CHILD RIGHTS PROTECTION IN NIGERIA AND THE UNITED KINGDOM: LESSONS FOR NIGERIA*

Abstract
Children are a very important part of the society and thus, their rights should be protected and they should be treated with dignity and care. Violation of children’s rights has negative consequences on them and they can hardly contribute meaningfully to the development of the society. This paper thus seeks to provide a comparative overview of the protection of the rights of children in Nigeria and United Kingdom (UK). The legal frameworks which are existent in Nigeria and the UK will be explored, together with evaluating the practical steps that have been put in place to protect the rights of children. To achieve these objectives, primary sources such as statutes and judicial decisions and secondary sources such as books and journal articles will be employed. The paper recommends that Nigeria needs to develop its practical response to the protection of the rights of children by taking steps such as establishing sex offender treatment programmes and sex offender prevention orders, amending laws, collating sufficient data on children and a proper enforcement of laws, following UK’s example.

Key words: Children, Nigeria, United-Kingdom, Rights, Child Protection

1. Introduction
The United Nations Convention on the Rights of the Child 1989 (UNCRC) states that all members of the family, including children, have equal and inalienable rights. Human Rights are those basic rights which all persons everywhere and at all times equally have by virtue of their status as human beings. Thus, States parties to the UNCRC are expected to take appropriate measures to protect children from all forms of physical or mental violence, injury or abuse, neglect and exploitation. There is a need to protect the rights and welfare of children because they need special safeguard and care by reason of physical and mental immaturity.

Child protection issues are a key concern in Nigeria as various rights are being violated daily. Children are entitled to rights such as; the right to life, human dignity, right to be free from violence, torture and abuse, right to freedom from discrimination, right to freedom from harmful cultural practices, freedom of thought, conscience and religion, survival and development, among others. According to the United Nations Children

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2 Article 19, United Nations Convention on the Rights of the Child
Funds (UNICEF), ‘millions of children worldwide from all socio-economic backgrounds, across all ages, religions and cultures suffer violence, exploitation and abuse every day.’ Many children work to support their family’s income and are frequently exposed to dangerous and unhealthy environments for little pay. Harmful cultural practices such as Female Genital Mutilation (FGM) and early marriages are also prevalent in Nigeria. These forms of abuse have frightening consequences on children, both in the short and long term. In an effort to alleviate the violence and abuse perpetrated on children, a number of laws have been enacted both at the national and regional level in Nigeria. The UK as well, has a myriad of laws that cover child protection issues and also has a strong tradition of providing welfare services, through legislation and guidance, regulation and inspection. Their mode of operation and laws that have been enacted in protecting children will thus be compared with that of Nigeria. This paper will examine the legal framework that has been enacted to protect the rights of children in Nigeria and the UK. Thereafter, the study will analyse the practical response to the protection of children in both Nigeria and the UK, and based on such comparison between both jurisdictions, the gaps will be pointed out.

2. The Legal Framework for the Protection of the Child in Nigeria and the United Kingdom

2.1. Protection of the Child under Matrimonial Laws
The Matrimonial Causes Act\textsuperscript{7} and the Marriage Act\textsuperscript{8} are the two main pieces of legislation that deal with matrimonial issues in Nigeria. Section 71(1) of the Matrimonial Causes Act raises two main principles on issues concerning custody of children from a statutory marriage, namely, the interest of the child being of paramount consideration, and the discretion of the court. Thus, the best interests of the child should be the paramount consideration and in looking at the best interest of the child, the court will take into consideration relevant factors like wishes of the child, age and sex of the child, medical and psychological factors, adequacy and arrangement for the child, among others.\textsuperscript{9} Courts also have the discretion to make orders in respect of the custody, welfare, guardianship, advancement or education of the child as it deems fit. Also the Matrimonial Causes Act\textsuperscript{10} makes provisions for the rights of the child in adoption

