

Age of Majority under Nigerian Law: The Quandary of Synchronization

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Abstract

The Constitution of the Federal Republic of Nigeria provides eighteen (18) years as age of majority. However, other laws like Contract law, Electoral law, Labour law, Land law, Marriage law, Criminal law have different provisions respectively concerning age of majority for different purposes, because of these different laws with different majority ages in them, it is difficult in Nigeria to actually situate and apply a particular age as commonly acceptable age of majority when issues that need age determination come up. Against this background, this work titled 'Age of Majority under Nigerian Law: The Quandary of Synchronization' using the doctrinal method of research had examined some provisions of the laws to see the possibility of harmonizing the age of majority in Nigeria has found out that, the legislatures in Nigeria had no justification and no specific reasons were given for selecting the different ages for the different purposes in the laws and that in Nigeria. History had equally shown that maturity is not determined by age alone as people who were younger in ages compared to the ages provided under some of the laws for contesting political offices had headed Nigeria before. It was also revealed that the law relating to land denies a person who is not up to 21 years a right to be granted right of occupancy over a land which is also contrary to practical realities on ground because those who are 18 years are qualified to marry by law and have families to cater for and therefore are given land under the customary law to farm, build and stay with their families and so to deny such persons grant of right of occupancy amounts to discrimination and contradicts the constitution which pegs eighteen (18) years as age of majority. Therefore, though this work discovered that it is difficult to have a common age of majority for the different purposes in the laws, it is however important and

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possible to harmonize the ages of majority in some areas of the laws to avoid contradictions. Some recommendations were made in this research to wit among others in the area of contesting and holding political offices and granting of right of occupancy in Nigeria, hence since mental maturity is not an exclusive preserve of those who are 40years and above, 25 years should be common age of majority for contesting political offices in Nigeria because at this age a person who finishes university and has work experience and is mentally stable would be matured and be able to man any political office and rule Nigeria. It was equally recommended that the legal regime for granting of rights of occupancy should be amended to accommodate 18 years as age of majority for holding rights of occupancy in Nigeria to come to terms with the realities on ground and avoid contradictions and discriminations.

Age of Majority under Nigerian Law: The Quandary of Synchronization.

In Nigeria, age of majority differs from one jurisdiction to the other and from one aspect of law to the other. This means that a person who is regarded as a child under a particular law may not be regarded as such in another. Nigeria faced with different challenging issues ranging from child marriage, non-capacity to contract, election problems, rape and other crimes has made provisions in different laws dealing with age of majority to tackle such issues. While the Constitution² which is the ground norm of the country fixed 18 years as full age, there are some other laws like; contract law, labour law, criminal law, electoral law and others with different years as ages of majority. The result is that different ages are prescribed as ages of majority for different purposes in Nigeria. This article looks at the various laws in Nigeria dealing with age of majority and particularly identifies the different ages of majority and suggests ways which these differences can be harmonized.

² The Constitution of Federal Republic of Nigeria (CFRN) 1999 S. 29

1. Eligibility to Vote

a. Electoral Act

Under the Electoral Act³, a person shall be qualified to be registered as a voter if such a person has attained the age of 18 years. This is in line with the provision of the constitution which pegs eighteen (18) years as full age⁴. However, it is important to note here that while the Constitution and the Electoral Act pegged 18 years as age of majority for voting, there is no reason provided by the Act and the Constitution for arriving at 18 years as voting age more so that even at the age of 16 years a person may have completed secondary school education and is allowed to enter into the university, therefore, it is logical to suggest that sixteen (16) years should be the age for voting.

Furthermore, it is equally important to note that while section 29 of the constitution pegs 18 years as full age, it provides in section 29(4)(b) that a woman who is married is deemed to be of full age. The question is, has section 29(4)(b) given any right to an under aged woman who is married to vote? The answer is obviously in the negative because the Electoral Act permits only those who are 18 years to vote in an election in Nigeria and therefore, the fact that a girl is forced into marriage does not add anything to her age to make her of full age for voting purpose.

