NIGERIA'S FEDERALISM AND THE IMPLEMENTATION OF THE CHILD RIGHTS ACT 2003

BY

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CERTIFICATION

This dissertation titled "*Nigeria's Federalism and the Implementation of the Child Rights Act 2003"* presented by Abba Garba (**PG/NLS/1714014**) has met the partial requirements for the award of the degree of Masters in Legislative Studies (MLS) of the National Institute for Legislative and Democratic Studies/University of Benin, Edo State.

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DECLARATION

I hereby declare that this dissertation is a product of my research efforts, undertaken under the supervision of Dr Chukwuemeka Onyimadu. It is an original work and no part of it has ever been presented for the award of any degree anywhere. All sources of information have been duly acknowledged through the references.

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APPROVAL PAGE

This is to certify that this dissertation *"Nigeria's Federalism and the Implementation of the Child Rights Act 2003"* has been read and approved as having met the partial requirements for the award of the degree of Masters in Legislative Studies of the University of Benin/National Institute for Legislative and Democratic Studies is approved for contribution to knowledge.

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DEDICATION

This dissertation is dedicated to Almighty Allah (SWT) for His grace that has never waned in my life, and to my Late Dad, Alhaji Garba Gusau (Sarkin Fada) who inspired my educational achievements.

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LIST OF ABBREVIATIONS

CFRN – Constitution of the Federal Republic of Nigeria

CRA – Child Rights Act

CSDPP - Child Survival, Development, Protection, and Participation

CSOs – Civil Society Organizations

FCT – Federal Capital Territory

LFN – Laws of the Federation of Nigeria

NAPTIP - National Agency for the Prohibition of Trafficking in Persons

SDGs – Sustainable Development Goals

UN – United Nations

UNCRC – United Nations Convention on the Rights of the Child

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ABSTRACT

This study *"Nigeria's Federalism and the Implementation of the Child Rights Act 2003"*, examined the burden of federalism imperatives on the implementation of the Child Rights Act 2003. The objectives of the study were to, identify the constraints posed by federalism on the implementation of the provisions of the CRA 2003, and suggest possible ways by which the legislature can ensure the implementation of the provisions of Section 28 of the CRA and future treaties.

The study adopted the qualitative research design, employing the content analysis method. The study relied on secondary sources for data; published materials such as books, journals, articles, CRA 2003, Conventions on the Rights of the Child, etc., were sources of data.

The findings showed that the structure of Nigeria's federalism has inadvertently led to the minimal/non-implementation and legal inconsistencies in the CRA 2003. Nigeria is a federal system which requires the transformation of treaties into domesticated law by the national and sub-national legislative arms of governance. However, the active participation of sub-national governments and legislatures remains a critical success factor for the implementation of such domesticated laws, especially for issues not included in the Exclusive Legislative List.

Consequently, the study advocated for the advancement of federalism imperatives such as the subsidiarity principle and para-diplomacy, as possible strategies that would enhance the implementation of the provisions of the CRA.

CHAPTER ONE

INTRODUCTION

1.1. Background of the Study

The legislative assembly comprises of a group of elected people that make and change the laws of a country. This group of elected people are given a mandate by the citizens to represent them and be the voice for articulating their concerns at the national level. To Bogdanor (1991), the legislature is derived from a claim that its members are representative of the political community, and decisions are collectively made according to complex procedures. Hence, the Constitution of the Federal Republic of Nigeria, CFRN (1999, Section 4) stated *inter alia* that "the legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation, which shall consist of a Senate and a House of Representatives". Going further, Section 4(3) Part II of the constitution which dealt with Powers of The Federal Republic of Nigeria is to the effect that,

> "The power of the National Assembly to make laws for the peace, order and good governance of the federation with respect to any matter included in the Exclusive Legislative List shall, save as otherwise provided in this constitution, be to the exclusion of the Houses of Assembly of States" (CRFN, 1999, Section 4(3)).

Section 12 of the CFRN (1999, as altered) averred that no treaty between the Federation and any other country should have the force of law except to an extent that the National Assembly has enacted such treaty. Domiciled with the National Assembly is the power to enact treaties. Therefore, treaties between Nigeria and other subjects of international law do not automatically transform into Nigerian laws without legislative intervention. These treaties are enacted into law by the National Assembly following the provisions of Section 12 of the CFRN before they can have the force of law. Succinctly, the extent of the application of conventions and protocols would

be determined by how much it has been given legal legitimacy according to provisions of the Constitution. Harrington (2005) described a treaty as a contract, which expresses agreement between states and between states and other actors in the international system that creates legally binding rights and obligations for its parties. In the same vein, Amokaye (2004) posited that the terms Treaty, Convention, Agreement, Accord, Act, Statute, Covenant or Charter which are used interchangeably, connotes any international agreement concluded between states.

In international law, the legality or otherwise of a treaty is expressed in the Latin maxim *Pacta Sunt Servanda*, as codified in Article 26 of the *Vienna Convention on the Law of Treaties,* 1969 (Ngara, 2017). This maxim denotes that parties to a treaty, convention or protocol, are bound by its provisions, and are expected to discharge its obligations in good faith, hence, it is also known as the *Principle of Good Faith* (Ladan, 2018). Nigeria is a signatory to the *Vienna Convention on the Law of Treaties,* 1969, and in pursuit of its foreign policy have since independence been a signatory to several treaties some of which includes but not limited to the: United Nations Convention on the Rights of the Child, Supplementing the United Nations Convention against Transnational Organized Crime, Convention against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment, etc.

Having ratified and domesticated some of the aforementioned protocols notwithstanding, the obligations meant to be satisfied by some of these Conventions, are largely not yet met. A case in point is the state of the Rights of the Child. Whereas the UN Convention on Rights of the Child whose provisions are enshrined in the Childs Right Act 2003 has undergone stipulated domestication procedure, the Nigerian children are largely denied those rights. For instance, there are cases of child marriage (Premium Times Nigeria, 2019, June 24th), forced labour, etc. A major concern with the effective implementation of the Child's Right Act in Nigeria has been, situating

responsibilities on the federal and state governments, with issues arising from constitutionality. In this project, I focused on explaining how non – definitive responsibilities between national and subnational governments in Nigeria has led to the sub-optimal implementation of the Child's Rights Act, despite its domestication.

1.2. Statement of the Research Problem

Due to increasing global interrelationship and interdependency, treaties have not only become an important source of law but indispensable means by which states formalize their external relations (Ngara, 2017). In Nigeria, Dunmoye, Njoku and Alubo (2007) observed that the executive leads the process of negotiating a treaty through the Ministry of Foreign Affairs, while the National Assembly also plays a crucial role of incorporating treaties into domestic laws. Pointedly, the major aspects of treaty-making being ratification and domestication, are separately for the executive and legislature to pursue. From the provision in the constitution, treaty-making is the only area where the National Assembly participates in Nigeria's foreign policy. This is attributable to the provisions of Section 12 of the CFRN 1999 (as amended) which makes it incumbent on the National Assembly to approve or disapprove any treaty entered into by the executive on behalf of the country.

Implicitly, the United Nations Convention on the Rights of the Child (UNCRC) which is at the core of the Childs Right Act 2003 and, a legally-binding international agreement setting out the civil, political, economic, social and cultural rights of every child, regardless of their race, religion or abilities, would not have suffered such indifference with eleven states yet to ratify it (Premium Times Nigeria, 2019, May 11th). According to Save the Children (2020), under the terms of the convention, governments are required to meet children's basic needs and help them reach their full potential. Central to this is the acknowledgement that every child has basic fundamental

rights. These include the right to life, survival, and development, protection from violence, abuse or neglect, an education that enables children to fulfil their potential, etc. Regrettably, not every Nigerian child gets such rights. For instance, 15-year-old Basira reported by Premium Times Nigeria (2019, June 24th) as having a 9 – month old baby and 10-year-old Rabiu stated in the same report as hawking groundnuts in the streets of Kano, child begging in northern Nigeria (Hodges, 2001), etc., are subjects of concern to this study.

Irrespective of the fact that the Child Rights Act has been domesticated, there are still peculiar issues regarding its implementation, arising most often, from the way the government is organized in Nigeria (Omoregie, 2015). According to Inegbedion and Omoregie (2006), in Nigeria's federal arrangement, level of government that should take responsibility for issues such as power-sharing arrangement, revenue allocation, maintenance of public order, etc., continues to raise questions concerning its federal system. Hence, given Constitutional provisions (CFRN, 1999, as altered, Section 12 (3)), even though state Houses of Assemblies may not go against the CRA 2003 as domesticated by the National Assembly, they are required by law to ratify it for it to be operational within their respective jurisdictions.

Therefore, given the National Assembly's strategic place in the treaty-making process as well as Nigeria's federal construct, this study sought to examine the burden of federalism imperatives in the implementation of the Child Rights Act 2003.

1.3. Research Objectives

The broad objective of this research was to examine the implication of Nigeria's Federal structure in the implementation of treaties. Specifically, the research intends to;

1. Identify the constraints posed by federalism on the implementation of the provisions of the CRA 2003.
2. Suggest possible ways by which the legislature can ensure the implementation of the provisions of Section 28 of the CRA and future treaties.

1.4. Research Questions

The following questions guided the scope of the study.

1. Does Federalism pose any constraints to the effective implementation of the provisions of the CRA 2003?
2. In what ways can the National Assembly ensure the implementation of the provisions of Section 28 of the CRA and future treaties?

1.5. Scope and Limitations of the Study

The scope of the study is limited to the UN Convention on the Rights of the Child of 1989 whose principles are enshrined in the Childs Right Act, CRA (2003) (Part III, Section 28). There are, however, other important aspects of the CRA (2003), that stated in the aforementioned Section have continued to plague the Country.

1.6. Significance of the Study

This study sought to contextualize its findings within the larger body of knowledge. Thus, bridging the gap in knowledge in the area of federalism and the implementation of treaties in general and provisions of the CRA 2003 in specific. Therefore, the study would serve as a springboard for researchers and students in this area. In the same vein, it would serve as reference material in this area of research, hence, beneficial to Civil Society Organizations (CSOs), parliamentary institutions, etc.

Also, this study is significant to the Federal Government because of its commitment to the Sustainable Development Goals (SDGs). This as the Federal Government in most of its policy documents has shown a commitment to ending early child marriage, reducing the number of out-of-school children, putting an end to child labour, etc. Relatively, the present study proffered possible strategies away from the conventional constraints to the attainment of SDGs such as funding, political considerations, among others.

