

RIGHTS OF CHILDREN UNDER THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD: THE CHALLENGES OF IMPLEMENTATION*

Abstract

Nations around the world have ratified the United Nations Convention on the Rights of the Child, and passed various legislations to safeguard the most vulnerable members of the society including children, but the effects of these laws have not been felt especially in most third world nations where cases of indiscriminate death of children, child abuse, child trafficking, child prostitution and all forms of violence against children are on the rise. In Nigeria there exists the Child Rights Act of 2003, the Children and Young Person's Act of 1943 which legislations was meant to provide against child labour, sexual exploitation of children, violence against children, child trafficking etc. In Ghana another Western African nation there exists the Children's Act of 1998 which is meant to advance the legal rights of children and maintenance of children, prevent child labour and child abuse etc. Findings reveal that despite the existence of these laws these societal ills have maintained a steady climb. There is also a lacklustre enforcement of the laws relating to the welfare of children in these jurisdictions. This article set out to research on the factors responsible for the lacklustre implementation of children protection laws, and the means of strengthening and enforcing the right of children to life and preventing violence against children in all forms.

Keywords: Child's Rights, United Nations Convention on the Rights of the Child, Implementation, Challenges

1. Introduction

States exist to take care of citizens and prevent them from falling into harm¹ Child protection which is an aspect of this obligation is meant to save children from harm that may arise from family backgrounds.² The rights to life, good health, education, family life, good standard of living, play and recreation, protection from abuse and harm are the essence of children's rights.³ The United Nations Convention on the Rights of the Child provides the overall interest of a child shall be a primary consideration in all administrative purposes and that safeguarding a child is important for that child's welfare and provides for the duties of the child's parents and the duty of the state to take appropriate legislative measures.⁴ The convention also stipulated that parties to the convention shall by all means be it legislative, administrative, social or educational safeguard against all forms of violence against children, child abuse, neglect of children, and exploitation of children etc.⁵ The convention in its 54 articles itemized the political, civil, cultural, economic and social rights of children.⁶ In the UNCRC, children's rights are categorised into rights to provision, protection and participation.⁷ It was held by the House of Lords that even in absence of local legislations that the laws should be construed in such a manner as to reflect a commitment to the welfare of children which the United Kingdom pledged to abide by ratifying the UNCRC.⁸ The Supreme Court of Vanuatu in *Molu v Molu*⁹ held no legislation is required to implement Article 3(1) of the UNCRC as the welfare of the child is of essence. Finally, the Supreme Court of South Africa held the UNCRC ratified in 1995 in that jurisdiction obligates state parties to safeguard the rights of children.¹⁰

There is no general agreement of what constitutes a child in all jurisdictions, but in most jurisdictions around the world, it's generally provided that a child is anyone who has not reached their 18th birthday.¹¹ Under Ghanaian

* By **Ifeyani NWACHUKWU**, 36 Goulde Street, Salford, United Kingdom. Email: ceeverolaw@yahoo.com. Tel: +2348039626563

¹ Jill Duerr Berrick, Marit Skivenes & Joseph N. Roscoe, 'Public Perception of Child Protection, Children's Rights, And Personal Values: An Assessment of Two States' (2023) 15, 106960, Children And Youth Services Review <<https://doi.org/10.1016/j.childyouth.2023.106960>> Accessed August 13, 2023

² Ibid

³ OHCHR, 'Report On Human Rights Violations Faced By Children Of African Descendants' (International Human Rights Council, May 18, 2022) <<https://www.ohchr.org/Sites/Default/Files/2022-05/Report-On-Human-Rights-Violations-Faced-By-Children-Of-African-Descendants.pdf>> Accessed August 13, 2023

⁴ Convention on the Rights of the Child, (1989) Article 3

⁵ UNCRC Article 4

⁶ Elspeth Webb et al, 'Using the UN Convention on the Rights of Children to Improve the Health of Children' (2019) 19, 9, 430-434, Paediatrics and Child Health <<https://doi.org/10.1016/j.paed.2009.05.006>> Accessed August 16 2023

⁷ Gabaikannge Ethel Mambo & Kinyanjui Godfrey Gichuhi, 'An Analysis of the Implementation of Children's Rights in the Digital World: A Case Study of Botswana' (2023) 219. Procedia Computer Science <<https://doi.org/10.1016/j.procs.2023.01.330>> Accessed August 6, 2023

⁸ *Smith v Smith & Another* (2006) UKHL 35

⁹ *Molu v Molu* (1998) VUSC 15

¹⁰ *Government v Grootboom* (2001) (1) SA 46 (CC); ILDC 285 (ZA 2000)

