

National and International Frameworks for Enforcing the Rights of Children in Nigeria: An Appraisal

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Abstract

Like any other society be it developed or developing, the African society consists of children, adults and elderly persons. Each category of persons has different rights, freedoms and obligations under thenational and international law. In the African as well as Nigerian cultural context, the child occupies a significant position. The adoption of the United Nations Convention on the Rights of the Child in 1989 represented a significant milestone in the slow but perceptible movement towards the entrenchment of clearly definable rights for children. The articulation of these rights in a multilateral convention served to highlightessentialbut universally acceptable standards, which all signatories became obliged to incorporate into their national laws and policies. These standards extend to the protection of the child's life, the promotion of health and educational opportunities and the prevention of exploitation, physical and sexual abuse. The Charter stresses particularly the preservation and strengthening of positive African values which are complementary to the development of the African child. Also, it seeks to discourage those values which are harmful to the health and status of children. This paper critically examined the various laws for the protection of the child and how these enacted laws are practiced under Nigeria laws in line with international practices.

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Introduction

The phenomenon of childhood is not unique to humans. Most other forms of life also embody a process where infants over time become adult members of the species. However, human babies are unique, at least among the primates, in the extent of their vulnerability and dependence on an extended period of socialization and learning to achieve maturity. Thus, childhood for humans is a comparatively long period during which young people gradually acquire the competencies and capacities of adulthood. Because children are perceived to be vulnerable and dependent upon more competent adults, they are viewed as a distinct class for legal purposes. From biblical time to the present, the law has imposed disabilities upon, and provided special protections for children.

Like any other society be it developed or developing, ancient or new, the African society consists of children and adults, (Chhangani R.C (2002).³ Each category of persons has different rights, freedoms, and obligations under thenational and international law, (Ayua A.I & Okagbue, I.E (eds) (1996).⁴ The overall importance and concern for children all over the world could be said to have gotten a remote chequered history. Not only have children constituted a central focus in the social and cultural attainment of every nation, many world bodies, both international and non- governmental organizations, have also established legal, administrative and institutional structures for effective recognition, protection and survival of children. Today, the issue of children's existence, welfare, education, value, protection and survival are cardinal in the affairs of nations. Significance is now seriously attached to children so much that they constitute a unique item on the agenda of relevant bodies and organizations(Idowu A.A. (2004).⁵

In the African cultural context, the child occupies a significant position. There is no doubt that the child is a biological product of man and woman, but at the same time, he is considered to be the gift of God. The adoption of the United Nations Convention on the Rights of the Child in 1989 represented a significant milestone in the slow but perceptible movement towards the entrenchment of clearly definable rights for children. Significantly, the United Nation Convention on the Rights of the Child, the African Charter on the

Welfare of the Child and the Child Rights Act,⁶ succinctly express the predicaments of the African child, his unique place in society as well as his needs. The articulation of these rights in a multilateral convention served to highlight basic but universally acceptable standards, which all signatories became obliged to incorporate into their national laws and policies. These standards extend to the protection of the child's life, the promotion of health and educational opportunities and the prevention of exploitation, physical and sexual abuse. They emphasize that every child is entitled to opportunities and facilities which guarantee healthy and normal development. In response to this clarion call by the United Nations, the African Continent adopted the Charter on the Rights and Welfare of the African Child at the Summit of the Heads of State of the Organisation of African Unity⁷ in 1990. The Charter stresses particularly the preservation and strengthening of positive African values which are complementary to the development of the African child. Also, it seeks to discourage those values which are harmful to the health and status of children. This paper examines the right of an African child critically, with particular attention to the provisions of the laws in Nigeria. The paper further examines the right of a child under the UN and the African Charter; The Right of a child under Nigerian Law, the Juvenile justice system, the provision of the law relating to children under civil laws, as well as how the Nigerian laws have responded and addressed the needs and predicaments of the child by municipal laws in accordance with international law.

