

## Strengthening Foster Care in Nigeria: Codifying the UN Guidelines on Alternative Care

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**Abstract**— *This article provides a critical examination of the Child's Rights Act in Nigeria, with a focus on strengthening foster care through the codification of the United Nations (UN) Guidelines on Alternative Care. It analyzes the existing legal framework governing foster care in Nigeria, identifying gaps and limitations that hinder the effective protection and care of children living in foster care arrangements. The article argues that the Child's Rights Act which is the current legal framework on foster care in Nigeria, falls short of international and contemporary standards of practice, resulting in inadequate care and protection for vulnerable children. By examining the potential benefits of codifying the UN Guidelines on Alternative Care into Nigerian law, this article proposes a way forward for strengthening foster care in Nigeria. The methodology used for this research is doctrinal. It relied on primary and secondary sources such as the Child's Rights Act, Statutes, Conventions, Guidelines as well as dictionaries, articles, journals, and the internet respectively. It concludes that the domestication of the UN Guidelines on Alternative Care under the Nigerian Laws would provide a comprehensive framework for foster care practice, prioritize the best interests of the child and promote family-based care. The findings and recommendations of this article stand to provoke policy and law reform efforts, ultimately enhancing the protection and well-being of children living under the foster care settings in Nigeria.*

**Keywords:** Child's Rights Act; Foster Care; Nigeria; UN Guidelines on Alternative Care.

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## INTRODUCTION

Although the practice of child fostering has tremendous benefits to a child in need of care as well as to the extended families, the laxity in regulating the practice especially as it relates to informal child fostering in Nigeria, has given rise to the level of abuse and social injustice (against Children) that is currently obtainable in Nigeria's polity (Nnama-Okechukwu & Okoye, 2020). The recurring reports of abuse and violence against children in Nigeria, particularly those placed under foster care, have remained evergreen, with core concerns surrounding the efficiency and relevancy of extant laws governing child rights and social enablement (Akintomide *et al.*, 2023; Olusegun *et al.*, 2016; Olayinka *et al.*, 2014). While these inadequacies are not geography-specific (Yin, 2024; Chaitkin *et al.*, 2017; Annika *et al.*, 2021), the peculiarities of the Nigerian situation are deserving of progressive change, which can only be made possible by drastic reforms (Idehen & Cam, 2021). Nigeria, as a signatory to the United Nations Convention on the Rights of the Child (1989) has a commitment to protect and promote the rights of children. One critical aspect of this commitment is ensuring that children who cannot live with their biological parents receive adequate care and protection. The United Nations Guidelines on Alternative Care (2010) provides a clear framework for member States of the United Nations to develop policies, laws, and practices that prioritize the best interests of the child in alternative care arrangements (Davidson, 2015). However, the Child's Rights Act (2004) which is the existing law governing foster care in Nigeria is insufficient to curb the prevalent forms of abuse and practices thus highlighting the need for domestication of the United Nations Guidelines (2010), in line with the domestication clause set out in the Nigerian Constitution (Constitution of the Federal Republic of Nigeria, 1999).

The CRA (Child's Rights Act, 2004) is the primary legislation governing child rights in Nigeria. Its major import lies in its provisions that domesticate the principles of the United Nations Convention on the Rights of the Child (United Nations, 1989), setting out specific rights and protective mechanisms for children, including the right to survival, development, protection, and participation. The CRA also establishes institutional mechanisms for promoting and protecting child rights, such as the National Child Rights Implementation Committee and the establishment of Family Courts (Child's Rights Act, 2004). Although the CRA provides a comprehensive framework for protecting general children's rights, its provisions regarding formal child fostering are insufficient on the one hand while it lacks any specific provision on informal foster care on the other hand. The CRA does not provide clear guidelines on foster care arrangements, the procedures for placement, the standards for care, recruitment, training and support of staff, monitoring and reporting mechanism as well as welfare packages for those aging out of foster care. This lack of clarity has led to inconsistent and often inadequate care for children in foster care settings.

One significant lapse under the current legal regime on foster care in Nigeria is the absence of a clear framework for informal foster care, which has fast become the most widely practiced form of foster care in Nigeria. Informal foster care is a critical alternative care arrangement that can provide children with a stable and loving family environment. However, owing to the dearth of clear standards and regulations, informal foster care settings are fast becoming a breeding ground for the neglect, violation of human rights and abuse of children. The UN Guidelines on Alternative Care emphasizes the importance of a regulated foster care system, which Nigeria can achieve by domesticating these guidelines.

