



CHILD LABOUR UNDER NIGERIAN LAWS: AN
ANALYTICAL DISCOURSE OF THEIR
ENFORCEABILITY

BY

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ABSTRACT

This research examines in a comparative manner the principles and rules relating to child labour under the Nigerian Laws. It is also an analytical discourse on their enforceability. It is a fact that many children are victims of child labour in Nigeria. Therefore, this thesis will study the causes of child labour in the nation and will also examine applicable laws on child labour under the *Shari'ah*, Civil and Customary laws to determine deterrent punishment for child exploiters. The premise of this work is to determine how the *Shari'ah* can assist in solving the problem of child labour. It also examines how biological parents can play significant roles in solving the multi-faceted child labour problems across the nation to put an end to the phenomenon. In providing a broader insight into child labour, the thesis will look into the United Nations Convention on Child Rights that prohibits child labour globally to evaluate its effectiveness in Nigeria. An attempt will also be made to harmonise the Civil law, *Shari'ah*, and the United Nations Convention to find a more effective solution in the interest of children at large. The research is conducted employing qualitative and quantitative methods using the available materials gathered from the library and the Internet. Materials that are obtained include the primary sources like legislation, the *Qur'an* and *Hadith*, and textbooks by all the respected schools of Islamic law. Secondary sources such as encyclopaedias, law reports, theses, journals, periodicals and conference proceedings are also consulted. Similarly, many working children were interviewed across the nation as a sample and evidence of child labour in Nigeria. Some non-governmental organisations, lawyers, academicians were also interviewed on the subject matter. After examining all the relevant materials, it may be hypothesised that the *Shari'ah* can assist in eliminating child labour by implementing *Shari'ah* provisions on Muslims only. It has been discovered by this research that lack of child maintenance, bad governance, corruption, poverty, ignorance, lack of child Act enforcements, and cheap labour caused and heavily contributed to child labour in Nigeria. This research hopes to provide significant suggestions to eradicate child labour completely from Nigeria in the interests of children, the family, and the nation in general.

ملخص البحث

تتناول هذه الدراسة بأسلوب مقارن للمبادئ والقواعد المتعلقة بالطفل العامل في القوانين النيجيرية، كما تتناول الدراسة بشكل تحليلي وتطبيقي على أحوال الأطفال. لذلك، فإن العامل في الشريعة الإسلامية والقوانين العرفية من أجل الحصول إلى عقاب رادع لمستغلي الأطفال. مقدمة هذا البحث تبين وتقر كيف تستطيع الشريعة الإسلامية أن تساعد في حل مشكلة الطفل كما تبحث عن كيف يمكن للوالدين أن يلعبوا أدوارا أساسيا ومهمة في حل مشاكل الطفل العامل في جميع الاتجاهات في كل أنحاء الدولة ووضع ثمانية لهذه الظاهرة على شرط أن يكون هناك استبصار شامل للطفل العامل. وكذلك، هذه الرسالة تراجع ميثاق الأمم المتحدة لحقوق الأطفال والذي يمنع الطفل العامل دوليا وعالميا، وذلك من أجل تقييم أثره وفعالته في نيجيريا. وهذا البحث يصر محاول انسجام واتفق بين القانون المدني والشريعة الإسلامية وميثاق الأمم المتحدة لإيجاد حل أكثر بمحاولات فعالية للمصلحة بصورة عامة. لأجل ذلك، فقد استخدم الباحث في هذه الرسالة الأساليب والكيفية والكمية والأسلوب الكمي بحيث يعتمد على تجمع المادة المتعلقة بموضوع الدراسة من المكتبات والمعلومات عبر الإنترنت. وقد تحتوي مصادر البحث على مصادر أساسية مثل التشريع والفوائد الرسمية والقرآن الكريم والحديث وكتب المناهج وكذلك الكتب الفقهية المتعلقة بالرسالة والتقارير الثانوية والرسائل العلمية والمحلات الثانوية وكذلك البحوث المقدمة في المؤتمرات والندوات. وبشكل مثنائية فقد تم إجراء كثير المقابلات مع الأطفال العاملين كعينه ودليل لطفل العامل في نيجيريا. كما تم إجراء مقابلات مع بعض المنظمات غير الحكومية والمحامين والأكاديميين. وبعد ملخص استنطاق كل المصادر المتعلقة بالموضوع فقد توصل الباحث إلى أن الشريعة الإسلامية تستطيع أن تساعد وأن تساهم في إزالة الطفل العامل من خلال تطبيق نصوص الشريعة الإسلامية على المسلمين فقط. وأخيرا، يأمل هذا البحث تقديم وتزويد مقترحات مهمة في إزالة الطفل العامل بشكل شامل في نيجيريا من أجل مصالح الأطفال والعائلة وكذلك البلد بشكل عام.