¹¹ Gov.uk, 'Case Management Guidance'. (United Kingdom Government, 12 October, 2022) <<https://www.gov.uk/guidance/case-management-guidance/definitions>> Accessed July 29, 2023

law, a child is a person who has not attained the age of 18.¹² In the Constitution of Nigeria a full age is defined being 18 years and above.¹³ The UNCRC provides as follows: ‘For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.’¹⁴ This generally accepted 18 year birthday cut off for a child as agreed by most jurisdictions is irrespective of the appearance of the child, their achievements in life or even if they have joined the armed forces. For example, the United Kingdom government still extends all child benefits to a child even if they joined the armed forces or has established themselves and living independent of their parents at the age of 16.¹⁵

Despite all the measures taken to curtail it, violence against children is on the rise world over especially after the covid-19 pandemic.¹⁶ According to the United Nations, there have been more than 266,000 cases of severe violence against children in conflict zones in Africa, Asia Pacific, the Middle East and Latin America in the last 16 years.¹⁷ There have been recorded deaths or maiming of more than 10,000 children in the Yemeni War since the start of the war in the year 2015.¹⁸ In the Afghan conflict, the story is far worse. The war in Afghanistan can be said to be one of the worst theatres of violations of the right to life of children in recorded history. It is reported that over 28,500 died in the Afghan war, a casualty figure representing 27 percent of all deaths of children in armed conflict globally.¹⁹ UNICEF agrees that violent or ill treatment of children, abuse of children and general exploitation of children can be seen as a part of growing up of children in West Africa and Central Africa as nearly all the children experience violence from their family and community as a means of discipline.²⁰ In the first 6 months of the year 2022, there was a recorded increase of extreme violence against children that was estimated to be as high as the total recorded violations of children’s rights in the whole of 2021.²¹ These violations recorded in 2021 were higher by 85 percent in comparison with the year 2020.²² In the West African country of Mali there was a recorded 480 confirmed cases of conscription of children into armed groups and in Niger there was also 200 grave cases of violence against children from July to September 2022.²³ An estimated 200,000 children are victims of child trafficking in the West African nations of Ghana, Nigeria, Mali, Benin etc.²⁴ There is a noticeable increase in child sexual abuse in Africa than obtainable in other parts of the world and the reason for this is factors relating to social change and gender inequalities in African societies.²⁵ In the world sphere, the extent of violence against children has taken a concerning dimension.²⁶ Experiences of emotional, physical, and sexual violence and neglect have been reported by half of all children in the year 2017.²⁷ The United States Centre For Disease Control (CDC) States Child Abuse May Affect the wellbeing of a child, health or their development in the long run and includes all acts of neglect or abuse of a person below the age of 18 by anyone responsible for the care of that child.²⁸ The CDC further posits that there are reports of child neglect or abuse in 1 in 7 kids in the United States and about 1750 children lost their life to child abuse in the year 2020.²⁹ The United Kingdom Office for National Statistics (ONS) states that child abuse

¹² Children’s Act 1998, Section 1

¹³ CFRN 1999 as amended, Section 29 (4)

¹⁴ UNCRC Article 1

¹⁵ Ibid Gov.Uk

¹⁶ Amiya Bhatia et al 2021, ‘Violence against Children during the Covid19 Pandemic’ (World Health Organisation, January 2021) <<https://doi.org/10.2471%2FBLT.20.283051>> Accessed August 11, 2023

¹⁷ UNICEF, ‘Grave Violations of Children’s Rights in Conflict on the Rise Around the World, Warns UNICEF’ (United Nations Children Emergency Fund, December 31, 2021) <<https://www.unicef.org/press-releases/grave-violations-childrens-rights-conflict-rise-around-world-warns-unicef>> Accessed July 20, 2023

¹⁸ Ibid

¹⁹ Ibid

²⁰ UNICEF, ‘Child Protection’, (United Nations Children Emergency Fund, Nd) <<https://www.unicef.org/wca/what-we-do/child-protection>> Accessed July 29, 2023

²¹ UNICEF, ‘Extreme Jeopardy’, United Nations Children Emergency Fund Report, March 2023) <https://www.unicef.org/wca/media/8861/file/EN_AAFF_Extreme_jeopardy.pdf> Accessed July 29, 2023

²² Ibid

²³ Ibid

²⁴ Aderanti Adepoji, ‘Review of Research and Data on Human Trafficking in Sub Saharan Africa’, (International Migration, June 8, 2005) <<https://doi.org/10.1111/j.0020-7985.2005.00313.x>> Accessed July 19, 2023

²⁵ Eben Badoe, ‘A Critical Review of Child Abuse and Its Management in Africa’ (2017), 7, S32-S35, African Journal of Emergency Medicine <<https://doi.org/10.1016/j.afjem.2017.09.002>> Accessed August 10, 2023

²⁶ Karen Devries et al, ‘Who Perpetrates Violence against Children? A Systematic Analysis Of Age-Specific And Sex-Specific Data’ (2018) 2: e000180 BMJ Paediatrics Open <10.1136/bmjpo-2017-000180> Accessed August 10, 2023

