



THE PROBLEM OF CHILD LABOUR IN NIGERIA: A CALL FOR ADEQUATE LEGAL PROTECTION

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Abstract

Child labour have negatively impacted greatly on children and is gradually distorting the hope and future of the society by many of the future leaders who take part in laborious activities. Over the years, however, global consciousness about the seriousness of the problem has been created. International, National and Regional legislations aimed at eradicating child labour exist but there are drawbacks. This paper analysis several laws on the protection of child's rights against child labour. The different forms of child labour, causes, nature and consequences of child labour were also analysed. After carrying out the research, it was discovered that despite the huge adverse impact of child labour in our society today, the laws in place to help cushion the effect and eradicate this cankerworm have many drawbacks, which includes non-uniformity of the laws. Different Child labour instruments have their own definition of a Child, it therefore become difficult to ascertain who a child really is, and what constitutes child labours. The laws seems to be paper tigers, bereft of enforceability. It is therefore recommended that the Child Right Act should be domesticated in all States in Nigeria.

Keywords: *Child, Rights, Child rights, Child labour*

1.0 Introduction

Children are vulnerable members of the society, with little or no idea about their rights and how such rights should be protected. Many children, at one point of their childhood have been exposed to violation of their rights. Children like every other citizen of the society have rights, such as the right to life, right to dignity of human person, right to personal liberty, education and other inalienable rights, which includes their right to protection from abuse and violation. Members of the society, who should protect them, expose most children, especially from the poor background to all forms of violation and abuse. Some poor parents expose and put the lives of their children under the care of extended family members or other persons as helpers and domestic servants, since they cannot afford the education of these children, believing that their children would achieve education and become meaningful citizens in the future, but often times, the children are exposed to all sorts of torture and dehumanizing treatment which adversely affects their education and development. Child labour entails the use of children in industry or business, especially when illegal or considered inhumane.

Regrettably, parents in some cases expose their children to child labour in a bid of having their children assist or help them in their daily endeavor. Rather than sending a child to school for personal development, those in whom they are under their care subject them to street and road hawking, begging,

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apprenticeship, salon work, loading and offloading of vehicles, etc., which at times runs from dawn to dusk.

Child labour exposes the child to different forms of abuses and torture and violation of the rights of the child. The rising case of Child labour has remained a problem in Nigeria. An instance is; In Northern Nigeria, Kaduna State precisely, over 300 persons were rescued by the police from an Islamic boarding school in September 2019. Among those rescued were children most of whom were between five years of age and under the age of eighteen. The place where these people were was tagged “house of torture” as every child there had visible marks of torture on their mortal bodies. Most of them were also chained, and constantly beaten and raped by those who “teach” in the school, thereby violating their fundamental human rights. Other cases of child violation, abuse and child labour would be discussed in other chapters.

Children in Nigeria are subjected to the worst forms of child labor, including in quarrying granite, artisanal mining, commercial sexual exploitation, and use in armed conflict, each sometimes because of human trafficking. It is pertinent to state that laws, being a dynamic tool in development, has been employed at different times to protect children and their rights. Nevertheless, the legal enforcement of these legislations remains a challenge.

This paper focuses on identifying the causes and consequences of child labour in Nigeria and ways forward towards the eradication of child labour in Nigeria.

2.0 Historical Development of Child Labour

Child labor has been practiced throughout most of human history. If we turn the pages of History, we see in the bible that there was a custom for youth to serve as aides to their adult counterparts. For example, David served King Saul². In Greece, this practice was considered an educational tradition. In India, children used to help and accompany their parents in agricultural and other household activities in ancient times. Thus, we see that child labour is not quite a new thing to the world, but it reached its peak during the Industrial Revolution. In 1780 and 1840s, there was a massive increase in child exploitation. During the industrial revolution, it was commonplace to employ children in factories, mines and plantations and they were often forced to crawl inside of heavy machinery in order to fix it, working 12 to 18-hour days for little to no pay. Children were used for cheap labour, exposing them to very vigorous task.

Work considered “child labor” often interferes with a child’s schooling, requires them to leave school prematurely or requires them to combine school attendance with excessively long or heavy work. During the industrial revolution, many humanitarian efforts were launched with the goal of ending child labor. In 1904, the National Child Labor Committee (NCLC) was founded in the United States with the mission of promoting the rights, awareness, dignity, wellbeing and education of children and youth as they relate to work and working. As of 2012, the ILO states that there are around 5.5 million children working in slavery. These children are and have historically been used for profit making. They have been threatened with violence, exploited in illicit activities and forced to work in unsafe and uncomfortable conditions. Areas of child slavery today include sex trafficking, factory and construction,

² The Holy Bible, 1Samuel 16:21-23.



agriculture, mining and even armed conflict. Child labor is most prevalent in developing countries. The ILO has been fighting to raise awareness of the history of child labor and enforce legislations that would define child labor and eliminate the scourge. As more countries have adopted these conventions, child labor has decreased in number. Goal number eight of the ILO's 2030 Development Agenda is aimed at decent work and economic growth. Included is the goal to end child labor by the year 2025.

