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RESEARCH ARTICLE

**RELIGIONS AND LEGAL REGIMES
FUNCTION IN THE PROTECTION OF
CHILDREN**

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ABSTRACT

Religion provides the basis for the protection of human rights, namely, the right to life, the dignity of the human person, and right to property, among others. Without prejudice or disrespect to other religions, this paper focuses on Christianity religion and its provisions that protect the rights of children considering their vulnerability. This research emphasized that the Holy Bible contains measures to safeguard, protect and ensure the good as well as the proper upbringing of children. Similarly, the United Nations Convention on the Rights of the Child 1989, OAU Charter on the Rights and Welfare of the Child 1990 and the Nigerian Child Rights Act, 2003 provide for the protection of rights of children. The essence of these provisions is to ensure the smooth running of society and the betterment of humanity. This paper, therefore, examines the salient provisions of the Holy Bible and legal regimes to safeguard and protect the rights and interests of children. It concludes by highlighting the significant role of laws in the protection of the rights of children. It also shows that religion

plays a pivotal role in protecting the interests of children by instilling in members of the society, the needed respect for humanity and morality, which is mostly lacking in the modern era. It recommends, among other things that, government at all levels as well as religious leaders, should give priority attention to the protection of children.

Keywords: Child; Human rights; Christianity; Religion; Rights of Children

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INTRODUCTION

Many religions have provided the foundation and basis for human rights, mutual respect and cooperation, morality, and peaceful co-existence in the society.¹ There are many religions around the world namely, Islam, Hinduism, Christianity, Buddhism, Judaism, among others.² They are of varying sizes and influence and divided into denominations, congregations, tribes, faith groups, movements and religious bodies.³ They also have special provisions and measures to safeguard and protect the interests of the

¹ M.M. ALI KHAN, *Rescuing the First ones to be Harmed and the Last ones to be Heard: Big Three Divine Religions and the Rights of the Children*, (2019) 1 *J. LAW & SOC. POLICY*, 69 (2019).

² *Id.*, at. 70.

³ *Id.*, at. 71.

vulnerable groups namely, children, women, and the elderly ones.⁴ For this paper, the discourse will, without prejudice to other religions, be limited to Christianity religion.

God's anger is provoked when a child's life is needlessly or deliberately taken and indicates to us how precious the lives of children are to God. "The people of Israel and Judah have provoked me by all the evil things they have done... they built high places for Baal in the Valley of Ben Hinnom to sacrifice their sons and daughters to Molek, though I never commanded —nor did it enter my mind — that they should do such a detestable thing and so make Judah sin."⁵ Similarly, women are to be honoured, protected and treated with respect because they are weaker vessels.⁶ It is worthy of note that, the Holy Bible having described women as weaker vessels who deserve protection further clarifies that the vulnerability of women has nothing to do with inferiority.⁷ For the protection of the elderly, the Holy Bible in the book of Isaiah says "Even to your old age I will be the same, and even to your graying years I will bear you. I have done it, and I will carry you, and I will bear you and I will deliver you."⁸ The Holy Bible also emphasise the dignity of humanity and life, morality, responsibilities and according respect/honour to one's parents, among others. For example, the Bible speaks out against the mistreatment of children such as instances when children were sold as slaves or traded like commodities in the Bible. "They traded boys for prostitutes, and they sold girls for wine to drink."⁹ The protection of children from violence, ensuring the overall well-being of children, are some of the salient tenets of many religions. In addition, the religions also plays a vital role in augmenting the provisions of the legal frameworks on the protection of children through instilling respect for life and humanity in members of the religions.

⁴ *Id.*, at. 70.

⁵ THE HOLY BIBLE, Jeremiah 32:32-35. (New International Version).

⁶ THE HOLY BIBLE, 1 Peter 3:7. (New International Version).

⁷ THE HOLY BIBLE, Galatians 3:28. (New International Version).

⁸ THE HOLY BIBLE, Isaiah 46:4. (New International Version).

⁹ THE HOLY BIBLE, Isaiah 10:2, Ezekiel 22:7, Jeremiah 7:6 and 22:3, Zechariah 7:10 and Malachi 3:5; Matthew 18:6, Mark 9:42 and Luke 17:2. (New International Version).

PROTECTION OF CHILDREN IN CHRISTIANITY

In Christianity, the importance of children cannot be overemphasised. Children are considered as precious gifts from God.¹⁰ To this end, there are many scriptures in both the Old and New Testaments of the Holy Bible which underscore the need and importance of protecting the interests and rights of the child as well as seeing to their utmost care and well being. For instance, The Holy Bible in the Old Testament makes it an obligation for parents, particularly mothers to comfort, love and look after the well being of their children thus: “As a mother comforts her child, so will I comfort you; and you will be comforted over Jerusalem”¹¹ Further, in the New Testament book of Mathew emphasises that a father is obliged and expected to love, care for, and provide for his children. “If you, then who are evil know how to give good gifts to your children, how much more will your Father in heaven give good gifts to those who ask Him.”¹²

A human rights-based approach does not mean that children take on the role of simply demanding what they want and stop respecting adults. Instead, the Christian community recognises children’s rights but also teaches children the responsibilities that accompany rights. For example, where children have a right to be listened to, they also have a responsibility to listen to others;¹³ where they have a right to go to school, it is their responsibility to attend school and to do their best.¹⁴ Children should be given a chance to express both their rights and their responsibilities in society.¹⁵ Some salient provisions of the Holy Bible will therefore, be examined in an attempt to do justice to the discourse on the protection of children’s interests in Christianity. These rights are to be viewed in the context of God’s deep love for children and the high value He places on their well being, and the contributions they could make to the society. The rights

¹⁰ THE HOLY BIBLE, Isaiah 8:18; Genesis 33:5; Hebrews 2:13. (New International Version).

¹¹ THE HOLY BIBLE, Isaiah 66:13. (New International Version).

¹² THE HOLY BIBLE, Mathew 7:11. (New International Version)

¹³ PAUL GORDON LAUREN, *THE EVOLUTION OF INTERNATIONAL HUMAN RIGHTS: VISIONS SEEN II-13* (University of Pennsylvania Press, Pennsylvania, 2011).

