

## Parental Child Abduction from the Lenses of Nigerian Laws

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### Abstract

*Parents play the role of a shield to protect the children, but when family breaks down, the children may become victims. Parental child adoption may result from family breakdown and could result in danger for the child. Utilising the doctrinal approach, the paper reviews the available legal regime to protect children from parental child abduction. The paper evaluates the available legal framework, notable the Convention on the Rights of the Child states and the Nigerian Child Rights Act to determine whether parental child abduction is expressly or impliedly prohibited. The paper examines the provisions of several international and domestic laws on child protection. It finds that no domestic law in Nigeria specifically provide for an offence of parental child abduction, but the laws indirectly frown at and punish parental child abduction. and that Nigeria has not ratified some relevant international conventions on child abduction like The Hague Convention and even those ratified are yet to be domesticated. The paper recommends that the Nigerian laws like the Child Right Act, 2003 should be reviewed to specifically provide for offence of parental child abduction. Nigeria should also ratify and domesticate some international conventions on child protection such as the 1980 Hague Convention on the Civil Aspects of International Child Abduction.*

**Keywords:** Abduction, Parents, Child, Protection and Rights

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## 1. Introduction

Childhood stage is a very delicate and vulnerable stage in life and therefore, child must be raised by the family in lawful custody of the children as their right contained in the Child Rights Act, 2003. This is why institutionalization of children is discouraged. Children have the right to family under the Child Rights Act (CRA).<sup>1</sup> This is because the civil rights of the child begin with the family. Socialization and acquisition of values are developed within the family. Family is the basic institution for the survival, protection and development of the child in the society.<sup>2</sup> However, parents need to be in lawful custody of the children for family institution to be constituted and functional in the protection and development of the child.

Parental child abduction occurs when one of the parents of the child abduct, takes away, runs away, kidnaps or keeps the child away from the other parent either as a result of separation of marriage or when divorce processes have begun or concluded. It is very common in Nigeria for one parent to abduct or kidnap a child and thereby depriving the other parent the right to custody of the child as a result of misunderstanding between the parents of the child in question or some other reasons. Parental child abduction is therefore the hiding, concealment taking or keeping hold of a child by a parent in order to deny the other parent or guardian the rights over the child. Therefore, literally, child abduction means the unlawful, illegal or unauthorized retention or removal of a child from a parent or guardian of the child.

Some parents abduct their child because they believe that the other parent or guardian is abusing the child or does not consider the welfare of the child as paramount. Such abduction sometimes happens when parents commence divorce proceedings or get separated.<sup>3</sup> The parent who is not given custody of the child or who fears losing the custody of

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<sup>1</sup> Sections 8 and 14 of Child Rights Act, 2003.

<sup>2</sup> United Nations Committee on the Rights of the Child, 'Role of the Family in the Promotion of the Rights of the Child.' CRC/C/24, 7<sup>th</sup> Session, 10 October, 1994, <https://www.refworld.org/policy/polrec/CRC/1994/en/29676> on 9 June 2024 at 10am.

<sup>3</sup> Naheed Sultan and Ahmad Ibrahim Kulliyyah (2018) 'Innocent Victims of Parental Child Abduction: The Children.' *International Journal for Studies on Children, Women, Elderly and Disabled*, 5 (1), 305-311.

the child may remove (kidnap or abduct) or retain the child from the other parent just to gain advantage or to take revenge from the other parent. Another situation of child abduction may arise when a parent refuses to return a child and escapes with the child to prevent an access visit or do so because of domestic violence, abuse or gender-based violence.<sup>4</sup> Parental child abduction can occur within a country or can be across the borders.<sup>5</sup>

## 2. Definition of a Child

The Constitution of Nigeria is silent on the definition of a child. The African Charter on the Rights and Welfare of the Child defines a child as “every human being below the age of eighteen years.”<sup>6</sup> In the same vein, The United Nations Convention on the Rights of the Child defines a child as a person below the age of eighteen years except in the law applicable to child, the age of majority is attained earlier. The Convention on the Rights of the Child (CRC) defined a child as “...every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.”<sup>7</sup> Conversely, the ICCPR and ICESCR have made provisions relating to “child”, “children”, “young person” or “juvenile” but avoided to provide a definition of these terms. Despite the absence of the definition of a child by these Conventions, the UN Human Right Committee in its General Comment on Article 24 of the ICCPR observed that the silence of the Convention does not mean childhood ends the age at which the child attains his maturity.

