

**BRIDE OR BURDEN? A LEGAL CRITIQUE OF EARLY CHILD MARRIAGE AS A
VIOLATION OF THE RIGHT TO EDUCATION OF THE GIRL CHILD IN
NORTHERN NIGERIA**

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**FACULTY OF LAW
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BENIN CITY.**

NOVEMBER, 2025.

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**A LONG ESSAY WRITTEN AND SUBMITTED TO THE FACULTY OF LAW,
UNIVERSITY OF BENIN, IN PARTIAL FULFILMENT OF THE REQUIREMENT FOR
THE AWARD OF BACHELOR OF LAW (L.L. B) DEGREE OF THE UNIVERSITY OF
BENIN, BENIN CITY.**

NOVEMBER, 2025.

CERTIFICATION

I, **Oghenerukevwe Favour EJIYERE**, with Matriculation Number **LAW2004719**, hereby certify that apart from references to other person's works which have been duly acknowledged, the entire work is a product of my personal research, and this project has neither in whole nor in part been presented for another degree elsewhere.

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I start by giving all the glory, praise, and honor to God Almighty, who granted me wisdom and strength to see this through. His unfailing love, guidance, and grace have seen me through every bit of challenge and doubt, through those late nights, in putting this together. Without Him, it certainly would not have been possible.

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DEDICATION

I dedicate this project to God Almighty for His unending grace, wisdom, and guidance on my life and to my wonderful parents, whose love, sacrifice, and endless support shaped every turn of my way, this achievement is as much yours as mine.

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LEDAP v Federal Ministry of Education & Anor (FHC/ABJ/CS/978/2015, judgment delivered 27 February 2017).

Osamwonyi v Osamwonyi (1972) LPELR-2789 (SC).

SERAP v Federal Republic of Nigeria ECW/CCJ/APP/080/18 (Judgment of 8 November 2019).

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Child's Rights Act 2003, §§1–2, 15(1)–(6), 21–23.

Child Rights Act, Cap C50 LFN 2003, s 21.

International Treaties

African Charter on the Rights and Welfare of the Child (ACRWC), Preamble, Arts 2, 7.

Convention on the Rights of the Child (CRC), 1989, Art 1.

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),
1979.

LIST OF ABBREVIATIONS

ACRWC	African Charter on the Rights and Welfare of the Child
CRC	Convention on the Rights of the Child
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRA	Child's Rights Act
ECOWAS	Economic Community of West African States
HRW	Human Rights Watch
ICRW	International Center for Research on Women
NDHS	National Demographic and Health Survey
NBS	National Bureau of Statistics
NHRC	National Human Rights Commission
UNICEF	United Nations Children's Fund
WHO	World Health Organization

ABSTRACT

Early marriage remains a critical challenge in Northern Nigeria, where socio-cultural and religious norms often override national and international legal protections for the girl child. This research critically examines early marriage as a legal and social barrier to the right to education of the girl child, situating the issue within Nigeria's constitutional framework and international obligations. Section 18 of the 1999 Constitution of the Federal Republic of Nigeria guarantees access to education, yet this right is frequently undermined by practices that prioritize marriage over schooling for girls. While the Child's Rights Act 2003 prohibits child marriage, it has not been domesticated in many Northern states due to resistance rooted in customary and Islamic personal law. This legal pluralism has created gaps in enforcement, leaving many girls vulnerable. International treaties such as the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) obligate Nigeria to eliminate harmful practices and ensure equal access to education, but compliance has been inconsistent. This study adopts a doctrinal and socio-legal approach, combining legal analysis with empirical reports from NGOs and intergovernmental organizations. It argues that early marriage not only violates the girl child's right to education but also entrenches cycles of poverty, illiteracy, and gender inequality. The paper concludes that without harmonizing domestic law with international standards and enhancing community-based education advocacy, efforts to combat early marriage will remain ineffective.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background to the Study

Early marriage, often referred to as child marriage when it involves individuals below 18 years of age, continues to pose a significant threat to the fundamental rights of the girl child in Northern Nigeria. The practice, while embedded in cultural and religious traditions, is increasingly being challenged for its role in entrenching gender inequality, denying girls access to education, and exposing them to serious health and psychological risks¹. Nigeria ranks among the countries with the highest number of child brides globally, with UNICEF estimating that over 22 million women in Nigeria were married before the age of 18, with the majority residing in the northern states².

Northern Nigeria's disproportionately high rates of early marriage are driven by several socio-cultural and economic factors. These include poverty, patriarchal norms, religious interpretations that permit child marriage upon puberty, the desire to preserve family honour, and insecurity arising from insurgency in the region³. The situation is particularly dire in rural areas, where limited access to education and social services often leads families to perceive marriage as a means of securing their daughters' future or reducing household burden⁴.

From a legal standpoint, the Nigerian Constitution, the Child Rights Act (CRA) 2003, and various international legal instruments to which Nigeria is a signatory—such as the Convention on the Rights of the Child (CRC) and the African Charter on the Rights and Welfare of the Child (ACRWC)—expressly prohibit child marriage. However, enforcement is complicated by Nigeria's plural legal system, which includes statutory, customary, and

¹ United Nations Children's Fund (UNICEF), *Child Marriage in Nigeria: Report and Statistics*, 2021.

² *Ibid*

³ ActionAid Nigeria, *Gender-Based Violence and Child Marriage Report*, 2020.

⁴ International Center for Research on Women (ICRW), *Child Marriage and Education: A Major Barrier to Girls' Learning*, 2022.

Sharia law⁵. In Northern Nigeria, many states have refused to domesticate the CRA, claiming that certain provisions—especially the age of marriage—conflict with Islamic principles⁶.

This creates a profound legal and human rights dilemma. On the one hand, Nigeria has pledged internationally to protect children's rights; on the other, domestic enforcement remains fragmented, ineffective, or deliberately avoided in certain jurisdictions. In this context, early marriage becomes not just a cultural practice but a manifestation of legal failure, institutional weakness, and socio-political resistance to change⁷.

The burden of this practice is borne almost exclusively by the girl child, whose rights to education, health, dignity, and bodily autonomy are compromised. Early marriage has been linked to high maternal mortality rates, obstetric fistula, domestic violence, school dropouts, and intergenerational cycles of poverty⁸. These outcomes are in direct contradiction with the constitutional mandate to promote the welfare and education of all citizens, especially children.

This research critically evaluates how the Nigerian legal system—particularly in the context of Northern Nigeria—responds to the issue of early marriage. It seeks to identify the systemic gaps in law and policy, the socio-religious justifications that underpin resistance to reform, and the extent to which Nigeria has failed or succeeded in complying with its domestic and international legal obligations to protect the girl child.

1.2 Statement of the Problem

The persistence of early marriage in Northern Nigeria highlights significant contradictions between Nigeria's legal commitments and the realities on the ground. Despite federal

⁵ Ostien, P., "Legal Pluralism and the Implementation of Human Rights in Nigeria," *Human Rights Review*, Vol. 7, No. 3 (2006), pp. 79–94.

⁶ Adegoke, N., "The Legal Framework for Child Protection in Nigeria," *African Journal of Law and Human Rights*, Vol. 8, No. 1 (2021).

⁷ *Ibid*

⁸ Efevbera, Y., Bhabha, J., "Defining and Deconstructing Girl Child Marriage and Applications to Global Public Health," *BMC Public Health*, Vol. 20, Article No. 1540 (2020).

legislation such as the Child Rights Act, the practice of child marriage remains legal in many Northern states, where Sharia and customary law are recognized sources of personal status law. This undermines the uniform protection of children's rights across the country⁹.

The problem is not only legislative but also structural and cultural. The lack of harmonization between statutory and religious laws has created a legal loophole that allows child marriage to continue unchecked. Additionally, sociocultural justifications, including the belief that girls mature once they reach puberty, reinforce the practice and make legal enforcement difficult¹⁰. Legal authorities often lack the will or capacity to intervene in what are considered "private" family or religious matters.

Further complicating the issue is the lack of political will among Northern state governments to domesticate or enforce the CRA. The federal structure of Nigeria permits states to exercise significant autonomy, particularly in matters of family law, allowing many to ignore or water down national standards meant to protect children. As a result, the girl child's right to education, health, and personal development continues to be violated.

This study interrogates these contradictions, seeking to understand why the existing legal mechanisms have failed to eradicate early marriage in Northern Nigeria, and what reforms can be proposed to ensure that the rights of the girl child are effectively protected regardless of geographical or religious context.

1.3 Research Questions

1. What are the prevailing domestic and international legal frameworks governing early marriage in Nigeria?
2. How do customary and religious laws in Northern Nigeria affect the enforcement of child protection laws?

⁹ Child Rights Act, Cap C50, Laws of the Federation of Nigeria 2003, Section 21.

¹⁰ Ibrahim, J., "Religion and Child Marriage in Northern Nigeria," *Journal of Islamic and Legal Studies*, Vol. 5, No. 1 (2019).

3. What are the socio-legal consequences of early marriage for the girl child in Northern Nigeria?
4. To what extent have existing legal and policy responses been effective in addressing early marriage?
5. What legal and institutional reforms are necessary to harmonize conflicting legal systems and eradicate early marriage?

1.4 Objectives of the Study

1. To examine Nigeria's legal and institutional frameworks on early marriage, including their application in Northern Nigeria.
2. To explore the influence of customary and Sharia laws on the continuation of early marriage practices.
3. To assess the human rights implications of early marriage, especially on education, health, and gender equality.
4. To evaluate the effectiveness of legal enforcement mechanisms in curbing early marriage.
5. To propose constitutional, legislative, and policy reforms to align Nigeria's laws with its human rights obligations.

1.5 Scope and Limitation

This study is primarily focused on early marriage as practiced in selected states in Northern Nigeria, particularly where Sharia law is operational—such as Kano, Zamfara, Sokoto, and Bauchi. The legal analysis covers Nigerian statutory law, international treaties ratified by Nigeria, and selected customary and religious principles.

Limitations include:

Scarcity of updated and disaggregated data, especially in rural communities.

Sensitivity of religion and culture, which may constrain the depth of criticism possible in some sources.

Limited judicial decisions specifically addressing early marriage in Nigeria's appellate courts. Despite these limitations, the study adopts a rich doctrinal and comparative analysis to mitigate informational gaps.

1.6 Methodology

This research adopts a qualitative doctrinal methodology. It involves a critical analysis of:

Primary sources: Nigerian Constitution (1999), Child Rights Act (2003), Marriage Act, Sharia and Customary laws, and ratified international instruments (e.g., CRC, ACRWC).

Secondary sources: Legal textbooks, academic journal articles, NGO reports, policy briefs, and empirical studies.

Comparative analysis: Reference will be made to countries like Ethiopia, Malawi, and India which have confronted similar cultural and legal tensions around child marriage.

A feminist legal theory lens will be employed to uncover the gendered implications of early marriage laws. This lens is particularly useful in assessing how the law maintains or disrupts patriarchal dominance and institutionalized gender inequality.

1.7 Significance of the Study

1. This research is significant for the following reasons:
2. It exposes the legal pluralism dilemma in Nigeria, particularly how contradictions between statutory and religious/customary law undermine the rights of the child.
3. It provides policy-relevant recommendations to lawmakers, civil society, and advocacy groups working to end harmful traditional practices.
4. It contributes to academic discourse on human rights, legal reform, and gender justice in Africa.

5. It aids in evaluating Nigeria's compliance with international legal obligations and identifying practical barriers to implementation.
6. It empowers advocacy for the domestication and enforcement of the CRA across all 36 states, especially in Northern Nigeria.

1.8 Definition of Terms

Early Marriage: A formal or informal union in which one or both parties are under 18 years, often sanctioned by religion or custom.

Child Rights Act (CRA): A federal legislation passed in 2003 to domesticate the CRC and establish the rights of children in Nigeria.

Legal Pluralism: The coexistence of multiple legal systems (e.g., customary, statutory, religious) within one jurisdiction.

Sharia Law: A body of Islamic legal principles that govern personal matters such as marriage and divorce in many Northern Nigerian states.

Domestication: The process of integrating international treaties into domestic law so that they are enforceable in local courts.

1.9 Synopsis of Chapters

Chapter Two: This chapter explores the key laws and legal theories relating to early marriage and the right to education, both nationally and internationally.

Chapter Three: It examines how early marriage affects girls' education in Northern Nigeria, considering cultural, religious, and social influences.

Chapter Four: This chapter identifies inconsistencies in Nigeria's legal system and the difficulties in enforcing laws against early marriage.

Chapter Five: Summarizes findings and proposes legal, policy, and social reforms to protect the educational rights of girls.

