



THE IMPLEMENTATION AND ENFORCEMENT OF THE RIGHTS OF CHILDREN IN NIGERIA

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ABSTRACT

Despite the fact that the convention on the Rights of the Child (CRC) which came into force on the 2nd of September 1990 and which is widely recognised as human rights treaty across the world with about (193) countries have ratified it, its provisions were yet to be implemented in the majority of the developing countries. In Nigeria, about twenty-four (24) states have domesticated the Child Rights Act CRA of 2003. However some of the states that have domesticated it have not but appropriate machinery in place for its full implementation. The article/paper focuses on attempts geared towards the implementation and enforcement of the rights of a child. The article recommended adequate sensitization programmes and raising the awareness of the content of the CRA in schools and local governments across Nigeria and involving the print and social media in the laudable project.

KEYWORDS

IMPLEMENTATION, ENFORCEMENT, RIGHTS OF CHILDREN, NIGERIA. CRC, CRA.

1.1. Implementation and Enforcement under the Convention: UN Convention, Child Right Act and Islamic Law

Implementation is the act of accomplishing some aim or executing some order¹. It is the carrying out, effecting, execution, performance, performing, discharge, enforcement, accomplishment, realization, fulfillment of (content/provision) of an agreement. While enforcement is the act of enforcing, ensuring observance of or obedience² to an agreement.

Further to above, implementation of the Convention is the process whereby States parties take action to ensure the realization of all rights therein for all children in their jurisdiction after ratification of same. It is

¹ <https://www.thefreedictionary.com/implementation> - Accessed on 8th of January, 2018 at 10:52 a.m.

² Ibid.

a basic principle of international law that a State party to an international treaty must ensure that its own domestic law and practice are consistent with what is required by the treaty. In some cases, the treaty may give general guidance on the measures to be taken. In others, the treaty includes specific stipulations³. The CRC comprises of these two classes of provisions. State parties thus have a critical role in ensuring that the legislative measures required by the Convention are adopted.

Article 4 requires States parties to take "all appropriate legislative, administrative and other measures" for implementation of the rights contained therein. While the obligation is on the State to implement its content, its task of implementation - of making reality of the human rights of children - needs to engage all sectors of society and, of course, children themselves. Ensuring that all domestic legislation is fully compatible with the Convention and that the Convention's principles and provisions can be directly applied and appropriately enforced is fundamental.⁴

Implementation of the CRC is monitored by a committee of independent experts known as the Committee on the Rights of the Child. The Committee which was established on 27 February, 1991 under article 43 has eighteen (18) members from different countries and different [legal systems](#) who are of 'high moral standing' and experts in the field of [human rights](#). Although members are nominated and elected by States party to the Convention, Committee members act in a personal capacity. They do not represent their countries' governments or any other organization to which they might belong. Members are elected for a four-year term and can be re-elected if nominated.

The objective of establishing the Committee is to review compliance by the Parties with their obligations under the Convention with a view to assisting them to fully meet their commitments. The Committee was created by the Convention on 27 February 1991.

The Committee is saddled with the responsibility of monitoring implementation of CRC by its State parties. It also monitors implementation of two Optional Protocols to the Convention, on [involvement of children in armed conflict](#) (OPAC) and on [sale of children, child prostitution and child pornography](#) (OPSC). On 19 December 2011, the UN General Assembly approved a third Optional Protocol on [a communications procedure](#) (OPIC), which allows individual children to submit complaints regarding specific violations of their rights under the Convention and its first two optional protocols. The Protocol entered into force in April 2014.

All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must submit [an initial report](#) two years after acceding to the Convention and then [periodic reports](#) every five years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations".

The Committee also reviews the initial reports which must be submitted by States who have acceded to the first two Optional Protocols to the Convention, on [involvement of children in armed conflict](#) and on [sale of children, child prostitution and child pornography](#). The Committee is also able to consider [individual complaints](#) alleging violations of the [Convention on the Rights of the Child](#) and its first two optional protocols (OPAC and OPSC) by States parties to the OPIC, as well as to carry out inquiries into allegations of grave or systematic violations of rights under the Convention and its two optional protocols.

³<https://www.un.org/development/desa/disabilities/resources/handbook-for-parliamentarians-on-the-convention-on-the-rights-of-persons-with-disabilities/chapter-five-national-legislation-and-the-convention.html> - Accessed on 8th of January, 2018 at 10:52 a.m.

⁴https://www.unicef-irc.org/portfolios/general_comments/GC5_en.doc.html#ftnt2

The Committee examines each report and raises concerns or makes recommendations to the State party. It also issues occasional general comments on the interpretation of particular Convention obligations. Once a year, the Committee submits a report to the Third Committee of the [United Nations General Assembly](#), which also hears a statement from the CRC Chair, and the Assembly adopts a Resolution on the Rights of the Child.

The Committee publishes its interpretation of the content of human rights provisions, known as [general comments](#) on thematic issues and organizes [days of general discussion](#).⁵

In addition, the Convention has several provisions on mechanisms by which the Committee can monitor implementation which include the reporting procedures by which States must submit reports regularly to the Committee. While the Committee also identified a wide range of measures that are needed for effective implementation, including the development of special structures and monitoring, training and other activities in Government, parliament and the judiciary at all levels.