The Electoral Law of Benue State⁵ provides that a person shall be entitled to vote at a local government election if the person is at least 18 years of age. This is the same with the provisions of both Electoral Act and the Constitutions which also fix 18 years as full age for voting. The said Benue State Electoral Law also states that a person shall be qualified for election as a Local Government Councilor if he is not less than twenty five (25) years old⁶ and is a registered voter.

³ CAP E6 *Laws of the Federation of Nigeria (LFN)* vol. 5, 2010 S. 12(1)(b)

⁴ CFRN 1999 Section 29

⁵ CAP 61 *Laws of Benue State* vol.1, 2004 S. 3(1)(d)

⁶ *Ibid* S. 54(11)

It is noted that the qualifying age for eligible voters is different from the age for eligible contestants into the local government council, it is therefore, submitted that 25 years should be full age for political positions whether local government council positions, state or federal positions all over Nigeria and 16 years be pegged as qualifying age for voting. This is because a person who enters university by age of sixteen (16) would have graduated at the age of 20 years or 21 years depending on the course of study hence as a graduate, one is capable of holding and managing public office effectively and therefore 25 years suggested for holding political offices is ideal more so that a person who graduates at the age of 20 years or 21 years must have acquired enough experience at the age of 25 years to enable him or her man a political office.

Under section 65 of the Constitution⁷ it is provided that a person shall be qualified for election as a member of;

- a. The Senate, if he is a citizen of Nigeria and has attained the age of thirty five (35) years.
- b. The House of Representatives, if he is a citizen of Nigeria and has attained the age of thirty (30) years.

It is also provided under the Constitution⁸ that no person shall be qualified for election into a House of Assembly unless he has attained the age of thirty (30) years and for the office of the president of the Federal Republic of Nigeria, a person shall be qualified for election if he has attained the age of forty (40) years⁹ for the office of the Governor of a state, a person is qualified for election if he has attained the age of thirty five (35) years¹⁰. The question is why the disparities in the age qualifications by the constitution for such positions? The legislatures have not stated any basis or reason for selecting the ages for the political offices and therefore one could

⁷ Ibid s. 65 (a) and (b)

⁸ Ibid S 106(b)

⁹ Ibid S. 131 (b)

¹⁰ Ibid S. 176 (b)

guess that the only reason might be that such persons will be matured to handle such positions. However, experience has shown that maturity is not determined by age alone because there is empirical evidence that those elected into the legislative houses in Nigeria have displayed an unwholesome attitude and immaturity at the floor of the house of the National Assembly and exchanged physical fist in the face of mere disagreement. For instance under President Goodluck Jonathan's administration, fight broke out in the National Assembly after 11 members were suspended for accusing the Speaker of corruption and they were told the allegation had embarrassed the house. Three (3) male representatives were dragged out of the chamber, their clothes torn in the brawl, a woman was also ejected.¹¹

Furthermore, under President Buhari's administration, a group of men stormed the Upper Chamber (Senate) of the National Assembly and took the symbolic mess and ran out with the mess as Senate members looked on. Amid uproar in the room, the men were filmed running out with the mess held aloof. A spare mess nonetheless meant that the session were able to continue before the stolen mess was found under a flyover at capital city of Abuja. Calling the incident as act of treason, Aliyu Abdullahi said it was an attempt to overthrow a branch of the Federal Republic of Nigeria.¹²

Thirdly, there are instances of people who were younger than 40years but ruled or ruling some countries including Nigeria. For instance; In Nigeria¹³ (1966), General Yakubu Gowon became the Military Head of State in Nigeria when he was 31 years, Murtala Muhammad was 37 years when he became Head of State in Nigeria, Olusegun Obasanjo was 39 years when he became the Head of State in Nigeria. In some other countries,¹⁴ we have Saleh Ali who became

¹¹ 'Fight in the Nigerian National Assembly' <https://www.google.com>
Accessed 15th June, 2019

¹² Ibid

¹³ <https://www.pulse.ng/bi/politics/nigeriadecides-the-5-youngest-head-of-states-in-nigerias-history/mq0sk9f>

¹⁴ <https://buzznigeria.com/youngest-presidents-leaders-world/>

President of Yemen at the age of 37, France President Emmanuel MaCrone that came to power at the age of 39, President Emil Dimitriev became President of Macedonia at the age of 37, Jigme Khesar Namgyel Wangchuck became leader of Bhutam at the age of 26, Kin Jong-Un became the President of the Democratic Republic of North Korea at the age of 28years, Vanessa D'Ambrosio was Head of State of San Marimo at the age of 29.