1.7. Operational Definition of Terms

Ratification of Treaties: This is the final establishment of consent to be bound by a treaty, by the parties to the treaty. According to P. T Akper 'Ratification is an international act whereby a country signifies its intention on the international plane to be bound by provisions of a treaty'.

Federalism: This refers to the distribution of power and resources among the tiers of government.

Domestication of treaties: This is the transformation of treaties into municipal law. P.T Akper explains it as 'subjecting treaties made on behalf of the Federation to the legislative process, as is the case with other municipal legislation.

1.8. Outline of the Dissertation

This dissertation is divided into five chapters. Chapter one contains the general introduction which consists of the background to the study, statement of the research problem, research questions and objectives, significance of the study, scope and limitation of the study, and the outline of the research. Chapter two provides a thorough review of the literature bordering on the variables being studied and theoretical framework. Also, chapter three focuses on a comprehensive statement of the research methodology. Besides, chapter four will provide the presentation of data and discussion of results.

Finally, chapter five provides a summary of the study, recommendations, contributions of the research to the body of knowledge and conclusions based on the findings from this study.

CHAPTER TWO

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

This chapter discusses the literature related to the variables being studied.

2.1. Federalism and Treaty Implementation in Nigeria

Bulmer (2017) noted that federalism is a constitutional mechanism for dividing powers between different levels of government so that federated units can enjoy substantial, constitutionally guaranteed autonomy over certain policy areas while sharing power based on agreed rules over other areas. Similarly, Keating (2007, p. 7) opined that "federalism is a constitutional category referring to an entrenched division of competences between two levels of government, neither of which can encroach upon the other". Keating argues that a weaker form of divided government, common in European states, is devolution, as has been practised in the United Kingdom and Italy. In essence, Elazar (as cited in Bulmer, 2017, p. 3) alluded that federalism connotes "partial self-government" with "partial shared-government".

According to Wheare (as cited in Amadi, Echem &Nwoko, 2017), one of the arguments for establishing a Federation is that it will provide for a harmonized foreign policy within the State. It is common in federations to find their constitutions 'either forbidding their component states from entering into treaty relations with foreign states or permitting them to do so only with express authorization from the federal government'. In Nigeria, issues relating to the external affairs of the Republic are placed within the competence of the Federal Government. According to Ajomo and Aguda (1985), unlike unitary States where the legislature possesses unlimited powers, which is either to fulfil or not, treaty obligations imposed upon the state by its Executive, the problem is more complex States with multiple legislative authorities. The problem then becomes one of trying

to balance the interests of the federal authority against those of the constituent units of the federation, without detriment to the federal government's ability to fulfil its treaty obligations in good faith.

Section 12 of the Constitution of the Federal Republic of Nigeria, 1999, which deals with the implementation of treaties, provides that the "National Assembly may make laws for the federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty". In addition to the above, Section 12(3) of the Constitution brings the constituent states into the process. It provides that, 'A bill for an Act of the National Assembly passed pursuant to the provisions of Subsection (2) of this section shall not be presented to the President for assent, and shall not be enacted unless it is ratified by a majority of all the Houses of Assembly in the Federation.

While in the case of ordinary municipal legislation, Section 4(2) of the Constitution gives the National Assembly exclusive powers to make laws with respect to any matter included in the Exclusive Legislative List and Section 4(4)(a) of the Constitution gives the National Assembly powers to make laws with respect to any matter in the Concurrent Legislative List. This latter power of the National Assembly is shared with the states. Section 4(7)(a) of the Constitution gives the state Houses of Assembly exclusive powers to make laws over residual matters.

However, in the implementation of treaties, the National Assembly is involved irrespective of the subject matter of the treaty. Where the subject matter of the treaty is one outside the Exclusive Legislative List, a majority of the state Houses of Assembly must 'ratify the bill wanting to domesticate the treaty'. Additionally, where a treaty whose subject matter is not contained in the Exclusive Legislative List is erroneously passed by the National Assembly without first obtaining the consent of the required majority of the Houses of Assembly, the resulting enabling legislature

will be taken as governing only the Federal Capital Territory. This was the case with the Convention on the Rights of the Child, whose enabling legislation, the Child Rights Act, is now being ratified on a state by state basis. As of March 2020, only 26 states in Nigeria had passed the Convention into law (The Guardian, 2018, July 6th). With some of the states, even after intense and prolonged advocacy by Civil Society Organisations, adopting a slightly varied version of the CRA.

The provision of Section 12 of the 1999 Constitution has been criticized because it is unclear and 'undermines the concept of federalism'. To forestall a situation where states refuse to ratify a treaty in cases where they are required by law to do so, Omoregie (2015) suggested that states be allowed to take part in the treaty-making process arguing that if this is done it would give the state legislatures a sense of belonging concerning the treaty as well as a moral obligation to cooperate constructively, through dialogue and concession, with the federal legislature in the implementation process. In Nigeria, treaty-making falls within the prerogatives of the Executive arm of the federal government. External affairs are, In fact, firmly under the control of the Federal Government as it is an item under the Exclusive Legislative List.

However, if members of the executive arm of the Thirty-six state governments are allowed to participate in the treaty-making process what guarantee is there that the executive members of some states would not stall or worse still frustrate even the signing of certain fundamental human rights treaties which they may find offensive. Thus, preventing all the states in the Federation from benefitting from the provisions of the said treaty as against the present practise wherein if a state desires to domesticate a treaty already domesticated by the National Assembly without the latter complying with the provisions of Section 12(2) and (3), the state may do so irrespective of

opposition to that treaty by other states. It is thus, safer to leave treaty-making where it presently is- in the hands of the federal government.

2.2. Approaches to Domestication of Treaties: Dualism, Monism and Nihilism

In Nigeria, ratification of a treaty by the Executive is insufficient to give a treaty the force of law domestically.[1] It is the legislative approval of the treaty in the form of an enabling statute that actually 'opens the door' for its implementation. The duty to implement treaties is firmly rooted in the international law *Principle of Good Faith* or *Pacta Sunt Servanda*. Although this duty originates from international law, the form and procedure for implementing treaties are governed by municipal law. Hence, Oyebode (2003) opined that more often than not, it is the Constitution of a State that provides the guidelines for treaty implementation either by specifying the location of treaties within the hierarchy of sources of the domestic law or by establishing the relationship between international law and domestic law.

According to (Ploos Van Amstel, 1986), in all countries only the Executive is empowered to initiate and conduct negotiations, leading to the conclusion of treaties. This was reechoed by Dunmoye, Njoku, and Alubo (2007, p. 121) when they asserted that "as a matter of principle, in a democracy, the executive cannot conclude secret treaties or bilateral agreements without the knowledge and consent of the legislature". Hence, agreements that bear an effect on the sovereignty, territory as well as the international status of Nigeria, would be a subject of legislative debate and approval.

[1] See CFRN (1999, as amended, Section 12 (1))

Therefore, for convenience sake, Tables bearing the list of treaties Nigeria is a signatory to were presented after the thematic illustration of the various categories of treaties Nigeria is a party to.

Figure 2.1: Thematic Presentation of Treaties Nigeria is signed onto

Following the clarification contained in Figure 2.1, Bloc and Cooperation treaties Nigeria is a signatory to, are listed in Table 2.1.

Table 2.1: Multinational (Bloc & Cooperation) Treaties

S/N	Multinational Treaty	Date of entry into force	Date of Ratification or Accession
1	Organization of the Petroleum Exporting Countries (OPEC) Statute	September 1960	July 1971
2	OPEC Fund for International Development	January 1976	January 1976
3	Islamic Development Bank Instrument (Declaration of Intent issued by the Conference of Finance Ministers of Muslim Countries held in Jeddah in Dhul Q'adah 1393H)	December 1973	NA

4	Organization of Islamic Cooperation (OIC)	1986 (joined)	NA

Source: Law Nigeria (2018, February 23rd)

The treaties listed in Table 2.1 represents those covering the interests of multinationals. According to Ladan (2018), multinationals are legal entities in international law, hence, a breach of any protocol to which they are a party would attract commensurate sanctions according to the stipulations of such protocols. The treaties (see Table 2.1), are designed to serve and protect the interests of the contracting parties. On this note, Ladan (2018) concluded that international law is a body of rules governing the relations between states and public international organisations/institutions on the one hand, and with non-state actors (otherwise known as Transnational corporations) for all developmental and security purpose or in so far, their rights and obligations/duties are matters of concern to international law. Going further, listed in Table 2.2 are global treaties facilitated by the UN to which Nigeria is a signatory.

Table 2.2: Select Global Treaties/Conventions (Facilitated by the UN)

S/N	*Treaty*	*Date of Ratification or Accession*
1	Abolition of Forced Labour Convention	1960
2	Basel Convention on the Control of Trans Boundary Movement of Hazardous Wastes and their Disposal	1991
3	Cartagena Protocol on Bio-safety	2003
4	Comprehensive Nuclear Test Ban Treaty (CTBT)	2001
5	Convention Against Torture & other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	2001
6	Convention on Biological Diversity	1992
7	Convention concerning Forced or Compulsory Labour	1960
8	Convention concerning minimum age for admission to Employment	2002
9	Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	2002
10	Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	1985
11	Convention on International Trade in Endangered Species of Wild Fauna and Flora	1974
12	Convention on Nuclear Proliferation Treaty (NPT)	1968

13	Convention on Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and their Destruction	1999
14	Convention Relating to the Status of Refugees	1967
15	Convention on the Rights of the Child (CRC)	1991
16	Convention for the Suppression of the Traffic in Persons & Exploitation of the Prostitution of others	2003
17	Discrimination (Employment and Occupation) Convention	2002
18	Equal Remuneration Convention	1974
19	Freedom of Association and the Protection of the Right to Organise	1960
20	Geneva Convention Relative to the Protection of Civilian Persons in Time of War	1988
21	Geneva Convention Relative to the Treatment of Prisoners of War	1961
22	International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	1969
23	International Convention for the Suppression of the Financing of terrorism	2003
24	International Covenant on Civil and Political Rights (CPPR)	1993
25	International Covenant on Economic, Social and Cultural Rights (CESCR)	1993
26	International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage	1971

Source: Law Nigeria (2018, February 23rd)

To foster regional interests, Nigeria is a signatory to several protocols facilitated by the African Union as well as the Economic Community of West African States. Just as listed in Table 2.2 to show select global conventions facilitated by the UN, Table 2.3 shows select African Treaties/Conventions facilitated by the African Union (AU) or Economic Community of West African States (ECOWAS). It is succinct to state that, these treaties/protocols are in some cases an advancement of UN-facilitated protocols, for instance, Convention on the Rights of the Child (CRC) vis a vis the African Charter on Rights and Welfare of the Child, and in other cases, designed to address peculiar regional issues, e.g., Phyto-Sanitary Convention for Africa which is meant for the containment as well as prevention of diseases, insect pests, and other enemies of plants in any part of Africa.

