
A STUDY OF LEGAL MEASURES AGAINST BEGGING IN NIGERIA VIS-A-VIS KANO STATE STREET-BEGGING (PROHIBITION) LAW, 2013

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ABSTRACT

The practice of holding unto soliciting for financial assistance or other necessities as a means of livelihood (begging) is seen as a disdainful undertaking, though minority lends support to it on account of some extreme peculiarities. Begging is generally considered as a daily increasing problem being encountered by all nations, developed inclusive. This, therefore, makes begging a universal problem, though the nature of its practice may strike a distinction of some sort between nations. In an ideal society, earning living should not be left to the full responsibility of the followership as the leadership has much to offer to compliment the affair. Against this background, and having observed that Kano State enacted a penal law (Kano State Street-begging (Prohibition) Law, 2013) as a means of getting rid of street begging in the state, this study was conducted with a view to examine legal measures against begging in Nigeria generally as well as desirability or otherwise of the said penal law. In so doing, the study employed doctrinal legal research methodology. Consequently, the study found that there are adequate legal measures against begging in Nigeria in principle the enforcement of which would have shut all doors for state penal measure against the menace. It, therefore, recommends for the full implementation of these legal measures against begging in Nigeria.

Key Terms: *Begging, Legal Measures.*

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1.0 Introduction

Begging, particularly on city streets, is a menace of global spread, harm and concern, for, there is no state developed or underdeveloped that is free of it. The truth of this assertion is best mirrored through legislative strikes waged against the practice by both ruling and ruled states around the world. Nigeria is obviously one of the states whose terrible experience with begging weigh higher among equals, which accordingly presents an important study area. The quest for such undertaking was further strengthened by the Kano State's penal measure against street begging in the state, which has been effective for almost a decade now. This is Kano State Street-begging (Prohibition Law), 2013. As the menace prevails even with this penal measure, a curious mind cannot help asking some questions, such as: what happened with the said penal law? is the penal measure the best solution to the menace? What other legal measures relate to begging in Nigeria generally? And, if any, what hinders their efficacy? For the purpose of addressing these questions, this paper looks into relevant legal measures against begging in Nigeria. In so doing, it widens its scope to cover all governmental actions with either immediate or remote positive impact on the issue whether the underlying motives and objectives of such actions suggest so or not. To this end, relevant portions of constitutional and federal legislations were drawn and analyzed with a view to justifying the total or partial relevance of a given measure (either directly or indirectly) to the work. This, in turn, will suggest the desirability or otherwise of the Kano State Street-begging (Prohibition) Law, 2013.

2.0 Definition of key terms

2.1 Begging: Begging is an act of soliciting for alms or charitable aid from people. It is also an act of solicitation of money or food, especially in the street. Begging is further explained as a practice by which people obtain money, food or any other thing from other people through request.

2.2 Legal measures

The word legal, taking separately and in the light of its attributive character, literally means appointed or required by the law. In essence, it is an adjective that often relates to something recognized by the law or done in accordance with the law.

For the purpose of this research, the all encompassing accounts of the word “legal” proffered by black’s Law free online legal dictionary, 2nd Ed. needs to be reproduced here. It defines the term differently, thus:

“1. Conforming to the law; according to law, required or permitted by law; not forbidden or discountenanced by law; good and effectual in Law. 2. Proper or sufficient to be recognized by the law; cognizable in the courts; competent or adequate to fulfill the requirements of the law. 3. cognizable in courts of law, as distinguished from courts of equity; construed or governed by the rules and principles of law in contradistinction to rules of equity. 4. Posited by the courts as the inference or imputation of the law, as a matter of construction, rather than established by actual proof; e.g. legal malice.”

On the other end of the phrase “legal measures”, the word measure (countable) is, in its dictionary meaning, simply an official action that is done in order to achieve a particular aim.

The understanding of the above words separately and in their unity, makes it straight clear that reference to legal measures against begging in Nigeria represents all sorts of official actions both

proactive and reactive employed in Nigeria at national level aimed at eradicating begging in a manner permitted by law.

3.0 Work Structure

Towards adopting a suitable simple structure for the work, relevant data is divided into two main headings - proactive federal legal measures against begging, reactive federal legal measure against begging, Kano State proactive legal measures against begging and Kano State reactivate legal measures against begging with necessary subdivisions.

The foregoing structuring calls for attention, little though, to the words proactive and reactive. While the former means acting in anticipation of future problems, needs or changes, the latter means occurring as a result of stress or emotional upset.

