

Impediments to the Domestication of Nigeria Child Rights Act by the States

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Abstract

The constant violation of child rights in Nigeria prompted the federal legislators to pass the law protecting the child rights which its adaptation by the various states of the federation became an issue, even where it was domesticated its implementation to protect the child rights has not been achieved currently, it was against this background this paper is aimed at examining the understanding of the concept Child and Rights, as well to briefly Examine the provisions of the Child Rights Act as passed into law by the national Assembly of Nigeria from section 1-279 of the child rights Act 2003, which are fragmented into various parts, The paper shall x-ray the impediments to the domestication inclusive; political reason, protest by supreme council for sharia in Nigeria, gender discrimination, protection from abuse, access to education, child labor, religious practices, cultural practices, i.e. early marriage, female genital mutilation, tribe mark as the impediments to the domestication of Nigeria child rights act by the various states, Finally, the paper proffers possible solution for effective adaptation of the law by the states and implementation of same in form of conclusion/recommendation.

1.0 INTRODUCTION

1.1 DEFINITION OF THE CHILD

The Child Right's Act 2003, passed into law by the National Assembly of Nigeria, defines a child as one who is below the age of eighteen years. It categorically provides that such a child's best interests shall remain paramount in all considerations. A child shall be given such protection and care as is necessary for its well-being, retaining the right to survival and development also to name and registration at birth.

However, according to Sec.2 of Children and Young Persons Act, enacted in Eastern, Western and Northern regions of Nigeria (hereafter referred to as CYPA) a "child" means [a] person under the age of fourteen years, while 'young person' means a person who has attained the age of fourteen years and is under the age of seventeen years." Furthermore, the Immigration Act stipulates that any person below 16 years is a minor, whereas the Matrimonial Causes Act puts the age of maturity at 21.¹ The latter act becomes irrelevant in practice, since individual states, state their own age for marriage.² As for penal responsibility, Section 50 of the Penal Code (Northern) states that: "No act is an offence which is done by a child under seven years of age; or by a child above seven years of age but under twelve years of age who has not attained sufficient maturity of understanding to judge the nature and consequence of such act."³

Further to the above, according to UNICEF report in Nigeria 2007 several issues hindered the protection rights of children such as children living on the street, children affected by communal conflict, drug abuse, human trafficking and the weakness of the juvenile justice system among others. poverty, social inequality, failed educational system, family problems, peer pressure, social and religious conflict in which children are used as the foot soldiers are some of the factors that account for the number of children in conflict with the law, unfortunately these offenders are often treated like adults and mixed with adults in prison many are convicted and jailed without making contact with a social workers or given the opportunity to be heard.

1.2 RIGHTS: A Right in its General sense is either the liberty (protected by law) of acting or abstaining from acting in a certain manner, or the power (enforced by law) of compelling a specific person to do or abstain from doing a particular thing.

A right is a well founded claim; and when a given claim is recognized by the civil law, it becomes and acknowledged claim or legal right enforceable by the power of the State.⁴

NORMS: are behaviors, Standards or pattern within a society or group⁵. It also known as a group held belief about how members should behave in a given context.⁶ Sociologists describes norms as informal

¹ But it allows persons below this age to be married with the consent of the parents.

² Cf. paragraph on gender discrimination.

³ Cap 98 Laws of Northern Nigeria 1963.

⁴ Hon Justice C.A. Oputa JSC (Retired) "Human Rights in the Political and Legal Culture of Nigeria" Second Justice. Idigbe Memorial Lecture, Uniben, 1986.

⁵ [https://www.princeton.edu/~jachaney/tmve/wiki100k/docs/Norms\(sociology\).html](https://www.princeton.edu/~jachaney/tmve/wiki100k/docs/Norms(sociology).html). Last assessed on 7/04/2014

⁶ [http://en.m.wikipedia.org/wiki/Norm_\(Social\)](http://en.m.wikipedia.org/wiki/Norm_(Social)). Last assessed on 17/04/2014

understandings that govern society's behavior.¹

1.3 PROVISIONS OF CHILD RIGHTS ACT

In terms of contents, the Nigerian Child Rights Act borrowed a leaf from the United Nations Convention on the Rights of the Child and the OAU Charter in respect of the guiding principles for the promotion and protection of the rights of children.

