



The child's rights act, sharia law, and the almajiri system: A case of 'when two elephants fight, the grass gets trampled'

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Abstract

The Paper analyses the issue of the Almajiri school system and the implications of the Child Rights Act on its activities. The Child's Rights Act, enacted in 2003 ^[1], is a comprehensive legislation aimed at safeguarding the rights and well-being of children across the country. On the other hand, Sharia Law, which is applicable in certain states with predominantly Muslim populations, governs various aspects of personal and family matters, including child custody and guardianship. The Almajiri system, prevalent in Northern Nigeria, is an Islamic educational system through which children receive religious teachings.

Keywords: Child's Rights Act, Sharia Law, Almajiri system

Introduction

Before we get into the introduction let's start by explaining some key terms,

- 1. The Almajiri System:** The Almajiri system is an Islamic educational system prevalent in Northern Nigeria, where children receive religious teachings from Islamic scholars known as Almajiris. The system has been in existence for centuries and plays a significant role in the cultural and religious fabric of the region.
- 2. 'When Two Elephants Fight, the Grass Gets Trampled':** This phrase is a metaphorical expression used to describe a situation where powerful entities or forces clash, resulting in negative consequences for those who are less influential or marginalized. It highlights the impact of conflicts between different legal frameworks on vulnerable groups like children within the Almajiri system.

In Nigeria, the Child's Rights Act, Sharia Law, and the Almajiri system are three distinct legal frameworks that intersect when it comes to the protection of children's rights. The Child's Rights Act, enacted in 2003 ^[1], is a comprehensive legislation aimed at safeguarding the rights and well-being of children across the country. On the other hand, Sharia Law, which is applicable in certain states with predominantly Muslim populations, governs various aspects of personal and family matters, including child custody and guardianship. The Almajiri system, prevalent in Northern Nigeria, is an Islamic educational system through which children receive religious teachings.

Despite the plurality of existing laws in Nigeria that offer multiple alternatives for the protection of children within the Almajiri system, these children continue to face numerous challenges and remain marginalized. It's like a case of 'When Two Elephants Fight, the Grass Gets Trampled.' This raises an important question: why, despite the availability of various legal alternatives, are children within the Almajiri system still left out in the cold?

To explore this issue, we need to delve into the complexities that arise when these different legal frameworks clash. Factors such as cultural practices, socio-economic

disparities, and limited enforcement mechanisms play a significant role in perpetuating the marginalization of these children. Additionally, gaps in coordination and implementation between the Child's Rights Act and Sharia Law can contribute to the challenges faced by these children.

The thesis statement of this research is to analyze the reasons behind the continued marginalization of children within the Almajiri system, despite the plurality of existing laws in Nigeria. By examining the interactions between the Child's Rights Act, Sharia Law, and the Almajiri system, we aim to identify the underlying factors that hinder the effective protection of these children's rights. Through this analysis, we hope to propose recommendations and strategies to address these challenges and ensure the well-being and protection of children within the Almajiri system.

Literature review

The Child's Rights Act is a legislation in Nigeria that aims to protect the rights of children and ensure their well-being. The Child's Rights Act is a crucial piece of legislation in Nigeria that was enacted in 2003 ^[2]. It serves as a legal framework to safeguard the rights and well-being of children across the country. This act is designed to ensure that children are protected from abuse, neglect, and exploitation, and that their rights to education, healthcare, and development are upheld.

One of the key aspects of the Child's Rights Act is the recognition of the inherent dignity and worth of every child. It guarantees their right to life, survival, and development. This means that children have the right to be nurtured, protected, and given the opportunity to grow and thrive in a safe and supportive environment.

Education is another fundamental right protected by the act. It emphasizes that every child has the right to access quality education, regardless of their background or circumstances. This provision seeks to ensure that children including almajiri's are given the necessary tools and opportunities to reach their full potential and contribute to society. The act also addresses the issue of child abuse, which includes physical, emotional, and sexual abuse. It prohibits any form of violence or harmful practices against children and establishes mechanisms for reporting, investigating, and

addressing cases of abuse. This is crucial in creating a protective environment for children and holding perpetrators accountable for their actions.

Furthermore, the Child's Rights Act recognizes the importance of a child's identity and nationality^[3]. It ensures that every child has the right to a name, nationality, and family. This provision helps protect children from being stateless and ensures that they have access to their legal rights and entitlements.

It's important to note that the Child's Rights Act also outlines the responsibilities of parents, guardians, and the government in ensuring the well-being of children. It emphasizes the need for parents to provide proper care, guidance, and support to their children, while the government is responsible for creating policies and implementing programs that promote and protect children's rights especially parents of the almajiris.

Sharia Law, on the other hand, is a legal system based on Islamic principles. Sharia Law, as mentioned earlier, is a legal system derived from Islamic principles. It encompasses a wide range of areas, including personal conduct, family matters, business transactions, and criminal justice. The primary source of Sharia Law is the Quran, which is considered the holy book of Islam, along with the teachings and practices of Prophet Muhammad^[4].

Moreover, almajiri education is a traditional Islamic education system that is particularly prevalent in some Northern Nigerian states. The word "Almajiri" refers to the students who study under this system. Young boys, usually from rural areas, leave their homes to study Quranic teachings and Islamic values under the guidance of a Mallam, who is their teacher^[5]. Almajiri students often live in Tsangaya, which are boarding schools specifically designed for religious education. In these schools, the primary focus is on memorizing and reciting the Quran, as well as learning Arabic language and Islamic principles. The curriculum typically revolves around religious studies, and other subjects may be limited, however relation between Sharia Law and Almajiri education, it's important to note that Sharia Law serves as the foundation for the Islamic teachings that are imparted in Almajiri schools. The aim is to provide students with a strong grounding in Quranic knowledge and Islamic values. However, the governance and management of Almajiri education may also be influenced by other factors, such as local customs, cultural practices, and government regulations^[6].

