



DEFINING CHILDHOOD IN NIGERIA: LEGAL PLURALISM AS A BARRIER TO CHILD PROTECTION

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Abstract

This article examines the fragmented legal definition of childhood in Nigeria and its profound implications for the enforcement of child labour and trafficking laws. Despite Nigeria's ratification of the United Nations Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (ACRWC), which uniformly define a child as any person under eighteen years, domestic legislation presents conflicting and inconsistent age thresholds. The Child's Rights Act 2003 adopts the eighteen-year standard, yet the Labour Act 2004 defines a child as under twelve years, the Criminal Code and Penal Code set varying age limits for criminal responsibility, customary laws define childhood based on puberty or marriageability, and Islamic law applies different criteria. This definitional plurality creates legal loopholes systematically exploited by traffickers and employers to evade prosecution. The article argues that legislative harmonization is imperative to eliminate these contradictions and ensure uniform child protection across Nigeria's federal system. Through doctrinal analysis and comparative insights from Ghana and South Africa, the article demonstrates that a unified, constitutionally entrenched definition of childhood is essential for effective child rights enforcement. The article concludes with concrete recommendations for constitutional amendment, statutory reform, and judicial training to bridge the gap between Nigeria's international obligations and domestic realities.

Keywords: Child Definition, Legal Pluralism, Child's Rights Act, Labour Act, Nigeria, Harmonization, Child Protection, Age of Majority, Customary Law, Islamic Law.

1. INTRODUCTION

The conceptualization of childhood in contemporary legal frameworks has moved fundamentally from regarding minors as mere extensions of parental authority or submissive dependents to recognizing them as independent bearers of distinct human rights, just like adults.¹ International consensus on this matter is rooted firmly in two important instruments: the United Nations Convention on the Rights of the Child (CRC) of 1989 and the African Charter on the Rights and Welfare of the Child (ACRWC). By ratifying these treaties, the Federal Republic of Nigeria committed itself to a protective legal philosophy wherein the standard of the best interests of the child serves as the supreme, non-negotiable benchmark for all legislative, executive, and judicial actions.² Within the national legal framework,

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¹ H. Clare and S.S. Elizabeth, 'Conceptualizing Legal Childhood in the Twenty-First Century' Michigan Law Review [2020] 118, 1371-1398.

² D. Ebiegberi and others, 'Towards A Child-Friendly Nigeria: Legal Instruments for Child Rights' International Journal of Academic Multidisciplinary Research (IJAMR) [2024] 8(11), 406-423.



this obligation was codified through the landmark enactment of the Child's Rights Act (CRA) in 2003.³ Yet, the concept of a 'child' lies at the very foundation of child protection laws around the world. It is far from uniform or uncontested. It is shaped by legal, sociological, cultural, and religious interpretations, resulting in definitional plurality across jurisdictions and within legal systems themselves.⁴ In the context of child labour and trafficking, this definitional divergence has profound implications on the applicability, interpretation, and enforcement of laws intended to safeguard vulnerable persons under the age of maturity.

Nigeria presents a particularly complex case study in this regard. The country operates a plural legal system where statutory law, customary law, and religious law coexist and frequently conflict.⁵ This legal pluralism is reflected in the multiplicity of definitions of a child found across various legislative instruments. The Child's Rights Act 2003 defines a child as a person under eighteen years, aligning with international standards. However, the Labour Act 2004 defines a child as under twelve years, the Children and Young Persons Act employs a tiered categorisation, the Criminal Code and Penal Code set varying ages for criminal responsibility, and customary and Islamic laws apply different criteria based on puberty, marriageability, or physical maturity.⁶

This definitional fragmentation creates a chaotic regulatory environment that sophisticated criminal syndicates systematically exploit. Traffickers and employers can easily mask hazardous child labour and human trafficking under the cultural guises of traditional apprenticeships, kinship fosterage, or moral upbringing, effectively insulating perpetrators from prosecution and rendering the CRA's baseline protections legally ineffective.⁷ The situation is further complicated by the federal structure of Nigeria, where the CRA does not automatically apply nationwide but requires individual state-by-state adoption, leading to a highly fractured legal landscape where various State Houses of Assembly have either delayed adoption for decades or structurally modified the act to lower protective standards.⁸

This article seeks to critically examine the fragmented legal definition of childhood in Nigeria and its implications for the enforcement of child labour and trafficking laws. It begins by exploring the conceptual foundations of childhood, child labour, child abuse, and child rights. It then undertakes a detailed analysis of the various legal definitions of a child under Nigerian law, followed by an

³ Child's Rights Act 2003, Cap C50 LFN 2004.

⁴ M.A. AjaNwachuku, 'An Examination of Customary and Statutory Legal Meaning of a Child in Nigeria: A Stream of Two Waters That Do Not Mix' *Journal of Law, Policy and Globalization* [2016] 52, 178.

⁵ O. Akinwunmi, 'Legislative Battles Over the Child's Rights Bill in Nigeria: Religious and Customary Bottlenecks' *Journal of African Law* [2012] 56(2), 201-218.

⁶ *ibid*

⁷ A. Bawa and M. Danjuma, 'Socio-Economic Realities and the Proliferation of Hazardous Child Labour in Sub-Saharan Africa' *African Journal of Legal Studies* [2024] 17(2), 112-135.

