

Abstract

Girls are often discriminated against in Nigeria in access to educational opportunity, food, and nutrition. Girls carry a heavy encumbrance of farm work and house work. They are married off at early ages, which hampers with their education or acquisition of skills needed for survival. It is fact driven that the Nigerian girl-child has encountered some forms of challenges as a result of cultural, religious, political and social beliefs. Some of these challenges include inter alia early marriage, pregnancy, violence at home and school, and lack of funding. This study examines the concept and decisive issues involved in the protection of the girl-child which holds that in every action concerning a child, whether undertaken by an individual, public or private body, the best interest of the child shall be the primary purpose. It aims at reawakening the consciousness of the Nigerian society towards the need for the protection of the girl-child as seen and practiced at the global stage and domesticated by the Nigerian legislature. It identifies socio-cultural norms, religious misconceptions, poverty, teenage pregnancy and early marriage amongst others as factors weighing against the survival of the girl-child in Nigeria. It outlines the role our laws have adopted in protecting the girl-child. Considering the positive impact of girl-child education and protection, the study suggests full compliance of the extant laws for the rights of children by the States of the Federation.

Key words: Girl-child; Abuse; Child's Rights; Education; Government; Constitution

1. Introduction

Pursuant to the provisions of the Constitution¹, Nigeria as a sovereign nation for several times has got involved in the signing and ratification of many international and regional legal instruments, and guaranteeing support for the application and enforcement of human rights as worded in our Constitution which includes the rights of the children, especially the girl-child. This quest is summarized in the words of Nelson Mandela when he said; "There can be no keener revelation of a society's soul than the way in which it treats its children". The evidence is overwhelming that the girl-child in Nigeria has worldwide recognition and acknowledged inalienable rights as a member of the human family. However, statistics have shown that these rights have been and are still being violated by different persons and organizations for different reasons although the nature and frequency of violations differ from place to place. Responding to this global threat, numerous persons and groups in acknowledging the continued violations of the rights of the girl-child in Nigeria have called for the intervention of the government and international agencies to address the issue. Experiences of the past and present strongly prove that the root of all manner of discriminations against the girl-child lies in the customs and traditions of our society which sees the girl-child as an inferior being.

It is sufficient and at the same time sad to say that despite the incessant effort of various groups for measures to ensure substantial acquiescence in the protection of the girl-child's rights, the challenges facing the application of the girl-child's rights in Nigeria remain terrifying. It is fact that there is no country with total compliance of the international measures set out, but the case of Nigeria appears to

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¹ Section 12(2) of the Constitution of the Federal Republic of Nigeria 1999.

be a precarious one considering the daily increase of abuses of girl-child's rights. In addressing these issues, the work aims at bringing to limelight the issue of girl-child in Nigerian society, the age long interventions and possible recommendation.

2. Conceptual Clarifications

The Girl-Child

The girl-child is a female homo sapient of unmarried age that is defined by the anatomical and physiological characteristics that set her apart from her male counterpart.² As a compound noun, the term connotes the sex and age bracket of the gender under reference. This period covers the crèche, nursery or early childhood (0 – 5 years), primary (6 – 12 years) and secondary (12 – 18 years). During this period, the girl-child is totally under the care of the adult who may be parents or guardians. According to World Health Organization (WHO), adolescence is a critical period that can determine the trajectory of girls' lives.³ It is a stage at which key investments and support can set girls on a path toward empowerment, or when discrimination, recurrent constraints, harmful practices, and violence can send them down a negative spiral. The girl-child all over the world has encountered some forms of challenges as a result of cultural and social beliefs. Some of these challenges include early marriage, genital mutilation, violence at home and school, child sex slavery, etc.

Marriage

Marriage is a legally sanctioned contract between a man and a woman.⁴ Entering into a marriage contract changes the legal status of both parties, giving husband and wife new rights and obligations. It establishes rights and obligations between them, as well as between them and their children, and between them and their in-laws.⁵ In Nigeria, marriage is perceived as the union for life (though subject to divorce) between a man and a woman, in the case of statutory marriage; and a woman or more than one woman in cases of customary and Islamic marriage. Four basic conditions are apparent, within these definitions: the union is generally intended for life; the marriage reflects real consent; the union is intended to be monogamous, and that it is heterosexual. Marriage is also the state of being united as spouses in a consensual and contractual relationship, recognized by law. In Nigeria, marriages can be lawfully celebrated under statutory or customary law.

