Review Article

A Critical Review of Child Labour in Nigeria and The Case for Child Entrepreneurship

Mike Akpa AjaNwachuku
Faculty of Law, Ebonyi State University, P.M.B. 053, Abakaliki, Ebonyi State, Nigeria.

Article history: Received 25 October 2016; Accepted 20 December 2016; Available online 31 December 2016

ABSTRACT
Nigeria and the world over condemn forced or exploitative labour of a child, for the obvious reason of the adverse physical, psychological, mental and emotional effect of it on children. What is condemned is not child labour per se, but child forced or exploitative labour. This paper analyses the condemnable child forced or exploitative labour, distinguishes it from the accepted child labour and makes a case for the advancement from child labour to child entrepreneurship. It posits that the advancement to child entrepreneurship shall enable the Nigerian child to contribute their bit to the financial well being of their family and the economic development of Nigeria.

Keywords: critical review; child labour; child entrepreneurship; advancement; Nigeria.


ABSTRAK

Kata kunci: tinjauan kritis; buruh anak; kewirausahaan anak; kemajuan; Nigeria.

1. Introduction
Child labour contemplates that a child should be involved in some manner of work. It could be domestic, income generating\(^1\) or to acquire skill. This is undoubtedly so because there is dignity in labour.

A child has to be employed in labour, and is so allowed by section 28 of the Child’s Rights Act that only prohibits ‘forced or exploitative labour’, and by implication never


E-mail address: majanwachuku@yahoo.com.
Peer reviewed under reponsibility of Universitas Muhammadiyah Sidoarjo.
© 2016 Universitas Muhammadiyah Sidoarjo, All right reserved, This is an open access article under the CC BY license (http://creativecommons.org/licenses/by/4.0/)
prohibits any work that is not forced or exploitative labour. Child labour is not synonymous with “forced or exploitative labour”. In Nigeria, from the tenor of section 28 of the Act, what the law prohibits is child labour that is “forced or exploitative”. This type of child labour is sometimes referred to as “bad” child labour, in contrast distinction from the one that is not “bad” and therefore allowed. This paper emphasizes that in Nigeria, what the law prohibits is child forced or exploitative labour, sometimes known as bad labour, not any labour not falling within forced or exploitative or bad. This emphasis is important because in Nigeria and beyond, people talk of prohibition of child labour when they mean, prohibition of bad child labour. In the words of Christiaan Grootaert and Ravi Kanbur:

"when most people talk of child labor, they mean “bad” child labor such as prostitution, or scavenging or backbreaking work on construction site, or long hours in a carpet factory, etc. Such “bad” child labo...r and a child can both engage in schooling and in “bad” child labor."²

The emphasis that what is not accepted is not child labour *per se* but child labour that is “bad” in otherwords “forced or exploitative” (as used in section 28 of Nigeria’s Child’s Rights Act) was expressed in these words:

"For the purpose of defining a policy towards child labor, both the nature of the work and the nature of the relationship between the child and the employer, must be considered. A key element is whether the arrangement is “exploitative”. In the extreme, this can take the form of bonded labor, quasi-slavery, or feudal relationships. In many cases a debt incurred by the parents is the “bond”, which forces the child to work towards the payment of the debt...However, other aspects of child labor can also be considered exploitative such as when the child starts full-time work at too early an age, or works too many hours or when the work puts excessive physical, social and psychological strains on the child and hampers the child’s development in these areas."³

By this is meant that there is a difference between child labour (which is acceptable) and child forced or exploitative labour also known as bad labour (which is unacceptable). The difference is:

"the socially accepted gradual exposure of the child to work and the exploitation or gross undermining of the development prospects of the child in the labour process."⁴

It is on account of the existence of child labour (that is acceptable) and child forced or exploitative also known as “bad” labour (that is unacceptable) that it has been asserted that

---

³ Ibid., p. 5.
"...children in purely traditional Nigerian societies were exposed to work within the confines of the family and in the process of the child internalizing the norms and values of his social group. Work in this situation was devoid of harmful affects (sic) and exploitation. It was part of the process of learning through imitation."5