\textsuperscript{7} Cap M7 LFN 2010
\textsuperscript{8} Cap 220, LFN 2010
\textsuperscript{9} E I Nwogugu, Family law in Nigeria (2\textsuperscript{nd} edn, Ibadan: Heinemann Books Plc, 2006) p. 251
\textsuperscript{10} MCA, Cap M7 LFN 2010 s. 69
matters. Section 70 of the Matrimonial Causes Act confers on the High Court, on appropriate application, the power to make orders for two types of maintenance; maintenance per se and maintenance pending the disposal of proceedings in favour of a spouse or children of the marriage. In awarding a maintenance order to the spouse or children of the marriage, the court considers circumstances like the means of the parties, earning capacity of the parties, conduct of the parties to the marriage and all other relevant circumstances.\textsuperscript{11}

In the UK, the Family Law Act 1996 makes provisions for the welfare of the child and section 11 states that in any proceedings for divorce or separation, the court shall treat the welfare of the child as paramount. In making that decision, the court shall also have regard to the wishes and feelings of the child considered in the light of his age and understanding. However, part 2 of the Family Law Act 1996 which has not already been brought into force, and related provisions have however been repealed with the exception of section 22.\textsuperscript{12}

Also, the Adoption and Children Act 2002 regulates domestic and inter country adoption. Section 118 introduced a new statutory role of Independent Reviewing Officer (IRO) with responsibility for the process of reviewing looked after children’s cases. Regulations require IROs to ensure that the views of children and young people are understood and taken into account. Adoption Support Agencies (ASAs) were introduced by the Adoption and Children Act 2002.\textsuperscript{13} The Adoption and Children Act 2002 has been repealed by the Children Adoption Act 2006. Part 1 of the Act provides for orders with respect to children in family proceedings; part 2 deals with adoptions with a foreign element; and part 3 deals with miscellaneous and final provisions. The Child Maintenance and Other Payments Act 2008 also protects the rights of the child in respect of maintenance in the UK.

The Children’s and Families Act 2014 was given royal assent on the 13 March, 2014. This Act seeks to give better support for children whose parents are separating and a new system to help children with special educational needs and disabilities. Part 1 of the Act deals with adoption and it encourages fostering for adoption which allows approved adopters to foster children while they wait for court approval to adopt. Prospective adopters can also search the adoption register themselves so that they can identify children they may want to adopt, subject to safeguarding checks. All these provisions allow for a speedy adoption process. Part 2 ensures that the welfare of children is at the heart of the family justice system. It alleviates the negative effects the court system brings

\textsuperscript{11} MCA s. 70(2)  
\textsuperscript{13} Ibid
by ensuring mediation is considered by parties considering divorce. The welfare of children is included in part 5 with provisions for better support for children with medical conditions, a requirement for state funded schools to provide free school lunches for year one and two children from September 2014, bans smoking in cars containing passengers under 18 years, among other provisions. Children can also choose to stay with their foster families until they turn 21 years. Provisions were also made for the role of the children’s commissioner for England, children with special educational needs and disabilities, child care and parent’s rights. Thus, both the UK and Nigerian legal regimes hold in high esteem the principle that the best interest of the child should be paramount in matters concerning them. However, provisions such as supply of free lunches, cigarette bans are absent in the Nigerian law.