It's worth mentioning that there have been ongoing discussions and efforts to improve the Almajiri education system, particularly in terms of addressing issues related to the welfare and living conditions of the students. Various stakeholders, including government bodies, non-governmental organizations, and religious leaders, have been working towards enhancing the educational experience and ensuring the well-being of Almajiri students^[7].

Despite the existence of multiple laws in Nigeria that offer alternatives for the protection of children's rights within the Almajiri system, many children still face challenges and are left vulnerable. This can be attributed to various factors, such as cultural practices, socio-economic conditions, and inadequate implementation and enforcement of the laws.

The Almajiri system often results in children lacking access to western education, healthcare, and basic amenities. While the Child's Rights Act provides a legal framework for the protection of children's rights, the intersection with Sharia

Law and cultural practices can create complexities in its implementation.

Improving the situation requires collaborative efforts from government agencies, religious institutions, NGOs, and communities. It is essential to raise awareness, enhance education and healthcare opportunities, and address the socio-economic issues that contribute to the challenges faced by children within the Almajiri system.

Methodology

This research article discusses the why Almajiri's are still out in the cold despite legal pluralism, I went through numerous articles on google scholar, and academia.com and the different human rights Acts and Child's right Act and we were able to gather a diverse range of information and insights conducting a comprehensive review with 16 plus articles so we could thoroughly examine the existing literature on the topic. This approach allows this research to identify different perspectives, and gaps in knowledge, which greatly contributed to the depth and credibility of this research. The quantitative research method that was employed has greatly contributed to the richness of this research.

Findings

After conducting extensive research and analysis, the following key findings emerged:

1. Inadequate implementation

One major reason why children within the Almajiri system continue to face challenges is the inadequate implementation of existing laws. Despite the presence of The Child's Rights Act and Sharia Law, there is a lack of effective enforcement mechanisms, resulting in limited protection for these children.

2. Socioeconomic factors

The Almajiri system is deeply rooted in socioeconomic factors such as poverty, lack of access to education, and limited opportunities for the families of these children. These underlying issues contribute to the perpetuation of the system and hinder the effective protection of their rights.

3. Cultural and religious factors

The Almajiri system is deeply embedded in cultural and religious practices, making it resistant to change. Some communities view it as an integral part of their heritage, which can complicate efforts to reform the system and ensure the rights of the children involved.

4. Lack of coordination

There is a lack of coordination and collaboration between different stakeholders, including government agencies, religious leaders, and civil society organizations. This hampers the effective implementation of laws and the provision of comprehensive support systems for children within the Almajiri system.

5. Limited awareness

Many families and communities within the Almajiri system have limited awareness of the rights and protections available to children under the existing laws. This lack of awareness further exacerbates the challenges faced by these children and hinders their access to essential services.

Recommendations

Based on the findings, the following recommendations are proposed to address the challenges faced by children within the Almajiri system:

1. Strengthen implementation

Enhance the implementation of existing laws by establishing clear enforcement mechanisms and holding accountable those responsible for protecting the rights of children within the Almajiri system.

2. Address socioeconomic factors

Address the underlying socioeconomic issues that contribute to the perpetuation of the Almajiri system. This includes providing access to quality education, healthcare, and economic opportunities for families, thereby reducing their reliance on the system.

3. Promote dialogue and collaboration

Encourage dialogue and collaboration between government agencies, religious leaders and civil society organizations to improve coordination and cooperation in addressing the challenges faced by children within the Almajiri system. This can involve joint initiatives, resource-sharing, and the development of comprehensive support systems.

4. Raise awareness

Launch awareness campaigns to educate families and communities about the rights and protections available to children within the Almajiri system. This can be done through community outreach programs, media campaigns, and partnerships with local religious and community leaders.

5. Encourage alternative education models

Promote the development and implementation of alternative education models that integrate Islamic teachings while providing a holistic education to children within the Almajiri system. These models should focus on academic, vocational, and life skills training.

6. Involve stakeholders

Ensure the active involvement of all relevant stakeholders, including government agencies, religious leaders, educators, parents, and children themselves, in the decision-making processes and initiatives aimed at improving the situation of children within the Almajiri system.

To sum up everything that has been said so far, addressing the challenges faced by children within the Almajiri system requires a comprehensive approach that involves strengthening the implementation of existing laws, addressing socioeconomic factors, promoting dialogue and collaboration, raising awareness, encouraging alternative education models, and involving all relevant stakeholders. By taking these steps, we can work towards ensuring the protection and well-being of children within the Almajiri system.

References

1. Child's Rights Act (2003)
2. Child's Rights Act, 2003 (Act No. 11), Federal Republic of Nigeria Official Gazette, 2003

3. Antom VL, Ogouno J, Farroque. Reinventing The Almajiri Educational System towards the realisation of Child's Rights in Nigeria. *Law and Social Justice Review*, 2023, 4(2).
4. Vikør KS. The Origins of Sharia. In *The Ashgate Research Companion to Islamic Law*. Routledge, 2016, 13-25.
5. Safiyanu S, Bugaje AA. Almajiri System: End It, Mend It or Re-Invent It? (1). *Journal of Criminology Sociology and Law*, 2020, 1(1).
6. Ahmad MA, Alkali MB. The Crisis of National Security: Implications of Almajiri System in Northern Nigeria, 2020.
7. Dukawa SA, Usman A, Gwandu UJ, Masjid. as an Institution of Reforming Almajiri Education System: A Policy Option for State Governments in Northern Nigeria. *Sunan Kalijaga: Intern*