indivisibility, continuity, and illimitability are the fundamental properties enjoyed by the sovereign, according to Austin. Essentiality states that every autonomous society has a dominant will, or sets of wills, that shape the community as a whole. Sovereignty is an essential component of any sovereign nation. According to Austin, "indivisibility" indicates that there is a one, unbroken group or individual that has absolute political power. No one else shares power with this highest, most sovereign being. If a sovereign's power is illimitable, it means it is unbridled, unbounded, and limitless in scope. It is unrestricted by any competing force. To sum up, Udofa said that positivists believe that the power to legislate and enforce laws comes from a supreme authority in society, either personally or via his representatives, the legislators and judges. According to him, the norms of religion, morality, and ethics do not belong in the purview of the law; on the other hand, the "law as it is" is the law correctly understood. According to them, the rule of law is the sovereign's decree with the accompanying punishments for those who disobey (Piate and Effiong, 2021). Sovereignty, command, and sanction are the three pillars upon which all law must rest. The present-day rigour and accuracy of the legal language are largely the result of this approach. According to the hypothesis, which is relevant to the research, child abuse is now a crime that may be punished with sanctions according to the criminal code and similar legislation. As a result, those responsible for child abuse should get a fair penalty. Also, other people who may be considering committing such a crime will be discouraged from doing so.

Legal and Institutional Framework for Child Abuse in Nigeria

Among the several anti-child-abuse statutes in Nigeria is the Constitution of the Federal Republic of Nigeria, 1999 (as amended). Human rights in Nigeria are mostly safeguarded by the Constitution of the Federal Republic of Nigeria, which was ratified in 1999. There is a detailed Bill of Rights in Chapter IV. As stated in Section 33, the right to life is guaranteed. Section 35 deals with personal liberty. Section 36 deals with the right to a fair hearing. It is illegal to discriminate against someone because of their race, nationality, gender, religion, or political beliefs, according to Section 42. Chapter two of the Nigerian constitution lays forth the basic goals and principles of the government, including the promotion and protection of children's interests. Free universal primary education and adult literacy

programs are constitutionally mandated by the government. All branches and agencies of government are required under Section 13 of the Constitution to uphold the basic goals in the areas of economics, education, culture, and society. According to Section 14, the fundamental goals of government should be the protection and well-being of the people. The state is entrusted with the responsibility of directing the economy in a way that maximises the well-being, liberty, and happiness of every citizen in Nigeria. This responsibility is based on the principles of social justice, equality of status, and opportunity. Section 16 outlines the steps that the community can take to achieve this goal, including pooling their material resources for the common good, providing sustainable and adequate housing, and ensuring that all Nigerians have access to suitable and sufficient food. Section 17 states that the social order of the state is to be based on freedom, equality, and justice. The state's policy is to ensure that: (a) All citizens, without exception, have access to sufficient means of employment; (b) Working conditions are fair and humane, with enough time off for leisure and social, religious, and cultural activities; (c) Workers' health, safety, and welfare are protected from abuse or danger in the workplace; (d) Everyone has access to sufficient medical care; (e) Workers' wages are equal regardless of gender or any other factor; (f) Children, youth, and the elderly are safe from exploitation of any kind; and finally, Nevertheless, these rules just serve as guiding principles of state policy, and the government cannot be sued to implement them since they lack justiciability. Section 6 of the Nigerian Constitution establishes the independence of the judiciary to decide on any matter pertaining to civil rights and responsibilities. On April 16, 1991, Nigeria ratified the Convention on the Rights of the Child (CRC). Since then, the country has also ratified several other international instruments, including CEDAW, the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment, and the Convention on the Elimination of All Forms of Racial Discrimination. Not only that, it is a signatory to both the ICCPR and the ICESCR, the two international covenants that protect civil and political rights. Furthermore, the African Charter on Human and People's Rights (AFCHPR) has been ratified by Nigeria. The African Charter on the Right and Welfare of the Child, the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, and the Optional Protocol on the Sale of Children in Armed Conflict were all signed by the country, but not ratified. Regarding criminal offences, Nigeria has two distinct codes: the Criminal Code, which applies to the southern part of the country, and the Penal Code, which applies to the northern part of the country. Murder, assault, and other forms of maltreatment, as well as gender-specific transgressions like rape, are all covered by these laws. Following its ratification of several international instruments, including the Convention on the Rights of the Child and the African Union on the Rights and Welfare of the Child, Nigeria has taken numerous legislative and institutional steps to combat child abuse. The Child's Right Act is one of these laws that were passed (2003). Institutions tasked with protecting children from abuse and neglect have also developed inside the Nigerian government. Child Development Departments in the Federal and State Ministries of Women Affairs; Nigerian Children's Parliament; National Agency for the Prohibition of Trafficking in Persons; National Council of Child Right Advocates of Nigeria (NACCRAN) as the umbrella NGO involved in Child Rights advocacy; and National and State Child Right Implementation Committees are among these. Additionally, child work is explicitly forbidden by law in Nigeria. Section 59 of the Labour Act, for example, specifies that, with the exception of light horticultural, agricultural, or domestic work for family members, the minimum age to be employed is