²⁷ Susan Hillis et al Global Prevalence of Past-Year Violence against Children: A Systematic Review and Minimum Estimates’ (2016) 137: e20154079, *Paediatrics* <<https://doi.org/10.1542/peds.2015-4079>> Accessed 19, July, 2023

²⁸ CDC 2022, ‘Preventing Child Abuse and Neglect’ (Centre for Disease Control, 1 January, 2022) <https://www.cdc.gov/violenceprevention/pdf/can/CAN-factsheet_2022.pdf> Accessed August 3, 2023

²⁹ Ibid

can have an impact later in life as about 52 percent of adults who experienced abuse prior to their 16th birthday were later victims of domestic abuse in their life time.³⁰ Child abuse is very difficult to track or measure because most cases go unreported and the abuse takes several forms.³¹ The Canadian 2019 General Social Survey reported that about 64 percent of the survey respondents reported unwholesome parenting acts like emotional abuse, corporal punishment, and neglect while 22 percent reported physical abuse by parents or other adults taking care of them.³² Maltreatment of a child may lead to negative outcomes like ill health and other negative socio economic impacts later in life.³³

All these notwithstanding, there are no parallels between commitments made to implement laws made to protect children and making their rights a reality.³⁴ There is lack of adequate facilities and interventions necessary to address the issues surrounding the rights of children.³⁵ The laws made to secure the rights of children in the digital age are sometimes vague and lack adequate implementation.³⁶ In the UK the Children and Family Act of 2014 which act was a landmark legislation geared towards protecting and improving the lives of children and their family was as admitted by the government a failed legislation due to lack of implementation.³⁷ The major challenge in protection of children's rights is not in making the laws that protect children but in putting them into operation.³⁸ All these raises the questions what are the major challenges to implementation of children protection laws in the world and West Africa in particular. Why is violence, abuse, trafficking all kinds of ill treatment of children on the rise despite the laws made to curb them. Finally, what are the effects of the socio cultural background of a child, or societal norms play in the enforcement of the rights of children, and how can the human rights of children be implemented effectively. There is need to research on the proper ways to enforce children protection laws and implement the human rights of children.

2. Highlight of Children's Rights under the UNCRC

Right to Life, Survival and Development

A discussion on the right of life is very essential because this right is the parent of all other rights. All other rights known to man flows from the right to life in the first instance since it is only a living person that can be afforded a set of human rights. The UNCRC is a treaty of the United Nations Organisation which provides for a comprehensive set of rights for persons below the age of 17.³⁹ In the 54 Articles of the UNCRC can be found a motley of children's economic, social, civil and political rights.⁴⁰ Adopted in the year 1989, and came into force in the year 1990, the UNCRC is the primary document evidencing children's right world over.⁴¹ It is the most ratified human right treaty in human history and have transformed the lives of children all over the world.⁴² The UNCRC duly provided for the right to life of children which emphatically is the most important right of children

³⁰ONS 2020, 'Child Abuse in England and Wales': (Office for National Statistics, January 14, 2020) <file:///C:/Users/CeeVero/Downloads/Child%20abuse%20in%20England%20and%20Wales%20January%202020.pdf> Accessed August 5, 2023

³¹ Ibid

³² GSS-Canadian Safety, General Social Survey: Detailed Information 2019 (Statistics Canada, May 12, 2021) <https://www23.statcan.gc.ca/imdb/p2SV.pl?Function=getSurvey&SDDS=4504> Accessed August 5, 2023

³³ Danielle Bader and Kristyn Frank 'What Do We Know About Physical And Non Physical Maltreatment In Canada?' (Statistics Canada, January 25, 2023) <https://doi.org/10.25318/36280001202300100001-eng> Accessed July 30, 2023

³⁴ Waage, Trond. 'Challenges In Implementing Child Rights – A Call for Innovative Governance For Children' (*Child-Friendly Justice*, 1st Edition, Leiden, The Netherlands: Brill | Nijhoff, 2010) <https://doi.org/10.1163/9789004297432_012> Accessed July 29, 2023

³⁵ Peter Lachman et al, 'Challenges Facing Child Protection' (2002) *Child Abuse & Neglect*, 26, 587-617 <https://doi.org/10.1016/S0145-2134(02)00336-8> Accessed July 19, 2023

³⁶ Ibid Gabaikannngwe Ethel Mambo

³⁷ 'House of Lords Children and Families Act 2014 Committee, 'Children and Families Act 2014: A Failure of Implementation', (House of Lords, December 6, 2022) <https://publications.parliament.uk/pa/ld5803/ldselect/ldchifam/100/100.pdf> Accessed August 5, 2023

³⁸ Tara M. Collins & Laura H.V. Wright 'The Challenges for Children's Rights in International Child Protection: Opportunities for Transformation, World Development (2022), 159,106032 <https://doi.org/10.1016/j.worlddev.2022.106032> Accessed August 2, 2023