Moreover, the lack of standards for residential care facilities in Nigeria is another topmost concern. These facilities, often run by non-governmental organizations or private individuals, provide care on a subjective basis to large numbers of children without stringent and compulsory periodic oversight functions on the part of the government or foster care development officers to ascertain (from time to time) the overall well-being of the fostered children. In chronicling the lived experiences of Children living With Disabilities (CWDs) in residential alternative care systems in Ibadan Metropolis, Nwanze *et al.* (2024), submitted that while residential care systems promote in-group solidarity and survival needs for CWDs, there is the absence of a formal mechanism through which cases of abuse and maltreatments can be properly routed. The concerns enunciated above represents evidence from only a small number of children out of the large numbers of children that are assailed by a poorly regulated system and in which case, unreported.

Therefore, the UN Guidelines on Alternative Care provide detailed standards that are crucial for guiding the care of children who are orphaned, neglected, or otherwise in need of alternative/foster care arrangements. Other distinct provisions include requirements for staff training, child protection policies, and regular monitoring. However, being a soft law instrument, the application of the UN Guidelines on Alternative Care and its enforcement are limited, not binding, and do not have the force of law until the same is domesticated under the Nigerian law (Constitution of the Federal Republic of Nigeria, 1999). The decision to provide children with foster care or maintain their family life without proper consideration could potentially have negative impacts or increase their risk; some of which include deprivations of access to education and health care; physical and sexual abuse; emotional and psychological trauma thus, it is imperative to have a solid legal framework that seeks to protect the rights of children who live outside parental care. The current legal regime on foster care (CRA) in Nigeria is grossly inadequate and fraught with many gaps, to which, if the United Nations Guidelines on Alternative Care were to be strictly adhered to, the legal regime on foster care in Nigeria would assume a better posture towards the protection of children's rights (Ugbe *et al.*, 2022). It would

therefore be necessary to x-ray the current legal framework on foster care in Nigeria (CRA) as well as some of the key provisions of the United Nations Guidelines on Alternative Care which are necessary for the incorporation and codification under the Nigerian laws as same would be a valuable tool for government, public and private sectors, individuals, and organizations involved in alternative/foster care systems in Nigeria.

## **OVERVIEW OF THE LEGAL FRAMEWORK ON FOSTER CARE IN NIGERIA AND ITS CHALLENGES**

Foster care generally refers to ‘the formal and informal custodial upbringing of children living outside their biological family home when their parents are unable, unwilling, or prohibited from caring for them.’ On one hand, while informal foster care relates to a private arrangement between birth parents and relatives to care for their child and is generally unregistered, uncounted, and unevaluated, conversely, a foster care approach is underscored as formal, where it is legally authorized by a recognized authority. The informal foster care is at large the most prevalent form of foster care system in Nigeria. There are many reasons responsible for the wide prevalence and practice of the informal care system in Nigeria. These reasons range from poverty, internal displacement of persons, death of either or both parents of a child, separation or divorce of parents, access to education, children living with disabilities or other forms of health challenges and so on. Notwithstanding its underlying purpose, the informal foster care system is susceptible to various forms of abuse and greatly hampers the rights of children as most times, they are deprived of their fundamental and universal basic rights.

The CRA (Child’s Rights Act, 2004) is very instructive in its provisions that every child has a right to parental care, protection, and maintenance, and on no account shall a child be separated from his parents against his wish except for the purpose of education, welfare, or judicial determination in the best interest of a child. This appears to be in sharp contrast with existential realities, as many children continue to be boarded out from the homes of their biological parents without proper recourse to the principles of best interest as espoused in the CRA. In spite of the existence of domestic and international laws guaranteeing the fundamental and universal basic rights on the dignity of human persons (children inclusive) and other protective child rights in Nigeria, various forms of abuses, degrading treatment, violence, child labour and deprivations still persist and are, in fact, on the increase especially for children living under foster parentage (Agbedo & Diamond, 2023).

The primary framework for foster care in Nigeria is embedded in the CRA (2004). As aforementioned, it provides for well-defined specific rights for the protection of the Nigerian Child. The CRA (2004) provides that the best interest of a child shall be

the paramount consideration in all matters concerning a child whether such decision is undertaken by an individual, public, private body, institutions, court of law, administrative or legislative authority. In exercising these rights, especially as it relates to foster care, the CRA (2004) focuses mainly on the formal procedures for child fostering which shall be made by an intending foster parent (applicant) to a Court (formal foster care) but it is silent on the procedure for informal child fostering (Informal foster care). Whereas in West Africa, Nigeria inclusive, the informal child fosterage system, where children are transferred or relocated from their biological parents or made to live with relatives and non-relatives, also known as foster parents, is the most widely practiced (Isuigo-Abanihe, 1985). As such, there is a need to regulate the informal foster care system. Even the formal foster care system that appears regulated in Nigeria is fraught with many problems, such as insufficient funding, lack of trained personnel/experts, lack of regulatory bodies, and quackery.