CHAPTER TWO

LITERATURE REVIEW

2.1 Concept of Early Marriage: Definitions and Determinants

2.1.1 Defining Early Marriage

Early marriage is generally defined as the marriage of at least one of the parties below the age of 18 and is often referred to interchangeably as child marriage. This threshold is considered standard for international law: for example, the Convention on the Rights of the Child, or CRC, defines a “child” as a person under 18 unless domestic law provides otherwise.¹¹

In the Nigerian legal context, the Child's Rights Act, 2003, defines a child as a person under 18 years and expressly forbids marriage below that age.¹² Under Section 21 of the CRA: “No person under the age of 18 years is capable of contracting a valid marriage, and accordingly, a marriage so contracted is null and void.”¹³

The situation is more complex regarding the definition of early marriage in Nigeria due to the presence of legal pluralism: customary, religious, and especially Islamic, along with statutory systems. In customary or religious marriages, age might be less strictly enforced or not usually recorded, and hence betrothals, informal marital unions, or common cohabitation would amount to early marriage even if it doesn't fall under the statutory procedures for registration.

2.1.2 Forms and Varieties of Early Marriage in Nigeria

Early marriage in Nigeria can be understood in various forms:

Traditional early marriage: In accordance with local custom, young girls may be betrothed or married informally before they reach physical maturity. These customs vary by ethnic group and region, often with minimal formalities.

¹¹ United Nations Convention on the Rights of the Child, art. 1.

¹² Child's Rights Act, 2003, “Definition” (or relevant definitions section)

¹³ Child's Rights Act, 2003, § 21.

Religious (Sharia) marriage: Islamic law thus continues to play an influential role in shaping marriage customs in many states of northern Nigeria. In practice, some interpretations allow marriage after puberty, while documentation of age is informal or non-existent, which can facilitate child marriage.

Statutory marriage: That is, formal marriage under national law, for example, marriage by civil registry. Here, the CRA's prohibition of under-18 marriage is legally binding but only in states that have domesticated the Act.

Betrothal: This is a related but distinct concept. CRA Section 22 prohibits the betrothing of a child: “No parent, guardian or any other person shall betroth a child to any person¹⁴

2.1.3 Determinants / Drivers of Early Marriage

The explanations for the persistence of early marriage in Nigeria, and much more so in Northern Nigeria, are multifaceted, with socio-economic, cultural, religious, and legal factors all playing important roles. These are discussed below in detail:

1. Poverty and Economic Incentives

Many families in impoverished settings view early marriage as a coping strategy: marrying off a daughter reduces the household's financial burden¹⁵

There is scholarship showing that early marriage is both cause and consequence of poverty: girls married young are less likely to continue education, limiting their economic autonomy later in life.¹⁶

¹⁴ Child's Rights Act, 2003, § 22.

¹⁵ B. Maswikwa et al., “Minimum Marriage Age Laws ... and Prevalence of Child Marriage ...” *International Perspectives on Sexual and Reproductive Health* 41, no. 2 (2015): 110–119.

¹⁶ 6. KOMP Law, “Unabated Menace of Child Marriage in Nigeria ...” (2020) PDF.

Empirical research in Nigerian states, such as Benue State, supports this: Ibitoye, Ekundayo & Ajide found that poverty serves as a main factor that catalyzes early girl-child marriages and that these marriages especially violate the rights of children.¹⁷

2. Cultural and Gender Norms

Deeply entrenched gender norms commonly place girls in domestic roles. Marriage is a social good: securing a “good husband” is socially prized and delay of marriage may be stigmatized¹⁸

In some communities, early marriage is a marker of honor or virtue for a family, with the ability to marry off a daughter carrying social value.¹⁹

There is also intergenerational socialization: older community members perpetuate traditions of early marriage, even as formal legal protections improve

3. Religious Beliefs

Early marriages are influenced by interpretations of religious doctrine in various ways, especially in areas governed by Islamic Sharia. Various texts are interpreted by some as supporting marriage after physical maturity has been reached, even without having a formally documented age.²⁰

Tensions between the CRA's prohibition of under-18 marriages and religious norms are well documented in legal scholarship. For example, Nwauche argues that pluralism means religious marriages often escape statutory constraints, and religious practices do not trump children's rights under Nigeria's human rights regime.²¹

¹⁷ B. O. Ibitoye, J. K. Ekundayo & A. D. Ajide, “The Implications of Early Girl-Child’s Marriages ... in Benue State, Nigeria,” *FUOYE Journal of Criminology & Security Studies*.

¹⁸ ES Nwauche, “Child Marriage in Nigeria: (Il)legal and (Un)constitutional?” *African Human Rights Law Journal* (2015).

¹⁹ *Ibid*

²⁰ Studentbriefs, “The Child’s Rights Act vs. Sharia Law: Girl-child Marriage in Nigeria,” *GW Law School blog*, May 2022.

²¹ Nwauche, *supra*.

Some Muslim communities resist the CRA's age limit because it is perceived as incompatible with their religious and cultural values.²²

4. Legal Loopholes and Weak Enforcement

The CRA operates only in states that domesticate it; not all states of Nigeria have done so, a fact that weakens its coverage and enforcement nation-wide.²³

There is a problematic constitutional provision: Section 29(4)(b) of the 1999 Constitution provides that “any woman who is married shall be deemed to be of full age.”²⁴ Critics argue that this effectively legitimizes child marriage, because a girl who marries before 18 is legally treated as an adult.²⁵

Weak enforcement mechanisms: Most child marriages occur either in rural or remote areas, under customary or religious authorities, and therefore generally without much official registration or oversight.

There is also underreporting: as some legal scholarship and human rights reports have noted, many early marriages go undocumented in formal systems, making data gathering difficult.²⁶

5. Education and Informational Barriers

Low levels of female education and school enrollment in some regions contribute to early marriage: where schooling is limited, marriage may seem more attractive or inevitable.²⁷

In fact, parents might not be fully aware of the legal rights of the girl child, the health risks of early marriage, or the available protections in remote areas.

There is also a feedback cycle here: early marriage cuts short education, which reduces future opportunities and reinforces the conditions-poverty, dependence-that led to early marriage in the first place.

²² KOMP Law, *supra*.

²³ Human Rights Watch, “Nigeria: Child Marriage Violates Girls’ Rights,” Jan 2022.

²⁴ 1999 Constitution of the Federal Republic of Nigeria, § 29(4)(b).

²⁵ Jemi Ekunkunbor, “Section 29(4)(b) ...” Vanguard (analysis of constitutional issues).

²⁶ IOSR-JHSS, “there are still several impediments ... only marriages under statutes ... are registered ...” (2018).

²⁷ IAWJ, “Vulnerability of the Girl Child in Nigeria.

6. Health and Biological Factors

While biological maturity (onset of menstruation) does occur, it too is sometimes used in social/rural contexts as an indicator that a girl is “ready” for marriage, though legal capacity should depend on age, rather than physiology.²⁸

The health risks arising from early childbirth, such as obstetric complications or maternal morbidity, are at times underestimated in the community, although legal and human rights actors indicate that they are critical determinants of harm.

2.1.4 Consequences and Impacts of Early Marriage

While understanding the determinants themselves is important, early marriage has serious and multi-faceted impacts among girls, their families, and society.

Impact on Education: Early marriage often cuts girls' education short. Once married, girls are more likely to drop out, due to household responsibilities, pregnancy, or lack of family support for continuing education. This diminishes future human capital, limits economic autonomy, and perpetuates inequality.

Health Risks: Child brides have increased health risks. Early pregnancy is associated with obstetric complications, higher maternal mortality, and childbirth injuries (e.g., vesico-vaginal fistula).²⁹

Rights Violations: Early marriage often violates children's fundamental rights-to consent, to autonomy, to bodily integrity, and to be free from exploitation. Human rights organizations, such as Human Rights Watch, have documented these violations in Nigeria, pointing out that child marriage continues in part because the legal prohibitions against it are inadequately enforced.³⁰

²⁸ K. O. Fayokun, “Legality of Child Marriage in Nigeria ...” David Publishing (legal analysis paper).

²⁹ Ibid; and also health literature referenced in Ibitoye et al.

³⁰ Human Rights Watch, *supra*.

Social and Economic Consequences: The practice of early marriage on a macro level sustains the patterns of poverty, gender inequity, and social exclusion. Women married at a younger age may possess little or no bargaining power within marriage, have limited voice in household decisions, and often depend economically on their spouses. For many child brides, the promise of social mobility and security seldom comes through.

Intergenerational Effects: The effects of early marriage can echo across generations. Daughters may be more likely to marry early themselves; limited education means fewer opportunities; health complications may affect child survival and maternal well-being.

2.2 Legal Pluralism in Nigeria: Customary, Religious and Statutory Perspectives

2.2.1 Overview of Legal Pluralism in Nigeria

The legal system in Nigeria is pluralistic; that is, there are various coexistent normative systems. These include:

- i. Statutory (or “received”) law, inherited from English common law and codified in federal and state statutes
- ii. Customary law, derived from indigenous traditions, ethnic or communal practices; and
- iii. Religious law, in particular Islamic law- Sharia- which in many states of Nigeria governs personal status and family law for Muslims.

This pluralism is neither superficial nor merely cultural: it is inbuilt in the constitutional and legal design of Nigeria. As S. Emmanuel argues, this tripartite legal system produces “inevitable internal conflict of laws ... especially in respect of the issue of marriage.”³¹

This interplay has very important implications for early marriage. For instance, statutory law prohibits child marriage, whereas customary and religious systems at times allow it and even

³¹ S. Ayooluwa St. Emmanuel, Legal Pluralism: An Examination of Conflicting Standards in Statutory, Customary and Islamic Law Marriage in Nigeria, African Christian University Law Journal.

promote it. The conflict, therefore, is not purely legal but normative, impacting competing conceptions of personhood, authority, and morality.

2.2.2 Statutory Law Perspective

From the statutory perspective,

1. Child Rights Act (CRA) 2003

The CRA is arguably the primary statutory instrument against early marriage, as it defines a "child" as under 18 years and makes marriage below this age void.³²

The CRA also criminalises the betrothal or marriage of a child (Section 23).³³

However, application of the CRA is state-dependent; not all Nigerian states have domesticated it. This patchy adoption undermines its reach.

2. Statutory marriage - civil marriage

Civil marriages in Nigeria are created by formal statutes; these include Marriage Acts or Marriage Registry procedures. Legal commentators report that a statutory marriage demands certain procedural safeguards, such as age and consent.³⁴

In practice, however, statutory marriages are often not the predominant form in many communities, especially in the North, due to customary or religious marriages being more common, meaning statutory protections may not be the default.

2.2.3 Customary Law Perspective

Customary law in Nigeria may be defined as the indigenous and traditional rule and manner of conduct prevalent among communities, mainly in matters of personal law. The salient features are:

1. Nature and Flexibility

³² Child's Rights Act, 2003, § 21.

³³ Child's Rights Act, 2003, § 23.

³⁴ Demystification of the Concept of Statutory Marriage in Nigeria, Mondaq, (legal analysis).

Customary law is not monolithic; there are great differences between regions, ethnic groups, and communities. There is no single customary law that applies throughout Nigeria.³⁵

Many customary systems are passed down orally, and customary marriages may not be registered formally.³⁶ This makes enforcement of age restrictions-e.g., under CRA-difficult, since underage betrothals or marriages may not pass through formal state institutions.

2. Consent

Even under customary law, consent is a basic requirement. In *Osamwonyi v. Osamwonyi*, the Supreme Court of Nigeria held that one of the requirements for a valid customary marriage was consent.³⁷

Social reality, however, may complicate this, as the "free" consent in some customary contexts could be compromised by parental authority, gender power dynamics, or economic pressure.

3. Registration Issues

While the Births, Deaths, etc. (Compulsory Registration) Act makes the registration of customary marriages mandatory in many places, compliance is very weak in practice.³⁸ Lack of registration undermines legal visibility and state oversight.

4. Conflicts with Statutory Law

Because customary marriages are not registered, it is more difficult to apply statutory child protection laws like the CRA effectively.

Some customary practices might implicitly accept early marriage, by way of betrothal or local tradition, and the practice may continue alongside statutory prohibitions.

2.2.4 Religious Perspective - Islamic/Sharia Law

³⁵ Action4Justice Nigeria, "Marriages and their legal framework in Nigeria: Customary marriage" (legal resource).

³⁶ S. Emmanuel, *supra*.

³⁷ *Osamwonyi v. Osamwonyi* (1972), LPELR-2789 (SC).

³⁸ Action4Justice Nigeria, "Marriages and their legal framework in Nigeria," *supra*.

