

LEGAL FRAMEWORK FOR ADOPTION IN NIGERIA: EXAMINATION OF THE CHILD RIGHTS ACT*

Abstract

The compelling factors and situations to this article is the fact that there have been series of humanitarian crises in Nigeria even currently as a result of Boko Haram insurgency in the North East, unending attacks by the bandits on communities in the North central which has rendered many children orphans and without the warmth of a family and parental care. The United Nations Humanitarian Crises Report (UNHCR)¹ reports that the Boko Haram insurgence has rendered children from 5,400 households orphans. For this reason, there is need to integrate these affected children into families to avail them a touch of parental love else, they grow with resentment and hatred for the society due to their condition. However, this will not be a success where there is no legal framework for same. It is on this backdrop that this study became imperative to explore the legal framework for child adoption in Nigeria. The research methodology was doctrinal approach, using analytical and descriptive research approach. The summary of findings and the observations also flowed from the examination of the Child Rights Act, incidences leading to incorporation of child adoption into the Child Rights Act, actors in child adoption under the act, procedural elements involved in child adoption under Child Rights Act, and other legislation about child's right, and finally made some recommendations which made the study significant to all persons to be rooted in the legal framework child adoption in Nigeria.

Keywords: *Child Adoption, Child Rights, Jurisdiction, Procedure, Legislation*

1. INTRODUCTION

There was no statutory provision for adoption in any part of Nigeria before 1965. This caused a lot of hardship to parties or actors in child adoption. There was a demarcation between legal provisions and the customary practice of child adoption itself. This quagmire continued until 1965 when the first legislation on child adoption in Nigeria was eventually enacted in the then Eastern Region of Nigeria.² This legislation was known as the *Eastern Nigeria Adoption Law 1965*.³

However, this legislation was not effective in addressing the perennial problems, mostly culturally related⁴ that bedeviled child adoption in Nigeria. Thus, different

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¹United Nations Humanitarian Crises Report (UNHCR), "The UN Refugee Agency: Supplementary Appeal," (Nigeria Situation UNHCR, July, 2016) 7 – 3

²Chukwu L O C., *Adoption of Children in Nigeria under the Child's Rights Act 2003* (Adoption of Bill of Rights, 2012) 45.

³It came into force on the 20th of May 1965.

⁴ The practice of child adoption without any legal instrument regulating it cannot be overemphasized. For instance, in a situation where the person who adopted the child had his own biological child, the adopted

traditions and cultures in Nigeria still carried on their different practices regarding child adoption. In other words, there was conscious need to enact an all-encompassing legislation that will address the issues in customary adoption and same be made enforceable.

Therefore, just after the 1965 *Eastern Nigeria Adoption Law*, Lagos State promulgated an adoption law in 1968 and other South Western States subsequently followed with their own laws which had a lot in common with each other.⁵ This legislation did not cover the states in the Northern region and as such they did not have any legislation on child adoption. Also, the international law came into concern about legislation on the child rights in about 20 years after the Nigerian adoption law of 1968 was enactment.⁶

Thus, on 20th of November 1989, the United Nations General Assembly adopted the *Convention on the Rights of the Child (CRC)* and in July 1990, OAU Assembly of Heads of States and Governments adopted the *African Charter on the Rights and Welfare of the Child (ACRWC)*.⁷ Presently, both international instruments contain universal set of standards and principles for survival, development, protection and participation of children.

Subsequently, Nigeria signed both international instruments CRC⁸ and ACRWC⁹, also ratified them in 1991 and 2000 respectively.¹⁰ Following these commitments, the Nigeria federal government passed a comprehensive *Child Right Act 2003* into law. The Act is presumed to be culturally sensitive, compatible, relevant and in the best interest of the Nigerian child. It incorporates all the right and responsibilities of children and consolidates all laws relating to children into a single law as a national legislation and some respective states.¹¹ However, it does not provide comprehensive

child suffers when the adopted parents dies. Also, where adoption of a child is done in the absence of any legislative instrument, the adopted child is much like a slave and has no means of getting protection in cases of abuse of his right. Apart from all these, the societal perceptions of a child who is adopted can as well affect such child politically, socially, psychologically.