3.1 Brief overview of Kano State Street-begging (Prohibition) Law, 2013

Towards Curtailing the problem of begging in Kano State, the State House of Assembly (Seventh Assembly) in exercise of its legislative power under section 4 (6-7) of the constitution² passed a law cited as Kano State Street Begging Prohibition Law, 2013. Section 3 of the law provides: “*from the commencement of this Law, street begging is prohibited in the state*”. Section 2 of the law (interpretation section) interprets street begging to include begging on the roads, roundabouts, junctions, traffic lights and other public places. Section 5 confers on the states’ Magistrates and Sharia courts the power to try the offenders. Section 6 of the law is the punishment section which provides for imprisonment and/or fine as well as making order for the deportation of the convict back to his country or state as provided by section 6 (2)(a). So far now, this law has been in effect for a good decade and the streets of Kano State remain as was before such enactment. This, therefore, instigated an enquiry into the Nigeria's legal regime on begging generally vis-a-vis this penal legislation with a view to finding out what actually informed the failure of such special penal measure in Kano and its likes, if any in Nigeria, to serve the purpose.

3.2 Proactive Federal Legal Measures against Begging in Nigeria

There are different measures under this heading. They include:

Constitutionally based proactive legal measures against begging in Nigeria.

The constitution, regardless of the society it seeks to regulate, aimed generally, among other things, to direct the government towards meeting certain goals. In essence, it is a blue print of governance as it sets clear path through which the government is likely to reach its goals.³ In accordance with this, the constitution of the Federal Republic of Nigeria, 1999 (as amended), has, as part of setting directions for governance, provided in chapter II, section 13, thus:⁴

“It shall be the duty and responsibility of all organs of government, and of all authorities and persons, exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions of this chapter of this constitution”.

The chapter in reference here is titled fundamental objectives and directive principles of state policy. This implies that this chapter represents the embodiment of states objectives as well

² - Constitution of the Federal Republic of Nigeria, 1999 (as amended), Cap C23, LFN, 2004. (Op. Cit.)

³ www.preservearticles.com (retrieved on 01/04/2017)

⁴ Op. Cit., Section 13

as recognized principles that the state, including their institutions and operators, should look up to in policy formulation and implementation.

Against the foregoing background, the provisions of sections 16 (1) (a) (b) (2) (c) (d) and 17 (3) (4) (c) (d) (f) (g) are relevant to this study having presented a safe basis for one to argue that the said constitution has, at least, had in contemplation, measures which could have pre-addressed problem of begging on proper observance. The relevant portions of these sections are reproduced here.

Section 16 (1) provides:

“The state shall, within the context of the ideals and objectives for which provisions are made in this constitution

- (a) *harness the resource of the nation and promote national prosperity and an efficient, a dynamic and self reliant economy;*
- (b) *control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity;*
- 2) *The state shall direct its policy towards ensuring:*
 - (c) *that the economic system is not operated in such a manner as to permit the concentration of wealth or the means of production and exchange in the hands of few individuals or of a group; and*
 - (d) *that suitable and adequate shelter, suitable and adequate food, reasonable minimum national living wage, old age care and pensions, and unemployment, seek benefits and welfare of the disabled are provided for all citizens.*⁵

Section 17 (3) provides:

The state shall direct its policy towards ensuring that -

- (a) *all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment;*
- (b) *the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused;*
- (c) *there are adequate medical and health facilities for all persons;*
- (d) *Children, young persons and the age are protected against any exploitation whatsoever, and against moral and material neglect;*
- (e) *provision is made for public assistance in deserving cases or other conditions of need; and*
- (f) *the evolution and promotion of family life is encouraged.”*⁶

Although the question of justiceability of the entirety of the provisions contained in chapter II of 1999 constitution accounts majorly for the poor observance of same, it is not in dispute that the importance of its content to the life of Nigerians cannot be over emphasized. This is by recourse to the clarification of 1979 constitution drafting committee of the whole chapter in these words:⁷

“By fundamental objectives, we refer to the identification of the ultimate objectives of the nation whilst directive principle of state policy indicates the paths which lead to those objectives. Fundamental objectives are ideals towards which the Nation is expected to strive

⁵Op. Cit., Section 16

⁶ - Ibid.

⁷ - Report of the 1979 Constitution Drafting Committee vol.1 P.V.

whilst directive principles lay down the policies which are expected to be pursued in the efforts of the nation to realize the national ideals.”

By the various provisions drawn from chapter II above, the constitution of the Federal Republic of Nigeria, 1999 appeared to have taken proactive measures to make the state a begging free one. This is by reason that the observance of these provisions at all levels of government has the automatic effect of neutralizing the citizens of all socio-economic sufferings that make them vulnerable to begging.

