

A COMPARATIVE ANALYSIS OF CHILD'S RIGHTS UNDER CUSTOMARY AND STATUTORY LAWS IN NIGERIA*

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Abstract

Child's Rights exist under Nigeria Customary and statutory Laws. This paper made a comparative analysis of the two regimes of child's rights and concluded that the two regimes are symbiotic.

Keywords: Child Rights, Customary Law, Statutory Law, Nigeria

1. Introduction:

There exist in Nigeria, two legal regimes: Customary law legal regime and English law legal regime. Customary law is the way of life or culture of the people that was in existence and practiced by the people before the introduction of English laws in Nigeria by the colonialists, in 1863¹. The introduction of English law allowed the existence and practice of customary law, subject to the customary law or a rule of it, not having failed validity tests.²

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¹Ordinance No. 3 of 1863.

²The validity tests were set by English law and are repugnancy test, incompatibility test and public policy test. Respectively, the tests are that the customary law or a rule of it shall not be repugnant to natural justice, equity and good conscience, shall not be incompatible with any English law (statutory law or case law) that is in force in Nigeria, and shall not be incompatible with or contrary to public policy. For more reading on the reception and application of English laws in Nigeria and the validity test of customary law, see Obilade, *The Nigerian Legal System*, (London: Sweet & Maxwell, 1979), 69-81, 100-110; G. Ezejiofor, "Sources of Nigerian Law" in C.O. Okonkwo (ed.), *Introduction to Nigerian Law*; (London: Sweet & Maxwell, 1980), 1-8, 41-46; Park, *The Sources of Nigerian Law*, (London: Sweet & Maxwell, 1981) 41-42, 65-82; and Odike&Ajanwachuku, *Fundamentals of Nigerian Legal Methods*, (Enugu: Tink Graphics, 2008) 29-34. See also section 18(3) of the Evidence Act, Laws of the Federation of Nigeria, 2011 and the various High Court Rules of Eastern States of Nigeria e.g. section 20(1) of

Customary law that was in existence and applicable before the introduction of English law was a complete set of laws. This is so because there was no human activity and endeavour that was not contemplated by and provided for in it.

Rights of the Nigerian child were provided for in customary law. English law that came later in time also provided for such rights. The rights of the Nigerian child under customary law exist and are in force *vis-à-vis* the rights of the Nigerian child under English law. This is so, not only because there is nothing in customary law that could make it to have failed the validity tests but also that no court of law in Nigeria (to the knowledge of the author) has made such declaration.

In this work, a critical review shall be made of child's rights in Nigeria under the two regimes and the rights in one regime compared with the rights in the other regime. This work shall thereafter make a forensic analysis of the nature of the rights of the Nigerian child under the two regimes and thereafter make a finding on whether or not there is a nexus between the two sets of rights.

We shall not attempt to discuss what "Rights" are, because of the complex nature of that concept. "Rights" should be understood in the context that it has been used in this work, i.e., the entitlements of a child, examples of which are set out in the Child's Rights Act³. Again, we shall not attempt to discuss who a Nigerian child is. This also, is because it is yet another complex issue. However, we only need to bear in mind that under customary law, who a child is, depends on the custom of the people concerned; while under English law, in spite of the provision in the Child's Rights Act that a Child is a person below the age of eighteen years, who a child is, under English law has not in Nigeria, been settled even by the provision in the Act.

2. Critical Review of Child's Rights in Nigeria under Customary Law:

Child's Rights in Nigeria under customary law means a Child's Rights in Nigeria under the customs and usages of Nigerians. Customs and usages of Nigeria is a way of life and since a way of life varies from place to place and from people to people, customary law or customs and

Ebonyi State High Court Law, Cap. 92 Laws of Ebonyi State of Nigeria, 2009. See further *Re Adadevoh* (1951) 13 WACA 304.