As one of the valid essentials of statutory marriage, the capacity of an infant to enter into the contract of marriage is largely governed by the general rule of the law of contract. The Marriage Act does not, in its present form prescribe the minimum age of marriage.⁶ This significant omission has to some extent, been alleviated by the provision of Child's Rights Act⁷ which states that the minimum age of marriage applicable to the Marriage Act is eighteen years. Before March 1970, when the Matrimonial Causes Act⁸ became effective, one school of thought held the view that the lacunae in the marriage law should be filled by applying the law and practice for the time being, in force in England.⁹ If this were to be accepted, the English age of marriage prescribed by the Marriage Act 1949, which is sixteen years,

² A Oyigbenu, 'Girl-Child Education and Nigeria's Development Agenda: a Literary Perspective' in *African Research Review*, Vol. 4(2) April, 2010.

³ <<https://www.vanguardngr.com/2021/10/protecting-harnessing-future-of-girl-child-in-nig>> accessed 11th September, 2023.

⁴ <<https://legal-dictionary.thefreedictionary.com/marriage>> accessed 11th September, 2023.

⁵ Haviland, William *et al*, *Cultural Anthropology: The Human Challenge* (Cengage Learning).

⁶ E I Nwogugu, "What Next in Nigerian Family Law?" in *Nigerian Institute of Advanced Legal Studies*, 2006, 13.

⁷ Section 21 of The Child's Right Act 2003. Cap C50, Laws of the Federation of Nigeria, 2004.

⁸ No 18 of 1970, LFN 26 of 1970.

⁹ Section 4 of State Courts (Federal Jurisdiction Cap 177, Law of the Federation of Nigeria before it was repealed by the 1970 Decree. Section 115(2).

will be applicable in Nigeria. However, Section 3(1) (e)¹⁰ declares a marriage void where either of the parties is not of ‘marriageable age’. Any person who marries or promotes the marriage of a child may be punished, on conviction, with a fine or imprisonment. In the case of customary law marriage, generally speaking, there is no age of marriage under customary law, but as a practice the age of marriage is the age of puberty which cannot be precisely stated. However, under the Child’s Right Act¹¹ 18 years has been fixed as the age of marriage. By the virtue of validity test of customary law, all customs are expected to comply with the age provision for marriage or risk being jettisoned.

Under the Islamic Law marriage, conservative orthodoxy and pragmatic modernism divide Islamists on the issue of age of marriage. The proponent of the latter advocate that adulthood is synonymous with the age of marriage.¹² This stand is based on the deductive interpretation of Qur’an 4:6 that says: “And test the understanding of the orphans until they attain the age of marriage, then, if you perceive in them mature judgment, deliver to them their property.” The clear and plausible argument in favor of this interpretative deduction is that the Qur’an equates the age of marriage to the age of maturity. However, a deeper reflection over the verse shows that the focus of Qur’an 4:6 is not on marriage. It is when the orphans’ properties entrusted to their caretakers should be returned to the orphans.¹³ The pragmatists could advance their reasoning to say, marriage, like the return of entrusted property, requires more than the attainment of mere physical capacity. This is because the maturity of the mind and additionally, economic power, are necessary to make a success of marriage. In summary, while some put the age at 18, others put it at 21. Comparatively, it is evident that the three forms of marriage discussed to an extent does not share the same view about the age of marriage.

With these numerous legislations and guidelines concerning marriage and its age, one begins to wonder why the wide practice of child marriage in Nigeria; a lot of questions beg for answers. Before proceeding in highlighting the practices of child marriage as seen in Nigeria today, it is noteworthy to reestablish that children, especially the girl-child has a right to protect when it comes to issue of marriage.

Rights are critical to the happiness and enjoyment of human beings on planet earth while the protection of these rights forms the basis of organized statehood and limited government which is marked by mutual respect of each person’s rights and the societal approval of agreed claims recognized and protected by law. They concern those privileges owed to people by others and which they are allowed by law to exercise. Rights are defined as “the aggregate of capacities, powers, liberties, and privileges by which a claim is secured.”¹⁴ Accordingly therefore, “rights dominate most modern understandings of what actions are proper and which institutions are just. Rights structure the forms of our government, the content of our laws...to accept a set of rights is to approve a distribution of freedom and authority and to endorse a certain view of what may, must and must not be done.”¹⁵

¹⁰ Matrimonial Causes Act, Cap. M7 Laws of the Federation, 2004.