2.2. Protection of the Child from Sexual Abuse

The Criminal Code and Penal Code are the major laws that deal with offences in Nigeria. The Criminal Code applies to the southern parts of the country while the Penal Code is applicable in the northern areas. The Criminal Code has many provisions dealing with the protection of children from sexual abuse in Nigeria. Section 222(a) of Criminal Code provides that it is an offence punishable with two years imprisonment for a person to encourage the unlawful carnal knowledge or prostitution of a girl under the age of 16 years of whom he is in charge of. Section 362 of Criminal Code provides that any person who unlawfully takes an unmarried girl under the age of 16 years out of the custody or protection of her father or mother and against their will is liable to imprisonment for two years. Other provisions relate to the offence of infanticide, killing an unborn child, concealing the birth of children, and abortion, among others. In 2015, the Nigerian Senate passed a Sexual Offences Bill which prescribes life imprisonment for rapists and those who have sexual intercourse with children under 11 years. It also makes provisions for a wider range of sexual offences such as gang rape, deliberately infecting partners with HIV and other diseases, child sex tourism, incest, indecent exposure, prostitution of persons with mental disabilities, among others. The Bill has however been criticized because of the age limit of the victims of defilements which was set as 11 years as opposed to the provisions of the Child Rights Act 2003, which defines a child to be someone who has not attained the age of 18 years.

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15 Cap C38 LFN 2004
16 Cap 53, LFN 2004
17 Criminal Code 2004 s. 341
18 Criminal Code 2004 s. 327a
19 Criminal Code 2004 s. 328
20 Criminal Code 2004 s 22
Children are protected against sexual offences in the UK by virtue of the Sexual Offences Act 2003 thus repealing the 1956 Sexual Offences Act. Part 1 of the Sexual Offences Act 2003 extends to only England and Wales with the exception of Sections 15, 24, 46-54, 57-60, 66-72, 78 and 79 which extends to Northern Ireland. Part 2 of the Act extends to England, Wales, Northern Ireland save for sections 93 and 129, which applies to Scotland. The Act defines a child as someone below the age of 18 years, and not 16 years as in the 1956 Sexual Offences Act. The Sexual Offences Act 2003 includes a number of new offences with strict penalties, and for the first time differentiates between children and young people, with harsher penalties of up to life imprisonment incurred for those exploiting children under the age of 13 years. A new offence of ‘commercial exploitation of a child’ protects children less than 18 from exploitation through prostitution and pornography. Other offences like exposure, voyeurism, intercourse with an animal, sexual penetration of a corpse, sexual activity in a public lavatory were also included in the Act. The Sexual Offences (NI) Order 2008 and the Sexual Offences (Scotland) Act 2009 introduce similar offences for Northern Ireland and Scotland. The Sexual Offences Act 2003 (Remedial) Order 2012 amends the Sexual Offences Act 2003 to allow sex offenders who are subject to notification requirements for life to apply for those requirements to be reviewed.

The UK Sexual Offences Act 2003 may be compared with the Nigerian Criminal Code in because they both deal with sexual offences against children. A distinct difference is that the Criminal Code is wider as it deals with various criminal offences ranging from murder, homicide, robbery, conspiracy, to rape, defamation, bigamy, child offences, unlike the Sexual Offences Act which only deals with sexual offences. Furthermore, notification orders, risk of sexual harm orders and foreign travel orders which have been provided for under the Sexual Offences Act are absent in the Criminal Code. The punishment for rape is however the same under both legislation. Also, under both legislation, the perpetrators of sexual exploitation of children under 13 years are punished with a sentence of life imprisonment.

### 2.3 Protection of the Child under Labour Law

The Labour Act is the major Act that protects children from child labour in Nigeria. Section 33(1) (e) of the Labour Act provides that no citizen below the age of 18 years shall be employed. An exception is where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character approved by the minister. Also, a child shall not be required to lift, carry or move anything so heavy as

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21 Gov.UK, (n. 14)
22 Sexual Offences Act 2003 s. 6(2)
23 See Criminal Code s. 218 and Sexual Offences Act, 2003 s. 1(4) where the punishment for rape is life imprisonment.
24 Cap. L1 L.F.N 2004
25 Labour Act s. 59(1)
to be likely to injure his physical development. Section 49(1) prevents child slavery and exploitation by stating that young persons shall not be under apprenticeship for more than five years. It has also been provided that a young person under the age of sixteen years shall not be employed to work underground, on a machine or on a public holiday. Other provisions as stated in the Labour Act includes prohibition of children being employed at night, employment in a vessel, restriction on the number of working hours, among others. Where an employer contravenes the above provisions as regards employment of children, he and the parent or guardian of the young person who permitted him to be employed shall be guilty of an offence and on conviction, shall be liable to a fine not exceeding one hundred naira.

