

CHILD LABOUR IN NIGERIA AND THE LAW: THE WAY FORWARD***Abstract**

The issue of child labour in Nigeria is a complex and pressing challenge that demands comprehensive examination and thoughtful consideration. Although, Nigeria is a signatory to various international instruments that prohibits child labour and exploitation, and at its domestic level has extensive laws which addresses the issue of child labour and exploitation, child labour is still a widespread practise in Nigeria. This paper argues that the continued incidence of child labour in Nigeria is as a result of inadequate practical implementation of laws which prohibits child labour. This paper examines the specific shortcomings within the Nigerian legal system that contribute to the failure in preventing child labour while analyzing specific international best practices on the protection of children against child labour. This paper therefore seeks to contribute to the development of a more coherent and comprehensive legal framework for combating child labour in the country and litany of tips on ending or abolishing child labour in Nigeria.

Keywords: Child, Child Labour, Exploitation, Combating Child Labour, Nigeria.

1. Introduction

Child labour is a global issue of both international and local concern.¹ It remains a pervasive and deep concerning issue in Nigeria, posing a significant challenge to the development and the well-being of its youngest citizens. According to a report published by the International Labour Organization (ILO), globally approximately 168 million children between the ages of 5 and 14 are working. Nigeria has the greatest number of working children in West Africa, 15 million of them, than any other country.² Children mostly affected are under the ages of five to seventeen, with most of them working in jobs that deprive them of their childhood, interfere with their education or harm their mental, physical or social development.³ Due to the vulnerability of children, they are prone to exploitation.⁴ They endure work conditions which include health hazards and potential abuse, with a meagre pay. Employers of child labourers usually take advantage of the docility of the children due to the fact that they cannot legally form unions to demand better working conditions. This working condition usually stunts the development of the children, and in turn ultimately robs them of the pleasures of childhood.⁵

However, throughout history, there have been varied degrees of child labour.⁶ In the pre- industrial period, child labour was crucial for their survival. In the 18th and 19th centuries, many children were employed in hazardous factory and farm settings throughout Europe and the United States during the Industrial Revolution.⁷ During the Victorian era, child labour in industrial factories became fatal and deadly, with children as young as four years old employed in these jobs. The children were expected to risk their lives crawling into coal mine tunnels too small for adults. The working hours were long: builders worked 64 hours a week in the summer and 52 hours in winter, while servants worked 80-hour weeks, and they were paid between 10% and 20% less than what an adult male would make.⁸ The 19th century brought about a significant shift in societal attitudes towards child labour, marking a departure from historical acceptance to a growing disapproval of exploitative practices involving children.⁹ The first legislation in response to the abuses experienced by child laborers, Health and Morals of Apprentices Act 1802, only attempted to ameliorate working conditions for certain child labourers rather than

*By **Beatrice Nkechi OKPALAOBI, PhD**, Professor of Law, Department of Commercial and Industrial Law, Faculty of Law, Nnamdi Azikiwe University P.M.B, 5025 Awka Anambra State, Nigeria. Email: bn.okpalaobi@unizik.edu.ng

¹ A N Nwazuo and C A Igwe, 'Worst Forms of Child Labour in Nigeria: An Appraisal of International and Local Legal Regimes' [2016] (7) (1) Beijing Law Review 69.

² M Al-Amin, 'Child Labour in Nigeria' [6 December 2017] <https://www.dw.com/en/growing-number-of-children-forced-to-work-in-nigeria/a-39209370> accessed 2 December 2023.

³ J Agbakwuru, 'Over 160m Children Actively Engaged in Child Labour Globally – ILO' *Vanguard Newspaper* (Lagos, 26 March 2023) <https://www.vanguardngr.com/2023/03/over-160m-children-actively-engaged-in-child-labour-globally-ilo/> accessed 2 December 2023.

⁴ F Siddiqi and H A Patrinos, 'Child labor: Issues, Causes and Interventions' [1995] https://www.researchgate.net/publication/44820267_Child_labor_issues_causes_and_interventions accessed 3 December 2023.

⁵Ibid

⁶ 'Child Labour' <https://en.m.wikipedia.org/wiki/Child_labour> accessed 3 December 2023.