Table 2.3: Select African Treaties/Conventions (Facilitated by the AU or ECOWAS)

S/N	***TREATY***	***DATE OF RATIFICATION***
1	Additional Protocol to the OAU General Convention on Privileges and immunities	Pending
2	African Charter on democracy elections governance	Pending
3	African Charter on Human, peoples right	22/06/1983
4	African Charter on Right and welfare on the child	23/7/2001
5	African charter On values and principles of public and administration	Pending
6	African civil Aviation commission constitution	8/12/1969
7	African Convention on the conservation of Nature and Natural Resources	02/04/1974
8	African Convention on preventing and combating corruption	26/9/2006
9	African Nuclear weapon –zone Treaty (Pelindaba Treaty)	20/4/2000

10	African Refugee Convention	1986
11	African Youth Charter	21/04/2009
12	Phyto-Sanitary Convention for Africa	Pending

Source: Law Nigeria (2018, February 23rd)

In a discussion on the implementation of treaties in Nigeria, it is pertinent to not only locate the position of treaties in the hierarchy of norms in Nigeria but also establish the nature of the relationship between international law and municipal law within the country. Based on the foregoing, three approaches to treaty implementation were identified. First, Dualists view international and municipal legal orders as mutually exclusive, each possessing its sources, subjects and subject matter (Ladan, 2018). Ladan posited that according to the proponents of dualism, international law and municipal law are two distinct legal systems, so distinct that conflicts between them are impossible. Laying credence to Ladan's position, Longjohn (2009) identified the chief exponents of the dualist view as Triepel and Strupp, both of the positivist school of thought. Longjohn, however, noted that dualism is largely based on the concept of the state as sovereign and the 'highest good in society'.

Elucidating on this, Mohr (1981) explained that, while the domestic legal order was a reflection of the sovereign will be expressed inwardly, the international legal order represented a synthesis of the wills of various sovereigns manifested in the international plane. Hence, the dualists identified two differences they considered fundamental between international and municipal laws. Firstly, they argued that whilst the subjects of municipal law are individuals, the subjects of international law are states. Secondly, while municipal law derives its source from the will of the state itself, international law has its source rooted in the common will of states. Oppenheim (as cited Higgins, Webb, Akande, Sivakumaran, Sloan, & Oppenheim, 2017) opined that 'whereas the

sources of domestic law are to be found in home-grown customs and the domestic statutes, those of international law are to be found in the customs of the community of states and treaties. Another proponent of Dualism, Anzilotti (2002), approaches this argument from another perspective. According to him, Municipal law operates on the fundamental principle that state legislation is imperative while international law operates on the principle of *pacta sunt servanda*. He, therefore, concludes that the two systems are so distinct that they cannot conflict with each other. The Dualists thus conclude that since neither legal order can operate in the sphere of the other, international law can neither bind individuals nor confer rights on them directly (Longjohn, 2009). International law can only apply within the sphere of municipal law after domestication.

Furthermore, Proponents of dualism conclude that if ever there is a conflict between international law and municipal law, the courts are to apply the latter (Ladan, 2018). Going by the dualist doctrine, treaties should be non-self-executing. Monism, on the other hand, considers law as a whole with hierarchies; International law being regarded as superior to municipal law (Longjohn, 2009). Monists argue that law, whether municipal or international, has the same elements and are thus the same. A leading proponent of the Monist theory is Hans Kelsen. Kelsen (1970) viewed Law as an 'integrated, united system of laws'. According to him, International law and national law cannot be different and mutually independent norms if the norms of both systems are considered to be valid for the same space and at the same time. It is logically not possible that simultaneously valid norms belong to different, mutually independent systems.

Kelsen (1970) further argued that municipal law derives its validity from the international legal order. In reaction to the distinguishing factors between both legal orders, highlighted by the Dualists, Kelsen posited that like municipal law, International law governs individuals as States are composed of individuals. Hence, individual human beings are the subject of both legal orders.

In the same vein, there was no difference in the subject matter over which both legal orders could legislate. According to him, 'since every matter that is or can be regulated by national law is open to regulation by international law as well it is impossible to substantiate the pluralistic view.

Thus, Ladan (2018) noted that protagonists of Monism, conclude that where there is a conflict between both legal orders, the courts are to apply international law. Furthermore, International law is to be immediately applicable within the municipal legal order without a need for transformation. The Monist theorists thus believe in self-executing treaties. While civil law countries are traditionally Monists in approach, common law countries are Dualists (Ladan, 2018). Nigeria is a dualist nation as can be garnered from the provisions of Section 12 of the 1999 Constitution. Based on this provision of the Constitution, the Supreme Court held in Registered Trustees of National Association of Community Health Practitioners of Nigeria & Ors v. Medical and Health Workers Union of Nigeria (Longjohn, 2009), that the International Labour Organisation Convention, not having been domesticated in Nigeria cannot, therefore, be applied in Nigeria.

Finally, Ladan (2018) identified the last approach to treaty implementation as nihilism. Ladan noted that the protagonists of this doctrine assert the absolute supremacy of municipal law over international law in the event of any conflict on a given subject matter. The USA is a typical example. Thus, the constitution becomes supreme in an event of any conflict with municipal law. Exemplarily, Nigeria adheres to the dualist doctrine of treaty implementation, hence, the stipulation of CFRN 1999 (as amended) Section 12 (1) to the effect that "No treaty between the Federation and any other country shall have the force of law to the extent to which any such treaty has been enacted into law by the National Assembly".

2.3. The Child Rights Act, 2003

The Child Rights Act, 2003, was borne out of The Convention on the Rights of the Child and the African Union Charter on the Rights and Welfare of the Child. The CRA was enacted principally to protect the rights of the Nigerian Child whose rights were before the enactment of the Act not comprehensively provided for by any statute in Nigeria. The Child Rights Act, 2003 comprises 278 Sections and 11 Schedules. The Act came into effect on the 31st of July, 2003 against the backdrop of prevalent abuse of the rights of children as well as the need to secure the rights of children by the government. The CRA 2003 defines a child as a person who has not attained the age of eighteen (18) years. However, according to Section Two of the Children and Young Person Act, enacted in Eastern, Western and Northern regions, a "child" means a person under the age of fourteen years, while "young person" means a person who has attained the age of fourteen years and is under the age of seventeen years.

Part I of the Act contains provisions stating that the best interest of the child is to be of paramount consideration in all actions concerning the child. According to Longjohn (2009), Section 1 of the CRA typifies "…what may rightly be regarded as the central principle governing the application of the Act…" Similarly, Section 2(1) of the Act provides inter alia that 'a child shall be given such protection and care as is necessary for the wellbeing of the child…' While Section 2(2) of the Act provides that "every person, institution, service, agency, organization, and body responsible for the care of the protection of children shall conform with the standards established by the appropriate authorities, particularly in the areas of safety, health, welfare, number and suitability of their staff and competent supervision". Going further, Part II of the Act provides for the rights and responsibilities of a child. These rights are more encompassing than the general rights provided for in Chapter IV of the Constitution of the Federal Republic of Nigeria,

1999 as Section 3 of the Act incorporates into the Child Rights Act, the provisions of Chapter IV of the Nigerian Constitution in addition to those stated in Sections 4 to 18 of the Act.

Part III of the Act provides for the protection of the rights of a child. This Part prohibits certain activities such as child marriage, Child betrothal, Tattoos and skin marks on children, exposure of children to use, production and trafficking of narcotic drugs, etc. For every act prohibited under this Part, penalties were provided. In a bid to cover all loopholes, Section 26 of the Act contains stipulated penalty for its contravention. The provision of the Act on child marriage has been at the heart of the controversy surrounding the implementation and application of the Convention on the Rights of the Child. Some states in the Northern part of Nigeria have refused to pass the Child Rights Law because it goes against their religious and cultural practice which encourages child marriage. Jigawa State, for instance, has in passing its Child Rights law reduced the marriageable age to 'puberty' (Longjohn, 2009). The above act by Jigawa state has been discouraged by the Committee on the Rights of the Child. According to Longjohn (2009)

> The committee expressed serious concerns over the extremely high prevalence of early marriage among female children in the Northern states in Nigeria and its attendant impact on the enjoyment of other human rights especially the right to education. To guard against fundamental disparities in the various Child Rights Laws in the federation, the Committee strongly recommended the placement of Child rights under the Concurrent Legislative List (Longjohn, 2009: 24).

This recommendation if implemented will ensure the Child Rights Act prevail over Child Rights Laws in the event of inconsistencies. Section 30 of the Act prohibits the buying, selling or otherwise dealing in children for hawking or begging for alms or prostitution, etc. Section 30(3), which supposedly is the penalty section for Section 30, only provides a penalty for the contravention of the provisions of Section 30(1). Impliedly, if a person contravenes the provisions of Section 30(2) he cannot be punished under the Act. In the same vein, Section 34 of the Act prohibits the recruitment of children into the Armed Forces. Subsection (2) of this Section places

on the Government or 'any other relevant agency or body', the responsibility of ensuring that no child is 'directly involved in any military operation or hostilities'. No penalty is attached to this section, perhaps on account of the impracticability of convicting the government or any of its agencies or bodies of offences.

Part IV of the Act contains provisions aimed at providing security for abused children. Sections 41 and 42 which deal with Child Assessment and Emergency Protection orders use the word 'may'. This connotes that it is optional for the relevant authorities to apply for these orders. According to PROS (2017, October 11th), "when the parties use the word "shall" in their agreement, they generally understand that the obligation specified is ***mandatory***. Or when parties use the word "may" in their contract, performance is ***permissive or optional*** given the plain meaning of the word". However, unlike Sections 41 and 42 of CRA, Section 45 of the Act makes it mandatory for a state government to conduct investigations where it is informed that a child is the subject of an emergency protection order or has been taken into police protection or where the state government has reasonable cause to suspect that a child is suffering or is likely to suffer significant harm.