The UK also seeks to protect children from labour through the Children and Young Person Act 1933. The CYPA 1933 like the Nigerian Labour Act supports light work to be the only form carried out by children. Section 18 of the Act provides that no child shall be employed so far as he is under the age of fourteen years or shall not be employed to do any other work apart from light work. Section 20 of the Children and Young Persons Act 1933 prohibits the employment of any person under the age of 15 in street trading, but authorises local authorities to make bye laws permitting children who have attained the age of 14 to be employed by their parents in such activity, subject to restrictions governing times, dates and places. Also, school children are prohibited from undertaking employment in industrial occupations by the Employment of Women, Young Persons and Children Act 1920. The Apprenticeships, Skills, Children and Learning Act 2009 was also created to provide for the apprenticeship and training of children over compulsory school age so as to ensure that their rights are not trampled upon during the period of their training.

2.4. Protection of the Child under the Nigeria’s Child Rights Act 2003 and UK Children’s Act 2004
The Nigerian Federal Government enacted the Child's Rights Act (CRA) in December 2003. This legislation was adopted to implement principles enshrined in international instruments, including the 1989 Convention on the Rights of the Child (CRC) and the 1990 African Union Charter on the Rights and Welfare of the Child (CRCW), which

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26 Labour Act s. 59(1)(b)
27 Labour Act s. 59(1)(5)
28 Labour Act s. 60(1)
29 Section 61(1) (a &b), an exception is where the vessel is a school or training vessel and the work on which the young person is employed is of a kind approved by the minister and supervised by a public officer. See also, Section 59(7)
30 Labour Act, s. 59(8)
31 Section 64(1)
32 See also Children and Young Persons Act 1963 s. 35
Nigeria ratified in 1991 and 2000, respectively.\(^{33}\) Having been enacted at the National level, the states are expected to formally adopt and domesticate such laws.\(^{34}\)

In the UK, the Children Act 1989 was introduced to achieve a better balance between protecting children and enabling parents to challenge state intervention, to encourage greater partnership between statutory authorities and parents and to restructure the framework of the courts to facilitate management of family proceedings. Following the death of eight-year old Victoria Climbie in 2000, the Victoria Climbie Inquiry report\(^{35}\) was conducted under the chairmanship of Lord Laming which led to the ‘keeping children safe’ report and the ‘every child matters green paper’,\(^{36}\) which in turn led to the Children Act 2004. The Act establishes a children’s commissioner for England and makes that commissioner responsible for non-devolved matters relating to children in Wales, Scotland and Northern Ireland.\(^{37}\) The commissioner can only carry out formal investigations on the direction of the secretary of state and it also allows the secretary of state the power to withhold subsequent reports.\(^{38}\) The Act also provides the Secretary of State with the power to set up a new database with information about children.\(^{39}\) The purpose is to facilitate information sharing where there are concerns about a child’s safety or wellbeing. Private fostering, child minding and day care, adoption review panels, grants in respect of children and families and child safety orders have also been provided for.\(^{40}\)

The Children Act, 1989 and 2004 can be compared to the Child Rights Act, 2003 in Nigeria. Both legislations are similar in many ways. For example; provisions relating to community homes, care and supervision orders which are provided for in the Children Act are also present in the Child Rights Act. The UK Children Act and the Child Rights Act, 2003 both makes provisions for parental responsibility which replaced the principle of parental rights. In both the Child Rights Act, 2003 and the Children Act 2004, the welfare of children must be the paramount consideration when the courts are making decisions about them. Child assessment, emergency protection orders and interim orders


\(^{37}\) Children Act, 2004 s. 1

\(^{38}\) Children Act 2004 s. 2-9

\(^{39}\) Children Act 2004 s. 12

\(^{40}\) Children Act 2004 s. 44-50
are provided for in both Legislations. Community homes and day care centres also exist in both legislations. The Children Act 2004 however, applies in separate sections to England and Wales and also provides that the Government must publish a report on the Act every five years and provide statistics as to its application.