It is important to note that the age of a child can vary from state to state in Nigeria. This is because issues concerning children in Nigeria are in the residuary legislative list and as such, depends on the state. Individual state can adopt the Child Rights Act, 2003 and decide to change the definition of a child. For example, in Akwa Ibom state,

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<sup>4</sup> Naheed, *op cit*.

<sup>5</sup> Aiyar, S. (2007) ‘International Child Abduction Involving Non-Hague Convention States: The Need for a Uniform Approach.’ *Emory International Law Review*, 277-320.

<sup>6</sup> Article 2 of The African Charter on the Rights and Welfare of the Child, 1999.

<sup>7</sup> Article 1 of CRC.

Nigeria a child is a young person under the age of sixteen years.<sup>8</sup> Therefore, many writers are of the view that the definition of a child in Nigeria depends on who is defining and varies according to cultural background.<sup>9</sup>

### **3. Child Custody under the Child Rights Act, 2003**

Custody of a child is the legal right to keep and look after a child, usually the right given by the court to the father or mother when they get separated or divorced. Sometimes, parents that are unable to lawfully secure the custody of their children opt to abduction.

The CRA, 2003 states that the best interest of a Child to be of paramount consideration in all actions, including custody.<sup>10</sup> The granted the Family Court the jurisdiction to make orders as to custody and added that the welfare of the child as the first and paramount consideration.<sup>11</sup>

### **4 Child Custody under Islamic Law**

Custody in Islam falls under Islamic personal law and applies to Muslims in Nigeria. The mother is the first on the list in terms of the right of custody under Islamic law. If the mother becomes disqualified by reason of remarriage, communicable disease, bad character etc, female maternal relatives come next. They are followed by female paternal relatives and then the father comes last.

### **5. Meaning of parental child abduction**

Parental child abduction often involves the parents of the child. After a marriage is dissolved most parents will want to have custody of the children. The party that is unable to lawfully obtain custody of children sometimes resort to abduction. Abduction of children is an issue that raises concern due to its effect on the child. Abducted children are sometimes even taken outside the country of abduction to another country by the non-custodian parent in order to prevent tracing and punishment. Although the Nigerian Laws frown at parental child

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<sup>8</sup> Isua N.B. "Juvenile Justice and the Jurisdiction of the Family Court", a paper presented at the 2009, All Nigerian Judges Conference held in Abuja, p. 18.

<sup>9</sup> Iguh, *op cit*.

<sup>10</sup> Section 1 of CRA, 2003

<sup>11</sup> Sections 69 & 71 of CRA, 2003

abduction and punish same, they did not make provisions for parental child abduction specifically, but made provisions on abduction generally. This is why the laws in Nigeria do not define parental child abduction. But parental child abduction occurs when either of the parents abducts, takes away, kidnaps or runs away with the child with the intend to deprive the other parent access to the child usually during divorce proceedings or after divorce or even during custody proceedings.

## **6. Causes of Parental Child Abduction**

Some parents may abduct their children because of ignorance of the fact the act is punishable by law in Nigeria and may think that it is their right to have the custody of the child at all cost. The parent may fear losing custody or visitation rights if custody is granted to the other parent by the court during custody or divorce proceedings. If the parent fears that the other parent has some bad character or influence and believes that he/she may impose such bad values on the child, he/she may decide to run away with the child. Ignorant of the fact that the intended action is punishable under the law, the abducting parent may think that removing the child from the real physical and/or emotional threat or injury by the other parent is the right thing to do. Fear of molestation, abuse or neglect by the parent in lawful custody of the child may cause the other parent to abduct the children in order to prevent such assumed ill-treatment.

