

**AN EXAMINATION OF NIGERIA'S COMPLIANCE WITH ITS LEGISLATIVE OBLIGATIONS
UNDER THE CONVENTION ON THE RIGHTS OF THE CHILD**

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ABSTRACT

Globally, children are held with esteem value. Based on this therefore, the United Nations in 1989 adopted the United Nations Convention on the Rights of the Child which Nigeria ratified, and in 2003 this treaty became domesticated known as and called Nigerian Childs Rights Act and same was adopted by some states. However, in spite of the above domestication and adoptions, the treaty generated heated arguments for and against it especially in Nigeria considering its heterogeneity in culture, tribe and religion. There is however, problem as to whether or not children in Nigeria enjoy the rights under the Convention. It is against this background that this study critically examined and appraised Nigeria's obligations under the Convention which was viewed from the legislative angle. In so doing the study adopted both doctrinal and empirical research methodology and at the end of the study, it identified that the enabling legislations are in substantial compliance with the Convention. It however posited that there is lack of implementation particularly with regards to the requirement of establishing institutions that are required for enjoyment of such rights as well as the required facilities and provisions for training of staff running the activities of the institutions. At the end of the study, the research recommended among other things massive sensitization of the general public to be aware of such rights and by extension encourage government to establish the required institutions using the available limited resources.

0.1 Introduction

This paper examined the Legislative obligations of Nigeria under the United Nations Convention on the Rights of the Child, a treaty to which Nigeria is a party having signed same on the 26th November, 1990 and ratified it on the 19th April, 1991.¹

To begin with, it is apt to start by considering the history of human rights of children; thus it can simply be argued that human right of children is a child of different background as evident below.

From Islamic point of view, the idea of human rights of children began from the period of prophet Mohammed (SAW). Prophet Mohammed (SAW) enjoys his followers to find better mothers for their children right from the stage of betrothal. Islam entitles the child to a decent name, education, equal treatment and right to own property, right to inheritance, recreational activities and in some cases participation in armed conflict among other right.²

At common law, children's rights were given birth to in the 17th century during the reigning period of Elizabeth I who championed the promulgation of the second poor law of 1601.³ By the provisions of that law, care of children squarely lies in the hands of their parents and close relatives, and confers on the children

¹ Ladan, M.T Material and cases on Public International Law, Ahmadu Bello University Printing Press Limited, Zaria, Kaduna, Nigeria, 2008 P. 51.

² Al-Asqalani, A.H (2000), Fath al-Bari commentary of Sahih al-Bukhari Vol. 5, Darul Fikr Publication P. 611; Al-Khattab, N. (2000), The ideal Muslim: The True Islamic personality as defined in the Qur'an and Sunnah, International Islamic Publishing House, Riyadh, P. 88 in M.U Abubakar, Federalism and the Nigerian Child Rights Act 2003: between Monolistic and Multi-culturalist approach in BUJPUL Vol.3 No. 1 June 2011 P. 149.

³ Gamble H., (1981), the law relating parent and children, the law Book company limited, Sydney, P. 1 in ibid

right to seek in legal redress in a court of law on occasion of breach. It subjects the children under obligation to cater for their parents and close relatives.⁴ In 1660, another measure was also begotten in line with this direction when the jurisdiction, which was initially given to the king, was extended to the English Court of Chancery by given it protective jurisdiction. The jurisdiction was unlimited to cover all the subject matter bordering on children in the interest of his well-being.⁵

Whereas in America, the idea started in 1779 at the time Hannah More, who in her work emphasized on the need for enlightening the universe with thoughts about the rights of the Children as the next step.⁶

There is also the effort of the likes of Eglantyre Jebb (1879-1928) a British woman, who initiated the save-the-children-fund, and who played a major role in drafting the Geneva Declaration of 1924. The adoption of the Geneva Declaration by the League of Nations later metamorphosed into the United Nations Declaration on the Rights of the Child of 1959.⁷

Another historic event in coming about of the human right of children was the year 1979, being the international year of the child, Poland proposed that a treaty on children's rights be adopted to mark the event, and on the 20th November, 1989, the United Nations General Assembly via Resolution No. A/RES/44/25 adopted the Convention on the Rights of Child, and entered into force on September 7, 1990 the year world summit for children was held.⁸