Part V of the CRA provides for a 'child in need of care and protection'. Longjohn (2009) noted that the Committee on the Rights of the Child urged the Nigerian Government to 'Take all necessary measures to provide alternative child care options for children currently living in remand homes, to abolish the use of remand homes for the care of children without a family'. This, he argued was necessary because it is considered unhealthy for orphaned and vulnerable children to be placed in the same home with children in conflict with the law. Therefore, "towards the effective application of the provisions contained in this Part, Nigeria formulated the National Plan of Action

on Orphans and Vulnerable Children (2006-2010) and the National Guidelines and Standards of Practice on Orphans and Vulnerable Children" (Longjohn, 2009, p. 26).

Part VI of the CRA provides for the 'care and supervision' of children, Part VII contains 'provisions for use of scientific tests in determining the paternity or maternity, etc' of a person. Furthermore, Part VIII contains provisions dealing with the 'possession and custody of children'. Parts IX and X deal with 'guardianship' and 'wardship' of children, respectively. Part XI of the CRA contains provisions dealing with the fostering of children. Section 113 CRA makes provision for child development officers to monitor the progress of fostered children. Section 121 CRA places on the Minister, the choice of making regulations governing private fostering of children. Private fostering of children in Nigeria has from time immemorial been unregulated, subject only to the whims and caprices of the relatives of the child.

Part XII contains provisions dealing with the adoption of a child. Similarly, Part XIII has provisions dealing with the family court. In the same vein, Part XIV of the Act deals with Childminding and Daycare of young children. Part XV contains very idealistic provisions dealing with State government support for children and families. Part XVI contains provisions dealing with the establishment and management of community homes by state governments and Voluntary Organizations. Part XVII contains provisions dealing with Voluntary Homes. Part XVII contains provisions dealing with registered Children's Homes while Part XIX contains provisions dealing with the supervisory functions of the Minister.

Part XX contains general provisions dealing with Child justice administration. To aid in the application of the Act, Part XXI provides for the appointment of Supervision Officers and Inspectors. Part XXII contains provisions dealing with approved institutions and Post-Release

supervision of children. Under this Part, Section 248 provides a list of institutions that mandatorily should be established by the Minister.

Finally, Part XXIII contains provisions on the establishment and functions of the National, State and Local government Child Implementation Committee. This Committee is to ensure the observance of the rights and welfare of the child as provided in the Act and other relevant treaties and Declarations. Notably, the provision of the CRA 2003 being examined – Section 28 and specifically, subsection 1 (a), are given in Table 2.4.

Table 2.4: Provisions of Section 28 of the CRA 2003

Subsection	***Provision***
1	Subject to this Act, no child shall be- a. subjected to any forced or exploitative labour; or b. employed to work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character; or c. required, in any case, to lift, carry or move anything so heavy as to be likely to adversely affect his physical, mental, spiritual, moral or social development; or d. employed as a domestic help outside his own home or family environment.
2	No child shall be employed or work in an industrial undertaking and nothing in this subsection shall apply to work done by children in technical schools or similar approved institutions if the work is supervised by the appropriate authority.
3	Any person who contravenes any provision of subsection (1) or (2) of this section commits an offence and is liable on conviction to a fine not exceeding fifty thousand naira or imprisonment for a term of five years or to both such fine and imprisonment.
4	Where an offence under this section is committed by a body corporate, any person who at the time of the commission of the offence was a proprietor, director, general manager or other similar officer, servant or agent of the body corporate shall be deemed to have

	jointly and severally committed the offence and may be liable on conviction to a fine of two hundred and fifty thousand naira.

Source: Child Rights Act (2003)

2.4. The National Assembly and the Domestication of Treaties in Nigeria

The National Assembly is a bicameral legislature established under Section 4 of the Constitution of Federal Republic of Nigeria 1999 (as amended). Accordingly, Section 4(3) Part II of the constitution which dealt with Powers of The Federal Republic of Nigeria is to the effect that,

> "The power of the National Assembly to make laws for the peace, order and good governance of the federation with respect to any matter included in the Exclusive Legislative List shall, save as otherwise provided in this constitution, be to the exclusion of the Houses of Assembly of States" (CRFN, 1999, Section 4(3)).

Based on the foregoing, Dunmoye, Njoku and Alubo (2007) alluded that the National Assembly has the responsibility for making laws for the good governance of the Federation. The power of the National Assembly to make laws is exercised through the Bills passed by both the Senate and the House of Representatives and assented to by the President. According to Danwanka and Usman (2018), a Bill is a legislative proposal and the first step in creating a new law. Every bill is assigned a unique number that either begins with "HR or HB" (to show the bill originated in the House of Representatives) or "S or SB" (to show it originated in the Senate). Most bills never become law, for the Bill to become a law, a bill must be passed in identical form by both the Senate and House of Representatives at the Federal level, unicameral at State level and then assented to by the President or Governor, in the case of a State. A procedure, concerning a Bill, means subjecting a bill at the floor of the House to the proper legislative processes (from its

introduction to the final assent or overriding-veto) prescribed by the Constitution and adopted Rules of that House.[2]

Subsequently, since Nigeria is an adherent of the dualist doctrine of treaty application, Dunmoye et al. (2007) noted that in treaty-making, the National Assembly should ensure that:

a) It is associated with the negotiation process, including having legislators from different political leaning as members of the negotiating team;
b) It receives advice from civil society, in particular relevant research and advocacy organizations, on the issues at stake;
c) It can present its use in an official and timely fashion to the government to ensure that the peoples' concerns and aspirations are taken onboard;
d) That the National Assembly is presented with and can discuss a detailed analysis of the potential impact (both medium- and long-term) – political, economic, social, environmental or otherwise – of a treaty;
e) Make sure that the National Assembly is asked in due time to ratify the treaty;
f) Ensure consistency between the treaty to be ratified and domestic law by modifying national provisions or, if necessary and possible, by making a reservation or interpretive clause concerning the international agreement;
g) That the continuing validity of the reservation and interpretative clauses made by your country are reviewed as a part of the periodical review of foreign policy objectives.

[2] See Order 132 & 133 (Senate Standing Rule, 2011, as amended) and Order XIV Rule 99 & 100 (House of Representatives Standing Rule, 2011, as amended)

Constitutionally, the role of the National Assembly is expressed in the provision of the CFRN 1999 (as amended) Section 12 (1). This Section of the Constitution stated *inter alia*

> 12. (1) No treaty between the Federation and any other country shall have the force of law to the extent to which any such treaty has been enacted into law by the National Assembly.

By implication, the National Assembly gives legal legitimacy to treaty implements just like every other municipal law. This gives effect to the position expressed separately by Ngara (2017) and Danwanka and Usman (2018). However, there seems to be overreaching power imposed by Subsection 2 "The National Assembly may make laws for the Federation or any part thereof concerning matters not included in the Exclusive Legislative List to implement a treaty". Omoregie (2015) decried this overreach when he attempted to explicate the federalism and subsidiarity imperative inherent in the Constitutional provision. Thus, Omoregie explained that while Subsection 2 depicts the enormous power wielded by the Federal government, Subsection 3 which expresses the ratifying power domiciled with States, exposes the implied application of the subsidiarity principle.

2.5. Empirical Review

According to Okeke and Anushiem (2018), in their study on *Implementation of Treaties in Nigeria: Issues, Challenges and the Way Forward* which was designed to examine the relevance of treaties in the development of the Nigeria legal system and the place of treaties in the hierarchy of Nigerian law, the causes of poor implementation of treaties in Nigeria, as well as the effects of the 1999 Constitution (Third Alteration) Act, 2010 on the application of treaties in Nigeria, and, adopted the doctrinal research approach, found out that treaties between Nigeria and other subjects of international law do not transform into domestic laws unless they are specifically domesticated, that is, enacted into laws by the National Assembly. However, they observed that the National

Assembly has shown little interest in discharging this all-important constitutional task. Hence, Okeke and Anushiem opined that most treaties which Nigeria is a party to, have not been domesticated many years after their ratification.

The above situation, they argued has stripped the Nigerian legal system of the requisite support and complementarity which it ought to derive from those ratified but domesticated treaties. On this basis, they concluded that noninvolvement of the National Assembly in the negotiation of treaties is largely responsible for the poor implementation of treaties in Nigeria. Thus, they recommended the amendment of the Treaties (Making Procedure Etc) Act, 2004 by the National Assembly to make the participation of the National Assembly compulsory in treaty-making in Nigeria. In the same vein, Okeke and Anushiem recommended an outright repeal of Section 12 of the 1999 Constitution so that every treaty to which Nigeria is a party shall be justiciable in Nigeria without any legislative intervention.

To Ngara (2017) who studied the *Nigerian National Assembly and Domestication of Treaties in Nigeria's Fourth and Fifth Assembly* to assess the role of the 4th and 5th National Assembly in the domestication of treaty instruments in Nigeria, argued that treaty-making was an important means by which the 4th and 5th Assemblies of the National Assembly participated in the country's foreign policy. He, however, noted the drawbacks that impacted on the performance of the National Assembly in domesticating treaties as frequent discord between the executive and the legislature, external influence on the Assembly, the politicization of treaty Bills and the lack of political will on the part of the legislators, among others. Therefore, Ngara averred that since treaties are indispensable instruments in "*formalizing*" external relations, the executive should ensure the involvement of the National Assembly at negotiation levels to close knowledge and communication gaps between the two arms of government. Similarly, he urged the National

Assembly should expand the scope of public consultation and participation in the process of legislating treaty Bills through the use of the instrumentality of public hearing, this he posited would ensure that treaties domesticated would enjoy popular support from the citizenry.

Furthermore, Omoregie (2015) in his study of the *Implementation of Treaties in Nigeria: Constitutional Provisions, Federalism Imperative and the Subsidiarity Principle* using the noted that since 1954, Nigeria has been classified as a federation but, not without challenges in its operation of the federal system. Omoregie argued that Nigeria's claim of running federalism stems from the perceived distribution of vertical powers between the federal government and the states. Going further, he opined that under the 1999 Constitution of the Federal Republic of Nigeria, the Federal government is assigned exclusive powers in 68 items; and concurrent powers in 30 items which it shares with the states. The states on their part, exercise residual powers in items which are neither listed in the exclusive nor concurrent. Explicitly, Omoregie observed that Section 12 (2) and (3) of the Constitution conferred powers on the National Assembly to initiate and pass legislation in respect of any matter even when not listed as exclusive to the federal government. Invariably, these are powers which are otherwise residual and therefore limited to the states. However, the states are empowered to participate in the process through the ratification of legislation initiated according to the Section. On this note, Omoregie opined that

> Despite the involvement of the states in this legislative process, it is apparent that the principle of subsidiarity in the federal system could suffer unduly where the federal government in the guise of implementing treaty obligations directly takes on otherwise states' affairs when, on account of the principle, a better course would be to empower the states to carry out such treaty obligation through federal legislation (Omoregie, 2015: 1).

