

**EXAMINATION OF THE IMPACT OF CHILD LABOUR ON THE RIGHTS OF THE NIGERIAN CHILD\*\*\***

**Abstract**

*Child labour is one of the most insidious forms of cruelty and human rights violation done against children. This is because it not only dehumanizes them but introduces them to a life of bondage and servitude. Child labour is exploitative, debilitating and outright criminal. The aim of the study is to critically examination the impact of child labour on the right of the Nigerian child. The research design and methodology was doctrinal approach, using analytical and descriptive research methodology. The main sources of data collection were various literatures, both from the physical and e-library. It was observed that though there are many laws, both local and international protecting the rights of the child, especially with respect to exploitation in the form of child labour, the trend is increasing in an alarming rate. This research seeks to review the laws that protects the right of the child and take a deep examination on how child exploitative labour impacts negatively on the rights of the Nigerian child with a view to proffering effective recommendations to curb the menace. It was recommended among others that It is recommended that the law enforcement agents particularly the police, the immigration, and in Nigeria, the Nigerian Security and Civil Defence Corps should be trained and retrained on the methods and means adopted by perpetrators and that provision of free and quality education for children up till at least college stage will curb the number of children roaming in the streets.*

**Keywords:** child, child labour, child rights and hazardous work

**1. Introduction**

Child labour is one of the most insidious forms of cruelty and human rights violation done against children. Child labour ranges from having children hawking wares on the streets, engaging in farm work for many hours, trafficking of children as prostitutes to other parts of the world such as Europe and America and domestic helps within and outside the country to engaging in criminal activities such as drug peddling and theft.<sup>1</sup> In respect of Nigeria, it had been observed that over 15 million children aged 5 - 14 years were engaged in child labour.<sup>2</sup> In many developing countries across the world, inclusive of Nigeria, this is a regular occurrence. Child labour is exploitative, debilitating and outright criminal. However, many individuals attribute this disturbing trend to economic situations in the country, most especially decline in the economy. Other factors which are being pointed to are high rate of unemployment, poverty, ignorance and illiteracy ex cetera. Thus, leading to several consequences, such as injuries, disabilities, sexual abuses and crimes, etc.

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<sup>1</sup> Mike Akpa AjaNwachukwu, 'A Critical Review of Child Labour in Nigeria and The Case for Child Entrepreneurship' *Rechtsidee*, 3 (2), December 2016, 71-84

<sup>2</sup> Nwazuoke, A. N., & Igwe, C. A. (2016). Worst Forms of Child Labour in Nigeria: An Appraisal of International and Local Legal Regimes. *Beijing Law Review*, 7, 69-82. <http://dx.doi.org/10.4236/blr.2016.71008>

## 2. The Child

The meaning of a Child is one concept that has witnessed definitional particularity. This concept has been subjected to cultural, historical, philosophical conditions or interest, of scholars and various legislative enactments providing for the protection of the Right of the Child.<sup>3</sup> The Concise Oxford Dictionary, 17th Edition defines ‘Child’ as a person who has not reached the age of discretion’. The Black’s Law Dictionary<sup>4</sup> defines a Child to be a person under the age of Majority. In the case of *John Okoye v The State*<sup>5</sup>, the Supreme Court in trying to determine whether a Child understands and comprehend the nature of an Oath, defines a Child as a young person in the formative period of life’.

Before 2003, various enactments in Nigeria provided different age limits for the term “child”. Under the Children and Young Persons Act<sup>6</sup>, a “child” was defined as a person under the age of 14 years while a young person means any person above the age of 14 years but below 17 years. The Labour Act<sup>7</sup> and Criminal Procedure Act<sup>8</sup> define a child as a person below the age of 12 and 14 years respectively. Both Criminal and Penal Codes Act<sup>9</sup> imply that a child is a person under the age of 12 years.

However, in 2003 the Child’s Rights Act<sup>10</sup> unequivocally defines a child as any person under the age of 18 years. By section 274 (1) of this Act, the provisions of the Act supersedes the provisions of other enactments relating to children. The definition of a child under the Child’s Rights Act is in consonance with those in earlier international treaties namely—The Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child<sup>11</sup>. Unlike section 277(1) of the Child’s Rights Act and Article 2 of the African Charter on the Rights and Welfare of the Child, Article 1 of the Convention on the Rights of the Child subordinates its definition of a child to contrary definitions under the laws of its state parties. For example, where the law of a state party defines a child as a person below 16 years, that definition prevails over that in Article 1 of the Convention on the Rights of a Child. Similarly, Section 494 of the Administration of the Criminal Justice Act 2015, defines a Child to mean a person who has not attained the age of 18 years.<sup>12</sup>

Although a child is generally defined under the aforementioned international instruments as a person below 18 years, the International Labour Convention (ILO) Minimum Age Convention allows States parties by a declaration appended to their ratifications to stipulate that children who

<sup>3</sup> Onuche & Onuche, ‘Rights of the Nigerian Child: The Law, Myths and Reality’ <<https://www.researchgate.net/publication/351230002>> accessed on 18 July 2022

<sup>4</sup> Henry Campbell Black, ‘Black’s Law dictionary St. Paul, minn. West publishing co. 1968

<sup>5</sup> [1972] All N.L.R 93

<sup>6</sup> Cap. 485, Laws of the Federation of Nigeria, (L.F.N.), 1990; section 2

<sup>7</sup> Cap. L1, L.F.N., 2010; section 91.

<sup>8</sup> Cap. C14, L.F.N., 2010; section 2

<sup>9</sup> Criminal Code Cap. C38, L.F.N., 2010; section 30 and Penal Code, Cap. P3 L.F.N., 2010, section 50 respectively

<sup>10</sup> Cap. C50, L.F.N., 2010; section 277(1).