¹⁴ *Id.*, 12.

¹⁵ ALI KHAN, *supra note 1*, at. 70.

of children in the Bible can be divided into four categories, namely, survival, protection, development, and participation rights.¹⁶

I. SURVIVAL RIGHTS

In the Old Testament book of Isaiah, the Bible emphasises the safeguards for children and their descendants yet unborn.¹⁷ The story of Moses' birth in the book of Exodus is illustrative here. It shows how God uses all kinds of people to ensure the survival of a child. The statement, "*the midwives feared God... they let the boys live*"¹⁸ shows that God values the lives of children. God already had plans for Moses' life so when Moses was born, he was protected by his mother, his sister, and even the daughter of Pharaoh.¹⁹ The text of the Bible leads to the assumption that God's heart is for children to live and have all they need to survive and thrive.

The Bible has diverse accounts of children whose lives were in danger and who were able to survive with God's help. Another instance was when the widow's dead son was brought back to life by Elijah²⁰ and by Elisha.²¹ Again in the New Testament, Paul brought a dead child back to life; "Paul went down, threw himself on the young man and put his arms around him."²²

Jesus further demonstrated his love for children and the desire for them to live during his earthly ministry. He healed children and brought them back to life in instances where they were dead.²³ In the book of Mathew, Jesus informs his listeners that, "In the same way, your Father in heaven is not willing that any of these little ones should perish."²⁴

On the need for parents to have and maintain a cordial and loving relationship with their children in order to ensure a peaceful co-existence

¹⁶ "The Bible and Children's Rights," available online at <http://stop-cwa.org/download/48> (accessed 5 February 2020).

¹⁷ THE HOLY BIBLE, Isaiah 54:13. (New International Version).

¹⁸ THE HOLY BIBLE, Exodus 1:17. (New International Version).

¹⁹ THE HOLY BIBLE, Exodus 2. (New International Version).

²⁰ THE HOLY BIBLE, 1 Kings 17. (New International Version).

²¹ THE HOLY BIBLE, 2 Kings 4. (New International Version).

²² THE HOLY BIBLE, Acts 20:10. (New International Version).

²³ THE HOLY BIBLE, Luke 8:54, Matthew 9:25, Mark 5:41, Luke 9:42, Matthew 17:18 and Mark 9:26-27. (New International Version).

²⁴ THE HOLY BIBLE, Matthew 18:14. (New International Version).

and a violence free society, the Bible provides thus: “*The Lord will turn the hearts of the fathers to their children, and the hearts of the children to their fathers...*”²⁵

The Holy Bible further makes it an obligation for parents, particularly mothers to comfort, love and look after the well being of their children thus: “As a mother comforts her child, so will I comfort you; and you will be comforted over Jerusalem”²⁶

Also, emphasis was laid on the sanctity of life, particularly children in the book of Deuteronomy of the Old Testament of the Holy Bible thus: “This day, I call heaven and earth as witnesses against you that I have set before you, life and death, blessings and curses. Now choose life, so that you and your children may live.”²⁷

God expressed his displeasure at the deliberate killing and sacrificing of children.²⁸ God’s heart is clear in Isaiah’s prophecy that “Never again will there be... an infant who lives but a few days.”²⁹ In light of the earlier mentioned scriptures condemning child sacrifice, it is important to stress that, God’s command to Abraham to sacrifice his son, Isaac in the book of Genesis is not an endorsement of child sacrifice; God prevented the sacrifice from taking place and gave the command as an opportunity for Abraham to demonstrate his obedience.³⁰ God’s anger is provoked when a child’s life is needlessly or deliberately taken and indicates to us how precious the lives of children are to God. “The people of Israel and Judah have provoked me by all the evil things they have done... they built high places for Baal in the Valley of Ben Hinnom to sacrifice their sons and daughters to Molek, though I never commanded —nor did it enter my mind — that they should do such a detestable thing and so make Judah sin.”³¹

On care and provision for the child, the Holy Bible in the New Testament book of Mathew emphasises that a father is obliged and expected to love, care for, and provide for his children. It, therefore, becomes the right of children to be cared for and provided for by their parents. The Book of Matthew reads, “If you, then who are evil know how to give good

²⁵ THE HOLY BIBLE, Malachi 4:6. (New International Version).

²⁶ THE HOLY BIBLE, Isaiah 66:13. (New International Version)

²⁷ THE HOLY BIBLE, Deuteronomy 30:19. (New International Version).

²⁸ THE HOLY BIBLE, Amos 1:13 and Psalm 94:6; Jeremiah 7:30-31, 19:5, and 32:35, Ezekiel 16:20, 20:31, and 23:37-39. (New International Version)

²⁹ THE HOLY BIBLE, Isaiah 65:20. (New International Version).

³⁰ THE HOLY BIBLE, Genesis 22; James 2:21-23. (New International Version).

³¹ THE HOLY BIBLE, Jeremiah 32:35. (New International Version).

gifts to your children, how much more will your Father in heaven give good gifts to those who ask Him.”³² Further, men were encouraged to have the size of family they can easily maintain and provide for. They must not have too many wives or children such that they will not be able to provide for their needs, train, guide, teach and nurture. To this end, the New Testament of the Bible says: “a deacon must be the husband of but one wife and must manage his children and household well.”³³ Also, in the second letter of Paul to the Corinthians, the Bible records thus: “...after all, children should not have to save up for their parents, but parents for their children.”³⁴

II. PROTECTION RIGHTS

The story of Ishmael told in Genesis shows the importance of protecting the interest of children to God, and how He can be intimately involved in keeping children safe.³⁵ More importantly, the Bible places a high premium and value on children. They are to be protected, loved, treasured and cherished by their parents and members of the society in which they live. It says this: “Whoever welcomes one of these little children in my name welcomes me.”³⁶ To further show the value and importance of children, child-like qualities were described as godly qualities. For instance, “...because you have hidden these things from the wise and learned and revealed them to little children...”³⁷ Jesus further demonstrated his love for children and showed their importance in the book of Mark where He says: “...he said to them, let the little children come to me, and do not hinder them, for the kingdom of God belongs to such as these”³⁸ and “And He took the children in his arms, put his hands on them and blessed them.”³⁹

Similarly, on the significance of children, the Bible describes them in diverse beautiful ways. For instance, in the book of Joel, they were described

³² THE HOLY BIBLE, Mathew 7:11. (New International Version).