Also, Olutoyin (2014) who studied *Treaty Making and Its Application Under Nigerian Law: The Journey So Far* designed to examine treaty implementation under Nigerian law vis a vis the relationship between international law and municipal law in Nigeria, concluded that treaties

constitute the major means of agreeing to international law. On this note, Olutoyin averred that 1999 Constitution of the Federal Republic of Nigeria in its Section 12 requires the treaty so ratified to be transformed by the Nigeria legislature before it can be admitted in Nigeria's Court. This further buttresses Nigeria's dualist nature. However, Olutoyin argued that the treaty-making procedure and its implementation was not accorded its primacy under the Nigerian Constitution.

Finally, Inegbedion and Omoregie (2006) in their study, *Federalism in Nigeria: A Re-Appraisal*, posited that the history of Nigerian federalism dated back to the pre-independence Constitution of 1954 called the Lyttleton Constitution. According to Inegbedion and Omoregie, with the advent of the 1979 and 1999 Constitution, there has been a change in the practice of Federalism in the Country which has called into question whether Nigeria is indeed a federation. This, however, as they noted that Nigeria is the Federal Republic made up of thirty-six states. To Inegbedion and Omoregie (2006), that level of government that should take responsibility for issues such as power-sharing arrangement, revenue allocation, maintenance of public order, among others, are at the centre of the forces that have continued to threaten the stability of the Federation. Therefore, they concluded that the current situation where the federal government is is seen to wield so much power over the component states on issues should be re-examined and possibly, redressed.

From the literature reviewed above, the place of the legislature in foreign policy is indisputable. Hence, the remarkability of the provision of CFRN (1999, as amended) Section 12 (1). Pointedly, while the study by Okeke and Anushiem (2018) recommended the repeal of Section 12 of the Constitution to pave the way for an automatic application of treaties without legislative input, Ngara (2017) suggested an inclusive process in enacting treaty bills, that, nevertheless, after Olutoyin (2014) observed the dualist nature of Nigeria in treaty application. On his part, Omoregie

(2015) noted the implications of federalism and subsidiarity on treaty application in Nigeria. Laying credence to Omoregie's position, Inegbedion and Omoregie (2006) observed that for significant progress to be made in governance, the present federal construct has to be rethought and possibly redressed. Therefore, while the present study alludes to the scholarly disposition of the kinds of literature mentioned, it sought to examine in particular the implementation of Section 28 (1) (a) of the Childs Right Act viz – a – viz the federalism imperatives noted by Omoregie.

2.6. Theoretical Framework – Subsidiarity Principle

The general aim of the principle of subsidiarity is to guarantee a degree of independence for a lower authority in relation to a higher body or a local authority in relation to the central government (Fact Sheets on the European Union, 2020). It, therefore, involves the sharing of powers between several levels of authority, a principle which forms the institutional basis for federal states. According to Vischer (2014), subsidiarity is a Catholic principle that underlies much of the Church's teaching on social justice issues.

Thus, Gosepath (2005, p. 157) opined that in social and political philosophy, the principle of subsidiarity states that in the "relationship among communities, but also the relation of the individual to any form of human community, the smaller social or political entity or institution ought to be given priority (e.g., the individual should come before the community, the community before the state, the state before the federation, and so on)". Impliedly, it is an important, if not the most important, the responsibility of the bigger institution to enable the smaller one to perform its tasks and to provide it with any necessary support (subsidium) (Herzog, as cited in Gosepath, 2005).

Historically, Gosepath (2005) argued that the Latin term "*subsidium*" originated in the military and was used to refer to the third line of Roman soldiers, the "*Triarii*", who would only join in a battle if the powers of the two front lines were insufficient. Once the military connotations had started to fade into the background, "*subsidium*" began to take on the more general meaning of *"helpful support"* or *"used as an aid",* i.e., it became a term describing the kind of support one may not need under ideal conditions. However, Gosepath noted that the term was introduced in its classic form by Pope Pius XI in the encyclical Quadragesimo Anno in 1931, which was influenced significantly by the thinking of the Catholic social philosophers.

To buttress the dependency of the Catholic social thinking on the subsidiarity principle, Gosepath (2005) stated thus

> In the encyclical, a danger of overburdening the state is diagnosed, and in the crucial paragraph 79, the principle of subsidiarity is offered as the solution to this problem. Going even further, the encyclical interprets the principle of subsidiarity as the single most important principle of social philosophy ("*in philosophia sociali gravissimum principium*"). To this day it is occasionally called on in social philosophy or social politics (mainly by Christian Conservative parties) as a "social principle," even though is has never been formally recognized as a universal principle of law (Gosepath, 2005: 158).

Based on the foregoing Ben-David (2011) averred that the principle of subsidiarity is axiomatic of federalism, hence, Bednar (2013) called it the "*soul of federalism*". On this note, Omoregie (2015) posited that the subsidiarity principle proposes that the powers of government should firstly be distributed to and administered by the federating unit in a federal political order. This is because they possess greater competence in solving problems which confront government and deals directly with the people. Thus, the federal or national government should only exercise powers in respect of matters "for which the federating units cannot achieve result acting on their own due to their wide scope, complexity, and national effect".

However, the weakness with the subsidiarity principle relative to the implementation of the treaty in Nigerian is with the peculiarity of the statehood. For instance, the CRA 2003 being considered could not have been left for States to undertake to see that, different religions view ascribed different interpretations to it. Its strength, therefore, is its characteristic nature of allowing States the option of '*first legislative initiative*'. Implicitly, Treaties duly concluded under the subsidiarity arrangement would witness full implementation across the length and breadth of the country, since they were initiated and concluded by States.

CHAPTER THREE

RESEARCH METHODOLOGY

This chapter focuses on the research techniques adopted and used for this study to achieve the research objectives. Hence, it describes how data and information were obtained to answer the research questions raised.

3.1. Research Design

This study adopts the qualitative research design relying on documentary pieces of evidence such as the United Nations Convention on the Rights of the Child (UNCRC), Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, Childs Right Act, CRA (2003). In the same vein, kinds of literature portraying the challenges of non-implementation of treaties as well as strategies on how the National Assembly can ensure the implementation of treaties.

3.2. Data Sources

This study accommodates secondary sources of data. Secondary data were sourced from documentary evidence such as the United Nations Convention on the Rights of the Child (UNCRC), Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, Childs Right Act, CRA (2003), as well as books, journal articles, Official Gazettes of the government, newspapers, magazines and other relevant materials from the internet.

3.3. Research Instruments

The research instruments that were used for the study were the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, UN Convention on the Rights of the Child of 1989 and the Childs Right Act, CRA (2003). The adoption and ratification of the Convention were by resolution 44/25[3] of 20 November 1989 at the Forty-Fourth Session of the General Assembly of the United Nations and 19 April 1991 respectively. The Convention was at the time, open for signature by all States at the Headquarters of the United Nations in New York. Therefore, the choice of this instrument was deliberate because of the delimitation of this study.

3.4. Research Method

The method employed in this research was content analysis. Content analysis is a research method used to identify patterns in recorded communication. I adopted the content analysis approach because of its unobtrusive nature which does not require the direct involvement of participants as well as discourages my ability to influence the research results. The content used in this study were the CRA 2003, the principal treaties that birthed the CRA 2003, i.e., Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, UN Convention on the Rights of the Child of 1989, were described as follows.

United Nations Convention on the Rights of the Child: According to the United Nations Treaty Collection (2020), in 1989, world leaders made a historic commitment to the world's children by adopting the United Nations Convention on the Rights of the Child – an international agreement on childhood. The Convention says childhood is separate from adulthood and lasts until 18.

[3] See Official Records of the General Assembly, Forty-fourth Session, Supplement No. 49 (A/44/49), p. 166.

Therefore, during childhood, a child children are allowed to grow, learn, play, develop and flourish with dignity.

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour: the General Conference of the International Labour Organization at its 87th Session on 1st June 1999 convened at Geneva considered and adopted new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, and to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which was the fundamental instruments.

CHAPTER FOUR

DATA PRESENTATION, ANALYSIS AND DISCUSSION

This chapter presents analyzes and discusses data obtained in the course of the research. Content analysis and arguments on the role of Nigeria's federalism on the effective implementation of the domesticated CRA 2003 and the UN Convention on the Rights of the Child of 1989 are presented.

4.1. Research Findings

Okenwa (2015) alluded that Nigeria adheres to the dualist approach to the application of international law, a practice, he quipped was renowned in common law countries. Implicitly, treaties concluded between Nigeria and other subjects of international law – states, international organizations, special entities like the Vatican, etc. (Ladan, 2018), do not automatically transform into Nigerian laws without legislative intervention. Thus, such protocols would be specifically enacted into law by the National Assembly in accordance with Section 12 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) before they can have the force of law. The relevance of treaties in the progressive development of the Nigerian legal system is numerous. Hence, Ngara (2017), as well as Premium Times Nigeria (2019, June 24th), opined that the principles of the Conventions concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and the Rights of the Child of 1989 were enshrined in the Childs Right Act (2003).

Therefore, because of the overwhelming importance of the Conventions concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and the

Rights of the Child of 1989 viz – a –viz the Childs Right Act (2003), this section discusses data according to the objectives outlined in Chapter One.

4.1.1. Constraints Posed by Federalism in the implementation of the provisions of the CRA 2003

International treaties will continue to be mere documents if their significance is not felt by the people. It is not enough to ratify a treaty in the international community framework; it is more important to adopt it into the domestic legal system, integrate the treaty into national standard and make its domestic law. Based on the prevailing approaches to treaties discussed in Section 2.1.1, implementation of the stipulations of treaties differ between jurisdictions. Thus, given the imperative occasioned by the respective approaches to treaty implementation, Table 4.1 presents a cross-country analysis of the implementation status of the Convention on the Rights of the Child which is at the core of the CRA 2003 being studied.

