

## Abstract

Law is an important part of every society, the absence of which reduces a society to a chaotic one. Laws also spell out the rights of individuals in a society, providing for the extent of such rights and how such rights can be lost. Children who form an intricate part of the society should not be left denied these entitlements. The aim of this work is to discuss the various, local and foreign laws that guide the rights of children in Nigeria, with a view to educating the ignorant ones of the great claims they have in these laws. This work employed the doctrinal research mode relying on primary sources such as statutes and case laws as well as primary sources like journal articles, books, and relevant online materials. The research revealed that the Nigerian laws though well drafted, are not effectively implemented for the good of the citizens. Proper implementation is necessary as well as constant review to meet with international best practices.

**Keywords:** Child's Rights, Courts, Labour, Enforcement

## 1. Introduction

The need to know one's right in the society cannot be overemphasized. Rights define the civil landscape of a society and put a check on the conduct of everyone. These rights which are written in various laws are not discriminatory in anyway and should be enjoyed by the citizens of Nigeria. Nigeria's journey to human rights (just like most nations of the world) can be traced to the establishment of the Universal Declaration on Human Rights (UDHR) on the 10<sup>th</sup> day of December, 1948. This declaration gave every human a sense of worth, and from her, came every other convention we see on the legal space. The aim of the drafters of the UDHR was to unite humans irrespective of whatever prejudice they think keeps them apart. The impact of the UDHR is seen in all of our laws, which encompass the civil, political, economic, social and cultural rights of the people, irrespective of age, gender, social status etc., and upon citizenship every Nigerian must enjoy these rights. Children in their tenderness and naivety are also protected by these laws (both general and specific), which have been drafted to give them a sense of belonging in the Nigerian society and further drive the proverb that 'children are leaders of tomorrow' home. Their protection by these laws, will further open their eyes to the provisions of these laws and the duties they must perform for the betterment of the Nigerian society.

## 2. Legal Framework on Child's Rights

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

The Constitution of the Federal Republic of Nigeria 1999 (as amended)<sup>1</sup> is the extant Constitution of the Nigeria and it features include Preamble, Separation of power, Presidential system, Federalism, Sovereignty, Supremacy of the Constitution, Independence of the Judiciary, Fundamental Rights. For the purpose of this work, we would like to dwell more on the fundamental human rights of the Nigerian Child.

### Fundamental Human Rights

According to Garner<sup>2</sup>, a fundamental right is a right derived from the fundamental law, example the Constitution. This was further opined, in *Ransome Kuti v Attorney General of the Federation*,<sup>3</sup> where the Supreme Court observed that fundamental right is a right which stands above the ordinary laws of the land and which in fact is antecedent to the political society itself. The fundamental rights of every Nigerian (including children) are contained in Chapter 4 of the 1999 Constitution, spanning from Section 33- Section 46 and is most relevant to this work. Section 33 provides for the right to life and it is referred to the mother of all rights. The right to life<sup>4</sup> imposes on an individual and the state, the obligation not to deprive another, intentionally of his right to life except within the permissible circumstances by law as seen in the later part of section 33 (1), and in section 33 (2). The section provides:

- 1) Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.
- 2) A person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary-
  - (a) for the defence of any person from unlawful violence or for the defence of property;
  - (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
  - (c) for the purpose of suppressing a riot, insurrection or mutiny

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<sup>1</sup> Hereinafter referred to as the 1999 Constitution.

<sup>2</sup> BA Garner, *Black's Law Dictionary (8<sup>th</sup> Edition)*. 744

<sup>3</sup>(1985) 5NWLR (Pt.10) 211 At 229-230]

<sup>4</sup>Appraisal of the Right to Life and Death Penalty in Nigeria. Written By *ABUAD Law Review*. Posted By Abuad Law Review Tagged EUTHANASIA. <<https://Djetlawyer.Com/Appraisalontherighttolifeanddeathpenaltyinnigeria/>>

Children in Nigeria are usually denied this right to life through the following ways:

- i) Extrajudicial killings: Children are sometimes victims of stray bullets and tear gas attacks especially in crime endemic areas. Most times perpetrators of this crime escape and are not brought to book by the long arms of the law. At other times, when they are caught, they bribe the law enforcement agents.
- ii) Children who are used for rituals are also denied the right to life.
- iii) Children may also die as a result of maltreatment from parents, guardians, masters, class teachers, etc.
- iv) Children also die from kidnapping due to harsh treatment from the kidnappers or inability to pay ransom by their guardians.