I therefore submit that age alone should not be the yardstick in determining the full age for contesting political offices, rather we need people who are focused, matured physically and mentally and who will make good representations to contest. Hence I suggest that the qualifying age for election into the National Assembly, Office of the President or Governor of a state or State House of Assembly should be at least twenty five (25) years, because a person of such age knows what it takes to lead except he/she is of an unsound mind.

2. **Eligibility for Contract**

The Child's Rights Act¹⁵ states that any contract except the contract for necessities entered into by a child for a payment of money lent or for payment of goods supplied to a child shall be void and no action shall be brought against a child by a person after the child has attained the age of majority to pay a debt contracted before age of majority whether or not there was new consideration for the promise or rectification after the child attained majority. It is however noted that the Child's Rights Act defines a child as a person under the age of eighteen (18) years¹⁶. It equally does not permit a person less than 18 years to enter into contract of marriage and makes marriage so contracted null and void.¹⁷ The said Act¹⁸ provides that no person, guardian or any other person shall betroth a

¹⁵ CAP C50 LFN vol.4, 2004 Section 18(1)(2)(3).

¹⁶ Ibid section 227

¹⁷ CAP C50 Laws of the Federation of Nigeria vol. 4, 2004 S. 21

¹⁸ Ibid S. 22(1)

child to any person. Any such betrothal is null and void¹⁹. The Act²⁰ makes it an offence to betroth or marry a child or to be betrothed by a child and puts a fine of ₦500, 000 or imprisonment for a term of five years or both for violation. These provisions hardly obeyed because till today children are getting married and betrothed in violation of the Law and no action is taken to address the violation as seen in the saga concerning Senator Yerima who married a thirteen (13) year old girl²¹. The question is, why is the law not being enforced against the violators. What is the reason for this apathy? The answer to this question maybe that the parents or guardians of most of the underage children who are involved in this kind of marriage hardly report such issues to the law enforcement agents and partly because they initiate the marriage and also benefit financially and materially from the violators and therefore it becomes difficult to get and persecute such culprits. It is therefore submitted that the punishment provision should be amended to read 10years imprisonment with no option of fine and should be implemented to deter people from violation.

The Infant Law of Benue State²² also provides that an Infant is a person under the age of eighteen (18) years does not include a woman who is or has been married. The Constitution which also defines full age to mean eighteen (18) years and above but has gone further to state that any woman who is married shall be deemed to be of full age²³. It is however, disturbing how both the Constitution and the Infant Law of Benue State would state that a woman who is married is regarded to be of full age whether or not she is up to eighteen (18) years. The implication is that there is no minimum age of marriage under the Constitution and the Infant Law of Benue

¹⁹ Ibid S. 22(2)

²⁰ Ibid S. 23

²¹ 'Controversy in Nigeria over Minimum Age of Marriage-Girls not Brides'. (2013) <https://www.girlsnotbrides.org/controversy-in-nigeria-over-minimumage-of-marriage/> accessed 20th March, 2019.

²² CAP 83 Laws of Benue State Vol. II, 2004 S. 2

²³ CFRN 1999 S. 29(1)(4)

State, no wonder Senator Ahmed Yerima married a 13 year old girl with ease in 2010²⁴. Another effect of section 29(4)(b) of the Constitution and Section 2 of the Infant Law of Benue State is that they are directed at women only and therefore discriminatory. This is because boys who are less than eighteen (18) years are not covered by the section which means that even if a boy is married but he is up to eighteen (18) years, he is not of full age while a woman who is not up to eighteen (18) years but is married is regarded as of full age. These provisions are not gender friendly and should be removed because a child is a child whether a boy or a girl. It is therefore submitted that both the constitutional and Benue State infant law provisions that provide exceptions to 18years age of majority should be amended because a child is a child whether woman or man and hence no child under the age of 18 years should be allowed to marry under the laws.