fifteen years. Apprenticeships must begin at the age of thirteen, as stated in Section 49 of the Act. This basically means that apprentices can't be anybody younger than thirteen years old. No employer has the right to put a child to work lifting or carrying anything that might stunt their growth and development. Children may not be forced to do dangerous tasks if the Labour Act is followed. Considering the 2015 Violence Against Persons (Prohibition) Act The acts address sexual assault, a subset of child abuse, under Sections 1, 6, and 26. The following conditions must be met for someone to be guilty of the crime of rape according to Section 1 of the Act: (a) the victim must not have given their consent for the penetration to take place; (b) the victim must have been threatened with harm or intimidated in some way; (c) the victim must have been led to believe that the act was harmless or that the victim was under the influence of a drug or impersonating a spouse was acceptable in order to gain the victim's consent; and (d) the victim must have been coerced into giving their consent. In addition, Section 2(1) VAPPA, 2015 states that a life sentence is provided for in cases where the perpetrator is found guilty under Section 1. Both the crime of rape and its criminal ban were broadened by the Act. Sections 281 and 357 of the Penal Code and Criminal Code, for example, define rape as the unlawful invasion of a woman's vagina without her agreement; nonetheless, the Act protects both sexes against this kind of abuse. Female genital mutilation or circumcision is another kind of sexual abuse addressed by the Act (Section 6 VAPPA, 2015). Conviction for performing circumcision or female genital mutilation (FGM) carries a maximum jail sentence of four (4) years, as stated in Section 6(1) of the Act. The act defines indecent exposure as the deliberate display of one's genitalia or a large portion thereof with the intent to cause distress to another person or to encourage others to commit an offence under this Act (Section 26(1) of the Act). A person commits an offence under this section if, according to Subsection 2, they knowingly expose their genitalia or a significant portion of it and encourage another person to massage or touch them for the purpose of obtaining sexual pleasure. According to Section 38 of the Act, victims have the right to receive state-run programs for rehabilitation, reintegration, health, and legal assistance. Among other things, the Child Right Act (CRA), 2003, outlined the duties and rights of children in Nigeria and established a framework for the administration of child justice as well as the care and supervision of children. There are twenty-four sections and eleven schedules to this Act. The sections cover a wide range of topics, including children's rights and responsibilities, government obligations and responsibilities, child welfare, institutions for children, and other related issues. Everything that any entity—whether public or private, judicial, administrative, or legislative—does or decides to do must have the child's best interest as its fundamental or main concern, as stated in Section 1–2 (part I) of the Act. The rights and responsibilities of children in Nigeria are outlined in Sections 3–20 of the Act. Sections 21–40 of the Act ensure that these rights are protected by outlawing things like child marriage, drug use, production, and trafficking; using children in criminal activities; kidnapping and unlawful removal or transfer of children from lawful custody; forced, exploitative, or hazardous child labour; dealing in children for hawking, prostitution, illicit sexual relations, or any other form of sexual abuse or exploitation that harms their welfare. Child trafficking and drug-related crimes have a maximum penalty of 10 years in prison under the Child Right Act. The perpetrators of child trafficking in Nigeria may be investigated and brought to justice by the Natural Agency for the Prohibition of Trafficking in Person and Other Related Matters (NAPTIP), which was established by the Trafficking in Person (Prohibition) Law Enforcement and Administration Act, 2003. As part of its

