

# LEGISLATIVE CONTRADICTIONS IN NIGERIA'S CHILD LABOUR LAWS: A CRITICAL ANALYSIS OF THE LABOUR ACT AND CHILD RIGHTS ACT

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## Abstract

*Child labour remains a significant issue in Nigeria, particularly in sectors like agriculture, despite the country's ratification of key international conventions such as the ILO Minimum Age Convention (No. 138) and the Worst Forms of Child Labour Convention (No. 182). This article critically examines the legislative contradictions between Nigeria's Labour Act (2004) and the Child Rights Act (2003), which set conflicting minimum working ages of 12 and 18 years, respectively. These inconsistencies, coupled with the absence of a clear list of prohibited hazardous activities, undermine child protection efforts and compliance with international standards. The study employs a rights-based theoretical framework, drawing on Hohfeld's claim rights and the interest theory, to analyse these gaps and their implications. It highlights weak enforcement mechanisms, socio-economic challenges, and the need for harmonised legislation. Recommendations include amending the Labour Act to align with international standards, publishing a definitive list of hazardous work, strengthening enforcement, and implementing economic interventions like conditional cash transfers to reduce child labour.*

**Keywords:** Child labour, Nigeria, Labour Act, Child Rights Act, legislative contradictions, hazardous work, international conventions.

## I. INTRODUCTION

Child labour remains a pervasive issue in Nigeria, particularly in the agricultural sector, with cocoa farming being one of the most affected industries. The ILO has argued over the years that existing laws do not effectively safeguard children from child labour and its worst forms. They have also observed an increase in the number of children engaged in work.<sup>2</sup> Despite Nigeria's ratification of key international conventions such as the ILO Minimum Age Convention (No. 138) and the Worst Forms of Child Labour Convention (No. 182), there is an issue of implementation. The inadequacy of enforcement mechanisms and the inconsistency between national laws and international standards continue to expose children to exploitative conditions.

The contradictions within Nigeria's domestic legislation have exacerbated the problem. International organisations have expressed concern over the inconsistency in the laws on the minimum age for employment in Nigeria.<sup>3</sup> The Federal law that deals generally with labour matters in Nigeria is the Nigerian Labour Act (Cap L1 LFN 2004). The Act places the minimum age for work at 12 years.<sup>4</sup> Under Section 91(1) of the Nigerian Labour Act, anyone under the age of 12 is considered a child. As a result, when combined with Section 59(1), "No child under 12 shall be employed or work in any capacity except where he/she is employed by a member of his/her family to perform light work of an agricultural, horticultural or domestic character."<sup>5</sup> However, the ILO discovered a discrepancy in

<sup>1</sup> PhD (Ibadan), LL. B (Ibadan), LL.M (Lagos), B.L

<sup>2</sup> International trade union confederation (ITUC). June 28, 2011. *Internationally recognised core labour standards in Nigeria*. Retrieved Feb. 5, 2022 from <https://rb.gy/Ogv3>; U.S. Department of labour. 2019, *findings on the worst forms of child labour: Nigeria*. 906 Retrieved July 1, 2021 from <https://rb.gy/myk0z>

<sup>3</sup> U.S. Department of labour. 2017, *findings on the worst forms of child labour: Nigeria*. Retrieved July 1, 2021 <https://www.refworld.org/pdfid/5bd05ae22.pdf>.

<sup>4</sup> Nigeria Labour Act. CAP L1 LFN 2004. Section 59(1)

<sup>5</sup> *Ibid*



the definition of a child when reviewing the Child Rights Act of 2003.<sup>6</sup> Section 277 of the Act defines a child as anyone under the age of 18. When read in conjunction with Section 28(1) (b), “a child under the age of 18 shall not be employed to work in any capacity except where he/she is employed by a member of his / her family to perform light work of an agricultural, horticultural, or domestic work.”<sup>7</sup> These legal discrepancies create confusion and weaken child labour protections.

This study aims to analyse these legal contradictions and assess Nigeria’s compliance with its international obligations, applying a rights-based theoretical framework grounded in Hohfeld’s claim rights and the interest theory, which prioritises child welfare. A claim right is a right that requires a duty or obligation on someone towards a right-holder. According to Hohfeld, ‘Duty’ and ‘right’ are correlative terms. When a right is invaded, a duty is violated.<sup>8</sup> He used the following illustrations: “If X has a right against Y that he shall stay off the former’s land, the correlative (and equivalent) is that Y is under a duty toward X to stay off the place.”<sup>9</sup>

