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Appraisal of the Child Rights Act in Curbing Child Hawkers in Nigeria

Hameenat Bukola Ojibara, PhD*

Rahmat Mopelola Imam**

Abstract

The use of children as hawkers is an age-old practise. Children as hawkers are considered one of the major atrocities committed against children and referred to as child abuse or exploitation. This vice does not end at mere hawking but extends to include other ills sometimes leading to the death of the child as a result of their vulnerability and exposure to other possible dangers. Over the years, there have been conscious efforts towards the protection of children generally from various forms of abuse. While it seems some of these abuses are abated, there are still certain challenges experienced by children in Nigeria and hawking is one of them. The paper examines the laws applicable in Nigeria that addresses child abuse generally with focus on the use of children as hawkers. The paper further analyses in detail, the impact of the Child Rights Act (CRA) in curbing child labour and exploitation. It finds that the CRA and other ratified and domesticated foreign instruments cater to the rights of the child and protects them from hawking. The paper recommends the need for harmonisation of legislations on the minimum age to work, improvement on implementation and enforcement of the various legislations to enforce child rights and curb exploitative labour and child hawking.

Key words: Child hawkers, Child labour, Child abuse, Child exploitation, Child Rights Act 2003

1. Introduction

Traditionally, children have worked with their families, usually to complement and support the adults in uplifting the status of the household financially. Initially, this involved learning skills as some form of apprenticeship that would in the future transition them to adulthood. Overtime, this transitioned to children being the main contributors or bread winners thereby contributing financially to the home.[1]Even though, there are differences between the many kinds of work children partake in, some are rather strenuous, hazardous and morally reprehensible.[2] One of such is the use of children as street hawkers, which results in other negative vices. Also, the rate at which children are used to hawk on the streets thereby exposing them to the worse form of dangers is worrisome and on the increase.

The Nigerian Constitution as the grand law and some other international laws like the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child have been ratified and domesticated to address all sorts of vices that affect children and makes provisions for their protection. Thus, the Child Rights Act[3] which is the most recent

*__Hameenat Bukola Ojibara__, PhD, Lecturer, Department of Private & Property Law, Faculty of Law, University of Ilorin, Kwara State, Nigeria. Tel: +234 8066864518. Email: ojibara.hb@unilorin.edu.ng; hameenat05@yahoo.com

**__Rahmat Mopelola Imam,__ Lecturer, Department of Private & Property Law, Faculty of Law, University of Ilorin, Kwara State, Nigeria. Tel: +234 8117762002. Email: imam.rm@unilorin.edu.ng

[1]T Adedayo *et al*, 'Underage Labour in Nigeria: A Study of Street Hawkers'[2021] (2)(2)*International Journal of Educational Research*; 11-107.

[2] Child Labour: A Textbook for University Students <https://www.ilo.org/wcmsp5/groups/public/---ed_norm/documents/publication/wcms_067258.pdf> accessed 02 February 2024.

[3] Child's Rights Act, 2003.

and prominent national law on the protection of children in Nigeria, has more elaborate provisions that caters to the best interest of the child and specifically speaks to the use of children as hawkers.[4]As such the use of children as hawkers clearly negates the provisions of this law and the act is still very much present and prevalent.

Despite the laws, children are still very much engaged in hawking. As at the year 2022, Nigeria is reported to have the highest out of school rate in the world with "at least 10.5 million or one-third children out of school,"[5] the implication of this is that children are more on the streets and exposed or subjected to negative activities like hawking. Likewise, the percentage of children engaged in labour in Nigeria is 38.2 percent within the ages of 5-17 years. The highest proportion of children engaged in labour was reported to be in the North Central at 56.8 percent and South West with the lowest at 38 percent.[6]However, most statistics give a round representation on child labour which also includes child hawkers. The prevalence and aftermath are worrisome and calls for concern which is the crux of this paper.

This paper therefore proceeds by conceptualising the basic concept of children as street hawkers and its prevalence in Nigeria. It analyses the responses to hawking as a form of child labour and abuse thereby analysing the legal frameworks to include international, regional and national laws. It also discusses the roles of some related agencies in addressing the menace. The paper further examines specifically the provisions of the Child Rights Act as the most comprehensive national law on the protection of child rights, and the challenges faced by the law. It concludes on the note that child street hawking is a socio-legal problem which is prevalent in the society and makes recommendations towards eradicating the practice and challenges mitigating the effectiveness of the Act.