In the case of *Olanrewaju Oni v The State*<sup>5</sup>, the appellant administered acid chemical on his daughter which resulted in severe burns of the mouth and lungs and eventually led to the girl's death. He was charged and tried for the murder of his daughter and the court found him guilty and sentenced him to death. Also, the right to life imposes an obligation on the state to refrain from intentional and unlawful taking of life save in exceptional circumstances permitted by the Constitution in section 33(1) – (2). In *C.O.P Taraba Stated & Anor. v Dabo & Anor.*,<sup>6</sup> the court, per James Shehu Abiriyi, JCA, held that 'fundamental human rights matters are serious matters.' Allegations of breach of right to life are much more serious. The first right is the right to life, which is the most precious gift on earth. The right to life as provided for and enshrined in section 33(1) of the 1999 Constitution also covers an already convicted person who though sentenced to death has a pending appeal or review as the case may be. The state must allow the law, run its full course, and must not resort to hasty execution of the convict whose appeal is still pending before the Court of Appeal. Section 34 provides for the right to dignity of the human person. At the heart of human rights is the belief that everyone should be treated equally and with dignity – no matter what their circumstances may be. This means that nobody should be tortured or treated in an inhuman or degrading way. No one has the right to own another person or to force them to work under threat of punishment and everyone should have access to public services and the right to be treated fairly, by those providing the services.

In Nigeria, children who should have right to dignity are often denied such through the following ways:

- i) Children used as domestic servants who must work their lives out just to earn a living.
- ii) Children used as sex slaves and prostitutes abroad after being deceived of better living conditions over there.
- iii) Young girls married up as wives to men old enough to be their fathers.
- iv) Children who work in dangerous places such as dump sites, coal mines, forges, etc. when they should be in school.
- v) Children who are sent off to serve deities in their communities.

This right is one of the most intrinsic rights of a man and can be seen as the determinant of personhood. Therefore in the case of *Okafor v Lagos State Government*,<sup>7</sup> the Court of Appeal, declared that the arrest, detention and transportation of a girl in the back of a vehicle which is of a metal cage with very little ventilation and light by officials/agents of the Lagos State Government for purported environmental sanitation offence violated her fundamental right to the dignity of her person.

Section 35 of the 1999 Constitution is about the right to personal liberty of the people of the country. Personal liberties are personal guarantees and freedoms that the government cannot abridge either by law or by judicial interpretation. Children often have their liberties taken away from them in some of these ways:

- i) Children who are abducted by militia groups e.g. Chibok girls who were abducted by the Boko haram sect in 2014.
- ii) Excluding the girl child from education for religious reasons.
- iii) Imposing curfew in an area with strict penalties.
- iv) Keeping children in secluded places in order to use them as suicide bombers, militia men, etc. like the Bokoharam who train young boys and girls to become suicide bombers.
- v) Locking up a child for days or weeks without food, water and good clothing.

The personal liberty of a person may be contravened only in the exceptions of section 35(1)(a-f) of the 1999 Constitution as it is the law that right to personal liberty is suspended once there is a reasonable suspicion of having committed a criminal offence.

Section 36 of the Constitution,<sup>8</sup> provides for the right to fair hearing. The right to fair hearing is the foundation on which all other rights stand, because it is the root of the administration of both civil and criminal justice. It connotes

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<sup>5</sup> [(2008) WHRC Vol.1 P.1]

<sup>6</sup> (2019) LPELR – 47215 (CA)

<sup>7</sup> [(2017) 4 NWLR (Pt. 1556) 404 At 438]

<sup>8</sup> <<https://www.learnnigerianlaw.com/learnhumanrights/fairhearingrights>. Accessed 11 September 2023

