

Contextualizing the Concept of Parental Responsibilities and Child Protection in a Legal Pluralistic Nigeria

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Abstract

It is undeniable that the idea of parental responsibility came from the English legal system. The concept's usefulness seems to be where its significance lies. The purpose of this essay is to examine the idea of parental responsibility in the context of Nigeria. This paper aims to investigate the feasibility of eliminating parental responsibility in Nigeria. Notwithstanding its practicality in providing legal guarantees for the protection of children, the Nigerian legal system's intricacy may lead to certain contextual paradoxes. Thus, in the framework of Nigeria's legal system, which is predicated on legal pluralism, this essay examines novel paradigms and possible anomalies.

Introduction

Parenting was once viewed as a duty and an obligation, which is when the idea of parental responsibility first emerged. Children were essentially seen as property in prehistoric societies, and their job was to support their parents or the community at large. However, the idea of parenthood changed along with civilizations. One of the earliest known legal codes to recognize parental responsibility was the Code of Hammurabi. In 1754 BC, it was published in Babylon [1]. This code held fathers accountable for their children's behavior and obliged them to support their families financially. The idea of parental responsibility was greatly influenced in the West by Judeo-Christian teachings. The Bible places a strong emphasis on treating children as gifts from God and rearing them in a loving, disciplined, and guiding environment. Throughout the 1800s, the idea of parental responsibility was developed in social and legal contexts. Laws were passed in England requiring fathers to provide financial support to their children and granting mothers the right to sue negligent fathers for unpaid leave of absence. The first juvenile court was founded in the US in 1899 with the intention of shielding kids from abusive or neglectful parents. Parental responsibility is now acknowledged as a crucial component of raising children and is protected by numerous international laws and policies. It emphasizes parents' rights and obligations to provide their children with emotional, psychological, and medical support as well as to guide them toward becoming responsible members of society.

There is no denying that the legal system, in England and Wales has significantly changed the perception of parents natural role and obligation towards their children [2]. In situations the term "parental responsibility" is used to protect and uphold childrens rights, which should not be confused with the duty parents have in raising their kids. The application and usage of this principle within the context provide a contextualized understanding of responsibility. The implementation of this idea in Nigeria serves as evidence that it's effective and reasonable within its country of

origin. However due to its characteristics many consider the Nigerian legal system to be complex. Nigeria follows a framework, which alongside contextual realities exposing persistent issues with legal implementation and enforcement may place additional burdens on parental responsibility. One prevalent argument suggests that assigning responsibility to individuals who do not inherently possess it is the approach, for handling situations where a child might not receive proper care and protection [3].

To gauge the extent of safeguarding children it would be beneficial to examine the concept of accountability, within the context. This is important considering the circumstances that often hinder the nations commitment, to child protection measures.

It is significant to remember that the act's objective is to implement the primary legislation recommended in the White Paper, thereby reforming the statutory framework for the care system in both Wales and England. This is a part of the government's effort to ensure that kids and teenagers get the best care and assistance available. This lends credence to the idea that parental responsibility is one of the central concepts introduced by the Child Care Act of 2008. This idea of custody the rights and obligations of parents involved in raising their children largely replaces the Guernsey and Alderney concept[4].

Parental Responsibility in Context

In Nigeria, parents have a moral and legal duty to ensure their children's safety, development, and well-being until they reach adulthood. This duty is known as parental responsibility. In order to guarantee that their children are raised in a secure and supportive environment, parents are expected to fulfill a wide range of responsibilities. Parental responsibility is, in fact, a fundamental component of Nigerian society. It mainly deals with the legal responsibilities and duties parents have to their kids, which include providing for their basic requirements in terms of food, housing, healthcare, and education. The Child Rights Act of 2003 in Nigeria establishes precise guidelines regarding parental responsibilities. In accordance with this Act, parents must make sure that their children have access to appropriate food, clothing, and medical care, in addition to a secure and healthful setting that fosters their development. From the age of six to sixteen, parents in Nigeria are obligated to enroll their children in school to ensure that their offspring receive an excellent education. Parents also have a responsibility to shield their kids from exploitation, abuse, and neglect. While both parents are ultimately responsible for their children, the law acknowledges that there are instances in which one parent may be unable to fulfill their responsibilities or may be absent. It is the other parent's responsibility to handle such situations. It is important to note that Nigeria acknowledges children's rights to participate in decisions that impact them, including those pertaining to their welfare. Consequently, when making significant decisions affecting their children's lives, parents are supposed to consider their opinions. Therefore, in Nigeria, parental responsibility is essential to making sure that kids are raised in a secure, wholesome, and supportive environment. In an effort to uphold parental responsibilities and safeguard children's rights, the government has implemented laws and policies.