Meanwhile, there are legal and non-legal measures of implementing the CRC. However, the Committee favours direct and full incorporation as the method of implementation, thus giving full legal effect to the binding commitments made by governments when ratifying the CRC. Legal measures of CRC incorporation include:

- a). **Direct incorporation:** this is a situation where CRC is fully transformed into domestic law at either legislative or constitutional level
- b). **Indirect incorporation:** these are other legal mechanisms are used to give the CRC some effect in the domestic legal law
- c). **Sectoral incorporation:** this is where a State Party decides to transpose relevant provisions of the CRC into relevant sectoral laws, such as those relating to education or family.

While all State Parties to the CRC have committed to implementing its principles and provisions in law and practice, there is no single route to be taken. Non-legal measures refer to the processes that different countries can use to progress implementation of the CRC and these include: national strategies and action plans for children, child impact assessment processes to anticipate the impact of proposed laws, policies or budgetary allocations, the establishment of children's commissioners or ombudspersons, either as distinct offices or as part of a national human rights institution, child budgeting or the identification, allocation and monitoring of resources spent on children and children's services, children's rights training, awareness raising and capacity building for all those working with and on behalf of children, and the development and collection of data on children's lives⁶

Many Governments have gone further than just ratifying the Convention to enacting legislations, creating mechanisms and putting into place a range of creative measures to ensure the protection and realization of the rights of persons under the age 18 years. Despite further steps taken by some governments, the children's rights are still very faint or even invisible in many nations.

In essence, a State party to the CRC has obligations under international law to implement its content.

⁵<http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIntro.aspx> Accessed on 19th of January 2018 at 12:50p.m

⁶<https://www.qub.ac.uk/research-centres/CentreforChildrensRights/filestore/Fileupload%2C485596%2Cen.pdf> Accessed on 19th of January 2018 at 1:20p.m

Enforcement of the Convention:

Countries that ratify the treaty must submit reports every five years to the Committee on the Rights of the Child. The committee examines not only each country's reports, but also information from nongovernmental organizations and UN sources to identify areas of progress and concern and to recommend steps that the country should take to improve the lives of children.

An optional communications procedure adopted by the UN in 2011 allows individuals to file complaints with the Committee on the Rights of the Child for violations of their rights under the convention if domestic remedies have been exhausted. The committee may then investigate the complaints and make recommendations to the country responsible for the violation.

1.2. Implementation and Enforcement in Nigeria:

Bodies and Policies geared towards Implementation and Enforcement

It is manifestly evident from the multiplicity of the legal frameworks available that there seems to be sufficient legislation needed to guarantee the inalienable rights of children. To buttress this assertion further, Alemika noted that,

"It has been observed in the course of the critical examination of the laws protecting the rights of the child that the various provisions of law are sufficient enough to sustain the rights of children both at local and international levels."

Although it must be noted that this was not normally the case before the advent of the 21st Century, whatever legislative lacuna seems to have been filled. However, in spite of this seeming availability of legal instruments, one sore which has continually festered and hampered the incidental efficacy of these laws has been in the area of implementation.

Nigeria ratified the United Nations Convention on the Rights of a Child in 1991, formally committing to adhere to and implement the spirit and the letter of the Convention.

The UN Convention placed the responsibility of its implementation on the shoulders of member-states,⁷ thus prompting the Federal Government of Nigeria to take some administrative steps based on policy to ensure its implementation.

Setting-up of Administrative Bodies to ensure Implementation

One of the ways to ensure implementation and enforcement of laws is to assign or create bodies tasked with the specific responsibility of ensuring compliance with the tenets and provisions of such legal instrument. In order to show its commitment, Nigeria has assigned certain Ministries, Departments and Agencies with the responsibility of implementing the conterminous provisions of the CRC juxtaposing same with other relevant Child's Right instruments of the same genre.

The efforts have cut across various sectors and can best be described as an inter-ministerial effort targeted at ensuring compliance. Some of these efforts have morphed into:

Ministry of Women Affairs and Social Development

Prior to 1993, all issues that related to children and its concomitant responsibilities were borne by the Social Welfare Department of the now defunct Federal Ministry of Social Development and Culture.⁸ However, then came the Children's Summit of 1990 after which a National Commission for Women was

⁷ Article 4 UNCRC

⁸ Federal Government of Nigeria, Country Report on Violence against Children. 2015 p.27

created which was a forerunner and later metamorphosed into the Ministry of Women Affairs and Youth Development.

Meanwhile, in 1993, a Child Development Department was created in the National Commission for Women located in the Presidency, to cater solely for issues concerning children. The National Commission for Women later evolved into the Ministry for Women Affairs and Youth Development in 1996, and the Ministry has had the task of pursuing the promotion and protection of children's rights at all levels in Nigeria.