Under the Marriage Act²⁵, if either party to an intended marriage not being a consent widower or widow is under twenty one 21 years of age, the written consent of a guardian, father or mother if father is dead or absent from Nigeria must be produced annexed to affidavit before license can be granted or a certificate issued. While the Child's Rights Act defines a child²⁶ as a person who has not attained the age of eighteen (18) years, the Marriage Act still emphasizes that a person under age twenty one (21) still needs written consent of a father annexed to affidavit before marriage certificate is issued to a person below 21 years. What a contradiction?

According to Oyajobe,²⁷

²⁴Controversy in Nigeria over Minimum Age of Marriage-Girls not Brides'. (n...20)

²⁵ CAP M6 LFN vol. 8, 2004 S. 18

²⁶ CAP C50 vol 5, 2003, S 277

²⁷ A. Oyajobe, '*Better Protection for Women and Children under the Law*' in Kalu Awa U. and Osinbajo Yemi (eds) *Women and Children under Nigerian Law* (Federal Ministry of Justice. Law Review Series, 1989) (Vol. 6) 15.

The Joint Admissions and Matriculation Board requires the minimum age of sixteen (16) years for candidates to sit its examination, a successful candidate who enters into the university and completes a four years course still graduates at less than 20 years and therefore, it is unrealistic to hold a person who can be entrusted with voting rights incapable of making a decision to marry.

It is therefore submitted that eighteen (18) years be fixed as age of majority for marriage and other contractual relationships because there is no basis for limiting a person who is under 21 years but up to 18 years from getting married without consent of the parents or entering into a contract when the constitution itself makes him of full age otherwise it will be regarded as an infringement on one's fundamental rights of freedom from discrimination and equality before the law.

Labour Law

Under Labour Act²⁸ the parent or guardian of a young person above age of twelve (12) years and under age of sixteen (16) years may with consent of that person testify by his execution of a written contract of apprenticeship, apprentice that person to an employer to train him or have him trained systematically for trade or employment in which art or skill is required or, as a domestic servant, for any term not exceeding five years. The same Act²⁹ provides that a young person of sixteen years or above may apprentice himself for any term not exceeding five years to any trade or employment in which art or skill is required.

The Act states that no young person under the age of 15 years shall be employed or work in an industrial undertaking

²⁸ CAP L1 LFN vol.18, 2004 S. 49

²⁹ Ibid S. 49 (3)

provided that this section shall not apply to work done by young persons in technical schools or similar institutions if the work is approved and supervised by the ministry of education or corresponding department of government of a state³⁰. In addition to that, the Act³¹ provides that a young person under the age of fourteen years may be employed (a) on a daily wage, (b) on a day to day basis and (c) so long as he returns each night to the place of residence of his parents or guardian. This section shall not apply to a young person employed in domestic service. It also provides that no young person under sixteen years shall be employed in circumstance in which it is not reasonably possible for him to return each day to the place of residence of his parent or guardian except;

- a) With the approval of an authorized labour officer and
- b) On a written contract which; notwithstanding any law to the contrary, shall not be voidable on the ground of incapacity to contract due to infancy. This subsection does not apply to young persons employed in domestic service³².

No young person under age of sixteen years shall be employed³³

- a) to work under ground
- b) on mechanic work
- c) on a public holiday

It is however disturbing to note that these provisions are violated in practice because so many under aged people are employed in so many mechanic workshops and other prohibited work places for children. Therefore I suggest there should be an awareness created for both parents and other privately owned business outfits to know that provisions such as these exist in our law

³⁰ Ibid S. 59(2)

³¹ Ibid S. 59(3)

³² Ibid S. 59(4)

³³ Ibid S. 59(5)

and the implications of involving in their employment of the under aged persons. There should also be a provision for welfare scheme by the government to discourage child labour.