2. Conceptualisation of Children as Hawkers

The explanation of who a child is, is usually defined on the basis of their susceptibility and the obligations expected of them. Such considerations are constitutional responsibility, criminal liability, civil liability and contractual liability. The complexities in understanding the meaning of a child and benchmarking the limitations are further attenuated by the legally pluralistic nature of the country.[7]

According to the Nigerian Constitution, any person below the age of eighteen years is regarded as not of 'full age'[8]and as such, his citizenship rights and duties are somewhat restricted until he has attained the age of majority. Full age is considered as eighteen years and above.[9] In the same vein, the Child Rights Act following the United Nations Convention on the Rights of the Child (UNCRC) and African Charter on Rights and Welfare of Children (ACRWC) defines a child as any person below the age of eighteen years.[10]In the words of the Child Rights Act, "the age of

[4] Section 1 of the Child Rights Act (2003)

[5] Bureau of International Labor Affairs: 2022 Findings on the Worst Forms of Child Labor<https://www.dol.gov/agencies/ilab/resources/reports/child-labor/nigeria> accessed 15 February 2024.

[6] 'Situation Analysis of Children in Nigeria: Ensuring equitable and sustainable realization of child rights in Nigeria' © Federal Republic of Nigeria, 2022 <https://www.unicef.org/nigeria/media/5861/file/Situation%20Analysis%20of%20Children%20in%20Nigeria%20.pdf> accessed 08 February 2024.

[7] The Nigerian legal system comprises of statutory laws, Customary laws and Islamiclaw. F Olaosebikan and D Olowu, *Sources of Law* in A.O Sanni (ed), *Introduction to Nigerian Legal Method* (Kuntel Publishing House 1999), 125.

[8] Section 29(4)(a) CFRN1999(2011) as amended

[9] Ibid.

[10]Section 277 CRA, Article 1 CRC, Article 2 ACRWC.

majority means the age at which a person attains the age of eighteen years". Thus, the age of eighteen years is adopted in this work in addressing the issue of children as street hawkers.

Having established who is regarded as a child, then there is the need to understand their reference as hawkers, that is who is a child street hawker. Hawking is described as an act of selling "by going from place to place asking people to buy them".[11] Hawking as described by Anyo *et al* is a marketing strategy characterised by the movement of goods across the streets or residential areas with the aim of finding an interested buyer.[12]

The United Nations International Children Emergency Fund (UNICEF) defines child labour as "work that deprives children (any person under 18) of their childhood, potential and dignity, and that is harmful to their physical and/or mental development…and interferes with their schooling." However, most definitions of child labour encapsulate child street hawking. For instance, even where children are made to hawk wares after school, it interferes with their ability to catch up with homework or be well rested for the next schooling day. Even at times, most end up as school drop outs[13] either due to exposure to unwanted pregnancies and more responsibilities and also, the inability to keep up with schooling.[14]

Children are often seen carrying large wares and walking miles and long distances to get them sold. Not only at that, they mostly sell on the streets, busy roads and sometimes travel routes where there is traffic and passers-by to patronise. The exposure to possible accidents, hurt, injury, harsh weather conditions and possible death are worrisome such that it defiles not just their physical state but also, their mental development. Thus, where a person under the age of 18 partakes in this activity, then it is considered an abuse or exploitative act often referred to as 'child hawkers' or 'Child Street hawking'.

Some of the reasons for child exploitation are poverty,[15] with the rapid population growth and the recent hyperinflation and financial hardships, many parents or guardians find it difficult to cater for their wards, so they are either abandoned to fend for themselves or used to hawk goods to support the family. Terrorism, kidnapping and banditry especially with the surge over the last decade has rendered many families homeless or children without parents thereby forcing them to source for a means of livelihood. For instance, UNICEF reports that about "2.8 million children need education-in-emergencies support due to displacement caused by terrorism" and so they contribute to the number of out-of-school children engaged in child labour. Asides the displacement of children as a result of insurgency, Isa *et al* are of the opinion that one of the reasons for abduction of school children is specifically to engage them in hawking.[16] In the instance of child labour or child hawkers, education is usually discussed alongside, as it does not only keep the children off the streets but it also makes the children better informed of the hazards of hawking

[11] Oxford Advanced Learner's Dictionary Eight Edition pp.690

[12] S T Anyo *et al*,'Female Teenage Hawking: A Manifestation of Child abuse/Child labour in Makurdi Metropolis'[2021] (2)(1) *Gusau Journal of Sociology*, 218.