National Child Rights Implementation Committee (NCRIC)

By 1994, the National Child Rights Implementation Committee (NCRIC) was inaugurated with the mandate of popularizing the CRC and ACRWC. It was saddled with the administrative responsibility of ensuring timely reporting of all Treaties and Charters on the rights and welfare of the child ratified by Nigeria. Members of the NCRIC were drawn from a cross-section of governmental and sectorial ministries

In the first phase of the process of report writing, the NCRIC met between 14th and 15th September, 2009. That meeting produced a framework which was designed to act as a roadmap for the development and timely submission of the report ensuring the incorporation of all issues raised by the African Committee of Experts of the Rights and Welfare of the Child during the defence of the first periodic report of the AU Charter.

The Committee then went further to call for memoranda from the public by placing such information in two national dailies: This Day and Daily Trust Newspapers of 19th August 2009.

As a result, the NCRIC facilitated in essence the signing, adoption and ratification of the two optional protocols to the CRC.

The numerous measures taken to popularize the CRC and by extension, the CRA include;⁹

1. Circulation of simplified and abridged versions of the CRC and CRA across the country.
These have also been translated into the three major Nigerian languages -Hausa, Igbo and Yoruba
2. Advocacy and Sensitization visits to stakeholders and opinion leaders at various levels
3. Seminars, workshops and conferences for appropriate target groups.
4. Holiday camps for children, quiz/debate competitions, children's rallies and the celebration of special days like the Day of the African Child and the National Children's Day.
5. Media Campaigns, numerous radio and television enlightenment programs, including documentaries and movies.
6. Establishment of Child Right Clubs and child-friendly schools tagged the Sarah Communication Initiative.
7. Production of Information, Education and Communication materials like posters, billboards and newspaper advertisements.

⁹ Ibid. p.15

8. "Red Card to Child Labour" a global program by the ILO in collaboration with WOTCLEF.
9. Production and Circulation of the CRC Guide for Law Enforcement Officers in Nigeria.
10. Development and production of Juvenile Justice Administration training for law enforcement officers, as well as guide for training.
11. Capacity building of NGOs, CBOs and child care givers delivering psychosocial support and services for orphans and vulnerable children.
12. Establishment of National Task Force on Human Trafficking
13. Development of a National Policy on Child Labour
14. The formation of Child Rights Clubs in primary and post primary schools across the country.
15. The One-day Governor Program in Lagos State, in which the Governor and his cabinet vacate their offices for one day in a year, for selected children.
16. Production and circulation of Handbooks on Adoption and Foster Care.
17. Dissemination of key findings on the evaluation of girls' education project.
18. Production and Dissemination of National Directory of Child Care Institutions.
19. Continuous efforts directed towards publicizing the charter by translating it into minor local languages and disseminating the provisions through radio and television programs.

Advocacy-driven visits to State Governors, Parliamentarians, traditional and religious leaders opinion and community leaders were undertaken to Cross River, Kebbi, Abia, Adamawa, Nassarawa, Ondo, Ekiti and Niger States to create awareness on the need for behavioural change. An example of some noxious practices which needed to be changed includes labelling children as witches, the sale of babies, illicit adoption.

National Human Rights Commission (NHRC)

The National Human Rights Commission (NHRC) was established by the National Human Rights Commission (NHRC) Act, No 22 of 1995.¹⁰ It was created in line with the resolution of the UN General Assembly which enjoins all member-states to establish national human rights institutes for the promotion and protection of human rights.¹¹

The Commission serves as an extra-judicial mechanism for the enhancement of the respect for and enjoyment of human rights. It also provides avenues for public enlightenment, research and dialogue in order to raise awareness on human rights issues around Nigeria. The Commission has six zonal offices: one for each of the geo-political zones.

Among its numerous duties as provided for in its Establishment Act includes the power to deal with '*all matters relating to the protection of human rights as guaranteed by the Constitution of the Federal Republic of Nigeria, the African Charter on Human and Peoples' Rights, the United Nations Charter and the Universal*

¹⁰ Now the NHRC Act 2010 as amended

¹¹ www.nigeriarights.gov.ng/Commission.php

Declaration on Human Rights and other International Treaties on human rights to which Nigeria is a treaty (emphasis supplied) section 5(a) NHRC Act 1995

It is submitted that the CRC falls within the treaties on human rights which Nigeria has encapsulated into its municipal laws thus confirming the already obvious fact that the rights of children fall within the broad spectrum of human rights because children are first human beings. In a bid to guarantee children's rights, a special rapporteur on children within the NHRC is saddled with a responsibility of ensuring the promotion and protection of the rights of Nigerian children. This rapporteur is also a Program Officer on Child Rights and has the responsibility to monitor compliance with the ACRWC and the CRC as well as the CRA and to provide legal aid to children whose rights have been violated.¹²

National Agency for the Prohibition of Trafficking in Persons (NAPTIP)

The National Agency for the Prohibition of Trafficking in Persons (NAPTIP) was created on the 14th of July 2003 by the legislative enactment of the Trafficking in Persons (Prohibition) Enforcement and Administration Act 2003.¹³

The aim of this law, which has undergone several amendments to reflect the ever changing reality of present circumstances, is to address the scourge of trafficking in persons. It is a notorious fact that children form the bulk of those trafficked within and outside various borders, Nigeria inclusive, and this runs contrary to the provisions of the CRC particularly Article 25.