³⁹ Gov.Uk, 'United Nations Convention on the Rights of the Child (UNCRC): How Legislation Underpins Implementation in England' (UK Government, March 15, 2010) <https://www.gov.uk/government/publications/united-nations-convention-on-the-rights-of-the-child-uncrc-how-legislation-underpins-implementation-in-england> Accessed August 10, 2023

⁴⁰ Ibid Elspeth Webb et al

⁴¹ CRAE, UN Convention on the Rights of the Child' (Children Rights Alliance England, January 1, 2023) <https://crae.org.uk/our-guide-childrens-rights-and-law/laws-protecting-childrens-rights/un-convention-rights-child> Accessed August 12, 2023

⁴² UNICEF, 'Convention on the Rights of the Child' (United Nations Children Emergency Fund, January 1, 2023) <https://www.unicef.org/child-rights-convention> Accessed August 15 2023

or anyone human person.⁴³ The right to life is also recognised in the Universal Declaration of Human Rights (UDHR), the world's cornerstone human rights instrument. Thus 'Everyone has the right to life, liberty and security of person'.⁴⁴ This provision goes beyond just deprivation of life, but covers such things as liberty of the person and security. Thus, it is a violation of Article 3 of the UDHR if one does not enjoy fundamental freedoms within the society, or is oppressed or restricted by state institutions from expressing their chosen way of life and enjoying their civil and political rights. With regard to children the UNCRC specifically provides for the right to life as follows: 'States Parties recognize that every child has the inherent right to life'⁴⁵ corollary to this is the provision in the UNCRC that mandates state parties to ensure to the greatest extent that every child shall have the right to survival and development.⁴⁶ The right to survival and development of a child is just as indispensable as the right of a child to live. It underscores the duties of state parties to ensure basic amenities and equal opportunities are provided for children to thrive and develop and realise their full potentials.⁴⁷ The Constitution of Nigeria recognises that everyone has the right to life which cannot be deprived of such a person with the exception of execution of a judicial sentence for a criminal offence for which an accused person has been found guilty.⁴⁸ It was held by the European Court of Human Rights in *Oman v United Kingdom* the law not only mandates governments to refrain from unlawful or intentional deprivation of the rights to life but make efforts towards protecting the precious lives of its citizens.⁴⁹ A locus classicus on the right to life of children and the implications of depriving children this hallowed right is the famous Street Children's case. In this matter involving the kidnapping and torture of four children and their subsequent death and the outright murder of the fifth child by the security forces of the state of Guatemala, the Inter American Court of Human Rights held the state liable in the death of the five children, positing the essence of the right of life as enshrined in the American Convention on Human Rights. The court also stressed the right of life encompasses not just the right not to be deprived of one's life without due process of law but the opportunities provided by the state for one to live their life in dignity. Part of the ruling of the court is reproduced as follows:

The right to life is a fundamental human right, and the exercise of this right is essential for the exercise of all other human rights. If it is not respected, all rights lack meaning.... In essence, the fundamental right to life includes not only the right of every human being not to be deprived of his life arbitrarily, but also the right that he will not be prevented from having access to the conditions that guarantee a dignified existence. States have the obligation to guarantee the creation of the conditions required in order that violations of this basic right do not occur.⁵⁰

The right of life is all encompassing, as the nucleus of other rights known to law all other rights depend on it as human rights can only be enjoyed by a living person.⁵¹ The protection of the right to life has been stretched inculcating provisions recognising the advancements of the 21st century. Such practices as indiscriminate killings by use of drones in conflicts, destruction of the environment and climate change, inadequate provision of health facilities, extra-judicial killings, use of live ammunition on protesters by the armed forces etc represents serious threats to the enjoyment of the right of life in the present and near future.⁵²

Right to Protection against Abuse, Violence and Neglect

Within Article 19 of the UNCRC is a host of provisions geared towards protecting children from all forms of violence, ill treatment and harm. The article copiously provides as follows: 'States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,

⁴³ Petter Grahl Johnstad, 'The International Regime Of Drug Control May Violate The Human Right To Life And Security (2023) 113, 103960, International Journal of Drug Policy <<https://doi.org/10.1016/j.drugpo.2023.103960>> Accessed August 21, 2023

⁴⁴ UDHR Article 3

⁴⁵ UNCRC Article 6(1)

⁴⁶ UNCRC Article 6(2)

⁴⁷ United Nations Human Rights Office of the High Commissioner, 'Universal Declaration of Human Rights at 70: 30 Articles on 30 Articles - Article 3' (United Nations, November 8, 2018) <<https://www.ohchr.org/en/press-releases/2018/11/universal-declaration-human-rights-70-30-articles-30-articles-article-3>> Accessed August 2, 2023

