

AN EVALUATION OF THE CONSEQUENCES AND LEGAL PARADIGM OF CHILD MARRIAGE IN NIGERIA*

Abstract

Generally, it is apt to state that marriage is said to be between two consenting adults. However, in Nigeria, it has been observed that the issues of child marriage is becoming on the increase. This is concerning the fact that study has revealed that in Nigeria, particularly northern Nigeria has some of the highest rates of early marriage in the world. Furthermore, it suffices to state that there are lots of adverse of consequences that goes with child marriage. Although, there are international and domestic laws that tend to stipulate the minimum age of marriage. However, despite the said law, there is still increase of child marriage in Nigeria. It is in this regard, that this study employs the use of doctrinal study in examining the consequences of child marriage in Nigeria. Furthermore, the study will also examine the various international and domestic laws as it relates to child marriage in Nigeria in ascertaining to what extent they regulate child marriage. The study therefore concludes and recommends that, though there are laws that condemned child marriage in Nigeria, however, there is still an increase rate of child marriage in Nigeria. In this regard, the government, community and NGO should ensure an appropriate compliance with the laws that condemned child marriage.

Keywords: Child Marriage, Consequences, Legal Paradigm, Nigeria

1. Introduction

Child marriage is a fundamental violation of human rights which begun as a practice throughout history for variety of reasons including poverty, customs, insecurity as well as political and financial reasons¹. Child Marriage refers to two separate meanings practiced in some societies' affects both boys and girls, but it is more common among girls². First is the most common practice which is that of a young girl given out in marriage to a man³. The second s child betrothal where both children are betrothed with their parents' consent for a future marriage, the individuals do not meet till the wedding day which happens when they are considered to be of marriageable age⁴. In this regard, it suffices to state that in Nigeria, child marriage is taken as a trivial issue. Children are abused daily and it is being swept under the rug⁵. Some of the reasons why Child rights are taken lightly are due to poverty, Ignorance, inhumane culture and so on⁶. Also, the fact that the female child is seen almost as, dispensable property is one of the main reasons why child marriage is predominant in Nigeria⁷. Given the above, it is apt to state that in Nigeria, particularly northern Nigeria has some of the highest rates of early marriage in the world⁸. The Child Rights Act of 2003 sets the national legal minimum age of marriage at 18. To be effective, however, state assemblies must take necessary measures to implement the Act and to date, only 23 of Nigeria's 36 states have

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¹Adebowale SA, Fagbamigbe FA, Okareh TO, Lawal GO. Survival analysis of timing of first marriage among women of reproductive age in Nigeria: regional differences. *Afr J Reprod Health*. 16 no. 4, (2012): 95–107; Adedokun O, Adeyemi O, Dauda C. 'Child marriage and maternal health risks among young mothers in Gombi, Adamawa state, Nigeria: implications for mortality, entitlements and freedoms' *African Heal Science* 16 no. (2016): 986–99. <https://doi.org/10.4314/ahs.v16i4.15>

² Alayande A, Bello-Garko B, Abubakar Z, Kagara H, Nuhu IA. 'Medical perspective of childhood marriage in Nigeria: body of evidence from 2013 Nigeria demographic and health survey' *Curr Womens Health Rev*. 15 no. 3, (2019): 188–95 . <https://doi.org/10.2174/1573404814666181026095357>; Allen AA, Adekola PO. Health Implication of Child Marriage in North-East Nigeria. *Analele Universitatii Din Oradea, Seria Geografie Year XXVII*. 2017;7(1):54–61.

³ Annabel S. E., Mairo B. 'The Experience of Married Adolescent Girls in Northern Nigeria, Population Council, Nigeria, Inc.' www.popcouncil.org/pdfs/NigeriaMarriedAdol accessed, 12th January 2022

⁴ debowale S. A. Dynamics of child marriage and marital timing in Nigeria: a retrogression or progression? *Health Care Women Int*. 39 no. 9, (2018): 975–93. <https://doi.org/10.1080/07399332.2018.1490742>.