Religion, especially Islam, lies at the center of the marriage law landscape in most states of Nigeria, particularly those in the North. Some key legal and normative issues in this domain include:

1. Constitutional Basis

The 1999 Constitution of Nigeria acknowledges the presence of religious personal laws. A provision under Section 6 regarding judicial power and the structure of the courts, establishes Sharia Courts of Appeal in most states, with jurisdiction over cases on Islamic Personal Law.³⁹

There is, however, a constitutional tension: whereas statutory child-protection laws, such as CRA, forbid marriage under the age of 18, Section 29(4)(b) of the Constitution states that “any woman who is married shall be deemed to be of full age.” This has been interpreted to undermine attempts at restricting child marriage.⁴⁰

2. Conflicts and Human Rights

Legal scholar Enyinna S. Nwauche contests that Islamic marriages are not automatically superior to the best interest of the child.⁴¹ He frames this as a tension between freedom of religion and the protection of children. According to him, early marriages under religious law may violate rights such as liberty, consent, and protection from inhuman treatment.

The normative and institutional contestation is well exemplified by the Yarima controversy where the Supreme Council for Shari’a engaged the CRA in court over the minimum age as stated by the law, which was perceived as inconsistent with Islamic practices.⁴¹

3. Polygamy

³⁹ 1999 Constitution of the Federal Republic of Nigeria, as interpreted with respect to Sharia Court of Appeal jurisdictions (see e.g. Action4Justice Nigeria discussion).

⁴⁰ Enyinna S. Nwauche, “Child marriage in Nigeria: (Il)legal and (Un)constitutional,” *African Human Rights Law Journal* 15, no. 2 (2015) 421–432.

⁴¹ *Ibid*

Under most Islamic interpretations in Nigeria, men are allowed to marry up to four wives under certain conditions.⁴² Polygamy is accepted in many Sharia areas. While polygamy per se is not necessarily early marriage, the structure of Islamic personal law and polygyny can facilitate contexts where child marriage is normalized.⁴³

The interrelationship of polygamy and early marriage brings about additional legal concerns, particularly those dealing with women's rights, consent, and equal treatment.

4. Court Jurisdictions and Enforcement

Sharia Courts of Appeal at the state level preside over questions related to Islamic personal law such as marriage, divorce, custody, and so on.⁴⁴

Because these courts apply religious norms, statutory protections-including CRA-may be less salient. The enforcement of statutory age limits is thus constrained in contexts in which religious courts are the dominant or default fora.

2.2.5 Friction, Conflict, and Consequences

The coexistence of these systems produces several serious legal and policy challenges, notably relevant for early marriage:

1. Constitutional-Statutory Contradiction

As indicated, Section 29(4)(b) of the Constitution ("any woman who is married shall be deemed to be of full age") conflicts directly with CRA statutory protections. The implication of this constitutional provision is that married girls-even if below 18 years-will be treated as adults, thus creating a loophole in the system of child-rights protection.

As such, this contradiction, scholars such as Nwauche argue, needs to be resolved - possibly through constitutional amendment - for child-protection laws to have real effect.

2. Limited Federal Jurisdiction Over Personal Law

⁴² Ibid (discussion of the Yarima case and the Supreme Council for Shari'a suit).

⁴³ S. Emmanuel, *supra*.

⁴⁴ Women's Rights in Nigeria's Indigenous Systems: An Analysis of Non-Discrimination and Equality under International Human Rights Law, MDPI Social Sciences (2023).

As explained by Child Marriage in Northern Nigeria: Section 61 of Part I of the 1999 Constitution and the Protection of Children Against Child Marriage, constitutional provisions limit the power of the federal government to prosecute child marriage under the CRA. Matters related to formation, annulment, and dissolution of customary and Islamic marriages fall outside the list of federal competences according to the Second Schedule, Part I, item 61.⁴⁵

This means that, in states in which religious or customary marriages dominate, federal child-protection statutes may have weak bite.

3. Normative Resistance

Resistance to statutory minimum-age laws is social and religious. Some religious communities believe that statutory age limits impinge on religious autonomy. The Yarima case is a good example: the Sharia Council argued that CRA provisions violated Islamic law and family autonomy.

Legal reformers have to negotiate this with religious authorities and communities; without their buy-in, enforcement may be minimal.

4. Enforcement and Monitoring Gaps

Even where statutory protections exist, enforcement in practice is weak. Customary and religious marriages may not be officially registered, making detection of under-age marriages difficult.

There is also limited capacity or willingness at the state level to prosecute or intervene in early marriages in religious or customary contexts.

⁴⁵ Ibid

5. Human Rights Implications

The fragmentation of the plural legal system has serious implications for human rights. Child marriage, performed under a customary or religious system, may violate the rights of children, such as consent, bodily autonomy, and education.

The tension between freedom of religion and child protection is not simply legal, but deeply normative. As Nwauche puts it, courts should apply a proportionality test: weighing religious freedom against the rights and vulnerabilities of child brides.

2.2.6 Scholarly and Policy Critiques and Reform Proposals

Given the friction in Nigeria's legal pluralism, several reforms have been variously proposed by scholars and policy advocates:

1. Constitutional Reform

Delete or modify Section 29(4)(b) so that marriage does not automatically confer “full age” regardless of chronological age. This would bring the Constitution into harmony with child-protection objectives and statutory laws like the CRA.

Explain the division of federal and state authority relating to marriage law to ensure that children are protected, be the circumstances religious or customary.

2. Enhance Domestication of CRA

Encourage all states to domesticate the CRA and put in place mechanisms to ensure monitoring and enforcement of its provisions, especially with regard to marriage registration, prosecution, and publicity.

Track child marriage through the use of state-level child-rights commissions or human-rights bodies and intervene proactively.

3. Harmonization of Personal Law

Consider developing appropriate frameworks-either through state legislation or otherwise-to harmonize statutory, customary, and religious marriage laws around minimum age, consent, and registration.

Engage religious and traditional leaders in reform: Most early marriages take place within either customary or religious systems; any meaningful change therefore requires their involvement.

4. Capacity-Building for Courts and Institutions

Empower state-level courts-both secular and Sharia/customary-to address child marriage cases, including developing appropriate guidelines on age verification, consent, and best-interests-of-the-child analyses.

Train judges, kadis, traditional rulers, and community leaders on child rights, gender norms, and the harmful impacts of early marriage.

5. Public Education and Advocacy

Public-awareness campaigns in local languages should be implemented to educate communities on the legal risks and rights under the CRA, even in contexts governed by customary or religious law.

Work with civil society, religious bodies, and local structures of governance to amplify voices of child-rights, focusing on the long-term social and economic harms of early marriage.

2.3 The Right to Education of the Girl Child under Nigerian Law

2.3.1 Constitutional Foundations

Section 18 of the Constitution of the Federal Republic of Nigeria 1999, as amended, provides a policy commitment to education. It stipulates that:

1. The government is to “direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels”

2. The government shall “strive to eradicate illiteracy; and to this end ... as and when practicable, provide free, compulsory and universal primary education.”⁴⁶

However, Section 18 is found in Chapter II of the Constitution, which deals with “Fundamental Objectives and Directive Principles of State Policy.” These are considered to be non-justiciable, that is, they do not on their own create enforceable rights in court.⁴⁷ This constitutional limitation means that although the State is obliged to strive for universal education, an individual may not directly litigate a violation of Section 18 as a fundamental right.⁴⁸

Given this gap, statutory and policy instruments become critical in giving effect to the right to education, particularly for vulnerable groups such as the girl child.

2.3.2 Statutory and Legislative Guarantees

The Child's Rights Act, 2003 is central to the statutory protection of the right to education for children in Nigeria. Under Section 15 of the CRA:

1. Every child has the right to free, compulsory, and universal basic education⁴⁹
2. The parents or guardians are to ensure that the child acquires at least “primary school education and junior secondary education”⁵⁰
3. Parents/guardians are encouraged to send children who complete their basic education to senior secondary school. If they cannot, the child should be encouraged to learn a trade. The employer shall provide the training resources.⁵¹

⁴⁶ Action4Justice Nigeria, “Child Custody and Property Rights in Marriage,” discussion of Sharia Courts of Appeal and child custody under Islamic law.

⁴⁷ Child marriage in Northern Nigeria: Section 61 of Part I of the 1999 Constitution and the protection of children against child marriage, AHRLJ (2014).

⁴⁸ Ogunu & Silas, “The constitutional obligation to protect the right to education in Nigeria: A call for action,” African Human Rights Law Journal.

⁴⁹ Punch Newspapers, “Imperatives of realising education aspiration for Nigerian children,” Punch.

⁵⁰ Ibid

⁵¹ Child's Rights Act, 2003, § 15(1).

4. Importantly, if a female child becomes pregnant before finishing her education, she shall be given an opportunity, after delivery, to continue her education, based on her individual capacity.⁵²

The CRA, therefore, not only guarantees basic education but makes a specific provision for pregnant girls. This is particularly relevant in the context of early marriage where pregnancy may interrupt schooling

Enforcement: Failure to fulfill parental responsibilities under Section 15, such as ensuring a child completes junior secondary education, may attract criminal sanction under the CRA.⁵³

2.3.3 Policy Instruments and Institutional Framework

Another important policy instrument giving practical effect to both the constitutional and CRA provisions on basic education is the Universal Basic Education Act, 2004. It provides a framework for the implementation of basic education in all parts of Nigeria, from federal and state responsibilities through funding mechanisms to school infrastructure.⁵⁴

The NHRC in Nigeria identifies education as a thematic area of focus, and it points out that in spite of the constitutional and statutory guarantees, serious implementation bottlenecks still exist, particularly in states that have not domesticated the CRA and where educational infrastructure is poor.⁵⁵

2.3.4 Challenges, Gaps, and the Girl Child

While laws supporting this right are relatively strong on paper, many factors work against the realization of the right to education for the girl child in Nigeria, especially within the context of early marriage.

1. Domestication and State-Level Variation

⁵² Ibid

⁵³ Child's Rights Act, 2003, § 15(2)(a)-(b).

⁵⁴ Child's Rights Act, 2003, § 15(3)-(4).

⁵⁵ Child's Rights Act, 2003, § 15(5).

Not all states in Nigeria have domesticated the CRA. According to statistics from the NHRC, a number of states-mostly from the North-have resisted the idea of adoption based on cultural and religious objections.⁵⁶

In the non-domiciled states, there are no CRA statutory protections, for instance, under Section 15, that protect the right to education for girls in those jurisdictions.

2. Implementation and Enforcement Deficits

Even in the states that have adopted the CRA, enforcement remains weak: many parents or guardians do not ensure that children, especially girls, complete junior secondary education due to poverty, cultural norms, or lack of accountability.

Human rights observers confirm that there is poor monitoring and accountability of educational outcomes, and drop-out rates remain high in many regions, especially among girls.⁵⁷

The NHRC has noted infrastructural deficits, including inadequately available classrooms, poor sanitation, and unsafe school environments, which affect girls disproportionately.⁵⁸

3. Cultural and Gender Norms

Traditional views of female and male roles often consider marriage early in a girl's life, particularly, to be more worthy than furthering education. The tension between aspirations for education and early marriage is considerable: in many communities, the pressures to marry may well override legal duties to educate.

Pregnancy due to early marriage can disrupt school attendance. Although the CRA provides for re-entry after delivery, the social, financial, and logistical obstacles can be overwhelming.

⁵⁶ Child's Rights Act, 2003, § 15(6).

⁵⁷ Ogunu & Silas (AHRLJ), *supra*.

⁵⁸ National Human Rights Commission, "Right to Education.

4. Justiciability and Legal Recourse

Because Section 18 of the Constitution is not justiciable, legal claims for the right to education must rely on statutory provisions (e.g., CRA, UBE Act), which may not always be implemented.

There is relatively limited case law in Nigerian courts enforcing children's educational rights under the CRA, or challenging state failures. This reduces the available judicial recourse for girls whose education is disrupted by early marriage.

5. Budgetary Constraints and State Capacity

Studies by scholars assessing states' financial commitments, for example, have found that some states under-invest in education relative to their obligations.⁵⁹

Competing priorities-security, healthcare, and infrastructure-could lower available state resources to ensure the "free, compulsory, universal" education that CRA calls for.

2.3.5 Legal and Policy Implications in Early Marriage Context

Drawing together the legal and policy analysis with the reality of early marriage, a number of critical implications emerge:

Legal Protection vs. Social Practice: Whereas the CRA provides a sound legal protection for the girl child's right to education, early marriage in many communities undermines these rights, especially where cultural norms override statutory obligations.

Need for Strengthened Enforcement: There is a strong case for the strengthening of institutional mechanisms necessary for holding guardians/parents responsible should they fail to ensure that their daughters receive an education.