³³ THE HOLY BIBLE, 1 Timothy 3:12. (New International Version).

³⁴ THE HOLY BIBLE, 2 Corinthians 12:14. (New International Version).

³⁵ THE HOLY BIBLE, Job 24:9, Nehemiah 5:5, and Joel 3:3.; Joel 3:3; Isaiah 21:8-20. (New International Version).

³⁶ THE HOLY BIBLE, Mark 9:37. (New International Version).

³⁷ THE HOLY BIBLE, Luke 10:12; Mathew 11: 25 (New International Version).

³⁸ THE HOLY BIBLE, Mark 10:14. (New International Version).

³⁹ THE HOLY BIBLE, Mark 10:16; Mark 10:15; Acts 2:39. (New International Version).

as prophets.⁴⁰ Further, they were described as heritage and reward from God.⁴¹ In the book of Psalms, children were described as arrows in the hands of a warrior and blessed is the man whose quiver is full of them, for they shall not be put to shame when they contend with their enemies.⁴² Also, the book of Psalms provides that “...your sons will be like olive shoots around your table”⁴³ and “Children’s children are a crown to the aged, and parents are the pride of their children.”⁴⁴

The Bible speaks out against the mistreatment of children. References are made to instances where children were sold as slaves or traded like commodities in the Bible. “They traded boys for prostitutes, and they sold girls for wine to drink.”⁴⁵

Vulnerable children particularly are to be protected with warnings against oppressing and mistreating the fatherless.⁴⁶ Vulnerable children are described as those children that are at high risk of lacking adequate protection and care.⁴⁷ Further, the Bible enjoins members of society to protect children.⁴⁸ In the Bible, the Israelites were instructed to ensure that vulnerable children are provided for.⁴⁹ “Defend the weak and fatherless.”⁵⁰

Further, as part of the protection of the interests of children, the Bible condemns those who cause harm or misguide children into destructive paths. “But if anyone causes one of these little ones who believe in me to sin, it would be better for him to have a large stone hung around his neck and be drowned in the depth of the sea.”⁵¹

Protecting children is not only the responsibility of parents or those who work with children but the entire society.⁵² The Bible shows that God wants every member of the community to be part of ensuring that the

⁴⁰ THE HOLY BIBLE, Joel 2:28. (New International Version).

⁴¹ THE HOLY BIBLE, Psalm 127:3. (New International Version).

⁴² THE HOLY BIBLE, Psalm 127: 3-5. (New International Version).

⁴³ THE HOLY BIBLE, Psalm 128:3. (New International Version).

⁴⁴ THE HOLY BIBLE, Proverbs 17:6; Proverbs 20:7. (New International Version).

⁴⁵ THE HOLY BIBLE, Isaiah 10:2, Ezekiel 22:7, Jeremiah 7:6 and 22:3, Zechariah 7:10 and Malachi 3:5; Matthew 18:6, Mark 9:42 and Luke 17:2 (New International Version).

⁴⁶ THE HOLY BIBLE, Deuteronomy 24:17-21. (New International Version).

⁴⁷ THE HOLY BIBLE, Psalm 82:3; Isaiah 1:17; “Orphans and Vulnerable Children defined” available at <http://hgsf-global.org/en/ovc/background/263-orphans-and-vulnerable-children-defined> (accessed 5 February 2020).

⁴⁸ THE HOLY BIBLE, Deuteronomy 24:17-21. (New International Version).

⁴⁹ THE HOLY BIBLE, Psalm 72:4 and 82:3, Isaiah 1:17 and James 1:27. (New International Version).

⁵⁰ THE HOLY BIBLE, Psalm 82:3. (New International Version).

⁵¹ THE HOLY BIBLE, Mathew 18:6. (New International Version).

⁵² THE HOLY BIBLE, Leviticus 20:22-25. (New International Version).

children around them are safe and protected from harm.⁵³ God talks about how someone who has sacrificed his child should be punished. He says, if the members of the community ignore the actions of the said man, and if they fail to put him to death, he would himself set his face against him. Therefore, Christians must make sure they are not ignoring situations of abuse and exploitation of children in the society.

III. DEVELOPMENT RIGHTS

Parents owe the duty to direct aright and shapen the lives and behaviours of their children properly through teachings, training and discipline. It is pertinent to note that, in Christianity, children are seen as prone to disorder and misbehaviour therefore, they require constant corrections, guidance and discipline. Also, children are considered born with original sin. Original sin is that of the first man, Adam, who disobeyed God by eating the forbidden fruit of knowledge of good and evil and as a consequence, humanity inherited the sin and guilt.⁵⁴ Therefore sinfulness is deemed to be in the inheritance of children so, education, chastisement, training are required to discipline and tame them. The Bible in the book of Proverbs says: “Train a child in the way he should go and when he is old, he will not depart from it.”⁵⁵ The same duty of physical discipline and chastisement of children to make them responsible and law-abiding members of the society was further emphasised thus: “Folly is bound up in the heart of a child but the rod of discipline will drive it far from him.”⁵⁶ It is also written in another portion of the Holy Bible thus: “Do not withhold discipline from the child; if you punish him with the rod, he will not die.”⁵⁷ Similarly, “punish him with the rod, and save his soul from death.”⁵⁸

Again, parents and their children are encouraged and commanded to be law-abiding.⁵⁹ Parents particularly have an obligation to ensure that their children are law-abiding and obedient to lawful authorities bearing in mind that if children and other members of the society abide by the extant laws,

⁵³ *Id.*

⁵⁴ THE HOLY BIBLE, Romans 5: 12-19. (New International Version).

⁵⁵ THE HOLY BIBLE, Proverbs 22:6. (New International Version).

⁵⁶ THE HOLY BIBLE, Deuteronomy 22:15. (New International Version).

⁵⁷ THE HOLY BIBLE, Deuteronomy 22:13. (New International Version).