3.0 Definition of Terms

3.1 A Child

A child is descriptively the natural offspring of another and might also represent any person who has not attained adulthood. A child is a person legally recognized as such, with rights and obligations of his own, independent of, and distinguishable from those of his parents. Section 9.1 of the Labour Act 2004³ defined as child as a young person under twelve (12) years whilst section 2 of the Children and young Persons Law⁴ defines a child as a person below 14 years.

A child means 'A person between the period of infancy and youth'.⁵ According to Article 1 of the United Nations 1989 Convention on the Rights of the Child (UNCRC), a child is 'every human being below the age of 18 years unless under the law applicable, majority is attained earlier'.⁶ Similarly, the African Charter on the Rights and Welfare of the Child (ACRWC) defines a "child" as any human being below the age of 18 years⁷. The 2003 Child Rights Act (CRA) also defines a child as a person who has not attained the age of 18 years.⁸

From the above definitions, a Child is generally a person below 18 years. The International Labour Organization (ILO) Minimum Age Convention 1973 allows State parties by a declaration appended to their ratifications to stipulate that children who are not less than 15 years and, in some circumstances, not less than 14 years may be admitted to employment within their territories. The ILO Convention⁹ provides that where the health, safety and the morals of a child is likely to be endangered, the minimum age for employment should not be less than 18 years.

From the foregoing and for the purpose of this paper, the accepted age of majority is 18years, except where labour is concerned, the minimum age of work seems to lower the standard.

3.2 Labour

Labour means physical or mental effort, human activity that provides the goods and services in an economy.¹⁰ Black's Law Dictionary defines labour as 'work of any type, including mental exertion'. It went further to define a labourer as a person who makes a living by physical labour-a worker.¹¹

³ Cap L1 Laws of the Federation of Nigeria (LFN) 2005

⁴ Laws of Lagos State Cap C10, 2004

⁵ Merriam-Webster Incorporated, *Webster's All-in-one Dictionary and Thesaurus* (Federal Street Press 2008) 104

⁶ J. Ogunsakin 'A Legal Prognosis of Child Labour under the child Rights Act' (2008)

⁷ Article 2 of the African Charter on the Rights and Welfare of the Child

⁸ Child Rights Act 2003, S.277

⁹ Article 3(1) ILO 1973 Convention 138

¹⁰ Merriam-Webster Incorporated (n5) 363

¹¹ *ibid*

Labour is the amount of physical, mental and social effort used to produce goods and services in an economy. It supplies the expertise, manpower and service needed to turn raw materials into finished products and services.¹² The concept of labour is problematic to apply to the many activities done by children, as there is a growing consensus that not all those activities are equally intolerable.¹³

From the definitions above, all authors and books described labour as work that causes a person to exert energy. For the purpose of this research, Labour is defined as a strenuous activity carried out, in order to make a living.

3.3 Child Labour

Child labour is any work that deprives a child of its childhood and right to education or that is damaging to the physical, mental moral and social well-being of the child.

‘This term typically focuses on abusive practices such as exploitative factory work, slavery, sale and trafficking in children, forced or compulsory labour such as debt bondage and serfdom; and the use of children in prostitution, pornography, drug trafficking, or anything else that might jeopardize their health, safety or morals’.¹⁴

In Nigeria, it is estimated that about 24.6 percent of children within the ages of 10-14 are working.¹⁵ Any exploitative work, which is harmful to the development of a child, is termed child labour. Generally, the concept of child labour is not amenable to an easy definition hence it has no universally acceptable one. This is mainly because a person considered a child in one country may not be a child in another while labour in one may not be so in another.

The International Labour Organization (ILO) defined child labour as;

‘Work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development. It refers to work that is mentally, physically, socially or morally dangerous and harmful to children, and interferes with their schooling by depriving them of the opportunity to attend school, obliging them to leave school prematurely, or requiring them to attempt to combine school attendance with excessively long and heavy work’¹⁶

3.4 Rights

Rights are legal, social, or ethical principles of freedom or entitlement; that is, rights are the fundamental normative rules about what is allowed of people or owed to people according to some legal system, social conventions, or ethical theory. Rights are that which is morally correct, just or honorable.