<sup>11</sup> Convention on the Rights of the Child, article 1, adopted by the UN General Assembly Resolution 44/25 of 20 November, 1989 and entered into force on 2 September, 1990; African Charter on the Rights and Welfare of the Child; article 11, adopted by OAU (now AU) Assembly of Heads of States and Governments in 1990. Nigeria ratified the Convention on the Rights of the Child on 19/4/1991 and the African Charter on the Rights and Welfare of the Child on 23/7/2001.

<sup>12</sup> Administration of Criminal Justice Act, 2015, Federal Republic of Nigeria Official Gazette No. 86, Vol. 102 Lagos -19th May, 2015

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are not less than 15 years<sup>13</sup> and in some peculiar circumstances not less than 14 years<sup>14</sup> may be admitted to employment within the territories. However, the age limit for the admission of children to employment may subsequently be raised by a further declaration<sup>15</sup>. Nonetheless, article 3 (1) of the Minimum Age Convention provides that where the health, safety and the morals of children are likely to be jeopardized the minimum age for employment shall not be less than 18 years. Under article 3 (3) children who are not less than 16 years may be employed in works envisaged by article 3 (1) provided their health, safety and morals are adequately protected and they have either been specifically trained or instructed on how to handle such works.

Article 3 (1) does not however specify those works which are likely to be harmful to the health, safety and morals of children. Such works can be gleaned from article 5(3) as follows—mining and quarrying, manufacturing, construction, electricity, gas and water, sanitary services, transport, storage and communication, and plantations and other agricultural undertakings mainly producing for commercial purposes but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.

### **4. An Overview of the Legal Frameworks on Child Labour**

#### **4.1 The Declaration of the Rights of the Child, 1924**

This text was the first human rights document approved by an inter-government institution promoting the rights of the child. It was adopted by the League of Nations General Assembly on 26 November, 1924 as the World Child Welfare Charter, and it is also sometimes known as the Geneva Declaration of the Rights of the Child.<sup>16</sup>

The text of the document originally contained five points which was later slightly expanded and adopted by the United Nations General Assembly on 10 December, 1959. The points as endorsed in the Declaration of the Rights of the Child, 1924 as follows:

- i. The child must be given the means requisite for its normal development, both materially and spiritually.
- ii. The child that is hungry must be fed, the child that is sick must be nursed, the child that is backward must be helped, the delinquent child must be reclaimed, and the orphan and the waif must be sheltered and succored.
- iii. The child must be the first to receive relief in times of distress.
- iv. The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation.
- v. The child must be brought up in the consciousness that its talents must be devoted to the service of its fellow men.<sup>17</sup>

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<sup>13</sup> Minimum Age Convention, 1973, No 138; Article 2 (3).

<sup>14</sup> *ibid.*, article 2 (4). This Convention permits states parties with weak economy and insufficiently developed educational facilities to initially specify the age of 14 as the minimum for the admission of children to employment.

<sup>15</sup> Minimum Age Convention 1973, No 138, article 2 (2).

<sup>16</sup> WIKIPEDIA, 'Declaration of the Rights of the Child of 1924' <[https://en.m.wikipedia.org/wiki/Declaration\\_of\\_the\\_Rights\\_of\\_the\\_Child/](https://en.m.wikipedia.org/wiki/Declaration_of_the_Rights_of_the_Child/)> accessed on 18 July, 2022

<sup>17</sup> *ibid*

#### 4.2 The Declaration of the Rights of the Child, 1959

This was adopted by the United Nations General Assembly on 10 December, 1959 based on the structure and contents of the original 1924 Declaration of the Rights of the Child.<sup>18</sup> It was a slight expansion of the 1924 Declaration as many different governments were involved in the drafting process. It endorsed ten (10) broader principles on child rights and with respect to child labour, provided thus:

- i. The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form. The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development.

#### 4.3 The United Nations Convention on the Rights of the Child, 1990

The Convention on the Rights of the Child, was adopted and opened for signature, ratification and accession by the UN General Assembly Resolution 44/25 of 20 November, 1989 and entered into force on 2 September, 1990.<sup>19</sup> Nigeria ratified the Convention on the Rights of the Child on 19 April, 1991.

In adopting the Convention, the United Nations considered the following points as salient reasons why the child needs to be safeguarded: That in the Universal Declaration of Human Rights,<sup>20</sup> the United Nations has proclaimed that childhood is entitled to special care and assistance; That, as indicated in the Declaration of the Rights of the Child,<sup>21</sup> "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth". Under the UN Convention on the Rights of the Child, the essential rights of the child are provided as follows: The right to an identity<sup>22</sup>, the right to health<sup>23</sup>, The right to education,<sup>24</sup> the right to a family life<sup>25</sup>, right to be protected from violence<sup>26</sup>, the right to an opinion<sup>27</sup>, the right to be protected from armed conflict<sup>28</sup>, the right to be protected from exploitation<sup>29</sup>, protects the child from violence<sup>30</sup>, economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development<sup>31</sup> and sexual exploitation<sup>32</sup>.

<sup>18</sup> United Nations cyberschoolbus, 'Declaration of the Rights of the Child of 1959' <<http://www.un.org/cyberschoolbus/humanrights/resources/child.asp>> accessed on 18 July, 2022

<sup>19</sup> The Office of the United Nations High Commissioner for Human Rights, 'Convention on the Rights of the Child' <<https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>> accessed on 18 July, 2022.

<sup>20</sup> The Universal Declaration was adopted by the General Assembly of the United Nations on 10 December, 1948.

<sup>21</sup> See notes 15 & 17.

<sup>22</sup> CRC Art 7 and 8

<sup>23</sup> *ibid* Art 23 and 24

<sup>24</sup> *ibid* Art 28

<sup>25</sup> *ibid* Art 8, 9, 10, 16, 20, 22 and 40

<sup>26</sup> *ibid* Art 19 and 34

<sup>27</sup> *ibid* Art 12 and 13

<sup>28</sup> *ibid* Art 38 and 39

<sup>29</sup> *ibid* Art 19, 32, 34 36 and 39.