Article 11(1) in part provides that:

*"States Parties shall take measures to combat the illicit transfer and non-return of children abroad"*¹⁴

Which is a forerunner to Article 35 which in-turn provides that'

"State Parties shall take all appropriate national, bilateral and multi-lateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form"

The issue of trafficking is one that occurs both locally and internationally. In regular parlance, it can be said that NAPTIP has its work cut-out for it already. It is worthy of note that the agency has stepped-up to the gargantuan challenges presented and recorded some successes.¹⁵

The Children's Parliament, a forum for Nigerian children was also inaugurated to air out their views and engage the government of the day directly as regards the teething problems the CRC sought to tackle, and also the Child's Right Information Bureau.

Between 2002 and 2007, the Federal Government took some appreciable steps geared towards the implementation of the CRC.

These steps include, the:

- National Child Policy and the National Health Policy of 2007,

¹² Ibid.

¹³ https://www.naptip.gov.ng/?page_id=112

¹⁴ Article 11(1)

¹⁵ Article 35

- National Plan of Action on Orphans and Vulnerable,
- National Policy and Guidelines for the Establishment and the Monitoring of Child Care Centres in Nigeria,
- National Policy on Adolescent Health
- Integrated Maternal, New-born and Child Health(IMNCH) Strategy 2007
- Action Plan of the National Population Commission for a permanent and sustainable birth registration system.

These are just few out of the many commendable steps the Federal Government has taken at various dispensations to ensure the implementation of the provisions of the Convention.

Law Enforcement

Currently, there are Juvenile Welfare Centres at Police Divisional Headquarters across the Country. These centres are designed and intended to cater for the well-being of juveniles. An officer of the rank of a Commissioner coordinates the activities at each centre nationwide.

Also, there are currently programs to withdraw street children, and to rehabilitate them in craft centres or formal schools for retraining and reorientation by state agencies and NGOs. Others are also reunited with their families where possible.

1.3. Implementation and Enforcement of the rights in the Child Rights Act, 2003

Prior to Nigeria's ratification of the various international instruments and conventions pertaining to child rights, issues emanating from such rights were guided by various legislations at the Federal and Regional levels up to 1961, and at the Federal and State levels after 1961.

The most prominent of these laws was the Children and Young Persons Act (1943), which centrally focused on the Juvenile Justice Administration, and the Labour Act (1974), which sought to regulate child labour and to protect children from exploitative labour and abuse. Then came the CRC in 1991, which as has been earlier extensively explained, promotes and protects the rights of the child to survival, development, protection and participation.

In 1993, a draft bill which drew extensively from the principles and provisions of the CRC was prepared, but its enactment was stalled until the end of the military era in 1999. This changed with the dawn of the democratic era which ushered in a vibe into concerted efforts to evolve a legal framework for the protection and promotion of the rights of a child.

In the Child Rights Act, there was a substantive legislative merger and inherent domestication of the provisions of the CRC and the ACRWC, thus strengthening the various aspects dealing with the individual aspects of child protection, including the prohibition of street hawking and begging; child abuse (including sexual abuse); child trafficking; child labour and other forms of exploitation. There was also the prohibition of harmful traditional practices such as Female Genital Mutilation (FGM), scarification, child marriage, abuse and exploitation of the pupils of the traditional system of Koranic education (referred to in local parlance as the Almajirai).

Measures taken in the Implementation and Enforcement of the Child Rights Act

The Child Right's Act provides in its first section the underlying objective which should serve as the foundation for any action or decision concerning children. Section 1 succinctly states,

“...the best interest of the child shall be a primary consideration in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies...”¹⁶

In view of satisfying these legislative requirements, certain measures should be taken:

- The establishment of Family Courts guided by the principle of ensuring the achievement of the best interest of the child.
- The prohibition of child trafficking by the enactment of the Trafficking in Persons (Prohibition) Law Enforcement and Administrative Act (2003), an example is seen in the efforts of NAPTIP in curbing Child Trafficking within Nigeria.
- The registration of births in the country by the creation of birth registration centres headed by a Chief Registrar of Birth and Deaths in the 36 states of the Federation by the National Population Commission in collaboration with the Federal Ministry of Health.
- The formation of clubs and societies like the Boys' Scouts, Boys' Brigade, Girls' Brigade, Girls' Guide, Debating Clubs and others to guarantee the right of the child to Freedom of Association.
- Awareness creation and social mobilization through the various agents of socialization including print and electronic media.
- The development of a 5-year National Plan of Action on OVC (Orphans and Vulnerable Children) in 2006
- The establishment of Child Care Centres for effective monitoring and evaluation under the auspices of the Federal Ministry of Women Affairs and Social Development.
- The adoption of numerous legislative measures to ensure states adopts the Child Rights Act. This however has its own difficulty as there are still numerous states who haven't adopted the legislation.
- The commemoration of the Female Genital Mutilation which began on the 6th of February 2004 in order to create the awareness needed to stop the perpetuation of this barbaric yet widely practiced harmful cultural practice.