a judicial proceeding that is conducted in such a manner as to conform to fundamental concepts of justice and equality. In the case of *Ezechukwu v Onwuka*,<sup>9</sup> the Court of Appeal pointed out that fair hearing is a hearing which is fair to all parties to the suit whether the plaintiff, defendant, the presenter or the defence. The litmus for a trial is that it must be one where parties to a case are afforded the opportunity to be heard. On the contrary where the trial does not afford the parties the opportunity to be heard, the hearing cannot qualify as a fair trial. In the first place, it guarantees a right to a hearing; that is a right to access to court and tribunals established by law whenever there is a question or dispute as to the rights and obligations of a person or whenever any person is charged with a criminal offence. In the second place, it imposes a duty on such courts and tribunals to act fairly, fearlessly, openly and impartially. Fair hearing in section 36 (1) encapsulates the two common law concepts of natural justice: a) *Audi Alteram Partem* b) *Nemo Judex in causa sua*. The *Audi alteram partem* rule demands that each party involved in a case must be given the opportunity to present and state his case. Hence, all parties must be given notice of hearing so as to have the opportunity to present their cases before the decision is made. In the Nigerian case of *Garba v University of Maiduguri*,<sup>10</sup> Oputa JSC explained the rule thus: ‘God has given you two ears, hear both sides.’ Also, in the case of *Mpama v First Bank of Nigeria Plc.*,<sup>11</sup> it was held by per Rhodes – Vivour that: *Audi alteram partem* means hear the other side. It is a maxim denoting basic fairness and a canon of natural justice. It simply means that a judge should allow both parties to be heard and should listen to the point of view of the case of each side. The *nemo judex in causa sua* rule requires that a person should not be a judge in a case in which his interests are brought to the fore. Between both sides, the judge must hold the scale impartially and disinterestedly, his only interest being that justice be done and be seen to have been done.

Section 42 grants every Nigerian citizen (including children) the freedom from any form of discrimination bordering on tribe, religion or state of origin. This is in line with Article 1 of the UDHR, which clearly states that all human beings are equal. Children in Nigeria often face discrimination in the following ways:

- 1) The Osu caste system: Here children who are believed to come from the generation of outcast are being ostracized and treated unfairly because of the sins of their forefathers.
- 1) Denying children admission into schools on the grounds of tribe, social status, gender, age etc.
- 2) Children who are orphans in the Nigerian setting are sometimes denied access to their parents’ inheritance because of customary reasons.
- 3) Children who are victims of terrible diseases e.g. HIV/AIDS are avoided by a lot of people in the society.
- 4) Albinos, children with deformities, etc. are being despised by their peers in school.

This section was also brought to light in the case of *Ukeje v Ukeje*,<sup>12</sup> where the Supreme Court held that female children also had a right to inheritance of their father’s property, including those, born out of wedlock.

Against the backdrop of the fundamental human rights, found in Chapter 4 of the 1999 Constitution are the economic rights, which cover the Chapter II of the Constitution. They are called socio-economic rights and differ from the fundamental human rights in that while the latter is justiciable, the former is not.<sup>13</sup> Chapter II which spans from section 13-24 of the 1999 Constitution contains the following: Section 13 places a duty on all organs of the government to observe the provisions of the chapter. Section 14 establishes the country Nigeria, on the principles of democracy and social justice, placing sovereignty on the people and making their social welfare, the utmost concern of the government. Section 15 establishes the motto of the Federal Republic of Nigeria, which is unity, faith, peace and progress. Section 16 speaks of the duty of the state, to channel the nation’s resources for economic building. Section 17 establishes the equality of all Nigerian citizens (including children) and the humane approach the government must adopt, in dealing with her citizens. Section 18 gives everyone (including children) the right to free education. Section 19 establishes foreign policy objectives which promotes co-operation between, Nigeria and other nations of the world. Section 20 speaks of environmental rights. Section 21 upholds the various cultures of the Nigerian tribes. Section 22 enjoins the press to uphold the fundamental objectives of Chapter II. Section 23 - 24 enjoins the Nigerian citizens to abide by the tenets of the Constitution, in line with her national ethics which are discipline, integrity, dignity of labour, social justice, religious tolerance, self reliance and patriotism.

### Lapses in the 1999 Constitution

The first pit fall of our Constitution is seen in section 6 (6) (c) which bars people from enforcing the rights in Chapter II of the Constitution. Chapter II contains the economic rights of the Nigerian citizen; the absence of which makes the fundamental rights, a mirage. The right to life will be useless, where the child cannot feed. The right to liberty would be a mirage where one cannot enforce the political objectives in section 15 (1) and (2) of the Constitution in event of breach. Tying the hands of the citizenry in event of breach of chapter II of the 1999 Constitution, can be

<sup>9</sup> (2006) 2 NWLR (Pt. 963) 151

<sup>10</sup> [(1986) 1 NWLR (Pt. 18) 550]