⁸ *ibid*



examination of judicial interpretations by Nigerian courts. The article analyses the implications of this definitional plurality on child labour and trafficking enforcement, drawing comparative insights from Ghana and South Africa where unified definitions have been constitutionally or statutorily entrenched. The article concludes with concrete recommendations for legal reform to harmonize the definition of childhood and strengthen child protection in Nigeria.

2. CONCEPT OF A CHILD

There is no generally agreed consensus as to the definition of a child. Different laws provide the benchmark for the definition of a child. The concept of a 'child' lies at the very foundation of child protection laws around the world. Yet, it is far from uniform or uncontested. It is shaped by legal, sociological, cultural, and religious interpretations, resulting in definitional plurality across jurisdictions and within legal systems themselves.⁹ In the context of child labour and trafficking, this definitional divergence has profound implications on the applicability, interpretation, and enforcement of laws intended to safeguard vulnerable persons under the age of maturity. The term 'child' is etymologically derived from the Latin word *infans*, meaning 'one who does not speak', which references the developmental incapacity and dependency typically associated with early childhood.¹⁰ Within the Nigerian legal framework, statutory definitions and entitlements commonly anchor the status of adulthood at the age of eighteen. Notably, Section 12(1)(b) of the Electoral Act 2026 stipulates that a person shall be eligible to register as a voter only upon attaining the age of eighteen, thereby reinforcing the threshold of legal majority for the exercise of civic and political rights. This legislative benchmark aligns with international human rights norms and serves as a functional demarcation of the legal distinction between childhood and adulthood in Nigeria.

The definition of a child has been the subject of extensive academic discourse, with scholars drawing attention to the problematic lack of a harmonized definition of childhood in Nigeria. One scholarly article published in the *African Journal of International and Comparative Law* criticizes the contradictory statutory provisions and calls for the unification of age definitions to enhance legal certainty and enforcement efficacy.¹¹

The legal definition of a child in Nigeria is fragmented, reflecting the multiplicity of normative systems statutory, customary, and Islamic as well as regional distinctions. This definitional inconsistency has far-reaching implications for the administration of justice, child protection mechanisms, and policy

⁹ M.A. AjaNwachuku, 'An Examination of Customary and Statutory Legal Meaning of a Child in Nigeria: A Stream of Two Waters That Do Not Mix' *Journal of Law, Policy and Globalization* [2016] 52, 178.

¹⁰ I.A. Anyua and I. Okagbue, *The Rights of a Child in Nigeria* (Nigeria Institute of Advanced Legal Studies, 1996) 3.

¹¹ C. Nwogu, 'The Disjunction Between the Child's Rights Act and Existing Juvenile Laws in Nigeria' *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* [2022] 13(2), 84-99.



implementation.¹² The definition of a child in Nigerian law is neither uniform nor consistently applied. It is shaped by a multiplicity of legal instruments, ranging from federal statutes and regional laws to customary practices and international treaties. While the Child's Rights Act endeavors to standardize the definition at under eighteen years of age, its limited state-level adoption significantly hinders its effectiveness.

3. CHILD LABOUR

The term child labour in the simplest term suggests involvement of children in some form of economic activities that are exploitative in nature. The picture that comes to bear is the picture of children working in mines, plantations, building sites and a host of other demeaning pictures.¹³ But the issue of child labour goes beyond the above. According to the Black's Law Dictionary, child labour is defined as:

Child labour is the employment of workers below the age of majority. This term typically focuses on abusive such as exploitative factory work, slavery, sale, and trafficking in children, forced or compulsory labour such as debt bondage and serfdom; and the use of children in prostitution, pornography, drug-trafficking, or anything else that might jeopardize their health, safety, or morals.¹⁴

The International Labour Organization (ILO) defined child labour as 'Work that deprives children of their childhood, their potential and dignity, and which is harmful to physical and mental development'.¹⁵ This definition comprises of the types of work that are mentally, physically, socially or morally detrimental to children; or interrupts schooling and other social life. From the definition of the ILO, child labour is premised on four grounds: work that deprives children of their childhood; work that deprives children of their potential and dignity; work that interferes with their schooling; and work that is physically, mentally, socially or morally harmful to the child.

The UNICEF defined child labour as 'work that is mentally, physically, socially or morally dangerous and harmful to children and which deprives them of opportunities for schooling and development'.¹⁶ Elechi and Esiri posited that the United Nations Children's Education Fund (UNICEF) in their

¹² A. Odeyinde and S. Oluwakemi, 'The Constitutional Limits of Child Protection: Domestication Bottlenecks of the Child's Rights Act Across the Nigerian Federation' *Nigerian Law Journal* [2025] 28(1), 44-67.

¹³ C. Chukwu and A. Adeboye, 'Domestication of the Child's Rights Act and Its Enforcement Challenges in Northern Nigeria' *Nigerian Law Journal* [2021] 24(1), 67-85.

¹⁴ B.A. Garner, *Black's Law Dictionary* (West Publishing Co., 1999) 256.

¹⁵ International Labour Organization, available at <https://www.ilo.org/ipcc/facts/langen/0p/index.htm> accessed on 28th July, 2026.