Under sections 1-2 (Part I), the CHILD RIGHTS ACT provides that the best interest of the child shall be of primary or paramount consideration in all actions to be undertaken whether by an individual, public or private body, institutions or service, court of law or administrative or legislative authority. Further, the Act provides that necessary protection and care shall be given to the child for his/her well-being, taking into account the rights and duties of the child's parents, legal guardians and other bodies legally responsible for the child.

Part II (Sections 3-20) of the Act provides for the rights and responsibilities of a child in Nigeria. Accordingly, it entrenches the following fundamental rights for the child, namely, the rights to survival and development, to a name, to freedom of association and peaceful assembly, to freedom of thought, conscience and religion, to freedom of movement, to freedom from discrimination, to dignity of the child, to leisure, recreation and cultural activities, to health and health care

Services, to parental care, protection and maintenance, to free, compulsory and complete secondary education.

Part III (sections 21-40) of the Child Rights Act provides for protection of the rights of the child through the prohibition of:- child marriage, child betrothal, infliction of tattoos and skin marks, exposure to use, production, trafficking, etc of drugs and psychotropic substances, use of children in any criminal activity, abduction and unlawful removal and transfer of a child from lawful custody, forced, exploitative or hazardous child labour, including outlawry of employment of children as domestic helps outside their own home or family environment, buying, selling, hiring or otherwise dealing in children for the purpose of hawking, begging for alms, prostitution, unlawful sexual intercourse, other forms of sexual abuse and exploitation prejudicial to the welfare of the child.

Part IV (sections 41-49) of the Act provides for additional protection through civil and welfare proceedings.

Part V (Sections 50-52) of the Act empowers a child development or police officer or any other authorized person to bring a child in need of care and protection before a court for a corrective order, if he has reasonable grounds for believing that the child is an orphan or is deserted by his relatives, neglected, ill-treated or battered by his parent or guardian or custodian, or found destitute, wandering, homeless, or surviving parent undergoing imprisonment, mentally disordered, or otherwise severally handicapped; or found begging for alms, in company of a reputed/common thief or prostitute, or otherwise beyond parental control or exposed to moral or physical danger.

Part VI (Sections 53-62) of the Act Provides for the making of care and supervision orders which are designed 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 include Education Supervision Orders.

Part VII (Sections 63-67) of the Act empowers the Court to give direction or order for the use of scientific tests, including blood tests, to ascertain whether the tests show that a party to any civil proceedings is or is not the father or mother of that person.

Part VIII (sections (68-81) of the Act deals with possession and custody of children, within the context of the acquisition of parental or quasi-parental authority over children.

Part IX (Sections 82-92) of the Act provides for guardianship of children, which is also another way of acquiring parental responsibility for the child. The parents of a child shall have guardianship of the child and, in the event of the death of a parent; the surviving parent shall be the guardian of the child. Where the parents of a child are not fit to be guardians of a child jointly or severally, the court shall, on application of a member of the family of an appropriate authority, appoint a person to be a joint guardian with the parent (s) of the child.

Part X (sections 93-99) of the Act, deals with ward ship, which is a device by which a child is made a ward of court, notwithstanding that the child continues to remain with his parents or under the supervision of a child development officer or some other authority.

Part XI (Sections 100 -124) of the Act provides for fostering of children who are abandoned by their parents, or where an orphaned child is deserted by his relatives, or voluntarily presented by his relatives for fostering, or where neglected or ill-treated by the person having care and custody of him; or has a parent or guardian who does not or cannot exercise proper guidance over him; or is found destitute or is found wandering, has no home or settled place of abode, is on the streets or other public place, or has no visible means of

¹ Marshall, G. Oxford Dictionary of sociology

subsistence.

Part XII (Sections 125-148) of the Act provides for adoption, with the establishment of adoption service nationally and clears specifications for the mechanisms and procedure for adoption,

Including a well-articulated in built monitoring mechanism, which has led to restrictions on inter-state adoptions. The adopted children have been conferred with the full rights of children, including inheritance rights. A child may therefore be adopted if the parents) or guardian consents to the adoption; or the child is abandoned, neglected or persistently abused or ill-treated, and there are compelling reasons in the interest of the child why he should be adopted.

The Child Rights Act provides for the establishment of the family Court, Child Minding, Day Care Centre's and Allied Homes under parts XIII to XIX (sections 149-203).

