

# SOPHIA

VOL. 3, NO. 2, APRIL 2001

AN AFRICAN JOURNAL OF PHILOSOPHY

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ISSN 1119-463X

# MORALITY FOR CHILD RIGHT AND DEVELOPMENT

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## INTRODUCTION

It is usual for crusaders of child rights project to treat the issue as a social variable completely independent of and different from the general requirements of their human development. This, however, is responsible for the very poor success so far recorded in this direction. Child right project and child development should not be treated in isolation in view of the achievement of a functional personality of immensely social utility.

This paper attempts to address the deficiency in the present laws and methods of child right project and places it within the macrocosm of the general requirements of child human development and a socio-functional personality.

### 1. WHO IS A CHILD?

The African charter on the rights and welfare of the child (1990) defines a child as "a human being below the age of 16 years. This definition is too wide for our consideration on the ground that it includes the group of people described as young adults, who are already mature to take certain decisions on their own.

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*SOPHIA: An African Journal of Philosophy*, Department of Philosophy, University of Calabar, Nigeria. Vol. 3 No.2, April, 2001.

The Nigerian draft law on "children and young persons" defines a child as a person who has not attained the "age of maturity" that is 14 years. For the reason already given, the Nigerian modification is much preferred.

The stage of the development of the child both physiological and psychological suggests a delicate state characterized by immaturity and dependence on the parents and society. This requires and demands the provision of certain categories of the goods appropriate for his normal spiritual and physical development. These goods which cover the special needs of the child include bio-physical, health, cultural and educational and legal protection. This is why in the preamble to the 1959 United Nations Declaration of the Rights of the Child, it is observed that

*...the child, by reason of his physical and mental immaturity needs special safe-guards including appropriate legal protection before as well as after birth.*

These special needs or goods of the child become transformed into rights, sinequanonic accompaniments of his being. These definite rights in the service of the child's normal development as recorded in United Nations Convention (1989) on the rights of the child include:

*Rights to life, Rights to acquire a name and nationality, rights to enjoy parental love, residence and shelter, rights to proper feeding, right to medical care, rights to be educated, rights to be protected from all harm, rights to moral upbringing.*

These rights apply to all children without exception and are recognized both by international and national efforts. For instance, the OAU adopted a charter on the rights and welfare of the child. The UNO 1989 convention on the rights of the child was promulgated. It also adopted in 1985 the standard minimum rules

for the administration of Juvenile Justice. In 1990, the UNO promulgated Rules for the protection of Juveniles deprived of their liberty. All these efforts already formulated into policies and actions have the same focus, namely to provide special care and assistance to the average Nigerian child and in recognition that it is necessary to improve the quality of life of Nigerian children, their dignity and their physical, mental, moral and spiritual development.

To be noted is the fact that the area of coverage of the child's development needs and rights are total and touch all aspects of the human person. These policies are Laudable and indeed point to the fact that children do have right but that the existence of overbearing condition of abuse render their implantation nonsensical. The United Nations Non-governmental Liaison Services in Geneva gave the verdict that.

*Millions of children around subsahara Africa live under especially difficult circumstances where special protection measures are required to enable them enjoy fulfillment of their basic rights (Izuogu, 1999, 57). Putting the condition of the rights of children in African perspective requires a double effort in many directions both social and political.*

### **NATURE AND VALUE OF RIGHTS**

William Lillie (1970:161) defines rights generally as the moral power to do, to hold or to demand something. This something is regarded as the goods which accompany the process of realization of the person. A moral power is not a physical power, but only an indication of a capability of doing, holding or demanding. If it were to be physical, children on account of their stage of development may have no rights at all. Though it is always difficult to understand the nature of rights which a person has in the absence of the twin notion of duty, it does seem that the case of

children is peculiar. Theirs is the state of monopoly of rights. This is not to say that rights and duties mean the same thing, for there are important functions which rights fulfill.

