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FRAMEWORK FOR THE PROTECTION OF CHILDREN IN NIGERIA

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Abstract

It is the duty of every government and society to protect the children. This is because the care, safety and education they receive determine the extent to which they will mature into useful citizens of the society. Nigeria assented to the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child and consequently transmuted the content provisions to the provisions of the Child Rights Act 2003, which emphasised ‘the best interest of the child’ is the interest aimed to be protected. It is against this background that the paper considered the meaning of the concept of a child, the instances of abuse and violations of the rights of the child, signs and symptoms of abuse as well as legal intervention by relevant authorities to protect children. The authors argued that the process of enforcement of the provisions of the Act has continued to be a barrier to the successful protection of the interest of children in Nigeria. The paper therefore maintained that the absence of official policy compelling States to domesticate the Act as well as indulgence in mass education will continue to operate as huge challenge to the realisation of the provisions of the Act on the one hand, and the best interest of the child on the other hand.

Keywords: rights of the child, enforcement of provision, AU Charter on rights and welfare, protection, violation, best-interest of the child.

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1. Introduction

Abuse in all its forms and ramifications is a daily reality for many Nigerian children and only a fraction ever receive help. Six out of every 10 children experience some form of violence – one in four girls and 10 per cent of boys have been victims of sexual violence. Of the children who reported violence, fewer than five out of a 100 received any form of support.¹ The drivers of violence against children are rooted in social norms, including, the use of violent discipline, violence against women and community beliefs about witch-craft, all of which increase children’s vulnerability.²

¹ UNICEF, ‘Child Protection’ <<https://www.unicef.org/nigeria/child-protection>> accessed January 25, 2021

² Ibid.

The country has been in the midst of a civil crisis attributable to political, religious and ethnic factors, bearing a disastrous and divisive effect on the citizenry and territory. The economic situation is worsening and consequently impact negatively on children's rights.³ In fact, Nigeria ranked 182nd in the world in the recent publication of Countries according to their respect for Children's rights.⁴ For instance, Nigeria has the largest number of child brides in Africa with more than 23 million girls and women who were married as children, most of them from poor and rural communities. However, available data suggests a decline of 9 per cent in the prevalence of child marriage since 2003, and a projected further decrease of 6 per cent by 2030. Nigeria's rapid population growth means that the number of child brides will in fact increase by more than one million by 2030 and double by 2050.⁵ It is in view of these reports that the paper strives to examine the daunting challenges incidental to the protection of child's right in Nigeria.

UNICEF uses the term 'child protection' to refer to preventing and responding to violence, exploitation and abuse against children, including commercial sexual exploitation, trafficking, child labour and harmful traditional practices, such as female genital mutilation/cutting and child marriage.⁶

Child protection is a broad term used to describe efforts that aim to keep children safe from harm. The United Nations Children Fund⁷ uses the term 'child protection' to refer to the act of preventing and responding to violence, exploitation and abuse against children.⁸ Thus, simply put, Child Protection is the act of keeping children safe from all forms of abuse, neglect and exploitation. Consequent on the above, the paper is divided into four parts. Part one is the introduction. Part two examines the requisite factors for the protection of the Child. Part three considers the legal framework as well as comparative study. Part four is the conclusion and recommendation.

2. Meaning, Nature and Scope of the need for Child Protection

A. Who Is a Child?

The age of majority varies from country to country. By the United Nations Convention on the Rights of the Child, a child is every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.⁹

³Humanium, 'Children of Nigeria: Realising Children's Rights in Nigeria,' <<https://www.humanium.org/en/nigeria/>> accessed January 15, 2021.

⁴ IBRD and UNICEF Reports <<https://www.humanium.org/en/rcri-world-ranking-by-countries/>> This report was made using the Realization of Children's Right's Index (RCRI) and data collected by the World Bank and UNICEF amongst other sources.

⁵ UNICEF, 'Child Protection'

⁶ UNICEF Child Protection Sheet: What is Child Protection?, <https://www.unicef.org/chinese/protection/files/What_is_Child_Protection.pdf> accessed 15 February 2021.

