



EXAMINATION OF THE LEGAL FRAMEWORK FOR THE PROTECTION OF THE RIGHTS OF THE CHILD AND THE IMPACT OF TERRORISM ON CHILDREN'S RIGHTS IN NIGERIA

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Abstract

This paper examines the legal framework governing the rights of a child, as well as the impact of terrorism on the rights of children in Nigeria. This research has become necessary because, most of the time when terrorist acts are carried out in any part of the country, the rights of human beings, especially children, are always violated, despite the existence of the legal framework for the protection of their rights. Thus, using the doctrinal research methodology, this paper examines the legal framework for the protection of the rights of a child in Nigeria. In a similar vein, it examines the impact of terrorism on the child's rights and analyses the fate of the child in situations when these rights are being trampled upon as a result of the activities of terrorists. The powers and roles of the institutions saddled with the responsibility of protecting the rights of the child are equally be examined. The lacunae in the laws are laid bare and practical recommendations are proffered for the purpose of protecting the rights of the child in the current terrorism infested Nigeria.

Key Words: Legal, Framework, Protection, Rights, child, Terrorism

Introduction

Children are the most vulnerable in the society. That is why they should be protected and given all forms of support by both national and international communities. Their vulnerability is evident in the fact that, for years, the international community has had to make great efforts to put in place declarations and conventions for the protection of the rights of the child. Some of these conventions include: The Declaration of Geneva on Children's Rights 1924 (Geneva Declaration), United Nations Declaration of Human Rights (UDHR), Declaration on the Rights of a Child, 1959 (1959 Declaration), The United Nations Convention on the Rights of the Child (UNCRC), amongst others. Through the effluxion of time, many civilised nations decided to also put in place mechanisms for the protection of the rights of the child. In Nigeria, Chapter Four of the Constitution of the Federal Republic of Nigeria, 1999, as amended, makes provision for the protection of fundamental rights of all citizens. Specifically, the National Assembly

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of Nigeria, in line with the Constitution enacted the Child Rights Act, 2003, which principally deals with the issues that concern the protection of the rights of the child. Many States in Nigeria have domesticated the Child Rights Act, 2003, in their States, for the purpose of protecting the rights of the Child.

However, despite the existence of the Child Rights Act and other mechanisms for the protection of the rights of the child, the rights are still being trampled upon. The situation is worst when terrorism is involved. In fact, instances abound where children are being arrested, beaten up and imprisoned for alleged involvement in terrorism, amongst others, hence the need to strengthen the legal framework for the protection of the rights of the child and to find a lasting solution to the issues at stake.

Definition Of Key Terms i. Child

A child is defined as any individual below the age of 18 years.² This definition is in line with the United Nations Convention on the Rights of the Child,³ which Nigeria has ratified. The Nigerian government recognizes the importance of protecting the rights and well-being of children, and various laws and policies have been put in place to safeguard their interests.

It is important to note that while the legal definition of a child in Nigeria is below the age of 18, cultural and traditional practices may vary within different communities. However, the overarching goal is to prioritize the well-being and development of children, regardless of their age or background.

ii. Terrorism

Bassiouni, defines terrorism as ‘ideologically motivated strategy of internationally proscribed violence designed to inspire terror within a particular segment of a given society in order to achieve a power-outcome or to propagandize a claim or grievance irrespective of whether its perpetrators are acting for and on behalf of themselves or on behalf of a state.’⁴

Nwatu and Ogbuagbor⁵, in their work quoted the definition of terrorism as contained in Section 46 of the Economic and Financial Crimes Commission’s Act (EFCC’s Act) as follows:

- a. Any act which is a violation of the Criminal Code or the Penal Code and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to any person, any number or group of persons or cause or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:

¹ Section 277 of the Act which is also the Interpretation section of the said Act.

² *The Convention was passed in 1989.*

³ Bassiouni, M.C., ed. *Legal Responses to International Terrorism: US Procedural Aspects* (Dordrecht, Netherlands: MartinusNijhoff,1998), cited in Nikhil, N., ‘International Human Rights and Terrorism: Rethinking the General Principles of International Law’, being a paper presented at the XVI Congress of the International Association of Democratic Lawyers at Paris, June from 7 to 11, 2005, <<http://www.iadllaw.org/.../INTERNATIONAL%20HUMAN%20RIGHTS%AN...>>, accessed 8th June, 2019.

⁴Nwatu, S.I. and Ogbuabor, C.A., Op. Cit at 15.

- i. Intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing an act, or to adopt or abandon certain principles; or
 - ii. Disrupt any public service, the delivery of any essential service to the public or create a public emergency; or
 - iii. Create general insurrection in a state.
- b. Any promotion, sponsorship of, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organizing, or procurement of any person, with the intent to commit any act referred to in paragraph (a)(i) to (iii).

iii. Rights

Cranston⁵ defines rights are collectively viewed as ‘something of which no one may be deprived without a great affront to justice.’ He adds that “There are certain deeds which should never be done, certain freedoms which should never be invaded, some things which are suppressively sacred.”⁶ From the above definition, it is obvious that there are a plethora rights known as human rights. However, these rights will only crystalise into being fundamental rights if they are recognised by, and enshrined in the Constitution. The Constitution of the Federal Republic of Nigeria, 1999, as amended from section 33 to 44 makes provision for fundamental rights. Because children are also human beings, they are entitled to the enjoyment of these rights as recognised by the Constitution and the specifically provided for in the Child Rights Act, 2023.