Although, children generally have stipulated rights under international, regional, and national law, such as the UNCRC, (United Nations, 1989) ACRWC, (Organization of African Unity, 1990) ACHPR, (African Charter on Human and Peoples' Rights Act, 2004) CFRN (Constitution of the Federal Republic of Nigeria, 1999) and the CRA (Child's Rights Act, 2004) which ought to protect and preserve them from various forms of abuse, certain factors still militate against the effective application of the laws. Nigeria is a party to the United Nations Convention on the Rights of the Child (CRC), which was ratified in 1991, as well as a signatory to the African Charter on the Rights and Welfare of the Child (ACRWC), which was ratified in 2001. In compliance with its obligations as a member state under Articles 4 and 1 of the UNCRC and the ACRWC, respectively, Nigeria has implemented the rights relating to child welfare as prescribed in the UNCRC and ACRWC through legislative and administrative measures. Some of the provisions relating to the rights and welfare of a child as enshrined in the UNCRC and ACRWC have been domesticated in the CRA (2004), which made comprehensive provisions for the protection of children's rights generally. Furthermore, the CRA (2004) deals particularly with the rights of children living in the formal foster care system. It is silent on the informal foster care system. In Nigeria, the informal foster care system, also known as the informal kinship care system, is a very common and unregulated form of care, practiced by many Nigerians, which allows children to be integrated into extended family circles, where direct relatives cater for them (Abraham, 2015).

The provisions of the UNCRC (1989) are clear to all state parties to provide access to health care, education, birth registration, to protection, freedom from exploitation, social security and non-discrimination. Nigeria is a signatory to the UNCRC and has domesticated same in its laws. The CRA (2004) is simply a reproduction of the Rights of children as contained in the UNCRC. The CRA has provided an avalanche of rights open to the Nigerian child such as the Rights to

survival and development private and family life, health, free universal primary education, Right of the child to special protection measure, Right of the child to be provided with guidance by parents, guardian, institutions and authorities in charge of child care with respect to child responsibilities and Rights to freedom from discrimination amongst others.

Despite the well-defined rights as enunciated above at the international, regional and national levels, the rights of Nigerian children, especially those living away from their biological parents, are still being constantly breached. For instance, although the CRA has made specific rights for children to ensure that their right to health and education is preserved, Chapter II of the CFRN (1999) may appear to be an obstacle, in that, the child's right to health and education are not expressly contained under the fundamental rights provision in Chapter IV of the Constitution, instead, it is contained in Chapter II of the Constitution, the latter being a non-justiciable right, a position which was upheld in the case of *Okojie v. A.G Lagos State* (1981), However, with the later judicial pronouncement (*Abacha v. Fawehinmi*, 2000; *Attorney General, Ondo State v. Attorney General, Federation & 35 Ors.*, 2002; *Legal Defence & Assistance Project v. Federal Ministry of Education & Another*, 2017) and Nigeria's signatory to the African Charter on the Rights and Welfare of a Child (ACRWC) as well as the adoption of the African Charter on Human and People's Right, it becomes arguable that a child can now enforce his right to basic education and the right to health respectively as judicial decisions have now made it enforceable. However, bearing in mind that even though Nigeria is a signatory and has domesticated the African Charter on Human and People's Right (ACHPR) which provides for the Right to health (African Charter on Human and Peoples' Rights Act, 2004) as a fundamental right, the current CFRN (Constitution of the Federal Republic of Nigeria, 1999) which is the *grundnorm* provides that the CFRN (1999) is supreme and any law inconsistent with its provisions shall be declared a nullity, thus it could be argued that, on the face of Chapter II of the CFRN, the right to health is still a non-justiciable one despite the provisions of ACHPR (African Charter on Human and Peoples' Rights Act, 2004). This position is further buttressed by the CFRN (1999) which although expressly grants the judiciary as well as other organs of government, the responsibility of observing the provisions of Chapter II, excludes any Court of Law from making any pronouncement as to whether any organ of government complies with the provisions in Chapter II of the Constitution (1999).