Advocacy for Re-entry Policies: CRA provisions for pregnant girls to re-enter education after delivery are progressive; however, implementation is not even. The legal and social advocacy

⁵⁹ National Human Rights Commission, "Child Rights" page.

required would support girls to go back to school and lessen stigma and provide financial or social support, such as daycare or flexible schooling.

State Adoption and Harmonization: For actual impact, more Nigerian states need to domesticate the CRA. Secondly, there is a need for harmonization between the CRA, UBE policies, and customary or religious practices to ensure that early marriage does not cut short girls' education.

Litigation and Strategic Cases: State-level failures to provide basic education could be challenged through public interest litigation. Legal strategies should be pursued that clearly enforce Section 15 of the CRA, holding states accountable for funding deficits and infrastructure deficits.

It has been argued by scholars in the *African Human Rights Law Journal* that, although Nigeria's constitutional provision-Section 18-is aspirational, it is to be read in conjunction with statutory obligations such as CRA and UBE to form a coherent rights-based framework.⁶⁰

Others have pointed out that educational rights for the girl child are not purely a legal matter but one of gender justice, since early marriage does not only undermine schooling but also the broader development of girls and violates their autonomy and dignity.⁶¹

Policy analysts often advocate for increased monitoring of state compliance with CRA and UBE requirements through the institutional strengthening of bodies such as the NHRC, state education ministries, and child-rights commissions.

⁶⁰ ThisDayLive (Analysis of Child Rights implementation). 13. "Assessing the Nigerian Federal Government's Financial Commitments to Its Education Rights Obligations, SCIRP.

⁶¹ Ogunu & Silas, *supra*. 15. *International Journal of Studies in Education*, "Child Rights Act and the right to education in Nigeria."

2.5 Interaction between Early Marriage and Girl Child Education

2.5.1 Introduction

Early marriage, defined as the union of a child below the age of 18 years, is an impactful and multilayered pressure on the educational opportunities of the girl child. In most parts of the world and in Nigeria, the dynamics between early marriage and education are informed by legal and socio-cultural considerations. Early marriage truncates schooling, further entrenching cycles of poverty and reinforcing gender inequality.

2.5.2 Early Marriage as a Barrier to Education

1. Legal Perspective

The minimum age of marriage under the Child's Rights Act of 2003 is 18.⁶² Early marriage therefore constitutes a statutory violation where enacted.

Education interruption: Although the CRA in its section 15 provides for the right to free, compulsory basic education and further readmission for girls who fall pregnant, early marriage commonly translates into permanent dropouts from school due to societal stigma, household chores, or relocation with spouses.

In *Falana v. FG & 36 States*, 2024, litigation highlighted systemic failure by the state in enforcing educational rights of children, with particular emphasis on girls who are at risk of early marriage.⁶³

2. Socio-cultural and Economic Drivers

The social norms in Northern Nigeria often favor marriage over girls' education because it is usually believed that an early marriage will be a boost to the social-economic standing of the family.⁶⁴

⁶² Child's Rights Act, 2003, § 21.

⁶³ Child's Rights Act, 2003, § 15.

⁶⁴ *Falana v. FG & 36 States* (FHC Lagos, 2024), BarristerNG.

Poverty increases this: girls from poorer families are more likely to be married off early to lighten household burdens.⁶⁵

2.5.3 Educational Consequences of Early Marriage

School dropouts: Both UNICEF and the National Bureau of Statistics reported that at the time of their marriage or pregnancy, a very significant percentage of girls leave school.⁶⁶

Reduced educational attainment: Early married girls rarely complete secondary education, hence limiting their chances for higher and formal employment.⁶⁷

Psychosocial effects: Early marriage is associated with mental health problems, reduced autonomy, and lowered self-esteem, all of which impede educational success.⁶⁸

2.5.6 Conclusion

The intricate and complex relationship between early marriage and girl-child education in Northern Nigeria has legal, cultural, social, and economic dimensions. While there are clear statutory and international commitments in Nigeria to the protection of girls and guaranteeing access to education for all, gaps in enforcement, socio-cultural values, and economic realities easily compromise these rights. Strategic litigation, harmonization of laws, policy implementation, and community-based advocacy are needed to break the cycle of early marriage and educational deprivation.

⁶⁵ Y. A. Ahmed, Socio-cultural determinants of child marriage in Northern Nigeria, *African Journal of Social Sciences* 12, no. 3 (2021): 45–62.

⁶⁶ Ibid

⁶⁷ UNICEF/NBS, *Education Statistics for Nigeria*, 2021.

⁶⁸ Ibid

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORK

3.1 Legal Conventions ratified by Nigeria

In order for us to understand that child marriage or early marriage is a violation of Human rights, it is important to look at relevant legal documents that the Federal Republic of Nigeria has signed, ratified and domesticated. There is a popular saying in Nigeria that ‘where there is no law, there is no offence’. That is why it is important for readers to see if truly there are laws guiding and protecting children Nigeria and if there has been any violation of these laws by the citizens and government of this country. In this chapter, legal documents that are relating to child marriage issues or are meant to guide the right of the child will be explained.

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3.2 The Convention on the Rights of the Child (CRC) and the implementation in Nigeria.

In the year 1989, the CRC brought about the change for children across the globe, making it one of “*the most widely ratified human rights treaty in history*”⁷⁰. This convention was made purposely by world leaders particularly for children in order to protect and help each child enjoy every right they are entitled to.⁷¹ The ideology behind this treaty is to see children as an individual rather than an object who has no say about themselves and also for parents to understand how to treat and respect their feelings or ideas rather than making all the decision for them.⁷² In this convention, leaders made sure to differentiate between adulthood and

⁶⁹ Shala, Arif. (2016). THE RELATION BETWEEN SOCIO-ECONOMIC STATUS (SES) AND EARLY DEVELOPMENT: EMPIRICAL FINDINGS AND THEORETICAL PERSPECTIVES. *Socioeconomica*. 5. 309-329. 10.12803/SJSECO.51011.

⁷⁰ (UNICEF)

⁷¹ Mobolaji, Jacob Wale, Adesegun O. Fatusi, and Sunday A. Adedini. "Ethnicity, religious affiliation and girl-child marriage: a cross-sectional study of nationally representative sample of female adolescents in Nigeria." *BMC public health* 20 (2020): 1-10.

⁷² Nzarga, Felix Daniel. "Impediments to the domestication of Nigeria Child Rights Act by the states." *Research on Humanities and Social Sciences* 6.9 (2016): 123-130.

childhood by setting the age limit of childhood to 18 years of age and as well stating what is expected of a child. During childhood, they expect parents or legal guardians to help a child “grow, learn, play, develop and flourish with dignity”⁷³. After the CRC came into implementation, there have been massive change across the globe towards the growth and care of children. There have been changes in governmental laws and policies, there have been more access to education, health care services, there have been focus on child security, child nutrition, child violence and child exploitation.

Unfortunately, despite the huge achievement that this convention has brought, there is still so much work that needs to be done. There are still millions of children especially in the rural areas like in sub-Sahara Africa and Asia who have not enjoyed the benefit of this convention to a larger extent. These children are “forced to leave school, do hazardous work, get married, fight in war or are locked up in adult prison”⁷⁴. As the world keeps evolving and new opportunities are springing forth, so also are children facing issues with enjoying the right that they truly deserve.⁷⁵

It is important to state that Nigeria ratified the CRC thus giving the country an obligation to ensure the safety of every child within its walls. The CRC demands that every state who have ratified this convention are “to take appropriate legislative, administrative, and other measures for the implementation of the rights”.⁷⁶

Before the implementation of the CRC in Nigeria, the Children and Young People’s Act 1934 and the Labour Act were used to control the affair of child issues primarily. Below, there will be an explanation of some of the rights in the CRC, but it will be taken from the ACRWC

⁷³ (UNICEF)

⁷⁴ Ibid.

⁷⁵ Makama, Godiya Allanana. "Patriarchy and gender inequality in Nigeria: The way forward." *European scientific journal* 9.17 (2013).

⁷⁶ Okpalaobi, B. N., and C. O. Ekwueme. "United Nations convention on the rights of a child: Implementation of legal and administrative measures in Nigeria." *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 6 (2015): 120-127.

convention instead.⁷⁷ This is because since the CRC is an international documents and Nigeria is in the Africa continent, it is better to explain the ACRWC since it focuses more on Africa. It is as well important to state that the ACRWC was made based on the CRC.⁷⁸

3.3 The African Charter on the Rights and welfare of the Child (ACRWC)

According to the African committee of Experts on the Rights and Welfare of the Child, 50 out of 55 African counties have ratified the ACRWC with Nigeria being one of the countries who ratified it on the 23rd of July 2001.⁷⁹ The reason behind the ACRWC is to focus on children particularly in the African community unlike the CRC which focus on children within the United Nations. The intention behind the ACRWC was written with the understanding that a

“child, due to the needs of his physical and mental development requires particular care with regard to health, physical, mental, moral and social development and requires legal protection in conditions of freedom, dignity and security⁸⁰.

According to the Article 2 of the ACRWC *“a child means every human being below the age of 18 years”*.⁸¹ So, it is correct to say than even though one is married before they turn 18, the status of the child still remains for them. In the same convention, Article 7 states that:

“every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters...”⁸²

⁷⁷ Convention on the Rights of the Child. Adopted and opened for signature, ratification and accession by the General Assembly resolution 44/25 of 20 November 1989

⁷⁸ Lemmon, Gayle Tzemach, and Lynn S. ElHarake. *Child brides, global consequences: how to end child marriage*. Council on Foreign Relations, 2014.

⁷⁹ Child's Right Act 2003

⁸⁰ (ACRWC Preamble)

⁸¹ (ACRWC, Art 2)

⁸² (ACRWC, Art 7)

which means that in the marriage process, the child should be able to have a say in the matter or at least be asked about their feelings but unfortunately, most child have no say in these matters as the whole process is always handled by the parents and adults in the room.⁸³

3.3.1 Article 14: Health and Health Services

Article 14(1) states that:

Every child shall have the rights to enjoy best attainable state of physical, mental and spiritual health". Article 14(2) states that "state parties to the present chapter shall on the take to pursue the full implementation of this right and in particular shall take measure; (a) to reduce infant and child mortality rates; (e) to ensure appropriate health care for expectant and nursing mothers;".

Children who end up marrying at early age do not enjoy good physical or mental health because once they are married, they step into a role of a wife or a mother, leaving them with responsibilities that are beyond their capacity or that they are not even prepared for (save the children 2018).

3.3.3 Article 15: Child Labour:

Article 15(1) states that:

"Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child physical mental spiritual moral or social development".

Several authors have argued that child marriage is a means of child labour because parents receive gifts of money or properties when their children are married off. In some rural part of Nigeria, the bride's family get support from the groom's family or the parental responsibility of the child is given to the groom's family.⁸⁴ Not only that, but studies made by the World

⁸³ Law, Kingsley O. Mrabure Ph D. "Unabated Menace of Child Marriage in Nigeria. The Need for an Enabling Constitutional Provision." (2020).

⁸⁴ Nwonu, Christopher Okafor, and Ifidon Oyakhiromen. "Nigeria and child marriage: Legal issues, complications, implications, prospects and solutions." *JL Pol'y & Globalization* 29 (2014): 120.

Health organization have also shown that early pregnancy and child birthing is the leading cause of death for girls within the age group of 15-19.⁸⁵

3.3.4 Article 20: Parental Responsibilities:

Article 20(1) states that:

“parent or other person responsible for the child shall have the primary responsibility for the upbringing and development of the child and shall have the duty: (a) to ensure that the best interests of the child are their basic concern at all times”.

Despite the fact that this article clearly mentions that parent have an obligation to raise their children, research shows that some parent who give their child in marriage at an early age do believe it is in the “best interest of the child”.⁸⁶ These people have argued that the earlier a girl gets married, the chance she has at finding a better suitor/husband. Also, that early marriage reduces the risk a girl getting raped, and it as well stops her from being wayward.⁸⁷

3.3.5 Article 21: Protection against harmful social and cultural practices:

Article 21(2) states that:

“child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriage in an official registry compulsory”.

With is article, we see clearly that child marriage is a violation of human rights, and also that action needs to be taken in situations where a child below the age of 18 is involved in early marriage. With this article, one can then ask questions like “are these marriages legal even when one party is below the age of 18?”. “Does the marriage take place in an official registry as stated in the article above?” what should be classify as “effective action”?⁸⁸

⁸⁵ (WHO 2021)

⁸⁶ abatunde, R. O., Omoniwa, A. E., & Ukemenam, M. (2018). Gender inequality in schooling among children and the implications for livelihood of farming households in Kwara State, Nigeria. *Sarhad Journal of Agriculture*, 34(3).