Nigerians with Disability Decree, 1993

This is a National legislation made for the purpose of providing a comprehensively clear legal protection and security in favour of disabled Nigerians.⁸

The Decree makes provisions supportive of disabled Nigerians in the areas of health services, education, vocational rehabilitation and employment, housing, supportive social services, among others.⁹ As for health services, the Decree provides that disabled persons shall, in all public health institutions, be provided with all medical and health services they need freely. This is the case with provision of education to disabled persons at all education levels. In terms of vocational rehabilitation and employment, arguably, the decree towards ensuring that disability is not exploited for begging provides in section 6 as follows:¹⁰

- (1) *“Government shall take measures to promote the employment of the disabled. Accordingly;*
 - a. *Vocational rehabilitation centers to develop and enhance the skills and potentials of persons with disability shall established (sic) in all local government areas.*
 - b. *The training programmes shall be established to develop vocational skills.*
 - c. *Vocational guidance and counseling shall be available to the disabled.*
- (2) *All employers of labour shall reserve for the disabled not less than 10% of the workforce.*
- (3) *At least 10% of all fund allocation to training and personal development shall be reserved by employers of labour for the disabled.*
- (4) *A disabled person shall not by reason only that he is such a person be subjected to any disability or conditions by any employer.*
- (5) *Private employers who employ disabled persons either as regular employees, apprentice or learner on full time basis shall be entitled to tax reduction of fifteen (15 %) of all payable tax upon proof to internal revenue Department”.*

More to the foregoing, the decree established National Commission for People with Disabilities whose main objective is to promote government efforts towards enhancing the integration of disabled into the community and enforce the rights of the disabled in any existing legislation in any way it deems proper.¹¹

Family Support Trust Fund Act, 1995

This is an Act of the National Assembly the aim of which was to establish a family support trust fund as a corporate body into which monies received as donations and contributions to family support programs shall be paid. The fund is by the Act, meant for the improvement of Family health care delivery, the promotion of family economic advancement and related

⁸ - Nigerians with Disability Decree, laws of the Federation of Nigeria, 2004.

⁹ - Ibid, section 4,5,7, 10.

¹⁰ - Ibid, section 6

¹¹ - Ibid, Section 14.

matters. While section 1 established the Family support Trust Fund, section 2 established Family Support Trust Fund Management Board.¹²

By a look at certain functions undertaken by the Board as provided in section 5 of the Act, the Act, through the Board, sought to provide relative family cohesion which is a precautionary measure against family breakage that often leads to begging.

The relevant provisions are reproduced thus:

5 (1) *“The Board shall be responsible for-*

- d. assisting families identify economically viable enterprises for income generation and provide technical and financial support for their implementations;*
- e. Assisting rural families increase their agricultural productivity and other skills for the development of their skills;*
- f. enhancing the capacity of parents to act as role models to their children through guidance and counseling and public enlightenment programmes;*
- h. Sensitizing Government on the need to provide adequate shelter for all Nigerians;*
- i. Promoting and improving on the welfare of the most vulnerable and disadvantaged groups in the society notably women, the disabled, destitute, the aged and children of all ages, etc;*
- j. Carrying out public enlightenment campaigns to sensitize the general public on matters of human decency, civic responsibility and concern for the welfare of the disadvantaged.”*¹³

Child rights Act, Cap C- 38 LFN, 2004

This is an Act that provides and protects the right of the Nigerian child which extends to other matters related to child. The Act received wider acceptance among Nigerian states in that as at now, only 12 out of 36 states of the Federation are yet to domesticate same. These states are Kaduna, Enugu, Adamawa, Bauchi, Borno, Gombe, Kano, Katsina, Kebbi, Sokoto, Yobe, and Zamfara.¹⁴

Conscious of prevalence of child exploitation either by parents, guardians or any other persons in child labour, child begging and related practices, the Act pays adequate attention to the menace by making the following provisions.

Section 1¹⁵ provides:

“In every action concerning a child, whether undertaken by an individual, public or private body, institutions or service, court of law, or administrative or legislative authority the best interest of the child shall be the primary consideration.”

This is a general provision the purpose of which is to ensure that individuals and authorities' conduct relating to child must be observed primarily towards attainment of the child betterment in life. No doubt this provision when read in community with other specific provisions, prawns seriously at child begging.

Section 14 provides:

¹² - Family Support Trust Fund Act. LFN, 1995 S. 1-2

¹³ - Ibid section 5

¹⁴ - www.peoplesdailyng.com (retrieved on 2nd March, 2017)

¹⁵ - Child Right Act, Cap c - 38 LFN, 2004, S. 1

- (1) *‘Every child has a right to parental care and protection and accordingly, no child shall be separated from his parents against the wish of the child except*
 - a- *For the purpose of his education and welfare; or*
 - b- *In the exercise of a judicial determination in accordance with the provisions of this Act, in the best interest of the child.’¹⁶*

The most specific provision of the Act relevant to this study and which adds flesh to the skeletal ones above is section 30 of the Act. It provides:

- (1) *No person shall buy, sell, hire, let on hire, dispose of or obtain possession of or otherwise deal in child.*
- (2) *A child shall not be used*
 - a) *For the purpose of begging for alms, guiding beggars, prostitution, domestic or sexual labour or for any unlawful or immoral purpose; or...*
- (3) *A person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to imprisonment for a term of ten years’¹⁷*

With the foregoing provisions, it is obvious that the Act offered a considerable legal measure against child begging in Nigeria. It is safe to label such measure as hybrid partial legal measure against begging in Nigeria as it entails both proactive and reactive legal measures against the menace by going ahead to criminalize the act of engaging child in begging and, as well, to provide severe punishment to that effect.