If we now ask the question why do we have right? Why the rights of children, i.e. what things ought to be protected by rights? The answer is that

*One ought to be able to claim as entitlements those minimal things without which it is impossible to develop one's capabilities and to live a life as a human being.*

In Nigerian cultural set up, some practices appear abusive and neglected, hence are not conducive to the proper development of the child. In this context, any charter of rights for children, must be rights possessed generally and equally by all Nigerian children without any kind of distortion by any means. The problem however remains that children cannot make claims of right on account of their level of development. To this extent, it becomes the onus of the parents and society to protect their rights.

## **RIGHTS OF THE CHILD IN THE LIGHT OF AFRICAN CULTURE**

How does the traditional African culture view and understand the issue of child right and development? Put the other way round, what measures are there in place to protect the child and ensure his normal human development? What are the reasons why children are highly valued in traditional culture and do these values promote the rights of the child? Is the value contingent or ontological?

Kuteyi (1999:90), opines that children are "Jewels of inestimable value". According to him.

*...apart from representing the continuity of religious and moral life children have been highly appreciated and valued for the psychological pleasure they bring to*

their parents and relations as well as the hope that their economic contributions procure for the future security of their parents, relations and community.

The issues of the right and protection of children, if existent, was always submerged under the societal expectations. The much care and rights accorded them i.e. the degree of paternalism was in the future communal utility. This made their rights to be determined solely by external social-cultural considerations and not on the account of the inherent development of the child. The zeal to have as many children as possible was coupled with the determination to protect them against as many odds of life as possible", not directed by the knowledge of what was truly a human development. So that inspite of the unparalleled values placed on children, they have not always been spared from consequences of some culture and from sufferings and destructions that fellow human beings inflict on one another, even the ones that have to do with life itself.

Nigerian and African cultural practices do not have a clear understanding of human rights. Prof. K. Wiredu (1992:47) has described African cultures as deeply authoritarian, where greater attentions are given to the issues of social stability than human rights. To this effect, Wilson Afamefuna, (1986 and D' Antonio et al, 1993) have noted that in Africa. "Many abusive practices seem to be culturally sanctioned and where such practices appear clearly abusive, they are rationalized as discipline". The issue of the violation of the rights of children is therefore subsumed under cultural practices.

### **CHILD ABUSE AND NEGLECT**

Perhaps, the best way to access the child right situation in Nigeria is through the knowledge of the magnitude of abuse and neglect. Aguene (2000) confirms that child abuse and neglect is on the high side. Modupenla (2000:90) also opines that the incidence has created an increasing bleak future for the Nigerian child. World

Health Organisation (1977) defines it as the systematic and unconscious exposure of children below the age of seven to numerous hazards capable of endangering their lives. ANPCAN Series (1998:9) defines abuse and neglect as the situation.

*"When there is absence of efforts to provide conditions whereby a child will develop normally".*

Obiorah Ike (1999:76), gives his own definition as any deliberate act by a person, group or society designed to inflict harm on child or prevent it from normal, mental, physical, emotional and moral development". Child abuse and neglect therefore speak of those conditions which respectively or jointly frustrate the normal development, growth and realization of the human potentials of the child.

Child abuse and neglect can take on many forms, like emotional, psychological, physical and moral. It can also be caused by many factors like ignorance, poverty and by socio-political problems and materialism. There are certain theoretical problems associated with this issue. First, the absence of common standard as to the definition of abuse and neglect. "Since there is no universal standard for optimal child training, abuse or neglect, the issue of what is and what is not regarded as abusive or neglectful by particular cultures in question must be addressed". My objection to this is that a uniform standard, which can be enforced, is very possible. It is the responsibility of the social-philosopher to do this. This is what I have done by means of a universalist morality of "Realization and respect of persons".

Secondly, there seems to be absence of an accurate data system on the phenomenon. The few documented cases, usually present the issue as an urban problem probably because of the concentration of the news media in the cities. But Rotimi (1989) contends that examples of child abuse and neglect abound everywhere in Nigeria, where many of the traditional practices are outright cases of maltreatment.