## II. Definitional Debates on Child Labour

There has never been a precise definition of child labour. Hanson<sup>10</sup> also pointed out that it is difficult to reach an internationally acceptable definition because the term child labour itself is controversial. Myers<sup>11</sup> explained further that ‘the debate over what is meant by ‘child labour’ represents a fundamental disagreement over what the social problem is that should be eliminated, and the stakes are high for key interest groups divided between the positions.’ The public’s overall comprehension of the idea of child labour applies to activities that do not meet international standards.<sup>12</sup> That is “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>13</sup> Thus, it was stated by Nieuwenhuys<sup>14</sup> that the word child labour ‘came to be closely related to the notion of exploitation and fuelled a growing public sensitivity to the wrongs it implied in respect to the children. Myers<sup>15</sup> maintains that the use of the word ‘child labour’ is unavoidable. In his opinion, ‘the term is a permanent fixture in official usage, and we have to deal with it even if we do not want to.’<sup>16</sup> To support the arguments of the various writers, ILO has, over the years, acknowledged the fact that there can be no universal definition of child labour.<sup>17</sup>

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<sup>6</sup> China-ILO/IPEC. Oct. 2014. *National legislation on hazardous child labour: Minimum Age Convention, 1973 (no. 138) and Worst forms of Child Labour Convention, 1999 (no. 182)*.

<sup>7</sup> Nigeria Labour Act. CAP L1 LFN 2004

<sup>8</sup> Hohfeld, W.N., 1913. *Some fundamental legal conceptions as applied in judicial reasoning*. *Yale Law Journal* 23.1: 16-59. Retrieved March 16, 2021, from <https://digitalcommons.law.yale.edu/ylj/vol23/iss1/4>.

<sup>9</sup> Elegibo, J.M. 1994. *Jurisprudence*. 2<sup>nd</sup> ed. Ibadan: Spectrum Law Publishing 158.

<sup>10</sup> Hanson, K., Volonakis, D. and Al-Rozzi, M. 2015. Child Labour, working children and children’s rights. *Routledge International Handbook of Children’s Rights Studies* Eds. W. Vandenhoe, E. Desmet, D. Reynaert and S. Lembrechts. London: Routledge. 316-330.

<sup>11</sup> Myers, W. 1999. Considering child labour: changing terms, issues and actors at the international level. *Childhood* 6.1:13-26.

<sup>12</sup> ILO Geneva 2009. *Defining child labour: A review of the definitions of child labour in policy research*. Retrieved April 8, 2021 from <https://rb.gy/22rue>.

<sup>13</sup> United Nations. 1989. Convention on the rights of the child. *Treaty Series* 1577, 3. Art 32.

<sup>14</sup> Nieuwenhuys, O. 2009. From child labour to working children’s movement. *The Palgrave Handbook of Childhood Studies*. Eds. J. Qvortrup, W.A., Corsaro and M.S., Honig. London: Palgrave Macmillan. Chapter 19: 289-300.

<sup>15</sup> Myers, W. 1999. Considering child labour: changing terms, issues and actors at the international level. *Childhood* 6.1:13-26.

<sup>16</sup> Myers, W. 1999. Considering child labour: changing terms, issues and actors at the international level. *Childhood* 6.1:13-26.

<sup>17</sup> ILO Geneva 2008. Resolution concerning statistics of child labour. *The 18th International Conference of Labour Statisticians*. Retrieved April 8, 2021 from <https://rb.gy/hsw1q>



In the debates surrounding child labour definitions, the difference between child labour and child work also came up. According to Lavalette,<sup>18</sup> a difference in the two terms is 'theoretically unsustainable.' It reflects 'political value judgments about how we treat our children,' but is not grounded on a concrete investigation.<sup>19</sup> Researchers such as Giri<sup>20</sup> have proposed evading the use of the words 'labour' and 'work.' However, the name 'working children' today has been adopted to incorporate both 'labour' and 'work.'<sup>21</sup> Consequently, the ILO differentiates three kinds of working children: children in employment, child labourers and children in hazardous work.<sup>22</sup> According to the resolution concerning statistics on child labour, the term 'working children' is the 'broadest concept relating to the measurement of child labour.' Working children are defined as 'all children below 18 years of age engaged in any activity to produce goods or to provide services for use by others or for their own use.'<sup>23</sup>

Hanson<sup>24</sup> pointed out that many writers are of the view that it is very common for children under the minimum age set by ILO to work. Hence, the question as to whether all work done by children could be treated as harmful and therefore prohibited was a subject for debate. Hanson further stated that drafters of the provisions of Article 32 of the United Nations Convention on the Rights of a Child (UNCRC) did not expect to prohibit all types of work by children. Article 32 of the UNCRC specifically addresses the prohibition of child labour and the economic exploitation of children. Similarly, the working group discussion on the drafting of the UNCRC argued that the creation of a minimum age of employment ought not to stop children from performing activities under the supervision of their parents, as long as it does not affect their education. For example, fishing, hunting or light agricultural work.<sup>25</sup>

Following a proposal by the United States delegation, the drafters of the UNCRC agreed that the minimum age only relates to admission to employment and not domestic family work. Consequently, the term 'work' was deleted from the phrase.<sup>26</sup> During the Working Group Discussion on the drafting of the UNCRC in 1988, FAO was also in support of the fact that children can engage in small farming within the family as a 'production unit in the world's food supply.'<sup>27</sup> In the same vein, during the submission of the ILO proposal to the Working Group in the years 1981 and 1984, the ILO also expressed its concern over the rigidity of a proposed provision to ban all children under the age of