⁷H Cunningham and P P Viazzo (eds), *Child Labour in Historical Perspective 1800- 1985- Case Studies from Europe, Japan and Colombia* (Italy: Arti Grafichr Ticci Sovicille 1996) 14.

⁸ P J Kumar, 'The Working Hours of Unpaid Child Workers in the Handloom Industry in India' [2016](66)*International Social Science Journal* 219–220.

⁹Ibid

outlawing the practise altogether.¹⁰ As early as 1819, the Factory Acts were passed to regulate the working hours of workhouse children in factories and cotton mills to 12 hours per day. However, these Acts were largely ineffective.

During the late 19th and early 20th centuries, there were significant international discussions and movements related to labour rights and social justice. The formation of the International Labour Organization (ILO) in 1919 marked a crucial step toward addressing labour issues globally and the elimination of child labour.¹¹ The ILO has adopted several conventions over the years, and recommendations, setting international standards to eliminate the worst forms of child labour and protect the rights of children, of which Nigeria has ratified 44 Conventions.¹² The ILO adopted the ILO Convention No. 138 (Minimum Age Convention, 1973) which established the minimum age for admission to employment of children. It also adopted the ILO Convention No. 182 (Worst Forms of Child Labour Convention, 1999) which its main target was the eradication of worst forms of child labour, such as forced labour, slavery, trafficking, involvement in armed conflict, and other dangerous jobs that endanger the health, safety, or morals of children. These conventions encouraged member states to adopt and implement legislation, policies, and programs that effectively tackle child labour issues. Furthermore, the United Nations (UN) has played an active role in addressing the issue of child labour by enacting the United Nations Convention on Rights of the Child (CRC), of which, 196 countries are party to the Convention (Nigeria inclusive), including every member of the United Nations except the United States¹³. In the regional level, Nigeria has ratified the African Charter on the Rights and Welfare of the Child (ACRWC), which provides for the protection of children against all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development.¹⁴ Child labour remains a significant global challenge despite the numerous legal frameworks on international and regional levels on child labour prohibition.¹⁵ In Nigeria, several issues exist with the laws on child labour which makes it difficult to address the issue of child labour. This ranges from weak enforcement of the labour laws against child labour, inconsistencies in the legal framework, making it challenging to effectively address all aspects of child labour and insufficient penalties for the violation of the laws against child labour. This paper seeks to make a case for the consistency of laws against child labour by drawing lessons from selected international laws with a view of eradicating child labour.

2. Definition of Terms

Child

There is no uniform definition of the word 'child' under the Nigerian Law and the international laws on child's rights adopted in Nigeria. For instance, article 1 of the CRC¹⁶ defines a child as 'every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier'. This definition of a child leaves much to be desired, as the lack of a set age makes it difficult to define what situations qualify as child labour.¹⁷ The ACRWC¹⁸ provides that a child means 'every human being below the age of eighteen'. This definition is straightforward and provides a clear and unambiguous meaning of a child. Furthermore, section 277 of the CRA¹⁹ provides that a child means 'a person under the age of eighteen years.' However, the CRA is not in operation in all the states of Nigeria, as only 24 states out of the 36 states have ratified the Act.²⁰ There are several other laws that pertain to a child in Nigeria, each with varying and contradictory definitions of what

¹⁰Ibid 6

¹¹Background Information on Child Labour and ILO' https://www.ilo.org/ipecc/Campaignandadvocacy/Youthinaction/C182-Youth-orientated/C182Youth_Background/lang--en/index.htm accessed 3 December 2023.

¹²Ratification of ILO Conventions: Ratification for Nigeria'https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103259#:~:text=Out%20of%2044%20Conventions%20ratified,in%20the%20past%2012%20months. accessed 4 December 2023.

¹³ 'Convention on the Rights of the Child' https://en.m.wikipedia.org/wiki/Convention_on_the_Rights_of_the_Child. accessed 4 December 2023.

¹⁴Nigeria: Act No. 2 of 1983 African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act' <https://www.refworld.org/docid/54f966c34.html#:~:text=As%20from%20the%20commencement%20of,by%20all%20authorities%20and%20persons> accessed 4 December 2023.

¹⁵The Global Challenge of Child Labour: Going for the Goal' https://www.ilo.org/global/publications/world-of-work-magazine/articles/WCMS_143787/lang--en/index.htm accessed 4 December 2023.