A parent's legal rights, obligations, powers, responsibilities, and authority regarding their child and his belongings are all included in the definition of "parental responsibility" as stated in Section 3(1) of the Children Act 1989. It seems that this law is the first to define what constitutes parental responsibility. Congressmen in the United Kingdom specifically defined what is considered a legal

duty imposed on parents and any other acknowledged and designated person who is required to perform the duty specified in section 3 of the law. It is acknowledged that Nigeria has an English-based legal system that dates back to the colonial era. The colonial administration's legal framework has never been abandoned; rather, it has developed to meet the needs of the modern world. Furthermore, Nigeria's legal system routinely appropriates and incorporates new English legal instruments. Since the Nigerian legal system is based on the legal system of the English colonizer, borrowing and transposition have never presented a problem in and of themselves. Yet, the borrowed instrument or legal notion has occasionally shown to be ineffectual because of contextual paradoxes.

Parental Responsibility and Child Protection

In any legal system, parental responsibility is viewed as a concept that helps to ensure the child's wellbeing and is obviously desirable. It is advisable to suggest the protection of children's rights and the advancement of these ideas to jurisdictions other than the ones in which they originated. Explaining the answer with a concept like parental responsibility would have been a tautology from the stance that parents naturally have a responsibility to raise their children. On the other hand, poor judgment and ineffective parenting may cause the government to step in without being seen as a privacy violation. Nigeria has one of the liveliest discourses on child protection. Nigeria has always aimed to be at the forefront of the discussion regarding the rights and welfare of children, as a modern nation. Nigeria has exhibited its readiness to engage in global accords concerning children's rights through the ratification and domestication of legal instruments such as the United Nations Convention on the Rights of the Child (1989). It follows that lawmakers and government officials in Nigeria should understand concepts related to the advancement of child welfare and rights. In fact, the goal of parental responsibility is to ensure that children are protected for as long as possible.

In Nigeria, the court has a significant say in decisions regarding parental responsibility and related matters [5]. The Children's Rights Act of 2003 delineates the legal framework in Nigeria pertaining to parental responsibilities. According to the Act, both parents share equal responsibility for raising, caring for, safeguarding, and educating their children. On the other hand, the court may step in to settle any disagreements the parents may have about any of these matters. The court can issue orders pertaining to maintenance, visitation, and custody. Custody pertains to the joint or sole legal and physical upbringing of a child. Access is the term used to describe a parent's right to see and spend time with their child. Maintenance is the term used to describe the financial support a parent gives to their child for their upbringing. When determining parental responsibility, the court may also consider what's in the child's best interests. Considerations may include the child's age, health, welfare, and level of education. In conclusion, in Nigeria, the court plays a significant role in assigning blame, and its decisions are grounded in the child's best interests.

In Nigeria, the government and society place a high value on parental responsibility and child protection. The Federal Republic of Nigeria's Constitution, Section 37, guarantees and protects citizens' privacy with regard to their residences, correspondence, phone calls, and telegraphic communications. The family environment must be protected as a result. The Nigerian Constitution acknowledges that children are weak and require extra parental supervision, protection, and care, among other things. The Child Rights Act, which was passed in 2003, is one of the main pieces of legislation that safeguard children's rights in Nigeria. The objectives of this act are the welfare,

rights, and development of every child in Nigeria. It addresses a broad range of topics, such as guardianship, abuse, neglect, and exploitation of children as well as parental responsibility, custody, and adoption. The Child Rights Act mandates that all parents and guardians provide for their children's basic needs, which include food, shelter, healthcare, and education. It is also the duty of parents to shield their kids from danger, abuse, and exploitation. If these obligations are not met, there may be criminal charges and consequences. In order to protect and ensure the welfare of children, the Nigerian government established a number of agencies and organizations. These consist of the National Child Welfare Policy, the Federal Ministry of Women's Affairs and Social Development, and the National Agency for the Prohibition of Trafficking in Persons (NAPTIP).