Greed can cause some parent (especially the mother) to abduct their children especially when the other parent dies and it appears that the child may likely inherit wealth from the estate of the father, the greedy mother may abduct the child and run away in order to avoid the interference of the relatives of the child's father in the sharing of the deceased husband.

Poverty can cause some parent to resort to abduction and involve in child trafficking with a view to making money. There are reported cases in some parts of Nigeria where parents abducted their children without the knowledge of the other parent and selling them to get money.

Some parents may decide to abduct their children with intention to completely hide them from the reach/contact of the other parent as a form of punishment. The abducting parent is "getting back at" the other

parent by taking away something the other parent wants or cherishes most (i.e. the child). Sometimes, when the parent is trying to force reconciliation or contact with the left behind parent during dispute, the parent may decide to abduct the child.

Lack of confidence in the system is another reason why some parents abduct their children. When couples are divorced and the issue of custody of children arises, a parent may fear that if he or she goes to court to lawfully obtain custody of the children, the court may not do justice to him or her especially if the other parent is wealthy and may influence the course of justice. This happens because the abducting parent does not have confidence in the system and may think that the system may not grant him or her the custody of the children and therefore the best option is to abduct the children. This is an offshoot of corruption in the system. Of course, if the system is corrupt and one can easily thwart the course of justice using his or her money, parents would lose confidence in the system and may not likely wish to approach the system to obtain lawful custody of their children. Therefore, corruption can lead to lack of confidence in the system and eventually be a cause of parental child abduction.

## **7 Consequences of Parental Child Abduction**

Abduction has a far reaching negative consequence on the child and the society in the long run. The sudden separation of the child with his environment and the attempt to hide the child negatively affects the child physically and psychologically. The abducted child is deprived of the safeguards provided by the law. This exposes the child to many uncontrolled dangers and leaves the child completely vulnerable to the dictates of the abductor parent, who may not have the best interest of the child at heart. The parent who abducts the child may consider the needs of the child as secondary to his/her agenda which is to provoke, agitate, control, attack or psychologically torture the other parent. This means the needs of the abducting parent override the developmental needs of the child resulting to depletion and crippling the psychological, emotional, social, educational and physical progress of the child. Such a child when grown to adulthood, will become a security threat to the society.

## 8 Legal Frameworks on Child Protection in Nigeria

Although the general legal framework for the protection of human rights is the 1999 Constitution of the Federal Republic of Nigeria as amended, there are several other international Conventions and local legislation on the protection and welfare of the child in Nigeria. It is worthy to note that all the three limbs of the Nigerian legal system (i.e. the common law, customary law and Islamic law) provide for the protection of the child under the parenting of both parents.<sup>12</sup> Under this rubric, some relevant laws relating to child protection will be examined.

### 8.1 Constitution of the Federal Republic of Nigeria 1999 (As Amended)

The Nigerian Constitution is the general legal framework within which all human rights are enshrined and protected, including the rights of children. It provides for justiciable fundamental human rights and non-justiciable rights for all citizenry under chapters four and two respectively. The Constitution provides that the security and welfare of the people (children inclusive) shall be the primary purpose of government.<sup>13</sup> It further provides, amongst other things, that ... 'the state shall direct its policy towards ensuring that...children and young persons...are protected against any exploitation whatsoever, and against moral and material neglect.'<sup>14</sup>

Thus, the Constitution has laid down some principles on which the state can set out and implement its policies. It is the duty of state to ensure that children are not morally or otherwise exploited. As such, the Constitution is impliedly against parental child abduction as this may amount to child' moral exploitation which the Constitution prohibits.<sup>15</sup> The Constitution gives effect to some international treaties/conventions

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<sup>12</sup> Iguh, Nwamaka Adaora and Onyeka Nosike (2011) 'An Examination of the Child Rights Protection and Corporal Punishment in Nigeria.' *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, 2 (1), 107-121.