⁷ [Hereafter, The UNICEF]

⁸ Fhi360, 'Child Protection Basics,' <<https://www.fhi360.org/sites/default/files/media/documents/child-protection-basics.pdf>> accessed 20 February 2021.

⁹ Article 1, Convention on the Rights of the Child, 1989, <https://www.childrensrights.ie/sites/default/files/submissions_reports/files/UNCRCEnglish_0.pdf>

In Nigeria, there is some uncertainty as to the true age of majority. The Constitution states no outright age, however, it grants voting rights to Nigerians of 18 years and above.¹⁰ This position is supported by the provision of S. 257 of the Companies and Allied Matters Act which refers to an infant being unable to be appointed a director until he/she is of 18 years of age.¹¹ It should be noted that the common law does not recognise an 18 year old as an adult, rather it recognises the age of 21 as the age of majority.¹² This position is also supported by the Marriage Act which does not allow for marriage to a person under 21 years without consent.¹³

However, it appears that the more favourable view of the age of majority in Nigeria is Eighteen years and shall be adopted as a guide in this paper, whenever reference is made to the age of majority.

B. Identifying Key Areas of Child Protection

The Convention on the Rights of the Child, 1989 outlines the fundamental rights of children, including the right to be protected from economic exploitation and harmful work, from all forms of sexual exploitation and abuse, and from physical or mental violence, as well as ensuring that children will not be separated from their family against their will. These rights are further refined by two Optional Protocols, one on the sale of children, child prostitution and child pornography, and the other on the involvement of children in armed conflict.¹⁴

C. Child Abuse and Maltreatment

Child abuse is any deliberate behaviour or action that endangers a child's health, survival of a child and well-being and development. There are three types of child abuse: physical, emotional and sexual. Neglect is also considered a form of child abuse.¹⁵ Child abuse is not just physical violence directed at the child. It is also any form of maltreatment by an adult which is violent or threatening to the child.¹⁶ There are five general types of child abuse:

- i. Physical abuse. This involves all forms of physical violence.

accessed on 22 November 2020. This is consistent with Article 1 of the African Charter on the Rights and Welfare of the Child 1990.

¹⁰ Sections 77, 117, 132 and 178 of the Constitution of Nigeria 1999 as amended.

¹¹ S. 257 Companies and Allied Matters Act, LFN 2004.

¹² *Labinjoh v. Abake* [1924] 5 NLR p.33, where the Court held that in accordance with the Common Law that was in force at that time, the age of majority was twenty-one years of age. This remains the provision of the Marriage Act till date in Nigeria.

¹³ Section 18 of Marriage Act 1990

¹⁴ Ibid

¹⁵ Fhi360, 'Child Protection Basics'

¹⁶ Government of the Netherlands, "What is Child Abuse?" <[Accessed 04 February 2021. Child maltreatment refers to all forms of physical and/or emotional ill-treatment, \(sexual\) abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power.](https://www.government.nl/topics/child-abuse/what-is-child-abuse#:~:text=Child%20abuse%20is%20not%20just,a%20form%20of%20domestic%20violence%20.></p></div><div data-bbox=)

- ii. Emotional or psychological abuse. This is the situation where an adult regularly berates the child, acts in a dismissive and hostile manner towards the child and intentionally scares the child.
- iii. Physical neglect. Here the child does not receive the care and nurturing that he/she needs.
- iv. Emotional or psychological neglect. This is reflected by continuous lack of positive attention for the child, ignoring the child's need for love, warmth and security. This category also covers cases in which children are witnesses to violence between their parents or caregivers.
- v. Sexual abuse. This involves sexual contact which an adult forces upon a child.¹⁷

D. Child exploitation

Child exploitation is the use of children for someone else's economic or sexual advantage, gratification or profit, often resulting in unjust, cruel and harmful treatment of the child.¹⁸

These activities are to the detriment of the child's physical or mental health, education, moral or social-emotional development. It covers situations of manipulation, misuse, abuse, victimization, oppression or ill-treatment.¹⁹ There are two main forms of child exploitation that are recognised:

