



INTERNATIONAL JOURNAL OF LAW, EDUCATION, SOCIAL AND SPORTS STUDIES (IJLESS)

www.ijless.kypublications.com

ISSN:2455-0418 (Print), 2394-9724 (online)

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www.kypublications.com

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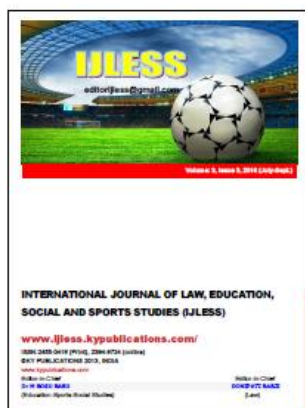
(Law)

STATUTORY PROVISIONS ON THE RIGHT OF A CHILD TO A NAME IN NIGERIA: HAS THE DRAFTSMAN'S INK BEEN JUDICIOUSLY SPENT?

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RESEARCH ARTICLE

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ABSTRACT

The right to a name has been enshrined in both domestic and international instruments as a human right available to children. This paper analysed this right from the African perspective and observed that the provision is defective at least from the standpoint of Africa. It observed that the inclusion of this right in both international and domestic instruments is a mere waste of the draftsman's ink as the christening of a child does not cure the deleterious effect of an unconstructive, denigrating and ignominious name that casts aspersions on the owner. The paper therefore recommended that the provision be amended to provide for the right of a child to a good name.

Keywords: Right to a name, good name, child's rights, Nigerian child, international instrument, Child's rights Act.

1. INTRODUCTION

Name is nothing more than "a word or phrase that constitutes the distinctive designation of a person or thing".¹ International instruments on the rights of children have made provision for the right of a child to a name. The Nigerian Child's Rights Act² also adopted the same provisions. However, these provisions did not designate the kind of name that should be given a child because a word or phrase representing the name of a person may not reflect the notion of decency, morality or other worthy ideals within the context of a particular culture. Moreover, the reality of human socialisation requires that everything, both animate and inanimate be identified by name for ease of communication. Thus, for instance, the Christian biblical account of creation reveals that even God named the things that He created.³ He named the first man, 'Adam',⁴ and then allowed Adam to name the first woman, 'Eve',⁵ who was created from his sinew and every other creature.⁶ From that time until presently, human beings name their young in every culture and tradition. Although a child that does not belong to any body may not necessarily have the privilege of being named. However, these circumstances are an exception rather than the rule. Thus, against the background of this fact, this paper contends that the provision in both international and domestic legal instruments for the right of the child to a name has little practical relevance or effect on the psychological and social wellbeing of a child. Rather the law ought to require that a child be given

¹Black's Law Dictionary Sixth Edition (Massachusetts: West Publishing Co; 1990), p.1213.

²Cap. C50 Laws of the Federation of Nigeria, 2010. The enactment shall hereinafter simply be referred to as the Act".

³See *The Holy Bible* (King James version), Chapter 1 verse 1-10. The things that God created and gave names were heaven, earth, darkness, light, day, night, evening, morning, sea, lights, stars, etc. According to Genesis chapter 2 verses 19 & 20, God formed every beast of the field and every fowl of the air and brought them to Adam for names and Adam did give them names.

⁴*Ibid*, Genesis chapter 5 verse 2.

⁵*Ibid*; Chapter 3 verses 23.

⁶*Ibid*, Chapter 3 verse 19-20.

a good name that would ensure its psychological, spiritual and emotional stability and socialization. This paper examines this paradox within the context of African, and particularly, Nigerian legal system.

2. THE RIGHT OF A CHILD TO A NAME IN INTERNATIONAL INSTRUMENTS

The right of a child to a name is provided for in the African Charter on the Rights and Welfare of the Child, 1989 and the United Nations Convention on the Rights of the Child, 1990.⁷ Under the Charter, Article 6(1) provides that “every child shall have the right from his birth to a name”. The Convention, on the other hand, makes more comprehensive provision to protect the child from other ancillary abuses. Thus, the Convention combines the right of a child to a name with the right to have the birth of a child registered and to acquire nationality as far as possible. According to the Convention:

the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality, and as far as possible, the right to know and be cared for by his or her parents.⁸

Nigeria is signatory to these international instruments and both of them contain similar provisions on the obligation of member states to ensure that the rights set out in the instruments are implemented at the domestic level.⁹ In Nigeria, section 12 of the constitution of the federal republic of Nigeria 1999 stipulates the criteria for the implementation of any international convention in the municipal system. Such an instrument must be domesticated by an Act of the National Legislature:

No treaty between the federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.¹⁰

Although, the Nigerian National Assembly did not specifically re-enact either or both the Charter and the Convention into domestic law, it re-enacted substantial portions of both instruments under the Child’s Rights Act 2003.¹¹ Fortunately, the Act included the provision in the international instruments on the right of the child to a name, which is the subject matter of this paper.