Child abuse and neglect include, infanticide, child abandonment, child abduction, scarification, female genital mutilation, malnutrition, physical punishment, burn injuries, sexual abuse, child labour, child marriage and school dropout. Space may not actually permit the treatment of all these instances of abuse, but suffice it to note that each type or case has its own consequence on the development of the child person.

Some scholars have made impressive studies of neglected and abused children. Martin (1974) for instance, observes that physical injuries create psychological trauma of a child being raised in an abusive and violent environment.

Wilson (1986), pointed out that the population that is abused is different from the population of children not abused. For instance, their academic performances differ and exhibit behaviours of psychological anomaly; abused children are found to be more aggressive, less mature, less self-confident and less responsive to adult modeling. They are also victims of segregation tendencies that hamper intellectual and emotional progress.

Eze (1991) and Ifeorah (1986) share the view that abused and neglected children exhibit behaviours that lead to delinquency.

## **LAWS PROTECTING THE NIGERIAN CHILD**

Certain legal and constitutional steps have been taken to ensure the enforcement of the fundamental rights of the Nigerian child in line with the UNO convention (1989) and the OAU charter (1979) on the rights and welfare of the child. These provisions are both the recognition of the individual and civic responsibilities to the Nigeria child, including positive measures against any violation.

The Federal Government has made some other moves in the direction of child protection and development. The Federal government's cooperation with UNICEF in primary health provisions and also the latest promulgated universal and compulsory education scheme, is a case in point.

Section 301 of the Criminal Code of the 1999 constitution stipulated the responsibility of the parents to the provision of the



necessities of life for the child with an adequate marching punishment in the case of failure.

However, the following declaration of responsibility by the State to the Nigerian child are stated as follows in the UNO's Convention:

*Article 19, protection from abuse and neglect by parents and social programmes for the prevention of victims.*

*"Article 20, that the state is obliged to provide special protection for a child deprived of family environment.*

*Article 22, that the state shall protect in a special way refugee and displaced children.*

*Article 32, that the child has the right to be protected from work that threatens his health, education or development. The state shall set minimum ages for employment.*

*Article 34, states that the state shall protect children from sexual exploitation and abuse including prostitution and involvement in pornography.*

*Article 35, it is the state's obligation to make every effort to prevent the sale, trafficking and abduction of children.*

*Article 37, maintains that no child shall be subjected to torture, cruel treatment or punishment, unlawful arrest or deprivation of liberty. Both capital punishment and life imprisonment with the possibility of release are prohibited for offences committed by persons below 18 years.*

*...A child who is detained shall have legal and other assistance as well as contact with the family*

The Nigerian constitution adopted these obligations in principle and the child went head to include the violation of any aspect of the child right in the panel code. The draft children and young persons law (1999), recognizes wide ranging measures for child survival, development, protection and participation and proposes categories of punishment for offenders. For instance,

Child marriage attracts five years jail in addition to paying a fine of N50,000. a jail term of 5 years and a fine of N30,000 is stipulated for child forced labour. Two years jail term fine N20,000 for female child genital mutilation. A jail term of 3 years and fine of N30,000 is stipulated for scarification or skin marks on children. Offenses such as raping a child and exposing a child to use of drug attracts a life jail. Abduction and removal of a child from a lawful custody shall attract a jail term of not less than 14 years. Using children for alms begging shall on conviction be jailed for a period of ten years, while importers of harmful publications that affect the child will be jailed for 10 years in addition to a fine of N1,000,000.00.

All these bold steps in recognition of the rights of the Nigerian child aim to provide special care and assistance for his development. But the fact remains that unmitigated varieties of child abuse are living witnesses of our national life.

## PERSONHOOD: THE END OF CHILD'S RIGHT DEVELOPMENT

As we have seen, self-realization is the sole basis for every human right. The achievement of sound human person becomes the ultimate end of the entire development process.

Every developmental process has a vision and in the case of the child right development, it is the actualization of his personhood. This becomes an absolute value, the measure of rights and duties and of social ethics.