⁵⁸ THE HOLY BIBLE, Deuteronomy 22:14; Ephesians 6:4. (New International Version).

⁵⁹ THE HOLY BIBLE, Deuteronomy 32:46. (New International Version).

regulations and commandments, there will be peace and tranquillity in the home fronts and the larger society. Deuteronomy 32:46 says: “he said to them, take to heart all the words, I have solemnly declared to you this day, so that you may command your children to obey carefully all the words of this laws.” In the same vein, the same book of Deuteronomy further states the importance and benefits of abiding by laws thus: “For I command you today, to love the Lord your God, to walk in his ways and to keep his commands, decrees and laws, then you will live and increase, and the Lord God will bless you in the land you are entering to possess.”⁶⁰

The Holy Bible urges children to submit themselves to the guidance, teachings, and training of their parents so that through the guidance and training, they can be moulded to become responsible adults who will pass on the same legacy to their descendants. In the book of Proverbs, it is written thus: “Listen to your father who gave you life and do not despise your mother when she is old.”⁶¹ Also, “The rod of correction imparts wisdom but a child left to himself disgraces his mother”⁶² and “...*teach them to your children and to their children after them.*”⁶³ Still, on submission to parental guidance and trainings, the Holy Bible says: “These commandments that I give you today are to be upon your hearts, impress them on your children, talk about them when you sit at home, when you walk along the road, when you lie down and when you get up.”⁶⁴ So also, in the New Testament book of Mark, children are encouraged to honour their parents and by extension, all and sundry in the society as this will promote orderliness and peaceful existence in the society.⁶⁵ In addition, children are encouraged to honour their parents - it is a condition for them to live long. It follows therefore that, there are rewards and blessings attached to that obligation.⁶⁶

IV. PARTICIPATION RIGHTS

Children are to be given a sense of belonging and a right to participate in the affairs of society. For instance, in the book of Second Kings, it was Naaman’s

⁶⁰ THE HOLY BIBLE, Deuteronomy 30:16. (New International Version).

⁶¹ THE HOLY BIBLE, Proverbs 23:22. (New International Version).

⁶² THE HOLY BIBLE, Proverbs 29:15. (New International Version).

⁶³ THE HOLY BIBLE, Deuteronomy 4:9. (New International Version).

⁶⁴ THE HOLY BIBLE, Deuteronomy 6:5-7; Colossians 3:21. (New International Version).

⁶⁵ THE HOLY BIBLE, Mark 7:10. (New International Version).

⁶⁶ THE HOLY BIBLE, Colossians 3:20; Ephesians 6: 1-3. (New International Version).

servant girl who he had taken captive from Israel who gave Naaman the advice that if only he could see the servant of God, Elisha, he may be cured of his leprosy and Naaman listened and was cured.⁶⁷ Sometimes, God works through children. Children and young people are, therefore, encouraged to lead and to speak and not to see their age as an obstacle.

Children are a blessing to society and should be valued as such.⁶⁸ Children are also a significant part of the religious community, participating along with adults.⁶⁹ Children should be actively engaged and allowed to ask questions.⁷⁰ The praise of children is powerful in that the Bible provides that when children praise.⁷¹ The Bible gives many examples of children being used by God: Joseph was 17 when God was using him to help his father shepherd his flocks.⁷² David was a “little boy” when he fought Goliath, the mighty man of Philistine and defeated him.⁷³ Samuel served God as a child and God chose to speak through him.⁷⁴ Also, Josiah was eight years old when he became King.⁷⁵ Uzziah was 16 year old when he also started reigning as king.⁷⁶

It is pertinent to point out that, it was a child who provided the five loaves and two fishes that Jesus used to feed the 5,000 people.⁷⁷ Another clear illustration of God’s willingness to use children and allow them to participate in the everyday life of the society is God choosing to restore mankind to Himself by allowing Jesus, his son to come into the world as a baby.⁷⁸ “For to us a child is born, to us a son is given, and the government will be on his shoulders.”⁷⁹

In general, it is apparent that the Holy Bible contains several provisions on protecting the interest and overall well being of children considering the fact that they are precious yet vulnerable, hence, the need to be protected. The Old Testament portrays the child as one who is overly

⁶⁷ THE HOLY BIBLE, 2 Kings 5:2-3. (New International Version).

⁶⁸ THE HOLY BIBLE, Ruth 4:15, Psalm 37:26, Isaiah 29:23. (New International Version).

⁶⁹ THE HOLY BIBLE, Deuteronomy 31:12-13, Joshua 8:35, Nehemiah 12:43, Psalm 148:11, Joel 2:16 and 10:7, Matthew 21:15, John 4:46-53, Acts 16:33, 18:7, 21:5. (New International Version).

⁷⁰ THE HOLY BIBLE, Joshua 4:6. (New International Version).

⁷¹ THE HOLY BIBLE, Psalm 8:2. (New International Version).

⁷² THE HOLY BIBLE, Genesis 37:2. (New International Version).

⁷³ THE HOLY BIBLE, 1 Samuel 17:41. (New International Version).

⁷⁴ THE HOLY BIBLE, 1 Samuel 2-3. (New International Version).

⁷⁵ THE HOLY BIBLE, 2 Kings 22. (New International Version).

⁷⁶ THE HOLY BIBLE, 2 Chronicles 26. (New International Version).

⁷⁷ THE HOLY BIBLE, John 6: 9-11; Jeremiah 1:7, 1 Timothy 4:12. (New International Version).

⁷⁸ THE HOLY BIBLE, Matthew 2:11, Luke 2:8-40. (New International Version).

⁷⁹ THE HOLY BIBLE, Isaiah 9:6. (New International Version).

lacking in wisdom consequently, in need of constant guidance and training. The New Testament, on the other hand, projects the child as a precious gift from God that must be cherished, protected, loved and cared for.