Table 4.1: Cross-Country Analysis of the Implementation of the Convention on the Rights of the Child

S/N	COUNTRY	APPROACH TO TREATY APPLICATION	IMPLEMENTATION STATUS
1	USA	NIHILISM	Operational as CRV 112C
2	COTE D'IVOIRE	MONISM	Operational
3	NIGERIA	DUALISM	Partly Operational, Awaiting Ratification by Section 12 (3) Of The CFRN 1999 (As Amended) By Some States
4	AUSTRALIA	DUALISM	Operational, however, with reservation to the obligation imposed by article 37 (c)
5	BOTSWANA	DUALISM	Operational with reservation to the provisions of article 1 as it conflicts with the laws and statutes of Botswana
6	ESWATINI	DUALISM	
7	MALI	MONISM	Operational, nevertheless, because of Mali Family code, there is no reason to apply article 16
8	OMAN	DUALISM	Operational but the Sultanate of Oman is not committed to the contents of Article (14) of the Convention, which gives

			the child the right to freedom of religion until he reaches the age of maturity.
9	BAHAMAS	DUALISM	Operational, however, with an exclusive right not to apply article 2 as its provision refers to the conferment of citizenship upon a child.
10	BANGLADESH	DUALISM	Operational with a reservation to article 14, paragraph 1. Article 21 would also apply subject to existing laws and practices in Bangladesh.
11	CANADA	DUALISM	Operational with reservations to articles 21, 37 (c) and 30
12	COLOMBIA	DUALISM	Operational but with reservation to its definition of a child which contradicts the minimum age for recruitment into the armed forces of personnel called for military service is 18 years.
13	CROATIA	DUALISM	Operational with reservation not to apply paragraph 1 0f article 9.
14	COOK ISLANDS	DUALISM	Operational, nonetheless, with reservations to articles 2 and 10.
15	JAPAN	MONISM	Operational but with reservation to the second sentence of paragraph c of Article 37.
16	JORDAN	DUALISM	Operational but not bound by the provisions of articles 14, 20 and 21.
17	ALGERIA	MONISM	Operational but with interpretative declarations on Article 14, paragraphs 1 and 2, and Articles 13, 16 and 17.
18	MOROCCO	MONISM	Operational but with an interpretative declaration on the provisions of article 14, paragraph 1.
19	NETHERLANDS	MONISM	Operational with reservations to the provisions of articles 26, 37, and 40.
20	THAILAND	DUALISM	Operational but with reservation to article 22.

Source: United Nations Treaty Collection (2020)

From table 4.1, apart from Cote d'Ivoire which expressed no reservations, most monist jurisdictions mentioned showed reservations based on peculiar interests. For instance, according to the United Nations Treaty Collection (2020), Japan's reservation was stated thus:

> In applying paragraph (c) of article 37 of the Convention on the Rights of the Child, Japan reserves the right not to be bound by the provision in its second sentence, that is, `every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so', considering the fact that in Japan as regards persons deprived of liberty, those who are below twenty years of age are to be generally separated from those who are of twenty years of age and over under its national law (United Nations Treaty Collection, 2020: 7).

However, in the case of Nigeria, no reservations were mentioned expressly but Section 12 (2) and (3) continues to constitute constraints given Nigeria's federalism construct to the implementation of the provisions of the CRA 2003 (Omoregie, 2015). According to Omoregie (2015), the issues of federalism may arise where the matter dealt with by the treaty relates to powers assigned to the states, which do not possess the power to engage in para-diplomacy and therefore play no role whatsoever in the making of treaties applicable in Nigeria. He, however, noted that despite the non-involvement of states in the conclusion of treaties, they do have a constitutional stake in ratifying treaties which bear on their constitutionally assigned competence. Hence, the 1999 Constitution the ratification role assigned to states legislature in Section 12 (3) of the constitution. In this vein, Omoregie opined that

> Nevertheless, since the constitution recognizes the states as stakeholders in the process of domesticating a treaty in respect of areas within their legislative competence, whatever is enacted ought to involve the states in the actual task of implementing the treaty obligation. However, the prevailing normative outlook suggests otherwise. In transforming treaties into municipal legislations in matters within state legislative domain, the National Assembly seems to have excluded the states and their local preferences. This has created the invidious situation of seeming disconnect between the objectives expressed in the law and the processes and mechanisms to achieve them. Good examples of laws which are suffering this fate are the Child Rights Act and numerous environmental legislations passed by the federal parliament without prior ratification of state legislatures as required by the constitution (Omoregie, 2015, pp. 11-12).

Similarly, Omoregie averred that some of its provisions such as the adoption of children, care and supervision of children, etc., are issues within the residual powers of State legislatures. The result is that the law took effect as federal legislation which operates only in 25 states and the FCT, while the states of Sokoto, Adamawa, Bauchi, Kano, Katsina, Kebbi, Borno, Gombe, Yobe, Jigawa, and Zamfara, are yet to pass the bill into law (Premium Times Nigeria, 2019, May 11th). This situation further buttresses the subsidiarity principle which is at the core of federalism. To Bayer (2004), the principle of subsidiarity guarantees sub-national governments the powers of

"*first legislative initiative*" with the national government seizing the initiative *only* when the sub-national government cannot effectively deal with the matter because of its large scope, complexity and effect.

However, Omoregie (2015) decried the nature of the constitutional distribution of vertical powers in Nigeria's federal system, which he argued had been the case since the first military coup of January 15th, 1966. Omoregie observed that this "*steep accretion of the powers*" of the federal government was enshrined in the 1979 Constitution promulgated by the military regime, and which, remained the same even under the Constitution of 1999. To this end, Omoregie argued that the Federal government had been given enormous powers both in the exclusive and concurrent lists of the constitution, and given such powers as well as its inherent tendency of dominance, there is no limit to the quest of the Federal government in assuming the responsibility to implement a treaty obligation which, the subsidiarity principle underscores.

Impliedly, Omoregie's view which, the subsidiarity principle portrays, is that State legislatures should have the first shot at legislative initiatives especially, of those that require their ratification before they become effective. Laying credence to this position, Jiboye (2011) posited that the dilemma of hap-hazard urbanization and inadequate housing development in Nigeria is that the Federal government has continued to adopt a top-down approach to dealing with the challenges rather than the more nuanced bottom-up approach by which the states and localities are supported to devise suitable strategies to effectively tackle those challenges. Essentially, such situations would not have been the case if, the principles of subsidiarity which underscores federalism was allowed to prevail.

Sequel to the above, the constraint posed by federalism can be seen, firstly, in the minimal acceptance accorded to the CRA 2003 by some states in Nigeria. On this note, Figure 4.1 shows

state-by-state ratification status of the CRA under its vested powers by Section 12(3) of the CFRN 1999 (as altered). As seen in Figure 4.1 and as rightly stated by Premium Times Nigeria (2019, May 11th) eleven states are yet to ratify the CRA, thus, resulting in minimal/non-implementation.

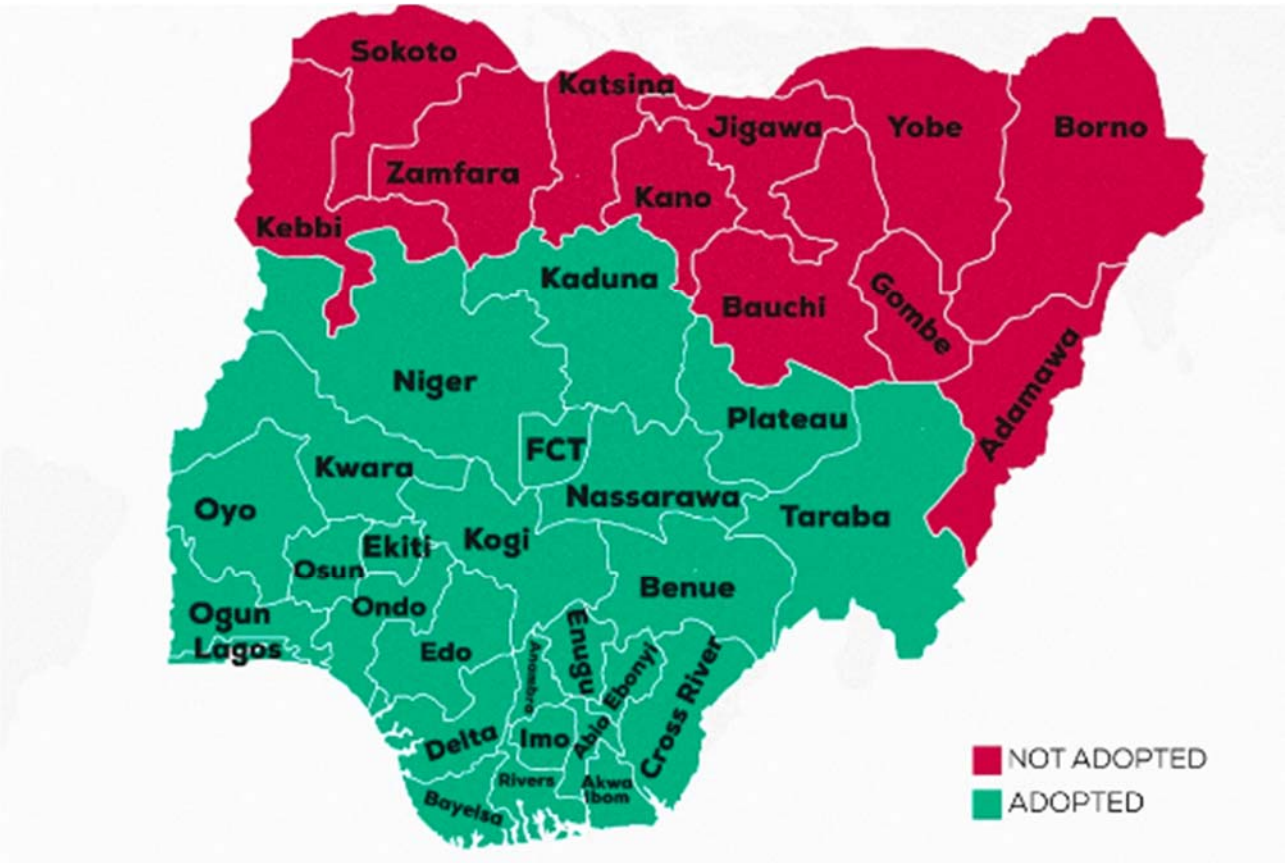

Figure 4.1: State-by-state ratification status of the CRA (Chioma, [@ChiomaChuka], 2020, June 11th)

Secondly, the effect of Nigeria's federal system on the definition ascribed to a child, hence, resulting in legal inconsistency. According to Mustapha (2016) in his study on *Child justice administration in the Nigerian Child Rights Act: Lessons from South Africa*, inconsistencies in the definition of the child in the extant laws prohibiting child labour in Nigeria – Labour Act and CRA, constitute a stumbling block to the implementation of the CRA 2003. Mustapha's point aligned

with the position expressed by Omoregie (as cited in Ngara, 2017) that the very definition of what a child means which in the Convention is a human being below the age of 18 years, implicitly, negates the provision of various Sharia codes.

