

AN APPRAISAL OF THE INTERNATIONAL LEGAL FRAMEWORK ON THE HEALTH RIGHTS OF A CHILD

Oluwayemi Oluwadunsin Ogunkorode*

Abayomi Oluwaseun Akanle**

Abstract

In any decision that must be taken in respect of a child, the best interest of the child must be the paramount consideration. The rights of the child must be safeguarded from any form of abuse or violation. The abuse or violation of the rights of the child is often detrimental to the health and well-being of the child. Every child is entitled to the right to health and health facilities, in other words, practices and acts that are detrimental to the health of the child must be avoided. Some of these practices sometimes claim the life of the victim or may lead to permanent deformity. Both the State and the parents of the child have a greater role to play in ensuring that the child enjoys his/her right to health. This study examined the child's right to health, practices that violate the right to health, and the legislative framework on the right to health and health facilities. The essential goal of this study was to recognize the necessity of the health of the child concerning relevant international legal frameworks and to justify the need for enactment of an enabling law on the health rights of the child. The study adopted a doctrinal research method. It relied on primary sources of data such as statutes, conventions, and judicial decisions and secondary sources of data such as articles in journals, textbooks, and internet materials among others. This study however concluded that the health of the child is of great importance to the development and well-being of the child.

Keywords: child, health, laws, rights

* Oluwayemi Oluwadunsin Ogunkorode, Lecturer, Department of Public Law, Faculty of Law, Ekiti State University, Ado Ekiti, Ekiti State. Contact: oluwayemi.ogunkorode@eksu.edu.ng yemiogunkorode@gmail.com

** Abayomi Oluwaseun Akanle, Lecturer, Department of Public Law, Faculty of Law, Ekiti State University, Ado Ekiti, Ekiti State. Contact: abayomi.akanle@eksu.edu.ng.

1. INTRODUCTION

The future of the nation is based on how well the child is protected and groomed to be productive adults who will contribute to the growth and development of the nation (Obiechina, 2014). Despite the importance of the rights of a child, little attention is given to this right across the globe (Kilkelly, 2020). The rights of the child should be at the forefront of every society. A child should be protected from any form of practice that could be harmful to their health and well-being. Apart from the obvious duties of the parents, the state must also safeguard the health of the child and provide basic health care facilities. The state must also ensure that the right to health is protected, respected, and fulfilled. Child survival in Nigeria is threatened by nutritional deficiencies and illness, most especially malaria, diarrhea, and acute respiratory infections that often account for the majority of mortality and morbidity in childhood (USAID Policy Project, 2002). The right to health is a widespread right that every child is expected to enjoy. The breach of the rights of the child to essential health care and health facilities is rubbing on them since they are often helpless (Obiechina, 2014). The childhood mortality rate is higher in the rural areas than the urban areas and higher in the northern region than the southern region (Nigerian National Health Policy, 2016). Thirty-seven percent of children below the age of five are stunted, and 29% weigh below average (Nigerian National Health Policy, 2016). The rights of the child to health constitute an imperative part of the basic rights of the child.

UNICEF is dedicated to the survival and development of the child, it relies on children's access to shelter, good nutrition, clean water, healthcare, and sanitation (UNICEF, Health and HIV). According to a report by UNICEF, the health of a child is often taken for granted in most Nigerian states most especially in the northern part of Nigeria where most parents reject the routine immunization given to children of a certain age (UNICEF, Health and HIV). For instance, only a few children have full immunization against polio in the northeastern part of Nigeria due to the insecurity resulting from the Boko Haram insurgency. Apart from the abandonment of polio vaccination, children are also prone to HIV either through their mothers or from sexual assault from the insurgents (UNICEF, Health and HIV). For instance, in 2015, about 41,000 children were infected with HIV and only a few percent of them had access to an appropriate healthcare facilities and good nutrition (UNICEF, Health and HIV). Some of the main factors contributing to the high mortality rate among children in Nigeria are inadequate access to potable water and proper hygiene, as a result of which they are susceptible to various kinds of diseases such as cholera, diarrhea, etc. (UNICEF, Health and HIV).

2. MEANING OF A CHILD

There is no universally acceptable definition of a child. The definition of a child differs from one jurisdiction to another. The Convention on the Rights of a Child defines a child as a human being below the age of 18 years unless under the law applicable to the child, the majority is attained earlier (Convention on the Rights of a Child 1991, art 1). A child is a boy or a girl of any age between infancy and adolescence (Azi and Saluhu, 2016). The Children and Young Persons Act defines a child as a person who has not attained the age of 14 years while a young person is a person who has attained the age of 14 years but has not attained the age of 17 years (Children and Young Persons Act 1958). A child means any human being below the age of eighteen years who has not reached the age of majority by special agreement (Congo Child Protection Code, 2010). A child or a minor is an individual of either sex who has not yet reached twenty-one years (Cote d'Ivoire Minority Act 1970). A child is a person under 16 years (Libya Children's Protection Act 1997). The Sudan Child Act defines a child as every person who is not above the age of eighteen years. The National Child Welfare Policy of 1989 defines a child as anybody who is 12 years or below. The different definitions of a child across the globe raise doubt as to whether the protection and promotion of the rights of the child can be achieved in the best interest of the child (Alemika and Kigbu, 2015). Children are important in society, they are the assurance of continuity of human society and the most vulnerable members of society with the absence of physical, mental, and emotional maturity (Tajudeen, 2015).