Section 61 of Labour Act which is on shipping provides that no young person under fifteen years shall be employed in any vessel, except where;

- a) The vessel is a school or tracking vessel and the work on which the young person is employed is (i) work approved by the ministry and (ii) supervised by a public officer or by a public department.
- b) Only members of the young person's family are employed

There is no reason given by this law for splitting the ages of children and grading them for different kinds of employment they are supposed to be engaged on and therefore, any person below the age of 18 years should be regarded as under age for purpose of all kinds of employment. The Labour Act should reflect eighteen (18) years only as age of majority for employment qualification and apprenticeship of any person below eighteen (18) years will require consent of either parents or guardian to avoid exploitation in work places this is because a person of 18 years is matured to determine the kind of job he or she wants to do or learn. This way, child labour will be minimized.

Eligibility for Joining in the Formation of a Company

Under the Companies and Allied Matters Act³⁴ it is provided that an individual shall not join in the formation of a company if he is less than eighteen (18) years of age. However, Section 20(2) provides that a person shall not be disqualified because he is less than 18 years if two other persons not disqualified under the subsection have subscribed to the memorandum. The question one needs to ask here is, whether the fact that two other people who are

³⁴ CAP C20 LFN 2004. S. 20

above 18 years have subscribed to the memorandum has changed the fact that a child who joins in the formation of the company is less than 18 years or has that fact added to his own age and made him an adult? The answer is in the negative. The same Act³⁵ by virtue of section 80(2) provides that a person under 18 years shall not be counted for the purpose of determining the legal minimum number of members of a company. This in itself does not make sense because how do you allow a child to join in the formation of a company because two other adults have joined and turn round to say the person should not be counted as a member. This provisions are contradictory and should be amended in such a way that a child who is not up to eighteen (18) years should not be allowed to join in the formation of a company whether or not two persons who are of full age and are qualified have joined already to avoid contradiction more so that the constitution has made 18 years age of majority.

Eligibility for Grant of Certificate of Occupancy

Under the Land Use Act³⁶, it is stated that it shall not be lawful for a governor to grant a statutory right of occupancy or consent for the assignment or subletting of a statutory right of occupancy to a person under the age of 21 years. This provision is baseless because it is unreasonable to say that a person who is eighteen (18) years in accordance with the constitution and other laws is qualified to vote in an election, marry and may have completed secondary school education is qualified to be in the university and even under customary law is exerted with responsibility at the age of puberty is not qualified to be granted a statutory right of occupancy by the governor or be given consent to assign or sublet a statutory right of occupancy. This provision of the Land Use Act is not in terms with the practical reality because those who are 18years are getting married and have families to cater for

³⁵ Ibid Section 80(2)

³⁶ CAP 15 LFN vol.8, 2004 S.7

and under Customary Law are even given land to build houses and for agricultural purposes. It is therefore submitted that, this provision of the Land Use Act be amended to eighteen (18) years as age of majority to reflect the realities on ground.

Eligibility for Making a Will

Under the Wills Law of Benue State³⁷, it is stated that a person who is not up to eighteen (18) years is not qualified to make a will except for people in actual military service or crew of a commercial airline on air or at the sea.

This provision is discriminatory, contradictory and baseless because it allows commercial crew members on air and sea to make wills whether or not they are up to 18 years without justification. The fact that they are crew members does not make them adult or super humans and therefore they should be no exception in the law. The law should take a definite position not to permit under 18years children to make wills.

Eligibility for Driving

Under the Road Traffic Law³⁸ applicants for driving license must be eighteen (18) years and above. Therefore, no license must be granted to persons under the age of eighteen (18) years. This provision is reasonable and should be maintained because at age of 18 a person is of full age and is matured and qualified to even be in the university, vote and even to have a family (marry).