¹⁶ Section 1, Child Rights Act 2003

The Children's Parliament

The enactment of the CRA also provided the framework for the formation of the Children's Parliament, an avenue for the participation of children in matters concerning their rights and welfare.¹⁷

The Children's Parliament was formed in December 2000, and since its inception has aided the progressive and increased participation of children in making inputs into the decision-making process of national issues that affect their lives.

The mandate of the Children's Parliament is:¹⁸

- To represent the voices, minds and aspirations of Nigerian children.
- To come up with high quality supplementary advocacy for the survival, protection, development and participation rights of children.
- To deliberate on child-related issues and adopt child-friendly recommendations and forward to the supervising ministry for consideration.
- To receive reports from peers and deliver same to the relevant authorities through the Child Development Department.
- To monitor issues involving child survival, development, protection and participation

The Nigerian Children's Parliament is divided in a bicameral manner, having the Upper House and the Lower House. At the National Level, each state and the Federal Capital Territory have two representatives; one in the Senate and the other in the House of Representatives, thus leading to a mathematical total of 74 members.¹⁹

Some of the activities of the Children's Parliament in pursuance of the Child Rights Act include:

- Presenting the views of Nigerian children to the Constitution Review Committee of the National Assembly in 2006
- Being part of the African delegation at the 2nd Children World Water Forum held in Mexico City in 2016

¹⁷ 2nd Nigerian Country Periodic Report op cit. p.19

¹⁸ p.18 ibid

¹⁹ p.18 op cit.

- Presenting a live program on HIV/AIDS on National Television as part of activities to mark the International Day of Broadcasting in 2007
- Press interviews and dialogue sessions were undertaken by children to air their views on major national issues in Osun, Bayelsa, Delta, and Ogun States.

Juvenile Courts

The Child Rights Act has made ample provisions for the trial of juvenile delinquents i.e. children and young persons who have not attained the constitutional age of majority but are accused of committing a crime against the state. This in-turn has provided for the separation of the trial of juveniles from adults.

The Child Rights Act²⁰ provides that,

“No child shall be subjected to the criminal justice process or to criminal sanctions, but a child alleged to have committed an act which would constitute a criminal offence if he were an adult shall be subjected only to the child justice system and processes set out in this Act”

This provides the impetus for the establishment of Juvenile courts set out to try children accused of committing certain offences. Juvenile courts have the jurisdiction to try a child or young person for any act that constitute an infraction of the criminal laws of the land.²¹

There are however two exceptions to this rule:

1. Where the juvenile has committed an offence which the law considers so serious as to render the offender liable to the death penalty²². (It should be noted that the death penalty would not apply)²³
2. Where a juvenile is charged together with an adult in which case the Juvenile Court will not have jurisdiction because of the presence of the adult.²⁴

²⁰ Section 204

²¹ Agaba J. A., *Practical Approach to Criminal Litigation in Nigeria*. (3rd Edition, Bloom Legal Temple)p.206

²² Section 420 Criminal Procedure Act

²³ p.206 Ibid. Section 8(2) CYPL (Lagos)

²⁴ Section 6(2) CYPL (Lagos)

The Juvenile courts have their own characteristics which distinguishes them from the regular court. Some of these characteristics are:

- Trials before a juvenile court are not open to the general public.

The proviso to Section 36(4) CFRN 1999 as amended reads,

“PROVIDED a court or tribunal may exclude from its proceedings persons other than the parties thereto or their legal practitioners in the interest of...the welfare of persons who have not attained the age of 18 years...”

- Unless with leave of Court, the identity of the juvenile shall not be published by any person to any person than those entitled to receive such information.²⁵
- No child is to be imprisoned.²⁶
- No young person is to be ordered to be imprisoned unless he cannot adequately be dealt with.²⁷

Where from the circumstances of the case, a young person is ordered to be imprisoned, he shall not, so far as the same may be practicable, be allowed to stay with adult prisoners.²⁸

1.4 Implementation and Enforcement of children's rights under the Islamic Law (Sharia)

In Nigeria, Sharia has been instituted as a main body of civil and criminal law in 12 States; namely Zamfara, Kano, Sokoto, Katsina, Bauchi, Borno, Jigawa, Kebbi, Yobe, Kaduna, Niger and Gombe.

It is pertinent to briefly analyze the implementation and enforcement of child rights in Sharia law because it serves as both a personal law and guiding philosophy to Muslims in Nigeria.

The Qur'an has established certain guiding principles to aid in protecting the rights of a child. One of the most inalienable rights of the Muslim Child is the right to life²⁹ Parents have been commanded by Allah not to take their children lives. The learned Islamic scholar Hammudah Abd al Ati noted that,

²⁵ Section 6(6) CYPL (Lagos)

²⁶ Section 419(1) CPA

²⁷ Section 419(2) CPA

²⁸ Section 419(3) CPA

²⁹ Hammudah Abd alAti; *The Family Structure in Islam* (Islamic Publications Bureau, 1982) p.184

“Preservation of a child’s live comes, in some passages, third in the hierarchy of Muslim commandments. The Qur’an³⁰ declares:

- (1) That it is forbidden to associate with God any object of worship;
- (2) That the Muslim must be good to his parents and
- (3) That it is forbidden to kill one’s children because of poverty;³¹

This exemplifies the premium importance which Islam places on the rights of the child, contrary to public opinion in some quarters.