[13] The Menace of Child Street Hawking in West Africa by an RTC Alumnus<https://westafrica.ilea.state.gov/child-street-hawking> accessed 20 February 2024.

[14] C Q Umeobika and O. Obiorah, '*Where are the children? An approach to Exterminating Child-hawking in Nigeria'* [2020]AFJCLJ 5; 71.

[15] S I Jibril and A. Abdullahi andH.N Martins, 'Child Hawking: Fate of the Nigerian Child in Contemporary Time' [2022] (5)(2)*Journal of African Studies and Sustainable Development*; 147.

[16] M Isa *et al*, 'Informal Economic Sector: An Investigation of the Effects of Street Hawking on the Girl-Child Education in Nigeria' [2022] (10) *Sch J Arts Humanit Soc Sci*; 509.

and make them socially responsible citizens in the nearest future.[17] Also, the lack of adequate social welfare and support has made children in abusive homes also end up on the streets.

Having established that children are not to partake in hawking and that the implication leads to greater consequences, the next part would discuss the existent laws that protect the child.

3. Responses to the Protection of Child Hawkers

3.1 Legal frameworks

Nigeria is subscribed to international and regional laws that protect children and uphold their human rights. Asides these foreign laws there are national laws that have been enacted to safeguard children from abuses including street hawking. For the international laws, Nigeria operates a dual system of approach in which it has to ratify a law and then domesticate it before it becomes enforceable in its territory. The focus of this paper in addition to the national laws is to discuss the international laws and regional laws that have been ratified and domesticated.

International Instruments

The Universal Declaration of Human Rights (UDHR) is the first instrument in human rights and came into force in 1948.[18] This law makes general provisions for safeguarding the rights and dignity of humans generally. However, children are also humans, and following the age long argument that all general human rights provisions apply to children so they also protected by them. Article 1 states that 'all human beings are born free and equal in dignity and rights', likewise article 25 (2) provides that all children, whether born in or out of wedlock, shall enjoy the same social protection.[19]

Another is the United Nations Convention on Rights of Children (UNCRC) which guarantees the protection of the rights of the child.[20] Its major principles are hinged on non-discrimination and the best interests of the child. Non-discrimination simply means that every child, regardless of nationality, race, sex or socio-economic group has the right to a full and comprehensive education. In essence no child is expected to be out of school and hawking or committing to other economic activities. The instrument caters to the social safeguard of children to include civil, political, social, economic and cultural rights. Also, state parties to the instruments are required to enforce these.

Specifically, Article 32 provides that:

> *State parties shall take legislative, administrative, social and educational measures to ensure state 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 to physical, mental, spiritual, moral or social development*[21]

The above provision puts an obligation on state parties to protect the rights of the child from exploitation and any work that deprives or affects the education, health and well-being of the child. This provision does not state punitive measures for perpetrators who engage in any form of child

[17] M O D Ojo, 'A Sociological Investigation of the Determinant Factors and Effects of Child Street Hawking in Nigeria: Agege, Lagos State, Under Survey' [2013] (3)(1) *International Journal of Asian Social Science*; 134.

[18] <https://www.ohchr.org/en/udhr/documents/udhr_translations/eng.pdf>accessed 09 February 2024.

[19] Ibid, Article 25 (2)

[20] Convention on the Rights of the Child, (1989)<https://www.ohchr.org/documents/professionalinterest/crc.pdf> accessed 09 February 2024.

[21] Article 32 UNCRC

labour envisioned in the provisions of the Convention. However, since this Convention has been ratified and domesticated, its provisions as adopted which is the crux of this paper in relation to child street hawking would be discussed elaborately in the later part of this work.

The African Charter on Rights and Welfare of Children (ACRWC)[22]is a regional instrument that caters to socio-cultural and economic realities peculiar to Africa.[23]According to Okpalaobi and Ekwueme, the ACRWC draws heavily from the UNCRC while infusing certain African values.[24]Notwithstanding this, the two instruments are viewed as complementary and coextensive of one another. Article 31 provides, for the right to survival and development of children.[25]

Another innovative provision is that the ACRWC implores state parties to 'take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular, those customs and practices prejudicial to the health or life of the child and those customs and practices discriminatory to the child.'[26]In addition, article 15 also safeguards children all forms of exploitation and work that can interfere with his physical, mental, spiritual, moral or social development. Street hawking by children is one of such acts that is harmful and affects the welfare and growth of the child. Also, involving children in economic activities to boost the financials of the families is often considered a normal customary practice which of course is addressed by the ACRWC.