PROTECTION OF RIGHTS OF CHILDREN UNDER INTERNATIONAL, REGIONAL, AND NATIONAL REGIMES

The protection of the rights of children under international, regional and national legal regimes is important so as to ensure children are protected and have all they need to thrive and flourish, and achieve their God-given potentials. In examining the rights of children, this paper considers the United Nations Convention on the Rights of the Child (hereinafter referred to as the UN Convention on the Rights of the Child) as adopted by the 44th session of the United Nations General Assembly in November 1989.⁸⁰ It also considers the provisions of the Organization of African Unity (now African Union) Charter on the Welfare of the Child, 1990 (hereinafter referred to as the OAU Charter on the Welfare of the Child, 1990).⁸¹ It is the first regional treaty on the rights of children in the continent of Africa.⁸² It has similar provisions with the United Nations Convention on the Rights of the Child, 1990. These regional and international instruments seek to protect the child in all areas, provide basic necessities of life and giving special attention and care to the vulnerable children.⁸³ Nigeria as a nation, has also put in place several measures and frameworks towards the protection of the Nigerian child. Of particular note is the Child Rights Act, 2003.⁸⁴ The Act protects the rights of the child as guaranteed under the Constitution of Nigeria 1999.⁸⁵ Since the issue of protection of children is contained in the residual

⁸⁰ UN Convention on the Rights of the Child adopted by the 44th session of the United Nations General Assembly in November 1989.

⁸¹ OAU Charter on Rights and Welfare of the Child, Doc. CAB/LEG/24.9/49 (1990) entered into force November 29 1999.

⁸² *Id.*

⁸³ S. AGIOBU-KEMMER, "Baby Prisoners – How they fair in Captivity" *Nigerian Guradian Newspaper* of 19 June 2016 available online at <<http://m.guardian.ng/sunday-magazine/baby-prisoners-how-they-fair-in-captivity/>> (accessed 22 November 2019).

⁸⁴ Nigerian Child Rights Act 2003.

⁸⁵ Constitution of the Federal Republic of Nigeria 1999, Chapter IV. See also Child Rights Act 2003, s 3.

list in the Nigerian Constitution 1999, it is expected that states will domesticate the Act in their respective states having been enacted as an Act of the National Assembly of the Federal Republic of Nigeria. While some states have gone ahead to do so, some of them have not.⁸⁶ The states that are yet to domesticate the Act include: Bauchi, Yobe, Kano, Sokoto, Adamawa, Borno, Zamfara, Gombe, Katsina, Kebbi and Jigawa.⁸⁷

The rights of children can be divided into three major categories.⁸⁸ They are: Welfare- which means the right to be provided for,⁸⁹ Protection – it means children must be kept safe from all forms of dangers, exploitations or abuse and lastly, Autonomy– the right of children to make choices.⁹⁰ Some of the basic rights of children protected by legal regimes are:⁹¹

I. RIGHT TO LIFE

Every child shall have the right to life.⁹² The State will ensure the overall development and survival of the child.⁹³ A child cannot be sentenced to death, irrespective of the crime.⁹⁴ This is because the Nigerian Constitution which is the supreme law of the land guarantees right to life of every Nigerian, irrespective of the age.⁹⁵ The life of a child could be threatened, jeopardised or taken in several situations.⁹⁶ In reality, common situations in Nigeria whereby a child is exposed to starvation, sexual abuse, inhuman, cruel, degrading, unhygienic conditions and lack of access to health care

⁸⁶ O.L. NIYI-GAFAR, & O. B. IGBAYILOYE, *Adopting a Rights-Based Approach Towards the Legal Protection of the Nigerian Child*, 4 *AKUNGBA LAW JOURNAL*, 78 (2016).

⁸⁷ N. ADEBOWALE, “11 States in Northern Nigeria yet to pass Child Rights Law” *Nigerian Premium Times Newspaper* of 11 May 2019, available at <https://www.premiumtimesng.com/news/more-news/329511-12-states-in-northern-nigeria-yet-to-pass-child-rights-law-unicef-official.html> (accessed 4 February 2020).

⁸⁸ A.A. ADEBAYO, *Protection of Human Rights of Female Inmates with Wards in Nigerian Correctional Facilities*, 2 *JOURNAL OF LAW AND JUDICIAL SYSTEM*, 44 (2019).

⁸⁹ *Id.*

⁹⁰ S. OLARINDE, *Reflections on the Basic Rights of the Nigerian Child under the Child Rights Act, 2003*, 4 *UNIVERSITY OF IBADAN JOURNAL OF PRIVATE AND BUSINESS LAW*, 87 (2005).

⁹¹ *Id.*, at. 87-88.

⁹² The Constitution of the Federal Republic of Nigeria 1999, s 33; UN Convention on the Rights of the Child 1989, art VI (1) and (2). See also OAU Charter on the Rights and Welfare of the Child 1990, art V (1).

⁹³ Child Rights Act 2003, s 4.

⁹⁴ *Id.*

⁹⁵ The Constitution of the Federal Republic of Nigeria 1999, s 33.

⁹⁶ ADEBAYO, *supra* note 88, at. 44.

which could lead to diseases and death of such a child could be interpreted as a violation of the right of the child to life.⁹⁷ Therefore, there is the need to protect the rights to life of every child.⁹⁸

II. RIGHT NOT TO BE SEPARATED FROM PARENTS OR GUARDIANS

A child shall not be separated from his or her parents or legal guardians except where it has been determined by a competent judicial authority that such a separation would be in the best interest of the child.⁹⁹ This provision is laudable as it will ensure that a child is not forcibly separated from his or her parents or legal guardians and that parents and legal guardians have the opportunity to nurture, care for and properly bring up their children.¹⁰⁰ The right to not separate children from their parents and legal guardians also ensures that children get the best of care, protection and development from their parents and legal guardians under a good atmosphere.¹⁰¹ This presupposes that the common occurrence in many countries whereby children are forced to live with extended family members, friends or even given up to government welfare departments as a result of the disagreements, separation or divorce between their parents may be unhealthy for the overall development and protection of the child so should be discouraged.

⁹⁷ AGIOBU-KEMMER, *supra* note 83.

⁹⁸ *Id.*

⁹⁹ UN Convention on the Rights of the Child 1989, arts IX (1) and XX; OAU Charter on the Rights and Welfare of the Child 1990, art XIV; Child Rights Act 2003, ss 14, 16 and 27. See also AGIOBU-KEMMER, *supra* note 83.

