

**THE ENFORCEABILITY OF STATUTORY AGE LIMITS FOR MARRIAGE IN
NIGERIA: LEGAL CHALLENGES AND PROSPECTS FOR REFORM.**

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ABSTRACT

This research examines the enforceability of statutory age limits for marriage in Nigeria, with particular focus on the legal and structural challenges undermining effective implementation. It analyses relevant constitutional and statutory provisions, including the Child Rights Act, the Marriage Act and the Matrimonial Causes Act, highlighting areas of ambiguity and inconsistency. The work further explores the impact of Nigeria's federal structure and plural legal system, which allows statutory, customary, and religious laws to operate concurrently, thereby weakening uniform enforcement. It finds that while the legal framework provides formal protection against underage marriage, enforcement remains limited in practice due to constitutional uncertainty, uneven domestication of child protection laws, and weak judicial intervention. The paper concludes by proposing legal and institutional reforms aimed at strengthening the enforceability of statutory age limits for marriage in Nigeria. It further examines the social, cultural, and legal consequences of child marriage on the protection and development of minors within Nigerian society.

Keywords: *Marriage, Child Marriage, Child Right's Act, Plural Legal System, Federalism.*

INTRODUCTION

Marriage occupies an important place in Nigerian society, not only as a social institution but also as legally regulated relationship. In recognition of the need to protect children from premature marital obligations, statutory laws in Nigeria prescribe minimum age limits for marriage. Child marriage is tied to a number of factors including religion, traditions and customs¹. These provisions are intended to safeguard the physical, emotional, and educational development of minors, while also promoting broader societal welfare. Despite the existence of these statutory age limits, child marriages continue to occur in various parts of the country, raising questions about the effectiveness and enforceability of the law.

The Nigerian Constitution does not specify a minimum age for marriage, but *The Child's Rights Act (2003)*, set the minimum at 18.² However, only 23 of the 36 States in Nigeria enforce the Act.³ The legal regulation of marital age in Nigeria presents a complex interaction between statutory law, customary law, and religious practices. While legislation such as the Child Rights Act seeks to establish a uniform standard for the protection of children, its practical enforcement is often undermined by cultural norms, religious beliefs, and the federal structure of Nigeria's governance, which allows states discretion in adopting certain laws. In 2016, Nigeria Ministry of Women Affairs and Social Development launched a strategy to reduce child marriage by 40% before 2020, and to end it entirely by 2030.⁴ The plural legal system practiced has resulted in inconsistencies in the application of age-limit provisions, thereby weakening their intended protective effect.

This article examines the enforceability of statutory age limits for marriage in Nigeria. It analyses the existing legal framework, evaluates the extent to which these laws are enforced in practice, and identifies the major challenges hindering effective implementation. The study adopts a doctrinal research approach, relying on statutes, judicial decisions, and relevant international instruments. It argues that while Nigeria possesses a legal framework capable of addressing underage marriage, enforcement gaps significantly reduce its effectiveness. The article evaluates the effectiveness of the existing legal framework and highlight of challenges affecting the enforcement of statutory age limits for marriage in Nigeria.

¹ researchclue.com

² Child Rights Act 2003, s 21.

³ Globalcitizen.org

⁴ Ibid. (n 3).

LEGAL FRAMEWORK ON THE AGE OF MARRIAGE IN NIGERIA

Section 29(4)(b) of the *1999 Constitution of the Federal Republic of Nigeria (as amended)* has generated significant legal controversy in relation to the regulation of the age of marriage. While section 29(4)(a) explicitly defines “full age” as eighteen years, paragraph (b) provides that any woman who is married shall be deemed to be of full age.⁵ This provision has been widely criticized for its ambiguity and its potential to undermine statutory age limits for marriage.