1. Who is a Child?

There is no uniform definition of the term "child". Its definition had been varied in our various legislations for different purposes with different intendments and various legislative designs. However, each definition given to a child acknowledges the vulnerability and helplessness of those who fall within the scope of the definition. The ordinary meaning of a child is that he is a natural person, who is an offspring of another either by birth or by adoption. In simple words, we may say that a child is a human being from the moment of his birth to the attainment of majority. The Oxford Advanced Learner's Dictionary defines the child as a person - boy or girl right from birth

to the age of full physical development.⁸ The Black's Law Dictionary (Garner; B.A. (ed), 2004)⁹ defined a child as a person below the age of maturity. At common law, a child is referred to as an infant and defined as a person who had not attained the age of majority as prescribed by law (Ochem C.E., 2012).¹⁰ The term infant retained current usage but is often replaced by the more modern terms such as minor, juveniles or child. (Gardner M.R and Dupre A.P 2002)¹¹ However for the purpose of this paper, and substantially by the two relevant international instruments on the point - A child means every human being below the age of 18 years.¹²

In Nigeria, the conventional definitions of the child are different among various ethnic groups and tribes (Nwogugu, E. I. 1999).¹³ In other words, the criterion for determining childhood varies from ethnic group to ethnic group. For example in some ethnic groups, a boy remains a child until initiated into an age grade society; while others prescribe the criteria of financial contribution in the development society; still, others believe that childhood terminates at puberty — age for the consummation of marriage (Chhangani R.C, 2012). Finally, some tribes believe that the youth continues until one attains maturity, and maturity bursts into life upon the attainment of particular physical age.¹⁴ The Children and Young Persons Act, which is an important piece of legislation dealing with the rights and welfare of children, defines the term child as a person under the age of fourteen years, while a young person is between the ages of fourteen to seventeen years.¹⁵ It is pertinent to mention that the legal age of a child has tended to vary depending upon the purpose of the statute. The physical age limits or the criteria for determining childhood varies from statute to statute and more particularly, depending upon the purpose of the law. That is why, in Nigeria, the working age¹⁶ of the child is different from the age of criminal responsibility.¹⁷ Similarly, the marriage age prescribed under the law¹⁸ is different from civic or voting age.¹⁹ It thus becomes apparent that different physical ages are prescribed as the age of majority in various statutes, but there is a reasonable relationship between particular physical age limit and the purpose of the law, which it aims to achieve.

Besides the customary and statutory definitions, there are the treaty definitions of a child. According to Article 1 of the United Nations Convention of the Rights of the Child,²⁰ a child means every human being below the age of eighteen years.²¹ It means a child is any infant male or female that is not yet eighteen years or above. Similarly, the African Charter on the Rights and Welfare of the African Child²² defines a child as every human being up to the age of eighteen years.²³ Both universal and regional conventions relating to the rights and welfare of the child define a child as a person who has not attained the age of eighteen years. It is pertinent to mention that to avail the benefits and protections under the conventions noted above, and for this study, a child is defined as a person male or female below the age of eighteen years.²⁴

Historical Background on Right of a Child

There is no questioning the fact that children constitute the most vulnerable and powerless members of society (Ayua I.A and Okagbue I. E (ed), 1996)²⁵. However, the concept that children have specific rights deserving of enforcement and protection is a comparatively modern development.²⁶ The popular assumption in times past was that most adults and parents, in particular, had the best interest of the child at heart; there was no necessity to think regarding children's rights.²⁷ This idealized perception of adult-child relations ignored the grim of realities on the ground. But after the various reform movements of the 19th century, concern for the protection of dignity, equality and fundamental human rights of children came to the forefront of public consciousness.²⁸ Children have since become a constituency in their right on whose behalf laws have been enacted providing for protection against the abuse of parents and adults, economic exploitation and social neglect.

Today, child's right advocacy has moved beyond the simple question of protection to also embrace an element of "self determination" on the part of the child to the extent that children are granted a degree of autonomy in the enjoyment of their rights. Historically, children rights appeared as far back as 1825 (Micheal Freeman, 1992)²⁹. But it is *Eglantyn Jebb*, the founder of save the

Children Fund who is considered one of the founding pioneers of the movement of children's right (Veerman, P. 1992).³⁰

Galvanized by the plight of the millions of children who had both during and in the aftermath of the First World War, Ms Jebb was instrumental in the drafting of the Declaration of Geneva on the Rights of the Child which was formally adopted by the League of Nations in 1924. The document stated in its preamble that "Mankind owes to the child the best that it has to give." The Geneva Declaration marked the beginning of serious attention to the rights of the child.

