

The State of Child Rights in Nigeria Twenty Years After the Emergence of the Child Right Act 2003

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ABSTRACT : Purpose - This article examines the state of child rights in Nigeria twenty years after the adoption of the Child Rights Act. The adoption of the Child Rights Act 2003 was the result of the domestication of the United Nations Convention on the Rights of the Child in 1989. Prior to the domestication of the international legal instruments, Nigeria relied on the constitutional provision on human rights protection to assert the rights of children.

Design/Methodology/Approach -The approach taken is a textual analysis based on evaluating the achievements of the authorities, the law enforcement agencies, as well as other stakeholders in protecting and promoting child rights in Nigeria. The critical analysis of the existing literature and the actions taken towards the protection and promotion of child rights in Nigeria.

Findings – This research found that after twenty years of the emergence of the Child Rights Act 2003, there is still no major progress made toward the protection and promotion of child rights in Nigeria. The existence of challenges to the achievement of goals in terms of child rights protection requires that new approaches be taken by law and policymakers, and other stakeholders.

Originality/ Values -The value of this article resides in the deconstruction of the mechanisms put in place by Nigerian authorities to achieve the goals in terms of child rights protection. The enduring issues of child trafficking, Child labour, child abuse and **inefficacy of the education system** are evidence of the ineffective implementation and enforcement of the Child Rights Act 2003.

KEY WORDS: *Child rights, child abuse, Law implementation, Law enforcement,*

I. INTRODUCTION

The enactment of the Child Rights Act 2003 (CRA 2003) as a result of the domestication of the United Nations Convention on the Rights of the Child 1989 was the most significant move in asserting Nigeria's endeavour to participate in international efforts to eradicate the long-standing issue of child rights abuse across the globe. It is observed that although the authorities as well as lawmakers are driven by positive thoughts with the eagerness to succeed in their endeavours, they are often faced with challenges that thwart their noble goals. The value and efficacy of laws and policies are asserted when they are effectively implemented and enforced, and set goals are achieved. After twenty years of the advent of the CRA 2003, there is a need to make an evaluation and determine its impact in the area of child rights in Nigerian Society. This paper will attempt to determine the state of affairs in regard to the impacts of the statute and the perspectives in terms of the achievement of set goals through legal frameworks in Nigeria.

1- The State of Child Rights Before the 2003 Act

1.1. *Traditional and Religious Perspectives*

To understand the perception of child rights in traditional African societies in general and in Nigeria in particular, it is important to identify the place of the child in those societies. There is also the question of the place of the child in religious communities, especially in the Muslim communities in northern Nigeria. Whether from the traditional or religious perspective, a place is given to the child. The place recognised to the child in a given community depends on that community's perception of the child. What must be admitted is that children

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are important members of any society. Their development is a responsibility to the government and the entire global community (Magashi 2015).

The concept of child rights from a traditional or religious perspective is, to a great extent, similar to that of child rights in legal instruments in modern Nigeria. Indeed the elements considered by the law to be protected child rights are the traditional and religious communities were mindful of. The protected elements are, among others, the right to life, the right to nutrition, the right to a name, and the right to education. These elements are inherent to human nature. Therefore, They have universally shared values in almost every human society. Omobowale et al. (2019) observed that the Yoruba of South western Nigeria describes children as the heritage of the society because children occupy a special place in societal survival and continuity. In light of this social consideration, it is evident in the Yoruba tradition and culture that the child is given a prominent place as an element of the community that will perpetuate the tribe. Because the child is given a prominent place, his/her rights will be protected. Nwaneki et al. (2021) observed that "in Igbo traditional society, the birth of a child brings joy to the immediate family, relatives, and the entire community at large. Just as marriage, is valued in Igbo society, so is child training. The childhood development of every newborn child is full of activities. In the same vein, emphasising the place of the child in Igbo tradition Nnokwe (2021) states that "the rite of childhood introduces the child to the community. It is believed that the child will grow out of childhood and enter into adulthood, physically, mentally and religiously." The place of the child in any traditional society is significant. It is obvious that the birth of a child brings joy and pride to those societies. However, the polemic arises when children become entangled in practices and activities that jeopardise their rights. The contextual paradoxes are that most of these traditional communities do not recognise or do not consider or do not consider or do not consider practices to child rights as an issue.