Another right a child possesses is the right to legitimacy.³² This right holds that every child shall have a father and one father only. This right was specifically designed to reduce to the minimum the possibility of status anxiety and also the status of illegitimacy³³ which usually has a subtle psychological effect on the child, gradually manifesting into adulthood.

A further right the child has is the right to good care and socialization.³⁴ This right is placed squarely on the shoulders of the parents as they are held to be jointly responsible for the upbringing of the child. The parents’ responsibility for the child’s welfare remains binding as long as the child is a minor or incapable of taking care of itself.³⁵

Alongside these rights though, are some duties, some of which are; the duty of *ihسان* (which encapsulates compassion, kindness, charity, reverence, conscientiousness and sound performance).³⁶

As for Sharia Penal Laws, its provisions tilt towards the protection of the rights of the child. For instance, the Zamfara State Sharia Criminal Procedure Code Law provides that:

“No sentence of hudud³⁷ or qisas³⁸ shall be imposed on a person who is under the age of taklif.”³⁹

³⁰ Q.6:151; cf., 17:23ff)

³¹ The Family Structure in Islam Ibid. at p.184

³² Ibid. p.188

³³ Ibid. p.190

³⁴ Ibid. p.198

³⁵ Ibid. p.199

³⁶ Ibid. p.205

These go a long way in accentuating the stance and perspective to the rights of a child, but also brings up the matter of responsibilities.⁴⁰

It is submitted at this point that the presence of responsibilities does not negate the need to adhere to rights because these responsibilities are not placed as being mutually exclusive to the observance of these rights.

1.5 The Future Of Children In The Twenty-First Century – How Far So Far With Protecting the Rights of Children.

National Plan of Action on the CRC/CRA:

The National Plan of Action (NPA)⁴¹ stemmed from a desire to ensure the monitoring and implementation of the recommendations of the World Summit on Children held in September 1990 and also the provisions of the 1992 Special Session Outcome Document *titled 'A World fit for Children'* and other complimentary instruments that flowed from the CRC.

It is notable and commendable that Nigeria became the second country in Africa to deposit a National Plan of Action at the UN Human Rights Council, which was presented in February 2009.

This comprehensive right-based plan was designed for the period of 2009-2015. The plan was intended to serve as a 'manifestation of the Federal Government's desire to make the well-being of Nigerian children a priority issue'⁴² With a mission tagged '*Nigeria Fit for Children*' which was an obvious photocopy of the global mantra, the National Action Plan had orchestrated certain action points to guide the implementation of the CRC.

The major action-points of the National Action Plan included:

³⁷ Hudud means offences or punishments that are fixed under the Sharia

³⁸ Qisas means punishments inflicted upon the offenders by way of retaliation for causing death of or injuries to person

³⁹ Taklif means the age of puberty

⁴⁰ s. 237, Zamfara State Sharia Criminal Code Procedure Law, 2000, No. 1, Vol. 4

⁴¹ Federal Ministry of Women's Affairs and Social Development, Abuja (2009-2015)

⁴² Ibid p.vi

- Put children first as a state policy
- Fight poverty by investing in children
- Care for every Nigerian Child
- Educate every child
- Protect all Nigerian children from harm and exploitation
- Listen to children and ensure their participation in the decision-making process.
- Ensure a safe environment for children

A prima facie assessment of these action-points would portray a well-intentioned but utopian nature of the policy makers who drafted this policy, obviously in a bid to implement and enforce the CRC. A further foray into the goals of the National Action Plan proper would explain why its high-horsed idealism was doomed to fail. Some examples would suffice in showing the difficulties in implementation and enforcement of this ideals when placed vis-à-vis some of the rights contained in the CRC. These will be treated shortly by this work when the challenges are being considered.

These action plans were now developed into certain goals which are;⁴³

- (i) Reduce child poverty;
- (ii) Provide a framework and direction for the implementation of projects and programs designed to improve the situation of the Nigerian child;
- (iii) Ensure partnership between the public and private sectors as well as CSOs to guarantee the well-being of the Nigerian child;
- (iv) Leverage resources from local and international bodies for child development programs and projects; and
- (v) Provide a framework for research, monitoring and evaluation in all child development issues.

⁴³ NPA Ibid. pg. 5

In order to achieve these goals, certain core areas were focused on as being cardinal as they affect the growth and subsequent development of a child.

Some of these areas are expatiated below:

1. Health
2. (Quality) Education
3. Protection against abuse, exploitation and violence

1. HEALTH

At the time of the preparation of the National Action Plan, the statistics pertaining to the health of children and other ancillary matters were to say the least, discouraging.

For instance, in the area of maternal mortality rate (MMR), Nigeria was the second largest contributor worldwide; an unenviable statistic. An estimate of 145 women lose their lives in the course of child-bearing every day, while an average of 52, 900 Nigerian women die from pregnancy-related complications out of a total of 529,000 deaths; a massive 10% contribution to this sad global tale.⁴⁴

On the area of newborn health, the neonatal mortality rate was pegged at 48 per 1000 live births, and there are wide regional variations in the distribution of neonatal mortality. The highest neonatal rates are seen in the North-East and North-West zones of the country, with the lowest rates recorded in the South-East zone.⁴⁵

It has been observed that the key determinants of maternal and newborn mortality can be traced the inadequate coverage and low quality of essential obstetric care available in the country. Even where skilled attendants were available, poor interpersonal relations have been reported to impact negatively on utilization services by women.