1. The Laws That Protect the Right Of A Child In Nigeria i. The Constitution of the Federal Republic of Nigeria, 1999 (as amended)

The Constitution of the Federal Republic of Nigeria, 1999 (as amended) is the grundnorm and the *fons et origo* of all other laws in Nigeria. In fact, it is the supreme law of the land, to which all other laws kowtow and gauge their validity.⁷ For any other law in Nigeria to be valid, it must be determined from the standpoint of the Constitution.⁷ Although Section 3 of the Child’s Right Act adapts the provision of the

⁵ The above views of Cranston were cited in Gasiokwu, M. U. O., *Human Rights: History, Ideology and Law* (Mono Expressions Ltd 2001) 1.

⁶ Ibid.

⁷ *A-G, Lagos State v A-G, Federation* [2004] 18 NWLR (Pt. 904) 1 SC; *Hon. Muyiwa Inakoju & 17Ors v. Hon Abraham Adeolu Adeleke&3Ors.* [2007] NGSC55, *ANPP v IGP* (2006) CHR 181.

⁹ *Abbas v Mustapha & Ors* (2023) LPELR-59814 (CA).

¹⁰ Emelonye U., “Normative Evolution of Child Rights in Nigeria”, *Journal of Advance Research in Social Science and Humanities* (ISSN: 2208-2387)

<<http://nnpub.org/index.php/SSH/article/view/870>>accessed on 12th April, 2024.

¹¹ Ibid

¹² Emelonye, Uchenna, "Proportionality and Best Interests: Calibrating the Twin Pillars of Child Justice in Nigeria" (2014) *University of Helsinki*:25, <https://www.academia.edu/68193498/Proportionality_and_Best_Interests_Calibrating_the_Twin_Pillars_of_Child_Justice_in_Nigeria>accessed 12th April, 2024.

Constitution on the fundamental rights of citizens generally, and this ordinarily involves the right of a child, there are defects in the Constitution itself, respecting the protection of the right of a child.

First and foremost, section 17(2)(f) of the Constitution provides that the government would ensure that children, young persons and the aged are protected against any exploitation, whatsoever, and against moral and material neglect. In a similar vein,

section 18(3) (a-b) of the Constitution provides generally that the government shall strive to eradicate illiteracy. Thus, it shall, as and when practicable provide free, compulsory and universal primary education; and free secondary education; inter alia. When one critically consider the foregoing provisions against the backdrop of the provision of section 6(6)(c) of the Constitution, which makes the whole social, economic and cultural rights in Chapter II nonjusticiable and unenforceable, it becomes obvious that the right of a child would continue to remain utopian.⁹

Secondly, Emelonye¹⁰ notes that the Constitution of the Federal Republic of Nigeria, 1999, as amended, appallingly, did not prioritise the matter of child's right in particular or human rights in general, as neither of the two were deemed fit or important to be placed as an item in either the Exclusive or Concurrent legislative list. Again, the author notes that both the 1999 Constitution itself, and the mode in which the Child Rights Act was enacted under the Constitution were grossly defective, particularly when it is considered that it was enacted under Section 299(a) of the Constitution of the Federal Republic of Nigeria, 1999, as amended, which limits the application of the Child Rights Act to the Federal Capital Territory, Abuja, with an option for states to adopt or domesticate it into their own laws.¹¹

Thirdly, it is fundamental to note that section 12 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) is a hindrance to domestication of international and regional treaties like the UNCRC and the Children's Charter. State governments in Nigeria are also given the leverage to abscond their obligations to the child under such treaties and regimes, using religion and culture as pretexts. The reason is, under the said section 12 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the first impediment is that the National Assembly may make laws for the Federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty. However, such bill had to be ratified by a majority of all the House of Assembly in the Federation before it can be presented to the president for assent. How then was the Child's Rights Act domesticated? Section 299 (a) Constitution of the Federal Republic of Nigeria, 1999 (as amended) provides; the provisions of this Constitution shall apply to the Federal Capital Territory, Abuja as if it were one of the States of the Federation; and accordingly "All the legislative powers, the executive powers and the judicial powers vested in the House of Assembly, the Governor of a State and in the courts of a State shall, respectively, vest in the National Assembly, the President of the Federation and in the courts which by virtue of the foregoing provisions are courts established for the

Federal Capital Territory, Abuja."