⁵ Delprato M, Akyeampong K. 'The effect of early marriage timing on Women's and Children's health in sub-Saharan Africa and Southwest Asia' *Ann Glob Health*. 83 no (2017): 557–67 <https://doi.org/10.1016/j.aogh.2017.10.005>; Fayokun, K.O. 'Legality of child marriage in Nigeria and Inhibitions Against Realisation of Education Rights' *US-China Education Review B* 5 no. 7 (2015): 460-4700

⁶ Menski, W. *Hindu Law: Beyond Tradition and Modernity* (Delhi: Oxford UP, 2003) p. 177; Nwogugu E.I, *Family Law in Nigeria*, 3rd edition (Lagos: HEBN Publishers Plc, 2014), 38

⁷ Nwokolo, C. 'Counseling Against Early Marriage of the Girl-Child in Anambra State' *Edo Journal of Counseling*, 3 no. 1 (2020): 550-570; Olukemi A. A, Folakemi O. C. 'Culture of silence and wave of sexual violence in Nigeria', *AASCIT Journal of Education*. 1 no. 3 (2015): 31–37

⁸ Aidonjoe P. A. & Egielewa P., (2020). Criminality and the Media: Perception and Legality of the Amotekun Security Agency in Nigeria. *International Journal of Comparative Law, and Legal Philosophy*, Vol. 1 (3), p. 47-72.

taken concrete steps to execute the minimum age of marriage⁹. It suffices to state that, data shows a 9 per cent decline in the prevalence of child marriage since 2003, action is needed to prevent thousands of girls from being married in the coming years. To further complicate matters, Nigeria has three different legal systems operating simultaneously: sharia, state and federal governments have control only over marriages that take place within the civil system¹⁰. However, despite that there is global condemnation of child marriage; it suffices to state that there is still incidence of child marriage in Nigeria. It is concerning the above that this study tends to embark on an evaluation concerning the consequences and relevant legal framework concerning child marriage in Nigeria.

2. Consequences of Child Marriage

- Child marriage is a fundamental violation of human rights. Many girls (and a smaller number of boys) are married without their free and full consent. By international conventions, 18 years has been established as the legal age of consent to marriage.¹¹ If the timing of marriage does not change, over 100 million girls will be married children in the next ten years.¹²
- Child marriage is closely associated with no or low levels of schooling for girls. In West and Central Africa, girls with three or fewer years of schooling are five times more likely than girls with eight or more years of schooling to marry before age 18.¹³ Poverty leads many families to withdraw their daughters from school and arrange marriage for them at a young age. These girls are denied the proven benefits of education, which include improved health, lower fertility and increased economic productivity.¹⁴
- Child marriage in many instances marks an abrupt transition into sexual relations with an older husband. The younger a bride is, the more likely it is that she enters marriage as a virgin and the larger the age difference between her and her spouse. Parents frequently arrange marriages for their daughters without their inputs or consent. In some settings, it appears that the younger a girl is when she gets married, the less say she has in the choice of her husband.¹⁵
- First births carry special risks for both mother and child. The vast majority of births to adolescent girls are first births that occur within marriage.¹⁶ The foremost risk first births carry is prolonged or obstructed labour, which can result in obstetric fistulas in settings where access to care is limited. First births also have elevated risks of pre-eclampsia, malaria, and infant mortality.¹⁷ Girls who give birth during adolescence require special attention because they are less mature and are simultaneously coping with their own and their baby's physiological, emotional, and economic needs. Globally, adolescent mothers tend to be poorer, less educated, and less adequately nourished than older mothers: they also face greater social disadvantage.¹⁸

⁹ Paul P. Chouhan P. Association between child marriage and utilization of maternal health care services in India: Evidence from a nationally representative cross-sectional survey. *Midwifery*, 2019;75; Toyo N. 'Revisiting Equality as a Right: The Minimum Age of Marriage Clause in the Nigerian Child Rights Act 2003' *Third World Quarterly* 27 no. 7 (2006) 1299-1312.

¹⁰ Center for Reproductive Law and Policy (CRLP), 'Women of the World: Laws and Policies Affecting Their Reproductive Lives (Anglophone Africa)'. New York, 2012: CRLP

¹¹ See, among others, The Universal Declaration of Human Rights (1948); The Convention on the Elimination of Forms of Discrimination Against Women (1979); The Convention on the Rights of the Child (1989), and African Charter on the Rights and Welfare of the Child (1990)

¹² Population Council Analysis of United Nations country data on marriage, 2002

¹³ Demographic and Health Survey (DHS) data on 20-24-year-olds. Analyses conducted in 2003 by Barbara Mensch for the National Academy of Sciences; Mensch S.B et al. 'Trends in the Timing of First Marriage among Men and Women in the Developing World' paper presented at the 68th Annual Meeting of the Population Association of America, Minneapolis, 1-3 May 2003