At the Regional level, African Head of states adopted the African charter on the Rights and welfare of the Child on July 11, 1990 via resolution No. OAU DEC. CAB/LEG/TSG/REV.1, and entered into force on November, 28, 1999.⁹

The Convention on the Rights of Child is what Nigeria ratified, and Nigeria as a country is a product of colonial amalgamation of the Northern and Southern protectorates in the year 1914 which found the country's independence from Britain in 1960.¹⁰ Been a Federal State there exist both Federal and State legislation.¹¹ Nigeria being a state party to the United Nation Convention on the Rights of Child, it has certain obligations which it shoulders under the treaty as well as its two optional protocols on armed conflict and the other on sale of children, child prostitution and child pornography and these obligations are what this work examined. In the process a holistic study of the treaty was embarked into wherein forty two (42) obligations were deduced from the treaty. Nigeria's efforts to discharge the obligation is also ventured into which led us into discovery of the child rights laws of various state and even goes further to point out other legislative measures complimenting the Nigeria's effort in discharging the obligations; the paper has been finally closed with brief conclusion.

0.2 An Examination of the Nigeria's Obligation under the Convention on the Rights of the Child.

Having said that Nigeria is a party to the Convention on the Rights of Child and further added that becoming a party to the treaty subjects states party to certain obligations, it is beyond argument to say that states obligations under the treaty are therefore Nigeria's obligations under the same. Consequently, those obligations are what this segment of the research analyses.

⁴ Ibid

⁵ Ibid P. 2

⁶ Veerman P. (1992) The rights of child and the changing image of childhood, Martin Nijhoff publishers, Netherlands, P.2 in M.U Abubakar (Supra) P. 149

⁷ Papas A.M., (ed) (1983) Law and status of the child, United Nations Institute for Training and Research publications, New York, Vol. 1 P. xv in M.U Abubakar (Supra) P. 150

⁸ Abubakar M.U (Supra)

⁹ Undombana J.N, (2002) "Can Leopard change its spots? The African Union Treaty and Human Rights in American University International Law Review, Vol., 17 No. 6, 2002 P. 1177-1261 at 1181 note 22, in M.U Abubakar (Supra) P. 150

¹⁰ Abubakar MU "Criminal Law and the Rights of the Child in Northern Nigeria" in N. Abiad and F.Z. Mansoor. Ed., criminal Law and the Rights of Child in Muslim States. A comparative and analytical perspective, British institute of International and Comparative law, Charles club house, 17 Rusel square, London, 2010. P. 210.

¹¹ Ibid

The research has identified basically 42 obligations on the states party under the convention out of which 41 of the obligations contain in article 2-42 of the convention are substantive rights which are divided into three categories; as provision, protection and participation rights¹², while the remaining one contains in article 44 is merely an obligation to submit a periodic report to the committee on the rights of child responsible for the implementation of the rights in the convention through the Secretary General on measures adopted in realizing the rights in the convention as well as progress made on the enjoyment of the rights.¹³

The provision rights include the right to an adequate standard of living, the right to adequate health care, the right to free education and the right to legal and social services.¹⁴

Protection rights include protection from discrimination, protection from abuse and neglect, protection from bullying, protection from being kidnapped and safety within justice system¹⁵ participation right include right to freedom of expression, right to have your opinion taken into account when decisions are being made about you, the right to information and the Right to participate in public life.¹⁶

Importantly, all those substantive rights are to be accorded to children in line with the four guiding principles as follows; Non-discrimination,¹⁷ best interest of the child¹⁸ the right to life survival and development¹⁹ and participation.²⁰

Let us now look at the obligation one after the other in line with the three themes highlighted above for ease of reference. It is worthy to mention here that when assessing the Nigeria's compliance with its obligation in the next chapter, the exercise is limited only to protection right as all the obligations covers by this research falls into one or two category of protection right.