¹⁶ UNICEF, available at <https://www.unicef.org/Nigeria-1935.html> accessed on 28th July, 2026.



definition have given the indexes for categorizing works that would be defined to amount to child labour to include:

...where children work and they include starting full time work at too early an age (now below 15 years), too many hours spent on work within or outside the family, leading to excessive fatigue, depriving children of their right to education where schools are available or interfering with their education adversely, participating in work that results in excessive physical, social and psychological strains on the child, work and living on the streets, work that does not facilitate the psychological development of the child for example dull repetitive tasks which do not stimulate a child's creative abilities, etc.¹⁷

Child labour remains one of the most entrenched violations of children's rights globally and constitutes a major impediment to sustainable development, particularly in developing states such as Nigeria. While not all work performed by children amounts to child labour, the ILO clearly distinguishes child work from labour that impairs a child's physical, mental, social, moral, or educational development. The distinction is critical, as cultural, economic, and legal norms often intersect to normalize exploitative child labour under the guise of socialization or survival strategies.

Scholars have adopted various interpretive frameworks to assess child labour. From a liberal rights perspective, the work of Archard and Freeman highlights the moral indefensibility of child labour on the grounds of autonomy, arguing that children's development should not be subjugated to economic necessity.¹⁸ A capabilities approach, pioneered by Sen and Nussbaum, further stresses that child labour denies children the capability to lead lives they have reason to value, thus constituting a form of structural injustice.¹⁹ Conversely, some anthropological studies particularly in African contexts have drawn attention to the cultural relativism debate, contending that not all child work is inherently exploitative.²⁰ However, scholars such as Nieuwenhuys caution against using cultural relativism as a defence for exploitative practices that compromise basic human dignity.²¹ The drivers of child labour in Nigeria are deeply rooted in socio-economic and structural inequities. Widespread poverty, unemployment, armed conflict, and the breakdown of the educational system continue to push families to rely on the economic contributions of their children.²² In many internally displaced persons (IDP) camps, especially in the insurgency-prone North-East, child labour serves as a survival strategy.

¹⁷ M.O. Esiri and E. Ejechi, 'Child Labour and Juvenile Delinquency in Nigeria' *International Journal of Law and Contemporary Studies* [2006] 1(2), 203.

¹⁸ D. Archard, *Children: Rights and Childhood* (Routledge, 2014) 89-104.

¹⁹ S. Nussbaum, *Development as Freedom* (Oxford University Press, 1999) 87-106.

²⁰ L.E. Bass, *Child Labour in Sub-Saharan Africa* (Lynne Rienner, 2004) 21.

²¹ O. Nieuwenhuys, 'The Paradox of Child Labour and Anthropology' *Annual Review of Anthropology* [1996] (22), 237.

²² O. Akintunde, 'Child Labor in Nigeria: Evaluating the Legislative Framework for Protection' *International Journal of Child Rights* [2018] 26(4), 375-394.



Compounding this is the persistent failure of the state to provide functional education in conflict zones and economically marginalized communities.²³ Cultural factors also sustain child labour, with many communities viewing early apprenticeship or domestic work as a rite of passage or a legitimate form of skill acquisition. These perceptions often blur the line between cultural tradition and exploitative labour practices, particularly in urban centres.

4. CHILD ABUSE

According to Ajisafe, Ohaeri, Ojo and Babarimisa, the term 'child abuse' incorporates any instance in which one individual be it an adult or another youngster causes harm to another child. Physical, sexual, and emotional neglect are all possible results of a lack of affection, care, and attention.²⁴ Also, the term child maltreatment which is closely linked to child abuse is defined by the authors to include:

Any form of physical or emotional ill-treatment, sexual abuse, neglect or neglectful action, or commercial or other mistreatment resulting in definite or possible harm to the child's health, continued existence, growth, or self-esteem in the context of an accountable, trusting, or authoritative relationship.²⁵

Ebigbo outlines physical harm, sexual abuse, or emotional suffering as examples of child abuse, which is defined as the mistreatment or neglect of a child or children by an adult, generally a parent, guardian, or carer. Any time a parent or carer does something, or fails to do something, that puts a child in danger, that is abuse. It could happen in a child's local environment (at home), in a child's educational setting, or in the community at large.²⁶ Felliti defines child abuse to comprise not only bodily but also psychological and sexual maltreatment of a kid. He continued by saying that when most people hear the word 'abuse,' they immediately picture physical pain. Physical violence accounts for around a quarter of abuse instances.²⁷

Child abuse represents a fundamental violation of the legal and moral obligations owed to children, undermining their right to dignity, security, and holistic development. Legally, child abuse encompasses physical, emotional, sexual, and psychological harm inflicted upon a minor, whether by a parent, guardian, caregiver, institution, or any other person in a position of authority or trust. It constitutes a breach not only of domestic laws but also of international conventions which recognize

²³ A. Ibrahim, 'Child Labour and Displacement in North-East Nigeria' *Conflict and Humanitarian Law Review* [2021] 1(8), 102-118

²⁴ L.B. Ajisafe, 'Child Abuse: A Significant Contemporary Community Problem' *International Journal of Public Health, Pharmacy and Pharmacology* [2023] 8(1), 18-26.

²⁵ *ibid*

²⁶ P.O. Ebigbo, 'Situation Analysis of Child Abuse and Neglect in Nigeria: Making use of Nigeria Daily Newspaper' *Journal of African Psychology* [1989] 2(1), 95-101.