<sup>30</sup> *ibid* Art 19

<sup>31</sup> *ibid* Art 32

<sup>32</sup> *ibid* Art 34

#### **4.4 The African Charter on the Rights and Welfare of the Child, (Au Charter) 1999**

This Charter<sup>33</sup> was adopted by the 26<sup>th</sup> Ordinary Session of the Assembly of State and Government of the Organization of African Unity, OAU (now known as African Union, AU)<sup>34</sup> in 1990, but entered into force on 29 November, 1999. Nigeria, as a member state, ratified the African Charter on the Rights and Welfare of the Child on 23 July, 2001. The AU Charter sets out rights and defines principles for the status of children. The Charter in acknowledgment of the exploitative nature of child labour protects the child from hazardous<sup>35</sup>

#### **4.5 The Child's Rights Act, (CRA) 2003**

The necessity for the promulgation of the Child's Rights Act of 2003 stemmed from the fact that the Nigerian Constitution<sup>36</sup>, under Chapters four and two on Fundamental Human Rights and On Fundamental Objectives and Directive Principles of State Policy respectively, are not child-rights-specific. Second, the various State Children and Young Persons Laws are largely Juvenile Justice Administration based and not necessarily specific to child's rights and responsibilities as well as not being UN Convention on the Rights of the Child / AU Charter on the Rights and Welfare of the Child (CRC/OAU)<sup>37</sup> friendly in terms of modern conceptions/principles of Juvenile Justice Administration. Hence, the Child's Rights Act, 2003 incorporates all the rights and responsibilities of children, as well as specify the duties and obligations of government, parents and other authorities, organizations and bodies in relation thereto.<sup>38</sup>

The aim of the Act is to provide and protect the rights of a Nigerian Child. In terms of contents, the Nigerian Child's Rights Act borrowed a leaf from the UN CRC and the OAU Charter in respect of the guiding principles for the promotion and protection of the rights of children. So far, 26 out of 36 states of Nigeria have adopted the CRA as a state law, while the remaining 10 states have bills pending for passage at various stages: - Adamawa, Bauchi, Borno, Gombe, Kano, Kebbi, Jigawa, Yobe, Sokoto and Zamfara.<sup>39</sup> The Child's Rights Act in prohibiting exploitative labour makes well-detailed provisions on Child Labour, as follows and it prohibits against any form of forced or exploitative labour.<sup>40</sup>

#### **4.6 The Labour Act<sup>41</sup>**

The Labour Act is an important Legislation, protecting the child against Child Labour and other form of Exploitation and abuse. The Act made provisions which protects and regulates the appointment, and conduct of Children under employments. The Act prohibits the employing of any young person to any employment that is immoral, injurious or dangerous to the health of the

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<sup>33</sup> WIKIPEDIA, 'The African Union Charter on the Rights and Welfare of the Child' <[https://au.int/sites/default/files/treaties/36804-treaty-african\\_charter\\_on\\_rights\\_welfare\\_of\\_the\\_child.pdf](https://au.int/sites/default/files/treaties/36804-treaty-african_charter_on_rights_welfare_of_the_child.pdf)> accessed on 18 July, 2022

<sup>34</sup> African Union, consisting of the 55 member states that make up the countries of the African Continent, was officially launched in 2002 as a successor to the Organisation of African Unity (OAU, 1963-1999)

<sup>35</sup> The African Charter on The Rights And Welfare Of The Child, (Au Charter) 199 Art 15

<sup>36</sup> The Constitution of the Federal Republic of Nigeria, 1999 (As Amended)

<sup>37</sup> See n. 8

<sup>38</sup> Prof. Muhammed Tawfiq Ladan, Ph.D, 'An Overview of the Child Rights Act, 2003'. Paper presented at the All Nigeria Judges' Conference of the Superior Courts, Organized by the National Judicial Institute, 15-19 November, 2021

<sup>39</sup> *ibid.*

<sup>40</sup> Child's Rights Act 2003 Section 28

<sup>41</sup> Labour Act 1974 Cap L1, Laws of the Federation of Nigeria, 2004

Child.<sup>42</sup> The Act protects the Child from every employment or circumstances under an employment that prevents such Child to the residence of his Parent or Guardian daily, except on the approval of an authorized Labour Officer, and upon execution of a written contract, which conforms to the contract of employment between the employer and the Child.<sup>43</sup> The Act prohibits the employment of a Young Person less than Sixteen years of age from working underground, or on a machine, or a day designated as Public Holiday.<sup>44</sup> Such young person also shall not be required to work for a longer period than four consecutive hours, or required to work more than Eight working Hours in one day.<sup>45</sup> The Act also provides that in the event that a Notice is given either orally or in writing by the Parent or Guardian, that such young persons is employed against their wish such employer shall not continue to employ such person under her employment.<sup>46</sup> The Act prohibit the employment of a person under the age fifteen from any industrial undertaking unless such work is performed in a Technical School or any other Institution, where such work is supervised by the Ministry of Education or any government department.<sup>47</sup> Persons under the age of fourteen years may be employed on a daily wage, so long as such a Child returns on a daily basis to his residence or the residence of his parents or guardian or person approved by his guardians.<sup>48</sup> The Act also provides that no Child shall be employed or work in any capacity except employed by members of his family for the performance of a light work of an agricultural, horticultural or domestic character as may be approve by the Minister.<sup>49</sup> Such a Child must not be required to lift or carry any heavy equipment or item that is capable of causing damage or injury to his physical development.<sup>50</sup> The Act also provides that a young person shall not be employed to work at night,<sup>51</sup> or employed as a trimmer or stoker in a vessel, except from the exceptions as provided for in the Act.<sup>52</sup> The Act also protect the Right of the child by requiring every employer of young person to maintain a register containing the particulars such as age, dates of employment, the conditions and nature of the employment, and other particulars as stipulated or required by the Minister or an authorised Labour Officer.<sup>53</sup>

#### 4.7 Worst forms of Child Labour Convention No 182 of 1999

The International Labour Organisation (ILO) Worst Forms of Child Labour Convention<sup>54</sup> itemizes them as follows:

- a. All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour including forced or compulsory recruitment of children for use in armed conflict;
- b. The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

<sup>42</sup> *ibid*, Section 59(6)

<sup>43</sup> *ibid*, Section 59(4)

<sup>44</sup> *ibid*, Section 59(5)

<sup>45</sup> *ibid*, Section 59(8)

<sup>46</sup> *ibid*, Section 59(7)

<sup>47</sup> *ibid*, Section 59 (2)

<sup>48</sup> *ibid*, Section 59 (3)

<sup>49</sup> *ibid*, Section 59(1)(a)

<sup>50</sup> *ibid*, Section 59(1)(b)

<sup>51</sup> *ibid*, Section 60 (1)

<sup>52</sup> *ibid*, Section 61

<sup>53</sup> *ibid*, Section 62

<sup>54</sup> ILO Worst Forms of Child Labour Convention, 182 of 1999

- c. The use, procuring or offering of a child for illicit activities in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- d. Work which by its nature or the circumstances in which it is carried out is likely to harm the health, safety or morals of children.

### **6.1 Child Trafficking**

The spotlight fell on child trafficking in Africa particularly in West Africa in 1987 following the heavy trafficking of children from the Republic of Benin to Cameroon, Nigeria, Cote d' Ivoire and Gabon.<sup>55</sup> Although no precise figure exists, the ILO in 2005 estimated that 980,000 to 1,225,000 children both boys and girls are in forced labour situation as a result of trafficking.<sup>56</sup> In a layman's parlance, child trafficking is about taking a child out of its protective environment and prying on its vulnerability for the purpose of exploitation.<sup>57</sup>

### **6.2. Debt Bondage and Serfdom**

Debt bondage gives rise to bonded labour. Debt bondage results from a situation where a debtor pledges his personal services or those of persons under his control as a security for debt and the reasonable value of such services is not applied towards off-setting the debt nor are the length and nature of those services limited or defined.<sup>58</sup> Bonded labour refers to the labour of a debtor or those of persons under his control which the debtor has pledged as a security for a debt. Bonded labour "often leads to slavery by descent..., the underlying loan often is not fully repaid before death, so the obligation to repay it is passed down to a family member. Work may be unrelenting seven days a week and without break the year round".<sup>59</sup> Bonded labour exists because the in-built safeguards in article 1 (a) (b) of the Supplementary Convention on Slavery are not observed.

Bonded labourers are often beaten, guarded by armed personnel so as to prevent their escape and are either not paid or merely paid a pittance. It has led the Anti-Slavery International and Development and Peace to observe that bonded labourers are "non-beings, exiles of civilization living a life worse than those of animals, for the animals are at least, free to roam about as they like..."<sup>60</sup> Trafficked persons constitute an example of bonded labourers since they are required by the traffickers to pay back a huge amount of money supposedly spent by traffickers in purchasing or transporting them within or across borders. In other words, the said sum of money is assumed by the traffickers to be a loan to the trafficked persons with the latter's labour as security.

On the other hand, serfdom has been defined as a condition in which a tenant is bound to live and labour on land belonging to the landowner and is not free to change his status.<sup>61</sup> The practice of serfdom involves a land owner granting a piece of land to an individual known as serf and who is

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<sup>55</sup> Debt Bondage: Slavery Around the World, a publication of Anti-Slavery International and Development and Peace, June, 1999, p.5.

<sup>56</sup> *ibid.*

<sup>57</sup> UNODC on Human Trafficking and Migrant Smuggling, <[http://www.ILO.org/ipecc/areas/trafficking\\_of\\_children/lang-en/index.htm](http://www.ILO.org/ipecc/areas/trafficking_of_children/lang-en/index.htm)> Accessed on 18/07/2022.

<sup>58</sup> Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery, adopted 7 September, 1956 and entered into effect 30 April, 1957, article 1.

<sup>59</sup> Anti-Slavery International, [http://en.wikipedia.org/wiki/Anti-slavery\\_International](http://en.wikipedia.org/wiki/Anti-slavery_International). Accessed 21/07/2022

<sup>60</sup> Debt Bondage: Slavery Around the World, a publication of Anti-Slavery International and Development and Peace, June, 1999, P.4

<sup>61</sup> Supplementary Convention on the Abolition of Slavery, note 93

turn is required to render certain services such as sharing his farm produce with the land owner at harvest, working for the landowner or doing other works for example domestic chores for the landowners' household. It is important to recognize that it is not the exchange of labour in return for access to land but the inability of the serf to relinquish that status that is serfdom.<sup>62</sup> This form of slavery is still practiced in countries such as India and Pakistan.<sup>63</sup> Debt bondage can result to serfdom since debt bonded labourers are either not paid or paid too little and the length of their services is not fixed. The implication of this is that the inability of the debt bonded labourers to repay the debt in their lifetime means that the debt can be passed down to their generations.

Section 30 (2) (b) of the Child's Rights Act prohibits practices similar to slavery such as debt bondage and selfdom. Section 369 (3) (4) and (5) of the Criminal Code criminalizes debt bondage. It provides that any person who places another in servitude for the purpose of being used as a pledge or security for debt or conveys or induces any person to come into Nigeria or leave Nigeria for the purpose of being used as a pledge or security for a debt commits an offence and is punishable with fourteen years imprisonment, without an option of fine.

### 6.3. Forced Labour

Article 2 (1) of ILO Forced Labour Convention 29 of 1930 defines "forced labour" as "all work or service, which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". The menace can take any form such as physical violence, restraint or death threats<sup>64</sup>. An early example of forced labour was a long work of African Slaves on plantations in the Western hemispheres. Modern day slavery is less obvious, people are forced to work by governments, high placed individuals or militias by threat of violence either to the "slaves" or to their loved ones.<sup>65</sup> Trafficking in persons for exploitation is an example of forced labour. This is because trafficked persons are usually restrained and often threatened with physical violence or death threats either directed at them or to their loved ones. It is doubtful whether trafficked persons would have willingly volunteered themselves to be trafficked if they had known the awful ordeals which await them.