Be that as it may and bearing in mind the Nigerian legal and appellate system, it is potentially argued that with respect to the judicial decisions (*Abacha v. Fawehinmi*, 2000; *Attorney General, Ondo State v. Attorney General Federation & 35 Ors.*, 2002; *Legal Defence & Assistance Project v. Federal Ministry of Education & Another*, 2017) that have made educational rights justiciable, the said decisions of Court could be overturned on appeal, if this happens, it may appear that the Nigerian child's ability to enforce their

right to education and health through reliance on case laws, would be tampered with. This therefore raises urgent concerns on the need for the alignment of the CFRN with the ACHPR and the CRA to be in tandem with each other as far as the rights of children to health and education as a fundamental right is concerned. Be that as it may, The Nigerian legislature can still exercise its powers to confer actionable rights on the contents of the Chapter 11 of the CFRN (1999) vide the powers donated to it under Item 60(a) of the Exclusive Legislative List which empowers the National Assembly to make laws for the 'establishment and regulation of authorities...to promote and enforce the observance' of Chapter II of the Constitution. When the legislature takes a step in this direction as have now been done in Nigeria by the establishment of the ACHPR (1981) then the provisions of s.6(6)(c) (Constitution of the Federal Republic of Nigeria, 1999) that currently limit children's access to enforce their rights to education and health may become ineffective, allowing for legal recourse. Ultimately, a constitutional amendment is necessary to explicitly and without any contradictions, recognize the rights to education and health as fundamental rights in Nigeria. A well-defined provision of the laws regarding the rights of children to health and education, especially those living away from their parents would better facilitate the protection and welfare of the aforesaid children.

It is worthy to note that there are other factors that still hinder the effective application of these laws as they relate to children living in foster care. This article notes that not all states in Nigeria have domesticated the CRA in their laws. It was reported by the former Minister of Women Affairs, Mrs Pauline Tallen, while speaking on behalf of the Federal Government at the 59<sup>th</sup> edition of the Ministerial Media Briefing organized by the Presidential Communications Team at the Presidential Villa, Abuja stated that as at 2019, only 13 out of the 36 states in Nigeria had domesticated the CRA but as at 2022, 34 states have domesticated the CRA (Aya, 2022). The said Minister was hopeful that the remaining two other Northern states yet to domesticate the CRA would do the needful. On the other hand, even states that have domesticated CRA, have a problem with implementation/enforcement. One may therefore say that most of the existing legislation in Nigeria bordering on child rights and welfare are academic in nature. They do not protect the rights of the vulnerable children exposed to various risks on a daily basis especially those living in foster care. Even though there are no official reasons stated for the non-domestication of the CRA in the Northern states, sentiments abound that the CRA overlaps with some Islamic injunctions. For instance, the Muslim law is at variance with the practice of adoption, which is a form of alternative care as provided by the CRA (Nte *et al.*, 2004; Iloka, 2022; Iloka, 2021; Chigoziri *et al.*, 2022).

According to research conducted, informal care is the most common form of care (Nte *et al.*, 2004; Iloka, 2022; Iloka, 2021; Chigoziri *et al.*, 2022). It involves a traditional

practice where children are integrated into extended family circles. The child could also be placed under the care of a family friend known as informal foster care (Nte *et al.*, 2004; Iloka, 2022; Iloka, 2021; Chigoziri *et al.*, 2022). The National Human Rights Commission identified that there has been an avalanche of complaints stemming from the informal foster child care system, and a lot of human/child rights abuses and violations take place under this guise (Connelly & Ikpaahind, 2025). Previous research evidence suggests that children in informal care have lower rates of school attendance than children in parental custody (Roby, 2011). For instance, many children are taken away from their biological parents with a firm promise to provide care and education to the children as a result of the inability of their parents to cater for them, but in most cases, these children are used as domestic servants and are subjected to all manner of forced labour and deprivation from education. There are instances where the child or youth may be saddled with too many tasks or encounter intra-household discrimination, thereby occasioning absence from school. There could also be incidences of misconceptions and discrimination by teachers and school administrators, resulting in children dropping out of school. The enrolment rates of students at schools could vary greatly from the actual attendance rate, owing to expulsion for failure to pay fees and other costs (Amolo *et al.*, 2003).