²⁷ V.J. Felliti, 'Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study' *American Journal of Preventive Medicine* [1998] 14(14), 245-258.



children as autonomous rights holders entitled to protection from all forms of violence, exploitation, and neglect. At the international level, the United Nations Convention on the Rights of the Child (CRC) 1989 obligates State Parties to take all appropriate measures to protect children from abuse, including physical and mental violence, injury, neglect, maltreatment, and exploitation.²⁸ The CRC further mandates that protective interventions should be preventive, investigatory, and remedial, anchored in the best interests of the child as a primary consideration in all protective actions. Regionally, the African Charter on the Rights and Welfare of the Child (ACRWC) reiterates these²⁹ obligations, explicitly prohibiting child abuse in Articles 16 and 27, and requiring States to enact legislation to ensure effective protection mechanisms.

Studies indicate that physical abuse including beatings, burning, and severe corporal punishment remains culturally legitimized in many Nigerian households and institutions. Sexual abuse is also rampant, often perpetuated by individuals in positions of trust, with survivors frequently silenced by cultural taboos, fear of stigma, and institutional apathy.³⁰ A study by Akinwumi revealed that over 60% of reported cases of child sexual abuse in Lagos State involved close family members, yet less than 15% resulted in prosecution due to weak investigative and judicial processes.³¹

5. CHILD RIGHT

The rights of the child constitute an indispensable legal and moral imperative within international and domestic jurisprudence. Children, by reason of their age and vulnerability, are entitled to special protection and assistance under the law. The doctrine of child rights is premised on the recognition of children as holders of distinct legal rights, rather than mere objects of adult concern or protection. These rights encompass survival, development, protection, and participation, and they are entrenched in a wide range of legal instruments at global, regional, and national levels.³² At the international level, the United Nations Convention on the Rights of the Child (CRC) 1989 remains the most comprehensive legal instrument addressing the rights of children. It provides a holistic framework covering civil, political, economic, social, and cultural rights, underpinned by four core principles: non-discrimination, the best interests of the child, the right to life, survival and development, and the right to be heard. Notably, Article 3(1) of the CRC mandates that 'in all actions concerning children...the best interests of the child shall be a primary consideration'.

Regionally, the African Charter on the Rights and Welfare of the Child (ACRWC) 1990, to which Nigeria is a party, provides additional protection tailored to African socio-cultural realities. The

²⁸ United Nations Convention on the Rights of the Child, 1989, Art. 19.

²⁹ *ibid*

³⁰ C. Umeh, 'Barriers to Justice for Child Sexual Abuse Victims in Nigeria' *African Journal of Criminology and Justice Studies* [2021] 10(1), 102-117.

³¹ T. Akinwumi, 'Child Sexual Abuse in Lagos: A Legal and Sociological Analysis' *University of Lagos Law Review* [2023] 15(2), 87-103.

³² I.A. Anyua and I. Okagbue, *The Rights of a Child in Nigeria* (Nigeria Institute of Advanced Legal Studies, 1996) 3.



ACRWC prohibits harmful practices such as child marriage and child begging and obligates states to safeguard children against torture, trafficking, and economic exploitation.³³

The Concept of Children's right have been defined as a universal right or enabling qualities of human beings which are attached to the human-being, regardless of time, place, sex, colour or the environment.³⁴ It has also been defined as 'basic Rights and freedoms that be longs to every child in the world, from birth until death'.³⁵ Some of these Rights have been recognized, codified and enforceable as basic and fundamental to all persons within the States. As it relates to the Child, it presupposes that the Child must be treated with equality, respect, and dignity. These Rights are accorded to the Child not because they are seen as 'the future' or the 'adults of tomorrow' but because the Child is to be considered as Human being today.

The rights of the child constitute an imperative within both international and domestic legal frameworks, rooted in the acknowledgment that children, due to their age, vulnerability, and developmental needs, require specific legal safeguards and affirmative protection. Far from being passive objects of adult care, children are now recognized in law as autonomous rights holders entitled to legal recognition, agency, and protection. This evolution is reflected in the legal entrenchment of the four foundational categories of child rights survival, development, protection, and participation across global, regional, and national instruments.³⁶

The effectiveness of child rights frameworks is further constrained by institutional deficits. Many of the states that have adopted the Child's Rights Act lack the infrastructure and personnel to implement its provisions, including juvenile justice systems, trained social workers, and dedicated child protection officers. A comparative study between Lagos and Benue states revealed that effective enforcement of the CRA is directly correlated with the presence of inter-agency collaboration and institutional resources.³⁷

6. THE LEGAL DEFINITION OF A CHILD IN NIGERIA: A FRAGMENTED LANDSCAPE

6.1 The Child's Rights Act 2003

According to the interpretation section of the Child's Rights Act 2003 under Section 277, a child 'means a person under the age of eighteen years.' This definition has been adopted in the case of *Isah v State*

³³ African Charter on the Rights and Welfare of the Child, 1990, Arts. 16, 21, 27.

³⁴ A.J. Lien, *A Fragment of Thoughts Concerning the Nature & The Fulfillment of Human Rights* (Westport: Greenwood Press Publishers, 1973) 144-145.