Thus, since these powers vest in the National Assembly and the President, Emelonye¹² records that the National Assembly circumvented the provisions of section 12(2) by enacting the Child's Right Act under the above section 299(a). This is against¹²

the backdrop of the fact that the bill was first introduced in 2002, but did not pass because of opposition from the Supreme Council for Shari'a. So, it was officially signed into law in 2003 by the Former President Chief Olusegun Obasanjo as the Child's Rights Act 2003, in large part because of the media pressure that national stakeholder and international organisations put on the National Assembly.¹³

ii. The Child's Right Act, 2003

This Act was enacted in 2003 by the National Assembly to serve as a legal documentation for the protection of the rights of children in Nigeria.¹⁴ It recognises the rights of children, restores their confidence and self-esteem and improves their status.¹⁵ The Act has 278 sections, 24 parts and eleven schedules. The Child's Right Act incorporates all the rights and responsibilities of children and specifies the duties and obligations of government, parents and other authorities, organisations and bodies. The law has three primary purposes: to incorporate the rights of the United Nations' Convention on the Rights of a Child and the Children's Charter into the national law, to provide the responsibilities of government agencies associated with the law and to integrate children-focused legislation into one comprehensive law.⁸ Part I of the Act provides that in every action concerning a child, the best interest of a Child shall be the paramount consideration. It provides further that a child shall be given protection and care necessary for his well being while taking into account the rights and duties of the child's parents, legal guardians, or other individuals, institutions, services, agencies, organizations or bodies legally responsible for the child.¹⁷ Part II of the Act provides for the rights and responsibilities of a child.⁹ It specifies that the chapter IV of Constitution of the Federal Republic of Nigeria, 1999 (as amended) and any other Federal Law which details fundamental rights should be seen as being part of the act. This part contains the rights, freedoms and responsibilities of children. It goes on to state specific rights for children including the right to: survival, a name, family life, private life, dignity, recreation, cultural activities, health services, and education.¹⁰

¹³Ibid. See also Ogunniyi D, 'The Challenge of Domesticating Children's Rights Treaties in Nigeria and Alternative Legal Avenues for Protecting Children' *Journal of African Law* (2018) (62) 447–470
<<https://www.cambridge.org/core/journals/journal-of-africanlaw/article/challenge-ofdomesticating-childrens-rights-treaties-in-nigeria-andalternative-legal-avenues-forprotectingchildren/AF4EFC026AAF73D8FE51920C1BC11543> accessed 12th April, 2024.

¹⁴Etagbemukwe, F. E., 'The Legal Protection of Child's Rights in Nigeria: A Comparative Study with Some Foreign Jurisdiction', (being a research project submitted to the Faculty of Law, Lagos State University, Ojo Lagos on the.....) 37.

¹⁵Ibid.

¹⁶ Achilihu, S N, *Do African Children Have Rights?: A Comparative and Legal Analysis of the United Nations Convention on the Rights of the Child* (Universal-Publishers 2010)

¹⁷Sections 1-2 of the Child's Right Act, 2003.

¹⁸Ibid. Section 19. Note that section 19 of the Child's Right Act is *impar material* with the provision of Article 31 of the Children's Charter.

¹⁹ Ibid, Sections 2-30.

Part III of the Child's Right Act deals with protection of the rights of the child. These include protection from child marriage as well as the punishments for the act to the adult parties involved. Other protections include: not being harmed (including being marked with tattoos) or from sexual violence, being shielded from exploitative labour, or being enlisted in any military operation.¹¹ Part IV also provides for the reasons for which a child assessment order may be sought as well as the reasons and duration for which emergency protection orders shall be given to a child. It is also made clear the obligations of a state government when it is disclosed to that institution that a child is being harmed.¹² Part V of the Child's Right Act outlines the ways and manner in which a court must proceed after a child assessment order is made. It indicates the circumstances in which a child shall be brought to court in order to determine if they need protection. This part also stipulates the type of person who shall be allowed to make such a decision using the guidelines detailed in this part.¹³ Part VI provides for the making of care and supervision orders which are structured to place children in need of care and protection in the care of a designated person, appropriate authority or state government for the purpose of safeguarding or promoting the welfare of the child. The Supervision Orders may be inclusive of Education Supervision Orders.¹⁴

Part VII allows for the court to make use of paternity tests in order to make decisions in civil proceedings when it is unclear who the parents of a child are.¹⁵ Part VIII indicates how decisions should be made about custody of a child.¹⁶ Part IX provides in detail who is allowed guardianship and the ways in which guardianship may be transferred from one adult to another over a child.¹⁷ Part X specifies how a child becomes a ward of the court, that there may be payments required of a previous guardian for the "maintenance" of their child, and the rules regarding how a child may be released back into the custody of a guardian.¹⁸ Part XI- sets out the circumstances in which a child may be fostered, the way in which an adult may apply to foster a child, and the rules the adult fostering the child must adhere to.¹⁹ Part XII- mandates that each state of Nigeria create a system for adoption services. This section also outlines the process of applying for adoption and stipulates that the person wishing to adopt a child must reside within the state that the child already lives.²⁰ Part XIII- establishes a system of family courts with two levels, establishes a right to legal counsel for all children, and devises safeguards (such as the withholding of the child's name, school pictures or any identifying features) within a trial, which are meant to protect the child.²¹

²⁰ Ibid, Sections 21-40.