- i. Sexual exploitation which is the abuse of a position of vulnerability, differential power or trust for sexual purposes; this include profiting monetarily, socially or politically from the exploitation of another as well as personal sexual gratification. Examples include child prostitution, trafficking of children for sexual abuse and exploitation, child pornography, sexual slavery.
- ii. Economic exploitation of a child. The use of the child in work or other activities for the benefit of others. This includes but not limited to, child labour. Economic exploitation implies the idea of a certain gain or profit through the production, distribution and consumption of goods and services. This material interest has an impact on the economy of a certain unit, be it the State, the community or the family. Examples include child domestic work, child soldiers and the recruitment and involvement of children in armed conflict, child bondage, the use of children from criminal activities including the sale and distribution of narcotics, the involvement of children in any harmful or hazardous work.²⁰

However, there are other types of neglect which include physical, medical, emotional and educational.

¹⁷ Ibid.

¹⁸ Fhi360, 'Child Protection Basics'

¹⁹ Resource Centre, 'Child Exploitation,' <<https://resourcecentre.savethechildren.net/keyword/child-exploitation>> accessed 10 February 2021

²⁰ Ibid.

3. Factors Promoting lack of Realisation and Protection of Right of a Child

A. Discrimination, Gender Norms and Social Stigma

Discrimination, bias or prejudice resulting in denial of opportunity or unfair treatment is practiced commonly on the grounds of age, disability, ethnicity, origin, political belief, race, religion, and gender. These factors are irrelevant to a person's competence or suitability. Gender norms refer to the expectations constructed by society or culture for how women or girls and men or boys are supposed to behave, think and feel. Harmful gender norms increase the vulnerability of girls and women to violence, poverty and disease.²¹ These in turn, result in social stigma. Social stigma refers to prejudice and negative attitudes toward people whose personal characteristics or beliefs are perceived to be different or against cultural norms. Social stigma often leads to acts of discrimination.²²

B. Child marriage

This is also referred to as early marriage. It is a term that refers to any marriage of a child younger than 18 years old, in accordance with Article 1 of the Convention on the Rights of the Child. Many factors interact to place a child at risk of marriage, including poverty, the perception that condone the practice, an inadequate legislative framework and the state of a country's civil registration system. While the practice is more common among girls than boys, it is a violation of rights regardless of sex.²³ There exists research that shows that child marriage often negatively affects the girl child by compromising opportunities for education to a halt, forcing her into early pregnancy which is sometimes accompanied by serious health challenges, thereby limiting her chances of an economically enhanced life. The social effect of early marriage foists upon the young child an adult role for which she is unprepared for. It also places her in a position of economic disadvantage premised on the fact that the marriage will most likely curtail her academic and career opportunities. The incidence of early marriage is highest in the Sub-Saharan Africa where 38% of the girls become child brides.²⁴

C. The Practice of Female Genital Mutilation

Female genital mutilation refers to all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for nonmedical reasons. At least 200 million girls and women alive today have undergone a form of female genital mutilation. An additional 2 million girls is projected to undergo genital mutilation by 2030 as a result of COVID-19, notwithstanding the 68 million cases which had previously been anticipated.²⁵

D. Absence of Foster care system

²¹ Fhi360, Child Protection Basics'

²² Ibid.

²³ UNICEF Data, 'Child Marriages,' <<https://data.unicef.org/topic/child-protection/child-marriage/>> accessed on 19 January 2021

²⁴ Plan International, 'Child Marriage,' <<https://plan-international.org/sexual-health/child-marriage-early-forced>> accessed 28 February 2021

²⁵ Plan International, 'Female Genital Mutilation,' <<https://plan-international.org/sexual-health/fgm-female-genital>> accessed 28 February 2021

A foster care system aims to provide a temporary home to children whose parents or relatives cannot take care of them. However, the ultimate goal is to reunite the child with his or her family. Foster children often have attachment issues related to poor parenting during the first few years. Attachment issues can cause physical problems such as failure to thrive, as well as emotional disorders like depression, failure to form attachments to caregivers or mental health disturbances.²⁶

E. Juvenile justice system

A juvenile justice system is a network of agencies that deal with young people whose conduct conflicts with the law. These agencies include police, prosecutor, detention, court and probation. The focus of the juvenile justice system is to rehabilitate rather than to imprison and punish.