Hence, this article therefore advocates for a well regulated system of informal foster care owing to the attendant risks and vulnerabilities faced by children living outside parental care. A well regulated system backed by functional laws and policies would curb high incidences of violence against children living in such informal care. It is worthy of note that nearly all states in Nigeria have fostering laws derived from the federal law, that is, the CRA, which provides for the formal conditions precedent before a child can be fostered. For instance, the CRA (2004) provides for who may foster, the need for a fostering plan, and preparation for and supervision of the placement. A study of the CRA clearly reveals that the available legal framework on foster care is in favour of institutionalized or formal-based care (Onayemi *et al.*, 2022; Agbawodikeizu *et al.*, 2024). The scope for informal foster care is still largely limited, and services are not effectively administered. Foster parents in the informal setting whose data are largely unknown, are still not assisted with trainings to enable them to properly cater for children (Federal Ministry of Women Affairs and Social Development, n.d.). Many parents, for several reasons, allow their children to live with relatives or strangers for different beliefs based on socio-economic reasons and the strengthening of family ties based on the African belief that it takes a community to raise a child. It is therefore pertinent that informal fostering should be regulated by law as tons of abuses have become a recurring decimal in Nigeria.

In Nigeria, the authority saddled with the responsibility of the social welfare of a child is the Federal Ministry of Women Affairs and Social Development, but the actual



responsibility for the placement of staffers in local social welfare departments or institutions lies with the State Government. There seems to be no adequate supervision by the Federal Ministry of Women Affairs and Social Development due to a lack of funding. Moreover, there is the place of political will, which the ministry may sometimes struggle with, due to the vast demography. There is also much dependence on Non-Governmental Organizations (NGOs), volunteers, and professional bodies like the Institute of Social Workers of Nigeria (ISOWN) to aid child welfare. One fundamental problem of child welfare in Nigeria is that there are no uniform procedures to be adopted by foster parents/caregivers on how best to handle children living outside parental care. Thus, children under this form of care are at the mercy of their caregivers, who employ various training mechanisms based on their individual or subjective perception of how to handle children, which in the long run may expose children to further risk and deprivation. Institutions like the ISOWN that have been clamoring to gain statutory regulation were recently accorded that recognition (Adedapo, 2025) via the Social Workers Act (2022). The Social Workers Act is a welcome development on the part of the Nigerian Government, but the same is yet to be domesticated by the various states. If this is done, a condition to mandatorily require anyone in foster care practice/social work to be an automatic member of such an association may be enforced to limit situations of quackery in child fosterage.

Furthermore, the CRA (2004) provides that the Chief Registrar of the Court of a State is to establish a register of all fostered children. It is also doubtful that there is compliance with this provision, especially as it relates to children fostered informally, since the informal foster system is mostly unregulated and uncounted, with no robust data sources. In a digitally globalized world, the imperative of cataloguing the data of children placed under alternative/foster care systems cannot be overemphasized. The absence of a national database or registry for children in foster care is a significant gap in the foster care system as it currently operates in Nigeria and where it ought to be. Undoubtedly, a national database would enable the government track the number of children in foster care, the location of placement, the placement types, and their outcomes as well as aid policy makers and governments to adequately provide resources for those aging out of care. This information is crucial for developing evidence-based policies and programs that support children in foster care and prevent abuse. The UN Guidelines on Alternative Care emphasize the importance of data collection and monitoring, which Nigeria can implement by domesticating these guidelines.

Therefore, it is clear from the aforementioned challenges that there is a lack of standardized fostering practice in Nigeria, which causes children under foster care to be exposed to many risks and vulnerabilities. Based on the attendant challenges inherent in the foster care system in Nigeria, occasioned by the lacunas in the current legal

regime in Nigeria, there is need to effectively regulate the actions of foster parents, child care development officers and all concerned in child welfare in order to prevent the children from being exposed to several risks and vulnerabilities. The task of halting the nebulous and nefarious acts of abuse and exploitation of children lies, therefore, on the availability of action policies backed by appropriate and functional laws. As such, the article advocates for the need to codify the United Nations Guidelines on Alternative Care under the Nigerian laws to adequately cater for both formal and informal foster care practices in Nigeria.