3. THE RIGHT TO A NAME UNDER THE NIGERIAN CHILD’S RIGHTS ACT

The Act provides as follows:-

Every child has a right to a name and, accordingly, shall be given a name on his birth, or on such other date as is dictated by the culture of his parents or guardian.¹²

The Nigerian version of the right of the child to a name takes cognisance of the culture of the parent of the child or its guardian in determining the time at which a child should be named. The Convention on the other hand, seems to alienate the culture of the people by Westernising maternity issues and childbirth. It requires instead that the child shall be registered immediately after birth, which implies that the child would be named at the point of registration. This is not in tandem with the African culture, which requires a separate day specially set aside for the naming ceremony of the child. Culture thus, play a central role both in the timing of the naming of the child and type of name that would eventually be

⁷The instruments shall hereinafter be referred to as “the Charter” and “the Convention” respectively.

⁸Article 7(1).

⁹See Article 1(1) of the Charter which provides “the member States of the Organization of African Union Parties to the present Charter shall...take the necessary steps, in accordance with their constitutional processes and with the provision of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this Charter”. Article 2(1) & (2) of the Convention also provides “the States Parties to the present Convention will respect and ensure the rights set forth in this Convention to each child within their jurisdiction [and] ... shall take all appropriate measure to ensure that the child is protected...”.

¹⁰Section 12 (1) of the Constitution of the Federal Republic of Nigeria, 1999.

¹¹*Op. cit.*, note 2.

¹²*Ibid*, section 5(1).

given to the child. Again, most childbirths in Africa are not registrable because of the poor primary health facilities at the point of birth, usually in rural areas.

4. THE STATUTORY RIGHT OF THE CHILD TO A NAME AND THE NIGERIAN CULTURE: NEED FOR REFORM

As we stated earlier, the prerogative of naming things is one of the prerequisites for the continuous cohesion of society. It is necessary for identification and cognate experiences of human interaction. No wonder, God the creator of all creation expressly initiated the practice.¹³ Compared to all other creatures, human beings are at the top echelon of intelligible beings. Naming things, especially himself is therefore a naturally phenomenon for man. This has made it possible to trace the genealogy of man,¹⁴ or at least, most family lineages to an infinitesimal past. In Africa, naming the young is deep rooted in the culture, and the practice follows the biblical tradition of the Israelites where names of children were meaningfully associated with situations and beliefs.¹⁵ For instance, most African tribes believe in the supremacy of the God being, and consequently, they name their children to reflect this belief system.¹⁶ The popular names given to children in the Yoruba tradition for example begins with "Olu", meaning God, i.e. *Olufunso* meaning, "God has given me this one to take care of". Among the Ibo tribe,¹⁷ children are given such names as *Chinyere* meaning "God gave" or *Onyinyechukwu*, meaning "gift from God" in appreciation to God for the gift of a child and or safe delivery. Some Ibo children bear the name *Ekenedilichukwu* meaning, "thanks be to God" or *Otitodilichukwu* meaning, "to God be the Glory". Among the Nupe tribe of Nigeria,¹⁸ children are given the name *Baiwa* meaning "gift from God".

The Ibos also name their children *Okechukwu*, which is the parents' acknowledgement of the child as their "portion from God". Sometimes children are given names in contemplation of their future status in life. The belief in Africa is that the name given to a child influences its destiny and determines whether a child would be successful in future as an adult. Thus, the prevailing name in the tradition of the Ibo tribe is *Eze* meaning, "king" or *Nwakaibeya* meaning, "the best among the peers". This belief system ensures that parents give to their children constructive and edifying names rather than names that tend to obfuscate their spiritual, social and psychological prospects. For instance, the Ibos do not give their children names that have negative connotations, such as *NwaEkwensu*, which means "the child of the devil"; rather, parents do give their children names like *Nwachukwu* or *Nwachi* meaning, "the child of God".