3. Practical Response to the Protection of the Rights of Children in Nigeria and UK

Despite the plethora of Laws that exist to protect the rights of children in Nigeria, child abuse in Nigeria is still prevalent. Different stories about how children are abused abound daily in the newspapers and television stations and this is evidence that child exploitation is not a thing of the past. Laws protecting children are also existent in the UK. However, child exploitation is not as predominant as it is in Nigeria. The question is; what is the practice and procedure adopted by the UK that makes the spate of child exploitation in the UK less frequent than it is in Nigeria? These will be explored below as follows.

3.1. Sex Offender Treatment Programmes

A distinct feature between UK and Nigeria in terms of child rights is that the UK has made provisions for sex offender treatment programmes for sex offenders. Sex offenders are seen by many to be one of the most serious types of offenders especially as regards children. Dangerous offenders released without treatment pose a risk of committing the same offence again. The sex offender treatment programmes are created under Section 97 and section 104 of the Sexual Offences Act, 2003 and are available both in prisons and in the community. It is not compulsory to participate in a programme while in custody, but programmes in the community can be a mandatory requirement where a Pre-sentence Report Writer has made a recommendation and commented on the suitability of the offender for such requirement. Behavioural treatment is aimed at teaching offenders to control or modify their deviant sexual arousal and fantasies and to develop appropriate

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41 Children Act 1989 part VI and Child Rights Act 2003 part XVI
43 A man, Daniel Robinson who tried to film a 12-year-old girl when she went to the bathroom at his home was ordered to take part in a sex offender treatment programme. In addition he was ordered to register as a sex offender for five years and also imposed a ten year sexual offences prevention order. The order bans Robinson from doing any paid or unpaid work which could bring him into contact with children or sleeping in any house where there is a girl under the age of 16; Court Reporter. ‘Pervert tried to Film Girl in Bathroom’ (2010) <http://www.therugbyobserver.co.uk/2012/03/13/news-pervert-tried-to-film-girl-in-bathroom-32700.html> accessed on 13 July 2014
fantasies as a substitute, which will enhance self-control.\textsuperscript{45} Nigeria however has not made provisions for such programmes in its laws.

\subsection*{3.2 Amendments}
In the UK, laws are amended frequently to reflect changing circumstances and values in the society. For example; the Female Genital Mutilation Act 2003 repeals and re-enacts the 1985 Act. The Children Act 2004 has also repealed the 1989 Children Act which in turn had replaced other legislations which were formally in place like the Guardianship of Minors Acts 1971 and 1973, the Children Act 1975, the Child Care Act 1980 and the Children and Young Persons (Amendment) Act 1986 together with those provisions of the Children and Young Persons Act 1969. The Sexual Offences Act 2003 replaced the 1956 Sexual offences Act and brought many reforms to sexual offences in UK. It changed the definition of a child from 16 to 18 years and provides for new offences with strict penalties.\textsuperscript{46} However in Nigeria, laws which especially cover issues relating to children and the family as a whole, are not repealed and amended as frequently as it is practiced in the UK. This is often reflected in the backward penalties which are stated in the laws and which in modern times, is not enough to discourage crimes from being committed against children.\textsuperscript{47} For example, the Child Rights Act which was enacted since 2003 has not been revised yet.