¹⁶United Nations Convention on the Rights of the Child 1990.

¹⁷O M Atoyebi, 'A Legal Analysis of Child Labour and Exploitation in Nigeria' (9 October 2023) https://omaplex.com.ng/a-legal-analysis-of-child-labour-and-exploitation-in-nigeria/#_ftn1 accessed 4 December 2023.

¹⁸Article 2, African Charter on the Rights and Welfare of the Child.

¹⁹Child's Right Act Cap C50 LFN 2003.

²⁰Child's Right Act in Nigeria'<https://en.m.wikipedia.org/wiki/Child_Rights_Act_in_Nigeria> accessed 4 December 2023.

constitutes a child due to the nation's diverse socio-cultural, religious, and ethnic makeup. The Labour Act²¹ defines a child as 'a young person under the age of twelve years and a young person as one under the age of fourteen years'. The Children and Young Person's Act²², defined a child as a 'person under the age of fourteen years and a young person to mean a person who has attained the age of fourteen years and is under the age of seventeen years'. There is no explicit definition of a child under the Nigerian Constitution.²³ However, section 29(4) of the Constitution defines 'full age' to mean the age of eighteen years and above. The age at which childhood ends is not specified in this concept. From the aforementioned laws applicable in Nigeria, there are inconsistencies and gaps as to who a child is. For this reason, it is challenging to define exactly what qualify as child labour.

Child Labour

There is no widely accepted and recognized definition of the term child labour²⁴. Varying definitions of the term are used by; international instruments, international organizations, non-governmental organizations, trade unions and other interest groups.²⁵ The term 'Child Labour' though not explicitly defined by the United Nations Convention on the Rights of the Child, it provides in Article 32(1) that 'States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.' This provision emphasizes the right of children to be protected from economic exploitation and any form of work that may be harmful to their well-being, education, or overall development. It aligns with the broader goal of safeguarding children from engaging in work that could be detrimental to their physical or mental health and ensuring that their rights to education and development are prioritized.

According to the International Labour Organization (ILO), the term 'child labour' is defined as the work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that: is mentally, physically, socially or morally dangerous and harmful to children; and/or 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.²⁶ The ILO's definition of child labour is comprehensive, focusing on protecting children from harmful work while recognizing the importance of promoting their education and overall well-being. The Black's Law Dictionary²⁷ defines child labour as the employment of workers the age of majority. This term typically focuses on abusive 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.

Furthermore, the United Nations Children's Education Fund (UNICEF) have laid down the following criteria for categorizing works that could amount to child labour; they include starting full time work at an early age (now below 15years), too many hours spent on work within or outside the family leading to excessive fatigue, depriving children of their right to education where schools are available or interfering with their education adversely, participating in work that results in excessive physical, social and psychological strains on the child, work and living on the streets, work that does not facilitate the psychological development of the child.²⁸ The predicament of young children who are brutally forced into child labour is similar to that described in *R v. Macdonald*²⁹. In this case, the victim, a fourteen-year-old girl that was living with her father and her step mother was made to do most of the household duties including attending to wants of their two young children, milking goats and feeding dogs. She was badly fed and poorly clothed even in winter. She died in the most pitiable circumstances. Globally, a large number of cases on child labour either go unnoticed or unreported. For this reason, the lives of many children have been shortened, limbs have been lost, sights have been lost and health whether physical or mental has been altered.

²¹Section 91, Cap LI LFN, 2004.

²²Section 2, Cap 22, Laws of the Federation of Nigeria 2004.

²³The Constitution of the Federal Republic of Nigeria, 1999.

²⁴E Edmonds, 'Defining Child Labour: A Review of the Definitions of Child Labour in Policy Research', International Labour Office, 5, International Programme on the Elimination of Child Labour (IPEC) (2009).

²⁵R Hanano, 'What Is Child Labour? Definition, and What to Look Out For' (22 August 2023) <https://en.reset.org/child-labour/> accessed 7 December 2023.

²⁶'What is Child Labour?' <https://www.ilo.org/ipec/facts/lang--en/index.htm> accessed 6 December 2023.

²⁷B A Garner (ed), *Black's Law Dictionary* (10th edn, West Publishing Co 2009) P. 292.