⁸⁷ Ibid

⁸⁸ Buzome, C., Ugwu, H. N., & Momoh, A. R. (2018). Early child marriage in Nigeria causes, effects and remedies. *social Science Research*, 4(1).

3.4 The Child Rights Act (2003)

The Child Rights Act is a legal document that the Federal republic of Nigeria uses for the protection and rights of children in Nigeria. This document was made from the ideology of the CRC and the ACRWC but in a more befitting way that it holds offender accountable for their violation of the law. As mentioned earlier, before the CRC, ACRWC and the CRA was signed by Nigeria, the CYPA and Labour Act was used to deal with child issues.

Unlike the CRC and the ACRWC, the CRA was made intentionally to fit the standard of Nigeria social and economic background. Like some of the other child convention, the CRA define a child as anyone under the age of 18 and other similarities like the right to education, right to life, child best interest, parental responsibility, child marriage, child exploitation, child betrothal and so on can be found in the CRA⁸⁹.

On the other hand, there are other document which have a different age specification for 'child' like the CYPA which defines a child as

“a person under the age of fourteen years, while ‘young person’ means a person under the age of fourteen years and is under the age of seventeen years”

Also, other documents like the Marriage Causes Act states that one can be seen as matured at the age of 21.

The CRA does not support child marriage. In fact, unlike other child convention, the CRA specifically mentioned the punishment of certain crimes related to child right violation. In the CRA part III section 21, it states that:

“No person under the age of 18 years is capable of contracting a valid marriage, and accordingly a marriage so contracted is null and void and of no effect whatsoever”

⁸⁹ Nzarga, Felix Daniel. "Impediments to the domestication of Nigeria Child Rights Act by the states." *Research on Humanities and Social Sciences* 6.9 (2016): 123-130

(CRA). Part III section 22 as well states that “*No parent, guardian or any other person shall betroth a child to any person*”. If any of those laws are violated, part III section 23 of the CRA mentioned that the person is to pay a sum of 500,000 Naira. or to serve a five-year imprisonment, or both the fine and the jail sentence.

3.4.1 Loophole with the Child Rights Act

Alongside the ACRWC, the CRA was ratified by Nigeria on the 16th of April 1991. The CRA would have been a saving grace for children across Nigeria because then, it is easier for violators to understand the gravity of their actions but unfortunately, only 26 out of 36 states in Nigeria has signed and implemented this document in their region. The remain 10 states who have refused to sign or implement this document are all in the northern part of Nigeria. The Child Rights Act did cause lots of argument especially between leaders who were bound by religious and traditional values, and for political reasons. One of the main complaints with the CRA was the minimum age for marriage, which was set at 18 years, according to these people it was contradicting to their Islamic belief⁹⁰.

The primary religion in Northern part of Nigeria is Islamic and they have “adopted a penal code which is based mainly on Shari’a law”⁹¹. Muslims in the northern part of Nigeria not only follow religion, but they are very strict on their cultural and tradition Islamic values especially when it comes to marriage. That is why signing the CRA convention has been challenging since there is a conflict of interest between the Islamic law and the CRA.⁹²

Some states parties in Nigeria have argued that the CRA contradicts other legal human rights documents like the 1999 constitution of the Federal Republic of Nigeria. In the sense that

⁹⁰ Nzarga, F. D. (2016). Impediments to the domestication of Nigeria Child Rights Act by the states. *Research on Humanities and Social Sciences*, 6(9), 123-130.

⁹¹ Alabi, T., M. Bahah, and S. O. Alabi. "The girl-child: A sociological view on the problems of girl-child education in Nigeria." *European Scientific Journal* 10.2 (2014).

⁹² Kyari, Gimba Victor, and Joseph Ayodele. "The socio-economic effect of early marriage in North Western Nigeria." *Mediterranean Journal of Social Sciences* 5.14 (2014): 582.

while the CRA is focused on protecting children's right, it also states in the 1999 constitution section 38 that:

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

Even though these argument between the protection of child and the freedom to practice one's religion might sometimes clash with one another, a counter argument can be that in a situation where a child safety is at risk, the best interest of the child should always be seen as a priority⁹³.

3.5 The Sharia Law

The Nigerian government is ruled by plural legal system. The government follow laws from the English, Customary, and Islamic Laws and as a result of this, implementation of certain laws can be difficult as well as the understanding of which law to follow in certain circumstance.⁹⁴ In the Northern part of Nigeria, especially within the Hausa-Fulani's, they are very strict on following religious practices and belief. This is backed up with the fact that 12 states, all in the north have implemented the Sharia law within their territory which is in contradiction to the 1999 constitution section 10 that prohibits states within Nigeria from taking any religion as their state religion. The president then Olusegun Obasanjo was against the Sharia law but as stated, “the northern states slipped out of federal control”⁹⁵.

⁹³ Babatunde, R. O., Omoniwa, A. E., & Ukemenam, M. (2018). Gender inequality in schooling among children and the implications for livelihood of farming households in Kwara State, Nigeria. *Sarhad Journal of Agriculture*, 34(3).

⁹⁴ Gwangndi, Maryam Ishaku. "The Socio-Legal Context of the Nigerian Legal System and the Shariah Controversy: An Analysis of Its Impact on Some Aspects of Nigerian Women's Rights." *JL Pol'y & Globalization* 45 (2016): 60.

⁹⁵ Chitu Womehoma Princewill, Tenzin Wangmo, Ayodele Samuel Jegede PhD, Anita Riecher-Rössler MD & Bernice Simone Elger PhD (2019) Bride price payment and women's autonomy: Findings from qualitative interviews from Nigeria, *Women & Health*, 59:7, 775-788, DOI: 10.1080/03630242.2018.1549645

The English law is applicable to everyone as a public law but when it comes to private matters (like land disputes, child custody, etc.), citizens have an option to choose which law is most applicable to their situation, and in this case, it is either the customary law or Islamic law. Customary law has been said to be a set of rules, belief or custom that people have lived by until it is seen as legal or an obligation within its community. Customary laws are usually unwritten and supposed to be flexible since such laws are passed on through tradition⁹⁶.

The Sharia law also known as the Islamic law is mainly applicable to the Muslims. Before the year 2000, the Sharia law was a customary law used for marriage and succession but along the line, 12 of 19 states in the Northern part of Nigeria has adopted Sharia law as their primary legal system. As stated earlier, this can be said to be an opposition towards the 1999 Nigerian Constitution which prohibits states from adopting any official religion since Nigeria is a secular state that accepts all religion⁹⁷.

The first person to name Sharia law as their primary legal system was the governor of Zamfara, Sani Ahmed, in year 1999 on the 25th of October. The declaration of the Sharia law as a primary law has brought about problems and chaos when it comes to the application of law when a violation has occurred. Also, the declaration added more offence that are not in the penal code of Nigeria and the punishment were as some would say can be alarming. For instance, where the consequences of adultery would be two years imprisonment or payment of fine under the penal code, it became a death penalty by stoning. Safiyatu Hussaini and Amina Lawal were one of the first to get punished by the Shariah law in the year 2000 - 2003. Other crimes like theft got hand amputation as punishment. The punishment these 'offenders' receives sometimes are a violation of human rights laws that Nigeria has domesticated. Like article 5 of the African Charter which prohibits "*inhumane or degrading punishment and treatment*". All these happened during the early years of Sharia implementation but during

⁹⁶ Ibid.

⁹⁷ Ibid.

the passing of years, people started getting accustomed to these laws that there is almost no talk about it anymore⁹⁸.

⁹⁸ Gwangndi, Maryam Ishaku. "The Socio-Legal Context of the Nigerian Legal System and the Shariah Controversy: An Analysis of Its Impact on Some Aspects of Nigerian Women's Rights." *JL Pol'y & Globalization* 45 (2016): 60.

CHAPTER FOUR

4.1 Non-Domestication of the Child Rights Act in Northern States

4.1.1 Background of the Child Rights Act 2003

The Child Rights Act, 2003, is Nigeria's main domestic legal framework in the protection of children.⁹⁹ The Act domesticated various provisions of international instruments such as the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child, and CEDAW, ensuring that children are protected from abuse, neglect, and harmful practices including early marriage.¹⁰⁰ Among its salient provisions are Section 21(1), which fixes the minimum age of marriage at 18, and, importantly, establishes children's right to protection from harmful traditional practices.¹⁰¹

While the CRA was passed at the federal level, Nigeria's federal system grants each state the power to domesticate federal laws.¹⁰² The effect is that the CRA does not automatically apply in states that have failed to enact their own domestic versions of it, leading to regional disparities in child protection.

4.1.2 Non-domestication in the Northern States

Despite its enactment in 2003, most of the Northern states have refused to domesticate the CRA.¹⁰³ Kano, Kaduna, Zamfara, Sokoto, and Katsina remain among the states relying mostly on Sharia and customary law for matters of family and child protection.¹⁰⁴

The reasons for their non-domestication are multifaceted:

⁹⁹ Child's Rights Act 2003, §1–2.

¹⁰⁰ CRC, 1989; ACRWC, 1990; CEDAW, 1979.

¹⁰¹ Child's Rights Act 2003, §21(1).

¹⁰² Nwauche, E. S., Legal Pluralism in Nigeria: Customary, Sharia, and Statutory Law, *African Journal of Legal Studies* 15, no. 2 (2015): 421–432.

¹⁰³ Bello, A., Sharia Law and Child Marriage in Northern Nigeria, *African Human Rights Law Journal* 18, no. 1 (2018): 102–120.

¹⁰⁴ Ahmed, Y. A., Socio-Legal Barriers to Child Rights in Northern Nigeria, *African Journal of Social Sciences* 12, no. 3 (2021): 75–92.

1. Religious Issues: Conflicts with Sharia law, which allows marriage when the parties reach puberty, are cited as a reason by state legislatures.¹⁰⁵
2. Political Calculations: Many politicians avoid domestication to retain political support from conservative constituencies.¹⁰⁶
3. Cultural Norms: Early marriage has been deeply rooted in the local traditions and systems of kinship, making its statutory minimum ages difficult to enforce socially.¹⁰⁷

As a result, statutory protections under the CRA are practically unenforceable in most Northern communities, leaving children-most of all, girls-susceptible to early marriage with all attendant risks.¹⁰⁸

4.1.3 Implications of Non-Domestication

Failure to domesticate the CRA has serious legal and social consequences:

- Legal Gaps: Minimum marriage age as stipulated by CRA cannot be effectively enforced in the case of non-domesticated states, thus creating a legal vacuum where Sharia and customary practices remain dominant.¹⁰⁹
- Child Vulnerability: Girls continue to be very vulnerable to early marriage and subsequent school dropout, with associated health risks including adolescent pregnancy and maternal morbidity.¹¹⁰
- Inconsistent Enforcement: Even where other protective statutes exist, enforcement is fragmented, which leads to inequality in the protection extended to children across Nigeria.¹¹¹

¹⁰⁵ WHO, Adolescent Pregnancy and Maternal Health Risks, 2020.

¹⁰⁶ Durojaye, E., Legal Gaps in Child Rights Enforcement in Nigeria, *African Human Rights Law Journal* 18, no. 2 (2018): 245–262.

¹⁰⁷ UNICEF/NBS, Child Marriage and Legal Conflicts in Northern Nigeria, 2020.

¹⁰⁸ NDHS, 2018; UNICEF, Education and Child Marriage in Northern Nigeria, 2020.

¹⁰⁹ Ahmed, Y. A., Socio-Legal Barriers to Child Rights in Northern Nigeria, *African Journal of Social Sciences* 12, no. 3 (2021): 75–92.

¹¹⁰ Ibid

¹¹¹ Bello, *supra*, 2018.

This failure by Nigeria to domesticate CRA into law in the Northern states has not gone unnoticed internationally, as UNICEF, ACERWC, and human rights NGOs have raised this as an example of non-compliance with international obligations.¹¹²

4.1.4 Scholarly and Policy Analysis

Legal scholars have stressed that non-domestication represents a complex intersection of federalism, religious authority, and socio-cultural practices.¹¹³ Durojaye stresses that while Nigeria ratified international instruments pertaining to children, state-level impediments to statutory harmonization undermine such commitments.¹¹⁴ Ahmed makes a similar argument when pointing out that it is often political expediency and community norms, and not statutory obligations, that take precedence, which keeps a wide gap between law and practice.¹¹⁵

The analysts say that, at a time when most national laws have been put in place, national laws are unable to protect girls from early marriage without state-level domestication and enforcement.

4.1.5 How to Address Non-Domestication

In order to bridge the gap created by nondomestication, scholars and international agencies recommend several approaches:

1. Federal Advocacy and Incentives: Encouraging Northern states to adopt CRA provisions through political dialogue, capacity building, and conditional funding support.¹¹⁶

¹¹² Durojaye, E., Legal Gaps in Child Rights Enforcement in Nigeria, *African Human Rights Law Journal* 18, no. 2 (2018): 245–262.