Employees Compensation Act, 2010¹⁸

Employees Compensation Act is a Federal enactment that came into force on 17th December, 2010. It has partial relevance to this study having contained important provisions in favor of certain employees and their dependants whom by reason of employment risks, would have been turned into beggars of one form or the other, among other probable alternatives they will resort to. Of the objectives of the Act, this study finds the provision of section 1 (a) (b) most useful-it provides:

1. *‘The objective of the Act is to-*
 - a. *provide for an open and fair system of guaranteed and adequate compensation for all employees and their dependants for any death, injury, disease or disability arising out of or in the course of employment.*
 - b. *Provide rehabilitation to employees with work related disabilities as provided in this Act; ...’¹⁹*

The Act is of general application to all employees and employers of public and private sectors throughout the Federal Republic of Nigeria.²⁰

In line with the objective set out in (a) above, the Act in part III, section 7,8,9,10 and 11 imposed on the employers an obligation to pay to the affected employee or his/her dependants compensation for death, injury, mental stress, occupational disease, hearing impairment and injury occurring outside the normal work place. The payment of such compensation is particularly dictated by the Act in part iv of the Act. Part iv of the Act

¹⁶ - Ibid section 14 (1) (4) (6)

¹⁷ -Ibid Section 30 (1) (2) (a) (3)

¹⁸ - Employees Compensation Act, No. 13, 2010

¹⁹ - Ibid section 1 (a) (b)

²⁰ - Ibid section 2

provided a sufficient scale of compensation of a monthly payment of sum equal to up to 40 percent of the total monthly remuneration of the employee as at the date of death, in case of deceased employee, for a period to be determined from the employee's surviving dependant(s) or by the Board. As for other injuries and diseases, the scale of compensation applicable varies from case to case depending on the gravity, duration and other like factors, and in some cases, based on the determination of the Board²¹ (Nigeria Social Insurance Trust Fund Management Board established under the Nigeria Social Insurance Trust Fund Act, 1993).

In addition to the preemptory provisions for compensation to the employment risked employees, the Act jealousy guard the said compensation by providing further that compensation cannot be waived by the employee or his/her defendant. Where any agreement is entered between an employee and employer or his dependant to waive the compensation, the Act treats as void and unenforceable the said agreement.²²

Nigerians with Disabilities Bill 2016²³

Another National Proactive legal measure against begging with partial relevance here is this Bill. Although it is yet to be passed into law, this Bill seeks to enact an Act aimed at ensuring full integration of Nigerians with disability into the society and, as well, to eliminate all sorts of discrimination against them. The Bill passed by the 8th National Assembly in 2016, made adequate provisions that when assented to by the president and fully enforced, would indeed shut the disabled Nigerians' door to the beggary markets. Some of the provisions by which the Bill seeks to achieve its objective are section 31 (1) which provides:

“Parents and guardians of children with disabilities shall ensure that such children, both within and outside the home are free from all forms of neglect, exploitation, violence and abuse, including their gender based aspects.”

By the plain meaning of the foregoing provision, it is obvious that the Bill prawns at disabled child exploitation including but not limited to his/her disability as a marketable begging tool.

Subsection (2) of the section presents a wider provision relating to the welfare of disabled Nigerians and their families. It provides:

“Government shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender and age sensitive assistance and support for persons with disabilities and their families and care-givers, including the provision of information and education on how to avoid, recognize and report instances of neglect, exploitation, violence and abuse”.

The best protection accorded to persons with disability by the Bill is found in section 44 (1) which prohibits the indulgence of disabled persons in begging with attendant punishment. It provides:

“No person shall employ, use or involve a person with disability in begging.

(2) Any person in contravention of subsection (1) of this section shall be liable to 6 months imprisonment or a fine of N50, 000.”

²¹ - Ibid section 17 -25

²² - Ibid section 13 (l) (2)

²³ - Nigerians with Disabilities Bill, 2016 (48. 16. 03. 476) Sponsored by Hon. Ochigleborldagbo

A part from the foregoing, the Bill, in different parts, makes other vital provisions that collectively operate towards securing prestigious economic and social status for the disabled Nigerians as summarized here.