⁵Iphey, "Adoption Laws of Lagos State/Practice and Procedure, Nigerian Village Square" *Online Database*<<http://www.nigeriavillagesquare.com/articles/guest-articles/adoption-laws-of-lagos-state-practice-and-procedure.html>> accessed on 13 August 2021.

⁶*Ibid.*

⁷UNICEF, "Child Rights Legislation in Nigeria," UNICEF Nigeria-Fact Sheet (2011) *Online Database*<http://www.unicef.org/nigeria/Child_rights_legislation_in_Nigeria.pdf> accessed on 13 April, 2019.

⁸*Convention on the Rights of the Child.*

⁹*African Charter on the Rights and Welfare of the Child.*

¹⁰UNICEF. The Child's Right Act: UNICEF Nigeria- Information Sheet (2007) <http://www.unicef.org/nigeria/Child_rights_act.pdf> accessed on 13 April. 2019.

¹¹ UNICEF, "Child Rights Legislation in Nigeria," UNICEF Nigeria-Fact Sheet (2011) *Online Database*<http://www.unicef.org/nigeria/Child_rights_legislation_in_Nigeria.pdf> accessed on 13 April 2019.

procedures for child adoption as it provides for the legal effect. Rather, it is to be determined by respective states¹² and contents of application form from the court.¹³ . The legislation, both domestic¹⁴ and international, shall be examined in a piecemeal inter alia, with relevant recommendations.

2. CONCEPTUAL FOUNDATION AND LEGAL FRAMEWORK

2.1 The Child Rights Act, 2003

The Nigerian Child Rights Act provides for child adoption under Part XII of the act. The part consists of 23 sections (125-148 of the Act). The basic provisions in these sections are that:

- (1) all state should provide services and facilities to enhance child adoption practice;¹⁵
- (2) prospective adopters must make application to a court of law;¹⁶
- (3) only children whose parent/guidance consent to adoption or those who have compelling reasons to be adopted can be adopted;
- (4) except the court sanctions it, the Act prohibit payment to facilitate the adoption of a child;
- (5) adopted children register must be maintained to record child adoption activities within a court;
- (6) no adopter or any other person shall facilitate re-adopting of an adopted child except with the court's sanction;
- (7) and periodic visit to every child adopted under the Act must be maintained to ensure their wellbeing; and
- (8) It also provides for a system of child justice administration and a child right implementation committees at all levels of government.¹⁷

This has also called for domestication by the states in Nigeria. However in 2011, eight years after the enactment of the law, only 24 out of the 36 States Houses of Assembly have passed the *Child Rights Act* 2003 into law while others are still in the process of doing so.¹⁸ Among these states are Akwa Ibom, Lagos, Plateau, Oyo, Nasarawa, Ogun, etc. They do so because they believe that issues involving child rights protection are on

¹² Child Rights Act, 2003, section 125.

¹³ *Ibid*, section 126.

¹⁴ Being fully aware that the CRA is a national legislation and not all states have adopted

¹⁵ (n12).

¹⁶ (n13).

¹⁷Tajudeen O I, 'Adoption Practice in Nigeria-an Overview' In *Journal of Law, Policy and Globalization*, 19 (N. P., 2013).

¹⁸*Ibid*.

the residual list of the Nigerian Constitution, thus they are within the legislative competence of the states.¹⁹

It is to be noted that the issue of child rights is no longer national but transcends to the regional and international law parlance. It is notwithstanding whether all the states in Nigeria domesticate the national legislation or not. Any act or omission that abuses the right of a child is actionable, nationally and/or internationally.

2.2 The Concept of Child Adoption

Adoption is a process whereby a person assumes the parenting²⁰ of another, usually a child, from that person's biological or legal parent or parents. Legal adoptions permanently transfer all rights²¹ and responsibilities, along with filiation²², from the biological parent or parents.²³ According to the *Black's Law Dictionary*,²⁴ adoption is the "Statutory process of terminating a child's legal right and duties towards the natural parents and substituting similar rights and duties toward adoptive parents."

According to Nwogugu,²⁵ adoption is the process which "creates a parent-child relationship between the adopted child and the adoptive parents with all the rights, privileges and responsibilities between the child and the natural parents or guardians. Adoption was unknown to common law and is entirely a creature of statute. While according to Aduba,²⁶ adoption is the process by which the legal relationship between a

¹⁹EI Nwogugu, *Family Law in Nigeria* (Ibadan Heinemann, 1990) 76.

