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**Towards the Protection of the Rights of the Child to a Family Environment:
An Examination of Custody and Guardianship under Nigerian Law**

By

Dr (Mrs) Grace Ogonda Akolokwu*

Dr. L. O. Nwauzi**

Dr. Raji Barakat***

Abstract

This paper underscores the need to protect the right of the child to belong to a family. It posits that a child born to citizens of Nigeria has globally recognized rights commensurate to rights enjoyed by children in other climes; and which rights are to be protected by the instrumentality of the law. One of such rights which accrue to the child in Nigeria is the right to belong to a family. This work further establishes that this right is not dependent on the state of the union between the biological father and mother that is whether they are married, separated or divorced nor is it dependent on the factor of the child being wanted by the biological parents or not or on whether the child is a product of rape. This work therefore highlights the importance of providing a home; albeit foster homes for children who have become abandoned for various reasons to protect them from the vagaries of street life. Going further, it is established in this work that the non-protection of a child's right to belong to a family by different actors especially the government in Nigeria has increased the incidence of social ills such as child trafficking, child labour, child abuse and increase in child mortality rate in Nigeria. This paper adopting the doctrinal research methodology examined applicable laws on custody and guardianship of children in Nigeria and concluded that the scope of these laws are inadequate to effectively ensure the protection of the child's right to belong to a family. It is also further suggested that improved infrastructural facilities and better social and welfare policies by government would be better guarantees of the protection of this and other rights that concern children in Nigeria.

Keyword: Child Rights, Custody, Guardianship, Family Environment, Nigerian Law

1. Introduction

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In Nigeria and elsewhere a high percentage of children are growing outside the family environment and away from their biological parents and blood relations. And this fact persists despite the effort of the international "police man," the United Nations, to provide for the physical and emotional wellbeing of the child through legislation to wit, the United Nations Convention on the rights of the Child. The children who roam the streets in major cities of the country; those who on a daily basis weave in and out of traffic hawking various wares and those who end up sleeping in corners and under bridges all attest to the sad fact that States have not succeeded in protecting the child's right to grow in a family environment. The United Nations Convention on the Rights of the Child targeting the well-being of children globally, provided in its preamble that its priority was that "the child enjoys full and harmonious development of his or her personality and should grow up in a family environment."¹⁰¹ In stating the above resolution, the global body went on to give a responsibility to governments who are signatories to the instrument to ensure that "a child shall not be separated from his or her parents against their will except when such separation is necessary for the best interests of the child." It is trite that separation of children from their parents may sometimes become necessary and better for the proper development of the child. It is in such situations that the State through relevant laws provides alternative homes for such a child through the award of custodial, adoption and guardianship rights over the child and then deploys its agencies to monitor the adaption and progress of the child in his new home. From the reality on ground in the streets of the major cities in Nigeria, it is clear that many children remain homeless and exposed to various forms of criminalities. It is against this background that this paper considers the right of a child to grow up in a family environment in Nigeria. It particularly considers legal provisions on custody and guardianship in Nigeria and the extent they help foster a better protection of the welfare and rights of the Nigerian child.

2. The Problem

Many children in Nigeria appear to be punished for the errors of their biological parents who may have conceived them without intending to do so, terming the pregnancy unwanted and so readily abandoning such a child on the streets to resume their normal lives. Some of these abandoned children are products of rape and so remain constant reminders of an unpleasant episode. It is however true those Nigerian children roaming the streets of major cities in Nigeria begging for alms or selling wares for possible sustenance of their parents and guardians on a daily basis; and so become exposed to all forms of risks as they dart between moving and stationary vehicles. They start early in life to gulp volumes of carbon monoxide and other forms of pollutants which become guarantees of major health challenges and may culminate in infant mortality. Some of these children commonly described as street urchins may have been abandoned by mothers who lack the means to cater for them, or who abandoned them because of a chronic disease or

¹⁰¹ Preamble to the Convention on the Rights of the Child 1989.

deformity and are not properly educated to give them up for legal abortion instead of abandonment on the streets. Some of these children may have also run away from their homes for various reasons or were born to mentality ill mothers already on the streets, while some others may have been abducted and taken to a different part of the country for various nefarious reasons.