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<sup>18</sup> Lavalette, M. 1999. The 'new sociology of childhood' and child labour: childhood, children's rights and 'children's voice'. *A Thing of the Past? Child Labour in Britain in the Nineteenth and Twentieth Centuries*. Liverpool: Liverpool University Press. Chapter 1: 15-43

<sup>19</sup> Hanson, K., Volonakis, D. and Al-Rozzi, M. 2015. Child Labour, working children and children's rights. *Routledge International Handbook of Children's Rights Studies* Eds. W. Vandenhoe, E. Desmet, D. Reynaert and S. Lembrechts. London: Routledge. 316-330.

<sup>20</sup> Giri, B. R. 2009. *Bonded labour in Nepal: life and work of children in communities*. PhD dissertation, Milton Keynes: The Open University.

<sup>21</sup> Hanson, K., Volonakis, D. and Al-Rozzi, M. 2015. Child Labour, working children and children's rights. *Routledge International Handbook of Children's Rights Studies* Eds. W. Vandenhoe, E. Desmet, D. Reynaert and S. Lembrechts. London: Routledge. 316-330.

<sup>22</sup> ILO/IPEC-SIMPOC, Geneva. Jan. 18 2007. *Towards an acceptable statistical definition of child labour*.

<sup>23</sup> ILO Geneva 2018. Resolution to amend the 18th ICLS resolution concerning statistics of child labour. *The 20th International Conference of Labour Statisticians*. Retrieved April 8, 2021 from <https://rb.gy/9ww8u>

<sup>24</sup> Hanson, K., Volonakis, D. and Al-Rozzi, M. 2015. Child Labour, working children and children's rights. *Routledge International Handbook of Children's Rights Studies* Eds. W. Vandenhoe, E. Desmet, D. Reynaert and S. Lembrechts. London: Routledge. 316-330.

<sup>25</sup> Office of the United Nations High Commissioner for Human Rights 2007. Article 32 (Economic exploitation, including child labour). In *Legislative History of the Convention on the Rights of the Child. II*: 693-708. New York/Geneva: United Nations.

<sup>26</sup> *Ibid*

<sup>27</sup> *Ibid*



15 years from employment.<sup>28</sup> The ILO discovered that the UNCRC provision on protecting children from economic exploitation ought to be consistent with the current International Convention on the Minimum Age, 1973.<sup>29</sup>

According to the ILO, it is necessary to establish different age ranges for admission to light and hazardous work. Thus, the ILO minimum age convention 1973 placed the minimum age for admission to employment or work at 15 years and light work at 13 years. The minimum age for hazardous work is placed at 18 years, but could be 16 years in other strict situations, provided their health and personal development are protected. The convention also creates a situation where the minimum age could be placed at 14 (or 12 in the case of light work) for developing states.<sup>30</sup>

Hence, it is now an established principle of international law that not all work engaged in by children is defined as child labour. There is a general consensus that some categories of work are positive and help develop the knowledge and skills of children. Any work that has no negative impact on the health or personal growth and interferes with the education of a child is widely recognised as positive and therefore cannot be classified as child labour.<sup>31</sup> Thus, children can participate in 'light work'. The 1999 Convention on the worst forms of child labour prohibited hazardous work and allowed children between the ages of 12 and 15 to engage in what is known as 'light work'.<sup>32</sup> But such work must not affect their health, safety and education.<sup>33</sup> Therefore, there is a consensus in the international community that not all agricultural activities can be termed child labour.

### III. Measurement of Child Labour

The question that has always come up over the years is how one measures child labour. How does one determine the accurate number of children working? This is because many of them work within the family unit and informal sector. As a result, it is not possible to have accurate statistics on working children. Despite this challenge, the ILO has, over time, come out with a global estimate of child labour. According to the ILO, in order to determine which type of work is termed 'child labour', the child's age, type of work, number of hours working, and the conditions under which the child is working should be considered.<sup>34</sup> Accordingly, the ILO defines child labour as 'all non-hazardous activities undertaken before the age of 15 years (sometimes 14 or 16 years, subject to national laws and age of compulsory school education) except light work and all hazardous activities undertaken

<sup>28</sup> Office of the United Nations High Commissioner for Human Rights 2007. Article 32 (Economic exploitation, including child labour). In *Legislative History of the Convention on the Rights of the Child. II*: 698, 700. New York/Geneva: United Nations.

<sup>29</sup> Hanson, K., Volonakis, D. and Al-Rozzi, M. 2015. Child Labour, working children and children's rights. *Routledge International Handbook of Children's Rights Studies* Eds. W. Vandenhoe, E. Desmet, D. Reynaert and S. Lembrechts. London: Routledge. 316-330.