³⁵ E.E.I.O. Oraegbunam, 'A Philosophy of Human Rights Law in Nigeria: Focus on Intersubjectivity and Jural Relations' *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* [2012] (3), 47-58.

³⁶ Child's Rights Act 2003, ss. 4, 10, 11, 15.

³⁷ E. Udoh and E. Edem, 'Empirical Evaluation of CRA Implementation' *Nigerian Journal of Socio-Legal Studies* [2022] 10(1), 25-40.



of Ekiti³⁸ where the court held that 'a child is defined under section 277 of the Child's Right Act as a person under the age of eighteen years'. The Court of Appeal in similar vein defined a child in terms of the Child's Right Act in the case of *Oteikwu v A-G Federation* as follows: 'section 277 of the Child's Right Act cap. C50 laws of the federation of Nigeria defines a child as 'A person under the age of eighteen (18) years'.³⁹ This straightforward definition has several key implications. Firstly, it establishes a clear age limit for the application of the Act, ensuring that all individuals below eighteen years of age are entitled to the rights and protections outlined within the legislation. Secondly, the Act emphasizes the 'best interests of the child' as a paramount consideration in all matters concerning children. This principle guides decision-making related to child welfare, protection, and justice. Lastly, the definition aligns with the United Nations Convention on the Rights of the Child (UNCRC), promoting consistency and adherence to international human rights standards.

6.2 The Labour Act 2004

The Labour Act (Cap L1, Laws of the Federation of Nigeria 2004), while not the primary legislation for child protection, contains provisions relevant to child employment. The Act makes clear the provisions protecting and regulating the kind of work that a child can be employed to do and the type that a child cannot be employed into. The baseline protective shield is provided for under Section 59(1) of the Act, which creates a general prohibition against the employment of children, defining a child in Section 91 as any young person under the age of twelve years. The Labour Act also adopts a divergent definition. Section 59(2) defines a child as 'a young person under the age of twelve years.' However, Section 59(1) prohibits the employment of children below twelve in industrial undertakings, except where it is technical work under supervision. This statutory inconsistency poses challenges in the implementation of labour-related child protection measures.⁴⁰ Within the contemporary context, the Labour Act is often criticized for its regulatory loopholes, particularly its low baseline definition of a child at twelve years and its explicit permission of domestic and agricultural labour within family units. Thus, while the law purports to protect children from economic exploitation, it simultaneously carves out exceptions that allow for employment under loosely defined terms such as 'light work' and 'family labour' a loophole frequently exploited, especially in rural economies. This creates a severe statutory conflict with the newer Child's Rights Act of 2003, which sets a universal minimum employment age of fifteen and treats all persons under eighteen as children.

6.3 Criminal Code Cap 38 LFN 2004

³⁸ (2024) LPELR-61871 (CA).

³⁹ (2021) LPELR-56288 (CA).

⁴⁰ R. Ozoemena and C. Onuorah, 'Inconsistencies in the Nigerian Labour Act: Implications for the Protection of Children' Nigerian Labour Law Review [2020] 17(2), 45-62.



In criminal law, age definitions vary according to the applicable legal regime. Under the Criminal Code Act (applicable in Southern Nigeria), Section 30 provides that a child under the age of twelve is *prima facie* not criminally responsible for any act or omission unless it is shown that the child possessed the capacity to know that the act or omission was wrong. The Criminal Code Act, Cap C38, LFN 2004, which applies primarily in the southern states of Nigeria, constitutes one of the core instruments in Nigeria's penal regime. Although not originally drafted with a child protectionist orientation, several of its provisions indirectly address practices related to child labour, child trafficking, and child abuse. These provisions provide a legal basis for prosecuting acts that violate the dignity, liberty, and security of children. Under Section 30, the Code presumes that a child under seven years of age is incapable of committing a crime, while a child above seven but under twelve is presumed not to have criminal capacity unless it is proved that the child has sufficient understanding to know the nature and consequences of the act. This age-based differentiation is pivotal for child justice but also indicative of the Code's limited conceptualization of children's rights as primarily procedural rather than substantive.

6.5 Penal Code Cap P3 LFN 2004

In the North, the Penal Code Act, through Section 50, sets the age of absolute criminal irresponsibility at seven years, and conditional irresponsibility between seven and twelve years, contingent on the child's capacity to understand the consequences of their actions. Notably, Section 50 of the Penal Code defines a child as a person under the age of fourteen years. This age threshold is problematic when juxtaposed with Section 277 of the Child's Rights Act 2003, which defines a child as any person below the age of eighteen. The discrepancy contributes to a fragmented legal regime, allowing for normative inconsistencies in the adjudication and enforcement of child-related offences in northern Nigeria. The Penal Code applies to the northern states of Nigeria and serves as the principal criminal legislation for the predominantly Islamic regions of the federation. Enacted in 1960 for the then Northern Region, and codified under Cap P3 of the Laws of the Federation 2004, the Penal Code is a unified code of criminal offences and penalties. While it contains several provisions relevant to the protection of children, its structure, like the Criminal Code, is not child-focused, and it fails to reflect the modern realities and complexities of child labour and child trafficking.⁴¹

6.6 Customary Law

Under customary law, which varies across Nigeria's diverse ethnic and cultural groups, the definition of a child is typically anchored not in age but in biological or social milestones such as puberty or marriageability. In *Labinjo v Abake*⁴², the court affirmed that under Yoruba customary law, a child is defined as one who has not reached the age of puberty. This subjective standard can vary significantly

⁴¹ J. Ibrahim, 'The Child's Rights Act and the Shari'a Controversy in Nigeria' Human Rights Review [2004] 3(5), 89.