The above notwithstanding the reasons for which these children are found living, eating and sleeping on streets instead of being in homes and attending schools notwithstanding, the fact remains that a great portion of Nigerian children who litter the streets, are "parentless." The children found in the various Internally Displaced Persons (IDP) camps are not enjoying the right to full and harmonious development better guaranteed in a family environment. The failure of the States and its operators to provide alternative homes for our children thereby exposing them to various crimes such as armed robbery, prostitution and child trafficking is tragic and of global concern as this failure limits the chances of these children to maximize their natural potentials to contribute meaningfully and gainfully to the society.

3. Human Rights Of The Nigerian Child

The human rights of the Nigerian child are universal and inalienable. These rights have become enshrined in domestic, regional and international legal instruments ratified by Nigeria. Some of these rights include the right to life, right to a name, right to survival and protection; right to dignity; right to parental care, protection and maintenance; right to free, compulsory and universal primary education; right to freedom from discriminations; right to belong to a family and right to privacy; right to freedom of movement; right to leisure, recreation and cultural activities; right to health and health services; right of a child in need to special care and protection; right of the unborn child to protection against harmful social and cultural practices; right to protection against abuse and torture; right not to be forced into betrothal and early marriage etcetera. The International Covenant on Civil and Political Rights¹⁰⁴ which has been ratified by Nigeria for instance provides for the protection of human life in that every human being has an inherent right to life; which right shall be protected by law as no one shall be arbitrarily deprived of his life. Also, "no one shall be subjected to torture, or cruel inhuman or degrading treatment or punishment...no one shall be held in slavery or servitude... everyone has the right to liberty and security of the person...no one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law."¹⁰⁵ This instrument went on to state that everyone (including the Nigerian child) is "equal before the law and without discrimination entitled to equal protection of the law,"¹⁰⁶ and every child "shall have without any discrimination...the right to such measures of protection as are required by his status as a minor on the part of his

¹⁰⁴ International Covenant on Civil and Political Rights 1966; Art 6

¹⁰⁵ *Ibid*; Art 7-9

¹⁰⁶ *Ibid*; Art.26,

family, society and the State. According to the provisions of this law, every child has a right to acquire a nationality and have a name."¹⁰⁷

This however against background that the International Covenant on Economic, Social and Cultural Rights provides for "special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation..."¹⁰⁸ The United Nations Convention on the rights of the child is a more specific legislation on the human rights of children and it insists that the rights of the child within jurisdiction are to be respected by States "without discrimination of any kind, irrespective of the child's or his or her parents' or legal guardian's race, colour, sex..."¹⁰⁹ The Convention also cautions that "in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities... the best interest of the child shall be a primary consideration."¹¹⁰ The Convention places a responsibility on the governments of State parties to respect and protect the rights of children by taking appropriate legislative and other measures to ensure that families and the State provide appropriate environment in which children can grow and achieve their potentials.¹¹¹

The Convention recognizes the child's inherent right to life; and that it is the responsibility of States to "ensure to the maximum extent possible the survival and development of the child;"¹¹² the child's freedom of expression, of thought, conscience and religion; although it also recognizes the rights and duties of parents or legal guardians to provide direction to the child.¹¹³ The child's freedom of association and peaceful assembly is guaranteed under Article 15 and "no child shall subjected to arbitrary and unlawful interference with his or her privacy, family... The Convention places the responsibility of protecting the child from all forms of violence either in the house, school, community etc on the governments of nations. Article 19 provides that "State parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse while in the care of parent(s), legal guardians or any other person who has the care of the child."

The disabled child is also protected under the articles of the Convention which insists that "State Parties recognize that a mentally or physically disabled child should enjoy a full and decent life in conditions which ensure dignity, promote self-reliance and facilitates the child's active participation in the community."¹¹⁴ The child has the right to education which at the primary level should be compulsory and free to all,¹¹⁵ Child abuse, child labour and

107. Art. 24, para 1-3, *ibid*.

108. International Covenant on Economic, Social and Cultural Rights (ICESCR 1966) Art. 10

109. Art. 2; *ibid*.

110. Art. 3, *ibid*.

111. Art. 4

112. Art. 6, *ibid*.

113. Art. 13 & 14, *ibid*.

114. Art. 23, *op.cit* *****check citation

115. Art. 28, *ibid*.

exploitation were frowned at by the Convention which provided that State Parties recognize the rights of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development.¹¹⁶

4. Examining The Rights Of The Child To A Family environment

The child's right to belong to a family stems from the right of the child to know and be cared for by his or her parents¹¹⁷ as well as the clear provisions of the Preamble to the Convention on the Rights of the Child 1989 which recognizes the need for the child to grow up in a family environment and in an atmosphere of happiness, love and understanding to ensure a "full and harmonious development." This international instrument goes further to provide for the protection rights, provision and participation rights of the child. It provides for the child's right to life¹¹⁸ and further rights to a name and registration at birth.¹¹⁹

Going further, the child's need and right to parental care and protection is provided by the African Charter¹²⁰ where it stated that:

Every child is entitled to the enjoyment of parental care and protection and shall, whenever possible have the right to reside with his or her parents. No child shall be separated from his or her parents against his/her will except when a judicial authority determines in accordance with the appropriate law that such separation is in the best interest of the child.