Section 38 (c) states that persons with disabilities have a pre-emptory right to support service as well as personal assistance necessary to support their living and integration into the community. Section 62 provides for the disabled Nigerians' right to opportunity to gain a living by work freely chosen in a labour market. Complementing this, section 65 imposes on the Government an obligation to ensure taking all steps to realize the self reliance of persons with disabilities. It also requires the Government to give sufficient assistance to persons with disabilities who are desirous of being self employed. The duty imposed on the government in this regard is more amplified and categorical by the provisions of section 67 and 68. Section 67 – 68 shall be reproduced here: section 67 (I) provides:

“All levels of government shall take appropriate steps to ensure that persons with disabilities have good standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living standard”.

Section 68 reads:

“All levels of government shall give special consideration to persons with disabilities in all welfare, social development, poverty in government policies reduction and other programs”.

With a look at the wider usage of disability either by oneself or another in begging activities in Nigeria on one end, and the various provisions of the Act referenced above on the other, one cannot but accept that the latter, has at least in principle, presents a considerable partial proactive legislative measure against begging in Nigeria.

3.3 Reactive Federal Legal Measures against Begging in Nigeria:

The effort of this work to explore on this area is left with one and only discovery. That is, the only available reactive National legal measures against begging in Nigeria are a penal one. That is to say, the legitimate authority (federal government), perhaps, apprehensive of non-observance of the preventive packages it spared against begging, took some penal measures against the menace by prohibiting begging and providing punishment for the offenders. The available national penal measures against begging in Nigeria are analyzed below:

Criminal Code Act²⁴

It is a common knowledge that criminal code Act is a national penal legislation of general application in the southern part of Nigeria. From its comprehensive provisions, both direct and indirect penal measures against begging in Nigeria can be drawn towards meeting the quest of this study.

It appears, from the general study of the code, that while there are several penal measures that offer remote prohibitive guard against begging, there is only one direct provision against begging.

Direct Prohibitive Legal Measure against Begging in the Criminal Code Act

For this item, the whole of section 249 and 250²⁵ must be reproduced, thus:

²⁴ - Criminal Code Act, Cap C39 LFN, 2004

²⁵ - Ibid chapter 24

Section 249 provides:

“The following persons-

- a- every common prostitute
 - i- behaving in a disorderly or indecent manner in any public place;*
 - ii- loitering and persistently importuning or soliciting persons for the purpose of prostitution;**
- b- every person wondering or placing himself in any public place to beg or gather alms or causing or procuring or encouraging any child or children so to do;*
- c- every person playing at any game of chance for money or money’s worth in any public place; and*
- d- every person who in any public place, conducts himself in a manner likely to cause a breach of the peace, shall be deemed idle and disorderly persons, and may be arrested without warrant, and shall be guilty of simple offence, and shall be liable to imprisonment for one month.”*

On its part, section 250 provides:

“The following persons-

- 1) every person convicted of an offence under the last preceding section after having been previously convicted as an idle and disorderly person;*
- 2) every person wandering abroad and endeavoring by the exposure of wounds or deformation to obtain or gather alms;*
- 3) every person going about as a gatherer or collector of alms, or endeavoring to procure charitable contributions of any nature or kind, under false or fraudulent pretence;*
- 4) every suspected person or reputed thief who has no visible means of subsistence and cannot give a good account of himself;*
- 5) every person who exercises control, direction or influence over a movements of a prostitute in such a manner as to show that he is aiding, abetting or controlling her prostitution with any man, whether a particular man or not;*
- 6) every person found wandering in or upon or near any premises or in any road or highway or any place adjacent thereto or in any public place at such time and under such circumstances as to lead to the conclusion that such person is there for an illegal or disorderly purpose shall be deemed to be a rogue and vagabond, and is guilty of a misdemeanor, and is liable on summary conviction for three months, and for every subsequent offence to imprisonment for one year.”*

By the community reading of the provisions reproduced above, it is clear that the Criminal code Act did not only criminalize begging, but strives, by section 249 (b), 250 (1) (2) (3) (6), to bring both immediate and remote acts of begging into the sphere of the criminalization, and as well, not to leave the foreseen recidivist unattended to.

Indirect Prohibitive Legal Measures Against Begging in the Criminal Code Act

As for the acts the doing or not doing of which result, among other effects, the turning of one into begging, including begging attendant consequence, the following portions of Criminal code Act come into play in this regard.

Section 234 of the Code prohibits any act of obstruction of any highway through permanent work or erection of any structure thereon or injury which renders the highway less commodious to the users than it would ordinarily be. The Act labels such act- including preventing public from having access to any part of the highway by unreasonable temporary

use of the highway- as a misdemeanor punishable on conviction with 2 years imprisonment. It is to be noted that this provision has an application that extends to the consequence of begging on streets.