1.2. *Child Rights in Modern Nigeria*

Modern Nigeria includes the colonial and post-colonial eras. For the sake of clarification, a comparison between pre-colonial or traditional and colonial Nigeria is of great importance. They are two different eras. It will not be abusive to say that colonial Nigeria is an integral part of the modern era. Modern Nigeria has been an era where new approaches to life and social structure emerged. The emergence of New concepts and theories was the testimonial of the emergence of a new and modern era. For instance, the materialisation of legal pluralism in Nigeria through the coexistence of several legal systems is deemed a paradigm shift (Igbe, 2015). However, human rights, in general, and child rights, in particular, were not effective in the sense that there were no legal frameworks in those territories. It was at the height of colonisation in most African territories that the Universal Declaration of Human Rights was adopted. The instrument was relevant to most independent countries. However, after the countries gained independence, the UDHR 1948 automatically applied to them. Also, as a result of its independence, Nigeria was endowed with a constitution that enshrined human rights values. The emergence of new values already shared in the Western world, especially in England, is evident that when the British coloniser established in Nigeria, there has been a significant socio-cultural change that made Nigeria adhere to modernism. The question of child right has always been part of the judicial lexicon in Nigeria. This is to assert that well before the enunciation of the Convention of the Rights of the Child and the subsequent domestication to enact the CRA 2003, there have been few significant instruments in the legal environment. For instance, there has been the Children and Young People's Act (CYPA). This instrument is related primarily to juvenile justice. Not worth mentioning well before that, the 1943 Children and Young person Ordinance was passed. This eventually became chapter 31 of the Children and Young Person as revised and retained as chapter 32 of the laws of the Federation of Nigeria and Lagos as revised in 1958.

II. THE EMERGENCE OF THE CHILD RIGHTS ACT 2003

2.1. *International Requirements for Harmonisation*

The advent of the United Nations Convention on the Rights of the Child in 1989 has changed the state of child rights across the world. It must be recalled that The UNCRC embodies the idea that every child should be recognised, respected, and protected as a right holder and as a unique and valuable human being. The requirement to adhere to international standards and values in terms of child rights promotion and protection was paramount among the countries of the United Nations became paramount. In that respect, Nigeria signed the CRC 1989 on 26 April 1990 and ultimately ratified it on 19 April 1991. Also, Convention 182 on the Worst Forms of Child Labour adopted by ILO in 1999 was signed by Nigeria on 02 October 2002. It transpires from the CRA 2003 that twelve rights of a child in Nigeria, including rights to survival, Name, family life, private life, dignity, recreation, cultural activities, health services and education are promoted and protected. These rights fall within the ambit of the core principles of the United Convention on the Rights of the Child 1989, which are non-discrimination, the best interest of the child, the right to life, survival and development, and the right to be heard. It appears that adherence to universal values is a mere mimic. Most countries seemingly adhere to international standards in order to be accepted among their counterparts, chiefly the Western countries. This is pertinent because the implementation, application, and enforcement of international standards often

become challenging for them. It is not necessarily because they are unwilling to implement or enforce the instrument because contextual realities often impede significant endeavours. However this fact endures, it is worth noting that the countries' decision to sign and ratify international instruments should have its own merit. Indeed international legal instruments are generally adopted in the international community's interest as they embody universal values intended to reinforce universal cohesion and stability.

2.2. The New Perspectives

The perception of child rights in Nigeria become obvious, and it was oriented towards more protection and promotion of child dignity and welfare. Increasing actions and endeavours to ascertain child rights in Nigeria have become a key item on the agenda of Nigerian authorities and all the stakeholders. The perception is embedded in all societies as Ikpeze and Oti-Onyema (2021) indicate that any child is a member of the human family and thereby entitled without any form of hesitation to the inherent right to dignity of his or her person. It raises the debate on the importance of the child in many Sub-Saharan countries. The new perspective in terms of law implementation and enforcement is reinforced by the idea.

The enactment of the CRA 2003 and the preceding actions show the adherence of the Nigerian authorities to an ambitious project. The question of child rights had long been a nightmare for many African societies aspiring to build a modern and fairer society so as to be the right interlocutor among both the developed nations and the emerging economies in terms of human rights and civil liberties (Njoku, 2019).

Article 1 of CRA 2003 appears to be the cornerstone of the Statute. This article is a replica of Article 3 of the United Nations Convention on the Rights of the Child 1989. It provides for the best interest of the child. Indeed it is stipulated that in every action concerning a child, whether undertaken by an individual, public or private body, institutions or -service, the court of law, administrative or legislative authority, the best interest of the child shall be the primary consideration.