Part XX (sections 204 -238) of the Act has provided for Child Justice Administration, which will now replace the Juvenile Justice Administration, which has been in existence for. Several decades in Nigeria. The provisions in this part now prohibit the subjection of any child to the criminal justice process, and guarantees the due process to any child subjected to the Child Justice system under the Act at all stages of investigation, adjudication, and disposition of the child. In this regard, the Act has sought to apply the principles contained in the UN Standard Minimum Rules for the Administration of Juvenile Justice (otherwise known as the Beijing Rules) in Child Justice Administration in Nigeria.

Among other provisions, the Act has prohibited the use of capital punishment for children (this in practice amounts to only a one year extension from the present prohibition level a f 17 years to 18 years), the use of imprisonment (which has involved raising the prohibition age from 14 years now to 18 years), and the use of corporal punishment (this is a novel provision, as no such prohibition previously existed under the old Children and young persons Legislations). The Act additionally frowns at the imposition of death penalty and use of institutionalization for children, pregnant and expectant mothers.

Part XXIII (Sections 260-271) of the Act provides for the establishment, membership procedures, and functions of the Child Rights Implementation committee at the national, State and Local Government levels.

Finally, Part XIV (Sections 272-279) of the Act variously provides for service of documents, supremacy of the provisions of the Act over those of all other laws relating to children in cases of inconsistency, interpretation and citation of the Act.

2.0 IMPEDIMENTS TO THE DOMESTICATION OF CHILD RIGHTS ACT

There are numerous reasons that hinders the smooth adaptation of Child Rights Act among the federating states of Nigeria which among includes

2.1 POLITICAL REASON

More states have joined the league of state that has domesticated the Child Rights Act in Nigeria bringing the total number of states to 26 out of 36 in Nigeria. The problem however is that the states that have domesticated it tend to pay lip service to the implementation of the Act. This is obvious in the insignificant difference on the lives of the children in the various states before and after the passage as against the highly anticipated gains that motivated to a great extent the passage of these bills into law.

At the state level, there are already 26 States of the Federation that have domesticated this Act and they include Abia, Akwa Ibom, Anambra, Bayelsa, Benue, Cross River Delta, Edo, Ebonyi, Ekiti, Imo, Jigawa Lagos, Nassarawa, Niger, Ondo, Osun, Oyo Plateau, Rivers, Taraba however there is still hardly any state in the federation today that numerous abuses and violation of the domesticated laws are not seen.¹

The implication of this passage would ordinarily mean that Children are well protected and a breach of such act attracts a punishment to the offenders. But the question is even in these states where the bill has been passed, to what extent is the Right protected and enforced?

It was gathered that some of the states that have passed the CHILD RIGHTS A some states have made some adjustments to suit their interest such as lowered the minimum age for the purpose of marriage, some have put it at 16² that is defining a child as anyone below the age of 16. Therefore, within Nigeria, one who is a child in one state could be regarded as marriageable adult in another state. For instance, Children in Gombe State called on the State government to domesticate and adapt the Child Rights Act, 2003, in line with the culture and tradition of people of the state³. They also called for the establishment of a family court to protect and seek justice against any abuse of the rights of children in the state in line with Section 74 of the Childs Right Act,

¹ Ashogbon, A.,A Call for Increased Domestication and Implementation of the Child Rights Act in Nigeria. [Http://development .com/a-call-for-increased-domestication-and-implementation-of-the child-rights-act-innigeria](http://development.com/a-call-for-increased-domestication-and-implementation-of-the-child-rights-act-in-nigeria). last assessed on 7/4/2014..

² For Instance Plateau State.

³ Saleh A, Gombe and Hassan Ibrahim, H., Nigeria: Gombe Children Seek Domestication of Child Rights Act.<http://allafrica.com/stories/201305280871.html>last assessed 011 07/04/20

2003.

2.2 PROTESTS BY SUPREME COUNCIL FOR SHARIAH IN NIGERIA.

No sooner than the Childs Right Act was ratified in Nigeria, than the Supreme Council for Shari'ah in Nigeria (SCSN), protested the attempt of the country's federal government to impose the Child's Rights Act, passed by the National Assembly in 2003, on state Assemblies.