¹⁴ Population Council. 1995. 'Accelerating Girls' Education: A Priority for Governments,' Fact Sheet compiled for the Fourth World Conference on Women. Beijing, 4-15 September: Herz.B, and Sperling B.G. What works in Girls' Education: Evidence and Policies from the Developing World (New York: Council on Foreign Relations, 2004)

¹⁵ Sajeda Amin and Luciana Suran, personal communication, 2004. Based on data from Amin, Sajeda, Simeen Mahmud, and Lopita Huq. 2002. 'Baseline survey report on rural adolescents in Bangladesh.' Dhaka: Ministry of Women's Affairs, Government of Bangladesh. See also El-Zanaty, Fatma, Enas M. Hussein, Gihan A. Shawky, et al. 1996. Egypt Demographic and Health Survey 1995. Calverton, MD: National Population Council (Egypt) and Macro International, Inc.

¹⁶ 78 per cent of births that occur before age 18 are first births, and 90 per cent of first births that occur before age 18 occur within marriage. DHS data analyzed by Monica Grant, Policy Research Division, Population Council. (DHS surveys cover 60 per cent of developing-country populations.)

¹⁷ Kiely, M. (ed.) Reproductive and Perinatal Epidemiology (Florida: CRC Press, 1991) p. 40; Kline, J. et al. Conception to Birth: Epidemiology of Prenatal Development (New York: Oxford University Press, 1989), 79-81

¹⁸ Miller, S and Lester, F. 'Married Young First-Time Mothers: Meeting their Special Needs,' paper prepared for the WHO/UNFPA/Population Council Technical Consultation on Married Adolescents, WHO, Geneva, 9-12 December 2003

- Married girls have distinct and in some settings substantial risks of acquiring HIV, Child brides typically experience high rates of unprotected sex; have significantly older (and thus more sexually experienced) spouses, and are largely unable to negotiate safer sex.¹⁹ In settings with generalized HIV/AIDS epidemics, these factors may leave married girls vulnerable to infection.

3. International Laws concerning Child Marriage

Child marriage is a Violation of human rights and is prohibited by several international conventions and other instruments. Nigeria has ratified most of the international laws relating to child marriage. A few of them are listed as follows:

Convention on Consent to Marriage, Minimum Age for Marriage a Registration of Marriages 1964

This convention²⁰ is aimed at ensuring that no marriage shall be legally entered into without the full and free consent or bon parties, such consent to be expressed by them in person as prescribed by law. Article 2 of the convention²¹ provides that states parties to the present convention shall specify a minimum age for marriage not less than 15 years ' according to the nonbinding recommendation accompanying this Convention. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons in the interests of the intending spouses. Article 3²² provides that all marriages shall be registered by the competent authority. In this regard, it suffices to state that at the international level, the idea of child marriage aptly condemned. Although, it seem the convention stipulate age from 15 and above as an age a persons could be said to be good enough for marriage, but the consent of the said person must be sort for such marriage to be valid.

Convention on the Rights of the Child 1989

The Convention on the Right of a Child²³ was adopted and opened for signature on the 20th November 1989, it's the first legally binding international instrument that deals with human rights issues on children. It has been ratified by all countries except the United States and Somalia. Nigeria ratified this law in March 1991 which provides for access to education and stipulates that every child has the right to free, compulsory, and universal basic education (primary and junior secondary school) and it shall be the duty of the government in Nigeria to provide such education with the assistance of parents and guardians of children. Several provision of the CRC hold relevance to Child marriage, however, some of them are analyse as follows; Article 3 of the convention²⁴ provides that in all actions concerning children the best interests of the child shall be a primary consideration. Article 19 of the convention²⁵ further stipulate that the right to protection from all forms of physical or mental violence, injury or abuse, maltreatment or exploitation, including sexual abuse, while in the care of parents, guardian, or any other person. Also, article 24 of the convention²⁶ provides for the right to health, and to access to health services, and to be protected from harmful traditional practices. This provision is perhaps the most relevant clause against child marriage as this practice is part of the Hausa-Fulani tradition and since this act is harmful to the health of children, CRC can recommend the abolition of traditional practices such as child marriage. However, most relevant provision of the conventions of the right of a child is Article 28 and 29²⁷ provides for the right to education on the basis of equal opportunity. Furthermore, it suffices to opined that article 34 and 36 of the convention²⁸ further stipulate for the right to protection from all forms of sexual exploitation and sexual abuse and the right to protection from all forms of exploitation prejudicial to any aspect of the child's welfare.