The first significant step taken on behalf of children by United Nations was the creation of UNICEF in 1964 which had as its initial mandate the provision of relief assistance to the children affected by the Second World War.

The United Nations Convention on the Right of a Child

The General Assembly of the United Nations in 1959, utilizing the framework of the Geneva Declaration, adopted the U.N Declaration on the Rights of the Child. This comes from the premise that because of their physical and mental immaturity, children need special safeguards and care including proper legal protection before as well as after birth.

The adoption of the United Nations Convention on the Rights of a Child was made on November 20, 1989. An original total of 60 countries signed the Convention on January 26, 1990, the first day it was opened for signature. By September 1990, it came into force in accordance with Article 49. The convention recognizes indivisibility of different types of right and seeks to ensure the full development of the child's physical and mental capacities by establishing among other things, the child's right to a healthy and safe environment, access to medical care and minimum standards of food, clothing and shelter.

3. African Charter on The Rights and Welfare of the African Child

Efforts to ensure the protection of the rights of the child has also taken place at the regional level. The Assembly of the Heads of State and Government adopted a Declaration on the Right and Welfare

of the African Child at its Sixteenth Ordinary Session in 1979. A formal Convention- the Charter on the Rights and Welfare of the African Child was subsequently adopted by the Summit of the Heads of State of the O.A.U.³¹ in 1990, and the charter is now open for ratification by O.A.U members states. The African Charter, to which Nigeria is a signatory, is very similar to the U.N Convention. However, it recognizes the particular cultural setting in which it is to operate by calling for a consideration of the “cultural heritage,” historical background and the values of the African civilization which should inspire and characterize the concept of the rights and welfare of the child.

As a follow-up to the World Summit on Children, the O.A.U. convened an International Conference on Assistance of African Children in Dakar, Senegal in 1992. The Conference adopted what is referred to as Dakar Consensus which recognizes that action for African Women and children must be part of a broader accelerated programme of development and poverty alleviation. The Dakar Consensus, therefore, adopts the principle of “the first call” and exhorts African countries and their donor partners, including international financial institutions to jointly commit themselves to incorporate the goals of a child survival, development, and protection in their bilateral and multilateral consultative processes and development programmes. The African Union³² has also proclaimed June 16th of every year as the Day of the African Child.

The right and welfare of the child have been recognized by law in Nigeria since 1943 when the Children and Young Persons Ordinance was first enacted.³³ This later became Chapter 31 of the Laws of Nigeria as revised in 1948³⁴ and was retained as chapter 32 of the laws of the Federation of Nigeria and Lagos in **1958**. On the adoption of state structure in 1967, many states enacted their Children and Young Persons Laws which are almost identical to the original legislation as amended. For easy reference, this study will refer to the Children and Young Persons Act (CYPA) Chapter 32 of the Laws of The Federation of Nigeria and Lagos 1958.

The Nigerian Government in 1991 set up the National Child Welfare Committee to formulate a national framework for implementing the goals of the World Summit for Children.

Subsequently, a trust fund was established for the Nigerian Child in 1999 to enhance the talents of children through arts and cultural activities and the execution of programmes and project for the child welfare services especially in respect of disabled children. Various workshops and seminars have also been held including national seminar organized by the Federal Ministry of Culture and Social Welfare in 1992 to sanitise media executives on the implementation of the U.N Convention and African Charter.³⁵ It was also designed to solicit the commitment of the mass media in reporting abuses and monitoring the observance of children's right and resulted in media executives signing of a commitment to promoting the two conventions.

All these various committees and recommendations culminated in the enactment of the Child's Right Act No 26 of 2003.