Due to their age and tender nature, they require special care and attention. The future of the nation and the kind of leaders any society will have tomorrow depends on how the children are raised, catered for, and protected in society today. Apart from communal clashes, violence, and insurgence, children are also affected by the economic crisis of the country and the world at large, which often results in deteriorating health conditions, sexually transmitted diseases, and various ailments associated with child marriage leading to great helplessness. These problems compound their risk of survival and also create dreadful impediments to the development of children (Tajudeen, 2015). There are various legislations on the protection of the child both locally and internationally, for instance, the Child Rights Act seeks to protect the rights of the child as provided for in the Constitution of the Federal Republic of Nigeria 1999 and other subsidiary legislations (Adam, 2013). It guarantees the rights and protection of the child.

3. CHILD'S RIGHT TO HEALTH

Good health is fundamental to the growth and development of a child and it helps a child to achieve his full potential (Zillen Kavot, 2023). The rights of a child identify the child's need for protection and recognition. The right to health and health facilities is provisional (such as emotional, mental and physical rights). It is the responsibility of the state to safeguard the

health of the child through the provision of basic health facilities. Right to health encompasses medical care, access to safe drinking water, adequate sanitation, and health-related information (Backman, Hunt, and Khsola, 2008). Health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity. The right to health is the right to the enjoyment of a variety of facilities and conditions, which is the responsibility of the state to provide as being necessary for the attainment and maintenance of good health (Asher, 2005). By providing adequate living conditions, access to potable water, and accessible and acceptable health facilities, the state is also fulfilling its human rights obligation and contributing to the dignity and well-being of the child (Rubenson, 2002). The right to health is interconnected with other human rights like education, housing, food, etc. (Rubenson, 2002). Because the status of health reflects a wide range of socio-economic factors, the right to health is also connected to the basic rights (civil, economic, social, cultural, and political (Rubenson, 2002). Every child deserves the right to mental and physical health. The right to health is important because of the susceptibility of children to the risk of illness, and when they are protected from sicknesses and disease, they grow to become productive adults (Humanium, 2018).

Right to health is not just good management, justice, or humanitarianism; it is an obligation under human rights law (Backman *et al*, 2008). The right to health requires effective, responsive, integrated health services that are good for all (Hunt and Backman, 2008). Access to health and health facilities is an important aspect of the right to health. Medicines and health facilities must be available and accessible to the child (Backman *et al*, 2008). A child is to be protected from any disease or ailment and should be protected from any harmful practices that can be dangerous to the health of the child. Such dangerous practices include child marriage, female genital mutilation, child trafficking, and among others. Everyone has the right to a good standard of living adequate for his/her health and well-being (Art 25, Universal Declaration of Human Rights 1948). and the right to enjoy the best physical and mental health (Art. 16 (1) African Charter on Human and Peoples' Rights, 1986). A child is entitled to enjoy the best state of health such as spiritual, mental, and physical health. Parents have the primary responsibility of ensuring the effective enjoyment of the right to health of their children.

The state must eliminate any form of practices that may be harmful to the health and welfare of the child. The law recognizes the responsibility of the state, especially in respect of children whose parents are poor or do not have the means of providing basic health care (UNICEF, 2007). It is the responsibility of the government, parents, guardian, institution, agency, organization, or body to provide the best state of health for the child (Section 13 of the Child Rights Act 2003). The state also has the responsibility of taking necessary and preventive measures against any form of disease. The obligation of the state also includes the provision of health care facilities, safe drinking water, good hygiene, and prevention of any act that may be detrimental to the health of a child.

Making tribal marks or tattoos on the child also affects the health of the child; sometimes the instrument used in making these marks is dangerous, unsterilized, and can harm the victim (Section 24 Child Rights Act 2003). This section also prescribes punishment for any person who violates the provision of this section. However, corporal punishment without injury is an acceptable way of correcting a child and a way of disciplining children for wrongful acts in Nigeria. There are several judicial authorities in support of corporal punishment. For instance, in the case of *Willie v. State* a woman hit her eleven-year-old son with an extension cord and caused bruises that were neither serious nor permanent, the Supreme Court held that the punishment was reasonable. In the case *Costello-Roberts v. UK* the European Court of Human Rights held that giving a 7-year-old boy three ‘whacks’ with gym shoes over his trousers was not a forbidden degrading treatment. In the case of *Ingraham v. Wrights*, a group of pupils at Drew Junior High School in Florida were slow in leaving the stage of the school auditorium when a teacher asked them to do so. The principal Willie Wright Jr. took the pupils to his office to be paddled. James Ingraham, a 14 years old boy refused to accept the punishment. An assistant to the principal held Ingraham prone across a table while Wright hit the child over twenty-one times with a paddle. The beating caused a hematoma from which fluid later oozed out. A doctor had to prescribe painkillers, laxatives sleeping pills, and ice packs. The child had to rest at home for over ten days and could not sit comfortably for three weeks. The court held that the boy did not receive cruel or unusual punishment. The action of Wright in this case seems to be grave to the extent that it affected the health of the child. In as much as corporal punishment is acceptable as a way of correcting a child, there should be a level of control on how this punishment is meted out on a child.