2.1 Provision rights

1. Best Interest of the Child

The state party (Nigeria inclusive) is to ensure that all organizations dealing with children whether private or public in all their undertaking the best interest of the children shall be the primary consideration. In this vein the state is to ensure that all institutions services and facilities responsible for the care or protection of children shall conform with the standard established by competent authorities particularly in the areas of safety, health in the number and suitability of their staffs as well as competent supervision.²¹

2. Legislative measure to implement the treaty

The state parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the convention. With regard to economic social and cultural rights, state parties shall undertake such measures to the maximum extent of their available resource where needed within the frame work of international co-operation.²²

3. Parent's or legal guardian has the primary responsibility for the child's upbringing

State parties are mandated to make sure that parents as well as guardian assume common responsibilities for upbringing and development of the child and should always consider what is best for the child. Government should help the parents by providing services and facilities for care of the child to support them especially if both parents work.²³

¹² . Note 1 (Supra)

¹³. See Article 44 UNCRC.

¹⁴ Note 1 Supra

¹⁵ Note 1 Supra

¹⁶ Ibid

¹⁷ Article 2

¹⁸ Article 3

¹⁹ Article 6

²⁰ Article 12

²¹ Article 3

²² Article 4

²³ Article 18

4. State obligations to children with regard to adoption

The state parties have obligation to look into situation of child in adoption by ensuring that the best interest of the child is the first consideration. The same rules should apply whether the adoption takes place in the country where child was born or if he moves to another country.²⁴

5. State obligations to provide child health care services

State parties should recognize the right of child to the enjoyment of the highest standard of health and to facilities for the treatment of illness and rehabilitation of health. The states parties such as Nigeria should take appropriate measures to diminish infant and child mortality, provision of necessary medical assistance, combat disease and malnutrition and to ensure appropriate pre-natal and post-natal health care for mothers.²⁵

6. Children placed in physical or mental health care into health care settings of the right to a periodic review of their circumstances and treatment

The states parties recognize the right of a child who has been by the competent authority for the purpose of care, protection or physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.²⁶

7. Child's right to social security, insurance and benefits

State parties shall recognize for every child the right to benefit from social security, including social insurance and shall take necessary measures to achieve the full realization of this right in accordance with their National Law including financial assistance to children of family in need.²⁷

8. Child's right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

State parties Nigeria inclusive shall recognize the social and economic Right of the children. The parents or others responsible for the child have the primary responsibility to secure within their abilities and financial capacities; the conditions of living necessary for the child's development. This means that a child in Nigeria have a right to a standard of living that is good enough to meet his physical and mental needs. The government should help families who cannot afford to provide this.²⁸

9. Child's right to education

State parties should guarantee that a child has the right to education. Also discipline in schools, should respect children human dignity and worth. Primary education should be free. Wealthy countries should help the poorer countries to achieve this standard.²⁹

10. the goals to which a child's education should be directed and the right of individual adult to establish and direct educational institutions

The state parties agree that the educations of the child must be directed to address among other matters the development of the mental and physical abilities to their fullest potentials; respect for human rights for his or her own culture and other cultures, and above all, prepare the child for responsible life in a free society.³⁰

11. The child's right to rest, leisure and recreational activities

The state parties should ensure the right of child to rest and leisure and to engage in play and recreational activities appropriate to the age of the child and participate freely in cultural life and the arts. Here the Nigerian child has the right to relax; play and join in a wide range of activities.³¹

12. State obligation to promote physical and psychological recovery or child victims of torture, degrading treatment or armed conflict

²⁴ Article 21

²⁵ Article 24

²⁶ Article 25

²⁷ Article 26

²⁸ Article 27

²⁹ Article 28

³⁰ Article 29

³¹ Article 31

State parties shall take all appropriate and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation or abuse torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child. This obligation relates also to armed conflict but in broader sense.³²

13. No part of the convention shall override provisions contained in state laws which are more conducive to children's rights

State parties are mandated to ensure continue existence of National laws and other international laws in force in the state. Parties where their provisions are more conducive and much favourable to the child then the Articles of the convention.³³

14. State obligations to make provisions of the convention widely known

State parties undertake to make principles and provisions of the convention widely known, by appropriate and active means to adults and children alike.³⁴

2.2 Protection rights

1. Children must be protected from discrimination

State party shall respect and ensure the rights under the convention to each child within its jurisdiction without discrimination of any kind including taking measure to protect children under their jurisdiction against any form of discrimination or punishment on the basis of status, activities expressed opinions or beliefs of the child's parental guardians or family members.³⁵

2. The right of Parents

The location of the child in the family is hereby asserted. In this vein, the states parties are mandated to respect the responsibilities, rights, and duties of parent/guardians and to take into account that the family could in a wider sense include the extended family itself³⁶ Nigerian as a party thereto is bound to comply with this directives.