³Cap C. 50 Laws of the Federation of Nigeria, 2010 hereinafter simply referred to as "the Act".

usages brothing on the rights of Nigerian child also vary from place to place and from people to people⁴.

Child's Rights in Nigeria under customary law differ from place to place and from people to people. The effect is that as long as there is a difference between the way of life of a people and another, or the customs and usages of a people from another, there also exists a difference in the Child's Rights in Nigeria under customary law of that area, from another area.

Child's Rights under customary law therefore differ from one area to another. These different customary laws on Child's Rights however fall under four broad heads. These four broad heads and their critical review are:

i. **The Right to Protection against Harm**A child in the womb has the right to be protected against harm. Conversely, the parents of the child in the womb have the collateral duty to ensure that the child in the womb does not die. The parents of the child in the womb perform this collateral duty by ensuring that so soon a child is conceived, the mother does no serious or strenuous job(s) or is found under the sun. These are circumstances that are harsh to the mother and may adversely affect the growth or even the life of the child in the womb. Where a woman is pregnant, she might presume that she is still full of strength and could still continue her strenuous activities even under the sun as when she was not pregnant. In this circumstance, it is the duty of the husband to insist on the abandonment of those activities by the pregnant wife. Parents of a child in the womb are under the further obligation of ensuring that the pregnant mother eats a lot of vegetables and fruits and observes more rest than before she was pregnant. These shall not only ensure that the baby's life is not endangered but ensure that the child develops as a normal and healthy baby. Where the mother's pregnancy is the first and she is therefore and obviously lacking in experience as concerns gestation, experienced mothers and aged women brief the would be mother on what to expect at any developmental stage of the child in the womb. This is to make the expectant mother to be emotionally stable, without which the expectant mother may

⁴This has explained why one of the characteristics of Customary Law or Native Law and Custom is that of diversity. See Obilade, *The Nigerian Legal System, op.cit.*, 83; Okonkwo (ed.), *Introduction to Nigerian Law, loc.cit.*, 41; *Labinjoh v. Abeke*(1924) 5 NLR 33.

not be psychologically balanced, which could even affect the life of the child in the womb. This appears to be so since it appears that there is a direct relationship between the health and state of mind of a mother and the life of the child in the womb.

ii.

Customarily, marriage is not the exclusive affair of the couple and their immediate families, rather, it is a communal affair. For this reason, every member of the community sees himself or herself as under an obligation to ensure that a child in the womb is protected against harm, and even after birth, that no harm befalls the child. To take care of such a child and ensure that no harm befalls him or her is not only the responsibility of the immediate parents but that of the members of the community at large. The members of the community therefore participate in the upbringing of the child, supplies the child his or her needs to the extent of the ability of the person supplying, defends him or her and when necessary, disciplines the child. To protect a child against harm could be said to be a corporate social responsibility of the community. Stemming from this responsibility, where a child loses his or her parents, a relative or neighbor or indeed any member of the community takes care of the child, accommodates the child, nurtures the child and protects the child. This aspect of social corporate responsibility is the concept of fostering under Nigeria customary law. It is akin to the English law concept of adoption save to say that unlike the English law concept of adoption, the child retains the names of the late biological father, as the surname⁵.

In reciprocity, a child is under a duty to be relevant to the village, the community and the society by making whatever contribution that he or she can, no matter how small, to the development of the village, the community and the society. The child has the right to do all these. It is the child's right to participate in the growth, development and progress of the village, the community and the society.

⁵"The Right to Protection against Harm" is sufficiently set out in OlayemiModupeOnibokun, "Child Protection Measures in the Traditional Society" in *The Rights of the Child-Child Protection in Nigeria: Summary of Research Findings on Protection and Violation of Children's Rights*, (Lagos: Jeromelaiho& Associates Ltd) 50.

iii. **The Right to Advancement in Life**

A child has the right to be advanced in life by the parents. Again, the right has a corollary. The corollary is the duty of the parents, to advance the child in life. The right of a child to be advanced in life takes various forms, depending on the circumstances of the child. Where the father of a male child is a farmer, the father advances the child by taking the child to farm and teaching him how to farm, as in the future, the child would also be a farmer and make a living out of it like the father. When the child grows, the father gives him a parcel or parcels of land as gift(s), to own and farm thereon. From the proceeds of the farm(s) he could buy more parcels of land for himself, cultivate them, sale the produce there from and make money, build a house for himself, marry, beget and raise children and continue the cycle of life.