4. PRACTICES THAT VIOLATE THE RIGHT TO HEALTH OF THE CHILD

Practices that violate the health rights of a child can be regarded as child abuse. Child abuse or violation means denying a child equal rights, liberties, and opportunities and subjecting such a child to poor, unfair, and demeaning treatment (Atere, Akinwale, and Owode, 2005). This form of violation is the intentional or unintentional acts that endanger the physical health, and moral, educational, and emotional welfare of the child. Child abuse is a global problem that is deeply rooted in cultural, economic, and social practices and it occurs in various ways (Umobong, 2010). Persons known to and trusted by the child often violate the rights of the child, it can be at home or in school (Umobong, 2010). Child abuse violates the human rights of the child and often leads to consequences that affect the health of the child. The various forms of child abuse that violate the health rights of the child are discussed under this heading.

4.1 Female Genital Mutilation

Female genital mutilation (FGM) as the name implies is peculiar to a female child. Female genital mutilation involves the removal of the clitoral hood or labia minora, the excision

of the clitoris, and the dangerous act of infibulation. (Owolabi, 2012). Female genital mutilation is a form of violence against the girl child and an infringement on the right to life, health, integrity and human dignity of the girl child (National Policy and Plan of Action on the Elimination of Female Genital Mutilation in Nigeria, 2002). Female genital mutilation often occurs during the early days of a child i.e. few weeks after the birth of a female child. This traditional condemnable method has kept some girls at various risks of life, health, and psychological consequences (Onwe, 2014). Studies conducted by the World Health Organisation and the United Nations Development Systems reveal that female genital mutilation is prevalent in Nigeria at approximately 60% of the Nigerian female population; unfortunately, it was omitted in the Child Rights Act 2003 (Mandara, 2004). The World Health Organisation has classified FGM into four different categories namely, type I- Clitoridectomy, type II- Excision, type III-Infibulation, and type IV- other (WHO, Understanding and Addressing Violence against Women: Female Genital Mutilation, 2012). According to World Health Organisation, the FGM procedure is often performed on young girls between infancy and the age of 15 years, it does not have any benefits and may sometimes lead to severe bleeding and complications during childbirth (WHO, Female Genital Mutilation, 2012). Its origin can be traced to the need to avoid promiscuity, and encourage chastity and/ or initiation of girls into womanhood. (Okeke and Anyaehie, 2013).

4.2 Physical abuse

Physical abuse is a non-accidental form of injury or serious physical harm inflicted on a child. Subjecting the child to severe beating is a form of physical abuse. This is common in Nigeria and it is seen as a form of correcting or chastising the child for wrongdoing. The Penal Code also makes provision for physical punishment as a means of correcting a child, it allows parents or guardian to beat the child without inflicting grievous harm on the child (Section 55 Penal Code Act). It is a common believe in Nigeria and most Africa countries that when a child is chastised for wrongdoing, such child would not repeat such act again. However, sometimes these chastisements often result in physical and psychological harm to the child. Physical abuse includes acts, which causes burns, laceration, bruises, broken bone or any other physical injury. It includes beating, kicking, punching, slapping etc. Some of the authorities against physical abuse are *R v. McDonald*, *R v. Nicholas*, *R v. Bounyman*. The prohibition of physical abuse as a form of punishment in the Child Rights Act is one of the reasons for the rejection of the Child Rights Act in the northern states (Alkali, Hak and Yusoff, 2014). It is seen as a product of western civilization and also aimed at taking Muslim children from the training and control of Muslim community (Alkali, Hak and Yusoff, 2014). Physical abuse is a social menace whose negative impact on child development cannot be overemphasized in Nigeria (Uzodinma, Ogundeyi, Dedeké and Owolabi, 2013).

4.3 Child Labour and Street Hawking

Child labor means an active trade in children within and outside the country (Mbakogu, 2004). This practice is similar to the African culture of handing over children to affluent members of the same family, who helps in the household chores while the affluent member of the family assists by training the child (Adam, 2013). This is a form of trade by barter. Child labour often arises as a result of poverty, it is a problem faced by developing countries, and it sometimes involve inhuman and degrading treatment (such as ritual killing, child prostitution etc.) (Adam, 2013). For instance, in 2016 a trafficking link from Nigeria to Italy through Nigerian and Libya traffickers took some women and children to Italy where they were forced into prostitution and child labor respectively United States Department of States, 2018). Another prevalent form of child labour is bus conducted by children in rural areas, this is as a result of population pressure bought by massive rural-urban drift leading to high demand for buses for commercial purposes (Onuikwe, 1998). Article 23 prohibits child labour, it provides that state should end child labour practices and see how the conditions and circumstances of children in legitimate employment can be protected to provide adequate opportunity for their healthy upbringing and development (Bhat, 2010). Child labour depends on the normative attitude towards children in the society and the culturally determined roles and functions of the socialization process in the society (Clark and Yesufu, 2015). The effect of child labour is that the affected children experience abuse, molestation, pseudo-education, poor physical and mental health (Ogunsakin, 2008). In the case of *R v. Macdonald*, the victim, a 14-year-old girl living with her father and her stepmother did most of the household chores, attended to the needs of the two young children, milked goats, and feed dogs. She later died in the most pitiable circumstances due to stress and other associated health conditions. This is among other unreported cases of child labor that has shortened the lives of victims or caused permanent deformity.