Child labour (as opposed to forced or exploitative child labour or “bad” child labour) is accepted for it is the training of a child and a foundation for his self esteem, because there is dignity in labour. These have been captured in these words:

"...in purely cultural or traditional settings, children were exposed to labour that was not injurious to their psycho-mental health and social development under the auspices of the family. This sort of labour involvement was not readily tied to any significant economic considerations rather the family saw it as a process of exposing the child gradually to the demands of work and instilling the dignity of labour in him."6

However, Nigeria7 and the world over8 condemn labour that is forced or exploitative of a child. The reason is simply because that type of labour is adverse to the physical, psychological, mental and emotional wellbeing of children. Such labour could endanger the life of children and is a rape on their dignity.

This paper readily agrees with the approval of child labour and disapproval of child forced or exploitative labour. Proactively, it makes a case for a shift from child labour to child entrepreneurship and concludes that by that shift, the child would be able to meaningfully contribute to the financial wellbeing of their family and the economic development of Nigeria.

The theoretical framework of this paper shall consist of a critical review of child labour and child forced or exploitative labour; the case for child entrepreneurship for Nigerian children and conclusion that there is need for the involvement of Nigerian children in entrepreneurship.

2. Discussion

2.1 Critical Review of Child Labour and Child Forced or Exploitative Labour

The impression has always been that child labour is "work that is mentally, physically, socially or morally dangerous and harmful to children and deprives them of opportunities of

5 Ibid.
6 Ibid.
schooling and development". Another definition is that child labour means “a child engaging in a work to sustain self and or support family”.

It can quickly be observed that while the former appraises child labour from the perspective of the effect on the child i.e. dangerous and harmful, the latter appraises it from the perspective of the reason for engaging in it i.e. self sustainability and family support.

There exists yet another impression of what child labour is. The impression is that: "child labour should be conceived as the economic exploitation of children below the legally prescribed age in the labour sector for the benefit of a significant other. In this sense, child labour is the involvement of children in paid labour (including income generating activities and apprenticeship) or other activities that creates (sic) economic benefit especially for others beside the children so engaged."

This definition understands child labour from the perspective of exploitation of the child. This definition is in tandem with the definition of the United Nations Children Emergency Fund that child labour is comprised of work that is full-time at an early age, where several hours are spent leading to fatigue, where schools are not attended or attendance interfered with, where there is too much responsibility, where there is no psychological development or stimulation of creative abilities or where there is low wage.

These definitions of child labour are as under the concept of child labour in Nigeria. This is so for the simple reason that “child labour is captured and defined variously by different people from different backgrounds and cultures”. In Nigeria, child labour is predicated upon the culture of Nigeria that engaging a child in labour is training him to acquire self esteem, for there is dignity in labour. For this reason, the law allows child labour in Nigeria but disallows same when it is “forced or exploitative” or under the circumstances outlined in and condemned by the Act. In otherwords, Nigeria accepts child labour which is “the socially accepted gradual exposure of a child to work” but rejects or prohibits forced or exploitative (“bad”) child labour which is “the exploitation or gross undermining of the development prospects of the child in the labour process”. From the analysis of the meaning

---

11 Anugwom, “Child Labour in the Context of Globalisation in Nigeria.”
13 Anugwom, “Child Labour in the Context of Globalisation in Nigeria.”
14 The Act, section 28(1) (a).
15 Ibid., section 28(1) b & (2).
16 Anugwom, “Child Labour in the Context of Globalisation in Nigeria.”
as used beyond Nigeria (or not contemplated under the Act) as x-rayed in this section of the work, there is no such distinction. However, inspite of the absense of the distinction what other jurisdictions condemn as child labour is what Nigeria condemns under the Act as forced or exploitative child labour. In substance therefore, there is no difference between what is known in other jurisdictions as child labour, and what is known in Nigeria as forced or exploitative labour. It has even been opined (and rightly in the view of the author of the paper) that when other jurisdictions talk about child labour, what they mean or refer to is forced or exploitative (“bad”) child labour. This opinion was captured by Christiaan Grootaert and Ravi Kanbur in these words:

"when most people talk of child labor, they mean “bad” child labor such as prostitution, or scavenging or backbreaking work on construction site, or long hours in a carpet factory, etc. Such “bad” child labor can be part-time or full-time, and a child can both engage in schooling and in “bad” child labor."