Another example of forced labour is the compulsory recruitment of children for use in armed conflict. Armed conflict does not however include civil disturbances or communal conflicts. The phrase 'armed conflicts' has been defined by article 1 of Protocols 1 and 2 Additional to Geneva Conventions 1989 as embodying civil and international wars. It is submitted that where a debtor pledges the services of others as security for a debt without the latter's consent, that the labour of those individuals would have been exacted under the circumstances of forced labour.

There are several local legislations prohibiting forced or compulsory labour. The basic one is section 34 (1) (c) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) which prohibits the subjection of any one to forced or compulsory labour. Under section 73 (1) of the Labour Act,<sup>66</sup> it is an offence punishable with a fine not exceeding N1000 or to imprisonment for

<sup>62</sup> Werssbroth, D. (2002). *Anti-Slavery International Abolishing Slavery and Its Contemporary Forms*. United Nations, New York, p. 11

<sup>63</sup> Debt Bondage: Slavery Around the World, note 95, p. 74.

<sup>64</sup> 2006 UN Secretary General's Study, p.74.

<sup>65</sup> Anti-Slavery International, note, 94

<sup>66</sup> Labour Act, note 7



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a term not exceeding two years or both for anyone to require or permit another to be engaged in forced or compulsory labour contrary to section 31 (1) (c)<sup>67</sup> of the 1979 Constitution of Nigeria. However, where a public officer<sup>68</sup> compels any group of persons to work for another without their consent, such public officer will be liable upon conviction to a fine not exceeding N200.00 or to imprisonment not exceeding six months or both.<sup>69</sup>

The use of a child for forced or exploitative labour under section 28 (1) (a) of the Child's Rights Act is an offence punishable with a fine not exceeding fifty thousand naira or to imprisonment for five years or both where the offence is committed by an individual. On the other hand, where the offence is committed by a body corporate, the proprietor, director and other officers or servants shall be deemed to be jointly and severally liable and may be liable on conviction to a fine of two hundred and fifty thousand naira.<sup>70</sup> Section 22 (1) (a) of the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act prohibits the use of any person either within or outside Nigeria for forced labour. The section imposes similar penalties as in section 28 (4) of the Child's Rights Act with the exception that where the offence is committed by an individual, he/she will be liable to a fine of N100,000.00.

### **6.4. Prostitution and Pornography**

Prostitution and pornography are instances of the Worst Forms of Child sexual abuse.

Child sexual abuse has been defined as the—

*“involvement of dependent, developmentally immature children... in sexual activities which they do not fully comprehend and to which they are unable to give informed consent”.*<sup>71</sup>

Child prostitution refers to the engagement of children in sex and sex related activities for monetary compensation or any other consideration.<sup>72</sup> This definition encompasses male and female prostitutes under the age of 18 years.<sup>73</sup> Child Pornography on the other hand means —

*“any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”.*<sup>74</sup>

The import of this definition is that the representation of the sexual part of a child or a child engaged in real or simulated explicit sexual activities does not amount to child pornography if done for lawful purposes such as medical or educational purposes.

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<sup>67</sup> Now section 34 (1) (c) of the 1999 Constitution (as amended)

<sup>68</sup> For the definition of Public Officer, see section 318 of the 1999 Constitution (as amended).

<sup>69</sup> Section 73 (2) of the Labour Act.

<sup>70</sup> Section 28 (4) of the Child's Rights Act.

<sup>71</sup> “Child maltreatment” an online publication of National Association of Counsel for Children, Colorado, U.S.A. Retrieved 5/3/2007 from: <http://www.naccchildlaw.org/chidren/law/chidlmaltreatment.html>; Family Law Council, Child Sexual Abuse Report, Commonwealth of Australia, September, 1988, p.5

<sup>72</sup> Article 2 (b) of the First Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; adopted by the UN General Assembly Resolution A/RES/54/263 of 25 May, 2000 which entered into force on January 18, 2002. Nigeria signed this Protocol on 8/9/2000.

<sup>73</sup> Criminal Code Act, Cap C38, L.F.N., 2010; section 1 deals with female prostitution only.

<sup>74</sup> First Optional Protocol to the Convention on the rights of the Child; article 2 (c) roles 22 and 23.

The Convention on the Right of a Child imposes an obligation on state parties to prohibit all forms of sexual abuse of children such as—

- a. The inducement or coercion of a child to engage in any unlawful sexual activity;
- b. The exploitative use of children in prostitution or other unlawful sexual practices;
- c. The exploitative use of children in pornographic performances and materials.<sup>75</sup>

### **6.5. Works Likely to Harm the Health, Safety and Morals of Children**

Article 4 (1) of the ILO Convention 182 provides that in determining works which are likely to harm the health, safety and morals of children, recourse should be had to national laws or regulations or to the competent authority after consultation with the organizations of employers and workers concerned. Account should be taken of relevant international standards particularly paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation 1999. Paragraph 3<sup>76</sup> contains the following indices which should guide state parties in identifying works likely to harm the health, safety and morals of children:

- a) Work which exposes children to physical, psychological or sexual abuse;
- b) Work underground, under water, at dangerous height or in confined spaces;
- c) Work with dangerous machinery, equipment and tools or which involve the manual handling or transport of heavy load;
- d) Work in an unhealthy environment which mainly for example expose children to hazardous substances, agents or processes or to temperature, noise levels or vibrations damaging to their health;
- e) Work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

There is no specific Nigerian legislation or regulation that has categorized those works which by their nature or circumstances under which they are performed are likely to harm the health, safety and morals of children. However, the engagement of children in begging, hawking, factory work, domestic labour, scavenging, brothel, bus conducting, iron and metal work and farm and quarry work fall within the ambit of paragraph 3 of Recommendation 190.