According to the SCSN "Any law that seeks to give equal 'rights to male and female children in inheritance, seeks to give an illegitimate child the same rights as the legitimate one, and establish a court (family court) that ousts the jurisdiction of shari'ah courts on all matters affecting children, is unacceptable to Muslims. The passage of the law by the National Assembly was misconstrued by the President of the Association as an instrument with intent to outlaw shariah courts.

Hence, eleven¹ years after the Child Rights Act was introduced and passed by virtually all the 17 southern States, only three out of the 19 northern states have passed the Child Rights Act in Nigeria, and the others have not because of their local peculiarities in terms of culture, environment and especially religion.²

States that have not domesticated the Child Rights Act includes Adamawa, Bauchi, Borno, Enugu, Gombe, Kaduna, Kano, Katsina, Kebbi, Niger Sokoto, Yo be and Zamfara States³. of the many states that have domesticated it, implementing it has been a tall order as members of the state Childs right implementation committee lack the mobilization and capacity to effectively advocate and facilitate the contents of this law. Some of the major issues of domestication of are the insincerity on the side of government to release funds to implement the provisions of the Child Rights Act. Also Implementation has been made challenging as Nigerian state and local governments represent a diverse range of ethnic groups and customs. But Rivers state has taken a giant stride in the implementation of the law by noting that the responsibility of realizing these rights encapsulated in the State's Child Right Act 2009, is not only the concern of the state government but the parents, individual philanthropists as well as organizations are all stake holders in the task of ensuring a good child's welfare. They have gone ahead to liaise with The Niger Delta Children Rights Watch (NDCRW) which is a non-governmental project initiative which operates in four states of the Niger Delta namely, Akwa Ibom, Cross Rivers, Rivers and Bayelsa.

The NDCRW's duty is to campaign to Prevent Abuse of Children Today (PACT) and to raise awareness about child rights in the Niger Delta.⁴ This they do by educating communities and prosecuting anyone who commits the grave offences that cause harm to children. The project documents, monitors and investigates cases of child abuse and

Works closely with government agencies such as the Police, Social Welfare and the Attorney General's department.

The Rivers State Government has also established free and compulsory Universal Basic Education and to also spread kindergarten educational Centre's across the LGAs in order to catch them young.

To tackle the right to medi-care, the state also put in place a medi-care program me for children under the age of 6 years and the functional homes for the motherless and handicapped as well as the orphanage. Recently, the state government launched into the express ways to rid the town of hawkers with special attention on child-hawkers and to prevent child labour.

2.3 Discrimination

Section 42 of the 1999 Constitution provides for freedom from discrimination on the grounds of ethnic group, origin, gender, and religion, circumstances of birth, disability, or political opinion.⁵

¹ Ibid.

² Nigeria @ 50.....Protecting the Future of This Nigerian Child - The Future Leaders of this Nation: A Look Again at the Child Rights Act. <http://www.wali-uwais.com/?page id=784>. Last assessed on 07/04/2014.

³ Nigerian Child and the Child Rights Act. <http://www.vanguardngr.com/2010/06/nigerian-child-and-the-child-rights-act/> last assessed on 7/04/2014.

⁴ Domesticating Child Rights Law ... The Rivers Example

<http://www.thetidenewsonline.com/2012/05/271-domesticating-child-rights-law-%E?%80%A6the-rivers-example/> Last assessed on 7/04/2014.

⁵ 32 Art 42 of the Constitution reads as follows:

(1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person: be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject; or be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions.

(2) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his

However, the practice shows that this legislation is not successfully implemented. This is also recognized in the State Party Report to the Committee on the CRC (Child's Right of 2002, which states that: "Despite the laws, in practice the girl child and in some areas the boy child, children both out of wedlock, disabled children, children out of outcast, children from the minority born out of wedlock, disabled children, children out of outcast, children from the minority and children from other states often experience discrimination"¹. concerning some forms of discrimination suffered by children, the State Report names programs aiming at combating it, however without providing any detail are no specific programs designed to combat them."² This is particularly disturbing in the light of the fact that the Committee recommended in 1996 that "as a high priority further measures be undertaken by Nigeria to prevent and combat discrimination, especially on the grounds of gender and ethnic origin"³.