<sup>13</sup> Section 14 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)

<sup>14</sup> Section 17 of the 1999 Constitution of the Federal Republic of Nigeria (as amended)

<sup>15</sup> *ibid*

for the protection of children like the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

Although the Constitution does not directly provide for parental child abduction, the directive principles of state policies provided by the Constitution for state to follow will assist the state in enacting laws that will be in the best interest of the child, including laws prohibiting parental child abduction. It is not out of place therefore for the governments at all levels in Nigeria to consciously make laws that will criminalize parental child abduction and prescribe sever penalty for it.

## **8.2 Child Rights Act (CRA)<sup>16</sup>**

CRA seeks to set out the rights and responsibilities of the child in Nigeria and provides for a system of child administration of justice and the care and supervision of the child.<sup>17</sup> The Act is divided into 24 parts and eleven schedules which broadly address the rights and responsibilities, protection and welfare of the child; duties and responsibilities of government, institutions as well as other miscellaneous issues.<sup>18</sup> The CRA borrowed a leaf from the United Nations Convention on the Rights of the Child and other regional instruments in respect of the guiding principles for the promotion and protection of the rights of the child.<sup>19</sup>

Most important provision of the CRA on the protection of the child and that will address the menace of parental child abduction is where the Act provides that the best interest of the child shall be of paramount consideration in all actions to be undertaken whether by an individual, public or private body, institutions or service, court of law; administrative or legislative authority.<sup>20</sup> The CRA provides that necessary protection and care shall be given to the child for its well-being, taking into account the rights and duties of the child's parents, legal guardians and other bodies legally responsible for the child.<sup>21</sup>

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<sup>16</sup> Act No. 26, 2003.

<sup>17</sup> Tajudeen Ojo Ibraheem (2015) 'Legal Framework for the Protection of Child Rights in Nigeria.' *AGORA International Journal of Juridical Sciences*, 3 (1), 46-52.

<sup>18</sup> *ibid.*

<sup>19</sup> *ibid.*

<sup>20</sup> *ibid*; sections 1-2 of Child Rights Act, 2003.

<sup>21</sup> Tajudeen, *op cit.*



Thus, abduction of the child, even by the parents will not be in the best interest of the child. These provisions of the CRA will help to protect the rights and welfare of the children, especially during divorce processes or after the divorce and eventually preventing parental child abduction.<sup>22</sup>

No doubt, it will not be out of point to aver that the CRA punishes parental child abduction if section 27 of the Act is analyzed. The section provides that:

- (1) No person shall remove or take a child out of the custody or protection of his father or mother, guardian or such other persons having lawful care or charge of the child against the will of the father, mother, guardian or other person.
- (2) A person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction-
  - (a) Where the child is unlawfully removed or taken out of the Federal Republic of Nigeria-
    - (i) With intention to return the child to Nigeria, to imprisonment for a term of fifteen years,
    - (ii) (ii) With no intention to return the child to Nigeria, to imprisonment for a term of twenty years;
  - (b) Where the child is unlawfully removed or taken out of the state in which the father, mother, guardian or such other person who has lawful care of the child is ordinarily resident, to imprisonment for a term of ten years; or
  - (c) In any case, to imprisonment for a term of seven years.

By stating that no person shall remove or take (abduct) a child out of the custody of its father or mother, the Act could mean that even the

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<sup>22</sup> Wilson Diriwani (2023) 'Protecting the Best Interests of Children: A Critical Analysis of Child Custody and Divorce Proceedings in Nigeria un the Child Rights Act, 2003.' *International Journal of Social Science, Management and Economics Research*, 4 (1). DOI: <https://doi.org/10.61421/IJSSMER.2023.1403>.

parents are not permitted to unlawfully remove a child out of the care or custody of the other parent who has the lawful custody of the child unless with his/her consent. The Act prohibits removing or abducting a child out of the custody of the person lawfully entitled to have the custody of the child by any person, including any of the parents. This means that if the court of law grants to the mother of the child custody, the father cannot remove or abduct the child out of the care of the mother without her consent and vice versa. If he/she does so, the Act provides appropriate punishment depending on whether or not the child is taken out of Nigeria and whether or not the child is intended to be returned back. Good as this provisions may appear as they would take care of the offence of parental child abduction if it occurs, it is important if the Act had specifically provided for an offence of parental child abduction so that the punishment for the offence will be meted out considering the best interest of the child.