Other international conventions on child labour that has been ratified by Nigeria is the Minimum Age Convention[27] and Worst Forms of Child Labour Convention,[28] the UNCRC Optional Protocol on Armed Conflict, the UNCRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, Palermo Protocol on Trafficking in Persons.[29]

National Laws

The Nigerian Constitution[30] is the principal legislative instrument that protects children in Nigeria. The Constitution provides for the right to life and human dignity,[31]in essence all persons including children are entitled to these rights. As such, subjecting a child to hawking especially in the worst of conditions exposes him or her to risks that could tamper with the right to life and human dignity. Another albeit provision that protects the child from hawking is the constitutional provision on the right to basic education which is a fundamental objective and directive principle of state policy. Section 18 states that there are equal and adequate educational opportunities at all levels; and where practicable, free, compulsory and universal primary, secondary and university education is provided. Before now, the provisions of chapter 2 of the Constitution were not enforceable by

[22]<https://www.un.org/en/africa/osaa/pdf/au/afr_charter_rights_welfare_child_africa_1990.pdf>accessed09 February 2024.

[23] African Charter on the Rights and Welfare of the Child <https://www.un.org/en/africa/osaa/pdf/au/afr_charter_rights_welfare_child_africa_1990.pdf>accessed 09 February 2024.

[24]B N Okpalaobi and C O Ekwueme, 'United Nations Convention on The Rights Of A Child: Implementation Of Legal And Administrative Measures In Nigeria'[2015](6); 121

[25] Article 5 ACRWC

[26] Article 21, Ibid.

[27]ILO C. 138

[28]Ibid, 180

[29],<https://www.dol.gov/agencies/ilab/resources/reports/child-labor/nigeria> accessed 18 January 2024.

[30]1999 Constitution of Nigeria (as amended)

[31]Chapter IV

virtue of section 6 (6) (b) of the Constitution.[32] Thus, it is now enforceable with the enactment of the Compulsory, Free Universal Basic Education Act (UBE Act)[33] which gives legal effect to section 18 (1) (3) of Constitution. This is the decision of the Court in *Legal Defence and Assistance Project (LEDAP) GTE & LTD v Federal Ministry of Education & ANOR*,[34]in which it ruled that the enactment of the UBE Act by the National Assembly by the specific provisions covered by the Act, gives effect to section 18 and has become justiciable and now enforceable in the courts.

The Compulsory, Free Universal Basic Education Act (UBE Act) as mentioned above places the obligation on the government to provide "free, compulsory and universal basic education for every child of primary and junior secondary school age". Parents are also enjoined to ensure that their child or her ward attends and completes the primary and junior secondary school education. Also, stakeholders like the Local Government Area, are to ensure that every parent or person who has the care and custody of a child performs this duty.[35]

The Labour Act[36] is another legislation that caters to rights of children in relation to work force or employment. The law is not specific nor did it provide for the meaning of street hawking or its classification as a form of labour. But it can be inferred from its provisions. Section 59 (1) prevents a child from employment or working except where **"**employed by a member of his family on light work of an agricultural, horticultural or domestic character approved by the Minister". It also prohibits a child from lifting, carrying or moving anything so heavy as to be likely to injure his physical development.[37] In light of this, a child is prevented from hawking for someone who is not a family member; this provision does not protect the child fully. Also hawking involves lifting, carrying etc and some of these wares can be heavy, so the Labour Act safeguards a child from this.

One distinct approach of the Labour Act is that it made its provisions in accordance to the age-range of young persons, duration of the employment and exposure to hazards. Be that as it may, these provisions are contradictory to the age prescribed by the CRA. What is even more confusing is the fact that the CRA[38] acknowledges the provisions of the Labour Act. For instance, the Labour Act[39] provides that "a young person under the age of 14 years may be employed on a daily wage and on a day-to-day basis, so far as he returns to his place of residence every night. This could interpret as, a young person can be employed to hawk so far, he is paid daily and returns home.

The Trafficking in Persons (Prohibition) Enforcement and Administration Act, prohibits persons from employing a child for exploitative, injurious or hazardous work that affects the physical, social and psychological development of the child.[40] It also prescribes punishment of a minimum of 2 years and maximum of 7 years without the option of fine where a person is guilty of this offence.