But this idea of personhood did not exist in traditional cultures, these cultures did not recognize the absolute value of the individual as such (Modin 1990:243). The society and the family absorbed the person. This accounted for the reason even why institutions of slavery did not offend even the highest spirit of the era. What then is this idea of personhood, the hallmark of child right development? Boethius S. gives an ontological definition of the concept of personhood. "Persona est rational nature individual substantia"-an individual substance of rational nature. The distinctive mark making the human person is the rational ability so that, the abuse of the child is always seen from the perspective of the obstacles against the maximization of this human nature. Aquinas defines the person as "subsistent rationale"- a rational subsistent. "With the term subsistent the Aquinate replaces what Boazius had expressed with the three terms individual, nature and substance, because what is subsistent cannot be a substance and a nature already set in its individuality, but the subsistent by itself does not yet constitute the concept of persons which as we know is applied only to rational beings". Personhood is an act which necessarily moves towards the perfection of a nature, the rational nature in the case of the child.

All humanisms agree in assigning to the human person, an absolute, inviolable non-instrumental value, worthy of the greatest respect. Man is an absolute as a value not as a person. It's this absolute value that constitutes his dignity. L. Kolakowske (1979L158), has given a simple argument in this regard. "The

metaphysical foundation of the man value as an absolute is participatory and not originally". Behind the human absolute there exists a divine absolute which allows man to participate in its absoluteness... which in its onto-axiological absoluteness gives absoluteness to man that is first of all axiological, but which prepares and in a certain way gives the right for the conferring of an ontological absoluteness in the future." To found the absolute value of man in God is not to sin against humanism, but it is the only way to fully realize the aspirations of humanism and to ensure a valid foundation for the dignity of man. These are basic ideas about man not found in traditional cultures, the consequences of which had been various forms of violations of the rights of man including children.

Joseph Hoffner (1983:47) lists the following characteristics of personhood namely, transcendence, uniqueness, participation, self-subsistence, freedom, conscience". Any child right development project must ensure the realization of these personality traits.

## **THE ROLE OF THE FAMILY IN CHILD'S RIGHT AND DEVELOPMENT**

The family has been defined as "a community of persons, of husband and wife, of parents and children, of relatives, living with fidelity of reality of communion in a constant effort to develop an authentic community of persons". This definition incorporates within itself, the nature and origin, function and aim of the existence of the family, which have direct implication for the realization of the right and development of the child.

*Willed by God in the very act of creation, the family finds in the plan of God the creator and redeemer Not only its identify. What it is, but also its Mission, what it can and should do.*

The historicity and functionality of the family constitute its dignity and responsibility – a summons that cannot be ignored in its self-realization and self-knowledge in accordance with the inner truth of its being. The function and duty of the family is first and foremost moral-leading the community of persons to the discovery of the profound truth about life- “love which in fidelity to the creator it imparts and continues to sustain in its members for a better human society”

*...the essence and role of the family are in the final analysis specified by love. Hence the family has the mission to guard, reveal and communicate love and this is a living reflection and real sharing in God's love for humanity*

The family is in the vanguard of the discovery of man's vocation, his acceptance of responsibility in the search for greater justice, educating him from the very beginning in interpersonal relationships, rich in justice and love. The foundation for the knowledge, respect and protection of the rights of the child and the provision of every ingredient, his full human development, is built in the family.

So the family's stability, which is firmly rooted in its mission, becomes the basis for the prosperity and humanization of any society. This is because “no country on earth, no political system can think of its own future otherwise than through the image of those new generations that will receive from their parents the manifold heritage of values, duties and aspirations to which they belong and of the whole human family”.

## **CONCLUSION**

In conclusion, in tackling the problems of child right and development, we reject the present day approach because it is a mechanical humanism which is devoid of the moral content for a

socio-functional personality. We also reject the traditional method of socialization because of its authoritarianism which is an abuse of the personhood. For the emergence of a situation of complete realization of every aspect of child rights, there has to be a concomitant accompaniment of an authentic developmental programme, the only basis for the realization of a socio-functional personality. This is possible through the entrenchment of the recognition of the rights of subsidiarity. It is a consciencism most appropriate to the needs of the present day Nigeria society.

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