Although one of the weaknesses of the CRA is that it does not expressly provide for parental child abduction, however by stating that the best interest of the child should be considered in all actions<sup>23</sup> means that parental child abduction should be prohibited as this action will not be in the best interest of the child. Also, where a child is denied the parenting process of both parents, the child is obviously deprived of its psychological, physical, social and moral development which is detrimental to its best interest as stated in the case of *Odogwu v Odogwu*.<sup>24</sup> Therefore, the best interest of the child cannot be attained if the child is abducted by one of its parents. Thus, the Child Rights Law of Lagos State, 2015 provides for the offence of parental child abduction.<sup>25</sup> Based on this provision, a father was once arraigned before the magistrate court in Lagos over alleged abduction of his two children from the lawful custody of their mother contrary to section 24 of the Child Rights Law of Lagos State, 2015 and section 277 (1) of Criminal Law of Lagos State, 2015.<sup>26</sup> Again, sometimes ago, the police in Kano

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<sup>23</sup> Sections 1-2 of Child Rights Act, 2003.

<sup>24</sup> (supra)

<sup>25</sup> Section 24 of CRA Lagos State, 2015

<sup>26</sup> 'Man in Court Over Alleged Abduction of his 2 Children', Vanguard, Friday 29 January, 2021. <https://www.vanguardngr.com> on 21 June 2024 at 10am.

State have arrested a mother over alleged abduction of her own daughter without the consent of the father who divorced her.<sup>27</sup>

### 8.3 Criminal Code Act

The Act provides that:<sup>28</sup>

Any person who, with intent to deprive any parent, guardian or other person who has the lawful care or charge of a child under the age of twelve years, of the possession of such child, or with intent to steal any article upon or about the person of any such child-

(1) forcibly or fraudulently takes or entices away, or detains the child; or

(2) receives or harbours the child, knowing it to have been so taken or enticed away or detained, is guilty of a felony and is liable to imprisonment for fourteen years.

In a nut shell, the Criminal Code also does not have a specific provision on parental child abduction but it punishes any form of abduction including parental child abduction. Section 371 prohibits the removal of a child from the custody of any person who has lawful custody of the child, but did not mention parents as possible perpetrators. However, the section begins with the words 'Any person', meaning including the parents who deprives another of a child by abducting or taking away the child, is guilty of an offence and punishable accordingly. Though no particular section of the Act which defines the offence of parental child abduction, it will be safe to state that the Criminal Code punishes parental child abduction if section 371 of the Act is analyzed.

### 8.4 Penal Code Act

Section 273 of the Penal Code which is the punishment section for both kidnapping and abduction further provides that such offence or crime is punishable with ten years' imprisonment and the offender 'shall also be liable to a fine'. The Code lays emphasis on the offence of kidnapping

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<sup>27</sup> Khaleel Muhammad, 'Mother Arrested for Kidnapping her Daughter in Kano,' *Daily Post*, Friday, May 12, 2023. <https://www.dailypost.ng> on 23 June 2024 at 2pm.

<sup>28</sup> Section 371 of Criminal Code Act

and abduction without specifying the status of the offender and the victims of the offence. This silence of the Code in respect to who commits the offence and against who the offence is committed implies that kidnapping or abduction if committed by any person (including parents in case of child abduction) and against any person (including children), is an offence punishable under the Act.<sup>29</sup>

### **8.5 Violence against Persons Prohibition Act**

The Violence against Persons Prohibition Act (VAPPA), 2015 does not have a specific offence called parental child abduction but it prohibits the forceful separation of any person from his/her family. The VAPP Act 2015 states in section 13 that it is an offence for any person to forcefully separate another from family and friends and any person that does that commits an offence and is liable on conviction for imprisonment for a term not exceeding 6 months or fine not exceeding one hundred thousand naira. A careful analysis of the provision of this section could depict that the Act prohibits parental child abduction. For example, 'forceful separation' could mean abduction or kidnapping and 'any person' includes parents and 'another' could be children.<sup>30</sup>