If the father of the male child is a trader, the father teaches the male child his type of business and on satisfying himself that the male child has acquired good knowledge of the business allows the male child to be part of the business. The father later opens up a similar business for the male child. Where however, the male child does not want to operate the type of business that he learnt from the father, the father may financially assist the male child to open any business of the male child's choice. Sometimes a child would not want to learn the vocation of the father. In this circumstance the father sponsor's the child to learn a vocation of the child's choice and on having learnt, financially assists the child to open a business of the vocation that he learnt. The father of a male child whether a farmer or a trader or a public or civil servant may send the male child to school, to advance him and readily prepare him for white collar job or undertaking a business so soon as the child graduates from school. Advancement by sending a child to school is not restricted to the male child. It is also extended to the female child.

Additionally, the father of a female child gives her words of advice that would advance her in life. These words of advice are comprised in encouraging the female child to be good at domestic chores, so that on being adult and on getting married; she would be a wife that her husband would be proud of. The mother of the female child has her own duty in this regard. She grooms

the female child in the proper conduct and etiquette of wives of proud husbands. She trains the girl-child on cuisine matters and prepares her for a blissful marriage⁶.

iv. **The Right to the Establishment of Family**

As already stated under “Advancement in Life”, a father assists the male child to learn his type of source of livelihood or the source of livelihood of the child’s choice and on “graduation” opens up a similar one for the male child. This enables the child to have a source of income and be able to marry, have children and raise a family. If a father has advanced the male child by sending him to school to acquire western education, the father continues to assist the male child financially, until the male child is able to get a job or start business and can make an income for himself. The father of a male child assists the male child in deciding when to marry and who to marry. Sometimes, the father determines for the male child, how many wives to marry and the number of children to beget⁷. The father is under obligation to provide or assist in providing an accommodation and until that is done, the male child has the right to remain in the accommodation of the father. Under Jukun native law and custom (in Taraba State of Nigeria), a father has an obligation to provide shelter for his children and cannot sell the compound in which the children are living without notifying and obtaining the consent of his children. If the father sells the compound without such notice and consent, the sale is a nullity, at the instance of the children. A father cannot dispose of the house which he provided for his children without an alternative accommodation and without their consent⁸.

For the purpose of establishment of a family, the mother of the male child has a role to play. This is by advancing gifts of wearing apparels and cooking utensils to the wife or wives of the male

⁶More information on Advancement in Life is found in S.B.A. Olokun, “Introduction: Protection and Violation of Child’s Right in Nigeria” in *The Rights of the Child -Child Protection in Nigeria: Summary of Research Findings on Protection and Violation of Children’s Rights*, (Lagos: Jeromelaiho& Associates Ltd) 1. These and more exist in several other African countries as reviewed in ThokoKaime, *The African Charter on the Rights and Welfare of the Child: A Socio-legal Perspective*, (Pretoria: University Law Press, 2009) 73-78.

⁷It may be surprising that a father may be assisting a male child of marriageable age to reason and take decisions in these crucial areas and even take some of the decisions for the male child. However, the rationalization is that in some Nigerian cultures, particularly amongst the Ibos (a tribe in Nigeria), a male child no matter how old he is, is a child until he gets married. Whether or not a person is a child under customary law depends on the culture of the area. See again *Labinjoh v. Abeke supra*. From a report from Nigerian Institute of Advanced Legal Studies research, to some parents, childhood stretches, up to twenty-nine years. See OlayemiModupeOnibokun, *op.cit.*, 47.