mission, the organisation helps victims via counselling and rehabilitation programs. For violations of its provisions, the Act lays forth penalties. Employment of citizens under the age of 18 is forbidden by the Labour Act CAPLI, Laws of the Federation of Nigeria (LFN), 2004, section 33 (2) (e), unless a family member is employed by them on light agricultural, horticultural, or domestic work, and the minister approves. It is also against the law to ask a kid to lift, transport, or move anything that is too heavy for them to safely handle at this age. In addition, clause 49(1) forbids the exploitation and servitude of children by saying that no minor may serve an apprenticeship for more than five years. Section 60(1) of the Act and sections 60(1) (a-b) and 59(7) of the Act also ban the employment of youngsters aboard ships or at night. Convention on the Rights of the Child (CRC) is an international agreement that advocates for children's rights and establishes benchmarks for their cause on a worldwide or international scale. After much deliberation, the United Nations General Assembly passed this landmark convention on the rights of children in 1989. It lays up the basic rights of children, one of which is safety against sexual exploitation and abuse. In this article, "child" is defined as any individual who is not yet eighteen years old. Every child under a state's authority is guaranteed the right to an equal education without discrimination based on race, colour, gender, sexual orientation, religion, handicap, place of birth, or any other protected characteristic, as stated in Article 2 of the Convention. State parties are obligated to take all necessary steps to safeguard children from any type of discrimination or punishment based on the characteristics, actions, views, or beliefs of the parents, guardians, or family members, as stated in Subsection 2 of Article 2. In order to put into practice the economic, social, and cultural rights guaranteed by the convention, as outlined in Article 4, the state parties must take all necessary legislative, administrative, and other actions. In order to prevent sexual exploitation and abuse of children, state parties are obligated to do what is stated in Article 34. State parties are expected to implement all necessary national, bilateral, and multilateral actions to achieve these goals. (a) using compulsion or enticement to get a minor to participate in an illegal sexual activity; (b) using minors for prostitution or other illegal sexual activities; and (c) using minors in pornographic shows and records. No child should be a victim of torture or any other cruel, inhuman, or humiliating treatment or punishment, as stated in Article 37 of the Convention.

The Africa Charter on the Rights and Welfare of the Child (ACRWC) is in place at the continental level. The right to be free from sexual abuse is one of the many children's rights that this Charter aims to safeguard within its geographical context. The Organisation of the African Unity (OAU), which was renamed the Africa Union (AU) in 2001, established the charter in 1990, and it came into force in 1999. The charter has been approved or acceded to by 53 member states of the Africa Union as of June 2021. A state's responsibility to safeguard its children from exploitation, discrimination, neglect, and abuse is enshrined in the charter. Furthermore, it mandates the prevention of torture, cruel or humiliating treatment, and psychological or bodily harm to minors. It outlined children's rights and established uniform standards for their position. When it comes to social and cultural practices that impact children's welfare, dignity, normal growth, and development, the African committee of experts charged with promoting and protecting the rights outlined in the Charter must do everything that is necessary to eradicate them. A thorough regional agreement outlining rights and defining universal principles and standards for children in Africa, the charter serves as a brief synopsis. A variety of child abuse prevention policies, initiatives, and techniques have been put in place in Nigeria. The following are examples