Eligibility for Criminal Responsibility

The Criminal Code Act³⁹, provides that where in opinion of the court an offender who had not attained the age of seventeen (17) at the time the offence was committed has been found guilty of murder, such offender shall not be sentenced to death but shall be

³⁷Wills Law CAP 175 Laws of Benue State of Nigeria 2004 S.5

³⁸ CAP 147 Laws of Benue State 2004 S.10(5)

³⁹ CAP C38 LFN vol. 4, 2004 S. 319(2)

ordered to be detained during the pleasure of the President and upon such an order being made the provision of part 44 of the Criminal Procedure Act⁴⁰ shall apply. Part 44 of the Criminal Procedural Act provides for conditions attached to detention during pleasure of the president and it provides that

- a. When any person is ordered to be detained during pleasure of president he shall notwithstanding anything in the Act or in any written law contained be liable to be detained in such place and under such conditions as the president may direct and whilst so detained shall deemed to be in legal custody.
- b. The person detained during the pleasure of president may at any time be discharged by president on license.
- c. A license may be in such form and may contain such conditions as the president may direct.
- d. A license may at anytime be revoked or varied by the president and where a license has been revoked, the person to whom the license relates shall proceed to such place as the president may direct and if he fails to do so, may be arrested without warrants and taken to such place.

The Penal Code (PC)⁴¹, states that; No act is an offence which is done by

- a) A child under seven (7) years of age or
- b) A child above seven years of age but under twelve years of age who has not attained sufficient maturity of understanding to judge the nature and consequences of the Act. The issue is, how do we determine whether a child is capable of understanding to judge the consequences of the act he has done. The Penal Code has not provided how it should be done. It is, therefore, submitted that a laid down procedure should be provided to be followed in determining whether a child understands his/her actions.

⁴⁰ CAP C41 S.401

⁴¹ CAP P3 LFN vol. 13, 2004 S.50

By the provision of the Evidence Act⁴²,
“In a proceeding in which a child who has not attained 14 years of age is tendered as a witness, such a child shall not be sworn and shall give evidence otherwise than on oath or affirmation. If in Court’s opinion he is possessed of sufficient intelligence to justify the reception of his evidence and understand the duty of speaking the truth a child who has attained 14 years shall give evidence⁴³. If a child whose evidence is received under this section, willfully gives false evidence in such circumstances that he would, if evidence had been given on oath have been guilty of perjury, he shall be guilty of an offence and on conviction shall be dealt with accordingly”⁴⁴.

A child who is up to fourteen (14) years should be able to understand the duty of speaking the truth except if he/she is of an unsound mind and therefore, should be made to give evidence on oath and should take responsibility if he/she tells lies.

By the provision of Criminal Code Act⁴⁵, any person who unlawfully and indecently deals with a boy under the age of fourteen years is guilty of a felony and liable for seven years imprisonment. The term ‘deal with’ includes doing any act which if done without consent would constitute an assault. The question is, does consent justify the act or does it make the victim of full age? It is submitted that this provision is baseless and therefore whether with consent or not the offender should be held liable. However, Section 218 CCA⁴⁶ states that a person who has unlawful carnal knowledge of a girl

⁴² CAP E14 LFN vol.6,2004 S. 209(1)

⁴³ Ibid S. 209(4)

⁴⁴ Ibid S. 209(4)

⁴⁵ CAP 38 LFN vol. 4, S. 216

⁴⁶ Ibid S. 218

under age of 13 years is guilty of a felony and liable for life imprisonment with or without caning and any person who attempts to have unlawful carnal knowledge with a girl under 13 years is guilty of a felony and liable for fourteen years with or without caning.

The Act⁴⁷ also provides that, any person who has or attempts to have unlawful carnal knowledge of a girl being of or above thirteen years and under sixteen years is guilty of a misdemeanor and liable for two years of imprisonment with or without caning. The distinction between the ages here are not necessary. Secondly, the difference between the punishment to be meted on the offenders under section 216, 218 and 221 are not justifiable and therefore discriminatory. This is because the fact that a boy is less than fourteen (14) years and a girl is less than thirteen (13) or is not up to sixteen (16) years when the Act is done on him/her does not make him/her less a child. A child is a child and therefore it is submitted that same punishment should be given to those who have unlawful carnal knowledge of a child that is less than 18 years whether boy or girl. Under the Child's Right Act⁴⁸ No person shall have sexual intercourse with a child i.e. a person less than 18 years. Any person who contravenes the section commits offence of rape and liable on conviction to imprisonment for life. This is good law and should be included in the Criminal Code Act to deter intending offenders.