### **8.6 Convention on the Rights of the Child (CRC)<sup>31</sup>**

As a human right treaty, the CRC sets out the civil, political, economic, social, health and cultural rights of the child<sup>32</sup> in order to ensure the protection of the child. The Convention deals with child-specific needs and rights by stating, inter alia, that all State parties are required to act in the best interests of the child.<sup>33</sup> Thus, in its effort to protect the child, Nigerian government ratified the CRC and as such, it is obliged to undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention.<sup>34</sup>

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<sup>29</sup> Section 273 of the Penal Code Act

<sup>30</sup> Section 13 of VAPPA, 2015.

<sup>31</sup> United Nations Convention on the Rights of the Child, 1989.

<sup>32</sup> These rights are called the second generation rights and in Nigeria, they are provided for under chapter 2 of the 1999 Constitution as amended and they are non-justiciable by nature.

<sup>33</sup> Articles 2 & 4 of Convention on the Rights of the Child, 1989.

<sup>34</sup> Article 4 of Convention on the Rights of the Child, 1989; Tajudeen, *op cit*.

This principle of ‘best interests’ of the child is what informed the decision of the Nigerian government to enact the Child Rights Act, 2003.

The Convention on the Rights of the Child does not specifically provide for parental abduction of the child but has provided guidelines for all member States to follow in ensuring the realization of the best interests of the child and the protection of the child against any form of inhuman treatment including parental abduction. Thus, in the case of *Odogwu v. Odogwu*,<sup>35</sup> the court held, *inter alia*, that, while it is suitable for a child to be brought up by complimentary care of the two parents living happily together, psychological de mental to his welfare, happiness and psychological if maternal care is denied. This decision is obviously pointing out the importance of maternal care to the child and thus, if the father abducts the child, the child would be denied such maternal care and thus repugnant to its best interest. The decision depicts that the best interest of the child is conditioned on the parents living happily together and where there is parental abduction, such condition precedent to the best interest of the child is shattered. If either of the parents abduct the child, it is not possible for the two parents to live happily together to cater for the child. The court went further to state that the phrase, ‘best interest’ of the child is not limited to material provisions but includes those things that will assist the psychological, physical and moral development of the child; something that promote the happiness and security which a child of tender years requires.<sup>36</sup>

### 8.7 African Charter on the Rights and Welfare of the Child.

Though no such provision as to the parental child abduction specifically, this instrument provides that State parties should ensure the protection of the rights of the child as stipulated in the International Declarations and Covenants.<sup>37</sup> By this provision, the Charter effectively endorses internationally accepted principle on children rights including all the

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<sup>35</sup> (1992)

<sup>36</sup> Ilodibe Stephen Ifenna and Chineziri Nneoma Gift (2020) ‘Review of the Best Interest of a Child’s Custody in Nigeria.’ *International Journal of Advanced Research*, 8 (8), 358-376. DOI:10.21474/IJAR01/11501.

<sup>37</sup> Section 18 (3) of African Charter on Human and Peoples Rights

provisions on the administration of juvenile justice.<sup>38</sup> The combined reading of Articles 1, 4, 19 and 29 of the Charter suggests that parental child abduction is impliedly prohibited by the Charter. The Charter mandates all State parties to recognize the rights, freedoms and duties that arise from it and domesticate the Charter. State parties should take all necessary steps to discourage every custom, traditions, cultures or religious practices that are inconsistent with its provisions, but it is important for the Charter to specifically criminalize parental child abduction.<sup>39</sup> All actions and decisions to be taken by anyone in the country must be in the best interest of the child. Parental child abduction will not be in the best interest of the child and therefore must be specifically prohibited by all State parties.