²¹ Ibid, Sections 41-49.

²² Ibid, Sections 50-52.

²³ Ibid, Sections 53-62.

²⁴ Ibid, Sections 63-67.

²⁵ Ibid, Sections 68-81.

²⁶ Ibid, Sections 82-92.

²⁷ Ibid, Sections 93-99.

²⁸ Ibid, Sections 100-124.

²⁹ Ibid, Sections 125-148.

³⁰ Ibid, Sections 149-162.

Part XIV- requires that every state creates a registry which shall track the names of the children being supervised as well as the names of the individual nannies or day care providers who are tasked with watching the children. These provisions also grant the government the power to inspect any premise in which “child minding” occurs.²² Part XV- sets out the instances where a state's government is required to step in to protect the welfare of children.²³ Part XVI-XVIII - specifies the types of housing that may be established to house children: community homes (or housing for children who are under the care of the government or not), voluntary homes, and registered children's homes.²⁴ Part XIX- establishes that a minister may grant the inspection on children's homes for the reasons listed in the clause.²⁵ Part XX- guarantees children the right to privacy in the court system. It is also vivid from this part that children are to be tried through the child justice system and not the courts where adults are tried. It indicates that within the Nigerian Police Force, there must be individuals trained specifically to handle children. From a child's arrest to their treatment in an institution, this part outlines the procedures.²⁶ Part XXI- indicates the ways in which “supervision officers” are appointed as well as the duties of the specially appointed officers.³⁶ Part XXII- provides that this act allows for the minister to create specific institutions meant to meet the needs of children. These centres refer (but are not limited to): Children Residential Centres, Emergency Protection Centres, and a Children Correction Centres.²⁷ Part XXIII- establishes the National Child Rights Implementation Committee which must consist of one representative from fourteen of Nigeria's government bodies. The function of the committee is to take actions which will lead to the compliance with the Child’s Rights Act itself as well as other human rights treaties Nigeria has signed onto.²⁸ Part XXIV- is named as “miscellaneous” and touches on some of the legal implications any corporations may face for not following this act. Further, this part also defines terms.²⁹ Therefore a child as defined by the Child’s Rights Act is any person under the age of 18.³⁰ In all, we see the provision of a well detailed legal document legitimizing the rights of the child in Nigeria and guaranteeing for the same all his or her ascertainable civil, political, social or economic rights. Flowing from the forgoing provisions, the Act has some lacunae. Apart from the problem of domestication, which as of 2016, Enugu was reputed to be the 25th State of 36 States in Nigeria that has domesticated the Child’s Rights Act into its laws; it is also conspicuous that the abuse of Female Genital Mutilation (FGM) is nowhere provided for in the Child’s Rights Act.⁴¹

³¹ Ibid, Sections 163-170.

³² Ibid, Sections 171-185.

³³ Ibid, Sections 186-197.

³⁴ Ibid, Sections 198-203.

³⁵ Ibid, Sections 204-238.

³⁶ Ibid, Sections 239-246.

³⁷ Ibid, Sections 247-259.

³⁸ Ibid, Sections 260-270.

³⁹ Ibid, Sections 272-279.]

⁴⁰ Ibid, Section 277.

Secondly, Aja Nwachuku,⁴² points out that the Child's Rights Act provided for participation rights. However, the wordings in some of the provisions⁴³ are not explicit, but implied, thereby favouring the argument that they do not confer participatory rights.

Thirdly, Aja Nwachuku,⁴⁴ also sheds light on the issue of the determination of the paternity of the child. The author celebrated the use of scientific test by the provisions of section 63(1)(a) Child's Rights Act, which he described as near infallible. However, he recommended that the provision should be amended to make the use of such scientific test to determine the paternity of a child by the court applicable to criminal matters also and the grant of the application should be mandatory, not discretionary.

Institutions That Protect The Rights Of The Child In Nigeria

i. The National Industrial Court (NIC)

"The Constitution of the Federal Republic of Nigeria, 1999, as amended, is the first point of call in this regard. Accordingly, section 254 C of the Constitution makes provision for the jurisdiction of the National Industrial Court. The said section empowers the NIC to entertain certain matters relating to the child when such is connected with or arising from the Labour Act. It also empowers the same court in matters relating to or connected with any dispute as to the accurate interpretation of the rights contained in Chapter IV of the Constitution, which relates to any labour which a child is caused to do. And finally, the NIC has jurisdiction over matters connected with or related to child labour, child abuse, human trafficking or any matter connected or related to such violations.