Another relevant provision in this regard is found in sections 300 – 305 wherein the Act imposes on certain persons bound by legal, moral or contractual relationship an obligation to provide for some other persons the necessities of life (Food, accommodation, clothes, health care etc.) in order to sustain the life or health of that person. The Act has, in section 305, labeled the omission of any person so bound by the referred provisions as criminal, and by subsection (4) of the said section, the offence is punishable on conviction with a fine of N100 or imprisonment for 6 months or both.

A critical look at sections 300-305 vis-à-vis the daily increasing begging activities mostly on ground of health and meal lacks, suffices to uncover the partial intendment of the legislator.

Related to the foregoing is section 340 and 341 relating to one's duty to a child. By section 240, any person charged with a duty of providing necessities (Food, clothing or lodging) for servant or apprentice under the age of 16 years who fails to observe the said duty is guilty of felony and liable to imprisonment for 3 years. Section 241 on the other hand labels, as criminal, an act of abandoning or exposing a child below 14 years such that the child is likely to suffer any grievous harm and provides five years imprisonment therefor.

On the same vein, section 372 in obvious effort to preserve the child right to life support provides:

“Any person who being the parent, guardian or other person having the lawful care or charge of a child under the age of twelve years, and being able to maintain such child, willfully and without lawful reasonable cause deserts the child and leaves it without means of support is guilty of a misdemeanor, and is liable to imprisonment for one year.”

The foregoing provision of the criminal code gains a place here not by reason of addressing the menace of begging at primary level, but by handling some other acts the doing or not doing of which opens one's door to begging activities.

Penal Code (Northern Region) Federal Provision Act²⁶

This is the Criminal Code Act counterpart – in that it is a Federal penal legislation meant for application in the whole Northern States of Nigeria and Abuja.

It appears, from the study of the various provisions of this code with respect to the issue under review, that much difference is not found between it and Criminal Code Act. As such, reference to the relevant provisions with little account of variation with those in the Criminal Code Act, where necessary, suffices.

Direct Prohibitive Legal Measures against Begging in the Penal Code

As with the Criminal Code Act, the Penal Code has only one direct prohibitive provision against begging contained in sections 405 – 407. This provision is distinguished from similar provision of the Criminal Code (Section 249 – 250) in two main areas.

In defining “idle person” section 405 (1) (b) of the Penal Code provides:

a- *“Any person who being able wholly or in part to maintain his family willfully neglects or refuses to do so;*

²⁶ - Penal Code (Northern Region) Federal Provision Act, 1960 (L.N. No. 25 of 1960)

b- Any person who wanders from his locality or places himself in any street or public place to get or gather alms or causes or encourages children to do so do...”

By the foregoing, it is clear that the Penal Code’s definition of idle person is a bit richer than that of its counterpart having stretched to the person particularized in paragraph (a) above. Equally, by paragraph (b), the section brought into the qualification of idle person an act of causing or encouraging child begging.

In terms of punishment, the Penal Code in section 406 and 407 places the punishment on conviction for idle person, vagabond and incorrigible vagabond between 3 months imprisonment or with fine of up to fifty pounds or both, 1 year imprisonment or with a fine of up to 200 pounds or both and 2 years imprisonment or with a fine of up to 250 pounds or both respectively.

However, notwithstanding the above explanation, the provisions of section 249 – 250 of the Penal Code is still rich and in terms of prohibition of begging, richer to some extent, than that of the penal code. This is by reason that the prohibition in the Criminal Code Act extends, among others, to even institutional and corporate beggars and begging.

It goes without saying that the punishment section of the penal code appears more deterring and protective than that of the criminal code Act.

Indirect Prohibitive Measures against Begging in the Penal Code

As in the case of Criminal Code Act, the Penal Code has prohibited certain acts (commissions and omissions) whose attendant consequence includes according the victim a beggary ticket. Of these provisions is section 237. This is akin to section 241 of the Criminal Code Act which prohibits one’s act of exposing or abandoning a child under the age of 12 years. However, section 237 here provides 7 years as the maximum punishment of the convicted offender or with unspecified fine or both as opposed to that of the Criminal Code Act (10 years imprisonment).

Another provision of the Penal Code of considerable relevance here is section 240 and 246. Section 240 provides:

“Whoever causes bodily pain, disease or infirmly to any person is said to cause hurt.”

Section 246 (punishment section) provides:

“Whoever, except in the case provided for by section 244, voluntarily causes hurt shall be punished with imprisonment for a term which may extend to twenty pounds or with both.”

Even though the above provisions relate directly to the offence of causing hurt, it offers indirect penal aid to that of begging as sustenance of bodily deformity, which the provision seeks to prevent, seldom makes the victim vulnerable to begging.

Other provisions of the Criminal Code Act that presented instance of indirect criminal measures against begging are mostly not accommodated by the penal code in the manner to secure a place here.