⁴⁸ Constitution of the Federal Republic of Nigeria 1999 as amended, Section 33

⁴⁹ *Osman v United Kingdom* [1998] ECHR 101

⁵⁰ Case of the 'Street Children' *Villagran-Morales et al. v Guatemala* (1999) IACrHR, Series C no 63, IACHR 17

⁵¹ Amos Enabulele, 'The Right To Life Or The Right To Compensation Upon Death: Perspectives On An Inclusive Understanding Of The Constitutional Right To Life In Nigeria'(2014) 3,1, The Green Institute<<https://greeninstitute.ng/jsdlp/2020/3/10/the-right-to-life-or-the-right-to-compensation-upon-death-perspectives-on-an-inclusive-understanding-of-the-constitutional-right-to-life-in-nigeria>>August 2 Accessed 2023

⁵² Ibid United Nations Human Rights Office

including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.⁵³ The UNCRC further admonished state parties to take steps towards realizing this objective to wit:

Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement⁵⁴

A broad definition of violence against children would include all forms of harm against children like mental torture, sexual abuse and other forms of exploitation, and other forms of indirect harms like neglect.⁵⁵ The UNCRC Article 19 stresses a complete regard for children's right to dignity of the human person, and respect of their personal and physical integrity.⁵⁶ This article in effect do away with harmful practices against children which are meted out to them as a form of correction from family backgrounds in pretence that they are in the best interest of the child. Such practices as corporal punishment are in effect violations of a child's right to human dignity and physical integrity.⁵⁷ The United Nations Children Emergency Fund, (UNICEF) agrees that corporal punishment is a violation of a child's right to dignity and physical integrity.⁵⁸ Such punishments which can be physical or psychological in nature involve the infliction of pain or discomfort on a child, or use of aggressive words, intimation, threats, humiliation etc to discipline children or to compel compliance.

Another major form of violence against children is sexual violence. This encompasses all forms of forced or non consent sex or sexual acts with a child by a person in care of a child, or a neighbour, exposure to sexual comments or action by a friend or another adult or adults, compulsion to perform a sexual act for financial rewards from an adult, forcing or coercing a child to expose his or her sexual parts, or forcing a child to have a view of sexually explicit materials, rape or defilement of a child etc.⁵⁹ the impacts of sexual abuse of children is enormous and may have effects on the child even at adulthood. Such impacts may be in form of post traumatic stress disorder, fears, behaviour issues, low self esteem etc.⁶⁰

Closely related to sexual abuse of children is child trafficking. It is an illegal practice in which children are exploited for the purposes of using them for sex or labour. 27 percent of trafficked people globally are children and mostly females who are sold or lured into the practice either forcefully or with fake promises of a better living conditions or education.⁶¹ Most trafficked children are usually exploited and kept in unsafe environments, treated like slaves, and not given adequate food or shelter, and restricted from contacting their family.⁶² A major impact of human trafficking is loss of education opportunities and other amenities needed for the growth and advancement of the child leading to an uncertain future.⁶³ Finally, child labour which is also related to child trafficking is any kind of work that interferes with the childhood of a child, their human dignity, and is an anathema to their mental and physical development.⁶⁴ However a distinction must be made between what constitutes child labour and normal work done by children within a legally permitted age in different jurisdictions. The International Labour Organisation, (ILO) agrees when such works or activities do not affect the health of a child, their personal development or their education, such are permissible as they sometimes help

⁵³ UNCRC, Article 19(1)

⁵⁴ UNCRC Article 19(2)

⁵⁵ Christian Whalen, 'Article 19: The Right to Protection from All Forms of Violence' (2022) In: Vaghri, Z., Zermatten, J., Lansdown, G., Ruggiero, R. (eds) *Monitoring State Compliance with the UN Convention on the Rights of the Child. Children's Well-Being: Indicators and Research*, 25. Springer, Cham <https://doi.org/10.1007/978-3-030-84647-3_30> Accessed August 12, 2023

⁵⁶ Ibid

⁵⁷ Esteban Ortiz-Ospina & Max Roser, 'Violence against Children and Children's Rights' (Our World in Data, November 1, 2019) <<https://ourworldindata.org/violence-against-rights-for-children>> Accessed August 12, 2023

⁵⁸ Ibid

⁵⁹ Ibid

⁶⁰ Kendall-Tackett Kathleen, Linda Williams & David Finkelhor, 'Impact of Sexual Abuse on Children: A Review and Synthesis of Recent Empirical Studies' (1993) *113*(1), 164–180, *Psychological Bulletin* <<https://doi.org/10.1037/0033-2909.113.1.164>> Accessed August 15, 2023

⁶¹ Save the Children, 'Child Trafficking Is A Crime – And Represents The Tragic End Of Childhood' (Save the Children, Nd) <<https://www.savethechildren.org/us/charity-stories/child-trafficking-awareness>> Accessed August 14, 2023

