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AREAS OF COMPATIBILITY IN THE RIGHTS OF THE CHILD UNDER THE SHARI'AH AND THE NIGERIAN CHILD'S RIGHTS ACT, 2003

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ABSTRACT

Since the enactment of the Child's Rights Act in 2003, only a few states in the federation have re-enacted it into law. Even those that did re-enact it did it with modifications to suit local customs. The main arguments of some of the states that have not re-enacted it at the state level is its incompatibility with the Shariah. In this paper, the areas of compatibility between the Nigerian Child's Rights Act (2003) and the Shariah are examined. Particularly, focus is given to the rights and responsibilities of the child as stated in the Act. These rights and responsibilities are discussed vis-a-vis their Shariah equivalents. It is thereafter recommended that focus be made on the similarities between the Act and the Shariah rather than the differences. It is concluded that both are compatible to a large extent as far as the rights and responsibilities of the child are concerned.

INTRODUCTION

The Nigerian Constitution (1999) as amended does not provide specifically for the rights and responsibilities of the child. This dearth of necessary legal provisions is not only limited to the constitution but also common to the different state laws i.e. Children and Young Persons Laws which were Juvenile Justice Administration biased and consequently not in tandem with the conventions of international organisations like African Union (AU) and UN (United Nations). It was this state of affairs that necessitated the promulgation of the Child's Rights Act in the country.

The Nigerian Child's Rights Act (2003), which came into force on the 31st July, 2003, is a domesticated version of the United Nations Convention on the Rights of Child which had come into force on the 20th of November, 1989. Although the Act has been

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¹ Ladan MT, The child rights act, 2003 and the challenges of its adoption by state governments in the 19 northern states (A paper presented at a one-day interactive forum for Sokoto State House of Assembly Legislators. Organized by the Sokoto State Ministry of Women Affairs and UNICEF)

² Child Rights and Participation <http://www.unicef.org/Nigeria/children_1938.html

³ Ibid.

⁴ Ladan, p. 17

⁵ Musa UA, Child's rights act: a critical analysis from the Islamic perspective <<http://www.gamji.com/article4000/NEWS4861.htm>

⁶ Ibid, p. 44; part A, federal Government of Nigeria Advocacy Guide & facilitators manual for promoting children's Right in Nigeria produced by federal Ministry of Women Affairs for Social development Published by mercy trust Nigeria limited

passed by the National Legislature, it requires that the House of Assembly of each state of the federation enacts it as a state law first. Since its promulgation at the national level, however, only 16 of the 36 states have enacted their Child's Rights Law. Since promulgation of the Child's Rights Act and Child's Rights Laws at the national and state levels, much literature has been produced to highlight the differences between the provisions of the Act and customary practices, particularly Islamic law which is a part of the latter in Nigeria. The differences between the Child's Rights Act and Shariah have come to be stated as reasons or challenges for the refusal of some states of the federation to enact their own Child's Rights Laws. While Ladan concludes that the resolution of the differences lies on the state governments as stakeholders to revise the Act to suit local circumstances before enactment in the various houses of assembly, Musa concludes that such review ought to be done at the national level. This work will however focus on the similarities between the Act and the Shariah.

THE CHILD'S RIGHTS ACT

As a result of the various inadequacies found in several other related laws on children's rights, efforts have been on to bring the Nigerian legislation in relation to children's rights in line with the C.R.C and C.R.W.C (African Charter on the Right and Welfare of Child). This is the rationale for enacting the Child's Rights Act (2003).

The Act is purposely focused at:

- Protecting and promoting the well being of all children;
- Improving the quality of relationship between children and their families and the communities;
- Establishing, promoting and coordinating the use of services and facilities to improve the quality of children's lives.