<sup>11</sup> (2013) LPELR (19896 (SC) P 29 – 30, Paras G-A

<sup>12</sup> [(2014) 11 NWLR (Pt. 1418) 384]

<sup>13</sup> Section 6(6) (C) of the 1999 Constitution of the Federal Republic of Nigeria 1999 (As Amended) p. 24

likened to, a father who does not provide for his children, and still instructs them not to accept food from strangers. Some of the provisions of chapter II do not nip the problem on the bud. An example is in section 15(3) that does not provide the solutions to discrimination in Nigeria. Although they mentioned residential rights, they do not indicate how these rights can be achieved. Discrimination in Nigeria is mostly visible in the career, educational and residential aspects. A credible Nigerian who is denied a right to work in an organization, on the grounds of tribe and gender, cannot seek redress in court since the Constitution has made no provision for him in that regard. Again, a child who is denied right to study in a school of their choice (even after passing so well) cannot be covered under section 15. It is a huge lacuna, which should be put in place of the other provisions which appear trivial. Some of the laws in Chapter 2 appear dicey. Under section 17 (2) (d), the Constitution does not specify the steps the government would take in ensuring that exploitation of human resources will be prevented. Under normal circumstances, the penalty for such a breach should be clearly stated, the court where the individual should go to seek such a redress, should be stated, and the fine or compensation which should be given such an individual, should also be there. These hanging policies also extended to section 18. It is one thing to make laws, but another, to ensure that the mechanisms for the implementation of these laws are clearly stated.

### **Child's Rights Act 2003**

The Child's Rights Acts of 2003 expands the human rights bestowed to citizens in the 1999 Constitution with regards to children. The rights contained in the Child's Rights Acts and the intention of care and protection for the Nigeria Child<sup>14</sup> by the Act is not distanced from that which is intended for children of other parts of the world. The bill was first introduced in 2002, but did not pass because of opposition from the supreme council for Sharia. The Act was officially passed into law in 2003 as the Child's Rights Act 2003. The Child's Rights Act, 2003 (CRA) is the law that guarantees the rights of all children in Nigeria. So far 24 out of the 36 states of Nigeria have adopted the CRA as a state law. The Child's Rights Act mandates that when a child is concerned, their best interest is to take precedent. It goes on to state that the parent or legal guardian is obligated to fulfill the duty to give the child basic protection. The Child's Rights Act discusses the ways in which a child should be protected. These include, protection from child marriage, as well as the punishment for the act to the adult parties involved. Other protections include: not being harmed (including being marked with tattoos) or from sexual violence, being shielded from exploitative labour, or being enlisted in any military operation. It makes clear the obligations of a state government, when it is disclosed to that institution that a child is being harmed. It lists reasons when a child assessment order may be sought as well as the reasons and duration which emergency protection orders shall be given to a child. It indicates the circumstances under which a child shall be brought to court in order to determine if they need protection. This part also stipulates the type of person who shall be allowed to make such a decision using the guidelines detailed in this section. The part VI of the Act enumerates the ways and manner in which a court must proceed after a child assessment order is made. Part VII allows for the court to use paternity tests in order to make decisions in civil proceeding when it is unclear who the parents of a child are. Part VIII shows how decisions should be made about custody of a child. Part IX details who is allowed guardianship and the ways in which guardianship may be transferred from one adult to another over a child. Part X establishes how a child becomes a ward of the court, that there may be payments required of a previous guardian for the maintenance of their child and the rules, regarding how a child may be released back into the custody of a guardian<sup>15</sup>. Part XI outlines the circumstances in which a child may be fostered, the way in which an adult may apply to foster a child must adhere to. Part XII requires that each state of Nigeria, create a system for adoption services. This section also outlines the process of applying for adoption and stipulates that the person wishing to adopt a child should already be living in a comfortable apartment. Part XIII creates a system of family courts with two levels, established a right to legal counsel for all children, and devises safe guards (such as the withholding of the child's name, school pictures or any identifying features) within a trial which are meant to protect the child. Part XIV mandates that every state creates a registry which shall track the names of children being supervised as well as the names of individual nannies or day care providers who are tasked with watching the children. The clause also grants the government, the right to inspect the premises where this child minding occurs. Part XV outlines the instances where the state government is expected to step in, and protect the welfare of the child. Part XVI to XVIII indicates the types of housing that should be used to house children. Part XIX establishes that a minister may grant the inspection on children for the reasons listed in the clause. Part XX grants children the right to privacy in the court system. This part also makes it clear that children are to be tried through the child justice system and not the court where adults are on trial. It is indicated that within the Nigeria Police Force, there must be individuals trained specially to handle children. From a child's arrest to their treatment in an institution, this section outlines the procedures. Part XXXI shows the ways in which supervision officers are appointed as well as the duties of the specially appointed officers. Part XXII specifies that the Act allows for the ministers to create specific institutions meant to meet the needs of children. These centres include (but are not limited to) children residential centres, emergency protection centres and a correctional centre for children. Part XXIII creates the national child rights implemental committee which must consist of one representative from fourteen of Nigeria's Government bodies. The function of the