As to the Labour Act,³¹ the Child's Rights Act is very explicit in its section 29 which provides that: "The provisions relating to young persons in sections 58, 59, 60, 61, 62 and 63 of the Labour Act shall apply to children under this Act." Therefore, any child employed in a job that is unsafe for his/her health or immoral in nature³³ or a job where he will be unable to return home to his parents/guardian on a daily basis³⁴ can sue the

⁴¹ Akin Olawale Ogundayisi, "Legal Impediments on the Practical Implementation of the Child Right Act 2003"

<https://www.academia.edu/6898104/LEGAL_IMPEDIMENTS_ON_THE_PRACTICAL_IMPLEMENTATION_OF_THE_CHILD_RIGHTS_ACT_IN_NIGERIA> accessed 14th April, 2024.

⁴² Aja Nwachuku, M.A., "The Nigerian Child and the Right to Participation: A Peep through the Window of "The Best Interest" Clause of the Child's Rights Act". *Beijing Law Review*, 8, Scientific Research Publishing Inc., (2017), pp. 159-170.

<<https://doi.org/10.4236/blr.2017.82009>> accessed 14th April, 2024.

⁴³ For instance, see section 84(3), section 101(a), (b)(i)&(ii), (c), (d), (e), (f) and (g), (b)(iii) and section 102(1) CHILD'S RIGHTS ACT, where the consent of the child is not required to be sought in certain matters relating to guardianship or custody of the child.

⁴⁴ Aja Nwachuku, M. A. 'Determination of the Paternity of the Nigerian Child—The Law: Past, Present and Future' (2015) 5 *Research on Humanities and Social Sciences*, 181-188.

<https://www.google.com/url?sa=i&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=0CAMQw7AJahcKEwjY3aO8uMv6AhUAAAAAHQAAAAAQAw&url=https%3A%2F%2Fiiste.org%2Fjournals%2Findex.php%2FRHSS%2Farticle%2FviewFile%2F27819%2F28527&psig=AOvVaw2CkHu_GFBBLArOF66ChaIN&ust=1665140117531285> accessed 14th April, 2024.

⁴⁵ CapL1Laws of the Federation 2004.

employer(s) in question, except there is an approval from an authorised labour officer or as regards the contract of employment.³⁵ In a similar vein, a child below the age of sixteen (16) can sue any employer who employs him or her in underground work, operate a machine, in industry or work on public holiday,³⁶ or employed without express consent of parents or guardian.³⁷ And all such action may be brought to the NIC for adjudication. In the same vein, criminal proceedings may also be instituted pursuant to the Trafficking in Persons (Prohibition) Enforcement and Administration Act (TIPPEA Act). Therefore, by virtue of section 30(1) (b) of the Child's Rights Act and Sections 30 and 31 of the TIPPEA Act criminal proceedings may be instituted by the National Agency for the Prohibition of Trafficking in Persons and other Related Matters against persons aiding or abetting, facilitating or promoting in anyway the trafficking of any person (women or children) and secure the liability of such offender on conviction to a fine of ₦200, 000 and forfeiture of passport. And also, against a corporate body found guilty of and convicted for an offence of trafficking or aiding in trafficking, which makes such a corporate body liable to a fine of ₦2,000,000 (Two million) naira only, forfeiture of assets and closure of the body corporate.³⁸ Further, a criminal proceeding may be instituted against a commercial carrier who carries any person in violation of the Act commits an offence and is liable to 2 years imprisonment or a fine of Two million naira.³⁹ Therefore, Agomo has already opined that⁴⁰ agencies like NAPTIP and Non- Governmental Organisations (NGOs) in the relevant field should be able to access the NIC to get justice for the individual child victims of human trafficking. It is important at this juncture to caution ourselves that only matters relating to child labour, abuse and trafficking and not mere kidnap is contemplated within section 254 (C) of the Constitution of The Federal Republic of Nigeria, 1999 (As Amended) above. A criminal charge for the offence of kidnap under provisions such as section 19 (a) of the TIPPEA Act therefore would not come within the jurisdiction of the NIC as held in *Attorney General of the Federation v Ubah Joy Chioma*.³² It is the researcher's opinion that actions can now be brought or

⁴⁶ Ibid, Section 59(6).

⁴⁷ Ibid, Section 59(4).

⁴⁸ Ibid, Section 59(3).

⁴⁹ Ibid, Section 59(5).

⁵⁰ Ibid, Section 59(8).

⁵¹ Section 28, TIPPEA Act 2015.

⁵² Ibid, Section 29

⁵³ Agomo, C K., 'The menace of human trafficking, child labour and the enlarged jurisdiction of the National

Industrial Court', a lecture delivered at 16th Memorial Lecture of Late Chief Gabriel Oluyide Sodipo at the Lagos High Court, Igbosere 2016; in Godwin Dunia, "Exigency of enlarged jurisdiction for National Industrial Court over human trafficking, others", *The Guardian Nigeria News*, 29 November 2016 <<https://guardian.ng/features/law/exigency-of-enlarged-jurisdiction-for-national-industrial-court-over-human-trafficking-others/>> accessed 14th April, 2024.