The Act broadly covers or enshrines the rights, duties and responsibilities of the child thus:

- It guarantees the best interest of the child to be the paramount consideration in all actions concerning the child (Sections 1-2 of the Child's Rights Act, 2003).
- It provides for the parents, guardians etc to provide the necessary guidance, education, and training for children in their care.
- It entrenches the rights of the child like rights to (Sections 4-20 of the Child's Rights Act, 2003):
 - (i) Survival and development
 - (ii) A name
 - (iii) Freedom of association
 - (iv) Private and family life
 - (v) Freedom of movement
 - (vi) Dignity of the child
 - (vii) Recreation and cultural activities

⁷ Child Rights Act 2003, Sections 1-2

⁸ Ibid. Sections 4-20

⁹ Qur'an 25 (Al-Furqan) vs. 74

¹⁰ Ibid, 21 (Al-Anbiya) vs. 30

¹¹ Ibid, 46 (Al-Ahqaf) vs. 18

¹² Ibid, 57 (Al-Iladid) vs. 20

¹³ Ibid, 2 vs. 233; 65 vs. 6; 17 vs. 33; 6 vs. 151; 17 vs. 31 and 6 vs. 140

¹⁴ Nigeria and the Right of Child – the publication of federal Ministry of women's affairs and youth Development Abuja) June, 1995, p. 6

- (viii) Health and health services
- (ix) Parental care, protection and maintenance
- (x) Free, compulsory and universal basic education, among other protection for children as contained in the Act

RIGHTS OF CHILDREN EXAMINED UNDER THE SHARI'AH AND THE CHILD'S RIGHTS ACT

It will be of great essence to first of all appreciate the position and status of child/children generally under the Shariah.

To start with, childhood is principally a period when children are to enjoy their lives through playing and entertainment and to lead a successful life in the future. There is no harm in assigning children some work that is appropriate to their age and physical capabilities.

Meanwhile, under the Shariah, the place of children is well painted by a number of Qur'anic verses. They are referred to as "*Qurratu d'yūn*" (the apples or delights of the eyes: Qur'an 25:74), "*Rahmah*" (mercy of Allah: Qur'an 21:30). In another, they are also referred to as "*Zinatul hayata*" (beauty and allurements of life: Qur'an 46:18), as "*Tafakhur*" (sources of pride to the parent), also as "*Hibatullah*" (precious gift from Allah: Qur'an 57:20). It can thus conveniently be said that, any child subjected to abuse and neglect by way of denying him/her any of the entitled and God-given rights can never qualify for any of these qualities. Thus, a responsibility is imposed on the parents in respect of their children (Qur'an 2:233; 65:6; 17:33 etc.).

In view of the above and for the purpose of this piece, the rights of child shall be examined by summarizing them all into four major sub-headings as follows;

- Right to survival
- Right to protection
- Developmental rights
- Participatory right

1. RIGHT TO SURVIVAL

These are the rights which ensure that the child is allowed to live. These include:

(a) The Right to Life:

The Act incorporates the provisions of Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria which includes the right to life. It is stated in Section 33 of the Constitution that every person, including the child, has the right to life and such can only be deprived in a way justified by the law. Section 4 of the Child's Rights Act

¹ Qur'an 6 (Al-An'aam) vs. 140 (of special interest)

² Qur'an 17:31

³ Qur'an 6:151

⁴ Nigeria and the rights of the child.... (N.B) pp 13 -14

⁵ Nyazee, I., Islamic Jurisprudence (International Institute for Islamic Thought, 2002)

⁶ Sunan Abu Dawud, Book 28, Hadith 3865 < <http://www.imaanstar.com> >

⁷ Qur'an 2:233

⁸ Qur'an 24:33

⁹ Doi A.R.I., Shari'ah: The Islamic Law, (Iksan Islamic publishers, 1990), p.

states that every child has the right to survival and development. The rationale behind this provision cannot be more apparent other than that since the child is human and a member of the society, he deserves protection from any threat to his existence or survival. This provision enjoins the government to recognize these inherent rights and develop policies or programmes for the child's survival and also protect this inalienable right of the child from harmful practices that may affect his life and growth.

The provision of Shariah in relation to this right is more than accurate in guaranteeing the right to life for a child. The Qur'an, the primary source of law in Shariah, emphasizes the sacredness of their lives in a manner that those who slay their children are termed 'Lost and Cursed' (Qur'an 6:140). "Lost are those who slay their children from folly without knowledge". The Qur'an says:

Kill not your children because of poverty, we provide sustenance for you and for them ... Qur'an 17:31).

And we read:

- And that you kill not your children for fear of poverty, it is we who provide for you and for them ... (Qur'an 6:151).

These verses among others are direct pointers to how much Shariah regards the right of the child; they are inviolable under no circumstances. These verses particularly emphasise the strong prohibition of infanticide in Islamic law. As far as the right to life is concerned under the Shariah, its violation has the same effect as violating the right to life of an adult i.e. death penalty or payment of wergild (*Diyyah*) as the case may be. Violation of this right, also, must be in a way justified by the Shariah just as violation of the right to life under the Constitution must also be justified by the law.