of policies: (a) National Strategic Framework for the Elimination of Obstetric Fistula, also known as an abnormal hole between a woman's vagina, bladder, and/or rectum, which causes the continuous leakage of urine and/or faeces. Postponing pregnancy till sexual maturity is achieved might decrease its incidence. The policy came up with three ways to get rid of obstetric fistula: the first, which calls for the establishment of a societal, legislative, and political climate that encourages the advancement of women; the second, and the third, are preventative strategies at the secondary and tertiary levels. cited in: FMH (2015) and Lewis and Bernis (2006). (a) In January 2013, the government of Nigeria established the National Policy on Child employment with the goal of ending the practice of child employment in the country. Work that hinders children's education, development, and future livelihood is defined as "work that harms children's wellbeing" according to the policy. This policy's overarching goal is to put an end to all forms of child work and provide every kid a chance to succeed to the best of their abilities. Additionally, it hopes for a fair society where children are not abused or exploited. (c) In October 2002, the Federal Ministry of Health draughted a strategy plan aimed at eliminating female genital mutilation in Nigeria. This plan was later made public. To promote the health and quality of life for girls and women, the policy aims to abolish the practice of female genital mutilation (FGM) in Nigeria. The specific goals of this initiative are to raise awareness about the risks of female genital mutilation (FGM), particularly among those who make decisions about the practice and those who provide it, to improve access to health care by increasing training for healthcare professionals in FGM prevention and treatment, and to educate various groups including women and men, traditional leaders, religious leaders, community members, and traditional birth attendants. (d) To lessen the effects on children without parents or guardians, the 2007 National Plan of Action on Orphans and Vulnerable Children offers a framework for program designers, administrators, and policymakers at all levels to follow. Children who do not have access to parental care are more likely to experience many types of abuse, such as neglect, malnutrition, sexual assault, and prostitution. Strategies to enhance carer and vulnerable children's ability via community-based response and support are part of the approach to mitigate this.

Effectiveness of Nigeria's Extant Laws against Child Abuse

There are a lot of rules in Nigeria that are meant to keep kids safe. Domesticating the UN Convention on the Rights of the Child, the principal piece of legislation is the Child Rights Act. The right to exist, to grow, to learn, to be healthy, to be respected, and to be free from violence, neglect, exploitation, and destructive customs like FGM and child marriage are all part of it. Abuse of any kind, whether mental, emotional, physical, sexual, neglectful, abusive, torturous, or otherwise demeaning, is expressly forbidden under the Child Right Act. Child work, trafficking of minors, and the involvement of children in criminal acts are also made illegal under this law. The Act shows a dedication to global standards of child protection by conforming to international human rights instruments such as the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. Child abuse is still a big issue in Nigeria even though these laws are in place. There are a lot of variables that contribute to this, including: (a) The lack of strong enforcement of these laws is a major problem. Some examples of these problems include ineffective policymaking, lengthy court systems, corrupt police departments, and a general public and even some police officers who are unaware of their responsibilities under the law. There is a significant underreporting of child abuse. (a) Child abuse and exploitation