APPROVAL PAGE

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DECLARATION

I hereby declare that this thesis is the result of my own investigations except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degree at IIUM or other institutions.

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Signature.....

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This thesis is dedicated to the Glory of Almighty Allah and to all Nigerian working children who are working under the hazardous and unhealthy condition across the nation.

Oh Allah, shower your mercy and blessing on them and forgive them.

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1987 (Act 334).
United Nations Convention on the Rights of The Child 2005

LIST OF ABBREVIATIONS

ACARTSOD	African Centre for Applied Research and Training in Social Development
AFCHR	African Child Human Rights
AMCHR	American Child Human Rights
ASUU	Academic Staff Union of University
BSE	Simian Spongiform Encephalopathy
C.A	Child Act
C.R.C	Convention on the Rights of the Child
CBN	Central Bank of Nigeria
CJD	Creutzfeldt Jakob Disease
DPT	Diphtheria, Pertussis and Tetanus
ECHR	European Convention on Human Rights
EFA	Education For All
EFA	Education For All
EFCC	Economic and Financial Crime Commission
F:	Female
FIDA	Federation of Women Lawyers
FLSA	Fair Labour Standard Act
FMELP	Federal Ministry of Employment and Productivity
FMELP	Federal Ministry of Employment Labour and Productivity
FOS	Federal Office of Statistics
HIV/AIDS	Acquired Immune Deficiency Syndrome
ICCPR	International Convention on Civil and Political Rights
IIT	International Institute of Islamic Thought
IUM	International Islamic University Malaysia
ILO	International Labour Organisation
IMF	International Monetary Found
IPEC	International Programme on the Elimination of Child Labour
JSS	Junior secondary school
LRA	Law Reform Act
M:	Male
MDGs	Millennium Development Goals
MDGs	Millennium Development Goals
MMR	measles, Mumps, Rubella
MURIC	Muslims Rights Concern
N	Naira
NAPTIP	National Agency for Prohibition of Trafficking in Persons
NCNE	National Commission for Nomadic Education
NGOs	None Governmental Organisation
NTI	National Teacher Institute
NUC	National University Commission
NUT	Nigerian Union of Teachers
PSAR	Primary School Attendance Ratio
PSER	Primary School Enrolment Ratio
R.A	Radiyallahu Aniah

R.A	Radiyallahu Aniu
RM	Malaysian Riggint
S.A.W	Sallahu Alai Wasalam
SIMPOC	Statistical Information and Monitoring Program on Child Labour
SIMPOC	Statistical Information and Monitoring Programme and Child Labour
SIV	Simian Immunodeficiency Virus
SSAR	Secondary School Attendance Ratio
SSER	Secondary School Enrolment Ration
SSS	Senior secondary school
UN	United Nations Convention
UNICEF	The United Nations Children's Found
USDOL	United State Department of Labour
USDOL	United States Department of Labour
WOCDF	Women and Children's Development Initiative Foundation
WOTCEF	Women Trafficking and Child Labour Eradication Foundation

CHAPTER ONE

BACKGROUND OF THE THESIS

1.0 GENERAL INTRODUCTION

Child labour is one of the major and most rampant problems facing Nigerian children. Child labour is pervasive throughout Nigeria where the capacity to enforce minimum age requirements for schooling and employment is lacking. In Nigeria, children work for varieties of reasons and serve as major contributors to their family income. The most important reasons for child labour in Nigeria are poverty, culture and religion. Child labour and its consequences need an urgent and unanimous response by the government in order to free children from this predicament and plight. Despite the fact that the Child Right Act has been passed in Nigeria, it is still hotly debated and there is no enforcement in some states in Nigeria because only 10 States approved the bills and their enforcement while the rest did not approve them because of alleged inconsistencies with their religion and culture.

Children study and work at the same time to supplement their families' income to improve their family's standard of living which is good if their employment does not negatively affect their health, physical development and education. However, if the children are working under hazardous conditions which will worsen their health, physical development and education, or engage in harmful employment, it is legally and rationally prohibited in the interest of the child.

Many developed countries experienced these atrocious conditions until their governments put an end to them. This thesis aims to study what child labour in Nigeria in the light of the applicable laws in Nigeria.