²⁸F B Okeshola and M P Ukiri, 'Child Labour' in Ignatius Ayua and Isabella Okagbue (eds), *The Rights of the Child in Nigeria* (Nigeria Institute of Advance Legal Studies 1996) P. 178.

²⁹(1904) St. R Qd 151, 217.

3. Forms of Child Labour Practices in Nigeria

Child labour in Nigeria manifests in various forms, reflecting the complex challenges faced by children in different sectors. Each form poses unique risks to the well-being, education, and development of the children involved. The multifaceted nature of child labour in Nigeria includes;

Street Hawking: Child Street hawking is a common sight on the streets of Nigeria.³⁰ Existing records in Nigeria have shown that the number of children involved in street hawking, especially in the urban areas is on the increase.³¹ Many Nigerian children can be found hawking goods on the streets, often selling items such as snacks, water, or small merchandise. This form of child labour exposes them to; fatigue, irregular attendance at school (if enrolled at all), lack of comprehension and motivation, improper socialization, exposure to risk of sexual abuse, high likelihood of being involved in crime, traffic accidents, exploitation, and adverse weather conditions.³²

Child Begging: This is a phenomenon that is predominant in the North, but has steadily spread to other parts of Nigeria.³³ In Nigeria, majority of children beg either on their own volition, or are forced into begging, often by adults who exploit them for financial gain. An illustration of child begging is that which is predominant under the Almajirai system in the Northern part of Nigeria. The Almajirai system of informal education is underfunded and largely unregulated, and as a result has increasingly resorted to exploitation, expecting students to sustain or fund their masters, the schools, and themselves through begging and child labour. The Almajiri system's new lucrative potential, has gradually made it a home for an exploitative regional child trafficking industry.³⁴ This form of child labour denies children the opportunity for education and a normal childhood and also exposes them to hazardous situations, including involvement in criminal activities or susceptibility to abuse.

Child Artisanal and Small-Scale Mining: In Nigeria, several children are involved in hazardous works in mines, extracting minerals without proper safety measures. One of the main challenges facing the artisanal and small-scale mining in Nigeria is the informal and unregulated nature of the sector. According to estimates, there are over 1,000 child workers in artisanal and small-scale gold mines in Nigeria, and many workers lack adequate protective equipment or training.³⁵ Children engaged in ASM often work in hazardous conditions, exposing them to physical risks, respiratory issues, and other health hazards associated with mining activities. This in turn, interferes with the right of a child to education, as they spend time working instead of attending school.

Child Domestic Workers: Children in Nigeria are subjected to the most heinous types of child labour, including domestic servitude. Children placed in this manner are sometimes viewed as family servants, forced to long hours of cooking, cleaning, tending cattle, and caring for children and the old in the family. Some are provided minimal food, substandard sleeping quarters, and little or no compensation. Some people are exposed to physical and verbal abuse when they are fatigued and slow, or when they are unable to do jobs that are too difficult or heavy for them.³⁶ Some of these young domestic servants end up not attending school and are paid peanuts in comparison to their plight.³⁷ Children in domestic work may be vulnerable to exploitation and various forms of abuse, including physical, emotional, or sexual abuse.

³⁰N Okeke, 'Poverty is Driving a Rise in the Number of Nigerian Child Hawkers' [27 October 2015] <https://theconversation.com/poverty-is-driving-a-rise-in-the-number-of-nigerian-child-hawkers-49153> accessed 8 December 2023.

³¹ Z Uthman, 'Child Street Hawking and its Implications for Peace and Security in Ibadan, Oyo State, Nigeria' [2019] <http://repository.pgcollegeui.com:8080/xmlui/handle/123456789/820> accessed 8 December 2023.

³²T Aruya, 'Lagos Child-Hawkers as Endangered Species' *Business Day* (Lagos, 31 July 2016) <https://businessday.ng/analysis/article/lagos-child-hawkers-as-endangered-species/> accessed 8 December 2023.

³³ D Tarh-Akong Eyongndi and J Okongwu, 'The Legal Framework for Combatting Child Labour in Nigeria Towards National Development'<https://www.academia.edu/resource/work/42006550> accessed 7 December 2023.

³⁴'Shackled to the past: Forced Child Begging in Nigeria' [10 December 2020] <https://www.antislavery.org/latest/forced-child-begging-in-nigeria/> accessed 8 December 2023.