(b) Right to Health and Health Services:

Section 13(1) of the Act states: *Every child is entitled to enjoy the best attainable state of physical, mental and spiritual health.* Subsection 2 of the section further states that the government, institutions, parents or guardian having the care of the child shall endeavour to reduce infant mortality, provide basic health care for the child with emphasis on primary health care, provide safe food, drinking water and hygienic environment for the child, and provide basic health care for nursing and expectant mothers. It also states that anyone having to take care of the child shall

²⁴ Ambali, M.A., *The Practice of Muslim Family Law in Nigeria*, (Tamaza Publishing Co., Zaria, Nigeria, 1998), pp. 197 – 198

²⁵ < <http://www.dot.gov/LAB/media/reports/ictp/tda2004/nigeria.tnl>. The Labour Act sets the minimum age for employment at 15 years, except for light agricultural or domestic work performed for the family; and 13 years for apprenticeships. The ILO estimated that 23.2 percent of children in Nigeria aged 10 – 14 years were working in 2002. Most children work in agriculture, usually on family farms, in fishing, and as cattle herders. Children also work on commercial farms. In Urban areas, children work as domestic servants, street hawkers, vendors, beggars, scavengers, shoe shiners, car washers and bus conductors. Children also work in cottage industries as Mechanics, metal workers, carpenters, tailors, weavers, caterers, barbers and hairdressers. Commercial sexual exploitation of children occurs in many cities in Nigeria. The country is a source, transit and destination country for trafficked children. Children from Benin Republic, and other African countries are trafficked to Nigeria where some prefer to work as domestic workers, others as prostitute, or in other cases to work under forced labour conditions. Nigerian children are trafficked internationally: to the west and central Africa for domestic labour and street hawking, and to Europe for commercial sex. Girls are sold into marriage.

In July, 2003, a comprehensive anti-trafficking law, the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, was passed, which established a national agency to investigate and prosecute offenders of the Act and provide for rehabilitation. Section 11 of the Act stipulates life imprisonment for any persons who traffic children under 18 years into or out of Nigeria. The Act also stipulates prison terms for any persons who procure, either for themselves or others, any child or children under 18 years in their care to prostitution or indecent assault; see Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003 (July 2003) sections 19, 21, 23, 25 -26, and 36 – 38.

ensure such a child is immunised. These provisions can be summarised as follows: that every child is entitled to enjoy good health by being protected from diseases and given proper medical care for survival and growth. In pursuance of this, the government is enjoined to roll out measures by which these rights can be effectively guaranteed. The parents, guardians and institutions responsible for the care of the child are also enjoined to ensure that the child is given adequate medical attention which includes giving the child required good food, adequate breast feeding etc. They are equally enjoined to avoid any traditional practices that may be harmful to the child's health such as tribal marks, female circumcision etc (Nigeria and the right of child, 1995:13-14).

One of the objectives of Shariah (*Maqaasid al-Sharee'ah*) is Protection of Life. This objective involves putting in place everything that will not only guarantee physical protection of life but also physiological protection. Hence, it is, under the Shariah, the duty of the authority to provide the best health care possible for not only the adults but also children. Regarding health, the prophet is reported to have said:

Narrated Abud-Darda: The Prophet (peace be upon him) said: Allah has sent down both the disease and the cure, and He has appointed a cure for every disease, so *treat yourselves medically*, but use nothing unlawful. (Sunan Abu Dawud, Book 28, Hadith 3865)

This tradition emphasises the need to seek medical care and that, as mentioned earlier, the authority is charged with the protection of life means they will have to ensure the lives they are to protect are not only free from physical dangers but also dangers relating to health. A provision of the Quran particularly states that breastfeeding of the child takes two years:

- The mothers shall give suck to their offspring for two whole years... (Qur'an 2:233).

One will come to understand the importance of this provision when the importance of breastfeeding on the physical and especially mental development of the child is taken into consideration.