[32]*Attorney General of Ondo State v. Attorney General of the Federation* [1983] NGSC
[33]Section 2 (1) and 3 (1)
[34]*Legal Defence and Assistance Project (LEDAP) GTE and Ltd v Federal Ministry of Education* (FIIC/ABJ/CS/987/15 2017 NGIIC) para 5.
[35] Section 2 of the Universal Basic Education Act 2004.
[36]Labour Act, Cap198 of LFN 1990
[37] Section 59(1) Labour Act.
[38] Section 29 Child Rights Act
[39] Section 59 (2) Labour Act
[40] Section 23 Trafficking in Persons (Prohibition) Enforcement and Administration Act 2003 (amended 2005 and 2015)

Some other legislations that ensure the protection of the rights of the child is the Immigration Act[41] which ensures the protection of migrant children by guaranteeing them same rights as other children in Nigeria. Nigeria has also implemented certain policies from time to time to curb child labour. Some of the key government policies is the National Action Plan on Human Trafficking (NAPTIP) which in addition to enforcing laws against child trafficking and exploitative labour, is involved with enforcement, prosecution and caters to survivors. Also, the National Social Behavioural Change Communication Strategy for Elimination of Child Labour in Nigeria which addresses child labour at the 'household and community level' through awareness. The National Action Plan for Preventing and Countering Violent Extremism makes use of the Civilian Task Force (CTF) to end the use and recruitment for children for child labour. Also provides for disarmament, demobilisation, reintegration of children.[42] The National Policy on Child Labour in Nigeria and the National Migration Policy.[43]

Lagos state which is usually the trail blazer in enacting legislations has the Street Trading and Illegal Market Prohibition Law of Lagos state.[44]This law out rightly bans street trading and illegal markets in Lagos,[45] thereby protecting children also from street hawking. Where a person hawks, sells or exposes goods or wares in contravention of the law, then he is liable to a fine, imprisonment or both.[46] Also, where a person patronises a street hawker, he/she is also liable.[47]In addition, the Lagos state from time to time engages task force in the implementation of the law like the Kick Against Indiscipline (KAI) brigade under the Lagos state Environmental Sanitation Corps (LAGESC).[48]Despite the law, there are still child hawkers on the streets, markets and highways and so there is still a lot to be done in the area of enforcement. Notwithstanding, this is a laudable step and worthy of emulation by other states especially those who are yet to adopt the CRA.

Flowing from this, the next section discusses relevant institutions especially organisations of the government, their duties and impact in enforcing the laws.

3.2 Institutional Framework

Asides the laws, there are established organisations that protect child's rights by acting as agencies responsible for child labour law enforcements. The Federal Ministry of Labour and Employment[49]is an agency of the government which has a Labour Inspectorate that deploys inspectors across all states to enforce child labour laws. Likewise, the Ministry of Women Affairs and Social Development deal with children generally including those that are vulnerable and in auspicious conditions.[50] The agencies most times work in conjunction with one another for instance the Ministry of Women Affairs and Social Development works with some other agencies

[41]CAP 171

[42]<https://www.dol.gov/agencies/ilab/resources/reports/child-labor/nigeria> accessed 20 February 2024.

[43][2015]

[44][1984]

[45]Section 1 Street Trading and Illegal Market Prohibition Law of Lagos state 1984.

[46]Section 10 (1), Ibid.

[47]Section 10 (2), Ibid.

[48]<https://guardian.ng/saturday-magazine/grappling-with-menace-of-street-trading-criminality-in-lagos/>accessed 22 February 2024.

[49] <https://www.thecable.ng/ministry-of-labour-gap-and-opportunities-analysis accessed 18 February 2024>. Also, Section 169, Item 34 Second Schedule of the Exclusive Legislative List of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

[50] <https://www.unicef.org/nigeria/media/5861/file/Situation%20Analysis%20of%20Children%20in%20Nigeria%20.pdf> accessed 11 February 2024.

like the anti-trafficking agencies to provide children that are survivors of child labour social and psychosocial support. The Nigeria Police Force (NPF) and Nigeria Security Civil Defence Corps (NSCDC)[51]also enforce laws prohibiting child labour and exploitation.

One of the key mechanisms established by the government to coordinate its effort to address child labour is the National Steering Committee for the Elimination of the Worst Forms of Child Labour. This committee is led by the Ministry of Labour and Employment with representatives from governmental organizations, faith-based organizations, NGOs, ILOs, UNICEF to coordinate and identify synergy with other existing programs to address child labour.

The National Human Rights Commission is another agency of the government that upholds the rights of Nigerian citizens. And one is where there is a breach of child rights such as the use of children to hawk goods on the streets or other places.