It is noteworthy that child protection and parental responsibility are significant facets of Nigerian law and society. It is true that guardians and parents have legal responsibilities to ensure their children's basic needs are met and that they are kept safe. The government has put in place a number of organizations and legal frameworks to ensure the welfare and protection of children's rights.

Paradoxical Realities

The legal system bears some of the blame for the paradoxical realities of parental responsibility and materialization. It is imperative to bear in mind that the Nigerian legal system is distinguished by its legal pluralism. Multiple legal systems coexisting in one society or jurisdiction is known as legal pluralism. The existence of multiple legal systems operating concurrently in Nigeria makes legal pluralism intricate and multidimensional [6]. Three main sources can be used to broadly classify Nigeria's legal system: customary law, statutory law (also known as modern or formal law), and Islamic law (also known as Sharia). While customary law is derived from the customs and traditions of indigenous communities, Islamic law is based on the teachings of the Quran and the Sunnah. However, laws are passed by the government through legislative processes. The clash between various legal systems is one of the main obstacles to legal pluralism in Nigeria. For instance, there have been instances where statutory law and customary law conflict, creating uncertainty and ambiguity in the legal system.

The application of Islamic law has also been the subject of discussion; some argue that it undermines the secular nature of the Nigerian state.

The various legal systems' lack of harmonization presents another difficulty[7]. The absence of a well-defined hierarchy among legal sources results in inconsistent legal application. This has resulted in circumstances where people might be governed by various laws based on their ethnicity, geography, or religion. Furthermore, the challenges of legal pluralism are made worse by the frequent corruption and inefficiencies that afflict Nigeria's legal system. Because there is no centralized legal system and traditional rulers still have some influence in some areas, solving these issues is made even more challenging. Nigeria's complicated legal pluralism is a reflection of the many historical, religious, and cultural elements that have shaped the nation. It is imperative that all stakeholders engaged in the legal system collaborate to tackle these concerns and ensure equitable and accessible justice for all.

In Nigeria, a frequent source of legal conflict is the opposition between statutory and customary law. Customary law is frequently unwritten and is based on local communities' customs and practices[8]. On the other hand, statutory law is created by the government and documented in

statutes and regulations. It can be difficult to decide which legal system should take precedence when there is a conflict between the two. There is also a legal conflict between statutory law and Islamic law [9]. Islamic law is based on the teachings of the Quran and the Hadith, while statutory law is created by the government. When people choose to settle disputes by applying Islamic law rather than adhering to the letter of the law, conflicts may result. The Nigerian legal system has devised a number of strategies to resolve these disputes, including the application of alternative dispute resolution procedures like arbitration and mediation. In order to help resolve legal conflicts and guarantee that justice is done, additionally, the courts have developed guidelines for interpreting the law. In order to establish a just and equitable society, Nigeria's legal system must ultimately strike a balance between the conflicting demands of various legal systems.