Similarly, Shariah recognizes family planning which is a form of rights of children, the basis of which can be traced to the Qur'an and Hadith thus:

And let those who find no means of marriage keep themselves chaste until Allah grants the means out of His bounty. (Qur'an 24:33)

The just referred verse of the Qur'an may be said to have been a pre-marriage instruction/guideline for family planning, and this is corroborated by the prophetic tradition which states that:

...but whoever cannot afford it (marriage) should observe fast for

¹⁴ The law prohibits children from lifting or carrying any load that will inhibit physical development, and establishes a minimum age of 15 years for industrial work and maritime employment. Children under 16 years are prohibited from working underground, on machines, at night, in employment that is dangerous or immoral, for more than 4 (four) consecutive hours or more than 5-8 hours a day. The law does not specifically criminalise child domestic service, although it provides for regulations to be mandated by the Minister. If, however, the work is appropriate for a child to do and he can do it without getting overburdened, exhausted and not degrading, there is no harm in doing it.

verily this will have a controlling effect on him on sexual urge. Meanwhile, the guidelines during marriage by the Shariah standard may include all other methods of planning the family not contradictory to the Qur'anic ordinances or the Sunnah. And the means referred to in the verse surely is not limited to the financial means of the man and woman but also their physical means which include their health. It is thus that in order that the health of the child be not compromised or affected, a nursing mother be deemed incapable of having the means to have another.

2. Right to Protection:

These are the rights that ensure that the child is protected from being exposed or subjected to any activity or treatment that may be iniquitous to his well-being and proper survival in life. And this may include:

(a) Protection against inhuman treatments:

In accordance with the provision of Section 11 of the Act, every child must be protected from all forms of exploitation, indecent or degrading treatment including child labour, abuse and torture, sexual exploitation, sale, abduction, slavery, drug abuse and trafficking among others. Simply put, the child must be guaranteed his right to dignity.

Meanwhile, it is the duty of the parents to monitor their children and protect them from undergoing any form of exploitation or inhuman treatment either from themselves or any other persons, natural or artificial.

The rights referred to above have been catered for by the Shariah. Allah says:

Verily, We hath honoured the children of Adam... (Qur'an

17:70)

This is a pointer to the fact that the child's right to dignity is inherent and must be observed not deprived. The Qur'an further says:

And give unto orphans their property and do not exchange (your bad) thing for their good ones. And devour not their sustenance (by adding it) to your substance. Surely, this is a great sin. (Qur'an 4:2)

The above clearly constitutes admonition against exploiting the child particularly usurping the orphan's proprietary right(s). And to more aptly or adequately effect the sustenance of the child's right against exploitation, the Qur'an declares:

Verily, those who unjustly eat up the property of orphans, they eat up only fire into their bellies, and they will be burnt in the blazing fire. (Qur'an 4:10)

Additionally, the child must be protected against any indecent or degrading treatment. And this right has been distinctly safeguarded under the Shariah provisions and in various ways.

On protection of the child against sexual exploitation, the Qur'an provides thus:

And come not near the unlawful sexual intercourse for it is an indecent deed and evil way. (Qur'an 17:32)

²⁷ Qur'an 17:70

²⁸ Qur'an 4:2

²⁹ Qur'an 4:10

³⁰ Qur'an 17:32

³¹ Qur'an 4:6

³² Qur'an 2:286

This verse states clearly that unlawful sexual intercourse is not permitted under the Shariah. This means for intercourse to be lawful i.e. for anyone to have the capacity to consent to sexual intercourse, the man and the woman must be married. Though the Shariah stipulates no age for marriage i.e. consent to sexual intercourse, but the Qur'an states, without mincing words, that consent to marriage (sexual relations) only comes when the child is matured enough to manage his or her own finances and possesses sound judgement.

And try orphans (as regards their intelligence) until they reach the age of marriage; if then you find sound judgement in them, release their property to them. (Qur'an 4:6)

It will be noticed that the verse above equates the age of marriage with maturity and it states that maturity comes in the form of not only physical maturity but also intellectual maturity; to satisfy the latter, the person must have sound judgement and the ability to manage, on his/her own, the property being released to her. The logical question therefore is if a person who possesses such maturity can still be called a child. The verses (Qur'an 17:32 and Qur'an 4:6) therefore prevent sexual exploitation of the child even under the guise of marital relations.

