

UNICEF NIGERIA - FACT SHEET

Child rights legislation in Nigeria

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Background

On 20 November 1989, the United Nations General Assembly adopted the Convention on the Rights of the Child (CRC). Shortly afterwards, in July 1990, the African Union Assembly of Heads of States and Governments adopted the African Union Charter on the Rights and Welfare of the Child (CRWC). Nigeria signed both international instruments and ratified them in 1991 and 2000, respectively. Both instruments contain a universal set of standards and principles for survival, development, protection and participation of children and recognize children as human beings and subjects of rights.

Domestication of the Convention on the Rights of the Child: *the Child Rights Act 2003*

The Convention on the Rights of the child stipulates that “Member States shall undertake to disseminate the Convention’s principles and take all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention.”

A draft Child Rights Bill, principally aimed at enacting the principles enshrined in the CRC and the CRWC into law in Nigeria, was prepared in the early 1990s. It was only after some ten years, several heads of government and much debate among parliamentarians that the National Assembly passed the Bill into law in July 2003. It received the assent of the President of the Federal Republic of Nigeria, Chief Olusegun Obasanjo, in September 2003 and was promulgated as the *Child Rights Act 2003*.

Structure and content of the *Child Rights Act 2003*

The *Child Rights Act 2003* (CRA) incorporates all the rights and responsibilities of children; consolidates all laws relating to children into a single law; and specifies the duties and obligations of government, parents and other authorities, organizations and bodies.

Definition of a child

The *Act* defines a child as a person below the age of 18 years.

Basic provisions of the CRA

The CRA categorically states that the best interest of the child shall remain paramount in all considerations. A child retains the right to survival and development and to a name and registration at birth, and shall be given such protection and care as is necessary for his or her wellbeing.

The Act provides for freedom from discrimination on the grounds of belonging to a particular community or ethnic group, place of origin, sex, religion, the circumstances of birth, disability, deprivation or political opinion; and it states that the dignity of the child shall be respected at all times.

No Nigerian child shall be subjected to physical, mental or emotional injury, abuse or neglect, maltreatment, torture, inhuman or degrading punishment, attacks on their honor or reputation.

Every Nigerian child is entitled to rest, leisure and enjoyment of the best attainable state of physical, mental and spiritual health.

Every government in Nigeria shall strive to reduce the infant mortality rate, provide medical and health care, adequate nutrition and safe drinking water, hygienic and sanitized environments, combat diseases and malnutrition, and support and mobilize through local and community resources the development of primary health care for children.

There are provisions for children in need of special protection measures. These children shall be protected in a manner that enables them to achieve their fullest possible social integration and moral development.

Expectant and nursing mothers shall be catered for, and every parent or guardian with legal custody of a child under the age of two years shall ensure his or her immunization against diseases, or face judicial penalties.

Betrothal and marriage of children are prohibited.

Causing tattoos or marks as well as female genital mutilation are punishable offences under the *Act*; so also is exposure of children to pornographic materials, trafficking of children, their use of narcotic drugs, or the use of children in any criminal activities, abduction and unlawful removal or transfer from lawful custody.

Forced or exploitative labor—including employment of children as domestic help outside their own home or family environment—is also regarded as an offence.

Buying, selling, hiring or otherwise dealing in children for purpose of begging, hawking, prostitution or for unlawful immoral purposes are punishable under the Act and may carry a prison term.

Children’s responsibilities

The Act also confers responsibilities on children, which include working towards the cohesion of their families, respecting their parents and elders, contributing to the moral well-being of society, and strengthening social and national solidarity. The Act mandates parents, guardians, institutions and authorities in whose care children are placed to provide the necessary guidance, education and training to enable the children to live up to these responsibilities.

Child justice

The Act provides for a Child Justice Administration to replace the Juvenile Justice Administration which had been in existence for several decades in Nigeria. The provisions prohibit the subjection of any child to the criminal justice process, and guarantees that due process be given to any child subjected to the child justice system, at all stages of investigation, adjudication and disposition of any case against such a child. It prohibits the use of capital punishment, use of imprisonment and use of corporal punishment for children less than 18 years of age. These are all novel provisions, as no such prohibition existed under previous legislation on children, the Children and Young Persons Act (CYPA).

The Act explicitly states deprivation of liberty as a measure of last resort. Children’s residential centres and children’s correctional centres are to be established to replace Borstal institutions, the approved schools and remand homes created under the *Borstal Institutions and Remand Centres Act* Cap 38, Laws of the Federation of Nigeria, 1990. When the court decides against institutionalization, it should utilize such disposition measures as dismissing the charge, placing the child under care, guidance and supervision which is now a replacement for probation and probation officers. The Act also discourages institutionalization of pregnant girls. But where institutionalization is unavoidable, it mandates the establishment of special centres for mothers.

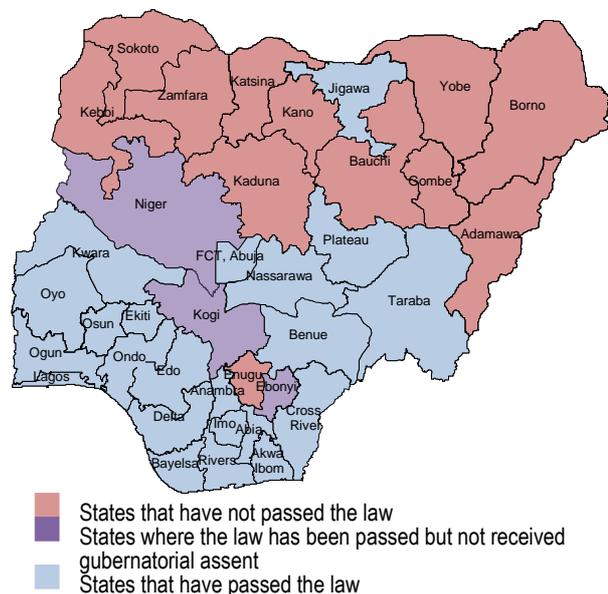
Children living under difficult circumstances

To support the principle of creating institutions for servicing the needs and welfare of children living in difficult circumstances, like orphans, street children and children with physical disabilities, the Act contains provisions for the establishment, registration, regulation and monitoring of those institutions. The Act stipulates supervisory functions and responsibilities of the Ministry

which include monitoring, provision of financial support, and research and reporting on activities of these homes.

Domestication at state level

The provisions of the Act supersede all other legislation that has a bearing on the rights of the child. Having been enacted at the national level, the states are expected to formally adopt and adapt the Act for domestication as state laws: Issues of child rights protection are on the residual list of the Nigerian Constitution, giving states exclusive responsibility and jurisdiction to make laws relevant to their specific situations. State laws inimical to the rights of the child are also to be amended or annulled as may be required, to conform to the Act and to the CRC.



The *Child Rights Act 2003* has been promulgated into law (passed by the state assembly and assented to by the state governor) in 24 states: Abia, Akwa-Ibom, Anambra, Benue, Cross River, Delta, Ebonyi, Edo, Ekiti, Imo, Jigawa, Kwara, Lagos, Nassarawa, Ogun, Ondo, Osun, Oyo, Plateau, Rivers, Niger, Bayelsa, Kogi and Taraba.

Adamawa, Bauchi, Borno, Enugu, Gombe, Kaduna, Kano, Katsina, Kebbi, Sokoto, Yobe and Zamfara do not yet have a law conforming to the *Child Rights Act 2003*.

For further information

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