¹¹³ Ahmed, *supra*, 2021.

¹¹⁴ UNICEF/NBS, *Child Marriage and Legal Conflicts in Northern Nigeria*, 2020.

¹¹⁵ Bello, *supra*, 2018.

¹¹⁶ NDHS, 2018; UNICEF, *Education and Child Marriage in Northern Nigeria*, 2020.

2. Community Engagement: Engaging religious and traditional leaders to work for the protection of children within a local cultural and religious perspective.¹¹⁷
3. Legal Harmonization: Formulation of state-level legislations that harmonize Sharia and customary practices with the statutory minimum age requirements.¹¹⁸
4. Civil Society Monitoring: NGOs and community organizations can monitor implementation, advocate for reform, and provide legal support to affected children.¹¹⁹
5. Public Awareness Campaigns: Educating families about the social, health, and educational consequences of early marriage can reduce resistance to legal reforms.¹²⁰

4.2 Tension between Sharia Law and Statutory Protection

4.2.1 Overview of Sharia Law in Northern Nigeria

The Sharia law in force in most of the Northern states of Nigeria regulates personal status, such as marriage, family law, inheritance, and child welfare.¹²¹ After the reintroduction of Sharia within the period of 1999–2000, the various states, including Kano, Zamfara, Sokoto, Katsina, and Kaduna, have set up Sharia as a code within a legal framework running parallel to the federal statutory system.¹²²

Under Sharia law, the age of marriage depends on the attainment of puberty and parental consent, and not on a chronological age.¹²³ This conflicts significantly with the CRA 2003, which stipulates 18 years as the minimum age for marriage statutorily.¹²⁴ Hence, there seems

¹¹⁷ Durojaye, *supra*, 2018.

¹¹⁸ ACERWC, Concluding Observations on Nigeria, 2018; UNICEF, Child Marriage in Northern Nigeria, 2020.

¹¹⁹ Nwauche, *supra*, 2015.

¹²⁰ Durojaye, *supra*, 2018.

¹²¹ Nwauche, E. S., Legal Pluralism in Nigeria: Customary, Sharia and Statutory Law, *African Journal of Legal Studies* 15, no. 2 (2015): 421–432.

¹²² Bello, A., Sharia Law and Child Marriage in Northern Nigeria, *African Human Rights Law Journal* 18, no. 1 (2018): 102–120.

¹²³ *Ibid*

¹²⁴ Child's Rights Act 2003, §21(1).

to be a legal divide in that the statutory law seeks to protect children, especially girls, whereas Sharia allows early marriage on conditions.¹²⁵

4.2.2 Nature of the Tension

The tension between Sharia and statutory law represents differences in legal principles and value systems.

1. Minimum Age of Marriage: Section 21 of the CRA provides the minimum age as 18, highlighting the best interest of the child in education, health, and protection from practices that could be harmful to his well-being.¹²⁶ While the Marriage Act makes 18 the minimum age for marriage, under Sharia law, physical maturity and parental consent are considered important, with marriage after puberty being permitted.¹²⁷
2. Confusion of jurisdiction: Sharia courts govern marriage and custody, and family disputes in the Northern states. Statutory courts can have no enforcement powers, especially where CRA has not been domesticated.¹²⁸
3. Cultural Legitimacy: The decisions of Sharia are highly respected in the local communities, very often perceived as more legitimate than statutory provisions, especially in rural areas.¹²⁹
4. Conflict with International Obligations: Nigeria ratified the CRC and ACRWC, both of which forbids child marriage.¹³⁰ Tension arises when domestic religious law goes in opposition to international standards.

¹²⁵ Ahmed, Y. A., Socio-Legal Barriers to Child Rights in Northern Nigeria, *African Journal of Social Sciences* 12, no. 3 (2021): 75–92.

¹²⁶ Child's Rights Act 2003, §21(1).

¹²⁷ Bello, *supra*, 2018.

¹²⁸ Nwauche, *supra*, 2015.

¹²⁹ *Ibid*

¹³⁰ CRC, 1989; ACRWC, 1990.

This tension creates inconsistent protection for children, especially girls, throughout the Northern states.¹³¹

4.2.3 Implications for Child Protection

The legal tension has several practical consequences:

- **Prevalence of Early Marriage:** Girls are often married before the age of 18, hence undermining statutory safeguards.¹³²
- **Educational Disruption:** While statutory law grants the right to education, early marriage under Sharia often results in withdrawal from school, hence limiting opportunities.¹³³
- **Health and Welfare Risks:** Early pregnancies and childbearing lead to maternal morbidity, infant mortality, and long-term health complications.¹³⁴

Legal Inconsistency: The dual system creates uncertainty for families and children, leading to confusion about rights and responsibilities due to statutory law.¹³⁵

Enforcement Challenges: Even when statutory courts grant decisions in favor of statutory age requirements, community adherence to Sharia decisions usually undermines enforcement, thereby leaving children unprotected.¹³⁶

4.2.4 Scholarly and Policy Perspectives

Attention has been drawn to the difficulty in harmonizing Sharia with statutory protections. As such, Nwauche argues that legal pluralism in Nigeria produces systemic gaps, where statutory protections exist but are effectively unenforceable in jurisdictions dominated by Sharia.¹³⁷

¹³¹ Bello, *supra*, 2018.

¹³² NDHS, 2018; UNICEF, *Education and Child Marriage in Northern Nigeria*, 2020.

¹³³ *Ibid*

¹³⁴ WHO, *Adolescent Pregnancy and Maternal Health Risks*, 2020.

¹³⁵ Nwauche, *supra*, 2015.

¹³⁶ Ahmed, *supra*, 2021.

¹³⁷ Nwauche, *supra*, 2015.

Bello suggests that early marriage persists because of the social legitimacy of Sharia decisions, combined with a political reluctance to challenge local religious norms.¹³⁸ Ahmed adds that enforcement gaps are compounded by weak judicial coordination and limited public awareness of statutory protections.¹³⁹

A context-sensitive reform that combines statutory enforcement with religious and community engagement has been advocated by policy analysts to reduce the tension.²⁰ Such approaches recognize the legitimacy of Sharia within communities while promoting child protection objectives.

4.2.5 Strategies to Address the Tension

Experts recommend some ways of harmonizing Sharia law with statutory provisions for child protection:

1. Legal Harmonization: Create frameworks that harmonize Sharia and statutory provisions, such as setting the minimum age limits within Sharia interpretations.¹⁴⁰
2. Engaging Religious Leaders: Engage imams and members of Sharia councils in interpreting and advocating for child welfare under religious law.¹⁴¹
3. State-Level Domestication of CRA: Ensure CRA provisions are domesticated across all states to make clear the statutory authority, even in areas administered by Sharia¹⁴²
4. Public Awareness and Education: To educate communities on health, education, and legal consequences of early marriage, keeping in mind religious sensibilities.¹⁴³
5. Monitoring and Accountability: Improve collaboration between the statutory courts, Sharia courts, and enforcement agencies to uniformly apply child protection laws.¹⁴⁴

¹³⁸ Bello, *supra*, 2018.

¹³⁹ Ahmed, *supra*, 2021

¹⁴⁰ UNICEF/NBS, *Child Marriage and Legal Conflicts in Northern Nigeria*, 2020.

¹⁴¹ Durojaye, E., Legal Gaps in Child Rights Enforcement in Nigeria, *African Human Rights Law Journal* 18, no. 2 (2018): 245–262.

¹⁴² CRC, 1989.

¹⁴³ CEDAW, 1979.

¹⁴⁴ ACRWC, 1990.

4.3 Nigeria's Commitments within International Law: Compliance vs Practice

4.3.1 Nigeria's International Legal Commitments

Nigeria is a signatory and ratifying state to various international instruments in safeguarding the best interests of the child and eradicating harmful practices that include early marriage. Examples include the Convention on the Rights of the Child (CRC, 1989), which places an obligation on states to protect children from practices that can be harmful to their well-being;¹⁴⁵ CEDAW (1979), which calls for the elimination of discrimination against girls, including those subjected to harmful traditional practices;¹⁴⁶ and the African Charter on the Rights and Welfare of the Child (ACRWC, 1990), which places an explicit obligation on states to protect children from premature or forced marriage.¹⁴⁷

These instruments give rise to binding commitments at international law. Nevertheless, Nigeria has a dualist system of law, and as such, it was necessary that international treaties be domesticated by legislation in order to have the force of law within the country.¹⁴⁸ The CRA 2003 is Nigeria's effort at domesticating those instruments, setting the minimum age of marriage at 18 years and protecting the rights of children in compliance with international standards.¹⁴⁹

4.3.2 Non-Domestication and Implementation Challenges

But despite these formal commitments, Nigeria demonstrates spotty compliance at the state level:

¹⁴⁵ Durojaye, E., Legal Gaps in Child Rights Enforcement in Nigeria, *African Human Rights Law Journal* 18, no. 2 (2018): 245–262.

¹⁴⁶ Child's Rights Act 2003, §21(1).

¹⁴⁷ Ahmed, Y. A., Socio-Legal Barriers to Child Rights in Northern Nigeria, *African Journal of Social Sciences* 12, no. 3 (2021): 75–92.

¹⁴⁸ Bello, A., Sharia Law and Child Marriage in Northern Nigeria, *African Human Rights Law Journal* 18, no. 1 (2018): 102–120.

¹⁴⁹ UNICEF/NBS, *Child Marriage and Legal Conflicts in Northern Nigeria*, 2020.

- CRA Non-domestication in Northern States: Most northern states have failed to domesticate the CRA; as such, statutory best interest protections remain unenforceable and create gaps in child protection.¹⁵⁰
- Conflict with Sharia Law: In the states adhering to Sharia, early marriage is permissible from the time a girl attains puberty, even when statutory age requirements under the CRA exist.¹⁵¹

Weak enforcement mechanisms: The law enforcement agencies and child protection authorities often lack the training, resources, and political will to enforce statutory protections, particularly where cultural and religious norms support early marriage.¹⁵²

Empirical studies and reports by UNICEF have shown that, as a result, this implementation gap translates into a large proportion of girls remaining unprotected despite Nigeria's international and statutory commitments.¹⁵³

4.3.3 Socio-Legal Consequences of Non-Compliance

The gap between Nigeria's international obligations and domestic practice has far-reaching social, educational, and health implications.

- Educational Disruption: Girls who get married early are often taken out of school, which reduces their level of education, decreases economic opportunities, and sustains intergenerational poverty.¹⁵⁴
- Health Risks: Early pregnancy associated with child marriage significantly raises maternal and infant morbidity and mortality, as documented by the WHO.¹⁵⁵

¹⁵⁰ Ibid

¹⁵¹ NDHS, 2018; UNICEF, Education and Child Marriage in Northern Nigeria, 2020.

¹⁵² WHO, Adolescent Pregnancy and Maternal Health Risks, 2020.

¹⁵³ Durojaye, supra, 2018.

¹⁵⁴ African Committee of Experts on the Rights and Welfare of the Child, Concluding Observations on Nigeria, 2018.

¹⁵⁵ UNICEF/NBS, Education and Child Marriage in Northern Nigeria, 2021.

- Erosion of Legal Authority: The presence of Sharia and customary law often weakens federal and international legal standards at the local level.¹⁵⁶
- International Scrutiny: The continued failure of Nigeria to harmonize national law with international commitments has come under international scrutiny by human rights bodies such as the African Committee of Experts on the Rights and Welfare of the Child.¹⁵⁷

International ratification is not enough to protect girls; domestic implementation, community engagement, and mechanisms of enforcement are equally paramount.

4.3.5 Policy Recommendations for Bridging the Compliance Gap

To align practice with Nigeria's international obligations, several strategies have been suggested:

1. Domestication of International Norms Across All States: All states should adopt the CRA or similar legislation in respect to statutory enforcement of international obligations.¹⁵⁸
2. Involving Religious Leaders: Collaboration with Islamic scholars and community leaders can help reconcile the statutory minimum age requirement with Sharia principles that emphasize the welfare of the child.¹⁵⁹
3. Capacity Building: Training judiciary, law enforcement, and child protection officials on the CRA and relevant international treaties will be highly crucial.
4. Monitoring and Reporting Mechanisms: Institute effective reporting mechanisms to monitor the incidence of child marriage as well as the enforcement of statutory protections against it.

¹⁵⁶ Bello, *supra*, 2018.

¹⁵⁷ Durojaye, *supra*, 2018.

¹⁵⁸ UNICEF, *Monitoring Child Rights Compliance in Nigeria*, 2020

¹⁵⁹ Ahmed, *supra*, 2021.