⁵⁴ Suit No. NICN/OW/04/2015 per Hon. Justice O. Y. Anuwe

<<https://nicn.gov.ng/viewjudgment/979>> accessed 14th April, 2024. Here the court differentiated trafficking which usually involves sale of the victim (child) for illegal purposes from mere kidnap. ⁴² Sections 4 and 11 of the Child's Rights Act; Section 34 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

criminal proceeding instituted on behalf of children subjected under the alMajiris system, which is considered as child labour and violates the provisions of the Child's Rights Act and Constitution Of The Federal Republic of Nigeria, 1999 (As Amended) Guaranteeing The Right To life and human dignity.⁴²

ii. The Family Court

The Child's Rights Act establishes the Family Court and it is established for the purposes of hearing and determining matters relating to children. In the Child's Rights Act, it is referred to as the Court.³³ By virtue of section 151 of the Child's Rights Act, subject to other provisions of the Child's Rights Act, and in addition to such other jurisdiction as may be conferred on it by any other law, the Family Court has unlimited jurisdiction to adjudicate on any civil proceeding where the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim pertaining to a child is in issue; and any criminal proceeding where any penalty, forfeiture, punishment or other liability for an offence committed by a child, against a child or against the interest of a child is in issue.³⁴ The Family Court operates at two levels;⁵⁸ one as a Division of the High Court at the High Court level: and the other as a Magistrate Court, at the Magistrate level. Criminal or civil proceedings could originate from, or be heard on appeal in the family Court (the latter being at the High Court level).³⁵ It is noticeable at once that there are more than one national Courts seised of the requisite jurisdiction to entertain child's rights and matters. A holistic examination of the provisions of Section 254 (C) (1)(i) of the Constitution of the Federal Republic of Nigeria (Third Alteration Act) 2010, Section 36 of TIPPEAACT, 2015 and Section 277 of the Child's Rights Act, confirms that these provisions vest jurisdiction as it concerns the theme of this discourse (i.e. the theme of child trafficking interalia) on different Courts.³⁶ However, the focus of this paper is not on conflicts of jurisdiction. Suffice it to say, the Family Courts are more suitable for child related issues than the NICN although going by constitutional supremacy, the NICN takes precedence. However, a proper construction of section 162(2) of the Child's Rights Act reveals that there needs not be any conflict as to which court has jurisdiction.

iii. Nigeria Child Justice Administration System

Part XX (sections 204 -238) of the Child's Rights Act has provided for Child Justice Administration, which now replaces the Juvenile Justice Administration, which has been in force for several decades in Nigeria. These provisions prohibit the subjection of any child to the criminal justice process,⁶¹ and guarantees the due process to any child subjected to the Child Justice system under the Child's Rights Act at all stages of investigation, adjudication, and disposition of the child.⁶² According to Anifowose,⁶³ due to the global escalation in child delinquency and the absence of specific provisions relating to children in conflict with the law or "in need of care and protection" in the

⁵⁶ Section 149, Child's Rights Act.

⁵⁷ Ibid, Section 151(4).

⁵⁸ Ibid, Section 150.

⁵⁹ Ibid, Section 151(2).

⁶⁰ Dunia, G., "Exigency of Enlarged Jurisdiction for National Industrial Court Over Human Trafficking, Others", *The Guardian Nigeria News*, 29 November 2016

Constitution of the Federal Republic Of Nigeria, 1999 (As Amended), the concept of Child justice administration in Nigeria was formalised with the enactment of the Children and Juvenile Act (CYPA)³⁷ and later the Child's Rights Act. Section 452 (1) of the Criminal Justice Administration Act (ACJA) provides that when a child is suspected of committing a crime, the provisions of the Child's Rights Act apply. Accordingly, the Child's Rights Act remains an important tool in the administration of child justice in Nigeria. The term "child" has also been defined in various international and regional instruments to which Nigeria is a signatory. For example, the United Nations (UN) Standard Minimum Rules for the administration of juvenile justice (Beijing Rules)⁴⁸ define a "juvenile" as a "child or young person, who according to the respective legal system, may be dealt with for an offense in a manner which is different from an adult". Moving on, he noted that the Child's Rights Act requires the replacement of the word "juvenile" in CYPA with the word "child offender";³⁸ "juvenile court" in the CYPA with "Family Court"³⁹ in the Child's Rights Act; and "juvenile justice administration" with "child justice administration"⁴⁰ in the Child's Rights Act. Other changes include the replacement of the word "detention" in the CYPA with "custody"⁴¹ in the Child's Rights Act "approved schools" in the CYPA with "children residential and children correctional Centers"⁴² in the Child's Rights Act; and "probation and probation officers" in the CYPA with "child care, guidance and supervision"⁷¹ in the Child's Rights Act. Further, he noted that upon suspicion that a child has committed an offence; an arrest can be made by the police or a petition by social workers. Also, before the start of an interview or interrogation, the parent or guardian and the child are provided with a copy of the written allegation against the child and are adequately informed about the child's constitutional rights, including the right to remain silent,⁴³ the police have the right in the child justice system to release a child suspect to his or her parents or guardian in bond, unless the

<<https://guardian.ng/features/law/exigency-of-enlarged-jurisdiction-for-national-industrial-court-over-human-trafficking-others/>>accessed 14th February, 2024.