3. Right to life

The state parties are obliged to protect the right of the child to life and ensure the maximum extent of survival and development.³⁷ Nigeria has this obligation under the convention to ensure that children in its jurisdiction have the right to survive and develop healthily.

4. The child's right to birth and registration

The state parties are under a duty to protect right of a child to registration at birth, right to name and acquire nationality and be cared for by his parents in accordance with the National Law and under the convention.³⁸ Nigeria as a party thereto owed this obligation to children.

5. The Child's right to a name, nationality and family relation

The state parties shall undertake to respect the right of the child to maintain his or her identity including nationality, name and family relations without any interference and the state shall provide a remedy with view to its restoration in case of breach.³⁹

6. Child's right not be separated from his or her parents against the child's will

The state parties are obliged to ensure that a child should not be separated from his or her parents against their will, except when competent authorities subject to judicial review determines in accordance with applicable laws and procedures, that such separation is necessary for the best interests of the children, and in any proceedings above, all interested parties shall be given an

³² Article 39

³³ Article 41

³⁴ Article 42

³⁵ Article 2

³⁶ Article 5

³⁷ Article 6

³⁸ Article 7

³⁹ Article 8

opportunity to participate in the proceedings and make their views known⁴⁰ Nigeria also bears this obligation.

7. The child's right to maintain contact with both parent if they separate

State parties are mandated to in line with the obligation in article 9 above, to treat application to enter or leave a state party either by his or her parents for the purpose of family reunification in a positive, humane and expeditious manner.⁴¹

8. Measures against the illicit transfer of children

State parties (Nigeria inclusive) should take steps to stop children from being taken out of their own country illegally, to this end state parties shall promote the conclusion of bilateral or multilateral agreement or accession to existing agreements.⁴²

9. The child's right to privacy

The state parties to ensure that children within their jurisdiction (e.g. Nigerians) are given rights to private and family life; to this end no child should be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.⁴³

10. State obligations to protect children against maltreatment and abuse

State parties shall take all appropriate legislative, and administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or sexual abuse while in the care of parents, legal guardians or any other person who has the care of the child, Nigeria inclusive.⁴⁴

11. State obligations to protect children temporarily or permanently deprived of their family environment

It mandates the states parties to grant special protection to child deprived of his or her family environment which covers foster placement, adoption or if necessary placement in suitable institutions for care of children.⁴⁵

12. State obligations to children who are classed as refugees

The convention here places a duty on the states parties in relation to a refugee status of a child. In that a child who has come into a state party e.g. Nigeria as a refugee should have same rights as children born in that states.⁴⁶

13. State obligations to children who mentally or physically disabled

This obligation relates to the rights of mentally or physically disabled children. Here states parties like Nigeria should ensure that children with disability should receive special care and support so that they can live a full and independent lives.⁴⁷

14. The right of children belonging to ethnic, religious or linguistic minority groups

State in which ethnic, religious or linguistic minorities or person of indigenous origin exist, a child belonging to such minority or who is indigenous shall not be denied the right in the community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion or to use his or her own religion or to use his or her own language.⁴⁸

15. The child's right to be protected from economic exploitation

The state parties should ensure that the rights of a child to be protected against economic exploitation and from performing work that is likely to be hazardous or to interfere with the child's

⁴⁰ Article 9

⁴¹ Article 10

⁴² Article 11

⁴³ Article 16

⁴⁴ Article 19

⁴⁵ Article 20

⁴⁶ Article 22

⁴⁷ Article 23

⁴⁸ Article 30

education or to be harmful to the child's health or physical, mental, spiritual, moral or social development.⁴⁹