Street hawking is a form of child labor common in Nigeria. It occurs due to the poor financial status of the parents to take care of their children. These children hawk on the street and the highway to complement the family income and to earn a living (Isamah and Okunola, 2002). Sometimes, children are sent from villages to cities to work as house helps and are made part-time street hawkers (Onwe, 2014). However, the harsh economic realities of Nigeria have made the prohibition of street hawking unattainable (Onwe, 2014). The high level of trekking involved in hawking activity, the risk of road accidents, physical exhaustion, sexual harassment, molestation, and the various forms of exploitation are the problems faced by children who hawk (Okojie, 2007). Street hawking is associated with problems like truancy, exposure to hazards of weather, fatigue, accidents, kidnapping, rape, and unwanted pregnancy (Aderinto and Okunola, 1998). It also hurts the mental health of the child, and causes respiratory problems, injuries, and malnourishment (Oli, 2013).

4.4 Child trafficking

Child trafficking is the illicit movement of children across national and international borders to force them into sexually or economically oppressive, illegal, and exploitative conditions for the profit of the traffickers (UNICEF, United Nations General Assembly, 2002). It is synonymous with slavery because it involves the acquisition and movement of persons across local and international borders with or without the consent of the victim (Kwagyang and Saulawa, 2012). Child trafficking is a human rights abuse and a violation of the fundamental rights of the victims. It may lead to the loss of lives of the victims, sexual violence, HIV/AIDS, unwanted pregnancy, and massive deportation (Owolabi, 2012). Trafficking is common in Nigeria. Victims are moved from Nigeria to Mali, Morocco, and Spain by boat, some also travel by road across the Sahara desert (Owolabi, 2012). Children are often victims of human trafficking. Poverty is the major cause of child trafficking. Sometimes children are trafficked into domestic service, street trading, and commercial sex exploitation (Jones, Presler-Marshall, Cooke, and Akinrimisi, 2011). Children between the ages of seven and sixteen are frequently taken to Italy, Cameroun, and Gabon, from different parts of Nigeria such as Akwa Ibom Cross River, Abia, and Imo State. (Makama, 2013). Between March 1994 and January 1997, at least 400 children were rescued from child traffickers in Akwa Ibom State (Makama, 2013). Out of 952 people that were rescued from human traffickers in 2013, about 602 were children between the age of 0-17 years (Kwagyang and Saulawa, 2012). In a few cases, children are persuaded to join military units by their peers or family members, they wield sophisticated weapons with little training and they are forced to commit acts of extreme savagery, under the influence of drugs to suppress their conscience and sensitivity (Fernanda Estevan and Jean-Marie Baland, 2007). Procuring a girl to become a common prostitute or trading in prostitution or exercising control over the movement of prostitutes within or outside Nigeria is an offense and anyone caught in this act will be held liable (Section 225 Criminal Code Cap C38 LFN 2004). Section 18 of the Trafficking in Persons (Prohibition) Enforcement and Administration Act 2015 prohibits recruitment for use in armed conflict and foreign travel, which promotes prostitution or sexual exploitation.

4.5 Early/Child Marriage

Islamic law, also known as Sharia, does address marriage but does not prescribe a specific age of marriage. Instead, it typically emphasizes the importance of maturity and readiness for marriage. However, interpretations and applications of Sharia can vary widely across different cultures and regions. Child marriage is a complex social issue with cultural, economic, and religious factors at play. While some communities may justify child marriage using religious or cultural arguments, it's important to note that Islam itself does not set a specific age for marriage. Many Muslim scholars and organizations worldwide advocate for setting a minimum age for marriage based on considerations of mental, emotional, and physical maturity. The International Covenant on Civil and Political Rights (ICCPR) and the

Convention on the Rights of the Child (CRC), both of which many countries have ratified, also call for protection against child marriage. Therefore, while some communities may practice child marriage citing religious reasons, it's essential to understand that Islam as a religion does not prescribe or promote child marriage but rather emphasizes responsible and mature decision-making in matters of marriage. However, these reasons are the girl child.