⁸*Awudu v. Daniel* (2005) 2 NWLR (pt. 909) 199, ratios 4&5.

child. She may also introduce the wife or wives to the special delicacies that the male child loves, and teaches her or them, how to cook them. All these are to advance the matrimonial home of the male child⁹.

v. **The Right to Making Provisions for the Expenses of Burial**

Burial of the parents of a child is the responsibility of the male children. This is obviously so because the dead parents cannot bury themselves but must be buried by the children, specifically, the male children. Burial could be expensive in Nigeria¹⁰. Fathers make financial arrangements, in their life time.

This they do either by making financial savings or designating some parcel of land that shall be sold on their death, and the proceeds used to run the burial expenses¹¹. The essence of this practice is to relieve the male children of the burden of bearing the financial expenses of the burial. A relief of such a great financial burden is undoubtedly, an advancement of the male children of the deceased father, who ought to use their money to undertake the burial. The burial burden that male children bear is usually that of their mother, because a man in his life time ordinarily and almost always do not make provisions for the burial of his wife, and the mothers because of their subsistence life style, usually do not have and save money for the burial¹². Daughters do not bear financial burden on the burial of their parents. It is only the husbands that may make some contributions and are expected to actively participate in the burial arrangements and the burial ceremonies¹³. The right of a male child under customary law as espoused above enure to the child because the father in his life time regard himself as duty bound, to provide it for him. The corollary of this duty, constitute the rights of the children.

⁹More information on "Establishment of a family" are in I.A. Ayua and I. Okagbue, (eds.), *The Rights of the Child in Nigeria*, (Lagos: Nigerian Institute of Advanced Legal Studies, 1996), 30.

¹⁰It is not in every part of Nigeria that burial is expensive. Amongst the Muslims, burial according to the faith of Muslim 'faithfuls' is usually not expensive.

¹¹This is a practice quite common in Ibo speaking States that it has virtually metamorphosed to Rule of Customary Law.

¹²This is a fact of common knowledge. Even in these recent years where some wives are as rich as or even richer than their husbands, they do not customarily provide for their burial, in their life time.

¹³This is a notorious fact.

3. **Critical Review of Child's Rights in Nigeria under English Law:**

Child's Rights in Nigeria under English law contemplates Child's Rights in Nigeria within the legal regime of English type of laws, as introduced into Nigeria by Ordinance No 3 of 1863 and other subsequent English type of laws in existence and in force in Nigeria till today, including the Child's Rights Act. The introduction in Nigeria of English type of laws by Ordinance No 3 of 1863 brought into the legal system, English laws that were alien to the way of life of Nigerians. The English type of laws introduced, covered all areas of life, as in under customary law. Part of English type of laws that were introduced include English type of laws on the rights of the child. English type of laws on the rights of the child were under the statute and as decided by the courts, set up by the colonialists and modeled after their home country type of courts. As in under customary law, under English type of laws, there is no uniform age bracket within which a person could be said to be a child. Who a child is, is dependent on the circumstances of the parties involved and the consequential interpretation and judgment of the courts or the consequential provisions in the statutes¹⁴. The Child's Rights Act is the basic statutory enactment in Nigeria on the rights of the child. The provisions of the Act were of international standards because they were comprised of the principles and provisions of the United Nations Convention on the Rights of the Child and the African Union Charter on the Rights and Welfare of the Child, which made provisions for about thirty different rights of the child, which thirty different rights could as in under the customary law regime, be subsumed under four broad heads. The four broad heads are right to protection against harm, right to development, right to survival and right to participation. These four broad heads and their critical review are:

i. **The Right to Protection Against Harm**

A child has the right to protection against harm. This right is from the moment of conception in the womb. A child in the womb has the right to be protected against harm while in the womb. As provided for in the Act, he/she has a right to bring an action for claims against any person for