The Charter in ensuring that children enjoy care and nurture from their biological parents or other persons provided that upon any form of separation from parents whether temporarily or permanently shall become a child of the State and to be entitled to the State's assistance and special protection. Such a child who is:

parentless or who is temporarily or permanently deprived of his or her family environment or who in his or her best interest cannot be brought up or allowed to remain in that environment shall be provided with alternative family care which include among others foster placement or placement in suitable institutions for the care of children...

The role of the family in ensuring the optimal growth and survival of the child is manifest in the provisions of the International Covenant on Civil and Political Rights (ICCPR)¹²¹

116. Art. 32, *ibid*.

117. Art. 7(1) Convention on the Rights of the Child 1989.

118. Art. 6(1) Convention on the Rights of the Child 1989 which provides that every child has an inherent right to life and in subsection 2 provides that "State parties shall ensure to the maximum extent possible the survival and development of the child."

119. Art. 7(1) provides that "the child shall be registered immediately after birth and shall have the right to a name, to acquire a nationality and as far as possible the right to know and be cared for by his or her parents."

120. Art. 19 African Charter on the Rights and Welfare of the Child 1990

121. Art. 23(1) ICCPR.....put year

which provides that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

In discussing the rights of the child to belong to a family, it is apposite to explain what a family environment means and entails. The starting point in this discussion is the position of the Convention itself which considers the family to be a "fundamental group of society and the natural environment for the growth and wellbeing of all its members and particularly children." This of course means that the Nigerian society is made up of families and these families are so critical to the emergence of the society that the latter would not exist without families. Going further, the Convention clearly describes the family as a natural occurrence and not an imposition or a technical contraption; and it is usually responsible for the nurturing, providing and protecting its members. The family environment is therefore a home environment made up of biological parents or legal parents who take responsibility for the provision of the needs of the child ranging from the physical needs of food, clothing, education and shelter to emotional needs of love, comfort and discipline. It is the place the child belongs to and where he can be easily located and identified.

The need for the protection of the child is further guaranteed by the Convention which insists that a child except in certain circumstances should grow up with his or her parents.¹²² However, where it is in the interest of the child to be removed from the immediate environment of his biological parents temporarily or permanently the Convention¹²³ also demands that the State should provide such a child with special protection and assistance. Article 5 of the Convention places a responsibility on governments to respect the rights and responsibilities of families to direct and guide their children in the proper use of their rights while the Nigerian Constitution imposes an obligation on the government to ensure that children and young persons are adequately shielded from exploitation, moral and material neglect.¹²⁴

5. Custody And Guardianship Under Nigerian Law

Custody, adoption, and guardianship are interrelated as they all concern the welfare of the minor, that is, his safety, shelter, food, education, medical care and even the

¹²² See Art. 9 Convention on the Rights of the Child (CRC) which states that "States Parties should ensure that a child shall not be separated from his or her parents against their Will except when competent authorities subject to judicial review determine in accordance with applicable law and procedures that such separation is necessary for the best interests of the child..."

¹²³ See Art 20(1-3) CRC which recognizes the possibility of removal of the child from the biological family and in such circumstances the need of the State to provide the child's need for protection and alternative care such as placement in foster homes, adoption etcetera based on their domestic laws and in accordance with the child's upbringing, ethnic, religious, cultural and linguistic backgrounds.