In both Northern and Southern parts of Nigeria, children can readily be found begging for alms both in public and private places. Those who beg for alms in traffics can easily be crushed by vehicles while those who beg from house to house may be abducted by traffickers or be sexually abused. One class of beggars found in the Northern part of Nigeria which should be mentioned are the Amajiris. These are koranic pupils entrusted to teachers otherwise known as mallams. Since these koranic teachers take more pupils than they can cater for, their pupils are sent out to beg for alms.<sup>77</sup> On account of the high number of Amajiris roaming Northern part of Nigeria begging, the Federal Government recently established several model Amajiri schools to provide western and koranic education. Unlike what was obtainable in Nigeria, where child domestic servants worked in the homes of relatives who treated them as their own children, today child domestic servants

<sup>75</sup> Convention on the Rights of the Child, article 34, note 11, *supra*. See also the African Charter on the Rights and Welfare of the Child article 27 (1) (c) note 11, *supra*.

<sup>76</sup> ILO Worst Forms of Child Labour, Recommendation No 190 of 1999 (hereinafter referred to as “Recommendation 190”). Other examples of works likely to be injurious to the health, safety and morals of children can be found in article 5 (3) of the ILO Minimum Age Convention 1973, No 138.

<sup>77</sup> (Ayua, A. and Okegbue, I. eds.), ‘The Rights of the Child in Nigeria’ Lagos, Nigerian Institute of Advanced Legal Studies, 1996, p. 176.

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work beyond their extended families and are paid cash in exchange for services rendered. These children are procured by middlemen largely from impoverished households and placed in families that pay the middlemen the agreed wage and the latter in turn pays a stipend to the child domestic servant. Most of these children are sexually abused, harshly punished and denied education.<sup>78</sup> Agriculture employs the highest number of child labourers worldwide. ILO in 2005 estimates that 60% of Children are engaged in agricultural work. Children hired as agricultural workers work for long hours and are exposed to hazardous substances such as pesticides and are often sexually abused.<sup>79</sup>

The Child's Rights Act prohibits the use of a child for the purposes of begging for alms, guiding beggars, prostitution, domestic or sexual labour<sup>80</sup>; as a slave, or for practices similar to slavery, trafficking of the child, debt bondage or serfdom and forced or compulsory labour.<sup>81</sup>

Furthermore, the Act forbids the use of children for hawking of goods or services on main city, streets, brothels or high ways<sup>82</sup> or for pornography<sup>83</sup> and any activity in the production or trafficking of illegal drugs.<sup>84</sup> Unfortunately, the above provisions do not create any offence since they do not provide for sanctions<sup>85</sup> in the event of breach.

However, Section 28 (1) (c) of the Child's Rights Act makes it an offence for anyone to cause a child to lift, carry or move anything as to be detrimental to his or her health. Again, no child shall be employed as a domestic help outside his own home or family environment<sup>86</sup> or in any industrial undertaking.<sup>87</sup> Anyone who contravenes subsections 1 and 2 of section 28 of the above Act is liable on conviction to a fine of fifty thousand naira or imprisonment for a term of five years or both.<sup>88</sup>

Child labour often denies children the opportunity of being educationally developed as those involved in it, hardly attend school punctually and regularly. It increases the rate of truancy, absenteeism and eventual drop out from schools. This portends great danger to the developmental aspirations of the Nigerian nation. Nigeria cannot become a developed nation if those to lead the nation tomorrow are not educationally qualified today. It is not in doubt that, education is the key to success since it enlightens the mind, instills creativity and reduces servitude. This out rightly means that when a child is deprived of education because of child labour, it diminishes his ability to succeed in life, that is, the child becomes less likely to succeed in the modern and contemporary society which is highly competitive and needs educationally developed and sound individuals to

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<sup>78</sup> Children's and Women's Rights in Nigeria: A-Wake-up-Call, Abuja: National Planning Commission, and UNICEF, Nigeria, PP: 206-207; Ladan, M. T., "The Rights of Child Domestic as Victims of Human Rights Violation and Trafficking in Nigeria," a paper presented at a Workshop for Judges, Magistrates and Prosecutors from 21-22 September, 2005 at Country-Home Hotel, Jos, Plateau State, pp. 5-6. Retrieved on 5/10/2007. Available at <http://www.dawodu.com/Ladan3.htm>.

<sup>79</sup> Human Rights Watch" Backgrounder: Child Labour in Agriculture <http://hrw.org/backgrounder/crp/back0610.htm> pp. 1-8. Retrieved on 5/3/2007

<sup>80</sup> Section 30 (2) (a) of the Child's Rights Act.

<sup>81</sup> *ibid.*, section 30 (2) (b).

<sup>82</sup> *ibid.*, section 30 (2) (c).

<sup>83</sup> *ibid.*, section 30 (2) (e).

<sup>84</sup> *ibid.*, section 30 (2) (f).

<sup>85</sup> Section 36 (8) of the 1999 Constitution of Nigeria (as amended).

<sup>86</sup> Section 28 (1) (d) of the Child's Rights Act.

<sup>87</sup> *ibid.*, section 28 (2).

<sup>88</sup> *ibid.*, section 28 (3).

drive the economies of the world. The main purpose of this paper is to discuss how child labour can affect educational development of the Nigerian child and proffer possible solutions to curbing this ugly menace in the Nigerian society.<sup>89</sup>

## 7. Causes and Consequences of Child Labour

There is a variety of causes of child labour particularly the Worst Forms of Child Labour. This is also true of its consequences.

### 7.1. Causes of Child Labour

#### 7.1.1 Poverty

Poverty is undoubtedly the predominant cause of child labour around the world. Children of impoverished households and parents who have no means of subsistence are most likely to engage in child labour in order to survive<sup>90</sup>. Although in Nigeria, the National Minimum Wage is N18000.00 per month, some of the component states have refused to implement the Act on ground of alleged paucity of fund. Considering the staggering rate of unemployment in Nigeria, so many parents rather than risk losing their jobs, prefer to be paid a pittance.