⁶² Ibid

⁶³ Ibid

⁶⁴ ILO, 'What is Child Labour', (International Labour Organisation, Nd) <<https://www.ilo.org/ipec/facts/lang-en/index.htm#:~:text=The%20term%20E2%80%9Cchild%20labour%20is,harmful%20to%20children%3B%20and%20for>> Accessed August 14, 2023

children develop themselves and gain experiences and requisite skills that can aid them in the job market or be responsible members of the society in the near future.⁶⁵

The Right to Learning and Education

The right of children to education is a comprehensive term and encompasses several factors like availability and access to education, the effectiveness and purpose of education, education on human rights, the rights of children in education and the role of parents with regard to education.⁶⁶ The United Nations Educational, Scientific and Cultural Organisation (UNESCO) posits education is a fundamental right which purpose is to raise people out of poverty, reduce inequalities, and enhance sustainable development.⁶⁷ Article 28 of the UNCRC comprehensively provided for education as follows:

States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need; (c) Make higher education accessible to all on the basis of capacity by every appropriate means; (d) Make educational and vocational information and guidance available and accessible to all children; (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

Education serves several purposes including helping people to acquire skills, knowledge and information that will equip them to be useful to the society.⁶⁸ Education is vital in a society as it helps children to rise above abuse and neglect.⁶⁹ An estimated 224 million youth and children do not have access to education worldwide for socio cultural and economic factors.⁷⁰ It is everyone's right to have access to learning as they are entitled to which is corollary to respect of their right to the dignity of the human person among a host of other rights.⁷¹

Children's Right to Parental Relationships

Article 18 of the UNCRC recognises the duties of a parent towards their child, and the role the state should play to ensure this duty is carried out. Such duties include the upbringing of the child and his or her development, and ensuring the welfare and best interests of the child is a priority. There is further a duty on the government to assist parents in carrying out these duties through support for care services. Finally, if a child cannot be sufficiently supported by his or her parents, there is a duty on the state to provide such support taking into account the attributes of the child like ethnic, religious and cultural background and the child's spoken language.⁷²

Right of Children to be Heard

Freedom of expression and participatory rights are essential rights of children in the digital age.⁷³ Most jurisdictions around the world have incorporated the right to freedom of expression in their grundnum and it is a very essential right under international law.⁷⁴ The right to freedom of expression symbolises the foundations of a

⁶⁵ Ibid

⁶⁶ Laura Lundy & Patricia O'Lynn, 'The Education Rights of Children. (In Kilkelly, U., Liefaard, T. (eds) International Human Rights of Children. International Human Rights. Springer, Singapore) <https://doi.org/10.1007/978-981-10-3182-3_11-1> Accessed August 15, 2023

⁶⁷ UNESCO, 'The Right To Education' (United Nations Educational, Scientific and Cultural Organisation, Nd) <<https://www.unesco.org/en/right-education#:~:text=Education%20is%20a%20basic%20human,social%2C%20economic%20and%20cultural%20reasons>> Accessed August 13, 2023

⁶⁸ Sujata Bhan & Suzanne Rodricks, 'Indian Perspective on Child's Right to Education', (2012) 69,367-376, *Procedia - Social and Behavioral Sciences*, <<https://doi.org/10.1016/j.sbspro.2012.11.422>> Accessed August 15, 2023

⁶⁹ Tavassoli_Naini Manuchehr, 'Education Right Of Children During War And Armed Conflicts' (2011) 15, Pages 302-305 *Procedia - Social and Behavioral Sciences* <<https://doi.org/10.1016/j.sbspro.2011.03.090>> Accessed August 15, 2023

⁷⁰ Ibid UNESCO

⁷¹ Reis Monteiro A., 'The Right Of The Child To Education: What Right To What Education?', (2010) 9, 1988-1992 *Procedia - Social and Behavioural Sciences* <<https://doi.org/10.1016/j.sbspro.2010.12.433>> Accessed September 1, 2023

⁷² UNCRC 1989, Article 20

⁷³ ⁷³ Claudia Lohrenscheit 'Curriculum and Human Rights' (3rd Ed, International Encyclopedia of Education, Elsevier 2010) p. 287-292, <<https://doi.org/10.1016/B978-0-08-044894-7.00050-6>> Accessed June 28, 2023

⁷⁴ Diana Voerman-Tam, Arthur Grimes, Nicholas Watson, 'The Economics Of Free Speech: Subjective Wellbeing And Empowerment Of Marginalized Citizens'(2023) 212,260-274, *Journal of Economic Behavior & Organization* <<https://doi.org/10.1016/j.jebo.2023.05.047>> Accessed September 1, 2023

society that enjoys basic freedoms and liberty and is the focal point of human dignity and independence.⁷⁵ Article 13 of The UNCRC provides: ‘The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child’s choice.’ Just like adults, children have the right to their own opinions, and the right to freely express it in company of others.⁷⁶ Children have freedoms which must be accorded to them including right to citizenship, freedom of speech, association and expression, and freedom of thought and religion.⁷⁷ It’s good to note the freedom of children is not an absolute right but is subject to legally justified restrictions like respect for the rights and reputation of others,⁷⁸ and for the preservation of public interest.⁷⁹