African Charter on the Rights and Welfare of the Child 1990

The African Children's Charter²⁹ was signed by Nigeria on 13 July 1999 and ratified on 23 July 2001. Unlike CRC, the African Children's Charter is a more comprehensive instrument as it deals with a multitude of rights of the child, including marriage. Also, the African Children's Charter sets the age of childhood below 18 years³⁰, without allowing states to prescribe otherwise. Therefore, while the practice of child marriage in Northern Nigeria

¹⁹ S. Clark, 'Early Marriage and HIV Risks in Sub-Saharan Africa,' Studies in Family Planning Vol. 35 No.3, PP. 149-160.

²⁰ Convention on Consent to Marriage, Minimum Age for Marriage a Registration of Marriages, 1964

²¹ Ibid

²² Ibid

²³ Convention on the Rights of the Child, 1989

²⁴ Ibid

²⁵ Ibid

²⁶ Ibid

²⁷ Ibid

²⁸ Ibid

²⁹ The African Children's Charter was signed by Nigeria on 13 July 1999 and ratified on 23 July 2001

³⁰ Ibid

may not contravene Article 1 of CRC, it does contravene Article 1 of the African Children's Charter³¹. In contrast to CRC, the prohibition of child marriage is included in the African Children's Charter under Article 21(2)³², which states: 'Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage be 18 years and make registration of all marriages in an official registry compulsory' Similar to the African Children's Charter, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol),³³ which defines women as including girls, stipulates 18 years³⁴ as the minimum age of marriage for women. Furthermore, some articles under the African Children's Charter specifically deal with child marriage. These include, but are not limited to, the protection of children from economic exploitation and sexual abuse. Much like Article 24(3) of CRC, the African Children's Charter also contains a provision that urges states to protect children against harmful social and cultural practices.³⁵ Under Article 21 of the African Children's Charter³⁶, state parties are urged to: '...take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular (a) those customs and practices prejudicial to the health or life of the child, and (b) those customs and practices discriminatory to the child on the grounds of sex or other status.

This article stamps out the major causes of child marriage, namely, customs and traditional practices. In the Nigerian context, the Hausa- Fulani undoubtedly violates Article 21 of the African Children's Charter³⁷. Despite being a signatory to both the African Children's Charter and CRC, Nigeria saw the need to domesticate both instruments and to promote the protection of children in Nigeria. This desire to protect and promote the rights of the Nigerian child began with a Bill of Child Rights in 1993. Concerning the above, it suffices to also state that apart from the above international legal framework concerning issues of child marriage in Nigeria, are other international laws such as the Universal Declaration of Human Rights³⁸. Though, this convention does not directly provide for issues as it relates to child marriage, however, it provides for the welfare and right of an individual, which also include a child. In this regard, article 16(1) of the declaration³⁹ provides that men and women of full age, without any limitation due to race, nationality or religion have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. Subsection (2) provides that marriage shall be entered into only with the free and full consent of the intending spouses.

4. Domestic Laws concerning Child Marriage in Nigeria

It suffices to state that why Nigeria is one of the countries who have frowned at child marriage by ratifying more international laws that provide for the welfare of a child and condemned child marriage. However, there are some laws that also address issues as it relates to child marriage in Nigeria, some of these laws are addressed as follows;

Constitution of the Federal Republic of Nigeria 1999

There is no provision providing the age of marriage under the Constitution but Section 29(4)⁴⁰ impliedly has been confused to be applied to child marriages. This section has to do with renouncing of citizenship. Section 29(4) (a) and (b) of the Constitution⁴¹ provides that full age means the age of eighteen years and above. However, it went further to state that any woman who is married shall be deemed to be of full age. This provision has the effect of ratifying or approving an otherwise illegal marriage where a girl between ten and seventeen years is married either forcefully or with her consent. This lacuna in the Constitution has led to certain implications.

Marriage Act

The Marriage Act does not define or lay down any mandatory age of marriage or the lowest limit of the age of marriage. This vacuum is not only important but also fundamental which requires immediate remedial action. Before 1970, when the Matrimonial Causes Act became effective in Nigeria, one school of thought held the view that the lacunae in the Marriage Act could be filled by applying the law and practice for the time being in force in

³¹ Ibid

³² Ibid

³³ Article 6 African Women's Protocol

³⁴ Article 6(1) African Children's Charter on Rights and Welfare of Children

³⁵ Article 21 African Children's Charter on Rights and Welfare of Children

³⁶ Ibid

³⁷ Ibid

³⁸ Universal Declaration of Human Rights, 1948

³⁹ Ibid

⁴⁰ 1999 Constitution of the Federal Republic of Nigeria (as amended)