¹²⁴ S.17(3)f Constitution of the Federal Republic of Nigeria 1999

management of his property. Nigerian law provides for the custody of children as well as rules regulating legal guardianship of minors.¹²⁵ Child custody grants a parent in divorce proceedings the legal rights to live with, bring up and be responsible for the child with the other partner having visitation rights. In proceedings which concern the custody of children of a particular marriage, custodial rights may be granted either of the child's biological parents or on a person other than a party to the marriage where in the opinion of the court it is desirable to do so.¹²⁶ This custody of children is defined as "the care, control and maintenance of a child which may be awarded by a court to one of the parents as in a divorce or separation proceeding."¹²⁷ What is central in custody cases according to the provision of the law is the interest of the child depending on factors such as the emotional attachment to a particular parent, adequacy of facilities such as educational, religious or proper opportunities for proper upbringing of the child.¹²⁸ The award of custody of a child is the State's response to achieving the child's right to be brought up in a family environment as the Nigerian courts generally have a great discretion in matters concerning the custody of children.¹²⁹

The issue that is of immense importance to the exercise of the child's right to belong to a family is the consideration of how easy it is for families to be granted custody of children upon application; and how just and objective the various exercises of the courts' discretion in custody cases were. It is material that custody issues arise under Nigerian law upon an application of a party and usually as ancillary reliefs in matrimonial matters. This of course leaves the question of what happens to the large number of children on the streets in need of homes and a family outside matrimonial proceedings. It is trite however that with the enactment of the Child Rights Act 2003 and its adoption as State laws, provisions which encourage better protection of child rights now exist. For instance in Lagos State any adult or a couple may jointly under some circumstances apply for a "Fostering Order" in respect of a child that is abandoned, deserted or orphaned¹³⁰ but how many persons who actually take this step remain debatable. What is obtainable is that some churches like the Catholics open homes and orphanages where some of these street children become housed and are taken care of.

Guardianship is a legal relationship that exists between a person (the guardian) appointed by a court to take care of and manage the property of another person (the ward) who does not possess the legal capacity to do so, by reason of age, comprehension or self-control.¹³¹ This relationship does not necessarily sever the legal relationship

¹²⁵ S.71(1) Matrimonial Causes Act 1970 cited in Laws of Federation of Nigeria (LFN) 2004 which provides that "In proceedings with respect to the custody, guardianship, welfare, advancement or education of children of a marriage, the court shall regard the interests of those children as the paramount consideration; and subject thereto, the court may make such order in respect of those matters as it thinks proper"*****check provision in CRA 2003

¹²⁶ S.71(3) *ibid*.

¹²⁷ Black's Law Dictionary.....complete citation

¹²⁸ S.71(1) Matrimonial Causes Act 1970*****

¹²⁹ *ibid*

¹³⁰ S.92 Child Rights Law, Lagos State 2015

¹³¹ Encyclopedia, wikipedia

between the child and his or her biological parents even though the legal guardian becomes responsible for the care and management of the infant. He may also gain custody of the child depending on the circumstances warranting the grant of powers of guardianship. According to Olugbemi¹³², "a guardian is a person lawfully invested with the power and charged with the duty of taking care of the person and managing the property and rights of another person who for defect of age, understanding, or self-control is considered incapable of administering his own affairs."

The legal guardian of a child replaces the biological parents and becomes responsible for the child. This position was reiterated by Nwogugu¹³³ who stated that a guardian virtually exercises "all the rights and obligations of a parent to the child..." Persons who can be appointed guardians are adults who may be family members, close friends, local officials appointed by the court upon a written application of any interested person. Such appointment of guardians for children may become necessary where the parents are unable to care for the child may be through ill-health creating room for such appointed persons to continue the supervision of the child until he attains maturity at 18 years. A guardian is a fiduciary and must not benefit from the estate of the ward. Guardians are appointed for persons in need of supervision by the court; and it is probate and juvenile courts that hear cases involving guardianship. A guardian can also be appointed by the court to take care of a child who has been removed from his home due to abuse, neglect, domestic violence etcetera; or where the child is an orphan and in the care of the State. Parents can also appoint guardians for their children in their Wills. The naming of a guardian in a parent's Will is only a nomination with the appointment becoming completed when letters of guardianship are issued by the court. It is important to note that the choice of a guardian for the child by the court is generally guided by the needs of a child and the factors that must be considered are the age of the child; affection the child has for some people; education and moral standing of the proposed guardians; the age of the guardian; health, financial position and character of the person seeking guardianship of the ward.