The Committee recommended to the Senate that section 29(4)(b) be deleted from the Constitution. In an initial vote majority of senators voted in favour of deleting the section. This vote, however, was challenged by Senator Ahmed Yerima on the grounds that the deletion of the section 29(4)(b) discriminated against Muslim women, who are considered “of age” once they are married. The Committee’s recommendation was put to vote for a second time and on this occasion, it did not receive two thirds of the votes required by the Constitution to make a change to the same. This does not mean that senators voted to legalize child marriage in Nigeria. The contentious clause has been part of the Constitution since 1979, and its scope has always been limited to the question of renunciation of citizenship. However, the senators’ decision to retain the clause, particularly in view of the arguments that convinced them to do so, has been considered by many as an implicit legitimization of child marriage.⁶

This interpretation has been used to justify early marriages despite the existence of statutory protections under laws such as the *Child Rights Act*.

However, a purposive reading of the *Constitution* suggests that section 29(4)(b)⁷ was not intended to lower the minimum age of marriage, but rather to address issues of citizenship and renunciation of nationality. Interpreting the provision as permitting child marriage therefore conflicts with both the spirit of the constitution and Nigeria’s domestic and international obligations to protect children.

The *Child Rights Act* constitutes the principal statutory framework governing the protection of children in Nigeria, including the regulation of the age of marriage. The Act defines a child as a person below the age of eighteen years and expressly prohibits the marriage of a child. Section 21 provides that, ‘No person under the age of 18 years is capable of contracting a valid marriage’,⁸ while section 22 criminalizes child marriage and betrothal, prescribing penalties for offenders.⁹

⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 29(4)(a)-(b).

⁶ <https://www.girlsnotbrides.org/articles/controversy-in-nigeria-over-minimum-age-of-marriage/>

⁷ (n 5).

⁸ (n 2).

⁹ Ibid, s 22.

By fixing eighteen years as the minimum age for marriage, the *Child Rights Act* seeks to establish a uniform legal standard aimed at protecting children from early marital obligations and their associated social and developmental consequences. The Act represents a clear legislative intention to align Nigeria's domestic law with international child protection standards and to promote the welfare and best interests of the child.

However, the effectiveness of the *Child Rights Act* in regulating the age of marriage is significantly affected by Nigeria's federal structure. Although the Act applies directly in the Federal Capital Territory, its operation in the states depends on domestication by individual State Houses of Assembly. As a result, uneven adoption and implementation across states have weakened the Act's capacity to function as a nationwide safeguard against child marriage. This fragmented application poses a major challenge to the enforceability of statutory age limits for marriage in Nigeria.

Under the *Marriage Act*, parental consent is required where either of the parties intending to marry is below the age of twenty-one years.¹⁰ This requirement suggests a legislative intention to protect young persons from entering marriage without adequate maturity or family oversight. However, the absence of an explicit minimum age threshold creates uncertainty, particularly when compared with the clear prohibition of child marriage under the *Child Rights Act*.

The limited scope of the *Marriage Act* further affects its effectiveness in regulating the age of marriage. The Act applies strictly to statutory marriages conducted under its provisions and does not extend to customary or religious marriages. Consequently, its relevance in addressing underage marriage is significantly restricted, as many marriages in Nigeria are conducted outside the statutory framework. This limitation weakens the role of the *Marriage Act* in ensuring the enforceability of statutory age limits for marriage.

In addition, section 3(1)(e) of the *Matrimonial Causes Act* provides that a marriage shall be void where either of the parties is not of marriageable age.¹¹ While this provision recognizes age as a fundamental element of a valid marriage, the Act fails to define what constitutes "marriageable age". This omission has generated uncertainty, particularly within Nigeria's plural legal system, where customary and religious norms may permit marriage at ages lower than those contemplated by statutory child protection laws.

The absence of a statutory definition allows for inconsistent interpretations and undermines uniform enforcement. Although the *Child Rights Act* clearly fixes eighteen years as the minimum age for marriage, the lack of harmony between the *Matrimonial Causes Act* and other marriage-

¹⁰ Marriage Act (Cap M6 Laws of the Federation of Nigeria) 2004, s 18

¹¹(n 10) s 3(1)(e).

related statutes weakens the legal framework regulating underage marriage. This legislative inconsistency contributes to the broader challenges affecting the enforceability of statutory age limits for marriage in Nigeria.

ANALYSIS

Although Nigeria possesses a range of statutory provisions aimed at regulating the age of marriage, the enforceability of these provisions remains weak in practice. The *Child Rights Act* clearly establishes eighteen years as the minimum age for marriage and criminalizes child marriage, reflecting strong legislative intent to protect children. However, this statutory clarity is diluted when viewed alongside other marriage-related laws that either fail to specify a minimum age or employ vague terminology.