¹⁴ For example, under section 30 of Criminal Code Act Cap C. 38 Laws of the Federation of Nigeria, 2010, a person under the age of twelve years is incapable of having carnal knowledge. The reason appears to be that as a child, he neither knows it, nor can understand it. Again for the same reason, under section 50 (a) of the Penal Code Law, 89, Laws of Northern Nigeria, 1963, a person under the age of twelve years is immuned from criminal liability. However, the Children and Young Persons Ordinance 1943 (now, no longer in force) described a child and a young person as persons, respectively below the ages of fourteen years and seventeen years while the Child's Rights Act has described a child as a person below eighteen years of age.

harm or injury caused to him/her willfully, recklessly, negligently or through neglect before, during or after his/her birth¹⁵.

It is the right of a child to have parental care and protection, and accordingly, no child shall be separated from his/her parents against the wish of such a child unless the separation is in the best interest of the child for the purpose of the education and welfare of the child or for the purpose of implementing a judicial order or a ruling made in accordance with the provisions of the Act¹⁶.

A child who is in need of a special protective measure has the right to such measure of protection as is appropriate to the child's physical, social, economical, emotional and mental needs and under conditions which ensure the child's dignity, promote the child's self reliance and enhance the active participation of the child in the affairs of the child's community¹⁷.

A child has the right not to be subjected to forced or exploitative labour. The seriousness of this provision is such that a violation of this provision of the Act attracts a fine of up to Five Hundred Thousand Naira or an imprisonment for five years or both such fine and imprisonment¹⁸.

It is also the right of a child not to be bought or sold into slavery or hired or dealt with for the purpose of hawking or begging for alms or prostitution. It is also a crime for this right of the child to be violated¹⁹. The punishment on conviction is imprisonment for a term of ten years²⁰.

A girl-child has the right of protection against sexual intercourse. Where in breach of this provision a child is sexually molested or violated the punishment is imprisonment for life. It is not a defence for any person whose action is in breach of this provision, that the person in breach believed that the girl child was up to or above 18 years of age or that she consented to the sexual relationship²¹. Where, however, the sexual abuse is not that of sexual intercourse, the offender on

¹⁵ *Ibid.*, section 17.

¹⁶ *Ibid.*, section 14(1)

¹⁷ *Ibid.*, section 16.

¹⁸ *Ibid.*, section 28.

¹⁹ *Ibid.*, section 30(1)(2).

²⁰ *Ibid.*, section 30(3).

²¹ This protection of the girl-child against unlawful sexual intercourse is in, *Ibid.*, section 31.

conviction shall be liable to a fine of Five Hundred Thousand Naira or imprisonment for a term of five years or to both such fine and imprisonment²². Other forms of abuse not bothering on sex attract a fine of Five Hundred Thousand Naira or jail term of five years or both such fine and imprisonment²³.

A child has the right to an emergency protection order if the court satisfies itself that without such an order the child concerned will be exposed to significant harm²⁴. Also, where the specialised police in a State has reasonable cause to believe that a child is otherwise likely to suffer significant harm, the special police officer may take the child into police protection by removing the child to an Emergency Protection Centre or any other approved suitable accommodation and keeping the child there²⁵.

A child must be protected from removal from the biological parents. This is achieved by the right of a child to have his biological parents scientifically and accurately determined, whenever the issue in controversy is the paternity or maternity of the child²⁶.

It is the right of a child to be protected against undue exposure, if he is facing a criminal trial. To achieve this, the trial of a child is not subject to public glare²⁷ and where found to have committed the offence for which he has been charged, shall not be ordered to be imprisoned or subjected to death penalty or even have death penalty recorded against him/her²⁸.

ii. **The Right to Development**

This right to development is sufficiently provided for in the Act²⁹. For the purpose of emotional stability, the development of the child is best when he or she grows up with the biological parents. This is so because he/she grows up bonding with the natural parents. For children,

²²*Ibid.*, section 32.