3. Challenges to Implementation of the Rights of Children under the UNCRC

The UNCRC has been said as being very challenging to implement and as having an overly ambitious agenda when it comes to enforcement of children’s rights and safeguarding them from violence and societal risks like natural disasters, child trafficking, poverty, inequalities, etc.⁸⁰ The UNCRC is one of the most widely ratified treaties in the world, recognised and domesticated by virtually all countries of the world, but suffers from lacklustre implementation as most governments around the world pay merely but lip service to their human rights obligations.⁸¹ Apart from lack of political will, various factors plague the implementation of the UNCRC. Lack of awareness about the convention among families and the general population, inadequate social services, influences of social change etc. are among several factors militating against the implementation of the UNCRC.⁸² The extent of the steps taken towards implementation of the UNCRC and the resources put into these efforts, and the all-round effectiveness of the systems tasked with the realization of this objective determines the extent of the wellbeing of children in the long run.⁸³ Steps taken towards Implementation of the UNCRC and its effectiveness and results are not on all fours in all parts of the world as they vary from country to country, and region to region.⁸⁴ Thus what applies in the implementation of the UNCRC in sub-Saharan Africa might be different in western jurisdictions like the United Kingdom and Canada. It is trite that legal protections of children are more effective in these aforementioned nations than in their African counterparts like Nigeria, Niger, Somalia, Mali, Liberia, Ghana etc. A major theatre of the violation of the rights of children is in the African continent. This is compounded by existence of several regional and tribal conflicts, child trafficking, child prostitution and abuse, and child labour. Poverty, lack of basic amenities, bad government and corruption, influences of socio cultural norms and family backgrounds are among the biggest factors militating against the implementation of children right treaties in sub-Saharan Africa. Though several governments in Africa have initiated policies and legislations on child protection, this has not been accompanied with a commitment to enforcement.⁸⁵ Some of these governments lack the resources and strong institutions required to achieve these goals. For this and other reasons, child rights violation and violence against children have gotten worse in Africa. It has been reported that about half of all children in Africa have experienced some forms of physical abuse and in some parts of the African continent sex abuse of female children has been on the rise as upto four in ten female children are victims of sexual violence before they turn 15.⁸⁶ With 41.8 of girls and 39.1 of boys suffering neglect from their caregiver, Africa have highest rate of neglect of children in the whole world.⁸⁷ In the

⁷⁵ Lansdown, G., Vaghri, Z. Article 13: The Right to Freedom of Expression. In: Vaghri, Z., Zermatten, J., Lansdown, G., Ruggiero, R. (eds) *Monitoring State Compliance with the UN Convention on the Rights of the Child. Children’s Well-Being: Indicators and Research*, (2022) vol 25. Springer, Cham. <https://doi.org/10.1007/978-3-030-84647-3_8> Accessed September 1, 2023

⁷⁶ Humanium, ‘Understanding Children’s Right to Freedom’ (Humanium, Nd) <<https://www.humanium.org/en/fundamental-rights/freedom/>> Accessed August 30, 2023

⁷⁷ Ibid

⁷⁸ UNCRC 1989, Article 13(2)(a)

⁷⁹ UNCRC 1989, Article 13(2)(b)

⁸⁰ John Tobin, Judy Cashmore, ‘Thirty Years Of The CRC: Child Protection Progress, Challenges and Opportunities’ (2020) 110, 1,104436, *Child Abuse & Neglect* <<https://doi.org/10.1016/j.chiabu.2020.104436>> Accessed August 30, 2023

⁸¹ Yinka Olomjobi, *Human Rights and Civil Liberties in Nigeria* (Lagos: Princeton Publishing Ltd, 2016) p1

⁸² EC Cox, ‘The Implementation of the United Nations Convention on the Rights of the Child: Global Commitments and Local Realities,’ *P N G Med J.* 2000 Mar-Jun; 43(1-2):18-23. PMID: 11407612 > August 22, 2023

⁸³ Yehualashet Mekonen, Melhiku Tiruneh, ‘Implementation of the Convention on the Rights of the Child and Its Effect on Child Well-Being’ (In: Ben-Arieh, A., Casas, F., Frønes, I., Korbin, J. (eds) *Handbook of Child Well-Being*. Springer, Dordrecht. <https://doi.org/10.1007/978-90-481-9063-8_95> Accessed August 19, 2023