- 16. State obligations to protect children from the illicit use of narcotic and psychotropic drugs**
State parties Nigeria inclusive shall take all appropriate measures including legislative, administrative, social and educational to protect children from illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.⁵⁰
- 17. State obligations to protect children from sexual exploitation and sexual abuse**
State parties are required to perform a number of duties to ensure children do not take part in unlawful sexual activities and are not involved in prostitution or pornography.⁵¹
- 18. State obligations to prevent the abduction or trafficking of children**
State parties shall take all appropriate measures national, bilateral and multilateral to prevent the abduction of the sale of or traffic in children for any purpose or in any form. It means state party, Nigeria for example must ensure that children are not abducted or sold.⁵²
- 19. State obligations to protect children from all other forms of exploitation prejudicial to the child's welfare**
The state parties should protect the child against all other form of exploitation prejudicial to any aspects of the child's welfare.⁵³
- 20. State obligations to ensure that children are not subjected to torture, inhuman or degrading treatment or punishment**
This obligation relates to various due process that concern with sentencing, trial, criminal law affecting children in conflict with the law. It requires that state parties must ensure that right to personal liberty of a child, freedom from torture and access to legal and other assistance by a child is protected except in some cases permitted by law.⁵⁴
- 21. State obligations to ensure that children under 15 years do not take a direct part in wars or other hostilities**
State parties should conform with the international humanitarian law affecting children in armed conflict to the extent that children in war zones receive special protection proscribed are the involvement of children below the age of 15 into armed conflicts and recruiting into their armed forces children below 15.⁵⁵
- 22. State obligations concerning children who infringe penal laws**
This contain the expansion in a wider sense the rights of the child in criminal justice system. It states that states parties must ensure that children accused of breaking law should receive legal help and prisons sentences for children should only be used for the most serious offences. In criminal trial of a child, the offence must be known to law at the time it was committed, the child is presumed to be innocent until contrary is proved, be informed promptly in the language he understands the charge against him, right to fair hearing, not be compelled to give testimony or confess his guilt.⁵⁶

2.3 Participation right

1. The child's right to be heard in any judicial and administrative proceedings

State parties shall guarantee due process right or right to be heard for a child capable of forming his opinion⁵⁷ Nigeria is equally to guarantee this right to child.

⁴⁹ Article 32

⁵⁰ Article 33

⁵¹ Article 34

⁵² Article 35

⁵³ Article 36

⁵⁴ Article 37

⁵⁵ Article 38

⁵⁶ Article 40

⁵⁷ Article 12

2. The child's right to freedom of expression

State parties shall also guarantee the classic civil liberties to a child. In this vein, a child has the right to get and share information as long as the information is not damaging to the child or others⁵⁸ Nigerian is not an exception.

3. The child's right to freedom of thought

State parties shall guarantee children right to freedom of thought, conscience and religion and qualifies by the right of the parents to provide direction to the child and further limited by derogatory provision of any law reasonably enforce to protect public safety, order, wealth, or morals or fundamental Rights and freedom of others⁵⁹ Nigeria inclusive.

4. The child's right to freedom of association

The state parties (Nigeria inclusive) shall recognize and protect right of child to freedom of association and to freedom of peaceful assembly which may be restricted by the limitations imposed by law which are necessary in a democratic society in the interest of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedom of others.⁶⁰

5. The child's right to information from national and international media

The state parties are to ensure that a child has the right to information from the mass media. Information such as from television, radio and newspapers should be given to a child in a manner understood by him and should not promote the information or material that could harm the child⁶¹ Nigeria is not an exception.