²⁰ Parenting or child rearing is the process of promoting and supporting the physical, emotional, social, and intellectual development of a child from infancy to adulthood. Parenting refers to the intricacies of raising a child and not exclusively to the biological relationship. *Online Database*<<https://en.wikipedia.org/wiki/parenting>> accessed 6th April, 2019

²¹ Rights are legal, social, or ethical principles of freedom or entitlement; that is, rights are the fundamental normative rules about what is allowed of people or owed to people, according to some legal system, social convention, or ethical theory. Rights are of essential importance in such disciplines as law and ethics, especially theories of justice and deontology. *Online Database*<<https://en.wikipedia.org/wiki/rights>> accessed 6th April, 2019

²² Filiation is the legal term for the recognized legal status of the relationship between family members, or more specifically the legal relationship between parent and child. As described by the Government of Quebec:

Filiation is the relationship which exists between a child and the child's parents, whether the parents are of the same or the opposite sex. The relationship can be established by blood, by law in certain cases, or by a judgment of adoption. Once filiation has been established, it creates rights and obligations for both the child and the parents, regardless of the circumstances of the child's birth. *Online Database*<<https://en.wikipedia.org/wiki/filtration>> accessed 6th April, 2019

²³ Wikipedia, "Adoption" *Online Database*<<https://en.wikipedia.org/wiki/Adoption>> accessed 6th April, 2019

²⁴Byran. A. G. *Black Law Dictionary*, 8th ed. (Thomson West: 2004)52

²⁵ Nwogugu, E. I. *Family Law in Nigeria*, 3rd ed (HEBN Publishers Ltd., Ibadan, 2014) 333.

²⁶Aduba, J. N. "Family Law," *Unpublished Lecture Notes* (Faculty of Law, University of Jos, February, 2018)

child and his natural parents is severed and re-established between the child and a third party or parties.

2.3 Incidences Leading to Incorporation of Child Adoption into the Child Rights Act

Incidents leading to incorporation of child adoption into the *Child Rights Act* are about the series of events that connect to formal and legal recognition of child adoption. This subsequently led to the codification of practices involved in child adoption into an Act by the National Assembly. Therefore, we now have a formal legislation known as the *Child Rights Act*.

As earlier stated, April 1958 marked the first known attempt at providing a statute on adoption in Nigeria. It is dated back to when a private member bill was submitted to the Eastern House of Assembly.²⁷ However, this 1958 bill was unsuccessful. It could not succeed in regulating already existing practices similar to child adoption. Children were accommodated in homes with understanding that they were being adopted, but there was no statutory basis for such adoption.²⁸ This distinguishes customary adoption from statutory adoption, as the former is according to customary practices while the latter is regulated by legislative principles.

As a result, the act of accommodating was not regarded as legal adoption and such parents were more often regarded as guardians or foster parents. The implication of this practice was that birth parents of the children might at any time assert their natural rights of parenthood over the child.²⁹

Often a married couple took into their household an orphan or destitute child from a voluntary organization on the understanding that such child was being adopted. The unfortunate result was the natural parents or guardian of such adopted child at a later date asserted their parental right by demanding the return of the child, irrespective of the relationship which has developed between the child and the purported adopters. In the absence of any statute providing for adoption, such arrangement could at best be regarded as foster parenthood or guardianship. The overall effects of this situation was to introduce a large measure of uncertainty in the minds of person wishing to adopt children through fear that the child might, at some stage, be lost to the natural parents.³⁰

²⁷OA Ojelabi and PE Osamor and BE Owumi “Policies and Practices of Child Adoption in Nigeria: A Review Paper” In *Mediterranean Journal of Social Science*, Vol 6, No 1 S1 (MCSEER Publishing, Rome-Italy, 2015).

²⁸OI Tajudeen, “Adoption Practice in Nigeria-an Overview”, *Journal of Law, Policy and Globalization*, 19 (N. P., 2013).

²⁹ (n13).

³⁰(n12) 333.