Secondly, to guard against child labour, abuse and torture, the Shariah has strongly ruled against all indecent and inhuman treatments of children. The Qur'an for instance states:

Allâh burdens not a person beyond his scope... (Qur'an 2:286)

We can discern from the above that the Creator has made it unlawful for Himself to overburden a soul beyond what it can bear. It is therefore implied that it is impermissible that anyone overburdens another. Just as it is part of the rationale for the Act that the best interest of the child be held paramount, a child according to the Shariah is to be completely maintained by his parents. It is therefore burdening the child with more than s/he can bear to subject him/her to child labour.

Thirdly, the Shariah ensures protection of the child from drug abuse and/or intoxication and from being subjected to slavery. It is stated in the Qur'an regarding intoxicants:

...intoxicant and gambling ... are abomination of Satan's handiwork; eschew such that ye may prosper. (Qur'an 5:90)

The above has been given a backing via the prophetic statements that:

Do not drink liquor it is the key to all evil. Do not sit on the mat where liquor is being served .

All the above are targeted at protecting the child from being exposed to the evils referred to earlier.

¹¹ Madani A.E., A Gift for Muslim Women, (Idara-e-Islamiat Karachi, Pakistan, 1999), p. 51

¹² Imam Malik, Muwatta' translated with Exhaustive Notes by Professor Muhammad Rahmuddin, (Beirut, Lebanon 1985/1406), Chapter 271, Hadith Nos 955, 956, 957, 959, pp 406 – 408; Bulugh Al-Maram, attainment of the objective according to evidence of the ordinance, (1st edition, Darul Salem Publications, 1996/1416H), Hadith No 1089, p. 453

¹³ Nigerian law calls for universal basic education throughout the country, however, authorities do not consistently enforce laws on compulsory education. Education in Nigeria is compulsory for 9 years. In 2001, the gross primary enrolment was 96.5%, with 85.6% of females enrolled compared to 107.0% males. Net enrolled rates are unavailable for Nigeria. Gross and net enrolments ratios are based on the number of students formally registered in primary school and therefore do not necessarily reflect actual school attendance. Recent primary school attendance statistics are not available for Nigeria. Access to education is hindered by the costs of books, transportation, and uniforms. Girls are particularly affected by lack of access to education. If families are unable to send the female children to school, girls are often required to work as domestic servants or street vendors.

Lastly, here, the Shariah frowns at the act of abducting and selling children as slaves. Right from the beginning of the history of Islam, children are not allowed to be attacked and taken as prisoners of war in any encounter.

However, in protecting the best interest of the children, the Shariah provides that even where such children have been captured alongside their parents, necessary steps must be taken to quickly release them. Where a master fails to release them, Shariah has practically laid down measures for their quick release and such measures include: an atonement for accidental killing (Q4 vs. 92) as one of the best forms of charity (90 vs. 12 -13); as the first alternative for the payments of Az-Zihar (likening one's wife to one's mother: Q58 vs. 3); marrying and emancipating female slaves and their offspring (Q4 vs. 3 and 23 vs. 6); and an atonement for deliberate breaking of Ramadan fast.

3. Developmental Rights

These are rights that positively develop the children and prepare them for a positive, meaningful and responsible life in the society. They are also meant to promote and enhance their personalities, talents, mental and physical potentials to the maximum level attainable for a standard of the societal norms and traditional values. These rights include the rights to leisure and recreation and also right to education

Section 15 of the Child's Rights Act (2003) provides that, every child is entitled to receive free and compulsory basic primary education up to the junior secondary school level which will be provided for by the government. The section further states that it is the duty of the parents to enrol such a child for the compulsory basic primary education and that they shall endeavour to enrol him/her for secondary education or if they cannot do the latter, encourage him to learn a trade the necessities for which shall be provided by the master.

The above is in accordance with the Shariah dictates on the right of the child to education. The Shariah values education most that there are various authorities to the fact that the believers are enjoined to seek knowledge. One of such is:

Narrated AbudDarda': Kathir ibn Qays said: I was sitting with AbudDarda' in the mosque of Damascus. A man came to him and said: AbudDarda, I have come to you from the town of the Apostle of Allah (peace_be_upon_him) for a tradition that I have heard you relate from the Apostle of Allah (peace_be_upon_him). I have come for no other purpose. He said: I heard the Apostle of Allah (peace_be_upon_him) say: If anyone travels on a road in search of knowledge, Allah will cause him to travel on one of the roads of Paradise. The angels will lower their wings in their great pleasure with one who seeks knowledge, the inhabitants of the heavens and the Earth and the fish in the deep waters will ask forgiveness for the learned man. The superiority of the learned man over the devout is