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<sup>14</sup>Overview Of The Child Right Act By Chaman Law Firm Nigeria <<https://www.Chamanlawfirm.Com/Overviewofthechildrightact2003>. Accessed 11 September 2023

<sup>15</sup> Ibid

committee is to take actions which will lead to the observance of the Act itself as well as other human rights treaties Nigeria has subscribed to. Part XXIV is labeled as ‘Miscellaneous’ and touches on some of the legal implication any corporations may face for not following this Act. This section also further defined terms.

Lapses in the CRA 2003 include:

- i) It is not adopted by all the states of the federation.
- ii) It makes no provisions for children with disability.
- iii) It is silent on the issue of rehabilitation which should be given to children who have been victims of sexual harassment or other forms of child abuse.
- iv) It does not clearly state how the child can be adequately protected from sexual exploitation and other forms of child rights abuse.<sup>16</sup>

#### **Labour Act 2004**

The Labour Act 2004 is the principal legislation governing employment relation in Nigeria<sup>17</sup>. Its application extends to employees engaged under a contract of labour or clerical work in both private and public sectors. It distinguishes between workers and non-workers. It defines workers as ‘those who are generally employees who perform manual labour or clerical work’ and defines non-workers as ‘employees who perform administrative, executive, technical or professional functions’. It provides comprehensive legislation on conditions of work and employment. Part I sets out general provisions relating to wages, contracts and terms of employment. Employers shall not advance more than one month’s wages to an employee (Section 4). Section 8 requires that workers entering into a contract be medically examined at the employer’s expense. Part II regulates to recruiting, including the licensing of recruits (Section 25), and the right to be accompanied by family (not exceeding two wives). Part III relates to special classes of workers including apprentices (Sections 49-53), women (Sections 54-58) and young persons (Sections 59-64). In general, women and young persons are prohibited from performing underground and night work. Section 73 prohibits forced labour. Part IV contains supplemental provisions relating to the administration and settlement of disputes. Section 90 repeals the Labour Code Act. Lapses of the Labour Act include: i) It undermines section 17 of 1999 Constitution that stresses on the right to education. ii) By encouraging children within the ages of 14 and 16 to work, it inadvertently encourages child labour.

#### **Administration of Criminal Justice Act 2015**

The Administration of Criminal Justice Act, 2015 (ACJA) provides for the administration of criminal justice and for related matters in the courts of the Federal Capital Territory and other Federal Courts in Nigeria. The law repeals the Criminal Procedure Act (CPA) which applied in the South and Criminal Procedure (Northern States) Act, and the Administration of Justice Commission Act. The ACJA 2015<sup>18</sup> seeks to transform the criminal justice system from its present state of retributive justice into a justice system, which is restorative and which attentively prioritizes the needs of the victims of crime, vulnerable persons, human dignity and the society. The general tone of the Act puts human dignity first, from the adoption of the word ‘Defendant’ (instead of Accused) to its provision for humane treatment during arrest, to its numerous provisions for speedy trial, to suspended sentencing, community service, parole, compensation to victims of crime. The ACJA has 495 sections, divided into 49 parts by which it spreads across every major aspect of criminal justice system. More so, the Act regulates more than just criminal procedure. It covers, in most part, the entire criminal justice process from arrest investigations, trial, custodial matters and sentencing guidelines. Section 494 which is the interpretation section of ACJA defines a child as ‘a person who has not attained the age of 18 years’. Sections 234 and 235 of ACJA 2015 provides for the crime of murdering a child/infanticide. While 234 on the one hand, provides that where either is charged but none is proved, but from evidence, concealment of birth is proved, the defendant may be convicted of concealment of birth. Section 235(1) of ACJA 2015 says that ‘where a defendant is charged and tried for the murder of a newly born child and it appears on the evidence that the defendant was not guilty of murder but was guilty of infanticide, the defendant may be convicted of infanticide. Section 160(1) of ACJA 2015 says that ‘where a child is arrested with or without warrant and cannot be brought forthwith before a court, the police officer in immediate charge for the time being of the police station to which the child is brought, shall inquire into the case and shall except:

- a) The charge is one of homicide
- b) The offence charged is punishable with imprisonment for a term exceeding three years.
- c) It is necessary in the interest of the child to remove him from association with any reputable criminal or prostitute, release the child in a recognizance being entered into by him or by his parents or guardians, with or without sureties.