When children have been exposed to abuse or exploitation of the nature demonstrated above, they tend to display certain symptoms and tendencies. These include feelings of guilt, shame or confusion. The child may become withdrawn or overly aggressive or inactive. The child may experience depression, anxiety, reluctance to attend school or to leave school, in cases where the abuse is at home. They may also self-harm or attempt suicide. It should be noted that these signs and symptoms depend on the type of abuse and can vary.²⁷

4. Legal and Institutional Framework on the Protection of Child Rights in Nigeria

A consideration of the subsisting legal framework will be accommodated by reviewing the impact of both domestic and international framework. Thereafter, the institutional framework will be considered.

A. The Legal Framework

It is obvious from the present realities in Nigeria, that the issue of child protection was non-existent for a long time. During the colonial rule, the welfare of the Nigerian child was not particularly, a major concern to the colonial master. The first attempt at legislation, geared towards child protection in Nigeria was in 1943, when the Children and Young Persons' Act²⁸ was promulgated for application in any part of the Protectorate of Nigeria on the order of the Governor-in-Council. Subsequently, other legislations were promulgated.²⁹

Originally passed by the British colonial government in 1943, the CYPA was later revised and incorporated into Nigeria's federal laws in 1958 (formerly Chapter 32 of the Laws of the Federation of Nigeria and Lagos.) However, its legal provisions fell short of the rights afforded by the African Charter on the Rights and Welfare of the Child, the

²⁶ Mom.com, 'How can Foster Care Affect the Mind of a Child,' <<https://mom.com/kids/5866-how-can-foster-care-affect-mind-child>> accessed 15 December 2020

²⁷ Mayo Clinic, 'Child Abuse,' <<https://www.mayoclinic.org/diseases-conditions/child-abuse/symptoms-causes/syc-20370864>> accessed 28 December 2020

²⁸ [Hereafter, The CYPA 1943]

²⁹ Adaora N. Iguh and Nosike Onyeka, An Examination of the Child Rights Protection and Corporal Punishment in Nigeria, <[file:///C:/Users/HP/Downloads/82391-Article%20Text-197879-1-10-20121019.pdf,www.ajol.info/index.php>ajol.info/index.php>ajol.info/index.php](file:///C:/Users/HP/Downloads/82391-Article%20Text-197879-1-10-20121019.pdf,www.ajol.info/index.php>ajol.info/index.php>ajol.info/index.php>ajol.info/index.php)> accessed 04 February 2021

United Nations Convention of the Rights of the Child, and United Nations Standard Minimum Rules for the Administration of Juvenile Justice.³⁰

In 1988, the Nigerian Chapter of The African Network for the Prevention and Protection against Child Abuse and Neglect organized three conferences with the Ministries of Justice, Health and Social Welfare in conjunction with UNICEF to produce new draft laws on Protecting Children in Nigeria. This draft stimulated the government to develop the current Child Rights Act 2003.³¹

The United Nations framework has given the child special status and protection in several treaties. These treaties aim to create obligations on member states to protect the rights of children. The same is true for regional treaties as well. This framework has cumulatively been domesticated into municipal laws in several states. Some of these treaties that specifically address protection of children include:

A. UN Convention on the Rights of the Child³²

This is an international agreement for child rights, the United Nations Convention on the Rights of the Child is a legally-binding international agreement setting out the civil, political, economic, social and cultural rights of every child, regardless of their race, religion or abilities. It consists of 54 articles that set out children's rights and how governments should work together to make them available to all children.³³

Under the terms of the convention, governments are required to meet children's basic needs and help them reach their full potential. Central to this is the acknowledgment that every child has basic fundamental rights. These include the right to life, survival and development; protection from violence, abuse or neglect; an education that enables children to fulfil their potential; be raised by, or have a relationship with, their parents and right to express their opinions and be listened to.³⁴

In 2000, two optional protocols were added to the UNCRC. The first protocol requests of governments to ensure children under the age of 18 are not forcibly recruited into their armed forces. The second calls on states to prohibit child prostitution, child pornography and the sale of children into slavery. These have now been ratified by more than 120 states. A third optional protocol was added in 2011. This enables children

³⁰

³¹ Ibid.