³⁶ Sunan Abu Dawud, Book 25, Hadith 3634 < <http://imaanstar.com> >

³⁷ Madani .A.E., A Gift for Muslim Women, p. 512

³⁸ Ibid, p. 499

³⁹ Orire, A., Shariah: A Misunderstood Legal System (Zaria: Sankore Educational Publishers Limited, 200) p. 81

⁴⁰ Section 14 of the Act

like that of the moon, on the night when it is full, over the rest of the stars. The learned are the heirs of the Prophets, and the Prophets leave neither dinar nor dirham, leaving only knowledge, and he who takes it takes an abundant portion. (Sunan Abu Dawud, Book 25, Hadith 3634)

The Prophet was reported to have said that educating a young person is like engraving mark on a rock that will remain indelible thereon forever. Again, that no father has given his child a better gift than good morals. Also, it is undoubtedly better for a man to teach morals to his child than to give a measure of corn in charity. Shariah equally emphasises the essence of religious education even when the child is yet to attain the age of majority. The reason being that: if a child is not acquainted with the religious beliefs from childhood, he might adopt a different course on attaining majority. This argument is traceable to the prophetic tradition that:

It was a custom with the messenger of Allah (PBUH) that whenever a child of the progeny of Abdul Muttalib started speaking, the prophet (PBUH) used to teach him the following verses.

Under the Shariah, it is the responsibility of the parents, particularly the father, to provide basic education for the child. This is part of his responsibility to maintain the child whether the marriage with the mother still subsists or not.

4. PARTICIPATORY RIGHTS

These are rights that allow the child to relate with other members of the society, and at the same time allow the child to partake in any decision making that will affect the child. Among others, these include, right to parental care and right to identity.

(a) Right to Parental Care

It is the right of every child to be maintained by his parents according to their means and no such child shall be separated from them against his will except for purposes of education, welfare or in execution of a judicial determination (Section 14 of the Act).

The provision above is the same under the Shariah. *Al-Hadaanah* (custody) and *An-Nafaqah* (maintenance) are two aspects of Islamic family law that take care of the maintenance of the child. It is the duty of the father to maintain the child whether his marriage with the mother still subsists or not. Upon separation of the parents, either through a legal process or some other means, the mother retains custody of the child as she is best suited for taking care of the child. The father on the other hand is financially responsible for the care the mother gives to the child.

(b) Right to Identity

This is another very important right accruable to a child. It is the first right to which the child is entitled. It is the procurement of this right that integrates the child into the society and makes him identifiable therewith. This is the right of the child to be given a befitting name and everything goes with it (Section 5 of the Act).

Under the Shariah, this right is strongly recognized and it is ordained that the parents

⁴¹ Oire, A., *Shariah: A Misunderstood Legal System*, pp. 81-101

⁴² Section 5 of the Act

⁴³ Al-Hajjaj, H., *Bulugh al-Maram: Attainment of the objective according to evidence of the ordinance* (Saudi Arabia: Darul Salem Publications, 1996) Hadith No 1170, p. 482

⁴⁴ Madani .A.E., *A Gift for Muslim Women*, p. 448

must enforce this right religiously. By the Shariah, it is the duty of the parents to give the child any pious names.

It was reported in a tradition of the Prophet of Islam that, on the day of judgement, you will be called by your own names and the names of your fathers, hence, give yourselves good names. Aisha the Prophet's wife reported that the Messenger of Allah (PBUH) charges the inauspicious names

5. SOME RESPONSIBILITIES OF THE CHILD

The Child's Rights Act (2003) listed under section 19 some responsibilities of the child which include the following (their Shariah equivalents will be discussed as well):

The child is to work towards the cohesion of his family and community (section 19(1)(a) of the Act). Under the Shariah, it is the duty of every person, young and old, to contribute to the cohesion of his family and the community. The Quran states:

And those who break the Covenant of Allâh, after its ratification, and sever that which Allâh has commanded to be joined (i.e. they sever the bond of kinship and are not good to their relatives), and work mischief in the land, on them is the curse (i.e. they will be far away from Allâh's Mercy); And for them is the unhappy (evil) home (i.e. Hell). (Qur'an 13:25)