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<sup>16</sup>Sections 28 – 34 CRA 2003

<sup>17</sup>[Http://Www.Ilo.Org/Dyn/Natlex/Natlex4 Details P - ISN = 42156 & P = Lang. Labour Codes, General Labour and Employment. Published On Laws Of The Federation of Nigeria \(1990\) Revised Edition Vol X, Cap 198](http://www.ilo.org/dyn/natlex/natlex4/details.p?ISN=42156&P=Lang.LabourCodes,GeneralLabourandEmployment.PublishedOnLawsOfTheFederationofNigeria(1990)RevisedEditionVolX,Cap198)

<sup>18</sup>Egbeji, The Administration of Criminal Justice Act 2015: Overview and Tools for The Protection of The Rights of Women and Children. (2020) [Https:// Administration of Criminal Justice Act 2015: Overview and Tools for The Protection of The Rights of Women and Children. Published On 11<sup>th</sup> June, 2020. Last Accessed On 8<sup>th</sup> November, 2023.](https://AdministrationofCriminalJusticeAct2015:OverviewandToolsforTheProtectionofTheRightsOfWomenandChildren.PublishedOn11thJune,2020.LastAccessedOn8thNovember,2023)

Section 160(2) of ACJA 2015 the other hand says that ‘the parents or guardian of the child shall execute a bond for such an amount as will in the opinion of the officer secure the attendance of the child for the hearing of the charge. By Section 405 of ACJA, death sentence is prohibited for a child below 18 years (at the time the offence was committed). But the court can sentence the child to life imprisonment or to a term, as the court considers appropriate in line with Section 402 of the Act. Section 260 of ACJA 2015 directs that where a person who is below 18 years, is giving evidence in court, the court may direct members, not being officers of the court to leave the courtroom. Also, by Section 232 of the ACJA, trial for offences under section 231 of the Act (which include rape, defilement, incest, unnatural or indecent offences) may not be held in an open court if the judge so determines. This is a healthy provision as it protects the identity of children who have been defiled and raped by friends and even relatives, and for fear of stigma and shame.

The Act, as it relates to children, is progressive in nature. If effectively enforced, the rights of children will be enhanced. The ACJA 2015 is not a flawless legislation because:

- i. It only concentrates on matters relating to Federal Courts. In other words, a person who commits an offence outside that jurisdiction of these Federal Courts cannot get justice.
- ii. As a law that now concentrates on the restorative justice system, it is silent on the steps that should be taken to restore a child who has been abused or has committed a crime, to becoming a good citizen of a civil nation.

### **Trafficking in Persons (Prohibition) Enforcement and Administration Act 2015**

This law prohibits child labour<sup>19</sup>, forced labour, trafficking in slaves, pornography, drug trafficking and forced compulsory recruitment into armed conflict. It also provides a legal framework for the protection of the rights of victims of trafficking, protects the identity of victims and their right to press charges against traffickers, as well as provides access to health and social services. Foreign nationals who are victims of trafficking, are granted a temporary resident permit. Section 1 (1) of the Act establishes a multidimensional crime fighting instrument against known as the National Agency for the Prohibition of Traffic in Persons and Other Related Matters (NAPTIP). This Act was originally passed in 2003 and amended in 2005 and 2015. The Act serves as an implementing legislation for Nigeria’s international obligation under the trafficking in persons protocol, supplementing the Transnational Organized Crime Convention (TOC), to which Nigeria became a signatory on December 13, 2020. This law however does not speak on how the girl child who has been abused can be given monetary support, economic support or any form of help to make her a better person in the society.