¹¹ Section 21, Child’s Rights Act, 2003.

¹² M A Ambali, *The Practice of Muslim Family Law in Nigeria* (Lagos: Princeton & Associates Publishing Co., 2014) 199.

¹³ *Ibid*, 200.

¹⁴ <https://www.researchgate.net/publication/333238320_APPLICATION_OF_GIRL_CHILD_RIGHTS_IN_NIGERIA_EXAMINING_THE_CHALLENGES_OF_LAW> accessed 13th September, 2023.

¹⁵ *Ibid*.

3. The Practice of Child Marriage in Nigeria and Beyond

The United Nations Fund for Population Analysis (UNFPA)¹⁶ and the United Nations Children's Fund (UNICEF)¹⁷ consider child marriage to be one involving a person under the age of eighteen. The practice primarily affects females. According to these bodies, child marriage is prevalent in Sub-Saharan Africa and Southern Asia but also occurs in Latin America and the Caribbean.

In Nigeria, child marriage is a widespread practice. There is an unfounded belief that when a girl is married off early, she does not have the opportunity to become promiscuous. This places a heavy societal burden on young girls and the reality is different. It is also believed among Muslims in most parts of northern Nigeria that it is permissible for a man to marry a child as young as 9 years, as long as sexual relations with her is postponed until she has attained puberty. However, it is clearly seen in the Northern parts of Nigeria that child brides are usually forced to have sexual intercourse with their spouses as soon as they are married, and many get pregnant in their first year of marriage. These early pregnancies often lead to Vesico Vaginal Fistula (VVF) or Rector Vaginal Fistula as these young girls are giving birth at a very tender age when their bodies are not physically able to put to birth a fetus. The pregnancy also puts them at a greater risk of sexually transmitted diseases, HIV/AIDS, Human Papilloma Virus (HPV) and domestic violence.

Even though early marriage is prevalent in Nigeria, Northern Nigeria has some of the highest rates of early marriages in the world where 39% of girls are married off before the age of 18 and 16% are married before they turn 15 years old. Conversely, according to Save the Children, the number of Nigerian girls that are married before their 18th birthday is as high as 58.2%. The prevalence of child marriage varies widely across the country, but figures are as high as 76% in the North West region, compared with 10% in the South East.

According to the organization Girls Not Brides, while 45 per cent of girls in Nigeria were married before they turned 18, the practice of child marriage was more rampant in the northern part of Nigeria, with figures as high as 76 per cent.¹⁸ According to the report, the high percentage of child marriage in Northern Nigeria can be attributed mostly to the fact that the practice of Islam in the region endorses child marriage. Nonetheless, other than Islam, additional factors contribute to this practice. Firstly, one of the underlying reasons for child marriage is poverty. For the National Bureau of Statistics, the rate of poverty is at 67.1 per cent.¹⁹ In Northern Nigeria, the poverty level is 77.7 per cent in the North-West and 76.3 per cent in the North-East.²⁰ Poverty in the region undoubtedly fuels child marriage. In the views of Erulkar and Muthengi, child marriage is advantageous to poor families in rural locations. To buttress their argument, the authors state that the betrothal of girls at a young age relieves parents of the costs and responsibilities of raising a girl.²¹ Erulkar and Muthengi's assertion is supported by Otoo-Oyortey and Pobi, who maintain:²²

¹⁶ UNFPA, 'Child Marriage Fact Sheet: State of World Population 2005'.

¹⁷ UNICEF, 'Child Marriage: A harmful tradition practice. A statistical exploration 2005'.

¹⁸ <<http://www.girlsnotbrides.org/child-marriage/nigeria>> accessed 13th September, 2023.

¹⁹ <http://www.premiumtimesng.com/news/4211-112million_nigerians_living_below_poverty_level> accessed 13th September, 2023.

²⁰ BBC 'Nigerians living in poverty rise to nearly 61%' <<http://www.bbc.com/news/world-africa-17015873>>

²¹ A Erulkar & E Muthengi 'Evaluation of Berhane Hewan: A programme to delay child marriage in rural Ethiopia' <<http://www.guttmacher.org/pubs/journals/3500609>> accessed 13th September, 2023.