The Child's Right Act

The Child's Right Act provides and protects the Rights of a Nigerian Child; and other related matters. It was enacted on 31st July 2003 and commenced on the same dated. The Act codifies into one single binding instrument all those Human Rights standards which had previously been identified as having particular application to children. The Act went further to encompass the whole range of Human Rights which apply to all persons including children. It recognizes the indivisibility of these different types of right and seeks to ensure the full development of the child's physical and mental capacities by establishing among other things, the child's right to a healthy and safe environment, access to medical care and a minimum standard of food, clothing and shelter. As such, issues that had formerly been addressed as "needs" the fulfillments of which were dependent on government largesse have been framed in terms of "Rights" which government is under an obligation to provide.

The Act is divided into twenty-four parts: Part one deals with the interest of a child which is of paramount consideration. Part two deals with Rights and Responsibilities of a Child. Part three deals with the protection of Rights of a child in the areas of early marriage, custody, tattoos, skin marks, trafficking, exploitative labours, sexual abuse and prohibition of importation of harmful publication. Part

four deals with protection of children. Part five deals with children in need of care and protection and provide on situations where parent or guardian is unable to exercise control. Part six deals with care and supervision of a child. Part seven provides for the use of scientific tests in determining paternity or maternity. Part eight and nine provides for possession and custody of children and guardianship respectively. Part 10 and 11 deals on wardship and fostering. Part twelve and thirteen deals with adoption and the family court respectively. Part fifteen provide for state government support for children and families while part sixteen provides for community homes for children. Part twenty deals with child justice administration.

The Act also breaks new ground by going beyond spelling out the duties protection that adults owe to children, and for the first time establishing the rights of children to participate in the processes which affect their lives. This is achieved through granting to children the right to express their opinion on matters affecting them and have it taken into account; the right to freedom of expression and the right to freedom of thought, conscience, and religion to right to an identity and nationality; the right to survival and development; the right to foster care and adoption, the prohibition of harmful traditional practices, the ban on sexual exploitation and discrimination.

Due to the apparent immaturity, vulnerability, mental and physical fragility of a child, the Act provides for the interest of a child. S.1 of the Child's Right Act provides thus:

In every action concerning a child, whether undertaken by an individual, public or private body, institutions or service. Court of law, or administrative or legislative authority, the best interest of the child shall be the primary consideration.

Section 2 (1) further provides

A child shall be given such protection and care as necessary for the well-being of the child, taking into account the rights and duties of the child's parents, legal guardians or other

individuals, institutions, services, agencies, organizations or bodies legally responsible for the child.

1.(2) *Every person, institution, service, agency, organization and body responsible for the care or protection of children shall conform with the standards established by the appropriate authorities, particularly in the case of safety health, welfare, number and suitability of their staff and competent supervision.*

The Legal Rights of the Child in Nigeria

Children are precious assets and sources of joy not only to their parents and immediate families but the entire society. As the future hope and leaders of tomorrow, they have rights that need to be protected. They had to be cared for and nurtured to develop their potentials so that they can contribute to the development of the society (Akwaru, A. F, *et al.*, 2010)³⁶ The legal rights of the Nigerian child are contained in various municipal laws and international instruments. These laws are based on some basic principles relating to the promotion of human survival, prevention of harm, promotion and sustenance of human dignity and the enhancements of human development. These principles recognizes the fundamental concept that the child is the foundation of the society and he or she assures it depends upon the protection, preservation, nurture and development of the child (PEli Oshio(2002)³⁷. However, it is the necessary to define our core words in this topic before discussing these rights in some details

The word *Right* is derived from the Latin word *rectus* which means correct, straight, right as opposed to wrong. It may also mean in accord with law, morality and justice. As a norm, it may mean that to which a person has just and valid claim, whether it be land or privilege of doing something or saying something such as the right of free speech.

A right in its general sense is either the liberty (protected by law) of acting or abstaining from acting in a certain manner or the power (enforced by law) of compelling a specific person to do or

abstain from doing a particular thing. Accordingly, a legal right is the capacity residing in one person of controlling, with the assent and the assistance of the state, the action of others. Thus, every right involves a person invested with the right, or the person entitled, a person or persons on whom that right imposes a correlative duty or obligation; an act of forbearance which is the subject matter of right and in some cases an object that is, a person or thing to which the right has reference, as in the event of ownership. A right therefore in general, is well- founded claim; and when a given claim is recognised by the civil law, it becomes an acknowledged claim or legal right enforceable by the power of the state.