⁴² (1924) 5 NLR 33.



and often does not align with statutory protections. Judicial pronouncements have further exposed the inconsistencies in the legal conception of childhood. In *State v Njoku Obia*⁴³, the court held that a fifteen-year-old was competent to understand the nature of an oath, illustrating that chronological age may be supplanted by cognitive maturity in assessing legal capacity. This demonstrates how customary law definitions can diverge significantly from statutory definitions and create confusion in legal proceedings.

6.7 Islamic Law

In several northern states, Islamic personal law applies in matters of personal status, including the definition of childhood. In those states, the definition of a child is often tied to physical maturity, marriageability, or attainment of puberty, in line with Islamic personal law principles.⁴⁴ This creates a significant tension with the Child's Rights Act, which sets a uniform age of eighteen years. As of 2024, several northern states have yet to domesticate the CRA, citing cultural and religious grounds particularly regarding early marriage and parental control.

6.8 Other Statutory Definitions

Section 58 of the Immigration Act 2005 classifies any person under the age of sixteen as a minor, particularly for the purpose of immigration control and related legal procedures. In contrast, the Matrimonial Causes Act 1970 establishes the age of full marital capacity at twenty-one years, although persons between sixteen and twenty-one may contract a valid marriage with requisite parental or judicial consent. This multiplicity of age thresholds across different statutes reflects a fragmented approach to the legal recognition of childhood and maturity in Nigeria.

7. JUDICIAL INTERPRETATION: NIGERIAN COURTS AND THE DEFINITION OF CHILDHOOD

The Nigerian courts have, on several occasions, had to interpret the meaning of the term 'child' within the context of statutory and procedural law. These judicial pronouncements illustrate the fragmented approach to the definition of a child in Nigeria, with legal interpretations varying depending on the statute in question. In *Okoye v The State*⁴⁵, the issue of whether a minor was competent to testify brought the definition of a child into sharp focus. Similarly, in *Okon v The State*⁴⁶, the court took the position that a person under the age of fourteen years qualifies as a child within the purview of criminal procedure. Specifically, the court relied on Section 2(1) of the Criminal Procedure Act, which expressly defines a 'child' as 'any person who has not attained the age of fourteen years.'⁷¹ The Supreme

⁴³ (2006) 15 NWLR (Pt. 1002) 598.

⁴⁴ A.O. Oba, 'Religious and Customary Laws in Nigeria' *Journal of Legal Pluralism* [2002] 52(4), 99.

⁴⁵ (1972) LPELR-2510(SC)

⁴⁶ (2024) JELR 112987 (SC)



Court in the case of *Williams v Williams*⁴⁷, where Karibi-Whyte, JSC defined the consideration for the best interest of the child as follows:

By paramount consideration, I mean pre-eminent and superior consideration... The determination of the welfare of a child is a composite of many factors. Considerations such as the emotional attachment to a particular parent, mother or father; the inadequacy of the facilities, such as educational, religious, or opportunities for proper upbringing are matters which may affect determination of who should have custody. What the court deals with is the lives of human beings and ought not to be regulated by rigid formulae.

The English case of *R v Carlton*⁴⁸ is particularly instructive in this regard. There, the court held that the definition of a 'child' is not fixed in all circumstances but 'must in every case depend on the context in which it appears.' This statement underscores the lack of a unified legal standard across different legal instruments. In *Odafe v Attorney General of the Federation*⁴⁹, the court recognized that treaties ratified by Nigeria can guide judicial reasoning. But this reasoning has rarely been applied in cases involving children.

8. IMPLICATIONS OF DEFINITIONAL PLURALITY ON CHILD LABOUR AND TRAFFICKING ENFORCEMENT

8.1 Legal Loopholes for Traffickers and Employers

The definitional fragmentation creates a chaotic regulatory environment that sophisticated criminal syndicates systematically exploit. Traffickers and employers can easily mask hazardous child labour and human trafficking under the cultural guises of traditional apprenticeships, kinship fosterage, or moral upbringing, effectively insulating perpetrators from prosecution and rendering the CRA's baseline protections legally ineffective.⁵⁰ When multiple laws provide different standards for what qualifies as illegal child exploitation, it allows for tactical defence arguments that obscure the criminal nature of trafficking, recharacterizing it instead as a permissible cultural or economic arrangement under older laws.

8.2 Uneven Protection Across the Federation

Because child protection falls under the residual legislative list in the Nigerian federal structure, the CRA 2003 does not automatically apply nationwide; instead, it requires individual state-by-state adoption. This has led to a highly fractured legal landscape where various State Houses of Assembly

⁴⁷ (1987) 2 NWLR (Pt. 54) 66.

⁴⁸ (1964) VR 778.