<sup>30</sup> ILO 2021, *International labour standards on child labour*. Retrieved July 2, 2021 from <https://rb.gy/pev7b>

<sup>31</sup> ILO Feb., 2012. *Eliminating the worst forms of child labour: A practical guide to ILO Convention No. 182*. Publication No. 92-2-112900-4. Retrieved April 8, 2021 from <https://rb.gy/4c3w4>; ILO 2004. *Child Labour: A Textbook for University Students*. 1<sup>st</sup> ed. ILO: Switzerland.

<sup>32</sup> International Labour Organization (ILO). June 17, 1999. *Worst forms of child labour convention, C182*

<sup>33</sup> Fontana, L. B., Grugel J. 2015. To eradicate or to legalize? Child labor debates and ILO convention 182 in Bolivia. *Global Governance 21.1*: 61-78. Retrieved April 8, 2021, from <https://doi.org/10.1163/19426720-02101006>.

<sup>34</sup> ILO, 19 September 2017. *Global Estimates of Child Labour: Results and trends*. Geneva: International Labour Office; Hanson, K., Volonakis, D. and Al-Rozzi, M. 2015. Child Labour, working children and children's rights. *Routledge International Handbook of Children's Rights Studies* Eds. W. Vandenhoe, E. Desmet, D. Reynaert and S. Lembrechts. London: Routledge. 316-330.



before the age of 18 years old.<sup>35</sup> Consequently, the current ILO estimate of child labour worldwide is 160 million, and out of this number, 79 million are in hazardous labour.<sup>36</sup>

The International Conference of Labour Statisticians states the guidelines for the measurement of child labour. National concepts and definitions of child labour for statistical measurement should take into consideration the country's needs and circumstances. National legislation, international labour standards, international statistical standards and other international instruments ought to be used to create statistical concepts and definitions of child labour. This methodology would make the results of statistical concepts and definitions in accordance with national laws and international labour standards.<sup>37</sup> International labour standards on child labour take into account the fact that there might be some exceptions to the general prohibition of child labour and allow for adaptability to countries in their application. Hence, there can be no uniform lawful definition of child labour for universal application.<sup>38</sup>

Anker<sup>39</sup> claims that after the 1999 passage of the ILO Convention No. 182, which focused on the worst forms of child labour, the necessity of measuring hazardous and other worst forms of child labour has become even more urgent. According to him, measuring hazardous labour presents some difficulties, necessitating urgent development of practical and methodological fieldwork. Such a field study should involve experimenting with a variety of different options to establish which tactic works best in certain situations. The more palatable perspective is this one. As mentioned by Rahman,<sup>40</sup> to determine sectors and jobs where a significant percentage of children work, key informants and rapid assessment methods can be adopted. A second strategy stated by Anker would be to compile data from surveys regarding how often children make use of or are exposed to hazardous substances or items at work. Either open-ended or closed-ended questions could be used for this.

In the debates on eradicating child labour, the question has always been whether there should be a total ban on child labour. Basu<sup>41</sup> argued that there is no unconditional answer as to whether there should be an outright ban on child labour. According to him, there are two sides to consider. There are circumstances where a total ban may be undesirable and lead to worse things happening to the children; on the other hand, there are circumstances where a total ban is desirable. The alternative to the former may be hunger and starvation, while the latter may cause an increase in the adult wage and thus create a good source of income for the working class.

Furthermore, in the course of looking for ways to eradicate child labour over the years, there was a ban on goods manufactured by children in many countries. For example, the USA have laws to 'prohibit the importation of merchandise produced, in whole or in part, by prison labour, slaves, or forced labour of children.'<sup>42</sup> There was a US case, *Hammert v Dagenhart*<sup>43</sup> where the Supreme Court in 1918 overturned the Keating-Owen Act, which governed child labour. The 1916 law forbade the

<sup>35</sup> *Ibid.*

<sup>36</sup> ILO and UNICEF 2021, *Child labour: global estimates 2020, trends and the road forward*. New York License: CC BY 4.0.

<sup>37</sup> ILO Geneva 2008. Resolution concerning statistics of child labour. *The 18th International Conference of Labour Statisticians*. Retrieved April 8, 2021 from <https://rb.gy/80gmj>

<sup>38</sup> *Ibid.*

<sup>39</sup> Anker, R. 2000. The economics of child labour: a framework for measurement *International labour review*. 139.3: 257-280.

<sup>40</sup> Rahman, W. 1996. Rapid assessment of child labour situation in Bangladesh. Dhaka. *ILO/ UNICEF*.

<sup>41</sup> Basu, K. 2005. Child labour and the law: notes on possible pathologies. *Economic Letters*, Elsevier. 87.2: 169-174.