For instance, the Marriage Act does not expressly prescribe a minimum age for marriage, instead relying on parental consent for persons below twenty-one years. Similarly, the *Matrimonial Causes Act* renders a marriage void where a party is “not of marriageable age,” without defining what constitutes such age. These omissions create interpretive gaps that undermine the uniform application of statutory age limits and weaken enforcement mechanisms.

The ambiguity surrounding section 29(4)(b) of the *Constitution* further complicates the enforcement of statutory age limits for marriage. While section 29(4)(a) of the Act defines “full age” as eighteen years of age, paragraph (b)¹² has been interpreted by some as recognizing marriage as a basis for attaining full age, regardless of chronological age. This interpretation, though contested, has been relied upon by certain religious and cultural groups to justify underage marriage.

A purposive interpretation of the *Constitution* suggests that section 29(4)(b) was intended to address issues relating to citizenship and renunciation rather than to create an exception to age-based child protection laws. Nevertheless, the continued existence of this ambiguity provides normative cover for practices that conflict with statutory protections, thereby weakening the enforceability of age limits for marriage. The continued reliance on section 29(4)(b) to legitimize underage marriage illustrates one of the key constitutional challenges affecting the enforceability of statutory age limits for marriage in Nigeria.

The challenge of enforceability is further reflected in the limited judicial engagement with child marriage as a justiciable issue. Nigerian courts have not produced a substantial body of reported decisions directly addressing the validity of underage marriages under the *Child Rights Act*. This

¹²(n 5) s 29(4)(a) -(b).

judicial silence contributes to uncertainty regarding the practical consequences of violating statutory age limits.

However, judicial reasoning in related contexts demonstrates recognition of age-based legal capacity. In *Natasha v State*,¹³ the Supreme Court affirmed that age is a critical determinant of legal capacity and consent, underscoring the principle that minors lack the legal competence required for binding legal acts. Although not a marriage case, this reasoning supports the broader proposition that age limits serve a legitimate protective function within Nigerian law.

Nigeria's federal structure and plural legal system further undermine the enforceability of statutory age limits for marriage. While the *Child Rights Act* applies directly within the Federal Capital Territory, its effectiveness nationwide depends on adoption by individual states. The uneven domestication of the Act has resulted in varying levels of protection across the federation. Only 25 of the 36 states in Nigeria have localized the *Child's Rights Acts*.¹⁴ Currently, 11 states all in northern Nigeria have yet to domesticate the *Childs Right's Act*.¹⁵

In addition, the coexistence of statutory, customary, and religious marriage systems allows underage marriages to occur outside the scope of statutory regulation. This pluralism, combined with weak institutional enforcement, ensures that statutory age limits often remain normative ideals rather than enforceable legal standards. This federal arrangement interacts with Nigeria's plural legal system, in which statutory, customary, and Islamic legal norms coexist. While statutory law prohibits child marriage, many customary systems do not prescribe a fixed minimum age, often recognizing puberty or social maturity as a sufficient indicator for marriage eligibility. In some communities governed by Sharia law, marriage at puberty is seen as valid, resulting in age thresholds far below the statutory norm. These divergent legal norms operate concurrently within the same national legal framework, creating contradictory legal obligations that undermine uniform enforcement of age limits.¹⁶

The confluence of federalism and legal pluralism means that, even where statutory protections exist on paper, their application depends heavily on local political will, cultural acceptance, and the specific legal regime in force in a given state. As a result, the protection offered by the *Child Right's Act* often remains inspirational rather than enforceable in practice, particularly in areas where customary or religious authorities exercise significant influence over marriages.¹⁷

¹³ (2017) LPELR-42359(SC)

¹⁴ <https://theafricanmirror.africa/education/why-the-childs-rights-act-still-doesnt-apply-throughout-nigeria/>

¹⁵ (n 14).

¹⁶ https://ecmcoalitionnigeria.org/wp-content/uploads/2025/02/POLICY_ANALYSIS_REPORT.pdf?