These series of events, mainly characterized by customary practices of child adoption, propelled a successful enactment on child adoption in 1968, and subsequently 1989 enactment. Finally, we have a viable instrument that was enacted in 2003. This is the Act referred to as the *Child Rights Act, 2003*. Obviously, while we are considering Child Rights Act (CRA), it is imperative that adoption in Nigeria be done under the CRA and the child rights laws of different states as the case may be. The Act empowers the Federal Capital Territory and the states to design the structure and implementation of child adoption³¹, with mandatory application to the respective Courts.³²

2.4 Actors in Child Adoption under the Act

2.4.1 Persons who may be adopted

There are two types of persons who may be adopted according to s. 128 of the *Child Rights Act*. The first is a person who is under the age of eighteen years whose parents or where there is no surviving parent, the guardian has consented to the adoption.³³ The other is a child under eighteen years who is abandoned, neglected or persistently abused or ill-treated, and there are compelling reasons in the interest of the child why he should be adopted.³⁴ The law on child adoption recognizes only children and not adult to be adopted. The Act defines a child thus: “ "child" means, a person under the age of eighteen years;”³⁵ therefore, a person above 18years cannot be adopted in the Nigerian law. This provision bridges the two approaches adopted by the pre-2003 State legislations on adoption. In the absence of any further qualification, it may be concluded that the person to be adopted may or may not be married.³⁶

2.4.2 Persons who may adopt

Section 129 of the *Child Rights Act*, provides three categories of persons who may adopt a child. A married couple may jointly adopt with the authorization of a court if one of them has attained the age of twenty-five years.³⁷ Further, a married person who has obtained the consent of his spouse may adopt a child.³⁸ A single person may also adopt if he has attained the age of thirty-five years, provided that the child to be adopted is of the same sex as the adopter.³⁹ In all the foregoing cases, the adopter or

³¹ (n12).

³² (n13).

³³Section 128(a).

³⁴Section 128(b).

³⁵ Section 277

³⁶(n12) 334.

³⁷ Section 129(a)

³⁸Section 129(b).

³⁹Section 129(c).

adopters must be persons found suitable, by the appropriate investigation officer, to adopt the child.⁴⁰

2.5 Procedural Elements involved in Child Adoption under *Child Rights Act*

2.5.1 Preliminary Consideration in the Procedure for Making of Adoption Orders

Section 131(1) (a), (b), (c), (d), (e) and (j) of the Act⁴¹, provides that:

- (1) And adoption order shall not be made in respect of a child unless
 - (a) The applicant or, in the case of joint application, one of them, is not less than twenty five years old and is, at least, twenty one years older than the child;
 - (b) The applicant or in the case of a joint application, both or at least, one of the child are resident in the same state;
 - (c) The applicant has been resident or, in the case of joint application, both of them have been resident in the state in which the application is made for a period of at least, five years;
 - (d) The applicant is a citizen or in the case of a joint application, both applicants are citizens of Nigeria;
 - (e) The child has been in the care of the applicant for a period of at least three consecutive months immediately preceding the date on which the order is made;
 - (j) The applicant has, at least twelve months before making the order, informed the social welfare officer of his intention to adopt the child.⁴²

From the provision of the foregoing section above, one may say that, an applicant or in the case of joint application, one of the couple should be at least twenty five years old and is at least twenty one years old older than the child⁴³. It is also important to note that, upon application or in the case of joint application, both or at least one of the applicants and the child should be resident in the same state⁴⁴. Furthermore, it is compulsory that the applicant has been resident or in the case of joint application, both of them have been resident in the state in which the application is made for a period of at least five years.⁴⁵ It is mandatory that the applicant must be a citizen of Nigeria and in the case of joint application; both applicants should be citizens of Nigeria.⁴⁶

The implication of this requirement is that an adoption order cannot be made if one of the adopter is not a citizen of Nigeria. It is worthy to know that the child must have

⁴⁰EI Nwogugu, *Family Law in Nigeria* (3rdEd, HEBN Publishers Ltd., 2014) 335.

⁴¹Section 131 (1).

⁴² Section 131(1) (a), (b), (c), (d), (e) and (j) of the *Child Rights Act*, 2003

⁴³ Section 131(1) (a)

⁴⁴ Section 131 (1) (b)

⁴⁵ Section 131 (1) (c)

⁴⁶ Section 131 (1) (d)

been in the care of the applicant for at least three consecutive months immediately preceding the date on which the order is made. This is to give both the applicant and the child the opportunity of being familiar with another.