³² [Hereafter, The UNCRC]

³³ OHCHR, 'Convention on the Rights of the Child,' adopted November 1989, entered into force September 1990. <<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>> accessed 01 February 2021

³⁴ Save the Children, 'UN Convention on the Rights of the Child: An International Agreement for Child Rights,' <<https://www.savethechildren.org.uk/what-we-do/childrens-rights/united-nations-convention-of-the-rights-of-the-child#:~:text=The%20United%20Nations%20Convention%20on,their%20race%2C%20religion%20or%20abilities>> Accessed 01 February 2021.

whose rights have been violated to complain directly to the UN Committee on the Rights of the Child.³⁵

Since it was adopted by the United Nations in November 1989, 196 countries have signed the UNCRC, perhaps with only a country still to ratify. All countries that sign up to the UNCRC are bound by international law to ensure it is implemented. This is monitored by the Committee on the Rights of the Child.

B. African Charter on the Rights and Welfare of the Child

The African Charter on the Rights and Welfare of the Child was adopted by the Organisation of African Unity in 1990 which is presently the African Union.³⁶ Like the United Nations Convention on the Rights of the Child, the Children's Charter is a comprehensive instrument that sets out rights and defines universal principles and norms for the status of children.³⁷ It calls for the creation of an African Committee of Experts on the Rights and Welfare of the Child. Its mission is to promote and protect the rights established by the ACRWC to practice applying these rights, and to interpret the disposition of the ACRWC as required of party states, AU institutions, or all other institutions recognized by AU or by a member state.³⁸ As at 2019, the ACRWC has been ratified by 49 of the 53 countries in the continent.³⁹

C. Child's Right Act 2003

The Child's Right Act,⁴⁰ the first of its kind in Nigeria replaced the Children and Young Persons Act. The Child Rights Act was passed into federal law in 2003, incorporating both the UNCRC and ACRWC with three main purposes:

- i. To incorporate the rights contained in the provisions of the United Nation Convention on the Rights of the Child as well as the African Charter on the Rights and Welfare of the Child into domestic/national law.
- ii. To provide the responsibilities of the society and government agencies associated with the law.

³⁵ Ibid.

³⁶ In 2001, the OAU legally became the African Union

³⁷ Save the Children Resource Centre, 'African Charter on the Rights of the Child,' <<https://resourcecentre.savethechildren.net/library/african-charter-rights-child>> accessed 25 February 2021. It should be noted that the ACRWC and the CRC are the only international and regional human rights treaties that cover the whole spectrum of civil, political, economic, social and cultural rights.

³⁸ Ibid.

³⁹ African Charter on the Rights and Welfare of the Child (ACRWC), 'Ratification of ACRWC,' <[https://endcorporalpunishment.org/human-rights-law/regional-human-rights-instruments/acrwc/#:~:text=Ratification%20of%20ACRWC,member%20states%20\(June%202019\)>](https://endcorporalpunishment.org/human-rights-law/regional-human-rights-instruments/acrwc/#:~:text=Ratification%20of%20ACRWC,member%20states%20(June%202019)>)> accessed 03 February 2021. The Military Government of General Ibrahim Babangida of Nigeria ratified the ACRWC in February 2003

⁴⁰ Nigeria: Act No. 26 of 2003, Child's Rights Act, 2003 [Nigeria], 31 July 2003, available at: <<https://www.refworld.org/docid/5568201f4.html>> accessed 1 February 2020]

- iii. To integrate children-focused legislation into one comprehensive law.⁴¹

Article 4 (1) of the African Charter on the Rights and Welfare of a Child provides that ‘in all actions concerning the child undertaken by any person or authority, the best interests of the child shall be primary consideration.’ This provision has been entrenched by Section 1 of the Child Rights Act in our law, which provides that ‘in every action concerning a child, whether undertaken by an individual, public or private body, institutions of service, court of law, or administrative or legislative authority, the best interest of the child shall be the primary consideration.’⁴²