³⁵J Mbotidem, 'Building a Sustainable Artisanal Mining Ecosystem in Nigeria' [25 April 2023] https://www.linkedin.com/pulse/building-sustainable-artisanal-mining-ecosystem-nigeria-jackson-1f?utm_source=share&utm_medium=member_android&utm_campaign=share_via accessed 9 December 2023.

³⁶ P Ibeme, 'Child Domestic Worker in Rural and Urban Areas of Nigeria: Implications for National Development' [2014] (1) (12) *International Journal of Emerging Knowledge* P. 219.

³⁷ M C Agbo, 'The Health and Educational Consequences of Child Labour in Nigeria' [2017] (11) (1) *Health Science Journal* P. 4.

Commercial Sexual Exploitation of Children (CSEC): The International Labour Organization (ILO)³⁸ considers commercial sexual exploitation of children an abhorrent violation of the human rights of children and adolescents and a form of economic exploitation similar to slavery and forced labour, which also implies a crime on the part of those who use girls and boys and adolescents in the sex trade. Commercial sexual exploitation in children includes: the use of girls and boys in sexual activities remunerated in cash or in kind (commonly known as child prostitution) in the streets or indoors, in such places as brothels, discotheques, massage parlours, bars, hotels, restaurants, etc; the trafficking of girls and boys and adolescents for the sex trade; child sex tourism; the production, promotion and distribution of pornography involving children; the use of children in sex shows (public or private). Child victims of commercial sexual exploitation endure physical and emotional harm, including the risk of sexually transmitted infections, physical violence, rape and psychological trauma.

4. Legal Framework for Eradicating Child Labour

The legal response to child labour in Nigeria has evolved over the years, influenced largely by international conventions. As a result of this influence, Nigeria has ratified and domesticated various international instruments and enacted her own domestic laws on the eradication of child labour. These legislation shall be divided into two parts, namely; international instruments and domestic laws.

International Instruments on Child Labour:

Rooted in principles of justice, equity, and human rights, international laws on child labour have evolved over time, culminating in a collective commitment to eradicate exploitative practices and ensure every child's right to a childhood free from toil. The major international Conventions, Charters and Protocols were enacted by the United Nations (UN) through instruments such as; the United Nations Convention on the Rights of the Child (CRC), the International Labour Organization (ILO) through instruments such as; Convention No. 138 (Minimum Age Convention) and Convention No. 182 (Worst Forms of Child Labour Convention), and the African Union (AU) through instruments such as; African Charter on the Rights and the Welfare of the Child (ACRWC). These laws have been ratified and domesticated in Nigeria pursuant to section 12 of 1999 Constitution of the Federal Republic of Nigeria. Here are a few major laws to be considered;

Convention on the Rights of the Child

This is the principal legislation intended to protect all facets of a child's right.³⁹ It outlines the civil, political, social, economic, and cultural rights of children as well as the obligations of state parties to uphold these rights. It specifically prohibits child labour by stating in Article 32 (1) that: 'States Parties recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development.' Article 32 (2) requires States Parties to ensure the implementation of article 32 (1) by taking necessary legislative, administrative, social and educational measures. Additionally, it instructed States Parties to provide for a minimum age or minimum ages for admission to employment; to provide for appropriate regulation of the hours and conditions of employment; and provide for appropriate penalties or other sanctions to ensure the effective enforcement of this provision. However, the CRC failed to specify a minimum age at which children could be admitted into employment in order to prevent States Parties from imposing their own minimum ages.

Minimum Age Convention No. 138 of 1973

This is a convention adopted in 1973 by the International Labour Organization. It requires ratifying states to pursue a national policy designed to ensure the effective abolition of child labour.⁴⁰ Article 2 (3) provides that the minimum age of admission to employment shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years. Article 2 (4) provides that where a member state is a developing Country, then the minimum age of admission to employment shall be 14 years. Article 3 (1) stipulates that the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years. Furthermore, Article 7 (1) provides that children the age of 13-15 years can engage in light work which is not harmful to their health or development; and does not prejudice their attendance at school. This Convention however failed to define what amounts to light work.

³⁸Commercial Sexual Exploitation of Children'<https://www.ilo.org/ipec/areas/CSEC/lang--en/index.htm> accessed 9 December 2023.