2.4 Reporting

The state parties undertake to submit reports to the committee on the right of child, through the Secretary General of the United Nations, report on measures they have adopted which give effect to the rights recognized in the convention and the progress made on the enjoyment of those rights within two years of entry into force of the convention for the state party concerned; thereafter every five years. These reports must be made widely available to the public by the state parties in their countries.⁶²

0.3 Nigeria's Efforts in the Discharge of its Obligations under the Convention.

Nigeria is a product of amalgamation of the Northern and Southern protectorates created in 1914 which gave birth to the nation's independence from Britain in 1960.⁶³ It is a federal state comprising 36 states and the federal capital territory Abuja as the centre and therefore there exist both Federal and State legislation.⁶⁴ Due to difference background among states and the peculiarity of the nature of their independence politically, culturally and economically, different laws and circumstances apply to different states causing a higher degree of disparity.⁶⁵

With regard to the Convention on the Rights of Child been a treaty, Nigeria has to follow a certain special procedure for its domestication.⁶⁶ This is because Nigeria is dualist state with regard to application of treaties.⁶⁷ Therefore, for a treaty to have application in Nigeria both Federal and state legislature must take step to enact same. Where the treaty is intended to have National force, the bill for its enactment shall not be

⁵⁸ Article 13

⁵⁹ Article 14

⁶⁰ Article 15

⁶¹ Article 17

⁶² Article 44

⁶³ Abubakar M.U (Supra) Note 7

⁶⁴ Ibid

⁶⁵ Ibid

⁶⁶ Section 12 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) Cap. C20 LFN 2004).

⁶⁷ A Treaty does not have automatic force upon its ratification unless same is domesticated; section 12(1) of the 1999 Constitution.

presented to the President for assent by the national assembly, unless it is ratified by a majority of all the house of assembly in the federation⁶⁸ otherwise it will only apply to the Federal Capital Territory Abuja,⁶⁹ and each state is expected to take step toward enacting its laws. This is in addition to the fact that issue of child rights protection does not fall within the exclusive legislative list constitutionally, reserved for the national assembly to legislate in respect thereof⁷⁰ therefore impliedly considered as that part of residual list which the constitution empowers state government to legislate in respect thereof. At the federal level, Nigeria had with UNICEF support, took the important step of domesticating the Child Rights Act into a national law: A draft child's rights bill was passed by the national assembly in July, 2003 and the President of Nigeria Chief Olusegun Obasanjo, assented to it in September, 2003 and it was promulgated as the Child Rights Act 2003.⁷¹ The Act therefore has application in FCT since 2003.

At the states level, since the Child Rights Act was passed into law, only 24 states have initially both passed and given governor's assent to child's rights laws in their states.⁷² This means that millions of children in 12 states in Nigeria still do not have the appropriate legal framework for the protection of their rights.⁷³

The 24 states that promulgates into law the child right's law in Nigeria are Abia, Akwa-Ibom, Anambra, Benue, Cross River, Delta, Ebonyi, Edo, Ekiti, Imo, Jigawa, Kwara, Lagos, Nassarawa, Ogun, Ondo, Osun, Oyo, Platue, Rivers, Niger, Bayelsa, Kogi and Taraba.⁷⁴

While the remaining twelve (12) states that never adopt the law are; Adamawa, Bauchi, Borno, Enugu, Gombe, Kaduna, Kano, Katsina, Kebbi, Sokoto, Yobe and Zamfara.⁷⁵

It is important to note here that the Child Rights Act 2003 structurally incorporates all the rights and responsibilities of children; consolidates all laws relating children into a single law and specifies the duties and obligations of government, parents and other authorities organizations and bodies.⁷⁶

3.1 Basic Provisions of the Child Rights Act Relative to the Nigerians Obligation under UNCRC

The Child Rights Act categorically states that the best interest of the child shall remain paramount in all consideration.⁷⁷ A child is to be given protection and care necessary for his wellbeing.⁷⁸ A child retains the right to survival and development⁷⁹ and to a name and registration at birth,⁸⁰ and shall be given such protection and care necessary for his or her wellbeing.⁸¹

The Act also provides freedom from discrimination on the grounds of belonging to a particular community or ethnic group, place of origin, sex, religion, the circumstances of birth, disability, deprivation or political opinion.⁸² According to the Act, the dignity of child should also be respected at all times.⁸³ No child shall be subjected to physical, mental or emotionally injury, abuse or neglect maltreatment⁸⁴ torture in human or

⁶⁸ Section 12(3) of the Constitution

⁶⁹ Section 12(1) of the Constitution

⁷⁰ See part I to the 2nd schedule of the constitution

⁷¹ NJOKU G. "25 years of Children's Rights in Nigeria, in Daily Trust News Paper, Sunday, 5 April, 2015 P.1.