2.4 Gender Discrimination

Although the Constitution provides for gender equality, cases of violations of women's rights and gender discrimination are alarming. Women and girls are subject to violence at domestic and public levels. The situation in the 12 Northern States of Nigeria is most worrying since the introduction of the Shari'ah Penal Code in 1999⁴. OMCT and CLEEN do not believe that an appeal to culture or religion should excuse the violation of the fundamental rights of the Nigerian child to basic education, good nutrition, essential health care and all other basic needs, as well as protection against abuses, neglect, exploitation and slavery.

2.5 Protection from abuse

Regarding the protection of children against abuse, it is of utmost importance to amend Nigeria's Criminal Code, so as to adequately protect all under 18 of both genders. Currently, one can note a clear disparity in the severity of sanctions for child abuse, depending on both, the age and the gender of the child victim. This becomes clear when one compares section 216 and 222 of the Criminal Code of Nigeria: section 216 states that: "Any person who unlawfully and indecently deals with a child under the age of fourteen years is guilty of a felony, and is liable to imprisonment for seven years"; while section 222 reads: "Any person who unlawfully and indecently deals with a girl under the age of sixteen years is guilty of a misdemeanor, and is liable to imprisonment for two years, with or without caning. If the girl is under the age of thirteen years, he is guilty of a felony and is liable to imprisonment for three years, with or without caning.

2.6 Access to Education

Free Compulsory Basic Education is a right of a child as contained in S .15 of the Child's Right Act. Another area of concern with regard to discrimination against girls is their access to education. If the government has officially been more concerned about girls' schooling for the last few years, the rate of girls attending school is still much lower than that of boys in large parts of the country.

This is particularly true for the North of the country, where the highest rate of illiteracy (70%) was registered, and where girls attending schools are very few.⁵ As explained above, this is partly due to harmful traditional practices such as child-marriage. But it also highlights the high degree of boy preference in the Nigerian society and underlines the need for policies promoting girls' education and status.

2.7 Child Labour:⁶ Hawking, begging, and the Almajiri System' which has eaten deep into the roots of Northern Nigeria are all part of the politics rocking the Ratification and Implementation of Child's Right Act in the Northern part of the Country. The Act in section 30 forbids the use of a child for Alms begging, hawking, slavery and compulsory labour even though the act proved insufficient and inadequate on this section by not prescribing a punishment for it.

birth.

¹ OMCT/CLEEN, *Hope betrayed? - A Report on Impunity and State-Sponsored Violence in Nigeria*, Geneva, Lagos, 2002, p. 9. It is available under: <http://www.omct.org/pdf/NigeriaReport0802.pdf>, p.31.

² State Report, p.33.

³ 35 CRC, Concluding Observations of the Committee on the Rights of the Child: Nigeria, CRC/C/15/Add. 61, 30/10/96, § 34. Available under [http://www.unhcr.ch/lts/doc.nsf/\(Symbol\)/CRC.C.15.Add.61.En?OpenDocument](http://www.unhcr.ch/lts/doc.nsf/(Symbol)/CRC.C.15.Add.61.En?OpenDocument) 20 These 12 States are: Bauchi, Borno, Gombe, Kaduna, Kano, Katsina, Kebbi, Jikawa, Niger, Sokoto, Yobe and Zamfara. The Sharia Penal Code is to be applied to people of Muslim faith.

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⁵ Info taken from UNICEF, quoted in Integrated Regional Information Networks (IRIN), Nigeria: Focus on the challenge of enforcing children's rights, November 2002. Available under <http://www.irinnews.org/print.asp?ReportID=30878>. Last assessed on 2/04/2014

⁶ Section 28,29 and 30 of the Child's Right Act 2003.

2.8 Religious practices

By virtue of section 147(1) and (2) of the Act, a marriage between a person who has adopted a child under the Act or a natural child of the person who adopted the child and the adopted child is prohibited and any such marriage is null and void. Further such marriage if concluded is an offence and punishable to imprisonment for a term not exceeding fourteen years.