⁶¹ Section 204 Child's Rights Act.

⁶² Ibid, Section 214. See also; Prof. Muhammed Tawfiq Ladan, "An Overview Of The Child Rights Act, 2003", a paper presented at the All Nigeria Judges' Conference Of The Superior Courts, Organised By The National Judicial Institute on the 15th–19th November, 2021<<https://nji.gov.ng/wp-content/uploads/2021/12/AN-OVERVIEW-OF-THE-CHILD-RIGHTS-ACT-2003-BY-PROF.-LADAN.pdf>> accessed on 15th February, 2024.

⁶³ Anifowose, D. I. "Sylvester Oromoni's Case; the Admissibility of a Dying Declaration of a Child, and other Matters Arising", <https://www.researchgate.net/publication/358132536_SYLVESTER_ORMONI'S_CASE_THE_ADMISSIBILITY_OF_A_DYING_DECLARATION_OF_A_CHILD_AND_OTHER_MATTERS ARISING_1>accessed 15th February, 2024.

⁶⁴ Children and Young Persons Act Cap32, Laws of the Federation of Nigeria and Lagos, 1958.

⁶⁵ See Rule 2.2(a) Beijing Rules <<http://www.un.org/documents/ga/res/40/a/40r033.htm>> accessed 15th February, 2024.

⁶⁶ Section 213 Child's Rights Act.

⁶⁷ Ibid, Section 149.

⁶⁸ Ibid, Part XX.

⁶⁹ Ibid, Section 223 (1) (f).

⁷⁰ Ibid, Section 248.

⁷¹ Ibid, Part XXI.

⁷² Ibid, Section 211.

charge is one of murder or manslaughter or some other serious crime.⁴⁴ Also in line with the provisions of Section 222 of the Child's Rights Act, child offenders could be detained by the Police in cases of capital offence like the offence of Manslaughter.

iv. The National Human Rights Commission (NHRC)

The National Human Rights Commission is a body that is saddled with the responsibility of ensuring the full realisation of human rights in Nigeria, including the rights of the child in no small measure, and it notably does not discriminate between civil, political, social, economic or cultural rights as all rights contained in the Constitution of the Federal Republic of Nigeria, 1999 (As Amended), the UNCRC and other international treaties to which Nigeria is a party are guaranteed and unqualified.⁴⁵ The National Human Rights Commission Act (NHRC Act)⁴⁶ empowers the NHRC to, amongst others;

- a. Deal with all matters relating to the promotion and protection of human rights guaranteed by the Constitution of the Federal Republic of Nigeria, 1999 (As Amended), the United Nations Charter and the UDHR, the ICCPR...the ICESCR...the CRC, the Banjul Charter and other international and regional instruments on human rights to which Nigeria is a party. The inclusion of UNCRC and by implication, the Children Charter reveals that the Commission will be of help to the children; Monitor and investigate all alleged cases of human rights violations in Nigeria and make appropriate recommendations to the Federal Government for the prosecution and such other actions as it may deem expedient in each circumstance;
- b. Assist victims of human rights violations and seek appropriate redress and remedies on their behalf;
 - (a) refer any matter of human rights violation requiring prosecution to the Attorney-General of the Federation or of a State, as the case may be;
 - (b) where it considers it appropriate to do so, act as a conciliator between parties to a complaint;
 - (c) where it considers it appropriate, with the leave of the court hearing the proceedings and subject to any condition imposed by the court, intervene in any proceeding that involves human right issues; and carry out all such other functions as are necessary or expedient for the performance of these functions under the Act...

As for challenges of the NHRC in post conflict situations, the following have been noted: Inadequate Funding; inadequate skilled and trained personnel for post conflict situations; lack of autonomy; lack of accurate and updated data on victims of conflict especially vulnerable groups; poor staff welfare, amongst others.

v. National Agency for the Prohibition of Trafficking in Persons and other Related Matters (NAPTIP)

⁷³ Ibid, Section 222.

⁷⁴ Section 5 and 6 of the National Human Rights Commission Act.

⁷⁵ Ibid.

Section 2 of the Trafficking in Persons (Prohibition) Law Enforcement Act (TIPPEA Act) establishes the NAPTIP. It has the responsibility of enforcing and administering the provisions of the TIPPEA Act and all other Laws on Trafficking in Persons and related offences. It also investigates all cases of trafficking in persons including forced labour, child labour, forced prostitution, exploitative labour and other forms of exploitation, slavery and slavery-activities, bonded labour, removal of organs, illegal smuggling of migrants, sale and purchase of persons. It also encourages and facilitates the availability and participation of persons who voluntarily, consent to assist in investigations or proceedings relating to trafficking in persons and related offences; and creates public enlightenment and awareness through seminars, workshops, publications, radio and television programmes and other means aimed at educating the public on the dangers of trafficking in persons. It has power to investigate whether any person, body or entity has committed an offence under the TIPPEA Act or the offence of trafficking under any other law; to enter into any premises, property or conveyance for the purpose of conducting searches in furtherance of its functions under the TIPPEA Act or under any other law; to arrest, detain and prosecute offenders under the TIPPEA Act or any other law on trafficking in persons Nigeria, etc.⁴⁷ The NAPTIP also monitors child trafficking units present in Nigerian Police Force, Nigerian Immigration Services and the Nigerian Customs Services. NAPTIP has been in the fore front in the fight against child trafficking in Nigeria; a lot of children have been rescued from their abductors and re-united with their families.⁷⁷