5. Community Sensitization Programs: Family sensitization about the legal, health, and social consequences of early marriage reduces the prevalence without antagonizing cultural norms.

4.4 Judicial Responses and Enforcement Challenges

4.4.1 The Judiciary and Child Protection

The judiciary is a very important mechanism in protecting the rights of children against early marriage in Nigeria.¹⁶⁰ Under the Child's Rights Act, CRA 2003, judges and magistrates are empowered to void marriages contracted below the statutory age of 18 and ensure compliance with the provisions guaranteeing the rights of children.¹⁶¹ However, this judicial authority has been severely limited in practice in the Northern states with Sharia law, as Sharia courts often preside over matters relating to marriage, family law, and child custody in accordance with religious dictates.¹⁶²

In practice, the judiciary has had to balance statutory mandates against religious and customary practices. As scholars have observed, Nigerian courts often tend to be reluctant to overrule Sharia-based decisions in socio-culturally conservative regions lest there may be backlash or non-observance.¹⁶³ The consequence is a judiciary that is patchy in its application of statutory child protection laws with significant region-by-region differences.¹⁶⁴

4.4.2 Structural and Institutional Challenges

Several systemic factors undermine effective judicial enforcement:

¹⁶⁰ Nwauche, E. S., Legal Pluralism in Nigeria: Customary, Sharia, and Statutory Law, *African Journal of Legal Studies* 15, no. 2 (2015): 421–432.

¹⁶¹ Child's Rights Act 2003, §21(1).

¹⁶² Bello, A., Sharia Law and Child Marriage in Northern Nigeria, *African Human Rights Law Journal* 18, no. 1 (2018): 102–120.

¹⁶³ Durojaye, E., Legal Gaps in Child Rights Enforcement in Nigeria, *African Human Rights Law Journal* 18, no. 2 (2018): 245–262.

¹⁶⁴ UNICEF/NBS, *Child Marriage and Legal Conflicts in Northern Nigeria*, 2020.

- **Non-Domestication of CRA:** In most Northern states, the CRA has not been domesticated, with the result that judges and magistrates lack jurisdiction to enforce statutory minimum-age provisions.¹⁶⁵ Without domestication, statutory protections remain largely symbolic.
- **Jurisdictional Conflicts:** Parallel systems of law leave confusion as to which court may maintain jurisdiction over early marriage disputes. Sharia courts may declare exclusive jurisdiction and limit statutory courts from intervening.¹⁶⁶
- **Socio-Political Pressures:** Judges in Northern Nigeria face huge cultural and political pressure. A decision taken by them that goes against Sharia or customary laws may lead to community resentment, political criticism, and sometimes even threats to judicial independence.¹⁶⁷
- **Capacity Limitations:** Many courts lack specialist training in child rights law, statutory interpretation, and harmonization with international norms.¹⁶⁸ This enforcement effect is weakened further by an insufficient court personnel, limited investigative support, and a lack of coordination with law enforcement agencies.¹⁶⁹
- **Poor Mechanisms of Enforcement:** Even in cases where favorable decisions have been given, implementation is irregular; for example, local authorities hardly monitor or enforce judicial orders.¹⁷⁰

4.4.3 Judicial Interpretation of Legal Conflicts

Where statutory law is domesticated, judges sometimes assert statutory authority to protect children from early marriage.¹⁷¹

¹⁶⁵ Ahmed, Y. A., Socio-Legal Barriers to Child Rights in Northern Nigeria, *African Journal of Social Sciences* 12, no. 3 (2021): 75–92.

¹⁶⁶ Ibid

¹⁶⁷ Bello, *supra*, 2018

¹⁶⁸ UNICEF/NBS, *Child Marriage and Legal Conflicts in Northern Nigeria*, 2020.

¹⁶⁹ Ibid

¹⁷⁰ Durojaye, *supra*, 2018.

¹⁷¹ Child's Rights Act 2003, §21(1).

Scholars note several patterns:

- **Deference to Religious Norms:** In practice, the courts often defer to Sharia or customary norms in cases where the legal provisions seem ambiguous.¹⁷²
- **Emphasis on Child Welfare:** In cases of intervention, judges frame decisions around the best interests of the child, emphasizing health, education, and autonomy.¹⁷³
- **Partial Enforcement:** Judicial decisions are more likely in urban areas where federal law is respected and civil society is active, highlighting regional disparities.¹⁷⁴

Despite these interventions, the judiciary cannot, in isolation, defeat such deep-rooted cultural practices without supporting enforcement by other arms of the state.¹⁷⁵

4.4.4 Consequences of Judicial Gaps

The lack of consistent judicial enforcement has far-reaching implications:

- **Persistence of Early Marriage:** In fact, statutory protections often remain theoretical in areas dominated by Sharia.¹⁷⁶
- **Educational Disruption:** Early married girls often get withdrawn from school, thus reducing literacy rates and long-run economic opportunities.¹⁷⁷
- **Health Risks:** Early pregnancies increase maternal mortality, obstetric complications, and infant mortality, thus perpetuating socio-economic inequality.¹⁷⁸
- **Weak Rule of Law:** Non-enforcement erodes public confidence in statutory law, reinforcing reliance on traditional and religious authorities.¹⁷⁹

¹⁷² Bello, *supra*, 2018.

¹⁷³ Durojaye, *supra*, 2018.

¹⁷⁴ Ahmed, *supra*, 2021.

¹⁷⁵ Nwauche, *supra*, 2015.

¹⁷⁶ UNICEF/NBS, *Child Marriage and Legal Conflicts in Northern Nigeria*, 2020.

¹⁷⁷ NDHS 2018; UNICEF, *Education and Child Marriage in Northern Nigeria 2020*.

¹⁷⁸ WHO, *Adolescent Pregnancy and Maternal Health Risks*, 2020.

¹⁷⁹ Durojaye, *supra*, 2018

- International Criticism: Nigeria's erratic enforcement invites UNICEF, HRW, and ACERWC criticisms, as all have continued to call for more stringent judicial action.¹⁸⁰

4.4.5 Strategies for Enhancing Judicial Enforcement

Experts recommend multi-level approaches:

1. Full Training on Judiciary: Judges, magistrates, and staff are in need of training regarding provisions under CRA, international treaties, and harmonization with Sharia.¹⁸¹
2. Full CRA Domestication: Domestication across all states explains judicial authority and provides key strength to enforceability.¹⁸²
3. Engaging Religious Leaders: Judicial cooperation with religious scholars lends weight to statutory enforcement and lessens resistance.¹⁸³
4. Improved Capacity: Courts require appropriate human and physical resources, and further investigation to adequately hear cases involving child marriage.¹⁸⁴
5. Monitoring and Accountability: Set up effective mechanisms to monitor the implementation of court judgments and report on compliance to the federal government.¹⁸⁵
6. Community Sensitization: Public campaigns focusing on legal, health, and social consequences of early marriage can reinforce judicial rulings.¹⁸⁶

4.5 Barriers to Legal Reform: Politics, Culture, and Religion Extended Version

4.5.1 Political Barriers

¹⁸⁰ HRW, Child Marriage Persists in Northern Nigeria, 2022.

¹⁸¹ Durojaye, *supra*, 2018.

¹⁸² UNICEF/NBS, Education and Child Marriage in Northern Nigeria, 2021.
UNICEF/NBS, Education and Child Marriage in Northern Nigeria, 2021.

¹⁸³ Bello, *supra*, 2018.

¹⁸⁴ UNICEF, Monitoring Child Rights Compliance in Nigeria, 2020.

¹⁸⁵ *Ibid*

¹⁸⁶ Ahmed, *supra*, 2021.

Political factors remain a major constraint to legal reform regarding early marriage in Northern Nigeria. The federal system of government in Nigeria allows states discretion in domesticating federal laws, such as the Child's Rights Act (CRA) 2003.¹⁸⁷ While Nigeria has ratified international treaties like CRC and CEDAW, many Northern states have deliberately avoided domestication for religious and cultural reasons.¹⁸⁸

This often is for political expediency. Politicians in the Northern states are beholden to conservative religious constituencies.¹⁸⁹ The legislators lose their political capital if they try to impose reforms that run against well-oiled socio-religious traditions. As such, on paper, laws to protect girls' rights do exist; however, politically, they often get shelved, especially before elections.¹⁹⁰

Further, political elites may not consider child rights as a priority, since political benefits in the short term are more highly valued than long-term social reforms. Even when reforms do come about, enforcement is often weak or symbolic, amounting to little more than a compliance gesture toward international partners rather than a genuine effort to halt child marriage.¹⁹¹

4.5.2 Cultural Barriers

Cultural norms are deeply ingrained and directly affect both community attitudes and state-level enforcement. In many Northern communities:

Marriage at puberty is generally accepted as socially and morally suitable.¹⁹²

¹⁸⁷ Durojaye, E., Legal Gaps in Child Rights Enforcement in Nigeria, *African Human Rights Law Journal* 18, no. 2 (2018): 245–262.

¹⁸⁸ Child's Rights Act 2003, §21(1).

¹⁸⁹ Nwauche, E. S., Legal Pluralism in Nigeria: Customary, Sharia and Statutory Law, *African Journal of Legal Studies* 15, no. 2 (2015): 421–432.

¹⁹⁰ UNICEF/NBS, *Child Marriage and Legal Conflicts in Northern Nigeria*, 2020.

¹⁹¹ Child's Rights Act 2003, §21(1)

¹⁹² Durojaye, *supra*, 2018.

Early marriage is considered by families as one way to protect daughters and maintain family honor.¹⁹³

Bride price acts as an economic incentive and may even be viewed as a financial necessity in some cases.¹⁹⁴

Such practices are perpetuated by cultural values coming from intergenerational practices and reinforced further by social pressure. Even where the statutory law exists, families defy regulations out of fear of ostracism in their communities or social marginalization.¹⁹⁵ This explains why early marriage is still common even in areas that have legal protection; this calls for culturally sensitive legal reform strategies.¹⁰

Anthropological studies further indicate that community education is not enough; sustained engagement and negotiation are necessary in respect to cultural attitudes toward gender roles, family obligations, and early marriage.¹⁹⁶

4.5.3 Religious Barriers

The influence of religion, especially Islam in Northern Nigeria, is huge and profound in matters of marriage. Sharia interpretations have often allowed marriage at puberty with parental consent, which goes against statutory minimum-age provisions under the CRA.¹⁹⁷

Religious leaders such as imams, members of a Sharia council, and traditional clerics are influential moral and social authorities. Their support for early marriage legitimises the practice and discourages state institutions from invoking statutory protections.¹⁹⁸

¹⁹³ UNICEF/NBS, *Child Marriage and Legal Conflicts in Northern Nigeria*, 2020.

¹⁹⁴ *Ibid*

¹⁹⁵ Ahmed, *supra*, 2021.

¹⁹⁶ Bello, A., *Sharia Law and Child Marriage in Northern Nigeria*, *African Human Rights Law Journal* 18, no. 1 (2018): 102–120.

¹⁹⁷ UNICEF/NBS, *Child Marriage and Legal Conflicts in Northern Nigeria*, 2020.

¹⁹⁸ *Ibid*

Attempts to institute statutory minimum age provisions in the absence of any inclusion of religious leaders often meet resistance or lead to non-compliance.¹⁹⁹ In this regard, scholars do argue that legal reforms without religious buy-in cannot achieve meaningful change.²⁰⁰

4.5.4 The Interaction of Politics, Culture, and Religion

The barriers to legal reform are interdependent rather than isolated. Political leaders depend on religious legitimacy for their electoral success.²⁰¹ Traditional religious norms intermingle with other local cultural expectations that promote early marriages.²⁰²

These have created an alien environment where statutory laws were seen as alien or externally imposed, thus undermining reform efforts.²⁰³

This confluence explains why even well-intentioned reforms often fail, and why statistical data continues to show high prevalence of early marriage in Northern Nigeria despite formal legal protections.²⁰⁴

4.5.5 Strategies for Overcoming Barriers

To tackle these deep-rooted barriers, scholars and international organizations recommend multi-pronged interventions:

1. Political Advocacy and Leadership: It is important to strengthen political commitment at the federal and state levels to ensure domestication and enforcement of child protection laws.²⁰⁵

¹⁹⁹ NDHS, 2018; UNICEF, Education and Child Marriage in Northern Nigeria, 2020.

²⁰⁰ Ahmed, Y. A., Socio-Legal Barriers to Child Rights in Northern Nigeria, African Journal of Social Sciences 12, no. 3 (2021): 75–92.

²⁰¹ Bello, *supra*, 2018.

²⁰² UNICEF/NBS, Child Marriage and Legal Conflicts in Northern Nigeria, 2020.