### **CODIFICATION OF THE UNITED NATIONS GUIDELINES FOR ALTERNATIVE CARE IN NIGERIA'S FOSTER CARE**

The United Nations (UN) Guidelines on Alternative Care (2010) is a soft law and a non-binding international instrument which is intended to inform the approach to alternative care for children deprived of parental care or at the risk of being so (Harlow, 2022). In other words, the contents of the Guidelines are only persuasive and cannot be compulsorily foisted upon the member states. It is non-binding to the extent that it merely intends to inform the approach which member states can adopt to ensure alternative care for children. It does not put any mandatory obligations on the part of member States or any other concerned parties. It is reflected in the word choice of the guidelines; as such, the provisions of the Guidelines are formulated using the term "should" rather than "shall" or "must", except when existing fully-fledged rights, particularly those included in the UNCRC. The guidelines were born in a bid to give life and provide a strategic implementation approach for the UNCRC. Although the UN Guidelines on Alternative care portend a solid stance upon which a structure for child protection can be built in Nigeria, there are required procedures before it can be relied upon as a binding document to ensure Alternative/foster care for children deprived of parental care in Nigeria. It is trite that international instruments bear no force of law in Nigeria until same have been ratified and domesticated accordingly (Oyeniran, 2024; Enemo, 2021).

The significance of this practice has been demonstrated by the Courts in a plethora of cases in Nigeria. In the case of *Abacha v Fawehinmi* (2000), the Supreme Court held that international instruments not domesticated by the National Assembly have no force of law in Nigeria. Thus, in order to ensure enforceability, it is important to incorporate and codify the said guidelines under the Nigerian laws through the CFRN (Constitution of the Federal Republic of Nigeria, 1999) and/or other enabling statutes as well as to ensure that the government make policies in other to provide a framework to assist the government, public and private sectors as well as individuals and other organizations who are involved one way or the other with child care development.

It is imperative that all issues relating to the care and nurturing of children

should be treated as a fundamental right in Chapter IV of the Nigerian Constitution. This is largely owing to the fact that by virtue of varying circumstances, so many children may have to be fended for in placements other than their biological homes in which case there is the exposure to high risk of abuse of the rights of such children. Recognizing this potential challenge, the United Nations Guidelines on Alternative Care were developed in an attempt to promote the wide implementation of the UNCRC.

These guidelines are more specific in their outlook, giving special consideration and designed to ensure that children who cannot live with their parents receive appropriate, quality care (Usang, 2013). The said guidelines provide for best practices, global standards and principles that assist member states to develop and implement laws and policies that protect and promote the well-being of children in alternative care (Groza & Bunkers, 2017).

In Nigeria, these guidelines are crucial for guiding the care of children who are orphaned, neglected, abandoned or otherwise in need of alternative/foster care arrangements. The decision to provide children with foster care or maintain their family life without proper consideration could potentially have negative impacts or increase their risk, thus it is imperative to have a solid legal framework that seeks to protect children's rights. The current legal regime on foster care (CRA) is grossly inadequate and fraught with many gaps to which if the guidelines were to be strictly adhered to, the legal framework on foster care in Nigeria would assume a better posture towards the protection of children's rights. It would therefore be necessary to x-ray some of the key provisions of the UN guidelines on Alternative Care which are necessary for the incorporation and codification under the Nigerian laws as same would be a valuable tool for government, public and private sectors, individuals, and organizations involved in alternative/foster care systems.

The Guidelines invalidates the practice of subjecting children to foster care on uncorroborated and flimsy grounds. Poverty is one of the major reasons why children go into foster/alternative care. The Guidelines (United Nations General Assembly, 2010) states that removal of children should be a matter of last resort and that financial and material poverty should never be the only justification for separating a child from his or her family and boarding them into foster care or preventing reintegration, instead, these factors should be viewed as a signal indicating that such a family needs assistance. This advocacy for keeping families together emphasizes the importance of preventing family separation and placement in alternative care settings. Therefore, the state can render support services to aid indigent children and their families as well as care providers to ensure that families stay together. Instances of support include providing financial assistance, livelihood support, access to health services, education, parenting education, and providing short breaks or respite for the kinship or foster family. Community

support within the local community from village heads, religious leaders, teachers, healthcare providers, NGOs, community members, or the extended family can also be of great assistance. Supports should be tailored to each family's situation and include aiding families with household chores (especially when the parents are incapacitated due to ill health or some other challenges), counseling, recreational activities, and basic material support.

The state should ensure that children are not as a point of first call, admitted as candidates for foster care homes. But where necessary state interventions have been applied and proved insufficient, the state should then ensure through a gatekeeping mechanism that the admittance of the child into foster care, is genuinely needed and children are not unnecessarily separated from their families. If initial family supports are unsuccessful, placement in foster care should be preceded by an assessment of the child's physical, emotional, intellectual, and social needs, followed by frequent monitoring and follow-up visits. It is also imperative for the state to provide suitable care homes with minimum care standards that would tailor the peculiar needs of the child. Family-based solutions should however be preferred over interim or short-term care placement and institutional care placement.