Certainly, the above provisions of the Act contravene the express provisions of Holy *Qur'an* and *sunnah* of the Holy Prophet on adoption of children. Islam on the contrary prohibits adoption outright especially because of the consequences of such an adoption. The authority for the prohibition of adoption under Islamic law is the *Qur'anic* injunction in chapter 33:4-5 following the incidence that happened between the Holy Prophet and his erstwhile "adopted" child, Zayd Ibn Harith. The Holy *Qur'an* states that adopted children are not the real offspring of the adopters; they must be related to their true procreators when known and knowable. Otherwise, they are to be brethren in faith and clients of their fellow Muslims. Also prohibition of adoption manifested itself in *Qur'an* chapter 33 :40 where Allah says:

"Muhammad is not father of any of your men, but (he is) the Apostle of God."

Some of the reasons behind the prohibition of adoption include the great importance that Islam attaches to the protection of legitimacy and paternity and the consequences of such adoption in pre-Islamic era as well as what the child's rights Act provides. Thus, Islam insists that every child must be related to its own father and viewed it unjust and illegal to ascribe his or her paternity to another.

Although Islam prohibits adoption as explained above, the prohibition does not negate the general societal responsibilities towards the child, nor does it lessen the binding effect of the stronger bond of brotherhood in faith. Also Children born out of Wedlock are not regarded as legitimate children in Islam as they can only inherit their mother and their father.

2.9 TRADITIONAL/CULTURAL PRACTICES

1. Early Marriages/Betrothal

The Child's Right Act Specify marriage age (s.21) and prohibits child marriage and Child Betrothal¹ with N500, 000.00 fine and or with imprisonment as sanction. In Nigeria, due to inconsistencies in legislation and the absence of any stipulation of a minimum age for marriage before the adoption of the Child Rights Act 2003, early marriages continue to take place, in many cases as a means to preserve chastity. Section 18 of the Marriage Act allows persons under the age of 21 to get married, provided that parental consent is given."² The official report admits that "the age of marriage is a highly controversial issue and varies from place to place. Whereas in the North West and North Central Nigeria, 14 years is the age of marriage.

While in the North Central part the age of marriage is between the 2nd and 3rd menstruation, while in the Southern States it varies from between 16 to 18 years"³ The federal authorities seek however to make 18 the minimum age of marriage, not only in law, but also in practice.

Nevertheless, customarily positions on that issue differ and important parts of the population are still not aware of the negative effects early marriages can have for the girls. In most cases, it limits the opportunities for girls to accede to education, putting them in a disadvantaged position"⁴ Indeed, 36 million Nigerian women and girls are not educated. But, even more worrying, early marriage can also be detrimental to girl "s physical, mental and emotional health.

Apart from the fact that it deprives girls from their right to have control over their body and reproductive health, it puts them in a position of complete dependency on their husband. For instance, in Northern Nigeria, where the majority of girls face the prospect of early marriage, "this has resulted over the years in a large have had insufficient time to develop to cope with child-birth. Corrective number of cases of vesico-vaginal fistula, a condition caused by giving birth when the cervix is not well developed."⁵ It "occurs because the pelvic bones operations often require the consent of- the spouse, and more often than not the sufferers are abandoned or divorced by their husbands and ostracized by their communities."⁶

¹ Section 22 and 23 of the Child's Right Act 2003

² Order 1, Rule 4 of the Matrimonial Causes Rules defines a child as a person less than 21 years.

³ State Report, p.26.

⁴ According to a NDHS survey, 19 % of girls cited marriage as a reason for leaving school. NDHS, quoted in: Oxfam: Women and Poverty in Nigeria, p. 58. It is available under: [http://www.oxfam.org.uk/what we do/resources/downloads/wp_nigeria/wp_nigeria_womenpov.pdf](http://www.oxfam.org.uk/what%20we%20do/resources/downloads/wp_nigeria/wp_nigeria_womenpov.pdf). last assessed on 2/04/2014.'

Last assessed on 7/04/2014

⁵ UNICEF, quoted in Integrated Regional Information Networks (IRIN), Nigeria: Focus on the challenge of enforcing children's rights, November 2002. Available under <http://www.irinnews.org/print.asp?ReportID=30878>

⁶ Oxfam: Women and Poverty in Nigeria, p. 58. It is available under

[http://www.oxfam.org.uk/what we do/resources/downloads/wp_nigeria/wp_nigeria_womenpov.pdf](http://www.oxfam.org.uk/what%20we%20do/resources/downloads/wp_nigeria/wp_nigeria_womenpov.pdf) .Last assessed on

2. Female Genital Mutilation

Female Genital Mutilation is still practiced in some parts of the Country¹ and among most religious groups the age of mutilation varies from 3mths to 17 years or just about the first pregnancy. Any state interference into the practice of FGM is considered as a violation of the right to privacy. Yet, many girls face several health risks through this, including of HIV infection due to unhygienic methods that accompany the practice which in itself is a public health issue.