The responsibilities and rights of the child are addressed in Sections.3-20 and they are the rights to survival and development, to a name, to freedom of association and peaceful assembly, to freedom of thought, conscience and religion, to freedom of movement, to freedom from discrimination, to dignity of the child, to leisure, recreation and cultural activities, to health and health care services, to parental care, protection and maintenance, to free, compulsory and complete secondary education. The Act then proceeds to protect the child by prohibiting child marriage, scarification and exposure to drugs, trafficking, abduction and removal from lawful custody, child labour and employment in sections 21-40; Civil and welfare proceedings are handled in sections 41-49. Where a child is believed to be in danger or at risk of any form of abuse, a corrective order can be sought from the court by any authorised person to help the child as seen in sections 50-52; sections 53-62 state the process for attaining care or protection orders. Sections100-124 provides for children in circumstances of abandonment. Sections125-148 provides for adoption and established an adoption service and procedure for adoption. Sections 149-203 cover the establishment of a family court and areas of child minding including child minding centre and homes. Sections 204 -238 provides for the replacement of the juvenile justice administration prohibiting children from being subjected to the usual justice system.

Notwithstanding the Child Rights Act, Nigeria has established other initiatives aimed at improving the situation of the Nigerian child, for example, the Violence against Persons (Prohibition) Act, Anti-Human Trafficking Law 2003, Ebonyi State Law on abolishing harmful traditional practices affecting health of Women and Children, Edo State Female Genital Mutilation Prohibition Law 2000, Cross River State Girl Child Marriages and Female Circumcision Prohibition Law 2000, and etcetera.

B. Institutional Framework

This entails the enforcement bodies. Significantly, section 260 (2) of the Child Rights Act provides that The National Committee shall comprise of the following:

⁴¹ Stephen Nmeregini Achilihu (2010). Do African Children Have Rights?: A Comparative and Legal Analysis of the United Nations Convention on the Rights of the Child.

⁴² Adaora N. Iguh and Nosike Onyeka, ‘An Examination of the Child Rights Protection and Corporal Punishment in Nigeria, <<file:///C:/Users/HP/Downloads/82391-Article%20Text-197879-1-10-20121019.pdf>>www.ajol.info/index.php/aujilj/article/view> accessed 04 February 2021. These provisions are replica of Art.3 (1) of the UNCRC.

(a) The Permanent Secretary of the Federal Ministry of Women Affairs and Youth Development shall be the Chairman.

(b) One person to represent each of the following Federal Ministries and Governmental Bodies.

This body is the only authority tasked with enforcing the provisions of the Act both in the states, and the country generally. The function of this body is contained in S. 261 which provides thus:

(a) Initiate actions that shall ensure the observance and popularisation of the rights and welfare of a child as provided for in this act;

(b) Continually keep under review, the state of implementation of the rights of a child;

(c) Develop and recommend to the Federal Government and to the State and Local Government, through their respective State and Local Government Committees, specific programmes and projects that shall enhance the implementation of the rights of a child;

(d) Collect and document information on all matters relating to the rights and welfare of a child;

(e) Commission interdisciplinary assessments of the problems relating to the rights and welfare of a child in the State;

(f) Encourage and co-ordinate the activities of International, Federal, State and Local Government institutions, organisations and other bodies concerned with the right and welfare of a child;

(g) Organise meetings; conferences symposia and other enlightenment for a on the rights and welfare of a child;

(h) Co-ordinate the activities of and collaborate with the State Committee;

(i) Prepare and submit periodic reports on the state of implementation of a rights of the child for the submission to the Federal Government, African Union and the United Nations; and

(j) Perform such other functions relating to the rights of a child as may, from time to time, be assigned to it.

Considering the current position of Nigeria on the world scale, it can be argued that while this Committee is working hard through collaborations with agencies and organisations, local and international, it is yet to fully utilize its powers as assigned by the Childs Right Act.