\subsection*{3.3. Sex Offenders’ Orders}
There are a number of orders and requirements relevant to those convicted of sexual offences in the UK especially in respect of the ones committed against children. The rationale behind these orders is to further protect children from sex offenders.\textsuperscript{48} Some of these orders are as follows;

\subsubsection*{3.3.1. Sex Offenders’ Register}
This is used for risk management by local authorities and other statutory agencies to indicate that an individual may pose a risk to children. It follows automatically on conviction or caution for a sexual offence. The register contains the details of anyone convicted, cautioned or released from prison for sexual offence against children or adults

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\textsuperscript{46} E Chase & J Statham ‘Commercial Sexual Exploitation of Children and Young People in the UK – a Review’ (2005) 14 Child Abuse Review, 4
\textsuperscript{47} For example; Section 222(b) Criminal Code states that whoever, having the custody, charge or care of a child or young person who has attained the age of 16 years, allows that child or young person to reside in or frequent a brothel shall be liable to a fine of one hundred Naira or to imprisonment for 6 months or to both fine and imprisonment.
\end{flushright}
since September 1997 when it was set up. Under the Sex Offenders Act 1997, as amended by the Sexual Offences Act 2003, all convicted sex offenders must register with the police within three days of their conviction or release from prison. This is monitored by the police who receive notification from the courts following conviction, and also the prisons and probation service, following an offender’s release into the community. Failure to register is an offence which can carry a term of imprisonment. Section 87, Sexual Offences Act, 2003 provides for periodic notification requirements stating that all those on the sex offenders register should confirm their details in person annually. Also, notifications must be made by the secretary of state in respect of offenders who leave the UK and subsequently upon their return. Persons who have been convicted of sex offences overseas should also register as sex offenders when they come back to the UK. The Violent Crime Reduction Order 2008 empowers police officers to search a relevant offender’s home address and access the risk he poses to children around him.

3.3.2. Sexual Offences Prevention Orders

Sex offender orders and restraining orders have been combined into a new civil preventative order called Sexual Offences Prevention Order. This order may be made against any qualifying offender as defined under section 106 (6) (7) of the 2003 Act. It contains any prohibition on an individual doing any of the things stipulated in the order. These might include having unsupervised contact with anyone under the age of 18, being present in certain places like schools or play parks or accessing the internet. Any prohibition needs to be justified in relation to the risk posed by the individual and must be capable of being supervised effectively.

3.3.3. The Child Sex Offender Disclosure Scheme

The scheme is designed to allow parents, carers and guardians to formally ask the police to inform them if someone who has regular contact with their children has a record for child sexual offences. The scheme operates across England and Wales and was launched in 2008. Disclosures will only be made to those who have responsibility for the child or children in question and penalties exist for anyone who passes disclosed information

50 See Sex Offenders Act 1997 s. 2 and Sexual Offenders Act 2003 s 83
52 See Sexual Offenders Act 2003 s. 85
53 Violent Crime Reduction Act 2006 s. 58
54 Crime and Disorder Act 1998 s. 2
55 Sex Offenders Act 1997 s. 5
56 Section 107(1) (a)
57 R v Hemsley [2010] 3 ALL ER 965
58 Gov.UK, (n.14)
onto third parties or who uses the information for any reason other than the protection of children.\textsuperscript{59}

\subsection*{3.3.4. Foreign Travel Orders}
They were designed to prevent certain individuals with convictions for sexual offences against children from travelling abroad where a potentially high risk of sexual harm was identified. The court may make a foreign travel order if it is satisfied the defendant’s behaviour makes it necessary to make such an order, for the purpose of protecting children from serious sexual harm from the defendant outside the UK.\textsuperscript{60} When imposed, they prevent the individual subject to the order from overseas travel for a period of six months.\textsuperscript{61}