¹² K Amadeo, ‘Labor, one of the Four Factors of Production: Why your Work is Critical to the Economy’ *The Balance* (December 14, 2018) <https://www.thebalance.com/labor-definition-types-and-how-it-affects-the-economy-3305859> accessed 26 December 2020

¹³ F Humbert, *The Challenge of Child Labour in International Law* (Cambridge University Press 2009) 16

¹⁴ Garner (n2) 273, Art 2 (2) Minimum Age Convention 1973 No 138

¹⁵ International Labour Organization (ILO) (2008).

¹⁶ P Chand, ‘Child labour: An overview of its causes, consequences and necessary measures’ (2017) (3) (1) *International Journal of Humanities and Social Science Research*, 97.



According to John Austin, right is a faculty which resides in a determinate party or parties by virtue of a given law and which avails against a party or parties (or answers to a duty lying on a party or parties) other than the party or parties in whom it resides.

Sir John William Salmond defined right as an “interest which is protected and recognized by the rule of law. It is an interest which has its duty and disregard of which is wrong”. According to Sir Erskine Holland, “A right is a capacity residing in one man of controlling, with the assent and the assistance of the state, the action of others. According to him, every right gets its validity by State.

3.5 Child’s Rights

Child's rights is a subset of human rights with particular attention to the rights of special protection and care afforded to minors. Millions of children worldwide are engaged in child labour. Much of this work is harmful, hazardous or even dangerous to their health and to their future life development. Children everywhere should be able to have a real childhood, to play, to learn at school and to dream of a better future with positive prospects and achievements in all areas of their lives. However, eradicating child labour is a difficult and complex task because many families send their children to work, not because they want to, but because they have to. They may not have enough household income or enough money to pay school fees or medical bills, without the child working.

The question whether children have legally recognized rights, and what the nature and extent of such rights should be, has been the topic of vigorous debate in courts, legislators, scholarly and popular journals since the sixties.¹⁷ Children have been presumed to lack the capacity of adults and be under the control of their parents.¹⁸ However, parents should not subject their children to harmful activities, whilst under their control and protection.

Child’s right is defined based on all the human rights laid down in the constitutions or any other domestic legislation of the child’s country, and the rights in international conventions or declarations. The rights of a child are those human rights that are specifically granted to the child because ‘the child by reason of his or her physical and mental immaturity needs special safeguards and care, including appropriate legal protection, before as well as after birth’ which applies to all children. Examples are; the right of the child to the highest attainable standard of health, right to adequate standard of living, right to education and protection from all forms of violence.¹⁹

Franklin observes that today children have rights in both international and domestic law.²⁰ This is evidenced by the unanimous adoption of the Convention of the Rights of the Child in 1989 with 198 state parties, willingly endorsing it, and its entry into force less than a year after in 1990. The perception now is that children are no longer mere recipients of services or beneficiaries of adult protections. Rather

¹⁷Freeman & Veerman (eds), *Ideologies* 3; Wald 1979 *UCDLR* 255.

¹⁸O Ekundayo, ‘Does the African Charter on the Rights and Welfare of the Child (ACRWC) only Underlines and Repeats the Convention on the Rights of the Child (CRC)’s Provisions?: Examining the Similarities and the Differences between the ACRWC and the CRC’ (2015) 5[7(1)] *IJHSS*, 143.

¹⁹Freeman (n22) 255.

²⁰B Franklin, ‘The Case for Children’s Rights: A Progress Report’ (1995), in: *The Handbook of Children’s Rights: Comparative Policy and Practice*, (London: Routledge).

they are right holders, as well as participants in matters affecting them, and therefore should be respected in their individuality.

There is also the concern that children, if given rights will undermine the role of parents in raising their children and this will have a negative effect on the family unit, therefore children having rights is viewed as anti-parent.²¹ This fear is unfounded, as both the CRC²² and the ACRWC²³ have provisions, which recognize the family as the fundamental group of society. The two instruments both acknowledge the importance of parents and the family, and the family environment as an atmosphere of happiness, love and understanding for the growth and well-being of its children.²⁴

In a bid to check the abuses which children especially in Nigeria have been exposed to over the years including hawking, child labour, child trafficking, the Child's Rights Act was passed into law. It is a comprehensive piece of legislation encompassing all aspects relating to the welfare and care of the child, as well as Child justice.

4.0 Causes of Child Labour

The existence of child labour in Nigeria can be blamed on a number of factors. These include economic, cultural, parental, educational, personal, over population and so on. Specifically, the various causes of child labour will be discussed below.