After the three months of staying together the applicant will be able to decide if in fact he is interested in the particular juvenile. Also, the applicant must within twelve months before making of the order inform the social welfare officer of his intention to adopt the child.

2.5.2 Preliminary Considerations in Adoption Order

A court shall make an adoption order after it is satisfied that certain **criteria have been** achieved. Basically, the need to ensure that all requisite consents **have been obtained** matters a lot unless dispensed with. In this regard, it is vital that **everyone who has given his consent** understands the nature and effect of an adoption.⁴⁷ For this purpose, **adoption services established by states are** to provide parties involved in adoption adequate counseling.⁴⁸ The court should also ensure that the adoption order, if made, will be for the welfare and best interest of the child, due consideration for this purpose being given to the wishes of the child having regard to his age and understanding.⁴⁹ Lastly, the court has to be satisfied that no person involved in the adoption has agreed to give or receive any payment or reward in consideration **of** the adoption.⁵⁰

2.5.3 Procedures and Jurisdiction

The procedures involved in child adoption as provided under section 137 (1) requires that the Chief Justice of Nigeria does the following: "...make rules of court for regulating **the** general practice and procedure of the court in respect of the adoption of a child."⁵¹ The section provides for the power to make adoption order.⁵²

The power includes power to make provisions for application for adoption order to be heard and determined **otherwise** than in open court, the admission of documentary evidence of consent and requiring **the child** development officer to prepare for the court's consideration a report to assist **the court in** determining whether, on application for adoption, the order will be for the welfare **and best** interest of a child.⁵³

⁴⁷*Ibid* 339.

⁴⁸Section 133 (a) and (b).

⁴⁹Section 133 (c).

⁵⁰Section 133 (d) and Section 143.

⁵¹Section 137 (1) The *Child Rights Act*, 2003.

⁵²*Ibid* Section 137 (2).

⁵³ *Ibid* 339

Regarding the jurisdiction, a decision on an application for an adoption order may be appealed from the Family **Court** at magisterial level to the court at High Court level.⁵⁴ The Act further provides that where the High Court level exercises original jurisdiction or appellate jurisdiction, appeal shall lie to the Court of Appeal. Proceedings in respect of an appeal shall be conducted in chambers.⁵⁵

2.5.4 Application

Where an application for adoption is made, it must be in the prescribed form and be accompanied with relevant documents. These documents include:

- a) The marriage certificate or sworn declaration of marriage, in respect of a married couple;
- b) birth certificate or sworn declaration of age of each applicant;
- c) two passport photographs of each applicant;
- d) a medical certificate of fitness of the applicant from a government hospital; and
- e) such other Documents as the court may require.⁵⁶

On the receipt of the application, the court is required by Section 126 (2) to order an investigation to be conducted by a child development officer, a supervision officer and any other person determined by the court. The purpose of the investigation is to enable the court assess the suitability of the applicant as an adopter and of the child to be adopted. Section 126 (3) states that:

The court shall, in reaching a decision relating to the adoption of a child, have regard to all the circumstances, first consideration being given to:

- (a) The need to safeguard and promote the welfare and best interest of the child throughout the childhood of that child; and
- (b) Ascertaining as far as practicable, the wishes and feelings of the child regarding the decision and giving due consideration to those wishes and feelings, having regard to the age and understanding of the child.⁵⁷

Succinctly put, the major things required by a person who wants to adopt is to make the application. The application should follow the prescribed format. That is, based on the template provided by the Act. The application must be accompanied by prescribed

⁵⁴ Section 138

⁵⁵Section 136.

⁵⁶ Section 126

⁵⁷Section 126 (3) The *Child Rights Act*, 2003.

in conflict with the law, housing expectant and nursing mothers so as not to have any damaging effect on the proper development of their children. None of these institutions listed in the CRL are on ground right now.⁶²

The impact of this on children is really enormous. Cases concerning children in the state are handled in regular courts though they are most often heard in chambers. Where a child is accused of committing a crime with adults, such a child offender is tried together with the adults and such cases are heard in open court. This means that the standards required by the CRL to be observed while dealing with child offenders are not observed.⁶³

This is because, the non-availability of supporting institutions/facilities also results in the over stretching of the existing facilities. For instance the State owned orphanage is also used to house trafficked children that have been rescued until they are reunited with their families.