The Black's Law Dictionary (Garner, B.A. ed. 2013)³⁸ defined Right as something that is due to a person by the claim, legal guarantee or moral principle. There is no universally accepted legal definition of a child, and the word child may depend on the context in which it appears (Re Carton, 1945).³⁹

The Right of a child is also recognized and protected by the Penal Code (LFN 2005)⁴⁰ which provided in S.236 that where a person does an act which leads to the death of an unborn child and in such circumstances as to constitute homicide, he shall be liable to a life jail term.

The Child Rights Act under our municipal law adopts the applicability of Chapter Four of the 1999 constitution which deals on Fundamental Human Rights.

S.3 of the Child's Rights Act provided thus:

1. *The provisions of chapter IV of the constitution of the Federal Republic of Nigeria 1999 or any successive constitutional provision relating to Fundamental Rights, shall apply as if these provisions are expressly stated in this Act.*
2. *In addition to the rights guaranteed under any successive constitutional provisions, every child has the rights set out in this part of this act.*

Changes in Realisation of the Right of the Child in Nigerian.

There are various laws regulating right of children in Nigeria; such are; the child right act 2003, the 1999 Constitution, Chapter iv the children and young persons law, the criminal code in the south and penal code in the north; adoption of children laws in southern states and Abuja; trafficking in persons (prohibition) law enforcement and administration act 2003, just to mention a few. The lists of such laws cannot be enhanced. More so there are international treaties are entrenching the rights of children.

One sad event is that despite all these laws; children are still deprived of enjoying the full benefit of their basic rights. As protective as those laws are, it is said to know that it is yet to put an end to the many suffering of the Nigerian child. The reason for that is innumerable.

One of the most crucial and fundamental factors that are hindering the enforcement of the child's fundamental right is the issue of *locus standi* it isa common law that before any act could be instituted, the standing of such a person must be looked at to do merit to the case. The 1999 constitution and the fundamental rights (enforcement procedure) rules 1979 under scope the factors of *locus standi* by providing that before any of the basic rights guaranteed under chapter IV of the Constitution can be invoked; the application must be the actual person whose right has been breached.

The implication this is that the application could not be filled in the name of another person but that of the complainant. This means that a Nigerian child cannot enforce the rights under chapter IV because of lost of litigation age and social handicaps, (Tunde Oyesina,2010).⁴¹ Where a child intends to enforce those rights through a parent or guardian; he may be handicapped if the parent or guardian is financially constrained to do so education.

Though education is an enabling right of every human, which opens doors to other rights. Unfortunately, in Nigeria children (orphaned and vulnerable children) are the hardest hit regarding deprivation of their right to quality universal primary education. Despite the provisions of the child's Right Act and other similar provisions on the right of thechild to education, there are still some

barriers to the exercise of the right. Education is no doubt a central pivot in any effort to improve the rights of the child. The education of the child begins at birth, but the multi-ethnic configurations of Nigeria with differing cultural perceptions of the child, its right and duties prevent the identification of a standard cultural practice in the education of child pre-school education. Despite its recognition as a pivotal for national development, governments at various levels of governance have continually ignored the importance of quality teaching in the life of the Nigeria child and community as a whole. (Fatoki Faiye Timmy, 2010).⁴²

8. Conclusion

When millions of children suffer as a result of non-enforcement of the right that protects them in society, then, one wonders how the rights entrenched in various child legislations and treaties can ever mean more than well-composed literature with no real effects on those they are directed at. When the government cannot guarantee an above average standard of living for the populace, then one stands to wonder how the purported Rights of children will ever find observance from that same impoverished populace.

Another factor denying the implementation of the rights of a child is a lack of awareness as to the needs and rights of those children and the resultant effects denying these children the benefits of the implementation of these rights. The content of the Child's Right Act has not been made known to the majority of the populace, so as to know what constitutes an offence the punishment involved in the developmental training of Nigerian child even know of the existence of their rights. The ignorance of the child's right as provided for by the Child's Right Act and other legislation by members of the public, parents, guidance and school authorities (including children) makes the application of Child's Right Act futile.