4. Challenges to the Enforcement of Child Protection Legislation in Nigeria

A. Cultural and Religious beliefs

There is no gainsaying the fact that Nigeria is both a secular and heterogeneous society. This predicated on two unassailable notions: the notion of multicultural and ethno religious inclinations.⁴³ For instance, there exists some incompatibility between some provisional components of the Child Rights Act and Sharia Law which is widely

⁴³ Anya Kingsley Anya, The Nigerian State in Episcopal Frock and Consequences of Sermon with Legislative Force, Human Rights and Jurisprudence Journal, Jnl. Of the CAARS, Vol. 1 No. 1 2014 University of Pretoria, South Africa, Pp. 82, 96; See again Anya Kingsley Anya, Quest for Criminalizing Perceived Immorality in Nigeria: Challenges and Prospects (2008) 1 & 2 Ife Juris Review, Pp. 118-130

practiced among the 11 northern states. For example, the Child Rights Act provided that “every child has a right to freedom of thought, conscience and religion.”

What this section suggests is that a Muslim child has a right to adopt any religion (other than Islam) of his choice, this is however contrary to the preponderate view of Muslim jurists that a child is considered to be a Muslim and that is why if a child refuses to perform obligatory prayers, his or her parents are permitted to beat him in accordance with the hadith of prophet Muhammad⁴⁴ which provided thus “Order your children to pray when they become seven years old, and spank them for it when they become ten years old.”

Another example of incompatibility of the Islamic law with the Child Right Act is the provision requiring that ‘a child shall not be subjected to any form of discrimination merely by reason of his belonging to a particular community or ethnic or by reason of his place of origin, sex, religion or political opinion.’ If the discrimination here refers to differences in treatment, then it contradicts sharia law as the Quran principle of ‘agnatisation’ suggests that in terms of inheritance, a female child can only get half the share of a male child.⁴⁵ Furthermore, the Bini customary practice of the inheritance of the ‘*Igiogbe*’ ordinarily operates to precluding female daughters of a deceased man from inheritance of the said ‘*Igiogbe*’ property.⁴⁶

With respect to the 25 other states who have claimed to have adopted the Child Right Act, there seems to be a wide spread feeling of dissatisfaction when it comes to how well the instant Act is enforced.⁴⁷ Studies reveal a considerable gap between the law and its practice, which ultimately results in the gross inability of children to realise these rights at present. For example, in Lagos state, child labour is still very much rampant as seen with the presence of child hawkers and beggars on roads and in market places.⁴⁸ Another

⁴⁴ Bin Muhammad Husni, Z. Nasohah, and Izhar Ariff Mohd Kashim, (2015), Problem of Domestic Violence and Its Solution in the light of Maqasid Shariah, Asian Social Science, 11(22).

⁴⁵ D. Powers, (1998). The Islamic Inheritance System, Islamic Law and Society, 5 (3), Pp.285, 290

⁴⁶ The Igiogbe is the particular home where the deceased lived and died. See generally, AK Anya, Extending the Frontiers of Intestate Succession and Inheritance to Adopted Beneficiary: Olaiya v Olaiya, (2002) Igbinedion University College of Law Journal vol. 1 Pp. 76-96; ResearchGate.net/anyakingsleyanya, where the author examined the plausibility and possibility of accommodating persons ordinarily not related by blood, in inheriting as well as succeeding the intestate estate and / or traditional office, in a nonetheless peculiar customary setting against the backdrop of the decision of the apex court in Olaiya v Olaiya in Nigeria. The author demonstrated the fact that customary rule of law operated to preclude an adopted person to customary / traditional stools, posts and offices premised on the rule of blood descent, that is, patter-sociological. The author further argued that the decision of the apex court has lent credence to the fact that a person other than a biological child of a deceased though eligible to become a beneficiary, is nonetheless precluded against the backdrop of diverse cultural and customary practices, which, at best is notionally sectional in Nigeria. The author maintained the ingenuity of the decision in apparently curing whatever disability affecting adopted persons in Nigeria as well as in other communities where customary practices are extant.

⁴⁷ Nosike and Igih (2011), An Examination of the Child Rights Protection and Corporal Punishment in Nigeria.