Some of the reasons for early marriage are poverty, the need to avoid premarital sex, and because little or no importance is attached to a female child who is rather seen as a property to be acquired by a man. It is also seen as a way of protecting the child from sexual assault and unwanted pregnancy (Fayokun, 2015). However, section 23 of the Child Rights Act prohibits child marriage where it provides that anyone who marries, betroths, or endorses the marriage of a child commits an offense and is liable on conviction of 5 years imprisonment with the option of fine or both. Such early or child marriages often lead to infant mortality, miscarriages, complications during childbirth, and death. Despite the prohibition of child marriage and betrothal by the provision of sections 21-23 of the Child Rights Act, it is still in practice in most of the northern states of Nigeria. For instance, in 2010 the former Governor of Zamfara State Ahmad Sanni Yerima got married to a 13-year-old Egyptian girl. The loopholes in the 1999 Constitution have contributed to the consistent practice of child marriage in Nigeria. For instance, these loopholes are found in sections 29 (1) and 29 (4) of the Constitution (Fayokun, 2015). Section 29 (1) of the Nigerian Constitution 1999 provides that any citizen of Nigeria of full age who wishes to renounce his Nigerian citizenship shall make a declaration in the prescribed manner for the renunciation, while section 29 (4) of the Nigerian Constitution 1999 provides that for subsection (1) of this section full age means the ages of eighteen years and above and any woman who is married shall be deemed to be of full age. By the provision of section 29 (4) of the Constitution of Nigeria 1999, a child bride who is less than 18 years is deemed to be of full age, thereby providing a legal justification for child marriage. Sometimes, child marriage terminates the child's education and introduces the girl child to early sexual life, early motherhood, vesicovaginal fistula (an unusual opening between the vagina and bladder that often lead to continuous urinary incontinence), anemia (insufficient red blood cells or hemoglobin to transfer oxygen to body tissues), eclampsia (seizures during pregnancy) and series of health challenges (Fayokun, 2015).

5. Legal Framework on the right to health of the child

The evolution of the rights of the child was derived from the human rights framework provided by the United Nations (Adam, 2013). Civil organizations and nongovernmental organizations started agitating for the protection of the rights of the child towards the end of the 20th century; this led to various legislations on the protection of the rights of the child. This framework invalidates customs and religious practices that are injurious to the health, welfare, and development of the child. The right to health extends to prevention, treatment, and control

of disease, access to essential medicines, child reproductive health, and equal and timely access to basic health care services (WHO, the Right to Health Fact Sheet).

The Constitution of the Federal Republic of Nigeria protects the various rights of persons in Nigeria. Section 33 of the Constitution of Nigeria makes provision for the right to life of all persons, which includes the child. The provisions of the Constitution cover both adults and children. The Constitution guarantees adequate protection of life being the obligation of the state. Apart from the right to life, the Constitution also prohibits any form of torture or inhuman and degrading treatment (article 37 (a) Convention on the Right of the Child, 1989) which, may also include harmful traditional practices against the health of the child. Children are protected under international human rights laws from harmful cultural practices or any form of practice that has a negative effect on them because it is their right and they have limited ability to protect themselves from these harmful practices (FXB Center for Human Rights, 2013). Physical abuse being a form of inhuman treatment often has severe consequences on the health of the child. It is the responsibility of the State to direct its policy towards ensuring that the health, safety, and welfare of all persons in employment are safeguarded and not abused but to provide adequate medical and health facilities for all persons (section 17 (3) (c) (d) Constitution of Nigeria. In addition, the state has the responsibility of protecting, and improving the environment and safeguarding the water, air, and land. There should be allocation and provision of health resources for all communities, most especially the poor and vulnerable communities. Denial of access to health facilities would amount to the violation of the right to health of the child. The child has the right to a standard of living adequate for the child's health and well-being including food, clothing, a clean environment, housing, and medical care (Article 25 (1) Universal Declaration of Human Rights, 1948).

States must ensure that the institutions, services, and facilities responsible for the care or protection of children conforms with the standards established by competent authorities in the area of safety, health as well as competent supervision (Article 3 (3) Convention on the Right of the Child, 1989). States must strive to also provide other health services needed by the child; they must make an effort to reduce health risks by safeguarding the health of the child. The state is expected to ensure that adequate and proper measures are put in place to prevent any form of disaster; epidemic, endemic etc. Article 12 (2) International Covenant on Economic Social and Cultural Rights, 1966). The United Nations Committee on Economic and Social, Cultural Rights adopted a General Comment on the availability, accessibility, acceptability and quality of health facilities as part of the right to health. States are to ensure the availability of accessible and quality health facilities for the child (WHO, The Right to Health, 2007). In any situation that has to do with the child, the best interest of the child must be the utmost consideration (Article 3 (1) Convention on the Right of the Child, 1989). Every child has the right to enjoy the best state of physical, mental, and spiritual health and anyone responsible for the care of the child must endeavor to provide the best attainable state of health for the child (Article 13 (2) and 14 (1) African Charter on the right and Welfare of a Child,

1999). The state or government must recognize the right of the child to enjoy the best standard of health and health facilities for the treatment of illness and the rehabilitation of the child's health (Article 24 Convention on the Right of the Child, 1989). The state must not deprive any child of his or her right of access to health care facilities.