<sup>42</sup> U.S. Import Laws and Goods Made by Child Labor or Slaves Overseas. Retrieved April 8, 2021 from <https://www.hg.org/legal-articles/u-s-import-laws-and-goods-made-by-child-labor-or-slaves-overseas-31787>

<sup>43</sup> Britannica, T. Ed. 2007. Hammer v. Dagenhart. *Encyclopedia Britannica*. <https://www.britannica.com/event/Hammer-v-Dagenhart>





interstate shipping of products made in mines or factories where minors under the age of fourteen were employed or when teenagers between the ages of fourteen and sixteen worked longer than eight hours per day. The Keating-Owen Act was declared to be an unjustified intrusion on state jurisdiction to regulate local labour conditions by the Court, which decided on a vote of 5 to 4. Justice Oliver Wendell Holmes, in a noteworthy dissent, cited the risks associated with excessive child labour, the state's incapacity to control it, and Congress's unassailable authority to regulate commerce between states, including the power to forbid. Unfortunately, there has never been any law to ban the importation of goods manufactured by children in Nigeria. For example, cocoa products such as coffee emanate from children working on Nigerian cocoa farms.<sup>44</sup> Others include the mining of gold, cassava, sand, gravel, manioc and granite.<sup>45</sup> However, there were many arguments as to whether such a ban was effective. Many believed that such a ban would lead to children being involved in other dirty work, such as prostitution, armed robbery, drugs, etc. Thus, a study conducted by UNICEF in the USA showed that after the Child Labour Deterrence Act was passed, many children resorted to stone-crushing, prostitution, street hustling and likewise jobs which were more exploitative in addition to being hazardous than the production of garments.<sup>46</sup>

Similarly, Basu<sup>47</sup> in his work questioned whether the issuance of trade sanctions by the WTO and imposing a legal minimum wage for adults, so has to makes it difficult to engage children in paid employment, will help eliminate child labour.

## V. The Nigeria Labour Act 2004

The Labour Act does not particularly have any provisions devoted to working children. Nevertheless, it includes sections on topics such as protecting children from hazardous and exploitative work. It is addressed in Part III (Sections 59-64) of the Labour Act under the heading Young Persons. The first key provision is in the interpretation area in section 91, which defines a child as a young person below the age of 12 years old, while a young Person is any person under the age of 18 years. Thus, the minimum age for work in Nigeria is 12 years. Consequently, according to section 59, a child of this age should not be engaged in any kind of work or employment, except for light household work, as well as agricultural and horticultural light work that requires ministerial approval.<sup>48</sup> Furthermore, children are not permitted to lift, carry, or move anything that is too heavy or that could harm their physical development.<sup>49</sup> Section 59(3) allows a young person below the age of 14 years to be employed daily with a daily income provided he goes back home every night to his parents' or guardian's home, or a person approved by his parents or guardians. However, if he is unable to return home due to his work, there must be written approval from the labour officer that he cannot come home at night. This section does not apply to young people in domestic service unless it has been stated in any regulation made by the minister in respect of domestic service under section 65 of the Labour Act.<sup>50</sup>

Based on section 59(2), the minimum age for admission to employment in an industrial enterprise is 15 years. Except for young people who attend technical schools or other institutions of a similar calibre, no one under the age of 15 is permitted to work in an industrial setting, provided it is

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<sup>44</sup> STCP/ IITA. Aug. 2002, *Child labor in the cocoa sector of West Africa: a synthesis of findings in Cameroon, Côte d'Ivoire, Ghana, and Nigeria*. Retrieved July 12, 2023 from <https://rb.gy/oh4hc>

<sup>45</sup> U.S. Department of Labour. 2020 *List of Goods Produced by Child Labor or Forced Labour*. Retrieved July 22, 2022, from <https://rb.gy/phdzh>

<sup>46</sup> UNICEF. Nov., 1997. *The State of the World's Children 1997*. Retrieved April 8, 2021 from <http://www.unicef.org/sowc97/report/>

<sup>47</sup> Basu, K. 2005. Child labour and the law: notes on possible pathologies. *Economic Letters*, Elsevier. 87.2: 169-174.

<sup>48</sup> Nigeria Labour Act. CAP L1 LFN 2004. Section 59(1)

<sup>49</sup> Section 59(1)(b)

<sup>50</sup> Nigeria Labour Act. CAP L1 LFN 2004. Section 59(1) , 59(3), and 59(4) and Section 65



approved and closely supervised by the Ministry of Education or the relevant government parastatal.<sup>51</sup> Section 59(5) does not allow a young person below 16 years to work underground or with machines or during public holidays. They are not permitted to work under circumstances that are hazardous and harmful to their health.<sup>52</sup>

## V. The Child's Rights Act (CRA) 2003

Part III of the CRA, particularly Sections 28, 29, and 30, covers provisions dealing with child labour. These sections outline the protection of children's rights regarding child labour. It should be noted that these provisions on child labour under the CRA apply *mutatis mutandis* to the provisions of the Labour Act in respect of child labour.<sup>53</sup> As a result, the CRA has adopted and expanded all the prohibitions in the Labour Act. However, the provision on the minimum age for work is inconsistent with the Labour Act. Under the CRA, it is stated to be 18 years, while it is placed at 12 under the Labour Act.<sup>54</sup> Therefore, it is prohibited for a child under the age of 18 years to be exposed to exploitative or forced labour and all types of exploitative labour involving children a criminal offences punishable by a fine of 50,000 Naira or a term of five years imprisonment or both.<sup>55</sup> According to section 30, the CRA prohibits the use of children for begging, prostitution, sale or trafficking of children, serfdom or debt bondage, forced or compulsory labour, hawking, prostitution, pornography or use of children to produce or procure drugs or any other immoral or illegal activities. No child shall be used for any purposes that may prevent him or her from attending or remaining in school. Any violation whatsoever of this provision shall lead to punishment by a term of 10 years' imprisonment.