²² N Otoo-Oyortey & S Pobi, *Early marriage and poverty: Exploring Links for Policy and Programme Development* 11.

Globally, poverty is a major cause, as well as a consequence, of early marriage for many young girls under the age of 18. In many traditional settings, poor families use the early marriage of daughters as a strategy for reducing their own economic vulnerability, shifting the economic burden related to a daughter's care to the husband's family.

Adopting Askari's, Otoo-Oyortey's and Pobi's argument and placing it in the context of Northern Nigeria, there is no doubt that poverty is an underlying reason for child marriage in the region. Due to the endemic poverty among the Hausa-Fulani, female children are viewed as an additional burden on family resources. As a result of this, the betrothal of female children is used as a strategy for family survival. This reasoning is primordial and an affront to the tenets of human development.

Secondly, in Northern Nigeria child marriage is seen and used as a method for the preservation of the virtue of girls. The rationale for the practice of child marriage in Northern Nigeria is to ensure the preservation of virginity of women and, also, that women do not become pregnant out of wedlock. Based on these reasons, it is not uncommon to find children married at the age of 10 in Northern Nigeria. Additionally, other than the rationale that child marriage protects girls from social ills, such as promiscuity, it is also carried out for the preservation of family honor. Therefore, in order to avoid dishonor and the shame attached to pre-marital sex, girls are married off before reaching puberty. Although there may be reasons put forward in defense of child marriage, the disastrous effects on children who marry early outweigh these and undoubtedly make child marriage a social evil.

Similarly, an NGO, Save the Children Nigeria, revealed in a report that an estimated 44 per cent of girls in Nigeria get married before their 18th birthday, which is one of the highest globally.²³ The report also revealed that child marriage killed more than 60 girls a day. Girls married off too early face immediate and lifelong consequences ranging from sexual exploitation, violence, abuse, discrimination and harmful traditional practices such as female genital cutting and food taboos. They lose their childhood, are robbed of childhood education and their future is threatened. These girls arrive at such marriage with bodies inadequately developed and fit for pregnancy. Early/unplanned pregnancy, in turn makes child-bearing hazardous, some resulting in increased risk of obstructed labor leading to Vesico Vaginal Fistula (VVF) and maternal mortality.²⁴ Furthermore, child brides are often unable to negotiate safer sexual practices and are therefore subjected to a higher risk of HIV and other sexually transmitted diseases. The practice of child marriage also isolate girls from family and friends and exclude them from participating in their communities, taking a heavy toll on their mental health and well-being.

From a foreign scene, India as one of the most diverse countries having people from different cultural backgrounds often leads to gender discrimination on the grounds of traditions and customs. This practice has now become a social issue for centuries. Even today, the birth of a baby boy is celebrated as families still prefer a boy over a girl child.

Additionally, although the official legal age for marriage in England, Wales and Northern Ireland is 18, children can marry from 16 with parental consent.²⁵ In Scotland, the legal age for marriage 16. In some communities across the UK this can result in child marriage whereby parents can consent on behalf of

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ <<https://www.girlsnotbrides.org/articles/british-legal-loophole-continues-sanction-child-marriage/>> accessed 13th September, 2023.

their children. The Home Office estimates that between 5,000 and 8,000 people are at risk of being forced into marriage every year in the UK.

4. Other Challenges of the Girl-Child

Another heinous one to consider is female genital mutilation. Female genital mutilation, also known as female genital cutting in Nigeria accounts for the most female genital cutting cases worldwide.²⁶ The practice is customarily a family tradition that the young female of the age of 0-15 would experience. It is a procedure that involves partial or completely removing the external females' genitalia or other injury to the female genital organs whenever for non-medical reasons.²⁷ The practice is considered harmful to girls and women and a violation of human rights.²⁸ Female genital mutilation causes infertility, maternal death, infections and loss of sexual pleasure. Despite the graveness of the issue, the practicing societies look on it as an integral part of their tradition and cultural identity. In majority of the cases it has been documented that their own family members such as parents mainly mothers, grandparents, and grandmothers of the girls are the perpetrators of this act. In Nigeria and other societies, girls who have not gone through genital mutilation are considered as unmarriageable, unclean and it is a social taboo. Most times, the girls themselves desire to conform to peer as well as societal pressure out of the fear of stigmatization and rejection by their own community. Nigerians practice the following forms of female genital mutilation:²⁹

- a. Type I, clitoridectomy: removing the clitoral hood and at least part of the clitoris
- b. Type II, sunna: removing the full clitoris and part of the labia minora
- c. Type III, infibulation: removing the clitoris, labia minora, and labia majora. This involves stitching the vaginal opening with a minuscule hole for urination and menstrual bleeding
- d. Type IV: other unclassified forms of female genital mutilation may involve pricking, stretching, cauterization, or inserting herbs into the vagina.