are exacerbated by poverty. Economic hardship forces many family members or children into forced employment or early marriage. Education and resources that may have protected children are similarly limited for those living in poverty. (c) Long-established cultural traditions and societal mores also have a major role in the prevalence of child abuse. Beliefs in witchcraft, which may lead to the abuse and abandonment of children, cultural reasons for child marriage (typically associated with bride price and supposed preservation of virginity), and the acceptance of physical punishment as a form of discipline are all examples. (d) Many people are unaware of the laws that safeguard children's rights. Nobody knows what abuse is or where to get assistance if they or someone they care about is confused about the signs. (e) The social welfare agencies and other child protection systems in Nigeria are often understaffed, underfunded, and unable to adequately react to and prevent occurrences of child abuse. Support services for victims are inadequate, and there is a dearth of social professionals with the necessary training. This is related to the fact that government priorities and political will regarding the allocation of resources and the execution of policies for child safety may not always be sufficient. (f) Children's incapacity to speak out, cultural shame, fear of reprisal, distrust of authorities, and overall underreporting of child abuse contribute to this problem. (h) Vague interpretation of legislation. Disparities in child protection exist throughout the nation because, despite several states' adoption of the Child Rights Act, a few have not yet completely domesticated it into their local laws. There may still be inconsistencies in its implementation even after the legislation is passed. Corruption is connected to this. The proper execution of child protection legislation may be impeded by systemic corruption, which leads to the dismissal or mishandling of cases. Once again, recidivism may be a result of insufficient rehabilitation programs for criminals who have abused children. Next steps to end child abuse in Nigeria should include: (a) make the Child Rights Act mandatory in all countries; now, only about two-thirds of Nigeria's states have passed it, despite the fact that it offers extensive protections for children. To ensure that the Act is fully domesticated and implemented in all states, it is essential to advocate for it and work with state governments. (a) There must be systems in place to ensure compliance that work. Included in this is providing education on child abuse case management and child rights to the judicial system, social welfare workers, and law enforcement. Once again, there are several current laws that go against the age of marriage, such as the Marriage Act. To rectify these discrepancies and guarantee that all laws adhere to child safety principles, legislative changes are necessary. In order to understand the frequency, patterns, and trends of child abuse, a national database on child abuse cases is necessary. This information may then be used to guide targeted treatments. (c) It is crucial to launch campaigns that question damaging societal practices that normalise abuse, including child marriage and violence against children. The children themselves, as well as their parents or guardians, community leaders, and other media outlets, should be the focus of these initiatives. (d) Incorporating lessons on children's rights into school curricula would equip students to stand up for themselves in the face of abuse and know where to turn for support. Positive parenting practices and the consequences of child maltreatment should also be taught to adults. It is critical to include religious organisations, traditional authorities, and community leaders in order to cultivate a child protection culture among communities. In condemning destructive behaviours and advancing constructive societal standards, they can make a big difference. (e) Child work and child marriage are forms of child maltreatment, and poverty is a major role in this problem. Reducing the likelihood

of abuse requires action to alleviate poverty and strengthen economically disadvantaged households. Once again, discrimination based on gender and other types of gender inequality make girls more susceptible to maltreatment, including sexual assault and child marriage. It is critical to empower women and girls by providing them with educational opportunity, economic security, and legal safeguards. (f) Last but not least, preventing child abuse calls for concerted action from many branches of government, including the police, the courts, nonprofits, religious groups, traditional leaders, and foreign allies.