The present government of the Plateau State has indicated readiness to strengthen the implementation of the Child's Right Law which was gazetted by the United Nations International Children's Emergency Fund (UNICEF) in conjunction with the state's ministry of Justice and Women Affairs.⁶⁴ The revitalized law, the Child Rights Law Gazette in 2017, requires the provisions of family courts to ensure speedy prosecution of perpetrators of child abuse and other related offences.

Basically, other states like Anambra state have domesticated the Child Rights Act with some adjustments to become their state law on child rights and adoption. However, the scope of this study is not expansive enough to cover all these states. For instance, Anambra State child right law may contain more detail procedure of child adoption than that of Plateau State. Notwithstanding, the scope of this article as earlier stated is specifically tailored and targeted on the plight of children who are more vulnerable in the Northern Nigeria as a result of unending attacks by the bandits on communities in the North central. Plateau state which is the centre is predominantly challenged with the issue of Jos crises from religious differences, political disagreements insurgencies, herders-farmers armed conflicts, *almajiri* practice, etc. This mayhem and bedlam has rendered many children orphans, without the warmth of a family and parental care. And in fact, the Boko Haram insurgence has rendered children from many households orphans.⁶⁵ Therefore, there is need to understand the procedure to integrate these

⁶²Ibid.

⁶³Ibid.

⁶⁴DS Adama, "Plateau to strengthen Child Rights Law implementation"<<https://www.dailytrust.com.ng/plateau-to-strengthen-child-rights-law-implementation.html>> accessed on 15 August 2021.

⁶⁵United Nations Humanitarian Crises Report (UNHCR), "The UN Refugee Agency: Supplementary Appeal," (Nigeria Situation UNHCR, July, 2016) 7 – 3

affected children into families to avail them a touch of parental love, else they grow with resentment and hatred for the society due to their condition. The effective means to achieve this goal is through child adoption.

2.6.2 Constitution of the Federal Republic of Nigeria, 1999 (as amended)

The Constitution⁶⁶ of Nigeria also makes some provisions that guarantee the child of his fundamental rights for the reason of sharing in the same humanity. The constitution provides for the fundamental objectives and derivative principles of the state policy under its chapter 2⁶⁷. Sections 17 and 18 provides for social and educational objectives respectively. Some specific provisions which relate to child's rights are section 18 (3) (a) which provides that the government shall ensure "free, compulsory and universal primary education"⁶⁸ to children. Also, section 17 (3) (f) provides that "children and young persons....are protected against any exploitation whatsoever, and against moral and material neglect".⁶⁹

This provision of the constitution does not make restriction to any kind of child, whether he is legitimate or illegitimate, adopted or non-adopted, orphan or non-orphan. That is to say, these provisions cover even an adopted child. However and so unfortunate, these provisions being under chapter 2 of the constitution are non-justiciable, according to section 6 (6) (c).⁷⁰

But there is a leeway to this. This is by taking leverage on chapter 4 of the same constitution. Chapter 4⁷¹ is about the fundamental rights of every citizen. The rights which can have much impact on the child's rights include the right to life⁷², right to personal liberty⁷³, right to freedom from discrimination⁷⁴. Section 46 of the Constitution⁷⁵ makes these fundamental rights justiciable and enforceable. Therefore, adopted child's right can be effectively protected and secured.

2.6.3 Beijing Declaration: Fourth World Conference on Women

This is another legislation that has concern about the child's rights. *Beijing Declaration* provides under declarations 23, 24, 29, 32 specifically focused on girl child's rights.⁷⁶ Declaration 23 and 32 provides for full enjoyment by the girl child as it relates to

⁶⁶*Constitution of the Federal Republic of Nigeria, 1999, as amended.*

⁶⁷*Ibid.*

⁶⁸*Ibid* section 18 (3) (a).

⁶⁹*Ibid* Section 17 (3) (f).

⁷⁰*Ibid.*

⁷¹*Ibid.*

⁷²*Ibid* section 33.

⁷³*Ibid* section 35.

⁷⁴*Ibid* Section 42.