The State Report mentions that "the Bill on Female Genital Mutilation has gone through the lower house, and will go through the upper house before the President can sign it into law."² But to date, the law has not been adopted. It seems that the Bill was lost when the National Assembly stepped down for the 2003 elections, but never re-introduced it after them. Politically, it is a sensitive subject, as is Shariah, and many politicians would rather just ignore it.

However, some states passed laws prohibiting female circumcision and genital mutilation.³ In the report of the Nigerian government to the CRC of January 2002, the ongoing existence of female genital mutilation FGM and other harmful traditional practices is recognized and efforts to combat it are reportedly undertaken.⁴ Due to public enlightenment and mobilization efforts by groups of civil society, as well as increased enrolment of girls in schools, reported cases of FGM are diminishing.⁵

Nonetheless, the practice remains widespread in Nigeria and the proportion of the female population having undergone genital mutilation high.

3. **Tribal Marks:** Causing tattoos or marks⁶, and female genital mutilation are made punishable offences under the Act; and so also is the exposure to pornographic materials, trafficking of children, their use of narcotic drugs, or the use of children in any criminal activities, abduction and unlawful removal or transfer from lawful custody, and employment of children as domestic helps outside their own home or family environment. The issue of tribal marks is typical marks is typical of western part of the Country (I.e Yoruba' s). It was said that tribal marks started in the Yoruba land because of transatlantic slavery. It helped them to know exactly where everyone was from and who they should be. 'Suspicious of Obviously the need is gone as slave trade has been abolished for centuries. But people often forget why they started doing things and stick with them just because "it's our culture".

3.0 CONCLUSION/RECOMMENDATION

The Child Rights Act in its rights-responsibilities approach, is culturally sensitive, compatible, relevant and above all in the best interest of the Nigerian child and every child at that. It is hoped that the stakeholders instrumental to the governance of our Nation will take a bolder step in the implementation of this Act in all the states of Nigeria. The following are thereby observed and Recommended:-

1. In many" states the members of the state Childs rights implementation committee lack the mobilization and capacity to effectively advocate and felicitate the contents of the law. More advocacies for the passage of the Child Rights law should be done in the states that are yet to pass the law. Nigerian government should also pay emphasis on the need to accelerate implementation of the law not just at the national and state levels but at the Local Government level which forms the grassroots of our government system in Nigeria.
2. Unification of all our laws should be done so that what is applicable in one state is also applicable to the other.
3. Government should make funds available for the proper implementation of the Childs Rights Act.
4. Religious and traditional leaders should be sensitized on harmful practices that should be abolished where the child is concerned.
5. The Human Rights commission should work on strategies/modalities ensure enforcement of the Childs Right Act in all states that are unwilling to domesticate it.
6. The Children's parliament selection should also include children from all segments and should not be limited to children of the elites.
7. To increase participation of children in issues affecting their lives can have positive and far

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¹ It is predominant in the southern and eastern zones

² State Report, p.13. 2003.

³ These laws were passed for example in Edo, Delta and Cross River States.

⁴ State Report, pp.34-35.

⁵ OMCT: Report on the Human Rights Situation in Nigeria (Human Rights Committee), Geneva, October 2002, p.19.

⁶ 24 (1) No person shall tattoo or make a skin mark or cause any tattoo or skin mark to be made on a child.

(2) A person who tattoos or makes a skin mark on a child commits an offence under this Act and is liable on conviction to a fine not exceeding five thousand Naira or imprisonment for a term not exceeding one month or to both such fine and imprisonment.

reaching effects on their health and social economic conditions. When children participate in decision making they tend to be more positive and energetic, offering ideas devoid of prejudices and stereotypes.

8. There shall be an increase participation of children in the media and their opinion at the public domain.
9. A national agency on child's right protection should be established, saddled with responsibility of reporting all forms of inhuman practices against the right of children, counseling and educating people on child abuse and the laws against it such an agency to be responsible for implementing the various laws and convention on child's right. ¹

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