¹⁰⁰ Bangkok Rules, r 58; R.A. ABORISADE, & O.O. BALOGUN, *Dual Punishment: Mothers in Nigerian Prisons and their Children*, 19 *AFRICAN JOURNAL FOR THE PSYCHOLOGICAL STUDY OF SOCIAL ISSUES*, 1 (2019).

¹⁰¹ OAU Charter on the Welfare of the Child 1989, art IV; ABORISADE, & BALOGUN, *supra* note 100, at. 1-2.

III. RIGHT TO FREEDOM OF EXPRESSION

Every child shall be free to seek, receive, and impart information within the ambit of the law.¹⁰² This right must not be curtailed in any form as every child must be free to express himself or herself, freely impart information and ideas without any fear, threat, or insecurity.¹⁰³ Where this right is exercised, it will further help in the mental, physical and psychological development of the child in that they will be enlightened and knowledgeable, have the ability to make sound judgements, among others.¹⁰⁴

IV. FREEDOM OF THOUGHT, RELIGION, AND CONSCIENCE

Every Nigerian shall have the right to thought, religion and conscience.¹⁰⁵ It is pertinent to note that the Nigerian child is not exempted from the enjoyment of this right.¹⁰⁶ However, the parents and legal guardians of children shall provide direction and guidance to their children when it comes to the enjoyment of this right because it is presumed that children have limited knowledge, experience, exposure and direction about life in general because they are young.¹⁰⁷ While admitting that this right exists, generally, it must be stated that children have limits to which they can independently practice, propagate or express their religious beliefs, they need to be properly guided by their parents or legal guardians so that they do not take wrong decisions that could jeopardise their future.¹⁰⁸

¹⁰² Constitution of the Federal Republic of Nigeria 1999, s 39 (1); UN Convention on the Rights of the Child 1989, art XIII. See also OAU Charter on the Rights and Welfare of the Child 1990, art VII.

¹⁰³ AGIOBU-KEMMER, *supra note* 83.

¹⁰⁴ *Id.*

¹⁰⁵ Constitution of the Federal Republic of Nigeria 1999, s 38; Oraegbunam, I., "Islamic Law Religious Freedom and Human Rights in Nigeria" (2012) 2 (1) *African Journal of Law and Criminology*, 1. See also OAU Charter on the Rights and Welfare of the Child 1990, art IX (1) and (2).

¹⁰⁶ Child Rights Act 2003, s 7; AGIOBU-KEMMER, *supra note* 83.

¹⁰⁷ AGIOBU-KEMMER, *supra note* 83.

¹⁰⁸ AGIOBU-KEMMER, *supra note* 83, at. 2-4.

V. RIGHT TO FREEDOM OF ASSOCIATION AND PEACEFUL ASSEMBLY

Every child shall have the right to freely associate with other children and to join peaceful assemblies within the limits of the law.¹⁰⁹ A child should be free to associate with other children for recreation, for education and learning, in schools, religious places of worship, residential areas, among others.¹¹⁰ It should also be stated that a child may need the guidance and consent of their parents or legal guardians in the exercise of this right so that the child does not associate with bad companies or harmful groups.¹¹¹

VI. RIGHT TO PRIVACY AND FAMILY LIFE

Every child shall have the right to privacy, family life and correspondence.¹¹² There shall not be any arbitrary or unlawful interference with the enjoyment of this right.¹¹³ This means children should ordinarily not be forced to live with persons other than their parents or legal guardians against their will or be in a place that they do not want to be, except where such will be in the best interest of the said child. For instance, this right will be curtailed in a situation where an innocent child would have to stay and grow in prison custody because his or her mother is remanded in custody pending her trial in court or serving prison sentence as it common in Nigeria.¹¹⁴

VII. RIGHT OF ACCESS TO INFORMATION

Every child shall be entitled to information from international and national sources that are capable of promoting the emotional, spiritual, moral, social,

¹⁰⁹ UN Convention on the Rights of the Child, art XV; OAU Charter on the Rights and Welfare of the Child, art VIII; Child Rights Act, s 6.

¹¹⁰ *Id.*

¹¹¹ AGIOBU-KEMMER, *supra* note 83.

¹¹² Constitution of the Federal Republic of Nigeria 1999, s 37; Child Rights Act 2003, s 8. See also Bangkok Rules, r 64.

¹¹³ UN Convention on the Rights of the Child 1989, art XVI; OAU Charter on the Rights and Welfare of the Child 1990, art IX.

¹¹⁴ ABORISADE, & BALOGUN, *supra* note 100, at. 4; AGIOBU-KEMMER, *supra* note 83.

and physical well being of the child.¹¹⁵ The lack or limited access to information could adversely affect the overall development of a child who finds himself or herself in this kind of situation as such a child may not be able to compete favourably with his or her peers who have supervised access to information that could help them to develop and grow.¹¹⁶

VIII. RIGHT TO EDUCATION

Every child shall have the right to be educated.¹¹⁷ In doing this, there should be a focus on the personality, talents, physical and mental abilities of each child.¹¹⁸ He or she should be taught about respect for human rights, preservation of societal culture and values, tolerance, mutual respect, honesty, loyalty, respect for the environment, among others.¹¹⁹ The sad reality in many countries, particularly the developing ones, is that many children of school age are out of school mainly due to poverty, illiteracy, ignorance, among others.¹²⁰ An uneducated child may end up as a miscreant or criminal who will constitute a problem for society in the future.¹²¹ Having posited that every child has a right to education, it is also imperative to state that the governments at all levels must put the appropriate measures in place, such as, provision of free and compulsory education up to tertiary education level, provision of study materials, recruiting competent teachers to teach in schools, training and re-training of teachers, among others.

IX. RIGHT TO HEALTH CARE

A child shall have the right to enjoy the highest attainable standard of health.¹²² The government, therefore, must ensure it provides necessary health care services to every child, reduce infant and child mortality rate, combat diseases and malnutrition, provide safe drinking water, ensure quality health care for pregnant women and nursing mothers, among

¹¹⁵ UN Convention on the Rights of the Child 1989, art XVII.

¹¹⁶ UN Convention on the Rights of the Child 1989, art XVII.

¹¹⁷ Child Rights Act 2003, s 15.