⁷⁵*Constitution of the Federal Republic of Nigeria, 1999, as amended.*

⁷⁶*Beijing Declaration: Fourth World Conference on Women.*

human rights and fundamental freedoms and the protection of same against violation. Declaration 24 provides for elimination of all forms of discrimination against girl child. Declaration 29 provides for prevention and elimination of all forms of violence against girls.

These provisions are so relevant to the child's rights. Though it focuses on only female child, but adopted child has some coverage based on these declarations by the Beijing. *Convention on Elimination of all Forms of Discrimination against Women* also gives credence to Beijing Declaration.⁷⁷ Nigeria ratified this Convention on 13th June, 1985.

2.5.4 United Nations Convention on Right of the Child of 1989

This convention is very useful in any discuss about the child's rights. Thus, the Nigerian *Child Rights Act* has built on the foundation laid by this convention. The Convention provides in its preamble part the meaning of the term "recognizing" as it basically related to a child. The parties to the Convention ratify it by "**recognizing** that the child for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love, and understanding" (bold emphasis mine)⁷⁸

Article XVI provides as follows:

- (1) No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, or correspondence or to unlawful attacks on his or her honor and reputation.
- (2) The child has the rights to the protection of the law against such interference or attacks.⁷⁹

This also affects both the adopted child and non-adopted child. They share equal rights as far as this Convention is concerned. The Convention was adopted in Nigeria on the 20th November, 1989.

2.6.5 National Human Rights Commission Act⁸⁰

This is a Nigerian legislation that was enacted by the National Assembly of the Federal Republic of Nigeria on the 27th day of September, 1995. This is an Act by Nigeria to establish the National Human Rights Commission, for the protection of human rights, dignity and freedoms. *National Human Rights Commission Act* is a kind of an encyclopedia which accommodates, gives life, and makes the effects of all other legislation having to do with the child's rights, including the international law

⁷⁷ See Article 5 (b) of the *Convention on Elimination of all Forms of Discrimination against Women*, 1979.

⁷⁸ *United Nations Convention on Right of the Child*, 1989.

⁷⁹ *Ibid* Article XVI (1) (2).

⁸⁰ 1995.

instruments. Section 5 (a) of the Act⁸¹ provides the Commission shall deal with all matters relating to the promotion and protection of human rights guaranteed by all the above legislation, as well as other legislation having to do with human rights.

3. CONCLUSION

In a nutshell, Nigeria fully recognizes child's rights. In fact, she is a party to international legislation (as examined above) that deal with the issues of child's rights and child adoption. In other words, apart from its domestic legislation, child's right of adopted child in Nigeria is also regulated and protected by international legislation. By implication, this can be invoked accordingly as the case may be. However, the basic instrument that is very much operational in the country is the *Child Rights Act* and the Child Rights Laws of different states.

4. RECOMMENDATIONS

From the analysis made, the researcher deems it a prerequisite to make the following recommendations:

- (1) The states Houses of Assemble who have not adopted the *Child Rights Act* should do so for smooth and legitimate process of child adoption within their jurisdiction.
- (2) The accessibility and circulation of copies of the Child Rights Act and Child Rights Laws should be made wide enough.
- (3) Family courts should be made more functional and to be supporting structures.
- (4) Section 6 (6) (c) should be amended to give room for justiciability of chapter 2 of the constitution, which provides for section 17 (3) (f) section 18 (3) (a) as non-justiciability.
- (5) In Nigeria, as observed by Ojelabi and others⁸², the practice of child adoption should be growing with improved public awareness through the media, personal testimony, social research and other sources.
- (6) Governmental agencies and the NGOs also should be promoting child adoption as a substitute to abortion to unintended/unwanted pregnancy.⁸³

⁸¹*National Human Rights Commission Act, 1995.*

⁸²OA Ojelabi and PE Osamor and BE Owumi, "Policies and Practices of Child Adoption in Nigeria: A Review Paper" In *Mediterranean Journal of Social Science*, Vol. 6, No 1 S1 (MCSE Publishing, Rome-Italy, 2015).

⁸³PA Aniebue and UU Anujebu, "Adoption Practices in Enugu" In *Nigeria Journal of Clinical Practice* 11(1) (2008)5-8.