³⁹ O M Atoyebi, 'A Legal Analysis of Child Labour and Exploitation in Nigeria' (9 October 2023) https://omaplex.com.ng/a-legal-analysis-of-child-labour-and-exploitation-in-nigeria/#_ftn1 accessed 4 December 2023.

⁴⁰ 'Minimum Age Convention, 1973'https://en.m.wikipedia.org/wiki/Minimum_Age_Convention,_1973 accessed 11 December 2023.

The Convention also addresses the gap in Article 32 of the CRC, which fails to provide a specific age of admission of children into employment.

Worst Forms of Child Labour Convention (No. 182) 1999

This Convention was adopted by the International Labour Organization (ILO) in 1999 as ILO Convention No 182. Its major aim is to eliminate the worst forms of child labour.⁴¹ The Convention identifies specific categories of hazardous work that are considered the worst forms of child labour. These include slavery, forced or compulsory labor, use of children in prostitution or pornography, illicit activities such as drug trafficking, and work that is likely to harm the health, safety, or morals of children.⁴² The Convention further emphasizes the need for immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour.⁴³

African Charter on the Rights and Welfare of the Child (ACRWC)

The African Charter on the Rights and Welfare of the Child (also called the ACRWC or Children's Charter) was adopted by the Organisation of African Unity (OAU) in 1990 (in 2001, the OAU legally became the African Union) and was entered into force in 1999.⁴⁴ Article 15 of the Charter provides that every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development. However, the Charter failed to specify a minimum age at which children could be admitted into employment, rather it gave States Parties the authority to impose their own minimum age.⁴⁵

Domestic Laws

These are the laws enacted by the Nigerian legislature for the protection of children and elimination of child labour. They include; the Child's Right Act and the Labour Act.

Child Rights Act (CRA)⁴⁶

The CRA is a comprehensive legislation aimed at safeguarding the rights and welfare of children in Nigeria. It covers various aspects, including protection from abuse, exploitation, and discrimination. The relevant provisions of the Act that apply to the protection of children against child labour are contained in sections 28, 29 and 30. Section 28 of the Act stipulates that, 'subject to this Act, no child shall be-

- (a) subjected to any forced or exploitative labour,
 - (b) employed to work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character; or
 - (c) required, in any case, to lift, carry or move anything so heavy as to be likely to adversely affect his physical, mental, spiritual, moral or social development; or
 - (d) employed as a domestic help outside his own home or family environment.
- (2) No child shall be employed or work in an industrial undertaking and nothing in this subsection shall apply to work done by children in technical schools or similar approved institutions if the work is supervised by the appropriate authority.
- (3) Any person who contravenes any provision of subsection (1) or (2) of this section commits an offence and is liable on conviction to a fine not exceeding fifty thousand Naira or imprisonment for a term of five years or to both such fine and imprisonment.
- (4) Where an offence under this section is committed by a body corporate, any person who at the time of the commission of the offence was a proprietor, director, general manager or other similar officer, servant or agent of the body corporate shall be deemed to have jointly and severally committed the offence and may be liable on conviction to a fine of two hundred and fifty thousand Naira'.

Section 29 of the Act provides that the provisions of sections 58-63 of the Labour Act which apply to young person's shall be also be applicable to children under the CRA. Furthermore, section 30(1) of the Act prohibits the buying, selling, hiring or dealing in children. Section 30(2) of the Act further prohibits the use of a child for; begging for alms, as a slave, for hawking, for purposes that deprives a child the opportunity to attend and remain in school, for prostitution, and for the purpose of trafficking illegal drugs.

⁴¹'Worst Forms of Child Labour Convention' https://en.m.wikipedia.org/wiki/Worst_Forms_of_Child_Labour_Convention accessed 11 December 2023.

⁴²Article 3, Worst Forms of Child Labour Convention, 1999 (No. 182).

⁴³Article 1, Worst Forms of Child Labour Convention, 1999 (No. 182).

⁴⁴'African Charter on the Rights and Welfare of the Child' https://en.m.wikipedia.org/wiki/African_Charter_on_the_Rights_and_Welfare_of_the_Child accessed 11 December 2023.

⁴⁵Article 15 (2) (a), African Charter on the Rights and Welfare of the Child (ACRWC).