Note however that parents can be appointed guardians of their children's property especially where the source of such property is outside the family. In coming to a decision on the appointment of guardians the courts would always favour a parent over other relatives or someone not related to the child unless there is reason to believe the parent is not a fit guardian. Note that the guardianship of a child to a person other than his biological parents takes away the parents' right to make decisions about the child's life but does not permanently terminate parental rights. This is because the parents are still the child's legal parents and can regain custody of their child in the future if the court determines that the guardianship is no longer in the interest of the child. Legal guardianship can come to an end and become terminated at the occurrence of the following events such as when the ward attains the age of maturity; if the ward gets

132 Olukayode Olugbemi, "The Legal Consequences and Implications of Guardianship and Adoption in Nigeria," cited in [linkedin> pulse> legal consequences-i...](#)

133 E I Nwogugu, *Family Law in Nigeria* (Helmman.....)p358

married; or when the court determines that the ward no longer needs supervision or the guardian mismanages the property in his care or neglects his duties as a guardian; or on the death of the ward or the guardian.....put provisions of the law.....The duties and responsibilities of a guardian include the following:

1. The duty of control and management of the ward and his property. A guardian is entitled to have custody and control of the ward and to provide the ward with daily care.
2. Duty of maintenance of the ward (see section 300 of the criminal code which makes it obligatory to provide necessities for the ward).
3. Duty to provide good education and protection for the child/ward. In doing this the guardian can prevent certain people from seeing the ward although such restrictions must be reasonable.
4. A guardian has the duty to plough the ward's property into investments to earn additional income. He must keep an inventory of all the child's assets and collect loans on the assets promptly to avoid loss.
5. The guardian at the end of guardianship must account for transactions involving the ward's estate and must file reports of same to the court. It should be noted that a guardian who has accepted to so act can only be discharged or removed from the guardianship with the permission of the court. And the court will readily remove a guardian if it is in the interest of the child to do so.

Temporary guardianship of the child can also be granted by the court and is usually to secure a specific purpose which terminates once the purpose is achieved. Guardianship therefore is a "legal process that transfers decision making authority over an individual (ward) deemed incapable of managing his or her personal or financial affairs, to another person (guardian). Modern guardianship can be traced to the English common law which recognized the doctrine of *parens patriae* (parent of the country) which allowed the court to assume control of infants and incapacitated adults and appoint guardians for them.

A guardian under the common law is appointed by Deed and may be a guardian ad litem who is actually a legal representative of the infant. The guardian ad litem shall "act as a guardian only for the purpose of representing the child in a particular proceeding and not to have parental responsibility for the child."¹³⁴ Guardianship may be full or limited. A full guardianship means that the guardian has full authority to take decisions concerning the ward's personal care which include medical and educational needs, while the temporary or limited guardianship lasts for only a short and specific period. The guardian of a minor decides their place of residence, the schools they attend; controls and manages any property or inheritance that comes to the minor before he/she attains maturity. Parents are the natural guardians of their children by virtue of their giving birth to them so such guardianship is not by appointment.¹³⁵ But

134 S. 82(2) Child Rights Act 2003

135 See S.81(1) *ibid* which provides that the parents of a child have guardianship of the child and in the event of the death of a parent; the surviving parent becomes the guardian of the child. It is only in circumstances where the natural parents cannot take care of the welfare of the children either

where other persons are to become guardians of the children rather than their biological parents, the power to so appoint is statutory as the Child Rights Act provides that

"where the parents of a child are not fit to be guardians of a child jointly or severally, the court on application of a family member or an appropriate authority has power to appoint a person to be joint guardian with the parent or parents of the child."¹³⁶ The guardians so appointed may or may not be related to the child and they stand in loco parentis to the child. Guardians can also be appointed by the parents of the child.¹³⁷ A single parent or a surviving parent who has guardianship of a child may appoint a guardian for the child in the event of his or her death.¹³⁸ Also, "in proceedings with respect to the custody, guardian, welfare, advancement or education of children of a marriage, the court shall regard the interest of those children as the paramount consideration and subject thereto the court may make such order in respect to those matters as it thinks proper."¹³⁹ This position of the law was played out in *Williams v Williams*¹⁴⁰ the Supreme Court awarded the appellant and respondent the joint custody of their daughter. While the appellant was to exercise care and control of the child, the respondent was to take charge of the education of the child.

In *Nwosu v Nwosu*,¹⁴¹ the court of appeal however held that the parents had equal legal rights of custody of children of a marriage in a case which bordered on the rights of the mother to take away the children from the matrimonial home during the pendency of a matrimonial suit but before the formal order of custody. The court held that both parents have the same right of custody of children and upheld the mother's right to remove herself and her children from the matrimonial home in the event of breakdown of the marriage, or threat or fear of violence.