In the case of *Oludotun Ogunbayo v The State*,⁴⁹ the accused raped a girl of thirteen (13) years of age without her consent at Oke-Ijebu Abeokuta, Ogun State contrary to section 357 of the Criminal Code CAP 29 vol. 11 Laws of Ogun State 1978 and punishable under section 358 of same law. He was found guilty and sentenced to seven (7) years imprisonment with hard labour, or in its lieu, to fine of ₦5, 000. The punishment given to the offender here is too meager compared to the gravity of offence he has committed. By virtue of

⁴⁷ Ibid S. 221

⁴⁸ CAP C50 vol. 5, S. 31

⁴⁹ (2005) Sc 272 Per Ikechi Francis Ogbuoagu J.S.C

the provisions of the Penal Code⁵⁰, no sentence of imprisonment shall be passed on a person who in the opinion of the court is under fourteen years of age. The age here should be raised to 18 to avoid putting under age children into prison and mixing them up with hardened criminals who may have more negative influence on them, more so that the constitution has fixed 18 years as age of majority in Nigeria. By virtue of Criminal Procedural Act⁵¹, where in opinion of court an offender under seventeen (17) years at the time of committing the offence is found guilty of a capital, offence, sentence of death shall not be pronounced or recorded, but in lieu thereof the court shall order such a person to be detained during the pleasure of president and if so ordered he shall be detained in accordance with part 44 of this Act notwithstanding anything to the contrary in any written law. Part 44 of Criminal Procedural Act as earlier stated provides the conditions attached to detention during the pleasure of the President. The Criminal Procedural Act⁵² also provides that, in addition to and not in mitigation of any powers which a court may possess to hear proceedings in camera the court may, where a person who is in the opinion of the court has not attained the age of seventeen is called as witness in any proceedings in relation to an offence against or any conduct contrary to decency or morality, direct that all or any person not being members or officers of the court or parties to the case, their legal practitioners or persons otherwise directly concerned in the case, be excluded from court during the taking of the evidence of such person. It is submitted that sixteen (16) years should be provided in our criminal law as majority age for taking full responsibility for Criminal Act. A person who is 16 years is matured for criminal purposes to know what a crime is and the consequences of it and therefore should be responsible for his/her criminal act. However, sentence of imprisonment should not

⁵⁰ CAP P3 LFN vol.3, 2004 S. 69

⁵¹ CAP C41 LFN vol. 4 S. 368(3)

⁵² CAP C41 LFN vol. 4 S. 204

be passed on him rather he should be taken to reformation home to avoid mixing him up with harden criminals.

Recommendations

Going by the provisions of the Electoral Act under section 12(1)(b), the Constitution of the Federal Republic of Nigeria and section 3(1)(d) of the Electoral Law of Benue State, it is obvious that only the person who has attained the age of 18 years is qualified to vote in an election in Nigeria. However, it has been found out that at 16 years a person is qualified to enter the university, more also that there is no practical reason given by the Laws for pegging 18 years age of majority for voting. It is submitted therefore that, our law should be amended to accommodate 16 years as majority age for voting because a person who is 16 years and qualified to be in the university should also be qualified to determine who he/she would vote for in an election or who should lead him.

Secondly, the constitution of the Federal Republic of Nigeria by virtue of section 65 provides ages 35 and 30 years respectively for qualification into Senate and House of Representatives and under section 106(b) it is provides for 30 years for House of Assembly of States. It equally provides 40 years 35 years for the positions of both President of Nigeria and Governor of a state respectively without giving any reason for the differences in the ages for those positions. It is therefore recommended that, 25 years be made age of majority for contesting any political office in Nigeria because a person who enters the university at the age of 16 would have graduated at the age of 20 or 21 depending on the course of study and therefore it will be unreasonable to continue to hold that a person who has graduated from the university and is capable of accepting a job in any company or any government ministry in Nigeria as a senior staff and who may have acquired working experience for 4 -5 years after graduation from the university is not capable of contesting a political position in Nigeria. More so that across the world and during the military rules in Nigeria, we have evidence of people who were less than 40 years

that are ruling many countries in the world and were Heads of State in Nigeria.