\subsection*{3.4. National Legal Framework on Female Genital Mutilation}
In the UK, extensive provisions have been made as regards the prohibition of Female Genital Mutilation across the country. The Female Genital Mutilation Act, 2003 applies to England, Wales and Northern Ireland while the Prohibition of Female Genital Mutilation Act, 2005 applies to Scotland. Previously, the UK Government passed the first law on FGM in 1985 called the Prohibition of Female Circumcision Act 1985 which made genital mutilation illegal. The Female Genital Mutilation Act 2003 repealed the 1985 Act. The 2003 Act has a number of benefits over its predecessor; first, the Law gives extraterritorial effect to the existing provisions and thus closes the loophole of the 1985 Act. Thus, it is an offence for a UK National or resident to carry out FGM abroad, even in countries where the practice may be legal. These prohibitions are not absolute, and both Acts permit surgical and obstetric procedures that may fall within these categories if they are carried out by an appropriately registered practitioner either during childbirth or for the physical or mental health of the patient.\textsuperscript{62} Also, the Act increases the maximum penalty for performing and procuring FGM from 5 to 14 Years imprisonment.\textsuperscript{63} In 2011, the government issued comprehensive multi-agency guidelines on female genital mutilation for England and Wales, with the aim of preventing further incidents of female genital mutilation, ensuring that victims and potential victims receive the support they need and providing practical guidance to sensitively handle cases of FGM.\textsuperscript{64}

\begin{itemize}
  \item \textsuperscript{59} Ibid
  \item \textsuperscript{60} Sexual Offences Act, 2003 s. 114 and 115
  \item \textsuperscript{61} See s. 117(1)
  \item \textsuperscript{62} World Health Organization, ‘Female Genital Mutilation: Caring for Patients and Safeguarding Children’ (2011) \textltt{<http://www.fgmnationalgroup.org/documents/literature_bma.pdf>} accessed on 5 January 2016
  \item \textsuperscript{63} See Female Genital Mutilation Act 2003 s. 5(a)
  \item \textsuperscript{64} World Health Organization, ‘Female Genital Mutilation: Caring for Patients and Safeguarding Children’ (2011) \textltt{<http://www.fgmnationalgroup.org/documents/literature_bma.pdf>} accessed on 5 January 2016
\end{itemize}
In 1994, Nigeria joined other members of the 47 World Health Assembly to resolve to eliminate FGM. To achieve this aim, several steps have been taken such as; establishment of a Multi-Sectoral Technical working group on Harmful Traditional Practices (HTPs), conduct of various studies and national launching of a regional plan of action and formulation of a national policy and plan of action which was approved by the Federal Executive Council. However, there is currently no Federal Law on Female Genital Mutilation in Nigeria and advocates against the practice presently rely on Section 34(1) (a) of the 1999 Constitution and section 11(b) Child Rights Act, 2003, which states that ‘no person shall be subjected to torture or inhuman or degrading treatment’. However, some states of the Federation including Lagos, Osun, Ondo, Ogun, Ekiti, Bayelsa, Edo, Cross river and Rivers have enacted FGM laws although implementation has been stated to be a huge challenge.

3.5. Protection of the Rights of the Child during Evidence

In Akintola and Anor v Salano, the Supreme Court of Nigeria defined evidence as the means by which the truth of any fact which is submitted to investigation may be established or disproved. The experience of an adversarial cross-examination could be stressful for children and they are often very distressed by seeing the defendant. Also, children find it embarrassing to have to tell their tale in front of the general public. Thus, in England, some procedures have been devised to protect children while giving evidence. For example, in some cases, a child could give evidence in advance of trial where a justice of peace is satisfied that attendance before a court of any child would involve danger to his life or health. Others include suppressing the presence of the accused person so that the child is not oppressed by the defendant’s physical presence. For example, a television link can be used to enable the child to give evidence from an adjoining room or the accused person can be removed from the court while the child gives evidence. Screens and live video links could also be used. In the case of X, Y and Z, the court held that screens are not to be used automatically and the judge is required to balance the risk of the children being too distressed to give evidence against the risk of possible prejudice against the accused. Also, the formality of the courtroom could be reduced in the sense that the court could dispense with wigs and gowns, permit a relative

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67 [1986] 2 NWLR (pt 24) 598 2


70 Children and Young Persons Act 1933 s. 42 and 43

71 (1990) 91 CR App R 36
to sit with the child while giving evidence or clearing the court.\textsuperscript{72} The Nigerian Child Rights Act, 2003 have also established the family court for the purposes of hearing and determining matters relating to children.\textsuperscript{73} Also, a child giving evidence is enjoined to give his or her evidence in private as only officers of the court, solicitors, parties to the case and the child’s parents are allowed entry inside the court. The name, school, address and photograph of the child must also not be published.\textsuperscript{74} However, the other precautions like television links, giving evidence from an adjoining room were not provided for under the Act.