¹¹⁸ UN Convention on the Rights of the Child 1989, arts XXVIII and XXIX.

¹¹⁹ OAU Charter on the Rights and Welfare of the Child 1990, art XI.

¹²⁰ Child Rights Act 2003, s 15.

¹²¹ *Id.* See also AGIOBU-KEMMER, *supra* note 83.

¹²² UN Convention on the Rights of the Child 1989, art XXIV; Child Rights Act 2003, s 13.

others.¹²³ Scholars like Ibraheem observes that the Nigerian State and indeed many developing States have not fared well when it comes to the realisation of this right.¹²⁴ Most children do not have access to good health care; some of them consequently develop hazardous diseases, while others who are unlucky, die.¹²⁵ A large percentage of children in developing countries like Nigeria are subjected to living in unhygienic environments.¹²⁶ Sometimes, pregnant women lack adequate pre-natal and post-natal attention and sometimes are left unattended when delivering their babies.¹²⁷ Some of the babies after delivery do not get proper medications and immunization.¹²⁸

X. FREEDOM FROM DISCRIMINATION

Every child shall be free from discrimination on account of the circumstances of his birth, parents' origin or race, ethnic, religious, sex, among others.¹²⁹ Therefore, the common Nigerian practice of calling some children who were born outside wedlock 'bastards' will amount to discrimination against them based on the circumstances of their birth. Similarly, a situation whereby a child has to live with his or her mother by virtue of the mother's imprisonment will amount to a violation of the child's right not to be discriminated against on any account.¹³⁰ It will mean that such a child has been discriminated against based on the status of the mother as a prisoner.¹³¹ This is against the accepted international standard to the effect that every child shall be free from discrimination.¹³²

¹²³ OAU Charter on the Rights and Welfare of the Child 1990, art XIV.

¹²⁴ T.O. IBRAHEEM, *Behind the Prison Walls: Rights or No Rights?*, 2 *INTERNATIONAL JOURNAL OF INNOVATIVE RESEARCH AND DEVELOPMENT*, 780 (2013).

¹²⁵ AGIOBU-KEMMER, *supra note 83*; M.A. ARAROMI, *Prisoners Rights under the Nigerian Law: Legal Pathways to Progressive Realization and Protection*, 6 *AFE BABALOLA UNIVERSITY JOURNAL OF SUSTAINABLE DEVELOPMENT, LAW AND POLICY* 170, 177-179 (2015).

¹²⁶ *Id.*

¹²⁷ ABORISADE, & BALOGUN, *supra note 100*, at. 5.

¹²⁸ ARAROMI, *supra note 25*, at. 179.

¹²⁹ Constitution of the Federal Republic of Nigeria 1999, s 42; UN Convention on the Rights of the Child 1989, art XXX. See also OAU Charter on the Rights and Welfare of the Child 1990, art III; Child Rights Act 2003, s 10.

¹³⁰ D.I DIMKPA, *The Plight of Women Inmates in Rivers State, Nigeria*, 31 *PAKISTAN JOURNAL OF SOCIAL SCIENCES*, 110-111 (2011).

¹³¹ *Id.*

¹³² OAU Charter on the Rights and Welfare of the Child 1990, art III; Child Rights Act 2003, s 10; UN Convention on the Rights of the Child 1989, art XXX.

XI. PROTECTION FROM SEXUAL EXPLOITATION AND ABUSE

Every child shall be entitled to protection from sexual abuse and exploitation.¹³³ As of today, this particular right stands as the most violated right of the child in Nigeria going by the high statistics of sexual assault and molestation of children, particularly the female gender.¹³⁴ Apart from the aforementioned, it is also common in developing countries to find female children who are not up to the legal age of consent for marriage are also given out in marriage to male adults by their parents or legal guardians.¹³⁵ For instance, sometimes in 2010, a former governor and a senator of the Federal Republic of Nigeria got married to a 13 year old Egyptian girl after paying the sum of \$100, 000 as dowry to the girl's parents.¹³⁶ According to Nzenwata, some of the factors responsible for early girl-child marriage in developing countries include; religion, tradition, poverty, illiteracy, among others.¹³⁷ Therefore, the parents or legal guardians of children must rise up to this challenge by providing adequate guide and protection to their children.¹³⁸ Also, parents, particularly illiterates must be enlightened about the dangers of giving out a female child to an adult male in marriage.¹³⁹ They must ensure that their children

¹³³ UN Convention on the Rights of the Child 1989, art XXXIV. See also OAU Charter on the Rights and Welfare of the Child, arts XVI and XXVII; Child Rights Act 2003, ss 11 (a) -(b), 31 and 32.

¹³⁴ Fabmungng, "Child Sexual Abuse in Nigeria: What hope for survivors?," available online at <http://medium.com/@fabmunng/child-sexual-abuse-in-nigeria-what-hope-for-survivors-8e761548b229> (accessed 20 January 2020); K. Dasilva-Ibru, "How can I recognise Sexual Abuse" The Nigerian Guardian Newspaper of 13 December, 2019 available online at <http://m.guardian.ng/features/how-can-i-recognize-child-sexual-abuse/amp> (accessed 20 January 2020)

¹³⁵ B. Adebayo, "Nigerian Girl Child Marriage Campaign" available online at <https://edition.cnn.com/2019/05/25/africa/nigerian-girls-child-marriage-campaign-intl/index.html> (accessed 21 February 2020)

¹³⁶ Aljazeera, "Nigerian Senator Marries girl of 13" available online at <https://www.aljazeera.com/news/africa/2010/05/2010518858453672.html> (accessed 21 February 2020).

¹³⁷ C.B. NZENWATA, *Negative Effect of Early Girl Child Marriage on Nigeria: the way forward*, 8 *INTERNATIONAL JOURNAL OF SCIENTIFIC AND RESEARCH PUBLICATIONS*, 552 (2018).

¹³⁸ "Sexual Exploitation of Children in Nigeria Submission 29 March 2018" Human Rights Council 31st Session (October – November 2018), 2-3.