From a holistic view, this provision should guarantee the protection and promotion of children's rights across Nigeria. The provision is intrinsically ambitious as its effective implementation and enforcement would lead to a safe environment for children to thrive in all aspects of their life. It is worth emphasising that the signature, the ratification and the subsequent domestication of the United Nations Convention 1989 resulting in the enactment of the CRA 2003 is a testimonial of the Nigerian authorities' historic engagement to ensure that everything must be done to guarantee every single right enshrined in the statute. The thematic and the importance of each right in the Act convince any observer about the promising future for Nigerian children. Article 15 of CRA provides that every child has the right to an education. Primary education must be free and different forms of secondary education must be available to every child. Discipline in schools must respect children's dignity and their rights. Richer countries must help poorer countries achieve this. Besides the significant question of education, there are questions such as child labour and child trafficking. These are among the most destructive and undermining factors to ambitious initiatives such as child rights protection and promotion in a nation. On the outrageous question of child labour, Article 28 provides that no child shall be subjected to any forced or exploitative labour or employed to work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character. There is a duty for Governments to protect children from economic exploitation and work that is dangerous or might harm their health, development or education. Governments must set a minimum age for children to work and ensure that work conditions are safe and appropriate. As to the question of child trafficking, article 26 provides that no person shall remove or take a child out of the custody or protection of his father or mother, guardian or such other person having lawful care or charge of the child against the will of the father, mother, guardian or other person. It transpires from the provision of Article 26 that governments must protect children from being abducted, sold or moved illegally to a different place in or outside their country for the purpose of exploitation. There is also the crucial issue of child marriage. Child marriage is along child labour and child trafficking are the most damaging practices for children. These three practices have in common destructive characteristics in that they not only constitute a violation of child's rights but also a hindrance to children's education. Indeed children involved in child labour, child marriage or child trafficking are often prevented from attending school.

III. THE STATE OF AFFAIRS

3.1. Shortcomings

Twenty years after the adoption of the 2003 CRA there seems not to be an improvement in the protection and promotion of children's rights. Indeed Nigeria is still struggling with the meeting of its engagement in the early years of the millennium. The question of the best interest of the child seen as the cornerstone of the rights enshrined in CRA 2003 does not seem to have been upheld. Should expectations for education for children as stipulated in Article 29 CRA 2003 have been poorly managed. The observation is that significant progress has not been made. There is no noticeable difference between the situation of the deepening crisis in Nigerian education denounced by Atyavay (1986) in the late nineties and the current state of affairs in regard to the post-CRA 2003 area. Indeed progress in primary education would mean that one of the fundamental rights of the

child has been permanently guaranteed in Nigeria. Even in the few years before its first decade, CRA 2003 was not responding to the predicaments of Nigerian children in regard to their right to education (Amuda, 2011). The question of child labour stipulated in Article 28 has yet to be effectively addressed. Child labour is still a nightmare for Nigerian authorities. Despite the existence of the ILO's Worst Forms of Child Labour Convention, 1999 (no. 182), which Nigeria ratified, and CRA 2003, child labour still lingers and ravages Nigerian children. After more than a decade after the enactment of CRA it was observed that in Nigeria, many children's health, education and childhood are stolen by an evil wind called child labour (Agbo, 2017). Based on the statistics provided by the Federal Ministry of Labour and Employment, the International Labour Organisation (2021) has confirmed that with fifteen million under-14 children engaged in economic activities and about half this population being exploited as workers in hazardous situations.