#### 7.1.2. Lack of Education

Another primary cause which drives child labour is the absence of schools or qualitative education. According to ILO<sup>91</sup>, Children work because they do not have any better alternative. It has been observed that in many communities particularly the rural areas—

*“Where between 60% - 70% of child labour is prevalent, do not possess adequate school facilities. Even when schools are sometimes available, they are too far away, difficult to reach, unaffordable or the quality of education is so poor that parents wonder if going to school is really worth it”.*<sup>92</sup>

One other critical causes of child labour is lack of educational resources, such as chairs, desks, insufficient teachers or poorly qualified teachers. Sometimes, the parents of children engaged in child labour are either not educated or well educated so they do not see the importance of sending their children to school.<sup>93</sup>

#### 7.1.3. Harmful Cultural Practices

In Africa and other developing countries, certain cultural practices have rationalized child labour. Some uninformed populace view “child labour” as a way of building the character and equipping with necessary skills to face future challenges. In many cultures inclusive of Nigeria, many believe that the girl child education is a bad investment. Thus, such girls are pushed into the street to trade while some others end up as domestic servants.<sup>94</sup>

<sup>89</sup> D. Uyanga, J. Oto-Obong & K. Davies, ‘Child Labour and Educational Development of the Nigerian children’ (ResearchGate Publications 2019) <<https://www.researchgate.net/publication/333660974>> accessed on 18 July, 2022

<sup>90</sup> International Labour Office, Report of the Director—General, Child Labour, Int’l Lab. Conf., 69th Session, (1983) P. 11; Onyegbule “Way out-of Child Labour” Vanguard, Monday, November 12, 2001, p.39.

<sup>91</sup> “Child Labour Causes” ILO, United Nations, 2008 cited in “Child Labour Laws in the United States” p. 5

<sup>92</sup> Child Labour Laws in the United States, available on line at [https://en.wikipedia.org/wiki/Child\\_labor\\_laws\\_in\\_the\\_United\\_States](https://en.wikipedia.org/wiki/Child_labor_laws_in_the_United_States). Accessed on 21/07/2022;

<sup>93</sup> See n. 90

<sup>94</sup> “Status of the girl-child in Nigeria and the Child’s Rights Act, 2003”, p. 108.

#### **7.1.4. Lack of Family Planning**

The importance of family planning is to enable parents to give birth to the number of children they can adequately cater for. However, where uninformed parents fail to take advantage of available family planning methods, the consequence generally is an overblotted family size well beyond the means of such parents. There is no doubt that a relationship exists between a large family size and the incidence of child labour.<sup>95</sup> Thus, Flekhoy<sup>96</sup> has argued that the procreation of children for whose care sufficient resources are not available and whose existence threatens the health of those already born is a fundamental cause of child abuse.

#### **7.1.5. Loss of Parents**

The global on-set of HIV/AIDs has orphaned many a child. According to UNAIDS, 2,200,000 children in Nigeria have lost either one or both parents to HIV/AIDs.<sup>97</sup> In addition, many children have lost their parents through accidents, ill health and other sundry causes. With the loss of their bread winners, these children are left to fend for themselves. This invariably contributes to the incidence of child labour and street children which definitely promotes child labour.

#### **7.1.6. Broken Homes**

The divorce of couples and remarriage by one of them often traumatizes children from broken homes. Such children are, in most cases maltreated and neglected by their step father or mother.

### **7.2. Consequences**

#### **7.2.1. Injuries, Disabilities and Deaths**

Children who are hired as agricultural workers frequently suffer cuts from sharp knives and other objects and run the risk of back injuries from hauling heavy loads of produce. These children often work in freshly sprayed fields and sometimes work while pesticides are being sprayed. Consequently, some of them suffer headache, fever, dizziness, nausea, rashes, diarrhea etc and sometimes death.<sup>98</sup>

#### **7.2.2. Sexual Consequences**

Children who have been sexually abused suffer severe adjustment problems such as depression, low self-esteem, mistrust of adults, anger and hostility. Younger children might, in addition, have sleep difficulty, loss of appetite, fear and anxiety.<sup>99</sup> A sexually abused child may become infected with sexually transmitted diseases, including HIV. She may become pregnant, which in turn may lead to child abandonment, abortion or complications associated with childbirth by under-aged children.<sup>100</sup>

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<sup>95</sup> See n. 90

<sup>96</sup> Flekhoy, M. G., 'Attitudes to Children—Their Consequences for work for Children'. In: M. Freeman & P. Veerman, Eds., *The Ideologies of Children's Rights* (p. 206). London: Martinus Nijhoff Publishers (1992).

<sup>97</sup> UNAIDS, Report on the Global Aids Epidemic, 2013 <[www.kff.org/global-indicator/aids-orphans/](http://www.kff.org/global-indicator/aids-orphans/)> retrieved on 18 July, 2022

<sup>98</sup> Human Rights Watch, Backgrounder: Child Labour in Agriculture; P. 1, <http://hrw.org/backgrounder/crp/back0610.htm>. Retrieved on 23/07/2022.

<sup>99</sup> L. E. Bark, *Child Development*, Massachusetts, Pearson Education Company, 2000, p. 590; 2006 UN Secretary General's Study, p.15.

<sup>100</sup> Children's and Women's Rights in Nigeria: A-Wake-up-call, Op. Cit. p. 201.