But in *Tabansi v Tabansi*¹⁴² the court held that generally it is better for the child of a marriage to be left in the custody of the wife if the child is of a tender age and is a female except where the conduct of the woman is morally reprehensible.

because both parents are deceased or in situations where the law has severed the parental rights due to child abuse and neglect that legal guardians can be appointed by the court.

136 S.83(2) Child Rights Act, 2004

137 S.83(3)(4) *ibid*

138 *ibid*

139 S.71(1) Matrimonial Causes Act 1970; *Odogwu v Odogwu* (1992) 2 NWLR (Pt. 225) p. 539.

140 (1987) 1 All NLR 253

141 (2012) 8 NWLR (Pt. 1301).

142 (2009) 12 NWLR (Pt. 1155).

6. Making A Case For The Protection Of The Child's Rights To Belong To A Family

The need for a child to belong to a home and under the custody and guardianship of either the natural parents or parent or persons *in loco parentis* cannot be over-emphasised. According to Watts,¹⁴³ "a home is a vital component in the development of children...and to deny a child that fundamental right for whatever reason threatens the good development and outcomes for each child." It is trite that the refusal or failure to so provide a stable, safe and secure family environment for the child exposes him or her to several incalculable risks and threatens their physical, social, and emotional developments at every stage of growth.¹⁴⁴ Granting custody or guardianship of the child to another or other adults who are not biological parents become imperative in some circumstances to protect and guarantee the child's right to belong to a family. This position is supported by the United Nations which stated that "any child who is temporarily or permanently deprived of his or her biological family has the right to grow up in another family or in a family-like environment."¹⁴⁵ This makes a child who is

deprived of her family environment by any reason to become the responsibility of the State which is by law required to provide alternative care.¹⁴⁶ In fact the right of a child to know and be cared for by his or her parents is embedded in Article 7 of the Convention on the Rights of the child. All these provisions of the law underscore the importance attached to the family unit as a veritable tool of ensuring the stable development of children. This position was confirmed in a study carried out in the United States by Robert¹⁴⁷ who stated that children who grow in a stable family environment enjoy greater protection of rights than those who are products of broken family relationships. The attendant ills that follow such disoriented families range from children exposed to drug and substance abuse, teenage pregnancies, trancies and such like.

The child's right to life can only become meaningful and better protected by an upbringing in a safe environment with controls and conditions suitable for the

143 Nick Watts; "Every Child Needs a Place to Call Home- The UNCRC AND ACCOMODATION" available at <https://www.migrantfamilyaction.org> accessed on 6/5/2018.

144 Melton Gary B; "The Child's Right to a Family Environment: Why Children's Rights and Family Values are Compatible; American psychologists, vol. 51(12) Dec., 1996.

145 UNICEF; "The Child's Right to Grow up in a Family" available at <https://www.unicef.org/overview>;
Richard R. Carlson; "A Child's Right to a Family versus A State's Discretion to Institutionalize the child" available in <https://www.law.georgetown.edu/academics/law-journals/gil/reg>

146 See Art.20, CRC 1989

147 Rector Robert, "Marriage: America's Greatest Weapon against Child Poverty: The Heritage Foundation, September 2012, available at <http://www.heritage.org/research/reports/2012/09/marriage-america-s-greatest-weapon-against-child-poverty> accessed 8th July, 2018.

child's optimal development. An insecure family environment will expose the child to neglect, emotional abuse and other social ills. Any outright abandonment by family and the State would negatively impact on the child's right to life, care, right to education and appropriate family environment to thrive and develop. According to Watts,¹⁴⁸

being in safe, suitable and stable accommodation is critical all the way from the basics of a child's development to the exercising of their cultural worlds...not having a home at all significantly impact children's development in a physical, emotional, social and cultural sense." A home is a vital component in the development of children, a starting base if you will and to deny a child that fundamental right for whatever reason threatens the good development and outcomes for each child subject to it.

Conclusion

Various State governments and agencies need to build and equip more orphanages and homes for abandoned children. Also adoption laws should be emended to make it easier for persons to adopt children legally instead of the current recourse to illegal adoption centres notorious for child sale with no guarantees of an assured home for the child as some of these children become deployed to criminal activities.

148 Nick Watts, "Every Child Needs A Place To Call Home-The UNCRC and Accommodation," May 15, 2017 available at <https://www.migrantfamilyaction.org> accessed on 8/7/18