The Impact Of Terrorism On The Rights Of The Child

Despite the foregoing laws and institutions on the rights of a child discussed above, it is fundamental to state that the rights of the child have always been violated by the state agencies.⁷⁸ According to Human Rights Watch, “the military provides no formal education or rehabilitation activities for children at detention.”⁷⁹ There are also allegations of sexual violence leveled against the Nigerian Forces, especially on the girls in the IDP Camps. According to Human Rights Watch, security agencies including the civilian selfdefence groups are complicit in the various forms of sexual exploitation and abuse against girls and consequently eroded the fundamental rights of the children to their own bodies.⁸⁰ In fact a more worrisome impact is the denial of these children to requisite medical, psychological, and mental support. The trauma of being denied access to fundamental rights coupled with sexual abuse, often batter the psyche of the children. This affects them negatively, causing psychological, traumatic and trying pictures in their minds, which they will have to live with for life. In a nutshell, children are always the most vulnerable to the effects of terrorist activities and armed struggles. Radicalised and

⁷⁶ Sections 5 and 6 of the Trafficking in Persons (Prohibition) Law Enforcement Act.

⁷⁷ Gbobo, P. I. and Wigwe, O., “Child Rights Law and Practice in Nigeria: A Lesson from South Africa”, *UNIZIK, Law Journal* (2021) 17 (1) <<https://journals.unizik.edu.ng/index.php/ulj/article/view/912>> accessed on 15th April, 2024.

⁷⁸ Isokpan, A. J. and Duroye, E. “Impact of the Boko Haram Insurgency on the Child’s Rights to Education in Nigeria” <<https://doi.org/10.17159/1727-3781/2016/v19i0a1299>> accessed on the 20th June, 2024.

⁷⁹ Human Rights Watch, “Abusing Displaced Women, Girls” <<https://www.hrw.org/news/2016/10/31/nigeria-officials-abusing-displaced-womengirls>> accessed on the 20th June, 2024.

⁸⁰ Ibid.

violent, internal strife as well as communal conflict situations of militarized violence negatively impact on the rights of children. Given the vulnerability of the nature of children, it is apposite that they are protected by the state, well-meaning individuals, civil society organisations and all the stakeholders in Nigeria. In addition, the legal framework for the protection of the rights of the child has to be revisited with the sole aim of making it more effective in order to protect the rights of the child, especially when terrorism is involved.

Conclusion

This paper has exhaustively discussed the laws enacted for the protection of the rights of the Child in Nigeria. It has also discussed the institutions saddled with the responsibility for ensuring the protection of the rights of the Child. In the same vein, it has noted that despite the existence of the laws and the institutions, the rights of the child are still being abused, because of the obvious weaknesses in the legal framework. The paper has also noted that the abuse of the rights of the child is even worse when the child is accused of committing any of the acts constituting terrorism. In the light of the foregoing, these recommendations are proffered as follows:

1. The right of nationality should expressly be stated in the CFRN as is obtainable in other climes. It should also be contained in the CRA. This will ensure that the challenges of stateless children in Nigeria such as denial of access to education, medical services, banking, the right to vote, travel documents, and birth certificates, etc., would be effectively addressed.
2. The provisions of section 6(6)(c) of the CFRN should be expunged from the CFRN so as not to make a mockery of the social and economic rights contained in Chapter II of the CFRN. This is so because with the aforesaid section in the Constitution, the realization of the rights of a child will remain utopian.’
3. The provision of section 29(4)(b) of the CFRN should also be expunged from the CFRN as it remains unreasonable for girls of 10-14 years or even below 18 years to be deemed as being of full age. The age of a child should be pegged as any person below 18 years in accordance with section 29(4)(a) of the CFRN, as this is what obtains in other climes like is South Africa and Ghana.
4. The government should put in place a mechanism to checkmate the complicity of officers of state agencies who engage in the violation of the rights of children, especially the girl child who has always been a victim of abuse.
5. The laws and institutions should be strengthened and supported by all stakeholders and government in order to function effectively and efficiently towards to the protection of the rights of the child.
6. The Ministry of Women Affairs, National Orientation Agency, and other government agencies and civil society groups having the promotion of the right of a child as part of their mandate should organize Periodic grassroots orientation programmes on the rights of a Child. This we believe will help in changing the general orientation of the people especially those with conservative cultural backgrounds which are not in sync with the extant child right practices as provided by our laws