Public health care is severely stretched in the face of unrelenting diseases and satisfactory protection of the child from such menace (Connelly and Ikpaahindi, 2016). It is the responsibility of the state or government to reduce infant child mortality and provide necessary medical assistance and healthcare facilities to all children through the development of primary health care. The state must also provide adequate nutrition, drinking water, good hygiene, and environmental sanitation (Article 14 (2) African Charter on the Right and Welfare of a Child, 1999). Through the instrumentality of primary health care and the application of appropriate technology, the state must combat disease, and malnutrition and ensure proper health care for expectant and nursing mothers (Article 14 (2) African Charter on the right and Welfare of a Child 1999 and Article 24 (2) (c) (d) Convention on the Rights of the Child, 1989).

Parents and children are to be supported by the government in the use of basic knowledge of child health and nutrition, the benefits of breastfeeding, and environmental sanitation (Article 24 (2) (e) Convention on the Rights of the Child, 1989). To ensure the best attainable health, any person having the care and custody of a child under the age of two years must ensure such child is fully immunized. To ensure the safety on health of the child, any form of mark on the skin or tattoo on the child (Article 24 (1) Convention on the Rights of the Child, 1989) and any traditional practice that is prejudicial to the health of the child are prohibited (Article 24 (3) Convention on the Rights of the Child, 1989). The child is protected from economic exploitation or any work that is likely to be hazardous or to interfere with the child's health Article 32 (1) Convention on the Rights of the Child, 1989). To safely guide the health of the child, the child should not be involved or exposed to the production or use of narcotic drugs or psychotropic substances (Article 33 Convention on the Rights of the Child, 1989 and Article 28 African Charter on the Rights and Welfare of a Child, 1999). An assessment order may be granted by the court on the application of the relevant authority for the assessment of the state of health of the child or development of the child, to determine whether the child is suffering or likely to suffer significant harm.

A child is expected to grow up in a family environment, in an atmosphere of happiness, love, and understanding because a child occupies a special position in society. The African Charter on the Rights and Welfare of the Child recognizes that due to the need for a child's physical and mental development, the health of the child must be taken care of (Preamble to the African Charter on the Rights and Welfare of a Child, 1999). States must also ensure the meaningful participation of non-governmental organizations, and local communities in the planning and management of basic service programs for children (Preamble to the African Charter on the Rights and Welfare of a Child, 1999). They are expected to support

through technical and financial means, and mobilization of local community resources on the development of the health facilities of children. Children are to be protected from any hazardous work (Article 15 (1) African Charter on the Rights and Welfare of the Child, 1999) and all forms of torture and treatment that may affect the physical and mental health of the child work (Article 16 (1) African Charter on the Rights and Welfare of the Child, 1999). The State is also expected to assist parents by providing materials and support programs about nutrition, health, education, clothing, and housing of the children (Article 20 (2) (a) African Charter on the Rights and Welfare of the Child, 1999). This Charter also makes provision for the elimination of customary practices prejudicial to the health or life of the child (Article 21 (1) (a) African Charter on the Rights and Welfare of the Child, 1999).

Other jurisdictions also recognize the right to health as a right of the child, for instance, the Philippines' Special Protection of Children against Child Abuse, Exploitation and Discrimination Act describes a denial of emergency medical treatment to an injured child as a form of child abuse, when death or serious impairment of growth and development results (Section 3(b) (4) Philippines' Special Protection of Children against Child Abuse, Exploitation and Discrimination Act, 1992). This Act also makes provision for priority of delivery of social services in health and nutrition for children. The South African Children's Act identifies the right of every child to information about his/her health, information about health care services, and the right of children who are 12 years and above to consent to medical treatment (Section 129 South African Children's Act, 2005). Medical treatment must be in the best interest of the child and his continuing health and well-being (Section 3 (1) (b) Uniform Medical Consent of Minor, 1975). By the provision of the Egypt Child Law 1996, the protection and health right of the child starts from birth. Only trained and licensed birth attendants are allowed to take delivery, it makes provision for vaccination against communicable diseases, maintenance of regular records of children's health, and the regulation of the use of additives in children's food. Under the Child Protection Act of 1997, the Libyan Arab Jamahiriya introduced compulsory medical examination before marriage in order to detect hereditary diseases that could affect children's physical or mental health. Screening of newborn babies is mandatory to detect congenital disabilities and hereditary illnesses if any (UNICEF, Law Reform and Implementation of the Convention on the Right of the Child, 2007).

The National Health Policy also recognizes the health of the child with the objectives of reducing maternal morbidity and mortality, childhood mortality, promoting the healthy growth and development of school-aged children, promoting of optimal health of the child through implementation of child survival strategies, reducing the risk associated with pregnancy and childbirth; through the promotion of comprehensive obstetrics care at all levels and the enactment and implementation of legislation for mitigation of harmful cultural practices (National Health Policy, 2016).

6. Concluding Remark and Recommendation

Every child has the right to health, this right is not only restricted to the mental health of the child, it extends to the physical and psychological health and well-being of the child. This right has received wide recognition across the globe with several countries making provisions for the protection of this right. The child's right to health and healthcare facilities includes the provision of portable drinking water, food, and sanitation. Children are to be protected from any form of acts or practices that violate their right to health. Some of these practices are female genital mutilation, child labor, child trafficking, street hawking, etc. This study however recommends that states and parents should take up the responsibility of ensuring adequate protection of the health of the child. States should ensure the safety of life, health (physical, mental, emotional) survival, and development of the child. There should be Provision of assistance to poor parents, and provision of social welfare services to protect the rights of the child, there should public enlightenment campaign on the importance of health right to the well-being of a child.