Child labour is encouraged in Nigeria as could be gleaned form the provisions of the Act\(^\text{19}\) that made provisions for circumstances of child forced or exploitative labour and by implication made the circumstances outside of them as those of child labour and therefore allowed\(^\text{20}\). In the exact words of the Act,

1. ... no child shall be-
   a) subjected to any forced or exploitative labour; or
   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.

By the respective provisions,

1. while it is forced or exploitative labour for a child to be employed by a non-member of his family on a heavy work that is not agricultural, horticultural or domestic in character, it is not forced or exploitative labour rather, an accepted child labour for a

\(^{18}\) Ibid.
\(^{19}\) Child’s Rights Act, cap C50 Laws of the Federation of Nigeria, 2010 hereinafter simple referred to as “the Act”.
\(^{20}\) Ibid., section 28.
child to be employed by a member of their family on a light work of an agricultural, horticultural or domestic character.

The Act has done well in allowing children to do some work but some difficulties may arise in determining whether the child is still working within the circumstances allowed by law as non-child forced or exploitative labour. For instance, while a child can be employed “by a member of his family on light work”, if the employment is not by a member of the child’s family and the nature of the assignment is not light work, then, the work is child forced or exploitative labour, which the Act condemns. This means that from time to time there may be need to determine whether the employer was a member of the child’s family or not and or whether the assignment is a light work or not. Since by the Positivist School of Law, law means judicial pronouncements and nothing more pretentious, the courts and no other, must from time to time be called upon to interpret the two expressions. The determination by the courts may not be an easy one. Would the courts interpret child’s family to mean his immediate family, which is the meaning in the western world or interpret it to mean or include extended family, which is the meaning of family in the African context? If the expression is interpreted in the African context the persons who may qualify as members of the child’s family may be limitless for in Africa, a person need not be a blood relation to qualify as a family member. Long-standing relationship may qualify a person as a family member, so also good disposition towards a family.

Turning to a “light work”, one may ponder over the following: what type of work is light? Will it not depend on the age and physical strength of the child?\textsuperscript{21}

The need to determine what constitutes “light work” is critical in view of the fact that a universal positive verdict has been returned on the following:

a) Not all work is bad for children.

b) Work can be a gradual initiation into adulthood and a positive element in a child’s development.

c) Work which does not detract from the other essential activities of children, namely leisure, play and education is not child labour and

d) Light work, properly structured and phased is not child labour.\textsuperscript{22}

\textsuperscript{21} Two children of the same age may be of different height, weight and strength. For the bigger or stronger child, the work that is a light one to him may not be a light one to the smaller or weaker child.

\textsuperscript{22} Mary-Lisa O. Eihoda, “Unicef and the Rights of the Child” (University of Jos, 1997). p. 30. In this work referred to, “child labour” was used in (c) and (d), which is a mistake commonly made by people when they
2. While it is forced or exploitative labour for a child to be engaged in a work where they are to lift, carry or move anything so heavy as to be likely to adversely affect the physical, mental, spiritual, moral or social development of such child, it is not forced or exploitative labour, but accepted child labour for a child to be employed to lift, carry or move anything that is not so heavy as to be likely to adversely affect the physical, mental, spiritual, moral or social development of such child.

With respect to this right, there maybe need to determine when the work to be done by a child is “likely to adversely affect the physical, mental, spiritual, moral or social development”. Various specialists may be required to determine these circumstances including a medical doctor and physical fitness specialist for “physical”, psychiatrist and psychotherapists for “mental”, spiritualist for “spiritual”, moralist for “moral” and social development expert for “social development”. The view of these experts may guide the court in determining the issue before the court, one way or the other. It is only when the determination is made that there would be an assertion that the work is child labour and allowed, or is child forced or exploitative labour and not allowed.