4.1.2. Ways by which the legislature can ensure the implementation of the provisions of Section 28 of the CRA and future treaties

Consequent on the constraints posed by federalism to the implementation of the CRA 2003 as identified in Section 4.1.1 being legal inconsistency in the definition of a child, and minimal/non-implementation of the CRA, Mustapha (2016) stated that a major strategy for reforming child justice administration in Nigeria is by the inclusion of the definition of a child in the Constitution. Mustapha argued that the non-inclusion of the definition of a child in the Nigerian Constitution brings about inconsistency in the definition of a child, as the Nigerian legislation, such as the CRA, cannot be adopted uniformly as it has to be domesticated by all the states in the federation. In his comparative analysis with the South African situation, Mustapha (2016) noted that a lesson could be drawn from the Constitution of the Republic of South Africa, which designated Section 28 to issues of children, and most specifically, subsection 3 which defined a child as a person under the age of 18 years. Significantly, his argument conformed with the views expressed by Omoregie (2015) and Ngara (2017) where they noted separately the different definition ascribed to a child by the Labour Act and the CRA. Therefore, calling for uniformity in the definition of a child to enable as well as enhance the application of legal instruments in the enforcement of the rights of the child. On this note, the National Assembly can Amendment relevant sections of extant laws using its constitutional role of lawmaking, thus, addressing the challenge of uniformity.

Similarly, Omoregie (2015) in an apparent addendum to his espouse on his study, *Implementation of Treaties in Nigeria: Constitutional Provisions, Federalism Imperative and the Subsidiarity Principle* suggested that, however, in line with the challenges he identified, listed the following as strategies that would resolve the challenges of treaty implementation in Nigeria:

i. "Option of Federalism Imperative"

Given Nigeria's federal construct, it has become imperative for the federal government to limits its involvement in the implementation of treaty obligations which have obvious federalism implications for which the states are better suited to handle. The challenges of urbanization and housing development in Nigeria are obvious instances in this regard. Exemplarily, Omoregie (2015) noted that

> The tussle between the federal government and Lagos State, one of the states of the federation, about a decade ago in respect of control over urban and housing matter illustrates the attitude of the federal government to the dictates of federalism imperative in Nigeria. While it was clear from the start of the dispute that the states were the proper vertical unit which could exercise power over urban and housing matters as part of its residual powers (the silence of the constitution on the matter) the federal government sought every conceivable means to stake its claim, resorting even to a policy provision in Section 20 of the constitution dealing with the environment which, in point of normative consideration, was irrelevant to the dispute being a provision of the constitution outside the constitutional scope of the powers distributed to the government of the federation and the states (Omoregie, 2015, p. 16).

Succinctly put, the federal government lost in its attempt when the Supreme Court held in favour of Lagos State deciding that urban and housing matters are issues within the residual competence of the states. Given the Federal government's lust for more power which it often demonstrates by appropriating the power of treaty implementation to itself, Omoregie noted that such situation "*weakens the country's federalism credentials and ultimately breeds all the negative outcome of a grossly under-performing federal political system*". Therefore, even though the Constitution of the Federal Republic of Nigeria (1999, as amended, Section 12 (2)) grants the

Federal government the authority to delve into states' domain to domesticate a treaty, Omoregie (2015, p. 17), however, noted that "federalism imperative would require that the states be factored in to implement the treaty obligations sought to be accomplished by the domestication". Although Section 12(3) of the CFRN 1999 (as amended) requires States to ratify any law initiated under Subsection 2, this is nevertheless, inadequate as the involvement of the states should go beyond acting as an instrument of ratification.

At this point, it is also necessary to reiterate the meaning of the concept of subsidiarity principle which is meant to drive-home the ideals of federalism. As shown previously in this study, subsidiarity principle allows sub-national governments, in the instant case states, the benefit of *"first legislative initiative"*, which, however, requires the intervention of the National government in situations of larger scope and complexity. Hence, Omoregie (2015) in proffering strategies for resolving the challenges of treaty implication in Nigeria argued that the National Assembly needed to consider the dictate of the subsidiarity principle in seeking to domesticate a treaty in Nigeria. This, he opined would help to determine which tier of government should be assigned the task of implementing specific treaty obligations.

Stemming from the above, Omoregie (2015, p. 17) argued that "whichever has the comparative advantage in performing the obligation could be assigned the task". On this note, Omoregie quipped that the federal government may choose to give up its powers of treaty domestication to the states, in cases where the states stand a better chance to implement the treaty obligation. Based on the spirit of the subsidiarity principle, the federal government reserves the right to intervene where such treaties are deemed to have assumed a more complex nature, have become wider in scope, and have a far-reaching nationwide effect.

ii. "The option of Para-Diplomacy"

According to Wolff (as cited in Omoregie, 2015), para-diplomacy is the participation of sub-national entities in a federation in the international arena in pursuit of their specific international interest, independent of those of their national government. This, Keating (2000) argued was often motivated by three reasons: political, cultural, and economic interests. However, Cornago (2000) noted that existing socio-economic and political conditions in some countries especially Africa make the involvement of sub-national governments in para-diplomacy difficult. The above situation, notwithstanding, he suggested can be improved through the process of para-diplomacy which connotes the pursuit of sub-national goals/initiatives within a manageable scope. Recently, the option of para-diplomacy has begun to gain currency especially, in the face of increasing dissatisfaction of citizens with the delivery of essential public goods such as electricity supply, adequate healthcare facilities, urban and housing development, road infrastructure, transportation, among others.

The seeming incapability of the federal government to meet its obligations to citizens has made it imperative for states to engage in some measure of para-diplomatic initiative especially in matters within their legislative competence under the constitution. For instance, the Pulse Nigeria (2020, March 3rd) reported that the Governor of Oyo State was in the US to unveil investment opportunities in his state, Governor Ifeanyi Okowa equally visited China to advance the agricultural fortune of Delta State (The Guardian, 2017, April 17th), Nyesom Wike sought collaboration with Spanish football powerhouse Real Madrid to improve sports in Rivers State (The Cable, 2017, October 17th), etc. Therefore, Omoregie (2017, p. 20) concluded that a "healthy practice of para-diplomacy, devoid of sub-national territorial ambition could strengthen sub-

national capacity to seek international support for their public good initiatives and lessen the burden of the federal government in implementing treaty obligations".

4.2. Discussion of Findings

The study observed that the role of the National Assembly in the treaty-making process is constitutionally premised,[4] States, however, have assigned roles to play in its ratification.[5] Omoregie (2015) referred to this situation as the "*federalism imperative"*. This implies that given Nigeria's Federal construct, States have vital roles in the treaty-making process as the independent but coordinate unit of the Federation. Instances abound of cases of exploitative labour in various kinds of literature. For example, before the enactment of the CRA, the United Nations Refugee Agency (2020, April 14th) observed that in 2000, the World Bank estimated 23.9 percent of children ages 10 to 14 years in Nigeria were working. Similarly, the United States Department of State *Trafficking in Persons Report 2002* observed that Nigeria is a source, transit, and destination country for trafficked persons, including children.

However, since the coming into force of the CRA, the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) which was created by the Trafficking in Persons (Prohibition) Enforcement and Administration Act 2003, prosecuted and secured the conviction of a total of 48 individuals in 28 cases of adult and child trafficking between April 2018 and February 2019. Implicitly, the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003, Child's Rights Act, 2003, and the Labour Act CAP 198 LFN 1990 were known efforts of the National Assembly in prohibiting or regulating various forms of child Labour.

[4] See CFRN (1999, as amended, Section 12 (1))
[5] See CFRN (1999, as amended, Section 12 (3))

On the constraints posed by federalism to the implementation of the CRA, the study identified legal inconsistencies as well as minimal/non-implementation as effects of federalism on the implementation of CRA in Nigeria. Specifically, Omoregie (2015) opined that the federalism construct of Nigeria, the Federal government wields enormous powers in the treaty-making process, thereby, rendering the constitutionally guaranteed roles of States insufficient. Therefore, he argued that States should be availed the privilege of the option of "*first legislative initiative*" which he argued exemplifies the concept of the subsidiarity principle. According to Premium Times Nigeria (2019, May 11th), the non-inclusion of States in the treaty-making process may have accounted for the reason for which the law took effect as federal legislation which operates only in 25 States and the FCT. States such as Sokoto, Adamawa, Bauchi, Kano, Katsina, Kebbi, Borno, Gombe, Yobe, Jigawa, and Zamfara, are yet to pass the bill into law. In the same vein, studies by Ngara (2017) as well Mustapha (2016) concluded that inconsistencies in the definition of the child in the laws prohibiting child labour in Nigeria – Labour Act and CRA, as constituting an impediment to the application of their respective provisions.

However, to resolve the constraints posed by federalism as identified above, Mustapha (2016) suggested the inclusion of the definition of a child in the Nigerian Constitution to ensure consistency in the definition of a child in various legislations designed to advance the Rights of the Child, such as the CRA and the Labour Act. Going further, Omoregie (2015) advanced the concept which he referred to as the of federalism imperatives. This is made possible the most when the dictates of the subsidiarity principle which allows states the option of "*first legislative initiative*" are adhered to. The subsidiarity principle, Omoregie argued would be most achievable if States pursue their specific interests in the international arena, independent of those of the Federal government using the instrumentalities of para-diplomacy.

Summarily, the infographics presented as Figure 4.2, show the cyclical representation of the concept and outcome of the study.