3.6. Surveillance and Electronic Data
In respect of child rights and protection, electronic and surveillance data can be defined as a process whereby information on children in regard to different areas of their lives are collected, analysed and stored for future use in order to protect the children’s rights. According to Pithouse \textit{et al.},\textsuperscript{75} the primary aim of databases is to promote better outcomes for children through the development of a culture of assessment, information sharing and earlier intervention amongst child welfare practitioners. The surveillance that applies to children and young people in the UK include Contact Point, the Integrated Children's System, the Information Sharing Index, the National Childhood Obesity Database, the National Pupil Database, the Child Benefits Database, the Electronic Prescription Service, the Tax Credits Database, the NHS central data, Spine, ONSET, the DNA database and asset, among others.\textsuperscript{76} Data can be collected in the context of any number of sectors, but most often these are social, health and judicial services.\textsuperscript{77} In Nigeria, data is available in some respects, for instance the Child Rights Act, 2003 provides for an Adopted Children Register for the purpose of recording entries relating to the adoption of children.\textsuperscript{78} Data is also mostly available in respect of medical and birth records in hospitals but they need to be improved and extended to include other areas which could affect the child to enable regular monitoring of national laws and policies relating to child rights and protection.

4. Conclusion and Recommendations
Violation of the rights of children has adverse effects on the future of a child and this calls for urgent attention. A lot has been done over the years in Nigeria but more effort

\textsuperscript{72} J R Spencer and R Flin, (n. 69)
\textsuperscript{73} Child Rights Act 2003 s. 149
\textsuperscript{74} Child Rights Act 2003 s. 156 and 157
\textsuperscript{76} L Wrennall, ‘Surveillance and Child Protection: De-mystifying the Trojan Horse’ (2010) 7 \textit{Journal of Surveillance and Society}, 313
\textsuperscript{78} Child Rights Act 2003 s. 142(1)
has to be geared towards the problems that the children face in our societies. Nigeria would therefore need to learn one or two things from UK’s practical response to the protection of children from abuse. This would definitely not be easy because UK is more advanced and has a more sophisticated and developed system of government. However, much can still be achieved with the right amount of political will and a favourable disposition to children and their welfare.

It is therefore recommended that laws which provide for the protection of the child should be amended for the purpose of making it more effective. Also, jail terms are not sufficient for adults who violate children because after they have served those terms, they will be released back to the community and often times, still pose a great risk to the children in the society. Thus, Nigeria needs to make statutory provisions for sex offender treatments to prevent a re-occurrence of such crimes. The passage into Law of the Sexual Offences Bill in Nigeria will bring into effect some provisions which mandates dangerous offenders to be rehabilitated, provides a register for them and prevents them from taking up some jobs in Nigeria, which will be a great achievement. The government can engage in collaborative efforts with private organizations, healthcare providers and religious houses who can provide experts in related fields to help child sex offenders overcome their problems.

Furthermore, data should be collected to assess the situation of children across the country, both at national and local level. The Child Rights Act, though enacted in 2003 has not been adopted by all the States in the Federation. Every State Legislature should enact the Child Rights Law following the model of the Child Rights Act 2003. It is an important step which is the evidence that the rights and welfare of children is being taken seriously. Also, people should be educated on the existence of the Child Rights Act and its provisions. The public should be made aware of the negative impacts of cultural practices such as FGM and child marriages to the health of children so that such practices will be stopped and a National legal framework prohibiting female genital mutilation should be enacted.