3. While it is forced or exploitative labour for a child to be employed as a domestic help outside his own home or family environment it is not forced or exploitative labour, but accepted child labour for a child to be employed as a domestic help within his own home or family environment.

This provision has its own vagueness that has made the right provided therein not readily ascertainable. As a child cannot be “employed as a domestic help outside his own home or family environment” the question that may have to be determined shall be, what does family mean? Is it immediate or extended? What does environment mean? Could it be environment in the restrictive sense that is, where the child was born and or where the parents live? Alternatively, could it be environment in the liberal sense, that is, where the child feels comfortable with siblings and or relations, even beyond the continent where the child was born and or where the parents live? In the absence of answers to these keywords, which answers are not found in the Act, no legal mind can mean, “child forced or exploitative labour”. What is unacceptable is child forced or exploitative labour, not child labour, per se. Child labour is acceptable but becomes unacceptable if it is forced or exploitative.

23 It is a guide because the court are not bound to accept the opinion of such experts, the law having been established that a court of law cannot accept the opinion of an expert when from the ordinary course of events or its observation the opinion cannot be true: The Court of Appeal Lagos Division’s decision in Olowu v. Building Stock Ltd 2010 2 NWLR (pt. 1178) p. 310 ratio 3.
in any seriousness assert that he knows when the work is the accepted child labour or the prohibited child forced or exploitative labour.

4. While it is forced or exploitative labour for a child to be employed or work in an industrial undertaking, it shall not so be, but will be an accepted child labour where a child is to work in a technical school or similar approved institutions under the supervision of an appropriate authority.

This right to work is not without its issue for determination. From the provisions of the Act, a child has the right to work in a technical school or similar approved institutions under the supervision of appropriate authority, but the issue is what makes the work permissible? Is it the fact of the supervision or that once there is supervision it is inconsequential that the work may adversely affect the child? or by the supervision, the appropriate authority ensures that the work is not such as to adversely affect the child?

While one may guess that the latter may well be the intention of the lawmakers, it would have been quite better and preferred if the provision in the Act made it clear therein.

The Act\textsuperscript{24} has however incorporated sections 58-63 of the Labour Act\textsuperscript{25} into its provisions on what constitutes child forced or exploitative labour on the one hand and what constitutes child labour on the other hand.

The Act repeated the provisions in section 28(1) (b), (c) and 28(2) and in addition made provisions to these effect:

1. A child under the age of 14years may not be employed in a work where they would not return to their parents or guardian or a person approved by the parents or guardian each night, but may be employed where they would return or where the employment is on a daily wage or on a day-to-day basis\textsuperscript{26} or where the employment is as a domestic servant\textsuperscript{27}.

2. A child under the age of 16years shall not be employed to work underground; or on machine work; or on a public holiday\textsuperscript{28}, implying, firstly, that outside of these circumstances, such child could be employed; and secondly, that a child could be employed in these circumstances when they are more than 16years of age.

\textsuperscript{24} The Act, section 29.
\textsuperscript{25} Cap L1 Laws of the Federation of Nigeria, 2010.
\textsuperscript{26} Ibid., section 59(3). However, where a child is below 16years they could be in an employment where they would not return each day, if there is a written contract of employment and where an authorized labour officer approves: The proviso to section 59(4).
\textsuperscript{27} Ibid., The proviso to section 69 (4).
\textsuperscript{28} Ibid., section 59(5).
3. No child younger than 16 years of age shall be required to work for a longer period than 4 consecutive hours or permitted to work for more than 8 hours in one day. By implication, within and below these hours, a child below 16 years can be employed; and a child above 16 years can also be employed to work up to and above the 4 consecutive hours or 8 hours in one day. In any event, where a child is below 16 years and is employed as a domestic servant there need not be compliance with the 4 consecutive hours and 8 hours in one day upper limit, unless the Minister for Employment, Labour and Productivity in a Regulation states otherwise.