Braimah<sup>56</sup> argued that one key issue with the CRA is its varying levels of acceptance. Upon the passage of the law, it was not immediately enacted in each of Nigeria's 36 states. To ensure and defend children's rights, each state has to incorporate the Bill into its state legislation. Only then could it be put into effect. Today, 34 of the country's 36 states have domesticated the CRA, leaving only two.<sup>57</sup> Another criticism of the Act is the lack of an effective framework for its implementation. Despite the CRA, many violations of children's rights continue to occur, and those responsible may face very minor penalties. The inadequate enforcement measures limit the Act's ability to protect children's rights.

The Labour Act permits light work of an agriculture or domestic nature for children at any age alongside their parents or any member of the family<sup>58</sup>. In addition, children who work in the informal sector are not covered by the minimum age. These are economic activities not governed by law or regulated by the government. They include the agriculture sector, street vending and domestic labour. Similarly, although children below 18 years are expressly prohibited from work that is hazardous by nature, the Labour Act makes no mention of the categories of hazardous work that ought to be prohibited.<sup>59</sup> Although a comprehensive list of work hazardous to a child was compiled in Nigeria by the National Steering Committee for the Elimination of the Worst Forms of Child Labour in 2013, there is yet no law to this effect.<sup>60</sup>

<sup>51</sup> *Ibid*, Section 59 (2), 59(5), 59(6), 59(8), 60(4)

<sup>52</sup> Section 59(5-6)

<sup>53</sup> Section 58-63 of the Nigerian Labour Act

<sup>54</sup> Nigeria. Act No. 26 of 2003, Child's Rights Act. Section 277

<sup>55</sup> *Ibid*, Section 28.

<sup>56</sup> Braimah, T. S. 2014. Child marriage in Northern Nigeria: section 61 of part I of the 1999 constitution and the protection of children against child marriage. *African Human Rights Law Journal*, 14.2: 474-488.

<sup>57</sup> Aya, S. 2023. FG: 34 states have domesticated child's rights act. THISDAYLIVE. Retrieved Aug. 5, 2023 from <https://bit.ly/3OJ4Dhn>

<sup>58</sup> Nigeria Labour Act. CAP L1 LFN 2004. Section 59.

<sup>59</sup> *Ibid*, Section 60.

<sup>60</sup> Government of Nigeria, Federal Ministry of Labour and Productivity. 2013. *List of hazardous child labour in Nigeria*; ILO. 2016. *Individual observation concerning minimum age convention, 1973 (No. 138) Nigeria (ratification: 2002).*



Thirdly, Nigeria seems to have issues with the implementation of international legislation. The minimum age in Nigeria, which is 12 years of age, does not meet international labour standards. If Nigeria has ratified the minimum age convention, it means it shall be bound by it. According to the convention, the minimum age must be compatible with the child's level of physical and mental development. The general minimum age under the convention should be 15 years, which is the average age a child completes compulsory education. However, for developing countries, the minimum age can be set at 14 years.

## VI. Legislative Contradictions in Nigeria's Child Labour Laws

### 1. Inconsistency in the Minimum Age for Work.

The provisions on minimum age can be found in Section 59(1) of the Nigeria Labour Act; Sections 28 and 29 of the Child's Rights Act (CRA). To begin with, the inconsistency in the minimum age for work under Nigerian labour legislation primarily stems from the differences in definitions provided by the Labour Act and the CRA. The Nigerian Labour Act defines a child as any person who has not attained the age of 12 years. This definition is notably lower than the internationally accepted standards set by the International Labour Organisation (ILO) minimum age convention and the United Nations Convention on the Rights of the Child (UNCRC), which defines a child as anyone under the age of 18. On the other hand, the CRA sets the age of a child as anyone under the age of 18 years. This Act aligns with the international standards and conventions mentioned above. Under the Labour Act, the minimum working age is generally set at 12 years. There is a problem with this because a child at this age is neither physically nor cognitively equipped to engage in adult work.

Furthermore, the inconsistency further arises from the fact that the CRA sets the age of childhood as below 18, while still applying the Labour Act, which allows children as young as 12 to engage in agricultural and domestic work together with a member of the family. This creates a conflict between the two legal frameworks. The CRA's replication of the Labour Act highlights the inconsistencies even more. This is done by asserting in section 29 that the child-related provisions in the Labour Act (that is, section 58) apply to the CRA.