Furthermore, this article observes that the CRA is largely silent on the foster care needs of children with disabilities. By implication, children with disabilities are disproportionately unrepresented under the current legal framework on foster care, notwithstanding that they require specialized care and support. The study conducted by Nwanze *et al.* (2024), capitalizes on the fact that disabilities mostly require special needs, and it is crucial that foster care systems acknowledge such peculiarities so that care utilities for such children are tailored accordingly. The UN Guidelines (United Nations General Assembly, 2010) provides guidance on supporting vulnerable families with capacities to care for children with disabilities. These provisions of the guidelines should be applied across board, including to boarding schools, hospitals, centers for children with mental and physical disabilities or other special needs, camps, the workplace and other places which may be responsible for the care of children. It is reasoned that many indigent parents who may be faced with children with special needs often nurse the ideas of relinquishing their children due to frustrations and family pressure. Some of these parents by themselves, may also be addicts of drugs or substances, or may be physically or mentally challenged thus becoming incapacitated to look after their children with special needs. It behooves therefore on the Nigerian legislature and executive through functional laws and policies to activate machineries that provide and build special public schools and health care facilities to accommodate and suit the welfare and protection of children with disabilities where their parents are unable to take care of them.

While the Guidelines (United Nations General Assembly, 2010) as

aforementioned, merely highlights the need for such, the foundation as provided by the Guidelines can be built upon, to robustly cover wholesome special needs. It is noteworthy that the Lagos State Special Peoples Law 2010 (Special Peoples Law, 2015) proposed that the Lagos State government shall provide and sponsor alternative care which includes foster care for children living with disabilities where their immediate family is unable to cater for them; The Bill (Special Peoples Law, 2015) was signed into law in June 2011. This is a laudable provision and should be effectively reproduced and applied in all states of the Nigerian Federation,

This article submits that Nigeria has no regulatory framework for informal foster care, the CRA merely provides for the procedure for formal child fostering which begins by an application to Court which said application, the Court would grant upon the applicant (intending foster parent) meeting certain laid down conditions (Child's Rights Act, 2004). The UN Guidelines (2010) present opportunities for the concerns of children in the informal care system, to be significantly addressed exhaustively by government and child care authorities owing to the significant role played by the extended family, community and friends at large in the lives of children without parental care. The Guideline (United Nations General Assembly, 2010) encourage informal caregivers, such as family and friends, to notify the government or child care authorities about the children they care for in order to receive any necessary financial and other support for the child's welfare and rights protection. The guidelines further advocate for the formalization of informal care arrangements over time. It would be a stride in the right direction to codify these provisions into the Nigerian law, as informal child fostering is prevalent in Nigeria and currently lacks legal oversight, thus leading to potential abuses.

The National Human Rights Commission has reported numerous complaints relating to informal foster care, highlighting human rights violations (Connelly & Ikpaahind, 2025). Research indicates that children in informal care have lower school attendance rates compared to those in parental custody, often facing exploitation and forced labour instead of education. Issues such as excessive household tasks, discrimination, and financial barriers contribute to school dropout rates (Roby, 2011). There is therefore the urgent need for a legal framework in Nigeria to regulate informal foster care in line with the provisions of the Guidelines (United Nations General Assembly, 2010) in order to address the vulnerabilities faced by children living outside parental care. Formalizing informal child fostering would help the government gather data and keep a register of all fostered children and provide necessary support and checkmate abuse.

The guidelines (United Nations General Assembly, 2010) also emphasize the necessity for an effective and impartial system where children in foster care can voice out their complaints regarding any unfair treatment by their carers. This feedback is

vital for addressing genuine cases of abuse, neglect, or maltreatment. Currently, Nigeria's legal framework on child fostering lacks provisions whereby children can report unfair and abusive treatments going-on in their care placements. Thus, it is a *sine qua non* for Nigeria through legislative interventions and executive action to establish a supervised mechanism for channeling complaints to enhance foster care protection laws. This could take the form of having dedicated phone lines, emails and offices within each state of the Federation with dedicated staffs to hear and handle such complaints.