On the question of child marriage in Nigeria, Badimus (2020) noted that the controversy surrounding Child Marriage in Nigeria became more prominent when the former Governor of Zamfara State married a 13-year-old Egyptian girl-child. He observed that against the backdrop of this provocative marriage is the debate that was later generated on the floor of the Senate where the same Senator and some others reportedly argued for the recognition of Child Marriage. Such a situation evidences the complexity of the question of child rights in Nigeria. Noting that Nigeria is under legal pluralism, Islamic law and federal laws are bound to cohabit. Moreover, there are some traditional views in favour of child marriage and this does not help in the law implementation and enforcement in accordance with Article 21 CRA 2003 stipulating 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'. These provisions like those prohibiting child labour and child trafficking are intended to protect the rights of children so as to live in a safe viable environment. As to the question of child trafficking, it is obvious that despite the provision of the article the phenomenon has been perpetuated and become out of control. Child trafficking in whichever form is a social problem that is fast eating into the fabric of our national development. He examined the relationship between the level of education and involvement in child trafficking, the willingness of the public to cooperate with the police in enforcing anti-trafficking laws, impediments to the public willingness to report child trafficking, the level of police readiness and capacity to enforce anti-child trafficking laws, and assessment of the socio-demographic variables of the trafficked children (Arinde-Simeon, 2011). This examination of the problem of child trafficking in Nigeria is intended to shed light on the impeding factors to the eradication of the specific problem of child trafficking. It should be agreed with Enemo (2022) that despite Child's Rights Act, Violence Against Children Remains Rampant In Northern Nigeria. 'Children make up about 43 per cent of Nigeria's population, and it has been pointed out that they are often described as the precious products of divine providence. Unfortunately, they are subjected to all forms of abuse and neglect, such as child prostitution, trafficking and forced labour, and therefore need serious protection in society' (Enemo, 2022). The consequence of this non-achievement of the eradication is the perpetual violation of children's rights in Nigeria and this evidences the inefficacy of CRA 2003 after twenty years of its enactment.

Should these impediments to child rights in Nigeria be blamed on the lack of law enforcement or rampant incompetency in the whole system? To posit the problem of law enforcement, it should be enquired why laws related to human rights in general and child rights, in particular, fail to achieve the set goals in their provisions.

It is understood that the non-achievement of goals set in national legal instruments as well as international instruments but the case of Nigeria appears to be worst. This is because the causes of non-achievement of goals set in legal frameworks are not only created by contextual realities such as religious and traditional perceptions but also by the crippling phenomenon of corruption. In regards to child rights violations, it should be admitted that the lack of investment in education, capacity building and consistent and significant budgets for child rights protection and promotion programmes. The evidence and the truth in Nigeria is that after twenty years of its enactment and promising goals, CRA 2003 has not placed the Nigerian child in a safe legal cocoon.

The lethargy in relation to this question has become an integral part of daily life. Obagboye and Tomi (2021) observed that after 17 years of the domestication of the Convention on the Rights of the Child through the Child Rights Act 2003, the terms it sets out to protect children remain far from reality. On this specific point, it could be agreed with Ekon (2016) that in Nigeria, advancing policy prescriptions and laws present no difficulties in the prevention of issues such as child labour. Nevertheless, the effective implementation of such policies in order to achieve the set out objectives is problematic. It is the same ball game for law enforcement. For example in the case of combatting child labour one of the challenging issues in the discourse on child rights protection, the United States Department of Labor (2021) has acknowledged that criminal law enforcement agencies in Nigeria took actions to address child labour. However, gaps exist within the operations of criminal enforcement agencies that may hinder adequate criminal law enforcement, including the allocation of resources. In such circumstances, it is evident that goals will hardly be achieved.

One of the complexities of the problem of child rights in Nigeria has been highlighted by the United States Department of Labor (2021). The Department has reported that the Child's Right Act has been adopted by only 29 out of Nigeria's 36 states (including the capital federal territory), leaving the remaining 7 states in northern Nigeria with legal statutes that do not meet international standards for the prohibition of children in illicit activities. In addition, the minimum age for work in the Labor Act does not apply to children who are self-employed or working in the informal economy.

It is therefore evident that the biggest challenge is that the CRA 2003 does not have uniform applicability throughout the country because the Act has not been adopted by all states in the country. While this problem of uniform application still lingers, Obagboye and Tomi (2021) failed to identify a much more complex issue in the discourse on child right in Nigeria. There seems not to be a question of applicability only. A thorough examination of the question would lead to the unveiling of deeply rooted impeding factors to the emergence of a genuine endeavour to value child rights in Nigeria. As indicated before, there is an indisputable willingness of law and policymakers as well as all stakeholders to adhere to effective child rights protection. However, adverse factors to such adherence remain unmanaged and uncontrolled. It appears that contextual realities have always been ignored in addressing socio-legal issues such as child rights violations, child trafficking, child labour, and all forms of child abuse. Among other factors, corruption in Nigeria has significantly weakened, if not, destroyed the social fabric hence undermining law and policy implementation and enforcement. Indeed corruption has severely undermined the sharing of national revenues, corruption harbours ingredients of generalised poverty in the population, as public wealth is unduly concentrated in the hands of a few privileged and power holders in the country. Ijewereme (2015) has clearly presented the alarming nature of corruption in Nigeria. The author states that corruption in Nigeria manifests in the form of misappropriation, kickback, over-invoicing, bribery, embezzlement, tribalism, nepotism, money laundering, outright looting of treasuring, and so on. As to the effect of corruption, they are holistically detrimental to the prospect of sharing the national and collective wealth. Indeed Ijewereme (2015) emphasises that corruption has outrageous effects which range from underdevelopment, absence of basic infrastructure such as potable water, good road networks, misappropriation of national resources leading to massive poverty, mediocrity in leadership and cluelessness in professionalism, deficient leadership outputs. In the same vein