⁷² Ibid

⁷³ Ibid

⁷⁴ UNICEF Document, available at <http://www.unicef.org/nigeria/childrightslegislationinnigeria>. last visited on [17/10/2015](#) at 2:40pm.

⁷⁵ Ibid

⁷⁶ UNICEF documents, UNICEF Nigeria- Fact sheet, Child Right Legislation in Nigeria available at www.child-rights-legsit-in-Nigeria-2-pdf, visited on 13/11/2015 at 5:00am.

⁷⁷ Child Rights Act 2003, Cap C50 LFN 2004, Sec. 1

⁷⁸ Sec. 2

⁷⁹ Sec. 4

⁸⁰ Sec. 5

⁸¹ Sec. 14

⁸² Sec. 10

⁸³ Sec. 11

⁸⁴ Sec. 11(b)

degrading treatment or punishment,⁸⁵ attack on their honour or reputation.⁸⁶ Every child shall be entitled to rest, leisure⁸⁷ and enjoyment of the best attainable state of physical, mental and spiritual health.⁸⁸ Every government in Nigeria shall strive to reduce infant mortality rate, ⁸⁹ provide medical and health care⁹⁰ adequate nutrition and safe drinking water⁹¹ hygienic and sanitized environments⁹² combat diseases and malnutrition⁹³ and support and mobilize through the local and community resources, the development of primary health for children.⁹⁴

All these are available provisions in the Act for children in need of special protection measures. These children shall be protected and respected in a manner that enables them to achieve their fullest and possible social integration and moral development.

In the same token, expectant and nursing mothers shall be catered for and every parent or guardian with legal custody of a child under the age of two years shall ensure his or her immunization against diseases or face judicial penalties.⁹⁵ Causing tattoos or marks as well as genital mutilation for female are punishable offences under the Act.⁹⁶

Exposure of children to pornographic materials, trafficking of children, their use of narcotic drugs,⁹⁷ or use of children in any criminal activities⁹⁸, abduction and unlawful removal or transfer from lawful custody is also punishable under the Act.⁹⁹ Employment of children as domestic helps outside their own homes or family environments.¹⁰⁰ Child abduction and forced exploitative labour (which is not of a light nature) or in an industrial undertaking are also offences under the Act.¹⁰¹ The exceptions to these provisions are where the child is employed by a family member, in work that is of an agricultural or domestic nature, and if such a child is not required to carry or move anything heavy that is likely to adversely affect his moral, mental, physical, spiritual or social development.¹⁰²

Also, buying, selling, hiring or otherwise dealing in children for the purposes of begging, hawking, prostitution or unlawful immoral purposes are made punishable by long term imprisonment.¹⁰³ Other grievous offences under the Act includes, sexual abuse¹⁰⁴ general exploitation which is prejudicial to the welfare of the child, recruitment into the armed force,¹⁰⁵ and importation and exposure of children to harmful publications¹⁰⁶ It also contain abundant provisions for care and supervision of a child in part VI of the Act.¹⁰⁷

⁸⁵ Sec 11(c)

⁸⁶ Sec. 12

⁸⁷ Sec. 12(A)

⁸⁸ Sec 13 (1)

⁸⁹ Sec 13(3)(a)

⁹⁰ Sec. 3(3)(b)

⁹¹ Sec 13(3)(c)

⁹² Sec. 13(3)(d)

⁹³ Sec. 13(3)(e)

⁹⁴ Sec. 13(3)(g)

⁹⁵ Sec. 13(4) and (5)

⁹⁶ Sec 24

⁹⁷ Sec. 25

⁹⁸ Sec. 26

⁹⁹ Sec. 27

¹⁰⁰ Sec. 28

¹⁰¹ Sec. 28(2)

¹⁰² Sec. 28(1)(b)(c) and (d)