⁴⁶Cap C50 LFN 2003.

Labour Act⁴⁷

The Labour Act is a key piece of legislation that governs employment relationships and working conditions in the country. It also addresses the issue of child labour as part of its provisions. Section 59 (1) of the Act provides that ‘no child shall;

(a) be employed or work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character approved by the Minister; or

(b) be required in any case to lift, carry or move anything so heavy as to be likely to injure his physical development.

(2) No young person under the age of fifteen years shall be employed or work in any industrial undertaking except in technical schools or similar institutions if the work is approved by the relevant authority.

(3) A young person under the age of fourteen years may be employed only;

(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 guardians or a person approved by his parents or guardian: Provided that, save as may be otherwise provided by any regulations made under section 65 of this Act, this subsection shall not apply to a young person employed in domestic service.

5) No young person under the age of sixteen years shall be employed:

(a) to work underground; or (b) on machine work; or (c) on a public holiday.

(6) No young person shall be employed in any employment which is dangerous or immoral or injurious to his health.

(8) No young person under the age of sixteen years shall be required to work for a longer period than four consecutive hours or permitted to work for more than eight working hours in one day.’

Section 60 prohibits the employment of children in night work with the exception of young persons who are over the age of sixteen years who may be employed during the night in industrial undertakings or activities which by reason of the nature of the process are required to be carried on continuously day and night, or in cases of emergency. Section 61 further prohibits the employment of young persons under the age of fifteen years in any vessel, except where the vessel is a school or training vessel and the work on which the young person is employed is work of a kind approved by the Minister, and supervised by a public officer or by a public department; or only members of the young person's family are employed. Section 62 stipulates that every employer of young persons in an industrial undertaking shall keep a register of all young persons in his employment with particulars of their ages, the date of employment and the conditions and nature of their employment and such other particulars as may be prescribed, and shall produce the register for inspection when required by an authorized labour officer.

5. Criticism of the Provisions of the Child's Rights Act and the Labour Act

In Nigeria, the legislative landscape governing child rights and labour practices is governed by two key acts—the Child's Rights Act⁴⁸ and the Labour Act⁴⁹. These legal frameworks are designed to safeguard the well-being of children, ensuring their protection from exploitation and defining the parameters of acceptable labour practices. However, a critical examination reveals notable inconsistencies and gaps within these Acts, posing challenges to the effective regulation of child labour. One notable disparity lies in the definition of a child; section 277 of the CRA defines a child as a person below 18 years, while section 91 of the Labour Act distinguishes between a child and a young person and defines a child as a person below 12 years, while a young person is a person between 12 and 18 years. Secondly, another primary inconsistency arises from the differing age specifications for employment outlined in the Child's Rights Act and the Labour Act. While the Labour Act stipulates different ages ranging from 14 to 16 years for different kinds of employment⁵⁰, section 277 of the Child's Rights Act prescribes the age of 18 years in all cases. Lastly, section 60 of the Labour Act permits young persons over the age of sixteen years may be employed in the manufacture of iron and steel, in processes in which reverberatory or regenerative furnaces are used and in the galvanizing of sheet metal or wire (except the pickling process); glass works; manufacture of paper; manufacture of raw sugar; and gold mining reduction work. However, section 28 (2) of the Child's Rights Act prohibits the employment of a child in an industrial undertaking. This incongruity not only creates ambiguity but also raises questions about the adequacy of legal protection for children entering the workforce. Ordinarily, where there are inconsistencies in two different legislations, the legal principle of *leges posteriores priores contrarias abrogant* (which means that when there are conflicting laws, the later or more recent law takes precedence and repeals the earlier one to the extent of the

⁴⁷ Cap L1, LFN, 2010.

⁴⁸ Cap C50 LFN 2003.

⁴⁹ Cap L1, LFN, 2010.