⁴⁹ (2004) AHRLR 205 (NgHC 2004)

⁵⁰ A. Bawa and M. Danjuma, 'Socio-Economic Realities and the Proliferation of Hazardous Child Labour in Sub-Saharan Africa' *African Journal of Legal Studies* [2024] 17(2), 112-135.



have either delayed adoption for decades, structurally modified the act to lower protective standards, or altered age thresholds to accommodate localized cultural or religious politics. The result is that a child's fundamental rights are determined by geographic location, leading to an uneven enforcement pattern where some states delay adoption or introduce sweeping amendments that dilute the core protective mechanisms of the original federal statute.

8.3 Jurisdictional Confusion in Courts

This legislative separation lacks a unified point of focus, creating unstable environments where conflicting definitions of what constitutes a child and permissive exemptions in older laws can be deliberately leveraged by criminal trafficking as permissible traditional apprenticeships or cultural raising. Furthermore, a deep division persists between NAPTIP, wielding full criminal police powers to track illegal transit, and the Federal Ministry of Labour and Employment, operating on a civil compliance model grounded in the outdated Labour Act.

8.4 Exploitation of the 'Light Work' Loophole

The Labour Act's exception for 'light work of an agricultural or domestic character' performed by the child for their own family creates a statutory shield for exploitative practices.⁵¹ This legislative ambiguity lacks precise boundary definition, effectively providing a statutory shield for exploitative practices under the guise of familial assistance. The Child's Rights Act 2003, which explicitly prohibits the engagement of children in hazardous or exploitative labour under Section 28, creates a jurisdictional conflict rather than a harmonious legal standard.

8.5 Criminalization of Children Instead of Protection

The fragmented definition of childhood also affects how children are treated within the criminal justice system. In some instances, children are treated as adults or young offenders rather than victims of exploitation. This misidentification further punishes the minor while allowing the actual perpetrators to operate with near-total administrative impunity.⁵²

8.6 Impact on Data Collection and Policy Formulation

The lack of a uniform definition of childhood hampers accurate data collection on child labour and trafficking. This, in turn, affects policy formulation and resource allocation. The absence of reliable statistical data on child labour and trafficking in Nigeria has been identified as a significant challenge to effective intervention.

8.7 Undermining International Treaty Obligations

⁵¹ Labour Act, Cap L1, LFN 2004, s. 59

⁵² C. Umeh, 'Barriers to Justice for Child Sexual Abuse Victims in Nigeria' *African Journal of Criminology and Justice Studies* [2021] 10(1), 102-117.



Nigeria's ratification of international instruments like the CRC and the ACRWC creates binding obligations to protect children. However, the fragmented domestic definition of childhood undermines the state's ability to fulfil these obligations. Nigeria's failure to provide uniform protection for children across the federation has been the subject of criticism by international human rights bodies. The African Committee of Experts on the Rights and Welfare of the Child has expressed concern about the inconsistent implementation of the CRA across Nigerian states.

9. COMPARATIVE INSIGHTS FROM GHANA AND SOUTH AFRICA'S UNIFIED DEFINITIONS

9.1 Ghana's Unified Definition: The Children's Act 1998

The 1992 Constitution of the Republic of Ghana approaches the themes of child labour and trafficking through a progressive framework of fundamental human rights designed to safeguard the vulnerabilities of children within a shifting economic landscape. A foundational element of this protective architecture is Article 28(5), which serves as the definitive interpretive engine for the entire article by stating verbatim that for the purposes of this article, 'child' means a person below the age of eighteen years.⁵³ This specific clause carries immense jurisprudential weight because it establishes a clear, uniform, and immutable age baseline for constitutional protection, removing any ambiguity that might be exploited by customary norms or commercial enterprises seeking to justify early labor or forced apprenticeships. By fixing the age of childhood strictly at under eighteen years, Article 28(5) harmonizes Ghanaian constitutional law with international standards like the United Nations Convention on the Rights of the Child.⁵⁴

The Children's Act of 1998 (Act 560) in Ghana applies to all children found within the territory of Ghana. Section 1 of Act 560 defines a child as 'a person below the age of 18 years.' Section 2 proceeds to state a welfare principle that 'the best interest of the child shall be paramount in a matter concerning a child.' The Act permits the engagement of children in labour but provides strict conditions for such engagements.⁵⁵ Ghana achieves regulatory harmony through its centralized Children's Act of 1998, which applies uniformly across all regions and traditional territories without requiring sub-national re-enactment, effectively blocking criminal networks from exploiting jurisdictional gaps.

9.2 South Africa's Constitutional Entrenchment: Section 28 of the 1996 Constitution

⁵³ Constitution of the Republic of Ghana 1992, Art. 28(5).

⁵⁴ P.K.B. Asamoah and others, 'The Use of Children in Cocoa Production in Sekyere South District in Ashanti Region, Ghana: Is this Child Labour or an Apprenticeship Training?' *International Journal of Agricultural Research, Innovation and Technology* [2018] 8(1), 38-43.

⁵⁵ Children's Act 1998, Act 560, ss. 1-2.