It is submitted that there is no basis for maintaining 21 years as age of majority for contract of marriage or requiring that consent of a parent or a guardian be obtained before a person who is 21 years marries. This is more so that even the Constitution of Nigeria has provided 18 years as age of majority and therefore it is reasonably recommended that 18 years should be age of majority for marriage for to maintain 21 years as age of majority by any law will amount to an infringement on the fundamental right of freedom, from discrimination and equality before the law. It is equally submitted that the punishment provision for betrothing or marrying a girl under 18 years should be increased to 10 years of imprisonment without option of fine and the punishment provision should be implemented to deter intending offenders. Government should also provide welfare schemes that will encourage parents take care of their children so as to discourage them from giving out their underage children for marriage. It is equally submitted that, section 22 of the Child's Rights Act be equally applicable to boys who are under 18 years because it is discriminatory and gender unfriendly as the provision stands now.

In addition, there is no basis for splitting the ages for which a child will be employed. As long as a child is less than 18 years, he/she is a child and should not be engaged for any employment except for apprenticeship to learn a skill. The skills requiring apprenticeship of children less than 18 years should also attract consent of parents or guardians. It is equally recommended here that our governments should make it compulsory for parents to send their children to school or to acquire skills and discourage child labour. Welfare packages like free education should also be provided by the government to discourage child labour.

Furthermore, the Companies and Allied Matters Act (CAMA) which does not allow a person under 18 years to join in the formation of a company and yet allows him to join if two persons

who are of full age have already joined by virtue of section 20 is contradictory because the fact that two persons who are qualified to join in the formation of a company have already joined does not make an underage an adult and therefore it is recommended that the Act should expressly prohibit an underage person from joining in the formation of a company more so that he will not be counted when determining the minimum number of members of the company even if he joins as provided by section 80 of CAMA.

To add to the above, the Land Use Act which only allows a person who is 21 years and above to be granted Statutory Right of Occupancy or consent to assign or sublet Statutory Right of Occupancy has no basis to hold that a person who is up to 18 years and of full age as provided by the constitution and is qualified to marry and take care of his family is not qualified to be granted Statutory Right of Occupancy in Nigeria and therefore, it is recommended that 18 years should be age of majority for granting Statutory Right of Occupancy to accommodate realities on ground.

The Criminal Code Act by virtue of section 216, 218 and 221 which splitted the ages of children in relation to indecent dealings and provided different categories of punishment for different sexes should be amended because the Act is discriminatory as it relates to punishment for indecent dealings with children. Therefore, since the Constitution and Child's Rights Act have provided 18 years as majority age, eighteen (18) years should be maintained as full age for sex in our Criminal Law and therefore any person that has sex or tries to have sex with a person of less than 18years whether a boy or a girl with or without consent of the child should be imprisoned for life as provided under section 31 of the Child's Rights Act.

Conclusion

Nigerian laws in regards to age of majority are many ranging from contract, labour law, land law, electoral law, criminal law, marriage and company laws etc. Each of these laws contains

different provisions relating to age of majority to address different issues. Since the laws do not have common ages of majority, there appear to be some contradictions in the laws themselves. The constitution which is the highest legislation in Nigeria fixes 18 years as majority age but contradicts itself and is also discriminatory and gender unfriendly. This is because why it provides 18years as full age it also states that a woman who is married is deemed to be of full age which means that whether a woman is 2 years or 3 years as long as she is married, she is of full age while nothing as such is said about an under aged boy who is married. The provision also encourages child marriage. The law relating to contesting or holding political positions and grant of certificate of occupancy do not equally reflect the practical reality.

This work has identified contradictions and uncommon ages of majorities in our laws and has made several recommendations in regards to the differences which if accepted may not totally lead to having a common age of majority in Nigeria but will at least harmonize many duplicating ages of majority in some of the laws.