¹⁰³ Sec. 30

¹⁰⁴ Sec, 32

¹⁰⁵ Sec. 34

¹⁰⁶ Sec. 35

¹⁰⁷ Sec. 53-62

It contains numerous provisions for adoption of child.¹⁰⁸ To safeguard the interest of the child, particularly children in conflict with the law, the Child Rights Act establishes family court and confers on it an exclusive jurisdiction to hear matters involving children, and in doing so it must make sure that trial of children must be conducted in camera.¹⁰⁹ It also mandates every states in Nigeria to establish and secure a home known as community homes for the care and accommodation of children looked after by it and for the welfare of the child whether or not looked after by it.¹¹⁰

It also mandates state government support programmes welfare of children.¹¹¹ The Child Rights Act also guarantees to a child all the fundamental rights enshrined under chapter IV of the Constitution of the Federal Republic of Nigeria 1999 (as amended).¹¹² Fundamentally also, at the state levels all the 23 states in the Federation that so far domesticated the Act, the provision of their child Rights Laws have significantly similar provisions as that of the Nigeria's Child Rights Act *mutatis mutandis*. That been so it will sounds extraneous to reproduce the wording of the laws, since the mother law which is the Nigeria's Child Rights Act 2003 discussed above has abundantly covered the field, the rest been its distillation.

3.2 Other Legislative Measures Taken by Nigeria, aim at discharging its Obligation under the Convention

The Convention on the Rights of Child requires a state party to upon its ratification take appropriate measure by enacting and also reforming its existing laws relating to children, to bring them in line with the convention, on these premises, Nigeria as well as some states that domesticated the Act, enacted the following laws in addition to the child rights Act and the child rights law of the states.¹¹³

- 1) The Anti-human trafficking Act in July, 2003.
- 2) Various states legislations addressing child rights including Ebonyi State Law on abolition of harmful and traditional practices against women and children (2001); Edo State female genital mutilation prohibition Law (2000); Cross River state girl child, (Prohibition) Law (2000).
- 3) The ratification of African Charter on the Rights and welfare of child 2001.

4.0 Conclusion

From the foregoing discussion, one can assert with ease, that Nigeria is a party to the United Nation's Convention on the Rights of Child, an international instrument ratification of which subjects a state party to certain obligations in numerous measures which are legislative administrative supervisory and even judicial aim at protecting the rights of child. One can simply add that in line with its international obligations under the convention, Nigeria enacted the Child Rights Act in 2003, which reflects on the provisions of the Convention on the rights of child as well as its two optional protocols;¹¹⁴ in addition to its already existing law concerning the rights of child, which prove to be favourable to child. It was also found in the chapter that twenty four (24) out of thirty six (36) state in Nigeria that domesticated the Act also have their own child rights law which provisions are similar to that of the Child Rights Act.

Similarly, to complement and add to its effort in complying with the obligation, Nigeria as well as some state in the Federation in addition to its existing laws all enacted some legislation guaranteeing Rights of Child.

It was also pointed out that the obligations in the convention on the Rights of Child mandate state parties to establish certain institutions, and take some measure, administrative, legislative, judicial, and supervisory

¹⁰⁸ See Part XII

¹⁰⁹ Part XIII

¹¹⁰ Sec. 186

¹¹¹ Part XV

¹¹² Sec. 110

¹¹³ Concluding observations and Recommendations on Nigeria's 2nd periodic reports, on the united Nations convention on the Rights of Child, Tonem Publicity and Publication Ltd., Nigeria 2005 P. 3-4.

¹¹⁴ Optional Protocol to the convention, prohibiting sale of child, child pornography and prostitution, and the optional protocol to the convention, prohibiting involvement of Child into Armed conflict.

which the Child Rights Act also demanded for their existence, and from the content of this chapter one can glaringly see that the legislative measures had already been taken by Nigeria and states that enacted the child rights law.

5.0 Recommendations

- 5.1 It hereby recommends that non-governmental organizations, civil society organization and individual should engage a mass media campaign with a view to giving the importance of the existence of the child rights as well as required institutions a very wide publicity and convince general public and government into believing the existence of same thereby influencing government into paying much attention in the area. There is therefore a collective responsibility in which all hands must be on desk to see to it that the institutions are put in place and equipped with the needed facilities
- 5.2 . It is finally recommend that juvenile institution or rather child detention centers in Nigeria should adopt treatment/rehabilitative institution approach rather than obedient/conformity oriented as they are presently constituted.

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