²³*Ibid.*, section 33.

²⁴*Ibid.*, section 42.

²⁵*Ibid.*, section 44(1)(a).

²⁶*Ibid.*, section 65.

²⁷*Ibid.*, sections 156-157.

²⁸*Ibid.*, section 221(1)(a).

²⁹*Ibid.*, section 68.

whose parents were married at the time of birth, no difficulties are encountered. This is unlike a circumstance where the parents of the child at the time of birth, were not married. Contemplating this circumstance, the Act has provided that either parents or both parents of children born when their parents were not married could with the leave of the court be given parental responsibility for such children and that where both parents have sought the leave of the court, the agreement of both parents to be jointly responsible for the children shall be in the form and manner prescribed by Regulations, made by the Chief Justice of Nigeria. The involvement of the court and the Chief Justice of Nigeria in this exercise show the great importance that the Act has placed on this aspect of the right of the child to development. However, to cover the circumstance where the parent(s) is/are not seeking the leave of the court to be responsible for the child, the Act provides that:

the fact that a person has, or does not have parental responsibility for a child shall not affect any obligation which he may have in relation, to the child, including a statutory duty to maintain the child³⁰.

To ensure the development of a child in a well structured environment, the Act has provided that where a child has no parent with parental responsibility for him the court may, by order on application, appoint a guardian for the child, who shall stand in *loco parentis* with respect to the child³¹. Also where a child has been abandoned by his parents or is an orphan or has been deserted by his relatives or has been abused, neglected or ill-treated by the person having care and custody of him, the court on the application of an interested person, may make a fostering order committing the child to the care, custody and upbringing of the applicant. Again, a child may be adopted³².

iii. **The Right to Survival**

Every child has a right to survival³³. A Nigerian child has the right to rest and leisure and to engage in play, sport and recreational activities appropriate to his age. It is the further right of a Nigerian child to participate fully in the cultural and artistic activities of the Nigerian, African

³⁰*Ibid.*, particularly paragraph (a) of sub section 9 of section 68 (i.e. section 68(9)(a)).

³¹*Ibid.*, section 84(1).

³²*Ibid.*, sections 125-148.

³³The Act, section 4.

and World Communities. It is the duty of any person, service, agency, organization or body responsible for the care and welfare of a child to ensure at all times, adequate opportunities for the enjoyment of these rights³⁴. This survival contemplates the sustenance by physical fitness.

A Nigerian child has the right to enter into contracts for the supply of goods to him that are deemed to be necessities³⁵. This right of the child is quite important, for without it, the child may be unable to acquire the necessities of life, the effect of which would be that his survival in any practical sense would be jeopardized. The greatest of all provisions on the right of the Nigerian child to survival is found in the provision that every child is entitled to enjoy the best attainable state of physical health. The Act enjoins every level of government, parents, guardians, institutions, service providers and organizations or bodies responsible for child care to endeavour to provide for the child, the best attainable health³⁶.

iv. **The Right to Participation**

A child has the right to be relevant to the family and the society he has been born into and even the world at large. To the family, a child must respect his parents, superiors and elders at all times and shall assist them in event of need. He must work towards the cohesion of his family.

To the community and the society, a child must work towards the cohesion of his community, must contribute to the moral well-being of the society and must relate with other members of the society with different cultural values, in the spirit of tolerance, dialogue and consultation.

To the country, a child must place his physical and intellectual ability at the service of the Federal Republic of Nigeria, he must preserve and strengthen the social and national solidarity of the country, he must preserve and strengthen the independence and integrity of the country, he must show respect to the ideals of democracy, freedom, equality, humaneness, honesty and justice for all persons.

In Nigeria, Africa and the world at large, a child must contribute at all times and at all levels to the promotion and achievement of Nigerian, African and world unity. He must at all times and at all levels contribute to the solidarity of the African people and human race. It is important to note

³⁴*ibid.*, section 12.