South Africa's constitutional and statutory framework via the Children's Act No. 38 of 2005 solidifies the under-eighteen definition but superimposes distinct legal thresholds regarding criminal and labor capacities. The South African Constitution elevates the 'best interests of the child' to a paramount principle governing every matter concerning the minor and guarantees immediate constitutional claims to basic nutrition, shelter, healthcare, and social services, bypassing the standard constitutional defense of progressive realization over time that applies to adults.⁵⁶ South Africa completely bypasses provincial fragmentation by writing child safety directly into Section 28 of its 1996 national Constitution, rendering child protection an unbending, universally applicable right insulated from regional political dilution. The constitutional mandate serves as the foundational lens through which all subsequent child labor and anti-trafficking statutes must be interpreted, establishing a strict boundary that explicitly prioritizes the well-being of the minor over economic interests or cultural justifications.⁵⁷

9.4 Lessons for Nigeria

The comparative models demonstrate the power of legislative uniformity. South Africa's constitutional entrenchment of child rights provides a powerful model for Nigeria. Section 28(1)(d) of the 1996 Constitution of South Africa explicitly guarantees every child the right to be protected from maltreatment, neglect, abuse, and degradation, elevating child protection to an inherent, unalterable constitutional right that cannot be diluted by any provincial government.⁵⁸ Ghana's Children's Act of 1998 applies uniformly across all regions and traditional territories without requiring sub-national re-enactment, effectively blocking criminal networks from exploiting jurisdictional gaps. This provides a vital lesson for Nigeria's fragmented legal landscape.

10. CONCLUSION

The intersecting crises of child labour and human trafficking in Nigeria are deeply rooted systemic failures that continuously widen the gap between progressive laws and the harsh realities children face every day. While Nigeria looks dedicated on paper having ratified international agreements like the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, alongside passing its own Child's Rights Act 2003 and the Trafficking in Persons Prohibition Act 2015 these legal promises often amount to little more than empty words. The core of the problem starts with how childhood itself is defined. The legal system is cluttered with a messy mix

⁵⁶ Constitution of the Republic of South Africa 1996, s. 28.

⁵⁷ E. Bonthuys, 'The Best Interests of Children in the South African Constitution' *International Journal of Law, Policy and the Family* (2006) 20, 23-4.

⁵⁸ S.M. Piate and others, 'Effectiveness of Laws Against Child Abuse: A Comparative Analysis Between Nigeria and South Africa' *Socialscientia Journal* [2025] 10(1), 125-139.



of statutory, customary, and religious laws that cannot agree on when a child actually becomes an adult. While the Child's Rights Act explicitly sets the age of maturity at eighteen, older, conflicting laws like the Labour Act 2004, the Children and Young Persons Act, and various regional penal codes offer loopholes with much lower age limits. Criminal networks easily exploit this confusion, allowing severe economic exploitation and human trafficking to hide behind the guise of traditional apprenticeships, family fostering, or cultural upbringing. The fragmentation of the legal regime is compounded by the socio-economic realities that drive the supply side of child labour across Nigeria's geopolitical zones. Widespread poverty, macro-economic instability, and the collapse of the public educational infrastructure function as structural catalysts that compel households to commodify child time. From a law and economics perspective, the decision of parents to withdraw children from formal education in favour of immediate income-generating activities is an expected, though tragic, response to systemic survival pressures. The statutory mandate for free and compulsory universal basic education, as articulated in the Universal Basic Education Act, remains largely non-justiciable and structurally unfulfilled in practice.

The legal definition of a child in Nigeria is neither uniform nor consistently applied. It is shaped by a multiplicity of legal instruments, ranging from federal statutes and regional laws to customary practices and international treaties. While the Child's Rights Act endeavours to standardize the definition at under eighteen years of age, its limited state-level adoption significantly hinders its effectiveness.

11. RECOMMENDATIONS

11.1 Constitutional Amendment: A Unified Definition of Childhood

The National Assembly must initiate a constitutional amendment to write a singular; unalterable definition of childhood explicitly fixed at under eighteen years of age directly into Chapter IV of the Constitution of the Federal Republic of Nigeria. Modelled directly after Section 28 of the Constitution of the Republic of South Africa, this amendment must introduce an explicit, paramount constitutional clause declaring that 'a child's best interests are of paramount importance in every matter concerning the child.

11.2 Statutory Harmonization

The National Assembly must repeal conflicting provisions in the Labour Act 2004, the Criminal Code, and the Penal Code that define a child at lower age thresholds. A consolidated Child Protection Act should be enacted that harmonizes all definitions and sets the minimum age for employment, criminal responsibility, marriage, and other legal capacities uniformly at eighteen years.

11.3 Overcoming the Non-Justiciability Barrier



The National Assembly must amend Section 6(6)(c) of the 1999 Constitution to make the Fundamental Objectives and Directive Principles of State Policy under Chapter II fully justiciable. Specifically, the state's obligations to provide free, compulsory basic education provided for under Section 18 and secure adequate livelihood and social security safety nets for vulnerable citizens provided for under Section 16, must be transformed into legally enforceable socio-economic rights.

11.4 Mandatory State-Level Domestication

To address the fragmented application of the CRA across the federation, the federal government should encourage or mandate all states to adopt the Child's Rights Act without modifications that dilute its protective provisions.

11.6 Establishment of Specialized Child Courts

Nigeria must expedite the establishment of specialized Family Courts and Child Courts across all states of the federation, as provided under the Child's Rights Act 2003. These courts must replace punitive juvenile justice frameworks with child-friendly justice systems designed around accessibility, privacy, and speedy resolution.

11.7 Public Awareness and Legal Literacy

The government must invest in public awareness campaigns to educate communities about the legal definition of a child and the rights of children under Nigerian law.