### **United Nations Convention on the Rights of the Child**

The United Nations Convention on the Rights of the Child (UNCRC) is an internationally binding human rights agreement, with 54 articles; 42 of which set out the rights of children and young people, and the rest about how the government must publicize and carry out the convention. The United Nation Convention on the Rights of the Child sets out the basic human rights to which every child is entitled<sup>20</sup>. These include:

- i. Survival rights such as nutrition, shelter and access to medical services.
- ii. Development rights such as education, access to information.
- iii. Protection rights such as protection from abuse, neglect and exploitation.
- iv. Participation rights such as expression of opinions and taking part in social and cultural activities.

This Convention was unanimously adopted by the UN General Assembly in 1989, and came into force in 1990, after receiving a minimum of 20 ratifications. It has been ratified by all the members of the UN, except the United States, which makes it the most widely ratified human rights treaty in the history of the world. Under the articles of the Convention, all parties to it are required to ensure that the children’s basic needs are fulfilled and they are able to reach their full potentials. The Convention on the Rights of the Child has 4 core principles which are:

- i. Non-discrimination.
- ii. Right to life, survival and development.
- iii. Best interests to the Child
- iv. Respect for the Childs views.

In 2000, two optional protocols were added to the UNCRC: one of which requires governments to ensure that children under the age of 18 are not forcibly recruited into the armed forces. The second calls on states to prohibit child prostitution, child pornography and the sale of children into slavery. These have been ratified by more than 120 states. A third optional protocol was added in 2011. This enables children whose rights have been violated to complain directly to the UN Committee on the Rights of Child. As earlier stated, UNCRC has 54 articles. Article 1 defines who a child is. Article 2 prohibits any form of discrimination against the child. Article 3 upholds the best interest of a child

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<sup>19</sup>Www. Law.Corell.Edu/Women And Justice/ Resource/Trafficking In Persons Act.

<sup>20</sup>UN Convention on Rights of a Child. <https://www.Citizen Information, Ie/En/Birth - Family Relationships/Children - S - Right And Policy/Un - Convention - On - The Right - Of - The - Child> Last Accessed 1<sup>st</sup> November, 2023.

in all issues. Article 4 says that the government must make these rights available to the child. Article 5 speaks of the Government and parents ensuring that children know their rights. Article 6 says that all children have the right to a life of fullness. Article 7 says that the Government should respect the child's right to name and nationality. Article 8 says that a child's rights and nationality must be well respected by the government. Article 9 says that children must not be taken away from their parents unless for their own good. Article 10 says that families living in different countries should be able to move between them so families can keep in contact or get back together as a family. Article 11: Government must combat illegal removal of children from their country. Article 12 speaks of the child's right to opinion. Article 13 speaks of the child's right to freedom of expression. Article 14 speaks of the child's freedom of thought, conscience and religion. Article 15 is about the child's right to association. Article 16 is on the child's right to privacy.

Article 17 of the UNCRC speaks of the government aiding children in the access to diverse information from national and international origin. Article 18 speaks of the parent's responsibility to raise their children. Article 19 speaks of the protection of children from violence and neglect. Article 20 speaks of children who cannot care for themselves, should be cared for by people who respect their religion, culture and language. Article 21: the best interest of an adopted child must be of utmost priority. Article 22 says that children who are refugees should have the same rights as children born in that country. Article 23 speaks of care to children with disability. Article 24 speaks of the child's right to healthcare. Article 25 speaks of the right of the children to have their situation reviewed by local authorities. Article 26 and 27 speak of rights of children to better social security, to improve their physical and mental health. Article 28 speaks of the child's right to education. Article 29 speaks of the motive of education to a child. Article 30 speaks on the child's right to their religion and language. Article 31 is on the child's right to leisure. Article 32 speaks of the Government's responsibility to protect the child from economic exploitation. Article 33 talks of the government taking proper steps to prevent the child from drug abuse. Article 34 mandates the government to protect the child from sexual abuse. Article 35 enjoins the government to protect the children from abduction and all forms of trafficking. Article 36 protects children from all forms of trafficking. Article 37 says that children who break the law should not be imprisoned with adults. Article 38 bars children under the age of 16 from joining the army. Article 39 mandates the government to provide rehabilitative platforms for children who have been victims of all forms of abuse. Article 40 says that children who break the law should be given legal help. Article 41 says that if the laws of a country protect a child better than the articles of the convention, then the laws should be followed. Article 42 enjoins the government to make the convention known to parents and children. Articles 43-54 contain methods for institutions, organizations, and individuals to ensure children's rights are formally put in place. This law, however, does not have strict penalties for non-compliance