⁵⁰Ibid section 59, 60 and 61.

inconsistency) would apply.⁵¹ The implication is that the Child's Rights Act being a more recent law would take precedence over the Labour Act. However, by reason of section 29 of the CRA which provides that; 'the provisions relating to young persons in sections 58- 63 of the Labour Act shall apply to children under the CRA', the Labour Act takes precedence over the CRA. Hence the statement by Ogunsakin, 'The dynamism which a law like the Child's Rights Act should have brought to bear on the circumstances of the Nigerian child is sadly missing and the difference that it should have made is not about to take shape.'⁵² Secondly, there is a weak implementation of the Child's Rights Act as against the Labour Act. This is due to the fact that, though the two legislation are federal enactments, the CRA is only applicable in the Federal Capital Territory, Abuja and to State assemblies that codify the law. So far, only 24 states out of the 36 states in Nigeria have domesticated the Act into their legal framework, and as a result, it does not have force of law in those jurisdictions.⁵³ However, the Labour Act is generally applicable in Nigeria. Thirdly, the penalties for non-compliance are inadequate and not stringent enough to effectively deter individuals or entities from engaging in activities that violate the rights of children. For instance, section 28 (3) and (4) of Child Rights Act imposes a fine of #50,000.00 or 5-years imprisonment or both on individuals, and a fine of #250,000.00 on a body corporate, while section 64 (1) of the Labour Act imposes a fine of #100.00 or imprisonment.

6. Tips to Ending Child Labour

Educate yourself. 'The change starts within each one of us, and only when all children are free to be children'.⁵⁴ There is need to identify the worst types of child labour and the most vulnerable girls and boys. Education to the most vulnerable and granting of scholarship to indigent families is also needed. Government, companies and Philanthropist should invest in social protection. Creating data base for new born and registration of every birth is important. It is equally good to bring child labourer to light which will involve gathering new and improved data on child labour. Sharing information on worst forms of child labour, abuse and exploitation in our community and reporting to appropriate quarters is needed too. It is essential to lobby our local, state and federal legislators in passing bills on child abuse, labour and exploitation. It is crucial to educate others by holding presentations to schools, communities of faith (the churches and mosque), nonprofit and other groups to educate them about child labour issues and encourage positive action.

7. Conclusion and Recommendations

This paper has delved into the complex issue of child labour in Nigeria, uncovering its various forms, the legal framework for its elimination and exploring potential solutions. The findings underscore the urgent need for a comprehensive strategy that combines legislative reforms, educational reforms, and socio-economic development. By addressing the systemic challenges and promoting a holistic approach, Nigeria can aspire to eliminate child labour, thereby fostering a society where the rights and well-being of its children are safeguarded. Continued dedication to this cause is essential to realize a future where every child in Nigeria can grow and thrive without the shadows of exploitation and labour hanging over their potential. In line with the foregoing, the following recommendations are respectively made and these are aimed at solving the problems of child labour in Nigeria.

- a. Amendment of the Labour Act and the Child's Right Act: For the purposes of clarity, it is recommended that these federal legislation uniformly spells out a specific definition of a child, in order to prevent the confusion as to the exact legal age of majority.
- b. Domestication of the Child's Right Act of Nigeria by all the 36 States of the Federation: The adoption of the Child's Right Act by all states in Nigeria is crucial for ensuring a unified legal framework that promotes the rights of children and protects children from child labour consistently across the country.
- c. Amendment of the Child's Right Act: The CRA should be amended in order to incorporate the provisions concerning child labour into the Act while the reference to the provisions of the Labour Act of Nigeria should be removed from the CRA.
- d. The Compulsory, Free Universal Basic Education Act of 2004 should be properly enforced in Nigeria in order to provide accessible and quality basic education to all children. This in turn would serve as a powerful tool for eradicating child labour by providing children with access to learning opportunities, empowering them with skills for the future, and breaking the cycle of poverty that often fuels child labour.

⁵¹ C Gyanchandani, 'Analysis of Legal Maxim: Leges Posteriors Priorae Contrarias Abbogant' (1) (3) *Journal of Legal Research and Juridical Sciences* p. 36.

⁵² J Ogunsakin, 'A Legal Prognosis of Child Labour Under The Nigerian Child's Rights Act' [2015] (30) *International Affairs and Global Strategy* p. 35.

⁵³ U Assim, 'Why the Child's Rights Act Still Doesn't Apply Throughout Nigeria' 24 September 2020 <https://theconversation.com/why-the-childs-rights-act-still-doesnt-apply-throughout-nigeria-145345> accessed 12 December 2023.

⁵⁴ C. Kielburger CM MSM OMC Canadinn Human Rights Activist and the World Children's Prize Medalist.