Another inconsistency is the fact that Section 59 of the Labour Act provides that persons under the age of 14 may be employed for a daily salary provided they return each night to their parents' or guardians' place of abode, except for children employed in domestic service. In contrast to section 28 of the CRA, which prevents children from performing domestic work, this provision implies that children under the age of 14 are allowed to work while performing housekeeping duties (domestic service). This may explain why children in Nigeria are routinely employed as household helpers.<sup>61</sup> In the case of *Attorney General of the Federation v. Umami Nurrudeen*<sup>62</sup>, the accused hired 11-year-old Habib Andrew as a house helper outside of her hometown. The accused entered a guilty plea at arraignment, and as a result, her attorney asked for mercy on the grounds that the convict was a full-time housewife with four minor children. It was also mentioned that she was under treatment for hypertension. In addition, this was her first offence. This argument led the court to impose a ₦20,000 fine or one year of imprisonment in lieu of the punishment. Similarly, in the case of the *Federal Republic of Nigeria v. Hassana Ibrahim*,<sup>63</sup> the defendant was alleged to have procured 25 children from Kwara State for forced labour in Kano State. The defence counsel argued that the accused is married with children aged 3 to 5 and has experienced psychological hardship. Following careful consideration of her clean record, family responsibilities, and the counsel's plea, the court decided to impose a fine of ₦10,000 or a one-year imprisonment in default.

<sup>61</sup> Arowolo, G.A. 2018. Child labour in Nigeria: need for effective legislative framework. *International Journal of Legal Studies and Research*. 7.1: 1-31.

<sup>62</sup> Suit No.FHC/K/CR/102/08(unreported)delivered on 13 May,2008

<sup>63</sup> Suit No.FHC/K/CR/35/08 (unreported) delivered on 7 March, 2008.





## 2. Non-identification of Hazardous Work for Children

Sections 59-61 of the Labour Act and Section 28 of the CRA are the provisions regarding the employment of young persons and children in hazardous work. These sections establish the legal framework for protecting children from being exposed to dangerous and harmful conditions in the workplace. These provisions are aimed at safeguarding the well-being and development of children by prohibiting their engagement in work that is considered hazardous or harmful to their health, safety, or morals. Section 59 of the Labour Act focuses on the prohibition of the employment of young persons in hazardous work. It establishes that no young person (below age 12) shall be employed in any work that is likely to jeopardise their health, safety, or morals. However, the section does not lay down the criteria for determining what constitutes hazardous work, that is, factors such as the nature of the work, the equipment used, and the risks involved.

It provides instances where a young person can be employed in hazardous work under specific conditions, such as vocational training or apprenticeship programs, provided that adequate safeguards are in place to protect their well-being. Section 28 of the CRA also focuses on the protection of children from economic exploitation and hazardous work. It aims to ensure that children are not engaged in work that could harm their physical or mental development.

## VII. Recommendations

To address the legislative contradictions and enhance the protection of children from exploitative labour in Nigeria, the following recommendations are proposed:

### 1. Amend the Labour Act to Raise the Minimum Age and Align with the Child Rights Act (CRA)

The Nigerian Labour Act that was recently passed provided for employment at the age of 12 years, while the CRA categorises a child as any person below the age of 18 years. The ILO Minimum Age Convention (No. 138) specifies fifteen years as the general minimum age of employment (fourteen years in the case of developed countries) if it is compatible with compulsory education.<sup>64</sup> Nigeria should consider revising the Labour Act with a view to raising the age under Section 59(1) of the Labour Act from 14 years to 15 years to align with the requirements of the CRA and the ILO. This reform would address the current legal gap and discretions and place Nigeria in compliance with its legal commitments. The change should also rule out the employment of children under 15 years of age and allow only light work under the standards of ILO Convention No. 138.<sup>65</sup>

### 2. Publish a List of Prohibited Hazardous Work

The Labour Act and the CRA particularly outlaw the employment of children in hazardous work, but do not define which work is considered hazardous. This ambiguity undermines enforcement. It is therefore suggested that Nigeria shall adopt and ratify the list of hazardous child labour that the National Steering Committee for the Elimination of the Worst Forms of Child Labour came up with in 2013.<sup>66</sup> This list should be published as a statutory instrument under the Labour Act specifying activities that are prohibited for children (such as cocoa farming with pesticide exposure, mining, and handling heavy machinery) according to the ILO Convention No. 182. It would help inspectors, employers, and members of the communities to understand what constitutes a violation to help foster compliance.<sup>67</sup>

<sup>64</sup> Borzaga, M., 2016. Limiting the Minimum Age: Convention 138 and the Origin of the ILO's Action in the Field of Child Labour. In *Child labour in a Globalized World* (pp. 39-64). Routledge

<sup>65</sup> Mavunga, R.A., 2014. The historical development of the "light work" provision of Convention no. 138. *Obiter*, 35(3), pp.539-569

<sup>66</sup> Adeleye, A., 2014. Strategies and mechanisms to eradicate the worst forms of child labour in Nigeria

<sup>67</sup> Servais, J.M., 2024. International labour law.