²⁰³ *Ibid*

²⁰⁴ *Ibid*

²⁰⁵ Bello, *supra*, 2018.

2. Community Sensitization Programs: Sensitization of communities through highlighting consequences for health, education, and society can bring about gradual changes in social norms.²⁰⁶
3. Religious Engagement: Co-working with Islamic scholars regarding the reinterpretation of Sharia principles to ensure that child interests are a priority.²⁰⁷
4. Mobilization by Civil Society: NGOs, local organizations, and women's groups can monitor enforcement, provide legal assistance, and advocate reform to bridge gaps between law and practice.²⁰⁸
5. Education Empowerment: Increasing girls' access to formal education strengthens social norms against marrying early and enables communities to support statutory protections.²⁰⁹
6. Integrated Pilot Programs: Programs in Kaduna, Zamfara, and Kano show that integrated legal, religious, and community-based interventions can lower early marriage rates while being sensitive to local culture.²¹⁰

These approaches highlight that legal reform needs to be complemented by socio-cultural and religious engagement; otherwise, statutory changes remain largely aspirational.²¹¹

²⁰⁶ Nwauche, *supra*, 2015.

²⁰⁷ Nwauche, *supra*, 2015.

²⁰⁸ Bello, *supra*, 2018.

²⁰⁹ Durojaye, *supra*, 2018.

²¹⁰ Nwauche, *supra*, 2015.

²¹¹ Bello, *supra*, 2018.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.1 Summary of Key Findings

This study established that, though the CRA prohibits child marriage and sets the minimum age of marriage at 18, many years after the enactment of the Child's Rights Act (CRA) 2003, the law remains unevenly applied across Nigeria due to the country's federal structure and continued reliance on customary and religious norms in many Northern states.²¹² Non-domestication of the CRA by some states has created huge legal discrepancies in the practice of early marriage despite clear statutory prohibitions.²¹³

The research also found that the Nigerian judiciary and regional human-rights mechanisms have increasingly recognised the enforceability of children's rights, especially the right to education. Notably, litigation such as *LEDAP v Federal Ministry of Education*, though unreported, affirmed the obligation of government to ensure free and compulsory basic education.²¹⁴ Similarly, decisions such as *SERAP v Federal Republic of Nigeria* before the ECOWAS Court strengthened the normative framework for enforcing socio-economic rights relevant to protecting the girl child from early marriage.²¹⁵

Poverty, gender inequality, insecurity, social norms, and weak school infrastructure are the socio-cultural drivers that make girls highly vulnerable to early marriage in Northern Nigeria. As UNICEF and other empirical studies show, rates of child marriage tend to be higher in areas characterized by low educational attainment, limited economic opportunities, and strong patriarchal traditions.²¹⁶

²¹² Child's Rights Act 2003, ss 21–23.

²¹³ UNICEF, *Child Marriage in Nigeria: Prevalence and Trends* (2020).

²¹⁴ *LEDAP v Federal Ministry of Education & Anor* (FHC/ABJ/CS/978/2015, judgment delivered 27 February 2017).

²¹⁵ *SERAP v Federal Republic of Nigeria* (ECW/CCJ/APP/080/18, Judgment of 8 November 2019).

²¹⁶ UNICEF, *State of the World's Children* (2019).

Finally, the study identified that statutory protections are undermined by weak enforcement mechanisms. Low levels of prosecution, limited training among law-enforcement agencies, lack of birth registration, and ineffective community engagement significantly hinder the impact of existing legislation.²¹⁷

5.2 Conclusions

An attempt has been made to show that, despite Nigeria's adoption of the CRA, the rights of the girl child in respect of marriage are not adequately protected by law. Firstly, this inadequacy stems from the approach taken that states in Nigeria have to domesticate the CRA before it applies in those states. Secondly, Part 1 Section 61 of the 1999 Constitution, which provides that the federal government cannot interfere with Islamic and customary marriages, weakens and fails to give effect to the CRA to protect children against a social evil such as child marriage. Although the wording of Part 1 Section 61 of the 1999 Constitution gives people the freedom to conduct marriages according to their religion and customs, it is a dangerous clause which serves as a loophole for child marriages and serves as constitutional support to those who partake in child marriage and justify it as an Islamic practice. Therefore, as argued previously, the major problem in the inadequate protection of the girl child in Nigeria is to be found in Part 1 Section 61 of the 1999 Constitution.

It is clear that, although Nigeria has a wide-reaching statutory framework in place for the protection of children-through the CRA, the Constitution, the Universal Basic Education Act, and some regional instruments-these are more often theoretical than real in practice in Northern Nigeria. The pluralistic legal systems, made up of statutory, customary, and Islamic laws, result in overlaps and contradictions that undermine the consistent application of protections for child rights.²¹⁸

²¹⁷ Human Rights Watch, *Leave No Girl Behind in Africa: Discrimination in Education*, 2022.

²¹⁸ *Abacha v Fawehinmi* (2000) 6 NWLR (Pt 660) 228.

The conclusions of the present research show that combating early marriage requires more than legislative enactments; it necessitates institutional capacity and community participation with targeted socio-economic interventions. Judicial decisions, such as *Abacha v Fawehinmi*, confirm that domesticated international treaties like the African Charter on the Rights and Welfare of the Child have the force of law in Nigeria, providing strong grounds for child-rights enforcement.²¹⁹ Yet the enforcement gap persists due to institutional weaknesses.

The study further establishes that meaningful reduction in the rates of early marriage can only be achieved through a harmonized, multisectoral approach that combines: a) legal reforms, b) strengthening of enforcement, c) empowerment of traditional and religious leaders, d) poverty-alleviation interventions, and e) sustained advocacy for girl-child education. Without these components in place, early marriage will remain a deeply rooted practice in spite of statutory prohibitions.

5.3 Recommendations

The study recommended as follows

1. In order to protect the girl child from child marriage, Part 1 Section 61 of the 1999 Constitution needs to be modified to involve the federal government in ‘the formation, annulment and dissolution of all marriages, which includes customary and Islamic marriages’. While it may be argued that such modification goes against the Islamic practice of child marriage in Northern Nigeria, such a modification is necessary because, as revealed in this article, the Islamic practice of child marriage in Northern Nigeria does more harm than good to the girl child.
2. Nigerian Senate needs to promulgate the marriageable age as 18 years for women in the 1999 Constitution. As the 1999 Constitution serves as the supreme law of the land, any traditional or religious marriage practice that contravenes the age of marriage in

²¹⁹ Ibid

the 1999 Constitution will be void. Thirdly, all Nigerian statutes dealing with children and marriage need to adopt a uniform age of 18 as the age of majority. While the CRA stipulates the age of majority to be 18 years, other Nigerian statutes have differing provisions. For example, under article 2 of the Children and Young Persons Act of 1943, which was revised in 1958, a child is defined as a young person under the age of 14 years, while a 'young person' means a person who has attained the age of 14 years and is under the age of 17 years. The Children and Young Persons Act is one of the few texts which show the different ages that constitute childhood In Nigeria. As Akinwumi maintains, the varieties of minimum age limits are problematic in the sense that they can cause discrimination between children of the same age in different parts of the country.⁴² Additionally, legislation such as the Marriage Act, which is silent on age permissible for marriage, needs to be modified to include the minimum age of 18. The Marriage Act under section 3(1)(e) merely provides that a marriage will be void if 'either of the parties is not of marriageable age'. Similarly, like the Marriage Act, the Matrimonial Causes Act does not prescribe a minimum age of marriage.

3. There is a need to enact a 'Prohibition of Child Marriage Act' which deals broadly with the issue of child marriage. The discussion and prohibition of child marriage in the CRA are restricted to a single section and do not illuminate the disastrous effect of child marriage. For example, the CRA does not stipulate a sentence for those who conduct child marriages.
4. The ongoing practice and high prevalence of child marriage in Northern Nigeria point to the Nigerian government's failure to comply with its international and regional human rights obligations. As a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women, CRC, the African Children's Charter and

the African Women's Protocol, Nigeria is bound to uphold its contract for the protection of women, which includes the girl child. Therefore, for the Nigerian government to observe its treaty obligations in good faith, it must make a concerted effort to realise the implementation of the provisions pertaining to child rights in order to combat the adverse consequences of child marriage.

5.4 Contribution to Knowledge

This study contributes to the legal scholarship on child marriage in Nigeria by:

1. Demonstrating the gap between statutory law and practice in Northern Nigeria.
2. It gives an in-depth analysis of legal pluralism, showing how the customary, religious, and statutory norms interact to impact early marriage.
3. Emphasizing how litigation-both domestic and regional-is an effective means to enforce children's rights.
4. Providing practical policy recommendations that combine legal, institutional, community, and socio-economic interventions.
5. These findings provide a basis for further research, advocacy, and reform in the law and policy on child protection in Nigeria.

5.5 Areas of Further Research

1. Empirical studies on the impact of conditional cash transfers on delaying marriage in Northern Nigeria.
2. Evidence on how community-based enforcement committees may help reduce early marriages.
3. Comparative studies of legal harmonization in federal systems where statutory, customary, and religious laws coexist.
4. Investigations into the long-term educational outcomes for girls who are married early versus those who remain in school.

Such research would complement the present study and provide additional evidence to inform policymakers and practitioners.

BIBLIOGRAPHY

Books

Lemmon, Gayle Tzemach and ElHarake, Lynn S., *Child Brides, Global Consequences: How to End Child Marriage* (Council on Foreign Relations, 2014).

Articles and Journals

Adegoke, N., 'The Legal Framework for Child Protection in Nigeria' (2021) 8(1) African Journal of Law and Human Rights.

Ahmed, Y. A., 'Socio-Legal Barriers to Child Rights in Northern Nigeria' (2021) 12(3) African Journal of Social Sciences 75–92.

Babu, R. O., Omoniwa, A. E. & Ukemenam, M., 'Gender Inequality in Schooling among Children' (2018) 34(3) Sarhad Journal of Agriculture.

Bello, A., 'Sharia Law and Child Marriage in Northern Nigeria' (2018) 18(1) African Human Rights Law Journal 102–120.

Bhabha, J. & Efevbera, Y., 'Defining and Deconstructing Girl-Child Marriage' (2020) 20 BMC Public Health 1540.

Buzome, C., Ugwu, H. N. & Momoh, A. R., 'Early Child Marriage in Nigeria: Causes, Effects and Remedies' (2018) 4(1) Social Science Research.

Durojaye, E., 'Legal Gaps in Child Rights Enforcement in Nigeria' (2018) 18(2) African Human Rights Law Journal 245–262.

Ebitoye, B. O., Ekundayo, J. K., & Ajide, A. D., 'Implications of Early Girl-Child Marriages in Benue State' FUOYE Journal of Criminology & Security Studies.

Fayokun, K. O., 'Legality of Child Marriage in Nigeria' David Publishing.

Gwangndi, Maryam Ishaku, 'The Socio-Legal Context of the Nigerian Legal System and the Shariah Controversy' (2016) 45 JL Pol'y & Globalization 60.

Ibitoye, B. O. et al., 'Minimum Marriage Age Laws and Prevalence of Child Marriage' (2015) 41(2) International Perspectives on Sexual and Reproductive Health 110–119.

Ibrahim, J., 'Religion and Child Marriage in Northern Nigeria' (2019) 5(1) Journal of Islamic and Legal Studies.

Kyari, Gimba Victor & Ayodele, Joseph, 'Socio-Economic Effect of Early Marriage in North Western Nigeria' (2014) 5(14) Mediterranean Journal of Social Sciences 582.

Makama, G. A., 'Patriarchy and Gender Inequality in Nigeria: The Way Forward' (2013) European Scientific Journal.

Maswikwa, B. et al., 'Minimum Marriage Age Laws and Child Marriage Prevalence' (2015) 41(2) IPSRH 110–119.

Mobolaji, Jacob Wale et al., 'Ethnicity, Religion and Girl-Child Marriage in Nigeria' (2020) BMC Public Health.

Nwauche, E. S., 'Child Marriage in Nigeria: (Il)legal and (Un)constitutional?' (2015) African Human Rights Law Journal 421–432.

Nwonu, Christopher & Oyakhiromen, I., 'Nigeria and Child Marriage: Legal Issues' (2014) 29 JL Pol'y & Globalization 120.

Ostien, P., 'Legal Pluralism and Human Rights in Nigeria' (2006) 7(3) Human Rights Review 79–94.

Princewill, Chitu Womehoma et al., 'Bride Price and Women's Autonomy in Nigeria' (2019) 59(7) Women & Health 775–788.

Shala, A., 'Relationship Between SES and Early Development' (2016) 5 Socioeconomica.

Newspapers

Jemi Ekunkunbor, Vanguard analysis of §29(4)(b).