¹⁷ <https://www.hrw.org/news/2022/01/17/nigeria-child-marriage-violates-girls-rights?>

SUMMARY OF FINDINGS

First, the research finds that statutory inconsistency and ambiguity significantly undermine enforcement. Although the *Child Rights Act* clearly fixes eighteen years as the minimum age for marriage, other relevant statutes, such as the *Marriage Act* and the *Matrimonial Causes Act*, fail to prescribe or clearly define a minimum age. This lack of harmony within the statutory framework creates interpretive gaps that weaken uniform application.

Secondly, the study observes that constitutional ambiguity, particularly in relation to section 29(4)(b) of the *Constitution*, continues to generate conflicting interpretations. Despite the definition of “full age” as eighteen years, the contested reading of this provision has been used to justify practices that contradict statutory child protection norms, thereby weakening the normative force of age-based regulations.

Thirdly, the findings highlight a limited judicial role in enforcing statutory age limits for marriage. Nigerian courts have produced few reported decisions directly addressing the validity of underage marriages under existing child protection laws. While judicial reasoning in related cases affirms the importance of age and legal capacity, the absence of direct precedent contributes to uncertainty and weak deterrence.

Finally, the research finds that Nigeria’s federal structure and plural legal system play a major role in limiting enforceability. The uneven domestication of the *Child Rights Act* across states, combined with the coexistence of statutory, customary, and religious marriage systems, allows underage marriages to persist outside the reach of statutory regulation. These structural factors ensure that statutory age limits often function more as normative ideals than as enforceable legal standards.

CONCLUSION AND RECOMMENDATIONS

This research has examined the enforceability of statutory age limits for marriage in Nigeria and finds that, despite the existence of a relatively robust legal framework, effective enforcement remains significantly constrained.¹⁸ The *Child Rights Act* establishes eighteen years as the minimum age for marriage, aligning Nigeria with international and regional child protection standards. However, constitutional ambiguity, statutory inconsistencies, weak judicial engagement, and Nigeria’s federal and plural legal system continue to undermine the practical realization of these protections. As a result, child marriage persists in many parts of the country, not due to the absence of law, but due to deficiencies in implementation and coordination.

¹⁸ <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/nigeria/>

The study further observes that national and international stakeholders increasingly recognize these shortcomings and have proposed various reform-oriented responses. Initiatives led by UNICEF and UNFPA, including Nigeria's commitment to ending child marriage by 2030, demonstrate growing political and institutional acknowledgment of the need for stronger legal and policy interventions.¹⁹ Similarly, recommendations by international human rights bodies, particularly under CEDAW and the African Children's Charter, consistently emphasize the need for legal harmonization, effective enforcement, and the removal of normative ambiguities that permit underage marriage.

In light of these findings, several recommendations are advanced. First, constitutional reform or authoritative judicial clarification should be pursued to resolve the ambiguity surrounding section 29(4)(b) of the Constitution, ensuring that constitutional interpretation unequivocally supports statutory age limits for marriage. Secondly, there is an urgent need for the full domestication and effective implementation of the Child Rights Act in all states of the federation,²⁰ supported by federal incentives, monitoring mechanisms, and intergovernmental cooperation. Thirdly, existing marriage-related statutes, including the Marriage Act and the Matrimonial Causes Act, should be reviewed and amended to expressly reflect a uniform minimum marriageable age consistent with child protection standards.

In addition, institutional reforms aimed at strengthening enforcement mechanism such as improved birth registration systems, specialized family courts, and community-level sensitization should be prioritized,²¹ as recommended by child protection agencies and civil society organizations. Finally, Nigerian courts should adopt a more proactive interpretive approach, drawing on international obligations and established principles of legal capacity to reinforce the protection of minors.

If effectively implemented, these reforms would significantly enhance the enforceability of statutory age limits for marriage in Nigeria and contribute meaningfully to the protection of children's rights and welfare.

¹⁹ <https://www.unicef.org/nigeria/press-releases/nigeria-takes-bold-steps-end-child-marriage-and-protect-rights-children>

²⁰ <https://www.unicef.org/nigeria/press-releases/unicef-and-nigerian-bar-association-join-forces-reform-justice-system-children>

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