The judiciary arm of government, as well as the police force, is yet to be fully concretized on the child's Right, making enforcement and implementation of the Child's Right Act challenging. Though signed into law by less than twelve out of the thirty-six states of the federation including the Federal Capital Territory, its proper

execution and functionality remained to be seen in the face of challenges above. Perhaps the Federal Government of Nigeria should make it mandatory for all states to domesticate, enforce and implement the Child's Right Act in their various states. All the rights and duties discussed above are all targeted towards the achievement of the continuity of the human race in a stable, harmonious, progressive and civilised manner, through the establishment of a societal regime which is characterised by peace, development and happiness. Since the child is the father of theman, law and conventions have been made to protect the child. In the wordings of the African Charter.

In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration.⁴³

This provision should be perceived, however, not as one seeking to achieve the propagation of the welfare and best interests of the child as an end in itself, but rather, as a means to assuring the welfare and best interests of mankind, in view of the fact that the child constitutes the cycle of continuity for mankind. To practically curb incidents of discrimination as it affects the rights of the child, legislators should continually make and improved laws, which will specially protect the rights of the child and provide sufficient safeguard and mechanism for redressing any infringements. A great deal still has to be done in the field, however, to ensure that the 21st century will also be that of the children. The monster identified as child abuse walking tall on our streets must stop. The child should be seen as a subject of rights and not as an object of it, because, Humanity will only progress if we can prepare the children of today to become the citizens of tomorrow by appreciating and respecting their rights.

One of the greatest evils bedeviling the application and observance of children rights is the disparities in the definition ascribed to children in various jurisdictions; the above discrepancies in the definition and description of a child have practical implication for the application and observance of children's rights and welfare. They complicate the administration and protection of these rights, as it is not clear who is a child. There is need to harmonise the

description and age categorization for more efficient administration and protection of children's rights. A typical age of entry into adulthood is required. Eighteen years seems appropriate and reasonable. Everybody below 18 should be accorded the description of 'child' and the other descriptions' and age categorizations should be only retained and applied where it is reasonable and necessary. For example, the provision in most Penal Codes that a male child below 12 years of age is immune from criminal prosecution for sexual offence should be retained, but those in most Matrimonial Causes Acts ascribing different ages for different races particularly in Africa for different genders should be removed.⁴⁴

(Endnotes)

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³ Chhangani R.C (2002). "The Child's Right to Birth Registration in Nigeria" Vol 5 *University of Maiduguri Law Journal* **P138**.

⁴ See Ayua A.I & Okagbue, I.E (eds) (1996), *The Rights of the Child in Nigeria, Lagos, Nigerian Institute of Advanced Legal Studies*, P. 28 See also. R Chhangani, (1997) "The African society and the status of the child," *Nigerian Forum* vol. 18 P. 171.

⁵ Idowu A.A. 1 (2004) 'Child Trafficking in Africa' *Ondo State Law Journal* Vol 1 No P 2

⁶2003, applicable to Nigeria

⁷Now African Union

⁸Hornby A S (ed) (2001) *Oxford Advanced Learner's Dictionary*, (6th ed.) Oxford, Oxford University Press P. 187.

⁹Garner; B.A. (ed) , (2004) *Black's Law Dictionary* (8th ed) U S , Thompson West P254.