On account of the poor surgical skills of most practitioners of female genital mutilation, the absence of antiseptic techniques and non-use of anesthetic agents, the procedures are associated with several complications. These may occur during or immediately after the operations, while others manifest in the medium and long-term to cause poor quality of life for the patient or result in mortality or both. The immediate complications include excruciating pain (when anesthetic agents are not used), hemorrhage, shock, acute urinary retention, injury to adjacent tissues and death. A meta-analysis utilizing 185 studies in 57 countries where genital mutilation is done detailed the most common immediate complications as excessive bleeding, urine retention and genital tissue swelling.³⁰ For those who survive, medium term complications are infections of the reproductive tract following use of unsterilized or poorly sterilized instruments, septic techniques and septic environment and raw wound surfaces. All these result in urinary tract infection, pelvic inflammatory disease, chronic pelvic pain, infertility and ectopic pregnancy. Others are tetanus infection, infections with hepatitis and human immunodeficiency viruses and also abscess formation.³¹

²⁶ TC Okeke, USB Anyaehie, CCK Ezenyeaku, "An overview of female genital mutilation in Nigeria" in *Annals of Medical and Health Sciences Research*.

²⁷ A Siddhanta, "Attitude and perception towards female circumcision: A study of vulnerability among women in Kenya and Nigeria" <www.researchgate.net> accessed 13th September, 2023.

²⁸ Section 34 of the Constitution.

²⁹ TC Okeke, USB Anyaehie, CCK Ezenyeaku, "An overview of female genital mutilation in Nigeria" in *Annals of Medical and Health Sciences Research*.

³⁰ Effects of female genital cutting on physical health outcomes: a systematic review and meta-analysis <<https://tau.amegroups.com/article/view/13134/14794>> accessed 13th September, 2023.

³¹ Serour, GI, "Medicalization of female genital mutilation/cutting" in *African Journal Urol* 2013;19:145-9.

Among those who survive the acute and medium term consequences, many long-term morbidities noted are psychological disturbances, low libido, apareunia or dyspareunia, chronic pain, dysmenorrhoea, gynaetresia, cryptomenorrhoea, vaginal fistulae, labial agglutination, hypertrophic scar/keloids, clitoridal retention cysts, dermoid cysts, vaginal lacerations during coitus, straining at micturition, genital tract lacerations, especially during vaginal delivery, obstructed labor, increased rate of caesarean delivery and postpartum hemorrhage. Mortality can still occur following the above complications of labor and the puerperium. For the babies conceived by such women, there is increased risk of stillbirth, early neonatal death or babies with neurologic deficits from severe birth asphyxia.³² The clitoris has extensive innervations and it plays crucial roles in sexual arousal, attainment of orgasm and sexual satisfaction. Its amputation or wholesome removal during FGM/C has been demonstrated to affect these functions.

5. The Girl-Child and the Law

The passing and assenting of the Child's Rights Act, 2003 indicated Nigeria's sincere domestic intention to protect and preserve the rights of the Nigerian child, especially the girl-child. The Act not only specifies that the best interests of the Nigerian child should be central to all actions, but it also provides the duties and obligations of parents, the government and organizations towards children. The Act is the most complete legislation dealing with the rights of a child in Nigeria as it covers every situation where a child may be subjected to abuse. Some of the relevant sections which provide for the protection of children include, but are not limited to, the prohibition of the use of children in criminal activities;³³ the use of children in exploitative labor;³⁴ unlawful sexual intercourse with a child;³⁵ and the recruitment of children into the armed forces.³⁶ While the Act also contains other provisions relating to children with regard to their care and supervision and the custodial possession of children, an important prohibition relates to child marriage. It prohibits both the marriage of those judged to be children and the betrothal of children. In relation to child marriages, Section 21 provides 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."