4.1 Poverty: Poverty is a major factor that drives child labour in Nigeria. The inability to live a decent day to day life because of lack of means has brought patent hardship on families of which children are part. Most have now resolved to survive by having "all hands" (including those of children) on deck. Consequently, children are forced to care for themselves by themselves.

4.2 Overpopulation: Child labour is practiced more in India, China and Africa because of over population. Where an underprivileged family has a minimum of three to four children, there is not much scope for people to earn well hence; they make their children the most desirable medium to earn daily wages for the family. People having more children face difficulties in planning for their kids' education, clothing and jobs. In addition, as such give their children out to hard labour from sometimes as low as 6 years old.

4.3 Parental Neglect: Although it is naturally the obligation of parents to train, cater for and nurture their children and whereas children have the right to rely on their parents and expect to be catered for²⁵, parents in some cases fail to provide basic necessities, such as; food, sustenance, medicare and other necessities. The result is that children, who must survive first, resort to working especially menially to make ends meet even when they are least prepared for it physically.

²¹O Ekundayo, 'Does the African Charter on the Rights and Welfare of the Child (ACRWC) only Underlines and Repeats the Convention on the Rights of the Child (CRC)'s Provisions?: Examining the Similarities and the Differences between the ACRWC and the CRC' (2015) 5[7(1)] *IJHSS*, 127.

²²CRC, Articles 2, 5.

²³ACRWC, art 9, 18, 20.

²⁴O Ekundayo, 'Does the African Charter on the Rights and Welfare of the Child (ACRWC) only Underlines and Repeats the Convention on the Rights of the Child (CRC)'s Provisions?: Examining the Similarities and the Differences between the ACRWC and the CRC' (2015) 5[7(1)] *IJHSS*, 127.

²⁵CRA, s 14(c)

4.4 Culture: It is obligatory in some parts of Africa to have children work as early as possible in life in order to prepare them for tomorrow. The Nigerian culture encourages a child to work and develop skills; Children are considered as assets to generate income in time of poverty. Most families see their children as God given helpers to elevate them from poverty, hence expose them to labour.

4.5 Urbanization: The quest for *eldorado* and the golden age in cities has brought tremendous pressure on young ones to move to urban areas where they hope to get jobs. Children whose parents are unable to care for them have joined in the job hunt for the time being. Because of the reality of not having a place to stay, these children work at every conceivable place to keep life going.

4.6 Illiteracy: Education makes a huge difference in every society. In an educated society, it is quite different as people understand the importance of attending school with a consciousness of getting employed in government jobs or in other organization or even becoming an employer of labour. On the other hand, illiterates undermine the value of education and do not realize its importance. Illiterate parents are more prone to giving their children out in exchange for physical benefits, they are uneducated themselves and unexposed, they do not understand the need for wholesome, physical, emotional and cognitive development of the child.

4.7 Cheap Labour: Shopkeepers, factory owners, and companies who employ children do so so that they can pay them less. In this way, they make more profit at the detriment of the health of the children. They make these children work more than an adult would do as they can be easily manipulated and influenced, which leads to them being exploited.

5.0 Forms of Child Labour

Most children, inclusive of those in school and those not attending school, are engaged in some form of work. There are various forms of child labour, which would be discussed below.

5.1 Apprenticeship

Apprentices are contracted to an employer for a specified period to learn a trade, skill or craft. In most cases, the employer is paid a fee by the child's parents or guardian for the training he imparts, while he barely provides the child with upkeep and accommodation. The child is obliged to do anything his or her master directs him or her to do, without complaints, as it is seen as a form of training. There are no legal regulations governing apprenticeship and the efficiency of the training provided depends on the willingness of the "master" and the competence of the apprentice.

5.2 Employment to do light work: Light work is said to be work that enhances a child's development especially if it includes legitimate apprenticeship opportunities²⁶, there is no particular way of recognizing it under the Act. It is not unlikely that what is ordinarily conceived as training for the child may turn out to be a recipe for exploitation and labour even if it is indirectly so.

5.3 Lifting, Carrying and Moving Heavy Objects: Regardless of section 28(1) (c) of the Child's Right Act to that effect, children even those as young as eight engage in work that may in its entirety be based on lifting, carrying or moving heavy things and equipment. For example, many persons under

²⁶ Bhalotra and Tzannatos, 'Child Labour: What have we learnt' Social Protection Discussion Paper 2002.



the age of 18 are employed to engage in building at various construction sites where planks, logs, iron rods; bags of cement among others are moved from place to place on a daily basis.