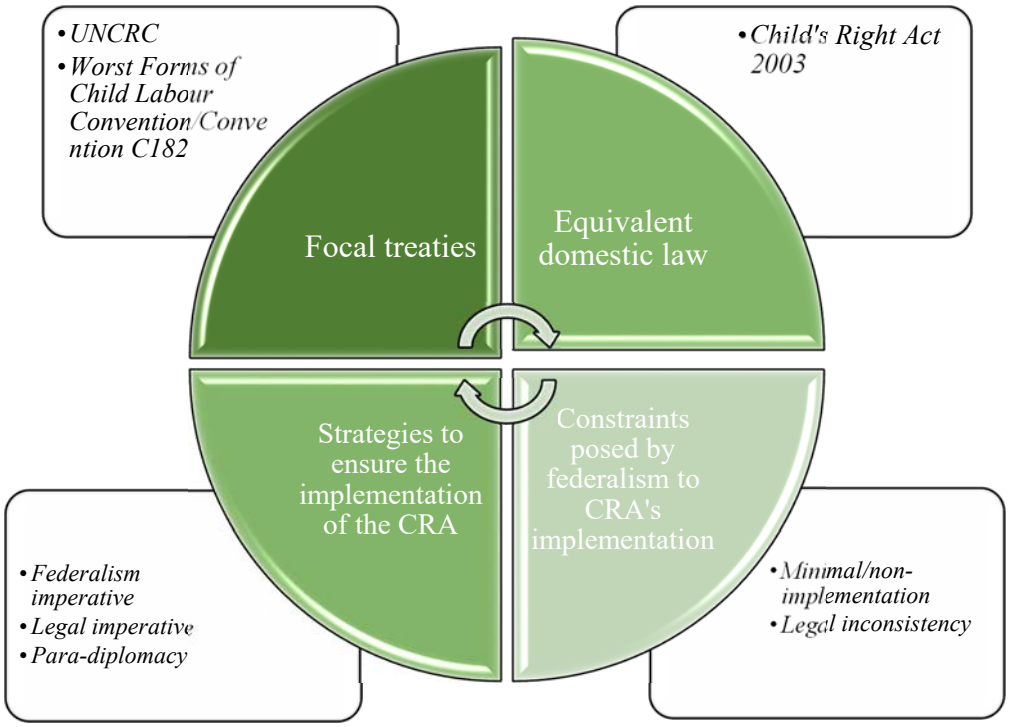

Figure 4.2: Cyclical Representation of the Concept and Outcome of the Study

Figure 4.2 presents the overall concept of the study. Recall that the study utilized secondary data, hence, focal treaties such as the UNCRC as well as Convention C182 which constitute secondary data were fashioned into domestic law as the CRA 2003 according to the provision of Section 12 (1) of the CFRN 1999 (as altered). However, Nigeria's federal construct remains the bane of the implementation of the CRA 2003, especially the provision of Section 28. This is more so as Section 12 (3) of the CFRN requires states ratify treaties domesticated by the National Assembly in cases of items, not in the exclusive legislative list. Therefore, given the above situation, the study noted legal inconsistency and minimal/non-implementation of the CRA as constraints posed by Nigeria's federalism to the implementation of the CRA. Conversely, it

suggested the imbition of the subsidiarity principle among others as strategies for resolving the constraints.

CHAPTER FIVE

SUMMARY, CONCLUSION, AND RECOMMENDATIONS

This chapter provides the summary, conclusion, and recommendations of the study.

5.1. Summary

This study "*Nigeria's Federalism and the Implementation of the Child Rights Act 2003*", examined the burden of federalism imperatives on the implementation of the Child Rights Act 2003. Hence, the objectives of the study were to, identify the constraints posed by federalism on the implementation of the provisions of the CRA 2003, and suggest possible ways by which the legislature can ensure the implementation of the provisions of Section 28 of the CRA and future treaties.

To achieve the set objectives, the study adopted the qualitative research design, employing the content analysis method. The study relied on secondary sources for data; hence, published materials such as books, journals, articles, CRA 2003, Conventions on the Rights of the Child, etc., were sources of data. Therefore, data were analyzed using content analysis. Below were findings of the study according to the objectives stated in Chapter One:

Objective One: Identify the constraints posed by federalism on the implementation of the provisions of the CRA (2003).

While the study confirmed that the role of the National Assembly in the treaty-making process is constitutionally premised,[6] subnational governments, i.e., states have a role to play in its domestication in the like of what was termed in the course of the study, "*federalism imperative"*.

[6] See CFRN (1999, as amended, Section 12 (1))

Hence, *pre*-CRA, the study noted that in 2000, 23.9 percent of children ages 10 to 14 years in Nigeria were working. A breakdown of which showed that children work in agriculture, usually on family farms, in fishing, and with cattle herding. Similarly, the study observed that children from Benin and other African countries are trafficked to Nigeria, where some were forced to work as prostitutes or in domestic and agricultural labor, as well as trafficked for domestic and agricultural labor to Benin, Cameroon, Gabon, Togo, and to Europe for sexual exploitation. However, *post* CRA reports showed that of the 24, 646 inspections conducted in 2018, 7, 394 were dedicated child labour inspections. With the aid of the Trafficking in Persons (Prohibition) Enforcement and Administration Act 2003, prosecuted and secured the conviction of a total of 48 individuals in 28 cases of adult and child trafficking between April 2018 and February 2019. The National Agency for the Prohibition of Trafficking in Persons (NAPTIP) was created on the 14th of July 2003 at the same time with the CRA.

The study noted minimal/non-implementation of the CRA 2003 as well as legal inconsistencies as the effect of Nigeria's federal system on the implementation of treaties in general and provisions of the CRA in specific. Specifically, the study observed that given the federalism construct of Nigeria, the constitutional role of states in the treaty-making process might not be sufficient given the enormous powers wielded by the Federal government. Thus, the principle of subsidiarity which underscores the concept of federalism, and allows States the option of "*first legislative initiative*" is not been practiced. This accounts for the reason for which the law took effect as federal legislation which operates only in 25 states and the FCT, while the states of Sokoto, Adamawa, Bauchi, Kano, Katsina, Kebbi, Borno, Gombe, Yobe, Jigawa, and Zamfara, were yet to pass the bill into law.

Also, the study observed that inconsistencies in the definition of the child in the laws prohibiting child labour in Nigeria – Labour Act and CRA. This variation, it argued may constitute dissimilarity in the application of the law.

Objective Two: Suggest possible ways by which the legislature can ensure the implementation of the provisions of Section 28 of the CRA and future treaties

In line with the constraints to the implementation of the CRA pose by federalism identified above, the study suggested the inclusion of the definition of a child in the Nigerian Constitution to bring about consistency in the definition of a child in various legislations designed to advance the Rights of the Child, such as the CRA and the Labour Act. In the same vein, the study suggested the advancement of federalism imperatives, which would ensure the inclusion of States in the treaty-making process and not only as objects of ratification. To achieve the dictates of federalism imperatives, the subsidiarity principle, which allows states the option of "first legislative initiative", should be explored. The spirit of the subsidiarity principle, however, would be most achievable if States pursue their specific interests in the international arena, independent of those of the Federal government through para-diplomatic means.

5.2. Conclusion

Nigeria, being a dualist country requires treaties to be transformed into municipal law by the legislative arm of government. Hence, treaties do not automatically have the force of law in Nigeria. When treaties are enacted by the National Assembly, they occupy the same status as other municipal laws. Section 12 of the Constitution which is the provision governing the implementation of treaties in Nigeria reflects the federal nature of the country. This section provides for the active participation of constituent states in Nigeria when a treaty in respect of a

matter not included in the Exclusive Legislative List is to be implemented. Over the decades, Nigeria has ratified several international treaties on environment, violence, child right, trade, etc. Nevertheless; many of these treaties are not operational in the country because they have not been domesticated. Since they are not domesticated, these treaties are not national law and therefore, cannot be employed in defense of cases involving their violations before courts of law in the country nor can they be used for the advocacy of rights within the country. Further to this, violators cannot be held accountable for any international treaty that has not been domesticated in the country.

The CRA which was considered, subsumed children's concerns under four broad categories namely – Child Survival, Development, Protection, and Participation (CSDPP). Survival requires good nutrition and health care systems to reduce child mortality and morbidity; development – provision of recreational facilities and affordable education; protection against physical, psychological or moral injury and children's right to special protection in the context of war or forced migration as with the case of children in IDP camps. Finally, there is participation in the decision–making process. Since the CFRN 1999 (as amended) Section 12 (3) requires States to ratify treaties before they can be applicable in their domain, Available data show that by now, the Child Rights Act 2003 has been promulgated into law in 25 states. The states yet to pass the bill into law are Sokoto, Adamawa, Bauchi, Kano, Katsina, Kebbi, Borno, Gombe, Yobe, Jigawa, and Zamfara.

Therefore, the recommendations contained in this study must be implemented to resolve the issues surrounding the non-implementation and minimal implementation of treaties in Nigeria, as well as enhancing the enforcement of the provisions of the Child Rights Act, which was studied.

5.3. Recommendations

The study makes a two-fold recommendation. One, directed towards resolving the challenges posed Nigeria's federal construct in the implementation of the CRA 2003, and the other towards enhancing the quality of the CRA 2003.

Resolving the challenges posed by federalism to the implementation of the CRA

i. Imbibing the dictates of the subsidiarity principle: States should be encouraged the more to participate in the treaty-making process than their present role of ratification. This is more so, as implementation falls largely within the domain of States, hence, they should be availed the privilege of "*first legislative initiative*". This case is most pertinent, as it would help the Federal government, which is accused of wielding much power than is necessary to shed some to States to advance the goals of good governance.

ii. Engaging in Para-diplomacy: Since States must enjoy the right to "*first legislative initiative*", it is equally pertinent that States engage directly in negotiating the provisions of such protocols since, issues of implementation in most cases, are directly linked to them. Implicitly, to advance the tenets of the subsidiarity principle, para-diplomacy is a veritable tool.

iii. Amending the provisions of the Labour Act as well as the CRA 2003 to ensure consistency in their provisions: To avert the tendencies of possible legal inconsistency, the provisions of extant laws relating to child labour should be reconciled to give a definitive meaning of a child. This would ensure consistency in interpretation as well as application. Therefore, the National Assembly should take obvious steps to amend such laws and of course, not forgetting the inclusion of States to avoid logjams in its ratification by State legislative

Houses that may be occasioned by the fallout of non-inclusion. Succinctly, States should feature prominently in the enactment process to decrease the chances of non-implementation.

Enhancing the quality of the CRA towards ensuring total acceptance

i. A total review of the law considering all the stakeholders. This should equally include a provision for parents to guide their children in making decisions about their rights.

ii. The provisions of the CRA 2003 against child labour should be publicized widely for deterrence. Therefore, law enforcement agencies should be well trained and enlightened particularly on the dangers of not prosecuting the offenders of child abuse.

iii. A consistent study and observation of the abuse of children in Nigeria should be done periodically. This will further expose social and personal variables responsible for the penetration of the exploitative and illegal acts.

5.4. Contribution to Knowledge

This study contributes to knowledge in that; it examined the implementation of the Child Rights Act 2003, focusing on the imperatives of Nigeria's federal system. Thus, the recommended strategies suffice for the issue of non-implementation/minimal implementation of treaties in Nigeria.

5.5. Suggestion for Further Study

Since the present study appraised the implementation of the Child Rights Act in Nigeria focusing on federalism imperatives, further study should assess the impact of the CRA within the categories of Child Survival, Development, Protection, and Participation (CSDPP).

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