LIST OF REFERENCES

Textbooks and Chapters in book

- Isamah A.N and Okunola R. A., (2002)'Family Life under Economic Adjustment: The Rise of Child Breadwinners', in Guyer, J.I. Denzer L.and Agbaje A. A. (eds). *Money Struggles and City Life: Devaluation in Ibadan and other Urban Centres in Southern Nigeria*, Portsmouth NH Heinemann.
- Okojie, C. E. (2007) *Income Generation in Occupational Structure among the Urban Poor*. Evans Publisher.
- Asher, J (2005) *The Right to Health: A Resource Manual for NGOs (AAAS and Human Right Program)*

Articles

- Adam, E. M. (2013) An Appraisal of the Regime of Juvenile Justice Under the Child Rights Act in Nigeria *Arabian Journal of Business and Management Review* 2(8) pp. 10-18.
- Aderinto A. A. and Okunola R. A., (1998) Push, Pull and Sustaining Factors of Child Labour in Nigeria *An International Journal* 6(1) *Ife Psychologia* pp.173.
- Atere, A. A. Akinwale A. A. and Owoade A. E. (2005) Child Abuse and Juvenile Gangs: A Case Study of Social Miscreants in Oshodi, Isolo Local Government, Lagos State *The Nigerian Journal of Social Sciences* pp. 150
- Azi A. S and Saluhu, A. I. (2016) The Effect of Child Abuse on the Performance of School Children: Implication on the Nigerian Economy *Asia Pacific Journal of Education, Art and Sciences* (3)(3) pp. 23.
- Bhat, B. A (2010) Human Rights Perspective and Legal framework of Child Labour with Special Reference to India *International Journal of Sociology and Anthropology* pp. 20.
- Clark C. I. D. and Yesufu, S. (2015) Child Street Trading as an Aspect of Child Abuse and Neglect Oredo Municipality of Edo State, Nigeria as a Case Study *European Scientific Journal* pp. 149.

- Fernanda Estevan and Jean-Marie Baland, (2007) Mortality Risks, Education and Child Labour *Journal of Development Economics* (84) pp. 118
- Obiechina G. O, Violation of Child's Rights in Nigeria : Implication for Child Health *Academic Research International Journal* (2014)5(1) pp. 155.
- G. U. Kwagyang and M. A. Saulawa, (2012) Child Adoption as a Tool for Child Trafficking in Nigeria: Examining the Position of the Law *International Journal of International Law* 2(2) .
- Hunt P and Backman, G. (2008) Health Systems and the Right to the highest attainable Standard of Health *Health Human Rights* (10) pp. 81.
- K. O. Fayokun, Legality of Child Marriage in Nigeria and Inhibitions against Realisation of Education Rights (2015) (5)(7) *US-China Education Review* 462 .
- Makama, G.A.(2013) Patriarchy and Gender Inequality in Nigeria: The Way Forward *European Scientific Journal* 9(17) 128.
- Mandara, M. U. (2004) Female Genital Mutilation in Nigeria *Int. J. Gynaecol Obstet.* 84(3) pp. 291.
- Mbakogu, I. A (2004) Exploring the Forms of Child Abuse in Nigeria : Efforts at Seeking Appropriate Preventive Strategies *Journal of Social Sciences* 8(1) pp. 25
- Ogunsakin,J (2008)A Legal Prognosis of Child Labour under the Child Right Act *Labour Law Review NJLIR* 2(2) pp. 11.
- Onwe, S.O. (2014) Championing the Campaign against Child Abuse in Nigeria: A Call to Save the Needy *International Journal of Humanities and Social Science* pp. 283.
- Owolabi E. F. (2012) Child Abuse and Sustainable Development in Nigeria *African Journal of Social Sciences* 2(2) pp. 108.
- Tajudeen, O. I. (2015)“Legal Framework for the Protection of Child Rights in Nigeria” *Agora International Journal of Juridical Sciences* pp.46.
- Umobong, M.E.(2010) Child Abuse and its Implication for Educational Sector in Nigeria *African Journals Online* pp. 107-116.

Uzodimma, C. C. Ogundeyi, M. M. Dedeke F.I and Owolabi, O. (2013) Child Maltreatment, abuse and Neglect in a Nigerian Adolescent Boy, the Common but unheard Menace: A Case Report From Southwest, Nigeria *Open Journal of Pediatrics* (3) 379.