5.4 Employment as Domestic Help: Nothing has come as close to slavery or slave trading as the practice of engaging children and young persons as domestic help or labourers. The situation in the cities and metropolis where everyone is a breadwinner has been blamed for the practice. This means only very little can be achieved in the home front in terms of management, chores and procurements. Many have attempted to solve their problems in this direction by pushing the burden to domestic servants who in most cases are children of financially disabled parents looking for succor.

5.5 Child Begging

This has negative psychological, social and health consequences. The three categories of child beggars are, those who lead blind parents or relatives, those who beg entirely on their own and those who act as fronts for their parents, especially mothers, who are usually hidden from public view but supervises them from a close distance, The country is replete with a growing number of child labourer beggars due to ineffectual laws.

5.6 Street Trading

This is also known as hawking. Majority of those who hawk on the streets, in motor parks, highways and brothels are children. They are usually goaded into service by parents whose hope is that the child will learn to help himself and his family through hawking. Children therefore are made to hawk without rest and leisure²⁷ leading to ill-health, dizziness and getting knocking down. There is also the reality of rape, ritual murder and untimely death.

6.0 Consequences of Child Labour

Child labour is considered as an epidemic of the global economy and society. It has many undesirable effects with regard to children's education, mental and physical development. Immature and inexperienced child labourers probably never realize the short and long terms risks associated with their work. Their work, in fact, steals their childhood. We shall look at some of the effects of child labour.

6.1 Health implication: Children's welfare should prevail over any activities that could endanger the child's health such as; malnutrition, diseases and infection that threatens the future of children and the nation. Most children exposed to child labour are poor, so most of them suffer from malnutrition. As they are engaged to carry out, physically strenuous activities coupled with physical weakness, which may lead to stunted growth. Child labourers are also exposed to injuries, pains pneumonia because they hawk under the rain, poisoning, scabies, eczema and other diseases, for want of proper body care.

6.2 Social Effects: Many children labourers are exposed to smoking and dealing in drugs; either selling or consuming drugs, which is risky to their life. They become miscreants most times. Children who spend time doing labour instead of with peers in social play to learn the basis of interactions are at higher risk of developing problematic social behaviors like aggression and drug abuse. They also suffer

²⁷ CRA, s 12



from isolation and depression, which often prevents them from properly building these relationships, leading to insecure adults who are also at risk of other emotional and psychological problems.

6.3 Economic Implications: The Economic effects of Child Labour includes; Child Injuries and abuses, like cuts, burns, fractures, tiredness, dizziness, excessive fears, and nightmares. These consistent injuries leave an everlasting impact on a child's mind; Sexual abuse, particularly sexual exploitation of girls by adult, rape, prostitution, early and unwanted pregnancy, abortion, sexual transmitted diseases, drugs and alcoholism; Physical abuse that involves corporal punishment, maltreatment, belittling, verbal attack, rejection and humiliation; Poor or non-existence of educational qualification. The self-esteem of the children is hampered and the required activities necessary for their development are always compromised which very often leads them to live in poverty

6.4 Educational Drawback: Education of the child cannot be overemphasized as it supports them to become successful and useful adults who can make and build nation tomorrow in all ramifications. Most children in Nigeria are subjected to child labour that tampers with their education and training. Child labourers in Nigeria are engaged in all sorts of child labour such as hawking, begging, carry heavy loads and experience many educational problems.

7.0 Conclusion

Child labour is a socio-economic practice as well a social evil that has existed in various forms from centuries. Poverty is a compelling factor as the low incomes earners depend on their children to work, or sometimes children who lost their parents and have no family need to depend on themselves to survive. Attention should be given to areas such as access to free quality education, which can help poor families to keep their children in school, tackling poverty by ensuring that adults have decent work opportunities, and ratification and implementation, by governments of ILO Conventions and Standards.

8.0 Recommendations

There should be uniformity of legislations. Different laws have their own definition of a Child. Legislations on child labour should be amended to have a uniform definition on the age a child would be involved in work that constitutes child labour. There should be legal intervention through enactment of laws to curb child labour and sanction those who engage in such activities, including biological parents who send their children out in the streets to engage in laborious activities. The role of social mobilization and community participation is important to ensure that children go to formal government schools rather than work full time. Parents/guardians must be sensitized about child labour and it being an abuse and an infringement of the right of a child, its effects and consequences. This will bring back sanity to society and greatly reduce the cases of child labour in the society.

Monitoring teams should be put in place in different communities, to monitor progress and give feedback on implementation of the laws against child labour and seeking feedback on the programmes set out for the elimination of Child labour. The team would also report to the appropriate quarters. It answers the questions of whether the situation is improving, or even getting worse. The primary requirement to effective eradication and monitoring depends on reliable data available on the magnitude and nature of the child labour in the country.