4. No child below the age of 15 years shall be employed in a vessel. However, the Act created an exception that such child can work in a school or training vessel or in a vessel where only members of the child’s family are employed. Again, a child can be employed in a vessel outside the one only members of their family are employed, if the child possesses a certificate signed by a registered medical practitioner to the effect that the child is fit for the employment.

The Labour Act did not just make provisions for circumstances of forced or exploitative labour whence deductions could be made of accepted child labour, but made provisions, expressly allowing children to work. These provisions are to the effect that a child over the age of 16 years may be employed to work at night in an individual undertaking that requires that work be done at night, that is to say, an industrial undertaking in gold mining reduction work; or glass work; or in the manufacture of raw sugar; or in the manufacture of paper; or in the manufacture of iron and steel, in processes in which reverberatory or regenerative furnaces are used and in the galvanising of sheet metal or wire (except the pickling process).

Although the Labour Act made the restriction of working at night to industrial undertakings or activities, it however made a general and non-restrictive provision that a child below 16 years of age can work at night in uncontrollable and unforeseen circumstances i.e. to say, in circumstances of emergency.

---

29 Ibid., section 59(8)
30 Ibid.
31 Ibid., section 61(1).
32 i.e. Labour Act.
33 The Labour Act, section 61(1)(a). In this work, there must be approval by the Minister for Employment, Labour and Productivity and supervision by a public officer or by a public department.
34 Ibid., section 61(1)(b).
35 Ibid., section 61(3).
36 Ibid., section 60 (2).
37 Ibid., section 60 (3)
Having appreciated the provisions of the law on the right of a child to labour, but which should not be forced or exploitative, it remains to observe that those works that the child is allowed to do are menial even when it requires some mental strength that would be sufficient to learn a trade that would be financially beneficial and rewarding to the child. In other words, the mental strength a child could employ in these works allowed by law would suffice for the learning of entrepreneurship rather than undertaking the jobs stipulated in and allowed by the Act. It is on this score that this paper posits that there is need for a shift from the right of a Nigerian child to work, to the right of a Nigerian child to be an entrepreneur.

2.2 The Case for Child Entrepreneurship in Nigeria

No attempt shall be made to define entrepreneurship for the reason that it is not the crux of this paper and yet for the reason that “presently there is no single definition of entrepreneurship that is accepted by all or that is applicable in every economy”38. Inspite of this and for the purpose of this paper entrepreneurship could be said to mean, “starting or owning and managing small business”39.

Entrepreneurship is crucial for any economy for one of its prominent rules is the creation of employment. Entrepreneurship therefore reduces unemployment, which is a perennial problem in Nigeria. It has been estimated that Nigeria has about 60% - 65% youth unemployment, comprised of young adults that have graduated from universities, tertiary institutions and institutions of higher learning, to add to about 3.8 million others that are certificate-carrying youths that have no formal education, or completed primary or secondary school or dropped out from tertiary institutions.40

Child entrepreneurship contemplates the involvement of a child in more elaborate and more income yielding venture. If a child could be employed to do some work as allowed under the Act, such child could further be exposed to a more elaborate and more income yielding venture to learn same and be able to establish a similar business venture in the near future.

Child entrepreneurship is not and cannot be mistaken for child forced or exploitative labour for while child forced or exploitative labour adversely affects a child and most times is not the choice of the child, child entrepreneurship is an exposure in the life of a child to promising business ventures, which is a choice made by the child. Child entrepreneurship has

---


the advantage of making a child develop his business ingenuity in early life for their good and the overall economic development of the Nation.