The Charter urges the government to protect the child's right to enjoy parental care and protection as well as the right to be in regular contact with parents in case of separation.<sup>40</sup> This means that every child has the right to live under the care of both parents. If one of the parents abducts the child, the child is deprived of its rights to enjoy parental care as well as rights to be in regular contact with parents in case of separation. The Charter provides that government should ensure that spouses or parents have equal rights and responsibilities with regard to the protection of the child during (and in the event of the dissolution) marriage.<sup>41</sup> Thus, government should enact laws to prohibit parental child abduction if this provision of the Charter must be implemented to the later. Where a parent abducts his/her child, depriving the other the rights and responsibilities accorded him/her by the Charter, the child is equally deprived of its protection of the family as the primary agent of socialization. The Charter has prohibited parental child abduction by impliedly when it provides, inter alia, that 'Government should develop adequate and effective mechanisms to prevent the abduction...of children for any purpose by any person including parents...'<sup>42</sup> unfortunately, Nigerian government has not domesticate this charter nor

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<sup>38</sup> Iguh, *op cit.*

<sup>39</sup> Article 1 of African Charter on the Rights and Welfare of the Child.

<sup>40</sup> Article 19 of African Charter on the Rights and Welfare of the Child.

<sup>41</sup> Article 18 of African Charter on the Rights and Welfare of the Child.

<sup>42</sup> *ibid.*

has it enacted law that specifically criminalizes parental child abduction as required by the Charter.

## 9. Conclusion

Parental Child abduction is a matter of serious concern and the laws in Nigeria have made abduction a criminal offence. Parental child abduction occurs when one of the parents of the child abduct, takes away, runs away, kidnaps or keeps the child away from the other parent either as a result of separation of marriage or when divorce processes have begun or concluded. There are several factors such as poverty, punishment, ignorance, greed, lack of confidence in the system and some psychological factors that cause parental child abduction in Nigeria. Abduction has far reaching consequences on children and the entire society in the long run.

Examples of cases where parents abducted their children and were arrested and arraigned/punished in Nigeria were shown by this paper. As seen in the paper, The Child Rights Act, Criminal Code Act, Penal Code Act, Violence against Persons Prohibition Act, Islamic Law and the Convention on the Rights of the Child all prohibit child abduction including parental child abduction, but do not specifically deal with parental child abduction as a separate offence on its own. In the course of the research, it was discovered that, though parental child abduction is not specifically defined as a crime by Nigerian laws, it is impliedly a crime in Nigeria since the provisions of Nigerian laws on abduction generally cover parental child abduction. It was found that there are International Conventions (like The Hague Convention, 1980) specifically on parental child abduction that are yet to be ratified and domesticated by Nigerian government. It was also found that many Nigerians, including the educated are not aware that abducting their children is a crime and punishable in Nigeria.

Therefore, the following recommendations were proffered with the view to enhancing the laws on parental child abduction in Nigeria:

- (i) Nigeria needs to ratify and domesticate international instruments on child abduction like the 1980 Hague Convention on the Civil Aspects of International Child Abduction (Hague Abduction Convention). Those Conventions (like the Convention on the

Rights of the Child) that are ratified should be domesticated to give them binding force in Nigeria.<sup>43</sup>

- (ii) The laws should be amended to specifically address parental child abduction especially the Child Rights Act 2003.
- (iii) The courts need to be firm in punishing parents responsible for abduction of their children as this will drastically reduce the cases of parental child abduction in Nigeria.
- (iv) There should be public awareness on the dangers and legal implications of parental child abduction as many people, including the educated ones do not know that abducting their own children is a crime and punishable in Nigeria.

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<sup>43</sup> In *MHWUN v. Minister of Health and Productivity & Ors.* (2005) 17 NWLR, the court held that the provisions of an International Labour Convention couldn't be invoked and applied by a Nigerian court until it has been re-enacted (domesticated) by an Act of the national assembly...where a treaty is enacted into law by the national assembly as was the case with the African Charter which is incorporated into our municipal (i.e. domestic) law by the African Charter on Human and People's Rights (Ratification and Enforcement) Act, LFN 1990...It becomes binding and our courts must give effect to it like the other laws falling within the judicial powers of the courts. *Abacha v. Fawehinmi* (2000) 6 NWLR (pt. 660) 228; S.C. it was held that a treaty is binding in Nigeria after it was domesticated into the body of Nigerian laws.