Sometimes, the immediate circumstances surrounding the birth of a child may determine the name that the parent may give the child.¹⁹ The Ibos for instance, may name a child *Nwauzor* (or "Nwuzor") meaning, "a child of the road",

¹³See notes 3-6, *Op. cit.*

¹⁴See for instance, The Holy Bible, *Op. cit.*, Genesis Chapters 4-11, which traced the genealogy of Abraham from the first man, Adam.

¹⁵See for instance, Genesis chapter 4 verse 1 stating that "Adam begat a son and called him Cain, meaning, 'I have gotten a man from the Lord'...Again, he begat a son in his own likeness, after his image and called his name Seth" (Genesis chapter 5 verse 3). In Genesis chapter 21 verse 3, Abraham called the name of his son Isaac, meaning 'he laughs'. In Genesis chapter 25 verses 25 and 26, the Bible states that Rebecca, Isaac's wife gave birth to twin babies "the first came out red, all over like a hairy garment, and they called his name Esau. And after that came his brother out, and his hand took hold on Esau's heel; and his name was called Jacob", meaning 'he grasps the heel'.

¹⁶ The belief system of a people mirrors their way of life and constitutes their culture, which is part of their customary laws. See A. Obilade, *The Nigerian Legal System*, (London: Sweet and Maxwell, 1979), pp.69-81, 100-110; G. Ezejiofor, "Sources of Nigeria Law," in C.O. Okonkwo (ed.), *Introduction to Nigerian Law*, (London: Sweet and Maxwell, 1980), pp.1-8, 41-46; Park, *The Sources of Nigerian Law*, (London: Sweet and Maxwell 1981), pp.41-42, 65-82; and E. A. Odike and M.A. Ajanwachuku, *Fundamentals of Nigerian Legal Methods*, (Enugu: Tink Graphics, 2008), pp.29-34.

¹⁷Ibo tribe situates at the South-East geo-political zone of Nigeria, which geo-political zone is within the Eastern part of Nigeria. This part of Nigeria is composed of the following States: Abia, Anambra, Ebonyi, Enugu and Imo.

¹⁸Nupe tribe is found in the North-Central geo-political zone of Nigeria comprised of the following States: Niger, Kogi and Kwara.

¹⁹This was even as old as the time of the birth of Esau and Jacob as recorded in the Holy Bible. From the account from Genesis Chapter 25 verses 25 & 26, Esau was so named because he was "red, all over like a hairy garment", while his twin was named Jacob because he proceeded from the womb of their mother holding the heel of Esau and so was a supplanter.

just because the child was delivered on the way to a hospital, maternity home or traditional birth attendant, or even on the way to the farm or market or a friend's house as the case may be. Again, a child born in a yam barn could be named *Nwaoba* (or *Nwoba*) meaning a child of the yam barn. Some of these names are derogatory to say the least. Children are not pets or toys and definitely not dolls to be given names that bring unnecessary ridicule to hapless and helpless kids".²⁰

one... expect[s] parents to pick names after extensive research and analysis, making sure whatever names they give do have a sense of meaning and quality, that allows the children to feel confident in themselves and confident among their peers.²¹

Parents that do not give their children good names create doubts as to their preparedness and suitability for responsible parenthood. Thus, "whilst a child cannot choose its birth parents, no greater misfortune can belie a child as to be the offspring of people lacking in inspiration and consideration".²² Children should be given names that would reinforce their identity and make them "proud of their identity, heritage and background".²³ A child should be given a good name. A child does not just have the right to a name, but the right to a good name. To give a child a good name is the way responsible parents can give such child a good start.²⁴

5. CONCLUSION

We have shown in this paper that the introduction of the right of a child to a name in both international and domestic legal instruments did not actually cure the defect in the practice of naming children all over the world, particularly, in Africa and Nigeria. The Nigerian Child's Right Act has not significantly affected the types and nature of names given to children in Nigeria. The Act has not expressly eliminated the practice of giving children uncomplimentary names, the failure of which amounts to waste of the draftsman's ink. What is needed is to amend the provision of the Act to grant children the right to a good name. The amendment would serve to instill confidence to children about who they are, and it would boost the believe in their potential and possibilities. Indeed, this singular recommendation is in consonance with the declaration of the Act that in all actions relating to a child, the best interest of the child shall be paramount.²⁵

²⁰Akin Akintayo, "A Child's Right to a Good Name", available at: <http://www.akinblog.nl/2008/07/childs-right-to-good-name.html> (assessed on 4/07/2016).

²¹*Ibid.*

²²*Ibid.*

²³*Ibid.*

²⁴*Ibid.*

²⁵Section 1, Child's Right Act, *Op. cit.*, note 2.