### **Universal Declaration of Human Rights (UDHR) 1948**

The Universal Declaration on Human Rights (UDHR) is a milestone document in the history of human rights drafted by representatives with different legal and cultural backgrounds from all regions of the world<sup>21</sup>, the declaration was proclaimed by the United Nations General Assembly in Paris on 10<sup>th</sup> December, 1948 (General Assembly Resolution 217A) as a common standard of achievements for all people and all nations. In order to understand the true meaning and significance of the UDHR, it is important to look at its historical background and context first. It all started with the establishment of the United Nations (UN) which was founded after the horrendous experience of the Second World War. Government representing different countries of the world came together to re-arrange the international community and to reaffirm faith in fundamental human rights. The Universal Declaration consists of 30 Articles that cover the fundamental and most important human rights, not only covering civil and political rights, such as the right to freedom and equality and freedom of discrimination, (Articles 1 and 2), but also social and cultural rights e.g., the rights to marry and found a family. As earlier stated, the Universal Declaration on Human Rights has 30 articles which provide as follows: Article 1 – 'all human beings are born free and equal and should be treated the same way; Article 2 - 'everyone can claim their rights regardless of sex, race, language, religion, social standing etc; Article 3 - 'everyone has the right to life, and to live freedom and safety; Article 4 – 'speaks of the freedom from slavery'; Article 5 – 'speaks of the freedom from torture and degrading treatment', Article 6 – 'speaks of the right to recognition before the law'; Article 7 - 'right to equality before the law'; Article 8 – 'speaks of the right to remedy by competent tribunal'; Article 9 – 'speaks of the freedom from arbitrary arrest and exile'; Article 10 - right to a fair trial; Article 11 - the presumption of innocence until proven guilty; Article 12 - right to privacy; Article 13 - freedom to leave or move within your own country; Article 14 - right to asylum; Article 15 - right to nationality; Article 16 - right to marriage and to found a family; Article 17 gives every human the right own property; Article 18 - freedom of religion or believe; Article 19 - freedom of expression; Article 20 - right to participate in peaceful meetings; Article 21 - right to partake in public affairs; Article 22 - right to social security; Article 23 - right to work under just and favourable conditions; Article 24 - right to rest after each working day and also take paid holidays; Article 25 - right to acquire standard of living; Article 26 - right to education; Article 27 - right to share the benefits of their community's culture, arts and sciences; Article 28 - right to a free and fair world; Article 29 - duties of citizens to their communities; Article

<sup>21</sup>Getahun. *A Short Insight into The Universal Declaration of Human Rights*. Published 12:01:2016www.Jurafu - Berlin.De Blog<> Last Accessed On 1<sup>st</sup> November, 2023.

30 - 'no one, institution, nor individual should act in any way to destroy the rights enshrined in the UDHR. Nigeria is one of the countries to have ratified this Convention. The 1999 Constitution, under chapters 2 and 4, gives every citizen (including children) that sense of belonging in her society. The UDHR is faulted for not considering the religious and cultural terrain of some nations (particularly African nations). Again, there are no penalties for the breach of any of their laws. So, these laws appear toothless.

### **3. Conclusion and Recommendations**

The Nigerian legal system has well drafted laws to encourage a stable economic growth and also allow citizens live life to the fullest. Our children are still part of the society and should not be denied any one of these rights. Our leaders and law makers should remember that the reason human rights have been ratified into our Constitution and collaborative laws is to uphold the tenets of democracy which are enshrined in section 15 of the 1999 Constitution. A lot of our laws are not implemented which makes its enjoyment a mirage. For us to have children who will be leaders, not problems of tomorrow, we should ensure that their economic rights as listed in Chapter Two of the Constitution are not denied. Once they are not denied, enjoyment of the rights of Chapter Four will not be a struggle. Having explored the legal framework of the Child's Rights and their peculiarities, the following are recommended: Section 6(6c) of the 1999 Constitution should be scraped, and the provisions of Chapter II made justiciable, because our economic rights serve as rostrum for the enjoyment of our legal rights. Children who have been abused, should be rehabilitated and integrated into the society through the help of the executive. The various security units should have a children's units to ensure that issues relating to the child that comes to them are quickly addressed. There should be a Ministry of Children and Young Women Affairs in Nigeria. The rules guiding proceedings in Juvenile Courts, should be codified by the Judiciary