Child Abuse: Comparative Analysis between Nigeria and South Africa

The rights and protections of children are specifically mentioned in the South African constitution. Every child has the right to be safeguarded against maltreatment, neglect, abuse, and humiliation, as stated in Section 28(1)(d) of the Republic of South Africa's 1996 constitution. Full protection of children's rights is guaranteed by the South African Government's Children Act No. 35 of 2005 and its 2007 modification, 41 of 2007, which was issued in 2010. The Children's Amendment Act, in particular Section 110, addresses the need to safeguard children and is in line with international standards such as the UN Convention and the African Union Charter. Children in South Africa have a right to protection under section 28 of the country's constitution, which is detailed in section 110 of the Children's Amendment Act. Certain occupations are required by this section to notify the appropriate authorities in the event that they have reasonable suspicions of child abuse, neglect, or maltreatment. These authorities may include the provincial department of social development, a police officer, or a recognised child protection organisation. Experts who report in good faith and provide supporting evidence to the proper authorities are immune from legal lawsuits that may arise from such reports. The Act goes on to say that the Department of Social Development has to figure out what's best for the kid and handle it accordingly. Anyone with knowledge, or a reasonable belief or suspicion, of sexual abuse against a child or mentally challenged persons is obligated to report it to a police authority under Section 54 of the Sexual Offences and Related Matter Act 2007, which was passed in 2007. The reporter is immune from civil and criminal liability if they act in good faith in accordance with Section 54(2)(c) of the Act. The Children Amendment Act specifies who is required to report incidents of child sexual abuse in Section 110, but the Sexual Offences Act requires everyone in South Africa who is aware of the sexual exploitation of children to report it to the police. This includes all citizens who are entitled to the rights promised by the constitution in Section 3. Please specify who should get the report and by when it is due in accordance with Section 110, Subsection 1, of the Children Amendment Act. To guarantee the child's safety and protection, it is fair to disclose the suspicion in this circumstance. As soon as the victim becomes aware of the sexual assault, they are guilty under the Sexual Offences Act, Section 54(1)(a). When compared to Nigeria, South Africa's legislative frameworks for protecting children's rights are more advanced and thorough. To further children's rights, the courts in South Africa have, particularly the constitutional court, provided progressive interpretations of the several statutes that pertain to children. The following are some ways in which Nigeria might learn from South Africa's child rights legislation and practice to better protect Nigeria's children: (a) A similar provision, found in Section 28 of the Republic of South Africa's constitution, ensures that children have inherent rights that cannot be changed by the government of any state or province in that country. This provision should be replicated in the Federal Republic of Nigeria's constitution. (b) Just like in South Africa, international laws

pertaining to children should be automatically implemented by the court and have the same status as municipal law, which is enforceable, according to the limitation in Section 12 of the Federal Republic of Nigeria's constitution. (c) With the support of the Republic of South Africa's constitution, the Children's Act (No. 38) 2005 safeguards children's rights in South Africa via its several provisions. Every child has the right to have a say in choices that affect them, and the Act states that when a kid can't express their wishes, their best interests must be considered first. In order to safeguard the rights of children in Nigeria, the law contains measures that are comparable to those of the Child Right Act of 2003. The Child Right Act of 2003 is a federal law, but it cannot be enforced in the states until each state takes the necessary steps to adopt it. The same states in Nigeria have not made the Child Right Act a state law because of this same reason. (d) Judgement on cases involving minors is handled separately under the South African Criminal Justice Administration's civil cum criminal jurisdiction, while in Nigeria, the two branches are combined, which leads to lengthy court procedures. Once again, the South African Child Justice Act removes the hurdle of locus standi, which is particularly relevant for prosecuting incidents of child abuse and assault. If this works in South Africa to expedite the administration of justice, Nigeria should follow suit. (e) To guarantee the right to survival, protection, and development of children, South Africa's Social Assistance Act No. 13 of 2004 and the Maintenance Act of 1998 provide financial assistance to children who are orphaned, impoverished, or whose parents are poor. For children without parents or who are orphaned or otherwise unable to care for themselves, the Maintenance Act provides for their needs. In other words, this law does not affect parents who are able to support their children adequately.

Conclusion

Through a comparison of the two countries' anti-child-abuse legislation, this research aims to shed light on the lessons that Nigeria may learn from South Africa and use to reduce the prevalence of child abuse in its own country. Examined in this research are the following aspects of child abuse: its definition, its causes, the problems that arise from it, the effects that result from it, the institutional and legal framework that surrounds the issue, and the policies that have been put in place to combat it. According to the research, in order to better protect and advance children's rights in Nigeria, the country might take a page out of South Africa's playbook when it comes to child-related legislation, specifically focussing on the country's constitution, judicial system, and social security. In spite of Nigeria's relatively strong legal framework against child abuse, the study shows that many systemic issues, such as low enforcement, poverty, damaging social norms, ignorance, and an insufficient child protection system, significantly reduce the effectiveness of this framework. Moving ahead, it is essential to tackle these root causes if we want the laws to really safeguard children in Nigeria.

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