⁴⁴Integrated Maternal Newborn and Child Health (IMNCH), UNICEF Situation Analysis 2007

⁴⁵ IMNCH, 2007 Ibid

Other determinants of child survival include low female literacy levels and poor family/household health-care practices. In addition, access to safe water and adequate sanitation are important in improving household hygienic practices.

Owing to the operational and technical nature of these teething problems, Nigeria put together the Integrated Maternal, Newborn and Child Health Strategy, a program designed to revitalize primary healthcare in every local government in line with the targets set-out by the then Millennium Development Goals (MDGs) which have now handed the baton to the Sustainable Development Goals (SDGs).

2. EDUCATION

Although all main international human rights treaties contain provisions on the Right to Education⁴⁶, this right as enshrined in the Convention contains till date, the broadest approach, devoting two specific provisions to the right to education and a number of other articles that are both directly and indirectly related to it.⁴⁷

The CRC provides that Education at primary level should be free and compulsory⁴⁸ and all forms of secondary education be made accessible to all. It goes further to make it a state obligation.

To compound matters, the budgetary allocation usually assigned to the education sector grossly falls below the UN Recommended Standard of at least 25%, painting a bleak and sorry picture for the future.

The Federal Government at certain points in the past tried to scale-up the intervention in the education sector, but such efforts have subsided owing to lack of sustainability.

National Policy on Education 2004

This is the official document of government for moderating educational programs in the country. It was first introduced in 1977 by the then Federal Military Government after a National Curriculum Conference that was geared towards addressing the post-colonial educational system of the 6-5-2-3 structure. In 1981, it was revised, and hence came the introduction of the 6-3-3-4 structure. This structure prescribed 6

⁴⁶ Article 26, Universal Declaration of Human Rights; Article 13, International Covenant on Economic Social Cultural Rights

⁴⁷ Articles 32, 40, 24.

⁴⁸ 10 Art 28(1)

years in the primary school, 3 years in the junior secondary school, 3 years in the senior secondary school and 4 years in the tertiary institution.⁴⁹

To achieve the national education goals, the National Policy on Education (2004) placed a high premium on life-long learning i.e. an educational system that exposes learners to full or part-time studies.

3. PROTECTION AGAINST ABUSE, EXPLOITATION AND VIOLENCE

From a review of the facts as they emerge, it can be noted that little progress has been made as concerning the protection of the rights of children in Nigeria. This is accentuated by the presence and prevalence of certain impediments to whatever progress which may have been recorded. These impediments include the presence of harmful traditional practices perpetuated by odious customary laws, as well as lack of up-to-date data and inadequate resources.⁵⁰

A brief foray into these facts would cast more lights into the current reality.

Harmful Traditional Practices (HTPs)

Nigeria is a heterogeneous country with numerous tribes merged into a particular geographical land mass. Together with each tribe comes a set of traditional beliefs which are avid portrayals of the diversity inherent in our social cum cultural perspectives. It should be noted that as good as some of these practices may be, there some which pose a risk to the well-being of the recipients, who are mainly children.

Some of these practices are:

Early marriage:

Nigeria currently ranks 11th internationally in the World Ranking as 43% of girls are married or in union before they were 18 years old. Child betrothal and the accompanying marriage raise the risks of Vesico-Vaginal Fistula (VVF), infertility, high child and infant morbidity and mortality.⁵¹

Girls' initiation camps:

⁴⁹ NAC pg. 20

⁵⁰ Ibid. pg. 30

⁵¹ UNICEF State of the World's Children Report, 2017

This cultural trend though greatly minimized with the advent of Western Education, yet is still perpetuated in certain cultures within Nigeria. An example is the "Female Obodo Enyi" masquerade which is worn by certain females in order to bring a certain oracles powers of fertility to the fore.⁵²

Female Genital mutilation:

Nigeria accounts for 17% of the World's cases of Female Genital Mutilation/Cutting (FGM/C) of girls/women aged 0-14 years, and 25% of the World's cases of Female Genital Mutilation/Cutting (FGM/C) of girls/women aged 15-49 years.⁵³

Teenage Pregnancy

The 'latest' statistic in Nigeria is in 2013, a report by the National Populations Commission which stated that 23% of adolescent women aged 15-19 years were already mothers or pregnant with their first child.⁵⁴

Discrimination against Children

The Constitution of the Federal Republic of Nigeria 1999 *as amended* particularly in Chapter IV which hinges on fundamental human rights provides for non-discrimination on the basis of gender, religion, ethnicity, age or circumstances of birth against any citizen,⁵⁵ and this includes children.

Sadly though, in spite of this provision, discrimination of children has continued unabated, especially when it concerns the girl-child and children with disabilities. As stated above, certain noxious cultural practices that discriminate the rights of children continue unperturbed.