⁴¹ Ibid

England.⁴² Whatever may be the validity of this point of view, the possibility of its application has been lost since 1970 Matrimonial Causes Act came into force banning the application of English Law⁴³. The other point of view is to the effect that common law rule will apply to the age of marriage.⁴⁴ Both by canon law and at common law, a valid marriage could be contracted only if both parties had reached the legal age of puberty, which is fixed at fourteen for boys and twelve for girls.⁴⁵ If either party was under this age when the marriage was contracted, it could be avoided by either party when that party reached the age of puberty but if the marriage is ratified (as it could impliedly be by continued cohabitation) it became irrevocably binding.⁴⁶ It is perhaps surprising that this remained the law until well into the present century. In the words of Pearce J: ‘According to modern thought, it is considered socially and morally wrong that persons of an age at which we now believe them to be immature and provide for their education should have the stresses responsibilities and sexual freedom of marriage and the physical strain of childbirth’.

However, it must be noted that section 18 of the Marriage Act provides that the mature age a person is said to be mature without seeking parental consent is 21 years. Though the Marriage Act did not specifically provide for the actual marriageable age, however, section 48 of the Marriage Act provide that, it is an offence for any person to marry a minor without a written consent obtained from minor’s (under the age of twenty-one) parents and it is an offence to assist or procure any other person to marry such minor, such person shall be liable to imprisonment for two years. From the wordings of section 48 of the act, it can be inferred that the specific age (without seeking consent) for marriage under the Act is 21 years, though the minimum age for marriage was not specified under the Act. Section 18 of the Marriage Act is against the intendment of section 21 of the Child Right Act, which stipulates that the minimum age for marriage is 18 years. Section 29(4) (a) and (b) 1999 Constitution which provide thus; (4) For the purposes of subsection (1) of this section, (a) ‘full age’ means the age of eighteen years and above; (b) any woman who is married shall be deemed to be of full age.

From the above provision of the Constitution, it is emphatically clear that the actual marriageable age without seeking parental or guidance consent is 18. This view has been argued by Nwogugu on page 42 of his text when he stated thus;

The requirement of parental consent to marriage became part of our law when the age of majority was regarded as twenty-one years. This has changed not only Nigeria but in other parts of the world. The Provisions may therefore be considered anachronistic in the light of modern Nigeria law... Moreover, the prescribed minimum age of marriage in Nigeria is now eighteen.

Child’s Rights Act

The concept of child's right has been an offshoot of human rights which connotes the rights and entitlements claimed for children worldwide. Child rights are human rights which are claimed specifically for the protection of children and care afforded to minors. The United Nations Convention on the rights of the child is the most widely ratified convention in history. The convention sets out the rights of children aged zero to eighteen years and is government's responsibility to ensure those rights are enforced. The rights of a child are based on what a child needs to survive, grow, participate and meet their potential. These apply equally to every child, regardless of ethnicity, gender or religion. The Child’s Rights Act⁴⁷ was enacted in Nigeria because of the United Nations Convention on the Rights of the Child which was adopted on 24th November 1989. Because is a United Nations Convention, which means an agreement between the nations or the world, it does not become binding on Nigerians until it has been enacted by the National Assembly. This was done by the National Assembly in 2003.⁴⁸ The Child Rights Act prohibits both the marriage of those considered to be children and the betrothal of children. With child marriages, Part III Section 21 of the Child Right Act⁴⁹ provides that; ‘No person under the age of 18 years is capable of contracting a valid marriage, and accordingly a marriage so contracted is null and void and of no effect whatsoever’. Also, Part I Section 22(2) of the Child Right Act⁵⁰, further prohibits the betrothal of children, maintains that; ‘no parent guardian or any other person shall betroth a child to any person. A contravention of

⁴² Nwogugu E.I, Family Law in Nigeria 3t Edition (Lagos: HEBN Publishers, 2014)

⁴³ Ikubanni O. O., and Aidonojie P. A. ‘The Legality of Virtual Marriage in Nigeria given the Covid-19 Pandemic Social Distancing: An X-ray of the Matrimonial Causes Act’, *Madonna University, Nigeria Faculty of Law, Law Journal*, 6 no. 1 (2021): 123-129

⁴⁴ Adesanya A.S, Law of Matrimonial Causes (Ibadan: University Press, 1973),7

⁴⁵ *Harrod v. Harrod* (1854) 1 K& J 469; (1854) ER 344

⁴⁶ Rogers E.M, Family Law (London: Blackstone Press Ltd, 1998)