### 7.2.3. Perpetuation of Poverty

There is no doubt that children engaged in certain types of child labour such as hawking, agricultural work and bus conducting contribute financially to their families. It is noteworthy however that child labour can also ruin a family's purse and push the family deeper into poverty if the child labourer sustains serious injuries.<sup>101</sup> Child labour may also interfere with a child's education and consequently restrict his future earning capacity. This can also impoverish a country, depending on the number of her children whose education is affected, by restricting its economic advancement.<sup>102</sup>

### 7.2.4. Street Children and Crime

Children who have suffered sexual abuse or extreme neglect<sup>103</sup> in their homes may run away from home and drift into street life. In other words, they live, sleep and work on the street. Street children are often drawn into crime, in order to survive. The African Guardian, writing on 'street kids' narrated a story of a boy of 10 who on account of hunger drifted into street life. Once there, he started picking pockets and gradually became more ruthless and learnt the use to which he could put a pen knife and gun.<sup>104</sup> Unfortunately, there is no statistics on the number of street children in Nigeria nor the percentage engaged in crime.<sup>105</sup>

### 7.2.5. Other Consequences

Child labour may, sometimes result in medical cost for the treatment, rehabilitation and reintegration of the victim into the society. Where the victim turns to drug and crime, legal cost may be incurred by the parents or the state to secure his legal representation and, ultimately, if he is institutionalized, the state incurs further expenses in the running of the institution and his up-keep.

Child labour may also lead to exhaustion and malnutrition. Child labourers often work 16 hours a day.<sup>106</sup> Some of these child workers perform heavy manual labour and yet do not earn enough to feed themselves adequately.<sup>107</sup> It is important to recognize that child labour generally constitute a violation of human rights of those children. Their rights to life, freedoms of expression, association and movement and rights to dignity and privacy are often abused.

## 8. Conclusion

The sad reality of today's Nigerian child is that despite these plethora of laws protecting the rights of the child, the Nigerian Child is still confronted daily with various harmful and exploitative activities which violates these rights. Lack of basic necessities of life has forced many children into street hawking and alms begging. Societal unrest has also accounted for the exposure of the

<sup>101</sup> Flekhoy, M. G., 'Attitudes to Children—Their Consequences for work for Children'. Note 133

<sup>102</sup> Glut, T. A., 'Changing the Approach to Ending Child Labour: An International Solution to an International Problem.' *Vanderbilt Journal of Transnational Law*, 1995, 28, 1207-1208.

<sup>103</sup> 2006 UN Secretary General's Study, p. 69.

<sup>104</sup> African Guardian Magazine, September 1, 1988, pp. 8-10.

<sup>105</sup> Ngboawaji, D. N., Eke, P., & Igbani, S. T. (n.d). Street Children and the Challenges of National Security: Evidence from Nigeria. <<http://bangladeshsociology.org/Street%20Children%20and%20the%20Challenges%20of%20National%20security.pdf>> accessed on 18 July, 2022

<sup>106</sup> Human Rights Watch, Backgrounder, note 115

<sup>107</sup> Causes of Child Labour, ILO/IPEC, <<http://www.tnchildlabour.tn.gov.in/consequences.htm>> Accessed on 18/07/2022.

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Child to being exploited as child soldiers and suicide bombers by armed groups or terrorist groups. The present Nigerian Society is characterised by several political unrest and conflicts, which has forced several families in conflict prone areas to abandoned their homes and livelihood. Many children are left without parental protection, forcing many into armed conflict. Poverty and economic deprivation have also had a debilitating effect on the right of the child, resulting in forced labour, child trafficking, streets begging and all forms of societal ills. While several institutions have been set up to protect and implement the Rights of the Child, these institutions have been confronted with lack of funding, leading to infrastructural decay and failure in implementing child welfare programs or enforcing laws aimed at Child protection in Nigeria.<sup>108</sup>

### **9. Recommendations:**

1. It is recommended that the law enforcement agents particularly the police, the immigration, and in Nigeria, the Nigerian Security and Civil Defence Corps should be trained and retrained on the methods and means adopted by traffickers, the prosecution of accused persons and the protection of victims of trafficking in persons. The training should also enhance the capacity of law enforcement agents to be able to distinguish between traffickers and victims in order to ensure the protection of the latter. Law enforcement agents should also be ready to cooperate with each other and to exchange and share information in order to enhance their effectiveness.
2. It is also recommended that provision of free and quality education for children up till at least college stage will curb the number of children roaming in the streets. Enforcing task force team that will look into the menace of child street hawking, alms begging, etc.
3. Child entrepreneurship should be encouraged. It should not be mistaken for child forced or exploitative labour. Entrepreneurship is crucial for any economy for one of its prominent rules is the creation of employment. Entrepreneurship therefore reduces unemployment, which is a perennial problem in Nigeria. It has been estimated that Nigeria has about 60%-65% youth unemployment, comprised of young adults that have graduated from universities, tertiary institutions and institutions of higher learning, to add to about 3.8 million others that are certificate-carrying youths that have no formal education, or completed primary or secondary school or dropped out from tertiary institutions.<sup>109</sup> Child entrepreneurship contemplates the involvement of a child in more elaborate and more income yielding venture. If a child could be employed to do some work as allowed under the Act, such child could further be exposed to a more elaborate and more income yielding venture to learn same and be able to establish a similar business venture in the near future.<sup>110</sup> Child entrepreneurship creates child entrepreneurs who are exposed to opportunities, innovation and enterprise without compromising their childhood dignity, access to education and developmental growth.<sup>111</sup>

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<sup>108</sup> Onuche & Onuche, see note 3

<sup>109</sup> Makinde Olarewaje Hassan, "Curbing the Unemployment Problem in Nigeria Through Entrepreneurial Development," *African Journal of Business Management* 7, no. 44 (2013): p. 4429.

<sup>110</sup> Note 129

<sup>111</sup> Babatunde Fajimi, "Between Child Labour and Young Entrepreneurship," *The Punch*, 2016. p. 11

4. It is also recommended that statutory provisions intended to criminalize a specific subject matter but which nonetheless did not provide for sanctions should either be deleted or requisite sanctions be provided.<sup>112</sup>
5. Similarly, the government, Non-Governmental Organizations, religious bodies, the media and educational institutions should enlighten the populace on the dangers of child labour mostly the Worst Forms of it.

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<sup>112</sup> Child's Rights Act, sections 28 (1) (a), 30 (2) (b) (e), Criminal Code Act, section 223 and Trafficking in Persons (Prohibition) Law, Enforcement and Administration Act, sections 11 and 22 (1) (a)