A major problem with the Act is its differing levels of acceptance. When the law was passed, it was not automatically enacted into law in each of Nigeria's 36 states. Each state had to pass the Bill into their state laws for it to become enforceable in order to guarantee and protect the rights of children and, most importantly, to prevent child marriages. Since it was passed in 2003, 11 states have yet to domesticate it. What this means is that children may have no rights in states which are yet to enact the law and, subsequently, if child marriage and related offences are practiced, they are not offence.

Furthermore, the 11 states which are yet to domesticate it are in the northern part of Nigeria and these have adopted a penal code which is based mainly on Sharia law.³⁷ It is not surprising that states in Northern Nigeria, inhabited predominantly by Muslims and with a culture and tradition heavily influenced by Islam, have objected to receiving and passing it because it conflicts with the Islamic point of view, particularly in relation to the minimum age of marriage. While the law sets a child to be a person under 18, in Islam there is no age that marks childhood. A child's maturity is established by

³² WHO study on group on female genital mutilation and obstetric outcome <<https://tau.amegroups.com/article/view/13134/14794>> accessed 14th September, 2023.

³³ Section 26, Child' Right Act, 2003.

³⁴ Section 28, Child' Right Act, 2003.

³⁵ Section 31, Child' Right Act, 2003.

³⁶ Section 34, Child' Right Act, 2003.

³⁷ Northern Nigeria consists of 19 states of which 12 have penal laws enacted under the aegis of Shari'a, namely, Bauchi, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto, Yobe and Zamfara.

signs of puberty such as menstruation, the growth of breasts and pubic hair. To further buttress the argument that age is a factor contributing to the reluctance of many northern states to pass it, when one of Nigeria's northern states, Jigawa, accepted it, its state law did not adopt the age of 18 as the age of majority as specified in the Act. Instead, it determined the age of childhood in relation to puberty.³⁸ Additionally, other than the age conflict between the Act and Islam, it creates a conflict between human rights and religion, which is arguably one of the other major reasons for its rejection by most Northern Nigerian states. For example, while the Act is aimed at protecting the human rights of children, it also infringes the rights of freedom of thought, conscience and religion as provided for in section 38(1)³⁹:

Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.

While the Act's outlawing of child marriage infringes upon the right to practice a certain part of Islam (child marriage), a stronger argument can be made that when there is a clash between law and religion in respect to children, as in the case of Nigeria, the best interests of the child should be given paramount consideration. In weighing the interests of the child, consideration should be given to the emotional, physical and psychological wellbeing of the child. In addition, protection should be afforded to children and adolescents until they are mature enough to make decisions about marriage. The Islamic practice of child marriage inhibits children from making independent decisions about marriage, which may lead to their emotional, physical and psychological harm. Therefore, if such a practice may harm a child, the right to freedom of religion becomes limited.

Moreover, it is clearly stated in the 1999 Constitution that the right to freedom of religion is not absolute. Section 45(1) states that nothing in section 38 will invalidate any law that is reasonably justifiable in a democratic society:

- (a) in the interest of defence, public safety, public order, public morality or public health; or
- (b) for the purpose of protecting the rights and freedom of other persons.

Therefore, for the sole purpose of protecting the rights of children against a social evil such as child marriage, it is justifiable to restrict the freedom to practice a component of Islam such as child marriage, which infringes the rights of children.

Another conflicting provision with the Act is section 29(4) (b)⁴⁰ which provides that: "any woman who marries shall be deemed to be of full age". Paragraph (a) of the same subsection⁴¹ provides that: "full age means the age of eighteen years and above". The foregoing provision of paragraph (b) impliedly allows child's marriage when it places full age at the time of marriage. The understanding therefore is that a child who marries at the age of 5 automatically acquires full age. This expressly contravenes the clear provision of the Act. It should be noted that section 277⁴² defines a child "as a person who has not attained the age of eighteen (18) years." It is therefore a legal presumption that any woman who married in Nigeria has attained the age of 18, unless the contrary is proved. The controversy of this section came to light in April 2010 over the circumstances that Senator Ahmed Yerima married to a 13-year-old Egyptian girl upon payment of S100,000 as dowry. Despite mass protests by human rights groups over

³⁸ Jigawa Child Rights Law, 2008.

³⁹ Constitution of the Federal Republic of Nigeria 1999.