To address the challenges posed by inexperienced foster carers, the guidelines (United Nations General Assembly, 2010) recommend that competent authorities in child care should create a training system for care workers and potential foster carers to effectively meet children's needs. It is advocated that there should be mandatory continuous training for social workers, teachers, police, foster parents and all involved in child fosterage to better equip them in handling children in care placements. The guidelines (United Nations General Assembly, 2010) further suggests maintaining a record of accredited foster carers in localities to prevent unqualified individuals from providing care. Nigerian laws should establish a procedure to identify interested foster parents, including extended family, friends, or professional fosterers, ensuring a permanency plan for children unable to reunite with their biological families. Having accurate data which should be updated from time to time would checkmate quackery. Furthermore, the Nigerian government should make budgetary allocations that support funding and incentives for foster parents to encourage them to participate in this process. In the United States of America (USA), there is an established system of foster care homes and foster parents, providing financial subsidies, medicaid, and free post-secondary education. The U.S.A (Font & Gershoff, 2020) also have implemented several federal legislations and policies to reduce time in foster care and establish a system of permanence for children aging out of foster care (children above 18years). The Child Abuse Prevention and Treatment and Adoption Reform Act (CAPTA) of 1974 enabled the sharing of data of children who had left care. This infrastructure is presently known as Adopt US Kids and it creates permanency for those aging out of care.

The overall aim of alternative care are reintegration or reunification but where this is impossible, the guideline (United Nations General Assembly, 2010) stipulates that agencies or foster care facilities should possess laid down plans of their work for the children to ensure adequate aftercare. In other words, a permanent after care plan for the children which could be in the form of formal, non-formal or vocational education as a preparation for them to become self-reliant or financially independent when they age out of care or turn adults. Nigeria lacks a permanent system for children who have left foster care or an established formal structure of foster parents. It is therefore imperative for the Nigerian government to develop policies to secure the

future of young adults in foster care. This includes creating a permanent aftercare plans that may involve formal, non-formal, or vocational education to help children become self-reliant or financially independent as they age out of care.

## CONCLUSION

It is clear that Nigeria lacks a standardized foster care system especially in the regulatory framework for informal foster care, and the UN Guidelines offer a significant opportunity to address the concerns of children in this system. This study therefore advocates for reforms in foster care that aligns with the UN Guidelines, which could lead to the development of family-based solutions. By domesticating these guidelines, Nigeria can develop a comprehensive legal framework for foster care that prioritizes the best interests of the child. This will involve developing clear guidelines on foster care arrangements, regulating residential and suitable care facilities, establishing a national database, training and monitoring of child carers and supporting children with disabilities. By taking these steps, Nigeria can ensure that children in alternative care receive the protection, care, and the support they need to grow and develop.

## RECOMMENDATIONS

In the light of the foregoing, the following recommendations are made:

- i. It is recommended that there should be the domestication of the UN Guidelines on Alternative Care in Nigeria since it is evident that the general framework for formal foster care is not sufficient to tackle underlying challenges faced by children placed thereof while there are no laws regulating informal child fostering. As such, the legislature and executive are encouraged to prioritize the domestication of the UN Guidelines on Alternative Care into national law. This can be achieved through amendments of the 1999 Constitution of the Federal Republic of Nigeria to include foster care bill of rights in Chapter IV. The Child Rights Act and /or other enabling statutes should also be amended to regulate both formal and informal foster care procedures. By codifying the UN Guidelines, Nigeria can establish a robust and child-centered approach to foster care, aligning its laws and practices with international standards.
- ii. It is also recommended that the government should also prioritize the promotion of family-based care as a preferred alternative to institutional care. This entails making foster care a consideration of last resort. This can be achieved by providing necessary financial and any other support and resources to strengthen families and suitable specialized residential care settings, including training and capacity-building initiatives. By promoting family-based care, the government can ensure that children receive the care and support they need to thrive.

- iii. It is recommended that a database be created for licensed foster parents in both the formal and informal child fostering system. This should be established to prevent abuse and neglect.
- iv. There should also be a focus by the legislature and executive to ensure the recruitment, training, and ongoing support of licensed foster families through compulsory annual budgetary allocations and funding to aid foster families particularly for those caring for children with special needs, with regular evaluations and the ability to revoke licenses if responsibilities are not met.
- v. Awareness-raising campaigns should also be conducted to educate the public about the importance of foster care and the rights of children in foster care. By raising awareness, the government can promote a culture of support and understanding for children in foster care, and encourage more individuals and families to consider becoming foster parents.
- vi. There should be a collaborative effort from government agencies, civil society organizations, and all other stakeholders in charge of child welfare to ensure the protection of children living in foster care. By working together, Nigeria can strengthen its foster care system, ensure the best interests of children, and align its laws and practices with international standards. This will ultimately contribute to the well-being, development and strengthening of children living in foster care in Nigeria.

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