Chatham House (2017) reported that corruption fosters more corruption, perpetuating and entrenching social injustice in daily life. It noted that such an environment weakens social values of fairness, honesty, integrity and common citizenship as the impunity of dishonest practices and abuses of power or position steadily erode citizens' sense of moral responsibility to follow the rules in the interests of wider society. In light of the deeply rooted corruption and its impacts on socio-economic development, it is evident that human rights in general and child rights, in particular, remain in disarray. The discourse on the cultural and traditional impediment of the promotion and protection of child rights in Nigeria appears to be obsolete. Significant efforts and a paradigm shift have occurred in the perception of child rights among most traditional communities. Consequently, the ogre yet to be eliminated is the institutionalised corruption in Nigeria. The ostensible actions of politicians and government officials who are generally blamed for looting public wealth to the detriment of the general public thereby undermining basic human rights and social peace are deemed hypocritical. Although the prospect of total eradication of corruption in Nigeria seems to be a far tech given the current complexity of the phenomenon, the increasing criticism among community leaders, leaders of opinion, activists and non-governmental Organisations heralds a promising and relieving future.

3.2. The way forward

The shortcoming in the achievement of the goals of the CRA 2003 is the tip of the iceberg in a system where law and policy implementation and enforcement have become unrealistic. Although the issue arises in the area of child protection and the effect of one of the most celebrated legal instrument in modern Nigeria, several legal instruments had a similar fate. Proposing possible solutions or making viable recommendations appears to be the best approach to any issue but the response from those to whom the recommendations appeal must be prompt in responding and there must be tangible results on the ground.

It is not being purported that the Nigerian authorities remain inactive. The United States Department of Labor (2021) reported that the Nigerian Ministry of Labor and Employment created a new program to provide vulnerable households with seed capital to fund new businesses in areas with high rates of child labour (United States Department of Labor, 2021). However, children in Nigeria are still subjected to the worst forms of child labour, including in commercial sexual exploitation and use in armed conflict as well as quarrying granite and artisanal mining. The government even validated the National Policy on Child Labor and the National Action Plan for the Elimination of Child Labor (2021–2025). The question of whether these actions and plans from the authorities can yield the expected results.

The assessment of CRA 2003 twenty years after its enactment is in fact to determine its efficacy but it also reveals that laws implementation and enforcement, in general, is a challenge. Recommendations for the purpose of determining the way forward in regard to the specific case of the protection and promotion of child rights

within the existing legal framework require not only the submission of workable solutions but also the genuine willingness and endeavour of authorities at both state and federal levels to pursue effective law and policy implementation and enforcement. Given the fact that corruption is the most significant impediment to the materialisation and the achievement of most socio-political goals in Nigeria, there must be a tougher approach to punishing criminals involved in corruption. Moreover, there must be collective action on corruption in Nigeria (Chatham House, 2017). On the point of collective action, it is important that the authorities at both state and federal levels adopt a stricter and more transparent approach to public administration especially the management of public resources having in mind the promotion and protection of basic human rights and the economic prosperity of Nigeria. This would meet the requirement of social security set in Article 26 of CRA 2003 stipulating that every child has the right to benefit from social security. Governments must provide social security, including financial support and other benefits, to families in need of assistance.

IV. CONCLUSION

The emergence of the CRA 2003 announced the new dawn for child rights in Nigeria. However, like most statutory instruments in Nigeria, the CRA 2003 has not achieved the goals related to better and more effective child rights protection. It is found that solving the quagmire depends on the willingness and desire for a paradigm shift in perception about public administration and the management of public resources. Whether such endeavour constitutes a challenge or an easy requirement for the authorities and all citizens in Nigeria, the imperative to guarantee law and policy implementation and enforcement in order to construct a fairer and safer society for all. This is to be translated into the eradication of corruption and the redistribution of national wealth among the people.

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