The 6:3:3:4 educational system of Nigeria is very much in support of rearing child entrepreneurs.41 This is so because a child who has spent 6 years in the primary school and 3 years in the secondary school is at liberty to veer off education and get into another activity, including undergoing training to be a child (and later in life, adult) entrepreneur. However by the express provision of the Act, where a child has done the first three years in the secondary school and is not sent to secondary school for the next three years, the parent or guardian shall encourage such child “to learn an appropriate trade and the employer of the child shall provide the necessary for learning the trade” 42. Child entrepreneurship creates child entrepreneurs who are exposed to opportunities, innovation and enterprise without compromising their childhood dignity, access to education and developmental growth43.

It could be imagined that there is need for a shift from entrepreneurship of youths, to entrepreneurship of children who are still in primary or secondary schools. What is contemplated is that there could be a shift to children being in entrepreneurship while undergoing primary and secondary school education. Such entrepreneurship shall not and cannot constitute forced or exploitative (or “bad”) child labour for the children are neither forced nor exploited, and their academic work is not compromised.

A study of combination of schooling and entrepreneurship has been made of what obtains in six Local Government Areas within Ilorin Emirate Council in Kwara State of Northern Nigeria within the North-Central geo-political zone of Nigeria and the discovery made that the program is quite rewarding and should be encouraged. The study was made of 140 school children (70% males, 30% females) and of 140 parents. The study revealed that 96% of these children were involved in tailoring, mechanic work, vulcanizing/wheel balancing and alignment, cloth dyeing, generator repairs, electrical car repairs, car paint spraying, furniture making, air conditioner and refrigerator repairs. Their education was not compromised as they go to school and on return proceed to their various places of work. The busy schedule from school to work makes them not to have idle moments and run the risk of bad companies that would expose them to bad social behaviour. Of the study, 85% of the

41 By the Educational system, a child spends 6 years in primary school and 3 years in junior secondary school mandatorily. After the 3 years the child may if they wish discontinue further secondary education and if they desire to continue decides to read subjects that will enable them to pursue a 4 year education in a tertiary institution.
42 The Act section 15(4).
children believed that combining entrepreneurship skill acquisition with schooling would enable them to be self-employed after graduation from school, while 83% were taught by their parents that early skill acquisition on entrepreneurship will reduce the time that they would spend waiting for government employment that scarcely comes. 75% of the parents were of the view that it was worth is to send children to acquire entrepreneurship skills while in primary and secondary schools while 77% of the children intend to ask their friends to be part of the programme. 44

3. Conclusion

Prohibition of child forced or exploitative labour is very much appreciated, for the reason of its adverse effects on the child. Allowing a child to do some work or to be in employment under circumstances that do not constitute child forced or exploitative labour is also appreciated because there is dignity in labour. Engaging children in child entrepreneurship is the next level for the child and is herein prayed, encouraged and advocated. Entrepreneurship studies is now a course being studied in all tertiary institutions in Nigeria, in confirmation that propagating child entrepreneurship is the way to go more so on the face of virtually no government jobs for Nigeria’s teeming population.

With child entrepreneurship, a Nigerian child shall be able to financially be meaningful to themselves, improve the financial wellbeing of their family, and constructively contribute to the economic advancement of Nigeria.

These have been the experience of several countries of the world for

"the success recorded by most developed and developing economies have been traceable to a well managed entrepreneurship development programmes. The “Asian Tigers” such as China, Hong Kong, Korea (North and South), Malaysia, Singapore and India are examples of countries where entrepreneurship has taken root downwards...It is observed that education beit (sic) formal or through apprenticeship has enabled these countries to move forward." 45

Several other states in Nigeria including Niger and Kogi (also within the North-Central geo-political zone of Northern Nigeria) and Lagos, Osun and Oyo (within the South-West geo-political zone of Western Nigeria) have also joined in the exercise. 46 Therefore, a call is herein made for child entrepreneurship for all states in Nigeria, for reason of the advantages as exemplified in the study made of Ilorin Emirate Council.

46 Ibid. pp. 44 and 45.
A Critical Review of Child Labour in Nigeria and The Case for Child Entrepreneurship

Bibliography

Journal:


Theses:


Legal Documents:


Newspaper:

Internet Reference