⁸⁴ Ibid

⁸⁵ Ibid

⁸⁶ APEVAC, ‘New Data Shows Violence Against Children Is Rising Across The African Continent’ (African Partnership to End Violence Against Children, July 21, 2021) < <https://www.end-violence.org/articles/new-data-shows-violence-against-children-rising-across-african-continent>> Accessed August 13, 2023

⁸⁷ Ibid

West African country of Nigeria, about 66% of girls and 58% boys under the age of 18 have experienced violence in the home front.⁸⁸ Bullying cases are on a steady rise in Central Africa where half of all the children within the ages of 13-15 suffer bullying at school.⁸⁹ The United Nations Children Emergency Fund reports violence against children, abuse and exploitation of children has become an unfortunate part of childhood in West and Central Africa.⁹⁰ According to UNICEF, about one in three girls have been violently disciplined or hit before the age of 15 in this same region, and one in ten of them either raped or encountered some form of sex abuse.⁹¹ Under age marriage is another severe violation of the rights of children in the West and Central regions of Africa where about 4 in 10 girls within the ages of 20-24 are married before reaching the age of 18.⁹² Female genital mutilation also affects one fourth of all girls in this region which also has one the highest rates of teenage pregnancy in the entire world.⁹³ Finally, children in conflict zones in Africa has not fared better as the lives of children are put in jeopardy, with some children killed, injured, and some recruited into the armed forces to join the war efforts.⁹⁴ There is also hunger, malnutrition, lack of basic amenities for health, schooling and play, attacks on educational facilities, abduction of children for ransom or political purposes etc.

4. Conclusion and Recommendations

The United Nations Convention on the Rights of the Child, the UNCRC is the most significant children rights legislation in the world ratified by almost all governments around the world. In its 54 Articles are contained a motley of children's rights. The most important right of children is the right to life and survival, from which every other right known to man proceeds. Other rights of children under UNCRC include the right to protection against abuse, violence and neglect, the right to learning and education, the right to parental relationship, and the right of children to express themselves and be heard. Despite the ratification of the UNCRC by most nations of the world, there is a noticeable rise in violence against children, child abuse, trafficking of children, abduction of children, among other societal vices against children, especially in developing nations in Africa caused by lack of political will on the part of government, weak government institutions, poverty, lack of basic amenities etc. There is a need to rise to these challenges towards securing a sustainable and enduring future for children and the society. Protection of the rights of children is essential for a just, stable and prosperous future for the society and future generations. The laws made to protect children are yet to gain traction in most parts of the world especially in third world countries.

There is need to take further steps towards enforcing the laws upholding the rights of children in the society. This paper recommends as follows:

- (i) Lack of political will towards enforcing the rights of children is among the major setbacks to the fight against violence against children around the world, and in African nations specifically where issues of child protection are relegated to the background in the pursuit of political interests. All these coupled with corruption, self enrichment and lack of accountability that diverts funds meant for empowering agencies concerned with children issues to private pockets. Bogus claims are made by government claiming various unverifiable achievements in reality the menace is on the rise. There is an urgent need to elect children friendly and responsible governments that will pay more than lip service to children protection issues.
- (ii) Corollary to electing responsible governments is the need to build strong government institutions especially agencies of government that are concerned with safeguarding and empowering children. Proper funding of health and social institutions of government through the right channels and setting up channels that will preclude diversion of funds meant for this purpose. There is need to set up a ministry meant exclusively for children affairs where this does not exist
- (iii) A very powerful tool towards implementing the rights of children especially under the UNCRC is to empower the children themselves through education. Education not only secures a child future by giving them the knowledge and skills to be useful to themselves and society but gives them an awareness of their rights under the law, how to assert their rights and when to do so.
- (iv) Orientation and awareness programs are very effective tools in the fight against violence against children, child abuse and other social vices against children. This is very easily achievable in today's digital world over the social media on which can be found a majority of children in the digital age. Information over the social media spread like wild fire and can reach millions of children within a very short time. When children are fully aware of their rights under the law, it becomes an uphill task to take it away from them.

⁸⁸ Ibid

⁸⁹ Ibid

⁹⁰ UNICEF, 'Child Protection', (United Nations Children Emergency Fund, Nd) <<https://www.unicef.org/wca/what-we-do/child-protection>> Accessed August 13, 2023

⁹¹ Ibid

⁹² Ibid

⁹³ Ibid

⁹⁴ Ibid

(v) Finally, the judiciary have a major role to play in terms of interpretation of children protection laws in such a way that the interpretation takes into account the overall welfare of the child involved above any other factor. This is very hard to obtain in African societies where the influences of socio-cultural norms are felt in the pronouncements of the judiciary in such a way as to put harmful traditional practices ahead of such interpretations that will be in the best interest of the child involved. This judicial attitude should be frowned at as judges are admonished to interpret child right laws like the UNCRC within the spirit and letters of the legislation and not colour their judgements with harmful traditional practices that are detrimental to children.