⁴⁸ Folami, O. Aruna, T. Ihimoyan, and D. Olatunji, (2018), Child Labour and Protection: An Exploration of Vulnerable Children in Lagos State Nigeria, Humanities and Social Sciences Letters, 6 (4), Pp.171, 179. Presently, in many areas of Lagos such as the Apapa-Oshodi Expressway, Ikorodu Road, Ikoyi-Obalende, Oyingbo, Carter Bridge, Idumota, Oshodi, Ketu, Mile 12, Third Mainland Bridge, Cele, Iyana-Ipaja, Agbado, Oke-Odo, Ikeja among others, it is not uncommon to see children ranging between 9-17 years of age hawking various goods on the road, it is also not uncommon to see young children between the ages of 5-9 begging on the streets. These children who hawk and beg by the roadsides usually suffer from fatigue

example of a state whose enforcement of the Child Rights Act is arguably slack is Edo state, a significant number of parents shirk their parental responsibilities thus exposing their wards to moral and physical insecurity like sexual harassment and human trafficking. Benin-City which is the capital of Edo state is widely regarded as a major human trafficking hub in Africa.⁴⁹ The victims, who are often girls, are sent to North Africa and Europe for forced labour and commercial sexual exploitation.

B. Political Reasons

At the state level, there are 26 States within the federation that have domesticated the Child Rights Act.⁵⁰ Despite this widespread adoption, some of these states still record high number of cases involving child abuse due to disparity in how rights are being protected and enforced.⁵¹ Upon careful evaluation, it can be seen that some of these states that have passed legislations on Childs Right Act have made adjustments that suit their interest. For example, some of these states have lowered the minimum age for the purpose of marriage. While some have put it at 16 years, which means that a child is anyone below the age of 16.⁵² Therefore, within Nigeria, someone who can be referred to as a child in one state could be regarded as a marriageable adult in another state. For instance, children in Gombe state called on the State government to domesticate and adopt the Child Rights Act 2003, in line with the culture and tradition of people of the state.⁵³

C. Cultural reasons

Many of the cultural practices among Nigerian ethnic groups have contributed to the abuse of children. These practices include female genital mutilation, child labour, and tribal marks, child marriages, to mention but a few.

5. Conclusion and Recommendations

It is clear that the lack of implementation and enforcement of the provisions of the Child Rights Act being the main legislation for child protection in Nigeria is a major factor for the vulnerable state of children in Nigeria. The lack of political will to ensure the safety of the children has been a huge challenge of great concern.

Drawing attention from the above, it is therefore recommended that:

and other health issues because they engage in activities too strenuous for their young and fragile frames. They are also exposed to the dangers of getting kidnapped, robbed or knocked down by vehicles. To further elaborate on the last point, a recent report published by the Federal Road Safety Corps (FRSC), reveals that in Lagos about 40% of road accident victims are traffic traders located on the road or by the road side.

⁴⁹ 'Bureau of International Labour Affairs, Child Labour and Forced Labour Reports–Nigeria, 2019,' <<https://www.dol.gov/agencies/ilab/resources/reports/child-labor/nigeria>> accessed 10 February 2020

⁵⁰ They include Abia, Akwa Ibom, Anambra, Bayelsa, Benue, Cross River, Delta, Edo, Ebonyi, Ekiti, Imo, Jigawa Lagos, Nassarawa, Niger, Ondo, Osun, Oyo Plateau, Rivers and Taraba States.

⁵¹ Ashogbon, A.,A, "Call for Increased Domestication and Implementation of the Child Rights Act in Nigeria".

<http://development.com/a-call-for-increased-domestication-and-implementation-of-the-child-rights-act-in-nigeria>. assessed on October 19,2020.

⁵² For instance, Plateau State.

⁵³ Saleh A, Gombe and Hassan Ibrahim, H., "Nigeria: Gombe Children Seek Domestication of Child Rights Act" (2016) RHSS vol.6 No.9 pdf, <https://core.ac.uk/download/pdf/234675068.pdf>

The relevant Committees should intensify efforts to educate and sensitise the populace on the importance of child protection and the abolishment of harmful cultural and religious practices.

There is no policy that compels States to domesticate the Act. This therefore leaves the Non-Government Organisations (NGOs) bearing the bulk of the responsibility for child protection. There is a need to compel states to not only domesticate the Act but also enforce its provisions. It is suggested that erring states be made to face sanctions until they comply.

There is a need for mass education particularly on the part of the society on the importance of consultation of the affected demography ‘children’ in order to ascertain their overall wishes. This is because the Act should operate with the ‘best interest’ of the child as its compass.