³⁵*ibid.*, section 18.

³⁶*ibid.*, section 13.

that while these are the expectations from a child, a child must perform these duties, subject however to his abilities. It is also important to note that though these expectations of a child are more of duties, they constitute the rights of the child, because nobody can stop the child from doing them. It is the right of the child to do them³⁷.

4. **Comparative Analysis of Child's Rights in Nigeria under Customary Law and English Law:**

The numerous rights of the Nigerian child under customary law as also in under English law are subsumed under four broad heads. While the four broad heads under customary law are right to protection against harm, right to advancement in life, right to establishment of family and right to provisions for burial expenses; the four broad heads under English law are right to protection against harm, right to development, right to survival and right to participation.

Apart from right to provision for burial expenses, that exists in customary law but does not exist in customary law, all other rights exist in both regime: For example, under customary law, there is a provision for the right of the child to protection against harm, from the time of conception to birth and beyond. This right exists under English law.

The right to advancement in life as provided in customary law, is akin to the right to development, the right to survival and the right to participation, in English law.

The difference in the provisions in the two regimes is that the provision for the right to the establishment of a family and the right for the provision for burial expenses that exist in customary law do not exist in English law.

There exist yet another difference in the provision of rights in the two regimes. That difference is that the provisions in English law is reflective of the state of development of the society. It is for this reason that the right to the establishment of a family of the type provided in customary law and the right for the provision for burial expenses are not accommodated in English law regime.

³⁷The Right of the Nigerian Child to participation is sufficiently set out in sections 12 and 19 of the Act.

There is therefore a tremendous development and advancement on the rights of the child, when the English law model is compared with the customary law.

Rights of the Nigerian child under both regimes envisage that the rights are to be enjoyed by children. Under both regimes, the common denominator is that whether or not a person is a child capable of enjoying these rights or any of them is dependent on so many variables. In customary law, it is dependent on the right being contemplated;³⁸ the custom of the area³⁹ or the age of the person, which age is dependent on the area⁴⁰. In English law, it is dependent again, on the context of the right being contemplated, for in various statutes of Nigeria, various ages are stipulated for which a person could enjoy certain rights and obviously, beyond which he or she cannot⁴¹.

Since the rights of a Nigerian child under both regimes are meant to be enjoyed by children and who a child is, for the purpose of accrual and enjoyment of those rights are not readily determinable, the rights of the Nigerian child to this extent is amorphous.

5. Conclusion

A critical review of the child right's under the two dispensations, shows (as highlighted in the comparative analysis of both dispensations) that the rights under them are amorphous⁴². Again, the similarity in the rights under the two regimes as evinced under the four broad heads that the rights under both regimes were summarized, reveals that the rights under both regimes have a synergy.

³⁸If the right is that of to attend village meeting to make financial contribution to a village project, a person may not be qualified to attend the meeting because he has no means of livelihood and cannot make financial contribution, while another who is younger in age may have the right to attend such meeting because he has the financial wherewithal to make such contribution.

³⁹Note 3., *loc. cit.*, Note 6 *loc. cit.*

⁴⁰*Ibid.*

⁴¹For instance, in the Criminal Code Act Cap C. 38 Laws of the Federation of Nigeria, 2010, a person below the age of twelve years (for reason for being a child) is presumed to be in capable of having carnal knowledge.

⁴²This may well not be a surprise since "Rights" themselves, amongst scholars of jurisprudence are not readily known, ascertainable or describable. See M.E. Summonds, *Central Issues in Jurisprudence. Justice, Law and Rights* Second Edition, (London: Sweet & Maxwell 2002), p. 254; M.D.A. Freeman, *Lloyd's Introduction to Jurisprudence* Eight Edition, (London: Sweet & Maxwell 2001), p. 394 and Lloyd, *Introduction to Jurisprudence*, Seventh Edition, (London: Sweet & Maxwell 2001), p. 354.