3.4 Prohibition of Begging In other National Legislations

As discussions occurred in respect of certain national legislations that presented national proactive legal measures against begging in Nigeria were analyzed, some of these legislations

categorically prohibit begging either generally or partially depending on the objectives sought to realize by the respective enactments. These are:

Child Rights Act

Towards safeguarding the rights of a child, section 30 (1-3) as specifically reproduced and analyzed earlier prohibits child begging with attendant punishment of up to 10 years imprisonment against the violators.

Nigerians with Disabilities Bill, 2016

On its part, this Bill, pursuant to its cardinal objective of ensuring integration of disabled Nigerians into community and eliminating exploitation against them, resorted to prohibitive measures. By this, section 44 (1) of the Bill widely examined earlier criminalized the act of employing, use and involving disabled person in begging. The section provided up to 6 months imprisonment or a fine of N50,000 for the offenders as punishment.

3.5 Kano State Proactive Legal Measures Against Begging

Zakkat Institutions:

One of the olden institutions used by Kano State towards poverty alleviation in the state is collection of compulsory alms (Zakkat) from the wealthy people for distribution to poor ones. The history of Zakat institution in Kano State traces its origin to zakat council in 1982. The body operated as a voluntary means of compulsory alms payment and without any operational laws.²⁷

The formal Zakat institution in Kano State was established in 2003 and named Zakat and Hubusi Commission by a state legislation.²⁸

Although the law establishing the commission provides for, among others, the function of the commission, the main purpose of the compulsory alms is found in the tradition of the prophet when he sent MuadhbnJabal for the collection of zakat from another community.

The prophet was reported to have instructed him as follows:

*“.... Then tell them that Allah has enjoined upon them five Salat (prayers) during the day and night, and if they accept it, then tell them that Allah has made the payment of zakat obligatory upon them. It should be collected from their rich and distributed among their poor, and if they agree to it, do not take (as a share of zakat) the best of their properties. Be aware of the supplications of the oppressed, for there is no barrier between it and Allah”.*²⁹

With the justification supplied by the above authority, proper commitment to the duty, by both the zakat eligible givers and the formal trustee will, no doubt, help in poverty reduction, and by implication, set many free from temptation to beg.

Kano state Emergency Relief and Rehabilitation for the Disabled Board Law, 2008³⁰

This is a law passed by the sixth Assembly of Kano State that provides for the establishment of an Emergency Relief and Rehabilitation Board in Kano State and Other Related Matters. A

²⁷ - Shariff, M.I, Systematic Zakat Management and Administration: A Frame Work for Kano State, Nigeria, Journal of Applied Management Science, v. 1 (Issue 8) August, 2015, Paper 1, p. 6

²⁸ - Kano State Zakat and Hubusi Commission Law, 2003 (Kano State of Nigeria Gazette No.1, Vol.35, 20th Nov. 2003)

²⁹ - Ibid note 27 citing Ibnhajar 1494.

³⁰ -Kano State Emergency Relief and Rehabilitation for the Disabled Board Law, 2008 (Kano State Gazette No. 3 v. 40, 21st August, 2008 Supplement Part A).

study of the law, particularly as it relates to the function of the board and the emergency relief and rehabilitation for the disabled committee, uncovers its relevance to this study.

By section 11 of the law, the Board has up to 13 functions to observe among which paragraph (g) (i) (j) and (l) point at the pro - activeness of the legislation in favour of disabled beggars in the state.

The relevant portions of the section are produced, thus:

Section 11 (1) provides:

“The functions of the board shall be: -

- (g) To promote the welfare and rehabilitation of the disabled persons in the state;*
- (i) To market the goods produced by disabled persons while in training and after training;*
- (j) to draw up programmes in the centers for the effective training and guidance of the disabled persons towards the learning of trades and crafts with a view to being self employed, and....”*

A part of the functions of emergency relief and rehabilitation for the disabled committee, the law provides in section 16 (1):

“The functions of the committee shall be:

- a) to carryout vigorous campaign and enlightenment on the collective responsibility of the society to maintain the untrained disabled persons in the local government area and, where absolutely necessary, to provide for training centers at appropriate locations in the local government area, and to receive and keep such disabled persons where their welfare needs will be adequately taken care of;*
- b) Where the trained and untrained disabled persons have children, to cater for the children and well being of such children through the appropriate agencies until they attain the age of 18 years when the children will be able to cater for themselves”.*

Other than the foregoing provisions, section 25 of the law speaks clearly the mind of the draft man of this legislation in relation not only to disabled beggars, but all types of beggars in the state.

Section 25 provides:

“The practice of begging and aimless wanderings along the streets in urban centers by the disabled and any other person in the state is hereby prohibited.”

Kano State Roads and Traffic Agency (KAROTA) Law, 2012

This is law passed by the seventh Assembly of Kano State for the provision of regulation, control and management of traffic in the state and for other related matters.