⁴⁰ Constitution of the Federal Republic of Nigeria 1999.

⁴¹ Section 29(4) of Constitution of the Federal Republic of Nigeria 1999.

⁴² Child's Rights Act, 2003.

this child marriage, the Attorney General of the Federation, at the time; Bello Adoke SAN declined to take legal action against Yerima.

Another legal instrument of immense assistance is the Violence Against Person (Prohibition) Act, 2015. This Act which is enforceable in the Federal Capital Territory Abuja, and which has been domesticated by some states is a legislative step in the protection of the girl-child against gender based violence. It prescribes punishment for such practices. For instance, section 6(2)⁴³ provides that:

A person who performs female circumcision or general mutilation or engages another to carry out such circumcision or mutilation commits an offence and is liable on conviction to a term of imprisonment not exceeding 4 years or to a fine not exceeding ₦200,000.00 or both.

Subsection (3) provides that:

A person who attempts to commit the offence provided for in subsection (2) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding ₦100,000.00 or both.

Also, The Constitution of Ghana chapter 5 provides for the protection of children's rights, amongst others. The rights of women and children are protected under Articles 27 and 28 of the 1992 Constitution. Other relevant legislations include The Children's Act, 1998 (Act 560) which protects children generally, Criminal Offences Amendment Act, 1998 (Act 554) which protects the child from sexual offences, abduction and abandonment, Domestic Violence Act, 2007 (Act 732) which protects children from violence in domestic settings, Human Trafficking Act, 2005 (Act 694) which protects the personal liberty of children, Juvenile Justice Act, 2003 (Act 653) which protects the Rights of the Child who has breached the Law and the Criminal offences Act, 1960 (Act 29). Ghana did not adequately criminalize domestic violence resulting in the passage of the Domestic Violence Act, 2007. (Act 732). This Act seeks to proscribe violence within the domestic setting. The legislation provides victims of domestic violence protection and occupational orders.

Again, Article 24(3)⁴⁴ states that: "State parties shall take all effective and appropriate measure with a view to abolishing traditional practices prejudicial to the health of children". Furthermore, Article 5⁴⁵ states that: "State parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognize international standards. State parties shall take all necessary legislative and other measures to eliminate such practices, including:"

- ❖ Prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilations, scarification, medicalization and para-medicalization of female genital mutilation and all other practices in order to eradicate them;
- ❖ Protection of women who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance.

In similar reasoning, Article 18⁴⁶ states that:

The human rights of women and of the girl-child are on inalienable, integral and indivisible part of universal human rights. the full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and

⁴³ Violence Against Person (Prohibition) Act, 2015.

⁴⁴ United Nations Convention on the Rights of the Child, 1989.

⁴⁵ African Protocol on Women's Rights (Maputo Protocol), 2003.

⁴⁶ United Nations, Vienna Declaration and Programme of Action, 1993.

international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.

This document makes it clear that the human rights of both women and the girl-child constitute elements of human rights.

6. Conclusion and Recommendations

From the foregoing arguments and discussions, it is apt to say that a good attempt has been made to ensure the preservation and protection of the rights of the girl child. This notwithstanding, implementation of these Acts seems to be farfetched with the clause that the states within the federation must first domesticate the Acts before it can apply to them. Another area of concern is the controversy of section 29(4) (a) (b). This section has made it practically difficult to conveniently apply the Acts especially the Child's Right Act, 2003. This section weakens the strength of the protection of the girl child's right. Sequel to this, it is pertinent that the constitutional amendment should look review the section and do the needful, without which the Acts would merely be a piece of paper with no legal effect.

It is crystal clear that the legislature has taken positive steps in ensuring the preservation of the rights of the girl child through the instruments of Child' Right Acts of 2003 and Violence Against Person (Prohibition) Act of 2015. Despite the twin legislations, records of girl child abuse are endless; and perpetrators still walk free on our streets with impunity. The Federal Government as a matter of urgency should persuade the remaining states to domesticate the Acts, while encouraging the states that have domesticated them to engage in substantial implementation of the Acts. On another note, the State Governments should create deeper awareness of the existence of such laws among her citizens and make offices available within the local government area to attend to such matters. Civil society organizations can as well to partner with the government at various levels to ensure that the message brought by the Acts gets to the grass root. In addition, during trials of such offences, the public should be invited to attend for public enlightenment and education.