The child is to respect his parents, superiors and elders at all times and assist them in case of need (section 19(1)(b) of the Act). This is as well the case under the Shariah. The Qur'an states:

And your Lord has decreed that you worship none but Him. And that you be dutiful to your parents. If one of them or both of them attain old age in your life, say not to them a word of disrespect, nor shout at them but address them in terms of honour. (Qur'an 17:23)

Every child is to serve the Federal Republic of Nigeria by placing his physical and intellectual abilities at his service (section 19(1)(c) of the Act). It is the duty of every person, under the Shariah, to contribute to the development of the state with his physical and intellectual abilities. It is stated in the Qur'an:

Only those are the believers who have believed in Allâh and His Messenger, and afterward doubt not but strive with their wealth and their lives for the Cause of Allâh. Those! They are the truthful. (Qur'an 49:15)

Every child is to contribute to the moral well-being of the society (section 19(1)(d) of the Act). The Shariah makes it a religious responsibility for everyone, irrespective of sexes or age, to support the promotion of all that is good and oppose all vices. The Qur'an provides thus:

Let there arise out of you a group of people inviting to all that is good,

⁴⁵ section 19(1)(a) of the Act

⁴⁶ Qur'an 13:25

⁴⁷ section 19(1)(b) of the Act

enjoining Al-Ma'rûf (virtues) and forbidding Al-Munkar (vices).
And it is they who are the successful. (Qur'an 3:104)

Every child is to preserve and strengthen social and national solidarity, and to preserve and strengthen the independence and integrity of Federal Republic of Nigeria (section 19(1)(e)-(f) of the Act). It is further stated in paragraph (j) of the section 19(1) that every child is to contribute to the best of his abilities, at all times and at all levels, to the solidarity of the African people and the human race. All acts that will promote discord in the community are prohibited under the Shariah. They are termed altogether as *Al-Munkar* i.e. vices and abominable acts or acts which are against reason or scripture. The verse cited above speaks volume about this.

Every child is to respect the ideals of democracy, freedom, equality, humaneness, honesty and justice for all persons and is relate with other members of the society, with different cultural values in the spirit of tolerance, dialogue and consultation (section 19(1)(g)-(h)). These responsibilities are captured under a Qur'anic verse which makes it clear that all humans are equal and the same before God and the only thing that differentiates them is piety or regards for God. The verse goes as follows:

O mankind! We have created you from a male and a female, and made you into nations and tribes, that you may know one another. Verily, the most honourable of you with Allâh is that who most regards God. Verily, Allâh is All-Knowing, All-Aware. Qur'an 49:13)

According to section 19(1)(i), every child is to contribute to the best of his abilities at all times and at all levels, to the promotion and achievement of Nigerian, African and world unity. This responsibility is taken care of under the Shariah by Qur'an 13:25 and other similar verses (Qur'an 13:20 and 47:22) that prohibit the severing of bonds and unity.

RECOMMENDATION

The discussion so far has pointed out the salient similarities between the rights of the child under the Nigerian law i.e. the Child's Rights Act (2003) and under the Shariah. It should be emphasised that the differences between the two serve as the basis for the failure of some states' Houses of Assembly to re-enact the Act as state laws. However, it is recommended that the focus be shifted to the similarities of the two rather than differences as this will ensure the standard in respect of the rights of the child are brought to the state levels. Furthermore, whatever modification a state House of Assembly may make to the Act should leave the similarities between the Act and Shariah as discussed above untouched. It is hoped that examination of other similarities between the Act and the Shariah will be undertaken in the future.

⁴⁴ Qur'an 17:23

⁴⁵ section 19(1)(e) of the Act

⁴⁶ Qur'an 49:15

CONCLUSION

It has been established that what necessitated the enactment of a law that makes comprehensive provisions for the rights and responsibilities of child was the dearth of adequate legal provisions in that regard as the existing ones did not reflect the trend on the topic. It also has been noted that since the promulgation of the Act, there has been production of literature on the differences between it and customary and Islamic practices; these differences are highlighted as the reasons why some states of the federation did not re-enact the Act in their various Houses of Assembly. Focus therefore has been made on the similarities between the provisions of the Act and the Shariah, and from the discussions in the previous sections of this work, it can be seen that both the Act and Shariah are compatible to a large extent on the topic.

⁵¹ Qur'an 3:104

⁵² section 19(1)(g)-(h)

⁵³ Qur'an 49:13