- ¹⁰Ochem C.E. (2012) 'A Critical Appraisal of the Rights of a Child under Nigerian and International Law,' Vol 4 No 2 Port Harcourt Law Journal PP17-28 at p 19.
- ¹¹Gardner M.R and Dupre A.P (2002) *Children and the Law: Cases And Material.*, New Jersey, LexisNexis P1
- ¹²Article II of the OAU Charter on the Rights and Welfare of the Child hereinafter called the Charter. However, Article I of the United Nations Convention on the Rights of the Child hereinafter called the Convention defines a Child as every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier. This means that for specific purposes, majority can be achieved earlier under specific national laws, as In the cases of capacity to contract marriage, responsibility for crimes, age qualification for apprenticeship, or university admissions, etc.
- ¹³Nwogugu E I(1999). – *Family Law in Nigeria* (3rd Ed) Ibadan, Heinemann Education Books P. 23. Note under customary law the age of majority is the age of puberty, See *Labinjoh. V. Abake* (1924) 5 NLR 3. See also Adedokun A. Adeyemi, (1997). 'Children in especially difficult circumstances in the contexts of the United Nations Convention and the OAU Charter On The Rights Of The Child' Vol. 1 *The Nigerian Journal Of Public Law, University of Lagos*, PP16-25. See also Alemika, Emily I(2010). 'Legal Frameworks for the Child Rights in Nigeria' *Journal of public law and constitutional practice* University of Jos, Vol 3 No 2 PP1-17
- ¹⁴Sec. 17(3)(f) of the Constitution of the Federal Republic of Nigeria, 1999, hereinafter referred to as 1999 Constitution,. Under Nigeria Law, Children, young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect.
- ¹⁵Sec. 2 of the Children & Young Persons Act 1958 while Sec 2 of the Children and Young Person's Law, Laws of Northern Nigeria, 1963, Cap 21 prescribes the age of 18 for a young person. These laws were the earlier legislation on child rights that were in

operation in Nigeria before the enactment of the Child Rights Act 2003.

¹⁶Sec. 58 (1) of the Nigerian Labour Act, defines child as a person below the age of 12 while sections 58(3) & (8) [prescribe the age of 14 and 16 respectively. Ss. 58-63 of the Labour Act protect children under 14 years of age from being engaged in strenuous jobs injurious to their health or dangerous or immoral etc.

¹⁷See 30 of the Criminal Code (Sec. 50 of the Penal Code) prescribes that a person under the age of 7 years is not criminally responsible.

¹⁸Sec. 57(2) & (3) of the Matrimonial Causes Act , Cap M10 Laws of the Federation of Nigeria 2004 prescribes the age of 16 years.

¹⁹Sec. 1(1) of the Electoral Act; 2006; also Ss. 77(2) & 117(2) of the 1999 Constitution fixed the age of 18 years as the minimum age of eligibility to vote at elections to legislative Houses.

²⁰1989

²¹Art II reads: “a child means every human being below the age of 18 years unless under the law applicable to the child majority is attained earlier”.

²²1990

²³Art II reads: “a child means every human being below the age of 18 years.

²⁴Article II of the OAU Charter on the Rights and Welfare of the Child. However, Article I of the United Nations Convention on the Rights of the Child defines a Child as every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier. This means that for specific purposes, majority can be achieved earlier under specific national laws, as in the cases of capacity to contract marriage, responsibility for crimes, age qualification for apprenticeship, or university admissions.

²⁵See Ayua I.A and Okagbue I.E (ed) (1996) *The Rights Of The Child In Nigeria*, Lagos, NIALS . P3

²⁶Ibid at P3

²⁷Ibid at P3

²⁸Ibid at P3

²⁹Michéal Freeman((1992) "Limits of Children's Rights" In The Ideologies of Children's Right, M. Freeman and P. Veerman (Martinus Nijhoff Publishers), at P28

³⁰Veerman, P.(1992) *The Right of the Child and the changing image of childhood* Martin Nijhoff Publishers P184.

³¹ Now African Union.

³² Formerly OAU.

³³ NO 41 of 1943 as amended by No 44 of 1945 and No 27 of 1947

³⁴Laws of Nigeria 1948 (contacting ordinances and subsidiary legislations enacted before 1st January, 1948)

³⁵Op, cit, n 1 p.9

³⁶Akwara,A. F, et al(2010) .*Canadian Social science* Vol 6 N02 , p27

³⁷PEli Oshio(2002) Legal Right of the child in Nigeria, p. 3

³⁸7th ed).Op.cit

³⁹(Re Carton, 1945)

⁴⁰Penal Code, Cap P38 LFN 2004.

⁴¹Tunde Oyesina,(2010) Tribune law, Monday 08 March

⁴²Fatoki Faiye Timmy,(2010) the Nigerian child our future a taking it global on line publication Feb. 3.

⁴³Article IV(1) of the Charter; *ibid.* See also, similar provision in Article 3 of the Convention, *ibid.*

⁴⁴See Kenyan Penal Code, Cap,63, Nigerian Criminal Code Cap C38 Laws of the Federation of Nigeria 2004