⁴⁷ Child Right Act 2003

⁴⁸ Section 12 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)

⁴⁹ Child Right Act

⁵⁰ Ibid

either Section 21 or Section 22⁵¹ amounts to a fine of 500,000 Naira or imprisonment for a term of five years or to both a fine and imprisonment.⁵² Although the Child Rights Act imposes sanctions on child marriages and betrothal, the use of the conjunction or is worrisome because there is an indication that those who partake in child marriages and, in turn, contravene the Child Rights Act⁵³, may escape jail by only paying the stipulated fine of 500,000 Naira. However, the option to pay a fine for a heinous act such as child marriage appears to be the least of the CRA's problems. The tenure of the Act is not confined to marriage under the Act or Christian marriage but rather it is intended to cover both customary and Islamic law marriages.

A major problem with the Child Rights Act is acceptance. This Act is expected to be adopted or domesticated by all the 36 states of the Federation. However, only 22 states of the Federation have adopted or domesticated the Act⁵⁴. These states are in the Southern parts of Nigeria. The Northern states have refused to adopt it because of the contradictions in the Act and the attempt of the Act to modify certain religious beliefs in Nigeria. What this means that children may have no rights in states which are vet to enact the law and, subsequent, if child marriage is practiced, it is not an offence. Furthermore, apart from the state of Enugu, the 11 sales which are yet to domesticate the Child Rights Act are in the northern part of Nigeria and these have adopted penal code which is based mainly on Sharia law. While the law sets a child to be a person under 18 in Islam no age marks childhood. A child's maturity is established by signs of puberty such as menstruation, the growth of breasts and pubic hair. To further buttress the argument that age is a factor contributing to the reluctance of many northern states to pass the CRA, when one of Nigeria's northern states, Jigawa, accepted the Child Rights Act, its state law did not enact the age of 18 as the age of majority as specified in the Act. Instead, it determined the age of childhood concerning puberty. However, the state repealed the initial Child Rights Act because it did not follow due process before enactment but it is yet to enact a new Child Rights Act. Also, many countries such as the US, don't have a national standard as to marriageable age but countries where marriage of children is not uncommon such as India, have had the law as under eighteen years for many years. One burdening question, is how many people around the world are affected? Almost 900 million people, 82 per Cent of these are females which is a great impediment to reproductive, maternal, and child health which could eliminate a single generation. When looking at the global prevalence on where child marriage most occurs, you can see that we don't have figures in many areas of the world. But for those places, we see that it is not uncommon and it is particularly prevalent in the areas of sub-Saharan Africa and South Asia. However, under the Child Rights Act⁵⁵, two basic principles are laid down to guide the operation of all provisions of the legislation. The first principle relates to the best interest of the child been the primary consideration while the second principle relates to the protection and care of a child. They share the same fundamental right as adults although the right marry is dormant until they are of age but some governments such as Nigeria have failed to state a marriageable age although majority of countries state eighteen. Child marriage is a violation of human rights and is prohibited by several international conventions and other instruments.

5. Conclusion

This study has been able to identify the fact that child marriage equals early marriage. That given the fact that there is lack of a universal definition is due to the different socio-cultural value and religion spread over various countries but we as mothers and the government fail to be concerned about the best interest of the children. In this regard, due to the array of socio-medical consequences of early marriage, it became logical for countries to legislate against child marriages. Nigeria followed suit by enacting the 'Child Rights Act 2004 which amongst others out rightly prohibits child marriages. Furthermore, it is clearly stated in the constitution that a child is not an adult and every citizen in Nigeria is entitled to fundamental human rights such as the right to education, protection and so on. However, the paramount issue is the effective implementation of this law by states within the country. In this regard, it suffices to state that the government, the society and various stake holders of the society that has the interest of all children must endeavor to condemn any form of child marriage. Furthermore, the laws that condemned any forms of marriage must be set in motion to prosecute anyone engage in child marriage in Nigeria.

⁵¹ Ibid

⁵² Section 23 of the Child Rights Act Cap. C. 50 Laws of the Federation of Nigeria, 2004

⁵³ Ibid

⁵⁴ Aidonjoe P. A. and gbele P. O. 'Legitimacy: The Current Legal Perspective of a Child Born out of Wedlock under the English and Nigeria Law', *Nigeria Bar Association Section on Legal Practice Newsletter*, 2 no. 16(2020): 18-21

⁵⁵ Ibid