Many disparities are still visible as regarding the minimum age of criminal responsibility. This is witnessed in the placement of persons below 18 years in the same detention and prison facilities with adults.⁵⁶

⁵² Allen F. Roberts, *Female Initiation*, University of California, Los Angeles

⁵³ UNICEF Report on FGM/C, 2016

⁵⁴ www.tribuneonline.com/teenage-pregnancy-silent-menace-nigeria/

⁵⁵ Section 42(1) (a), (b), (2) and (3)

⁵⁶ A direct violation of Section 419(3) CPA

In addition to this, is the inadequacy of rehabilitation and reintegration programs following judicial proceedings and only a few sufficiently trained professionals work in various institutions designated for child justice. Children are still detained for 'status offences' such as vagrancy, truancy, wandering, **stubbornness** (emphasis intended), or being 'beyond parental control'⁵⁷

In all these, the major culprits of these violations are the Nigeria Police. They (the Police) sometimes arrest these children for minor offences without access to speedy hearings and in most cases are tried with adults. The police treatment of these juveniles sometimes does not conform to the slightest hint of international best practices. Some of the child offenders are even forced frequently to elevate their age at the point of arrest and are subsequently treated as adult offenders, locked-up with adults in overcrowded cells which leave them at the mercy of these adult offenders, amplifying their vulnerability in psychological, physical and sexual abuses.⁵⁸

Protection from Armed Conflict

The activities of various ethnic armed militia in different parts of the country have increased in high proportions, the incidence of children in armed conflict situations. Such incidences can be actively, where such children are recruited as child soldiers, or passively, caught between the cross-fire of conflict. From the agitations in the Niger-Delta region in the South, to the insurgency in the North, these armed conflict situations ensure that children are suffer from poor health, poor scholastic achievement, hyperactivity, low self-esteem, suicidal tendencies, cognitive impairment, depression and anxiety amongst other problems too numerous to state.

⁵⁷ pg. 32 NPA 2009

⁵⁸ pg. 33. Ibid.

Child Labour

As at when the National Plan of Action was drafted, about 15 million children under the age of 14 were engaged in various forms of child labour.⁵⁹ Many worked in hazardous conditions with little food, small pay, no education and no medical care, establishing a cycle of child rights violations.

This is a departure and should be distinguished from the times when children worked with their families and learned skills that would help them through life as adults. Generally, working children have no time, money or energy to go to school, and about 1 million are forced to drop out either due to poverty or the demands of their parents to contribute to the family income.

On the other hand, over 8 million children manage, at least partly to stay in school and work partly in their spare time to pay school fees. Naturally, these children skip classes to cope with the demands of work. Missing out on education has the boomerang effect of making it impossible to break the unfortunate cycle of poverty and exploitation, preventing these children from having a better life.⁶⁰

Trafficking and sexual exploitation

Sexual and exploitation are some of the gravest violations of human rights in the world today. The irony is that most times, consent is given by the families of the victims, such families being ensnared by the empty-promises of the agents of these trafficking networks who are usually members of the society. And thus, the arduous journey of uncertainty begins for hundreds of thousands of children who are trafficked across and within borders. The survival and development of such a child would be most definitely threatened and basic rights like the right to education,⁶¹ right to health,⁶² right to growth within a family,⁶³ freedom from exploitation and abuse⁶⁴ and even the right to life⁶⁵ in some cases are denied.⁶⁶

⁵⁹ NPA p.36

⁶⁰ Ibid.

⁶¹ Article 28 CRC

⁶² Article 24 CRC

⁶³ Article 9

⁶⁴ Article 19 CRC

⁶⁵ Article 6 CRC

⁶⁶ NPA p.37

Trafficked children experience many negative social impacts, including the risk to their existence and burden on the already stretched public health system. It has been shown that child victims of trafficking and sexual exploitation are more vulnerable to HIV/AIDS, sexually transmitted infections and diseases, malnutrition, sexual and psychological trauma and many other negative implications of trafficking. Other social impact includes low ethical and moral standards, erosion of educational standards, dysfunctional families, and limited opportunity to acquire livelihood skills and vocational training.⁶⁷

Social Protection Policies

Social protection policy refers to the entire range of public policies and instruments that relate to conditions of human wellbeing, including health, education, housing, water and sanitation, child protection, youth development, livelihood skills training, employment, social integration, crime and justice, as well as the overall legal framework guiding activities throughout the economy.⁶⁸

It is the inadequacy and in many instances, non-existence of social protection policies in the country that has exacerbated the dire situation of poverty and in turn is the underlying and root cause of child labour, trafficking, sexual exploitation and other forms of abuse and violence against children.

Conclusion/Recommendation

In concluding this article, it is observed that even though there are so many laws policies, and guidelines in favour of the child and dealing with their rights so many people are not aware of them. It is in view of this that we recommend "aggressive sensitization of the populace with special emphasis on the opinion leaders and agents of socialization. Another recommendation is the inter-ministerial collaborative approach, effective coordination of pivotal and veritable instrument for guiding program implementation. There must also be the "political will" on the part of those involved in the child issues, beginning from the executive, legislature and the judiciary.

⁶⁷ Ibid

⁶⁸ NPA p.39