Internet Sources

African Network for Prevention and Protection Against Child Abuse and Neglect (ANPPCAN) available at www.anppcan.org

Alemika E. I. and Kigbu, S. K (2015) Translating the Legal Framework on the Rights of Child (the Child Rights Act 2003) into Effective Practice Through Human Rights Education in Nigeria available at <http://www.ihrec2015.org/.../Panel%2010.%20Alemika%20-%20paper.pdf>

Alkali, U. Hak N.A. and Yusoff, R. C. Analysis of relevant Legal Framework on Child Protection in Malaysia and Nigeria (2014) available at <http://www.unimaid.edu.ng/oer/Journals-oer/Law/Private%20Law/14.pdf>

Backman, G. Hunt P and Khsola R., (2008) Health Systems and the Right to Health: An assessment of 194 Countries available at http://www.who.int/medicines/areas/human_rights/Health_System_HR_194_countries.pdf

Connelly G and Ikpaahindi, S. (2016) Alternative Child Care and Deinstitutionalisation: A case Study of Nigeria available at www.sos-childrensvillages.org .

FXB Center for Human Rights, (2013) Health and Human Right Resource Guide in Children's Health and Human Rights available at <https://cdn2.sph.harvard.edu/wp-content/uploads/sites/25/2014/03/HHRRG-master.pdf> 6.3

Humanium, Right to Health (2018) available at www.humanium.org/en/fundamental-rights-2/health/

Jones, N., Presler-Marshall, E. Cooke N. and Akinrimisi, B., (2011) Promoting Synergies between Child Protection and Social Protection in Nigeria (UNICEF, Oversea Development Institute) 9 available at <http://nationalplanning.gov.ng>

Kilkelly, U., The Health Rights of Children (2020) available at <https://doi.org/10.1039/oxfordhb/978019009>

Nigerian National Health Policy (2016). available at <http://www.nationalplanningcycle.org>

- Okeke T. and Anyaehie B., (2013) An Overview of Female Genital Mutilation in Nigeria available at <https://www.researchgate.net/publication/233841130>
- Oli, N. P (2013) Impact of Street Hawking on the Social and Physical Wellbeing of Children in Nigeria. available at <http://nationalplanning.gov.ng>
- Rubenson, B.,(2002) Health and Human Rights, Sweden: Health Division Document available at <https://www.sida.se>
- UNICEF, Health and HIV available at www.unicef.org/nigeria/health-hiv
- UNICEF, Law Reform and Implementation of the Convention on the Rights of the Child (2007) available at <https://www.unicef-irc.org>
- UNICEF, United Nations General Assembly (2002) available at <https://www.unicef.org>
- United States Department of State,(2018) Trafficking in Persons Report-Libya available at www.refworld.org/docid/5b3e0af04.html
- USAID Policy Project, Child Survival in Nigeria: Situation, Response and Prospects (2002) available at http://www.policyproject.com/pubs/countryreports/nig_csrevised.pdf
- WHO, (2012) Understanding and Addressing Violence against Women: Female Genital Mutilation available at https://apps.who.int/iris/bitstream/handle/10665/77428/WHO_RHR12.41_eng.pdf
- World Health Organisation, The Right to Health Fact sheet No 31. <https://www.ohchr.org/Documents/Publications/Factsheet31.pdf>
- World Health Organisation,(2012) Female Genital Mutilation available at <https://www.who.int/news-room/fact-sheets/details/female-genital-mutilation>
- World Health Organisation, The Right to Health (2007) available at http://www.who.int/mediacentre/factsheets/fs323_en.pdf
- Zillen K., (2023) Children's Right to Health(Care- in Light of Medical Advancements and Developments in Pediatric Care available at https://doi.org/10.1163/9789004511163_012

PhD Thesis and Conference Proceedings

Onuikwe, A.C. (1998) 'Child Labour in Nigeria Transport Industry' Conference Proceedings: Eight World Conference in Transport Research Antwerp, Belgium, 12th -17th July 1998.

Wilson Ola Diriwari, 'Efficacy of the Legal Frameworks for Child Protection in Nigeria' (Ph.D thesis, Brunel University London December 2016)44-45.

Policy, Laws and Conventions

African Charter on Human and Peoples Rights 1986

African Charter on the Rights and Welfare of the Child 1990

Child Rights Act 2003

Children and Young Persons Act 1958.

Congo Child Protection Code, 2010

Constitution of the Federal Republic of Nigeria 1999

Convention on the Elimination of all forms of Discrimination against Women, 1979

Convention on the Right of the Child 1989

Cote d'Ivoire Minority Act, 1970

Criminal Code CapC38 LFN 2004,

Cultural Rights.

Egypt Child Law 1996.

International Covenant on Economic Social and Cultural Rights 1966

Lagos State Child Rights Law 2007

Libya Children's Protection Act 1997

National Health Policy 2016.

Philippines' Special Protection of Children against Child Abuse, Exploitation and Discrimination Act 1992

Preamble to the African Charter on the Rights and Welfare of the Child 1999.

South African Children's Act 2005

Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015

Uniform Medical Consent of Minor Act 1975

Universal Declaration on Human Rights 1948

Cases

Costello-Roberts v. UK (1993) ECHR Series A, 247C.

R v. Bounyman (1924) 28 Cr. App. R. 131.

R v. Macdonald (1904) St. R Qd 151, 217

R v. McDonald (1904) St. RQd. 151.

R v. Nicholas (1874)13 Cox C.C. 75

Willie v. State (2008)SC 518.