1.1 SUMMARY OF THE RESEARCH

The research is going to look into the various reasons that contribute to the prevalence of child labour in Nigeria. The applicable laws in Nigeria that include the Customary and Civil law on child labour will be compared to address the multi- faceted problems of child labour. It examines the concept and historical background of labour, child labour under the United Nations Convention 2005 in Nigeria and position of *Shari'ah* on child labour. The work deals with harmonization between *Shari'ah*, civil law, and United Nations Convention in order to find solutions to the child labour in Nigeria.

1.2 OBJECTIVES

Objectives of the study are as follows:

- [1] To examine the applicable laws on child labour in Nigeria.
- [2] To compare the applicable laws: civil law, *Shari'ah* laws and customary laws on child labour in Nigeria.
- [3] To suggest ways of solving the problems relating to child labour.
- [4] To determine how the *Shari'ah* can assist in solving the problems of child labour in Nigeria.
- [5] To investigate how the biological parents can play significant roles in solving the multi- faceted child labour problem across the country.
- [6] To examine why the United Nations Conventions on Child Rights is not approved by some States in Nigeria
- [7] To propose the harmonization of Civil law with the *Shari'ah (Fiqh)* as a means of dealing with the process of child labour in Nigeria.

1. 3 STATEMENT OF THE PROBLEM

The rate of child labour is escalating because various means have been used to involve children in Nigeria. Child abuses such as child trafficking for the purposes of prostitution, enslavement, and street hawking are the problems facing Nigerian children. Educational and health problems are also issues facing Nigerian children and some tribes and states have failed to implement the child rights bill passed by the Nigerian parliament. The research is undertaken to resolve these particular issues and problems of child labour in Nigeria.

1. 4 HYPOTHESIS

This research is based on the hypothesis that the *Sharī'ah* has comprehensive rules governing child labour and child rights and that the law to be enacted can learn the experience from *Sharī'ah* and laws from Muslim countries in the best interest of the child. This thesis recommends the full enactment, application and implementation of law on child labour which does not contravene the concepts of religion and culture.

1.5 LITERATURE REVIEW

There are quite a number of studies that are relevant and valuable to the theme and scope of this research. There are many books considered as useful and applicable for the research while others are useful but do not directly focus on or are relevant to child labour in Nigeria. There are many works written by scholars on child labour and this review will attempt to explain the views and opinions of some of them on the aspect of child labour.

Pursuant to the topic, there are many articles written by scholars that are considered as useful materials in the field. The research by Faraaz Siddiq and

Anthony (n.d.)¹ examined the causes of child labour and its consequences on children's health, education and social development globally and their research is considered as useful material in the field. However, it did not focus on Nigeria as a case study and also lacks the position and opinions of Islamic scholars on child labour.

Oyelaran, (n.d)² focuses on forms of child abuse in Nigeria such as exploitation, corporal punishment, beggar's assistance, hawking on the road and working in hazardous conditions. This work is useful to the research but it does not explain the causes of child abuse in Nigeria and the role of government in eradicating the predicament. The study focus on the causes of child labour and the government's roles in eradicating the plight of children in Nigeria.

Sebastian (1997)³, expounds on the problem of child labour, providing a statistical estimation of child labour in the world, and also discussing parents' responsibilities, and the possible solutions. The article is considered as useful material for this research. A general approach to child labour was exploited by the writer while this study mainly focuses on Nigerian children as a case study. The research will vividly examine the role of the Nigerian culture in child labour.

Krisztina, K and Gunther, G.S (2005),⁴ focus on the regulation of child Labour which falls under three broad categories; ethical considerations, efficiency considerations, distributional, and politico – economic motivation. The paper is also considered as useful material for the research because it gives the percentage of

¹ Faraaz Siddiq & Harry Anthony, "Child Labor: Issues, cases and intervention," Human Capital development and operation policy (HCO) working paper. <http://www.worldbank.org./htm/extdr/hnp/hddflash/workp/wp_00056.htm> (accessed 8 November, 2007).

² Wilson Oyelaran, "The ecological model and the study of child abuse and Nigeria. <<http://www.ncbi.nlm.nih.gov/entrez/> query.fcgi?too=abstractplus.db=>. (accessed 8 November, 2006).

³ Vicente Sebastian, "Child Labour" In Business Ethics, vol. 6 no. 4 (U.S.A: Blackwell publishers Ltd, 1997), 208-212.

⁴ Krisztina, K & Gunther, G.S, "*Regulation of Child Labour*" *The economics of employment regulation*, (London: Black well publishing, 2005), 24-29.