In Nigeria, the law pertaining to parental responsibility faces various long-standing obstacles, such as religious and cultural convictions. A child isn't just their parents' property, according to some cultural and religious viewpoints, but also of their extended family or community[2]. The decision of who is responsible for the care and raising of a child may inevitably become more challenging as a result. Absence of knowledge and consciousness: It's possible that a lot of parents are unaware of their obligations and legal rights regarding their kids. Neglect or abuse may result from this, which could have detrimental effects on the child's wellbeing. It is clear that a large number of families in Nigeria are impoverished, which may make it difficult for parents to provide for their children's basic needs, such as food, housing, and education. Neglect and abuse could ensue from this. It is a fact that a lot of communities in Nigeria still expect women to take care of the children while men take care of the finances. This speaks to traditional gender roles. Women may be disadvantaged by this, particularly if they rely on their husbands for financial support. Ineffective application of the law: Parental responsibility laws are in place in Nigeria, but because of a lack of funding, official corruption, and insufficient training, they are not always successfully enforced. This may result in circumstances where the law does not provide sufficient protection for children. In northern Nigeria, the situation of parental responsibility and children's rights is a complicated one that faces many obstacles. Nigeria has ratified the United Nations Convention on the Rights of the Child (UNCRC), is one international convention that protects children's rights. But in reality, a lot of kids in Northern Nigeria still experience assault, forced marriage, child labor, and other types of exploitation and neglect [10]. It is important to stress that in northern Nigeria, parents bear the primary responsibility for meeting the fundamental requirements of their children, such as food, housing, medical care, and education. Nonetheless, cultural customs like child marriage, poverty, and illiteracy may make it difficult for them to carry out these duties. Furthermore, some parents might prioritize some kids over others, which could result in some kids in the family being neglected or abused. Through a number of laws and initiatives, such as the Child Rights Act of 2003 and the National Child Welfare Policy, in an attempt to resolve these issues, the Nigerian government has moved. However, because of things like a lack of funding, corruption, and other issues, these laws are frequently and opposition to change on the part of religious and traditional leaders. Overall, even though parental responsibility and although northern Nigeria has made progress in protecting children's rights, much more needs to be done to ensure that all children can lead healthy lives, fulfilling lives and exercise their fundamental human rights. Parental responsibility abuses in Nigeria may have serious repercussions due to corruption and a dearth of law enforcement[11]. A few of the potential outcomes include child abuse. It is true that guardians or parents mistreat their kids sexually, emotionally, or physically. If such behavior is not held

accountable for, it may continue, causing the child to suffer long-term emotional, mental, and physical harm.

New Paradigms

In Nigeria, the concept of parental responsibility has changed over time, giving rise to new ideas about how it should be used. Collaborative parenting, or the growing trend of parents raising their kids simultaneously, is one of these new paradigms. It's a natural process and duty to raise children to be a parent. It should therefore be given more consideration. Using this method necessitates that both parents share parenting responsibilities and provide equal attention to their children, as has been the case for centuries. Using a range of tools and resources to assist in their parental responsibilities is another way that technology has helped parents parent [12]. Technology has made it easier to access information and communicate with children. Two examples of this are parenting apps and online parenting guides. Additionally, there is the idea of mindful parenting, which is a comprehensive strategy that places a focus on being present and aware of the needs and growth of the child. With this approach, parents are encouraged to foster a nurturing and supportive environment for their child's growth and development, in addition to being totally present and attentive to their child's physical, emotional, and mental needs. In Nigeria, parents are increasingly using positive discipline as a method of discipline as they try to raise their kids in a polite and nonviolent way. Another option is positive discipline, which places a focus on developing trusting relationships with kids, speaking clearly, establishing boundaries, and rewarding good behavior [13]. All things considered, these new paradigms are a reflection of Nigerian parents' shifting attitudes and priorities, which are primarily centered on providing their kids with an emotionally intelligent, self-assured, and autonomous upbringing in a world that is changing quickly. On the other hand, because parental authority is properly exercised and children's rights are protected and promoted in Nigeria, authorities and the legal system can relax.

Conclusion

In Nigeria, the role of being a parent is highly respected. Considered crucial in raising children. It is widely believed that parents have a duty to nurture, protect, and guide their children as they grow into members of society. This includes ensuring that children have access, to nutrition, education, and healthcare. In culture, parents are entrusted with instilling values such as honesty, respect and hard work in their children. The country's laws also emphasize the responsibility of parents for their children's actions until they reach adulthood highlighting the significance placed on accountability. Overall parental responsibility is widely acknowledged as vital for the well-being and success of children in Nigeria. However, it is important to note that despite mandates such as Nigerian Child Rights Act of 2003 which places obligations on parents or guardians to secure the welfare and protection of their children including safeguarding them against abuse and neglect while ensuring access to healthcare and education; there have been reports of child abuse and neglect in Nigeria which indicate that parental accountability may not always be sufficient. It becomes crucial for authorities to enforce these laws effectively while holding parents accountable, for fulfilling their duties towards their children.

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