### 3. Strengthen Labour Inspections and Community Awareness

The lack of strong enforcement measures sustains child labour. The Federal Ministry of Labour should extend and spread its inspectorate divisions, especially to the countryside where most child labour in agriculture is observed.<sup>68</sup> The inspectors should be capable of identifying hazardous work and coordinating with the local officials. At the same time, awareness creation at the national level could also aim at providing information to parents, employers and children about the legal repercussions of child labour and the benefits of education. Domestication of the CRA in all the 36 states of Nigeria presents a framework for such efforts, and there is a need to take a more expansive approach that would involve grassroots sensitisation on the need to end child labour, which is widely accepted in our society.<sup>69</sup>

### 4. Implement Conditional Cash Transfers (CCTs) to Reduce Economic Dependence on Child Labour

Poverty is a primary driver of child labour. To address these challenges, Nigeria should adopt CCT programs like Brazil's Bolsa Família, which conditions cash grants on school attendance.<sup>70</sup> Targeted at households in high-risk sectors such as cocoa farming, these transfers would subsidise the amounts lost by withdrawing children from work. They recommend that the National Social Investment Programme (NSIP) be implemented as a mechanism to pay child labour-specific incentives to enable families to focus on education instead of short-term sources of income.

### 5. Promote Interdisciplinary Collaboration

This mode of functioning also poses a problem to the effort to eliminate child labour. The government should form a committee with members from the legal department, social workers, agricultural extension agencies, and NGOs of the community to come up with an appropriate intervention plan. For instance, the Ministry of Agriculture could cooperate with the ILO's International Programme on the Elimination of Child Labour (IPEC) to offer safer vocational training to adolescent farmers in agriculture.<sup>71</sup> It would also eliminate problems such as poor rural living standards and the scarcity of schools.

## VIII. CONCLUSION

This paper has critically examined the legislative contradictions in Nigeria's child labour laws, particularly the inconsistencies between the Labour Act (2004) and the Child Rights Act (2003). While the CRA defines a child as anyone under 18 and prohibits exploitative labour, the Labour Act sets the minimum working age at 12, creating legal ambiguities that undermine child protection. These discrepancies, coupled with the absence of a clear list of hazardous occupations, leave Nigerian children vulnerable to exploitation, particularly in high-risk sectors like agriculture and domestic work. Despite Nigeria's ratification of key international conventions such as ILO Minimum Age Convention No. 138 (1973) and the Worst Forms of Child Labour Convention No. 182 (1999), weak enforcement mechanisms and socio-economic challenges perpetuate child labour.

It is worth stressing that the need for legislative change cannot be overemphasised. Nigeria needs to propose changes to the Labour Law to increase the minimum employment age to 15 years as required

<sup>68</sup> Anderson, E., 2021. *Agents of Reform: Child Labor and the Origins of the Welfare State*. Princeton University Press

<sup>69</sup> Enemo, I.P., 2021. Challenges still facing the domestication and implementation of key provisions of Nigeria's Child Rights Act of 2003. *Nordic Journal of Human Rights*, 39(3), pp.358-372

<sup>70</sup> Neves, J.A., Vasconcelos, F.D.A.G.D., Machado, M.L., Recine, E., Garcia, G.S. and Medeiros, M.A.T.D., 2022. The Brazilian cash transfer program (Bolsa Família): a tool for reducing inequalities and achieving social rights in Brazil. *Global Public Health*, 17(1), pp.26-42.

<sup>71</sup> Krogh-Poulsen, B., Benammour, O., Yue, K. and Genthon, A., 2023. *Elimination of child labour in agriculture through social protection: Guidance note*. Food & Agriculture Org..



by the CRA and global norms. Thus, the government must publish a clear list of dangerous occupations, thus avoiding confusion when enforcing the law, as recommended by the ILO. Making labour inspections and enforcement, especially in the rural and informal economy, is also important for increasing compliance. Nevertheless, legal strategies and acts are not enough. Poverty continues to be a major pushing factor to child labour, thus there is a need for economic reforms like cash incentives for schooling.

To produce such a framework and regulate the proposed guidelines, cooperation with policymakers, legal professionals, sociologists, agriculturists, and interstate institutions is necessary. Community education needs to be conducted to change the culture that supports child labour, while improved farm policies should protect young and vulnerable workers. These strategies can be implemented with the aid of technical and financial support from the ILO, UNICEF, and Non-Governmental organisations. The future of the children in Nigeria can only be secured if efforts are made today. If Nigeria is to meet its obligations and protect the rights of children, there is a need to harmonise laws, enforce protections, and tackle root causes with concerted action. Ending child labour will remain a distant dream if no clear legislative direction accompanies socio-economic measures to change the existing perception and practice. The time to act is now.

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