Although the law is for the purpose mentioned above, its relationship with road traffic and the activities observed thereon, which includes begging, makes it part of the functions of the agency to rid highways of such unwelcome activities. This provision is found in section 15 (j) of the law which reads:

“The agency shall discharge functions relating generally to:- ...

“Safeguard highways from encroachment from the activities of markets, road-side trading, street hawking and alms begging... ”³¹

³¹ -Kano State Road Traffic Agency (KAROTA) Law, 2012, S.15

3.6 Kano State Reactive Legal Measures Against Begging

Kano State Penal Code Law³²

This is the principal penal legislation of Kano State that established penal code for the state. As with similar legislations (Penal Code Act, Penal Code Northern Region and Lagos State Criminal Law) this legislation contains only one direct provision against begging. However, several provisions of indirect concern with the menace are found in the law.

The relevant provisions of this law that deal with begging are sections 405 – 407 the production of which is needless here, not even for analysis. The reason is that this law makes verbatim retention of the provision of the Penal Code (Northern Region) in all respects. This extend also to other provisions that indirectly help in the fight against begging as sections 237,240 and 246 of this law are but a carbon copy of the penal code (Northern Region). As such, this law stands on the existing dependant and independent analysis drawn earlier from the Penal Code (Northern Region).

Kano State Child Labour (Prohibition) Law, 2014³³

This is an important criminal legislation against child begging in that the law, was, in the main, enacted to provide for the prohibition of child labour and other related matters.

The portion of this law having to do with this work directly is section 6 (1) of the law. It provides:

“ A child shall not be used for:

- a- The purpose of begging for alms, guiding beggars, prostitution, domestic or sexual labour or for any unlawful or immoral purposes.*
- b- Any purpose that deprives the child of the opportunity to attend and remain in school provided for under the compulsory free universal basic education Act.*
- c- A person who contravenes the provision of subsection (1) of this section commits an offence and is liable on conviction to imprisonment for a term of one year or a fine not exceeding one Hundred Thousand Naira (N100,000) or both.*

4.0 Conclusion:

Based on the various enactments considered and the correspondent analysis relating thereto, it is obvious that there are adequate legal measures against begging in Nigeria generally and Kano State in particular sparsely found in different legislations. It is the finding of the work, however, that other than the penal legislations, other measures are not of general and direct application in the area as they mostly secured a place here for the precaution they provide in favour of one class of persons or the other or against one begging leading act or another.

Beyond penal action, legal measures against begging in Nigeria is found by this study to have been extended to any legitimate action taken or observed by any constituted authority in Nigeria and, in some occasions, by a private persons capable of fighting the menace of begging of any kind and of any persons directly or indirectly.

5.0 Findings

From the foregoing analysis of the relevant data, the following major findings are made:

1. There are adequate legal measures against begging in Nigeria in principle.
2. There are adequate legal measures against begging in Kano State in principle.

³² - Kano State Penal Code Law, Cap 89 Laws of Kano State, 2000

³³ - Kano State Child Labour (Prohibition) Law, 2014 (Kano State Gazette No. 7 vol. 46, 8th May, 2014 Supplement part A).

3. New penal measure like Kano State Street-begging Prohibition Law, is not the solution needed to rid Kano State or any part of Nigeria of street begging.
4. The prevalence of street-begging in Kano State and Nigeria as a whole amidst the rich legal regime against the menace lies in the State's authorities lack of will to enforcement the laws.

6.0 Recommendation

In view of the foregoing findings, especially 3 and 4, full enforcement of the legal measures against begging in Nigeria generally and Kano State in particular is recommended as the solution to the menace.

7.0 References

- Abuja Environmental Protection Board Act, Laws of Federal Capital Territory Abuja, 1990
- Child Right Act, LFN, 2004
- Constitution of the Federal Republic of Nigeria, 1999 (as amended)
- Criminal Code Act, LFN, 2004
- Criminal Procedure (Northern States) Act, LFN, 2004
- Employees Compensation Act, 2010
- Family Support Trust Fund Act, Laws of the Federation of Nigeria, 1995
- Kano State Child Labour (Prohibition) Law, 2014
- Kano State Penal Code Law, 2000
- Kano State Relief and Rehabilitation for the Disabled Board Law, 2008
- Kano State Road Traffic Agency (KAROTA) Law, 2012
- Kano State Street-Begging (Prohibition) Law, 2013
- Kano State Zakat and Hubsu Commission Law, 2013
- Nigerians with Disability Decree, Laws of the Federation of Nigeria, 2004
- Penal Code (Northern Region) Federal Provision Act, 1960
- Report of the Constitution Drafting Committee, V. 1 P. V
- Shariff M. I. Systematic Zakat Management and Administration: A Framework for Kano State [2015] Journal of Applied Management Sciences, V.1, Issue 8 P. 6.