¹³⁹ "Country Report on Human Rights Practices 2017 – Nigeria," Document No. 1430III- US Department of State, available online at <http://www.ecoi.net> (accessed 27 December 2018).

are not in an environment where they can be exposed to some dangerous elements and paedophiles who could easily abuse them sexually.

XII. PROTECTION FROM ILLICIT USE OF NARCOTICS AND DRUG TRAFFICKING

Every child shall be protected from the illicit use and trafficking of narcotics.¹⁴⁰ Children should not be exposed to illicit use of narcotics and also prevented from hanging around adults or persons who are into drug use and trafficking.¹⁴¹ It must be said that the protection envisaged by this right may only be realised where a child grows up in a sane and serene society.¹⁴² Closely connected to this right is the fact that children must be taught early in life about the dangers of using, dealing in or handling of hard drugs as these lessons most likely remain with them as they grow into adulthood. Likewise, parents or legal guardians of children must also provide good examples in this regard as children have the propensity to do what they see their parents or legal guardians do.

CONCLUSION

Before the advent of what is now known as legal rights in contemporary time, religion played a vital role in protecting and shielding children from disrespect to humanity and ill-treatment by their parents and members of the larger society. The Holy Bible particularly contains many provisions on protecting the interest and overall well being of children because they are vulnerable and need to be protected. The Old Testament particularly describes the child as one who is overly lacking in wisdom therefore, in need of constant guidance and training of their parents. The New Testament on the other hand, projects the child as a precious gift from God that must be cherished, protected, loved and cared for. Interestingly, strict

¹⁴⁰ UN Convention on the Rights of the Child 1989, art XXXIII; OAU Charter on the Rights and Welfare of the Child 1990, art XXVIII; Child Rights Act 2003, ss 14 and 25.

¹⁴¹ *Id.*

¹⁴² UN Convention on the Rights of the Child 1989, art XXXIII; OAU Charter on the Rights and Welfare of the Child 1990, art XXVIII; Child Rights Act 2003, ss 14 and 25.

adherence to the principles of religion particularly in the areas of respect for life and humanity could serve as the needed panacea to most of the challenges which children are faced with globally. Therefore, religion plays a significant role in protecting the interests of children by instilling in members of the society the needed respect for humanity and morality which is currently lacking in this contemporary time. In the same vein, in the bid to protect the interests of children, they are entitled to some basic human rights as provided for by the Constitution of Nigeria as well as other international and regional instruments including, OAU Charter on the Rights and Welfare of the Child, UN Convention on the Rights of the Child, among others. Therefore, it is safe to conclude that, there is a link between the provisions of the Holy Bible on the protection of the interest of children and the fundamental human rights as found in various international, regional and national legal regimes.

RECOMMENDATIONS

It is apparent that religion forms the basis for what is today known as legal rights and as such must be protected. It is pertinent to note that many countries, including Nigeria, have failed in ensuring that children are adequately protected and catered for in consonance with international standards on the treatment of children.¹⁴³ It is estimated that more than half of 27.1 million people who are internally displaced in over 50 countries around the world are children.¹⁴⁴ They are exposed to dangers, malnourishment, sexual abuse, exposure to various health risks, just to mention a few.¹⁴⁵ In a recent development, a top civil servant in a federal government agency in Nigeria was arraigned in court on allegation of defiling a two year old girl in his office.¹⁴⁶ It is therefore recommended thus:

¹⁴³ O.O. OLUSEGUN & A. OGUNFOLU, *Protecting Internally Displaced Children in Armed Conflicts: Nigeria in Focus*, 9 NOTRE DAME JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW, 34-35 (2019).

¹⁴⁴ *Id.*, at. 36.

¹⁴⁵ *Id.*, at. 37.

¹⁴⁶ O. Eromosele, "NIMC Director arraigned in court for defiling two year old girl" *The Nations Newspaper* of 5 March 2020, available online at <https://thenationonlineng.net/nimc-director-arraigned-in-court-for-defiling-two-year-old-girl/> (accessed 7 March 2020).

- a. Governments and religious leaders must give priority attention to the protection of the rights of children. All the rights of children as provided for under the Nigerian Constitution, various international, regional and national legal regimes should be guaranteed and protected. This should be done through enlightenment campaigns, advertisements, strict enforcement and monitoring. The enlightenment campaigns could take the forms of radio and television advertisements, campaigns in primary and secondary schools, talks in religious places of worship, among others.
- b. There is a need for governments to ensure a conducive environment is created for the enjoyment of the rights of children. An environment where they will not be gagged, threatened or intimidated in whatever form, whatsoever.
- c. Of particular note is the rise in the rate at which children, both male and female alike get sexually abused and molested by adults in many societies globally. In Nigeria for instance, the high incidences of sexual abuse of children, particularly girl children is appalling as it is estimated that six out of every ten children has been abused sexually. It is imperative for the government to stop this ugly trend by encouraging parents and wards of victims of such abuse to speak up and also put in place an effective mechanism for the arrest, prosecution and punishment of culprits. To this end, the initiative of the Nigerian government to launch its sex offenders register in November 2019 is laudable. The Federating states who have also launched the sex offenders register are, Lagos and Ekiti. However, the other 34 federating states in Nigeria must take a cue from Lagos and Ekiti States of Nigeria by opening sexual offences register in their various jurisdictions to record and circulate to members of the public, the identity, and photographs of sexual offenders. If these suggestions are implemented, they have the tendency to go a long way to discourage the prevalence of sexual offences in the society.
- d. Governments of countries in the world must enact legislation in line with international best practices to protect the interest of children in their various jurisdictions. In Nigeria for instance, since the issue of protection of children is contained on the residual list in the Nigerian Constitution 1999, it is expected that federating states will domesticate the Child Rights Acts in their respective jurisdictions having being

enacted as an Act of the National Assembly of the Federal Republic of Nigeria.¹⁴⁷ If this is done, it will further help in the protection of the children in such jurisdictions. While some federating states in Nigeria have gone ahead to do so, a large number of them have not.¹⁴⁸

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¹⁴⁷ Constitution of the Federal Republic of Nigeria 1999, Chapter IV. See also Child Rights Act 2003, s 3.

¹⁴⁸ NIYI-GAFAR, & IGBAYILOYE, *supra note* 86, at. 78.

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