Nigeria is also a member of the International Labour Organisation (ILO) which is a specialised agency that sets international labour standards for the advancement of social and economic justice. The ILO cooperates with NGOs and incorporates sectors of the civil society into its organisation.[52]

3.3 The Role of Non-governmental Organisations and Civil Society Organisations

Non-governmental organisations (NGO) and Civil Society Organisation (CSO) also partake in the response to various abuses and human rights breaches. Some of these organisations would be discussed in relation to the role they play in the protection of children from hawking or labour generally.

The Women Trafficking and Child Labour Eradication Foundation (WOTCLEF) which works towards the preservation of the rights of women and children by eliminating unjust activities that affect their rights like trafficking and child labour.[53] Save the Children protects vulnerable children especially those affected by conflict by ensuring access to education and mitigating the impact of poverty on children.[54]The Child Protection Network (CPN) is a coalition of NGOs, government agencies and other stakeholders who work together to respond to the various forms of child abuse.[55]These organisations achieve their aim through advocacy, sensitization, awareness and also rendering assistance to trafficked persons and vulnerable children. NGOs also partake in collaborations and networking with relevant stakeholders, research, capacity building, and monitoring the implementation of relevant legislations.

4. Implementation of the Child Rights Act in protecting child hawkers

The Child Rights Act (CRA) as mentioned earlier is adopted from the UNCRC. Before the Act there was the Children and Young Persons' Act [56] which is the first law on the protection of children in Nigeria and also the Labour Act. The CRA has wide provisions on the protection of children generally. Section 1 states that in all circumstances, the best interest of the child is

[51] <https://interior.gov.ng/nigeria-security-and-civil-defense-corp/>. Also,<https://nscdc.gov.ng>accessed 11 February 2024.

[52] <https://www.ilo.org/pardev/partnerships/civil-society/ngos/WCMS_201411/lang--en/index.htm> accessed 20 February 2024.

[53]https://www.peacewomen.org/civil-society-organisation/women-trafficking-and-child-labour-eradication-foundation> accessed 20 February 2024.

[54]<https://nigeria.savethechildren.net> accessed 20 February 2024.

[55]<https://www.womenconsortiumofnigeria.org/?q=child-protection-network> accessed 20 February 2024.

[56] CYPA 1943

paramount. In addition, it provides for the right of the child to protection and care,[57] human dignity.[58]One major way to address child labour is the provision of compulsory education for children so they are off the streets, and this is also provided for in the CRA.[59]

However, the focus of this paper is on the salient provisions as it relates to the use of children as hawkers.

Section 28 of the Act provides thus;

(1) Subject to this Act, 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.'

The implication of this provision is that the CRA prohibits the use of children for harmful activities that affects their physical, mental and social development. Street hawking by children outrightly goes against section 28 CRA and as such it is prohibited. In addition, Section 30 (2) provides that a child should not be used

(c) for the purpose of hawking of goods or services on main city streets, brothels or highways.

(d) for any purpose that deprives the child of the opportunity to attend and remain in school as provided for under the Compulsory, Free Universal Basic Education Act

The CRA is explicit on the use of children for street hawking and goes further to mention certain areas for such occurrences. However, this can be limiting where persons can feel they are not in breach where a child is made to hawk in other areas asides main city streets, brothels and highways. Notwithstanding this, other provisions should be effective. The CRA further guarantees the right to education of every child by providing for free compulsory education, by so doing it is expected to take the children off the streets and from practices such as hawking.[60] Hawking itself requires long hours of work and sometimes it is during school time or after school hours when a child should be taking a rest or doing homework.

[57]Section 2, CRA
[58]Section 11, Ibid.
[59]Section 15, Ibid.
[60]I S Salisu, *Exploitation of Children in the Informal Sector: Case Study of Street Hawking Children in Ifo Local Government, Ogun State*(Masters Research Paper, The Hague, 2012) 14.

The CRA through its complementary provisions has shown to be adequate in prohibiting children from street hawking as a form of exploitative abuse that affects the general well-being of children and also infringes on their rights. It also places responsibility on the government to enforce laws that protect children's rights like street hawking. The CRA acknowledges the provisions of the Labour Act i.e., sections 59-63[61] which allows children of certain ages to work. This controversial provision is one of the challenges of the CRA that would be discussed in the next segment.

5. Challenges of the Child Rights Act

One major challenge of the CRA is that it is perceived to be incompatible with the Nigerian culture and also certain religious practices. This is one of the justifications why it took some states in Nigeria almost two decades to adopt the CRA.[62]For a nation like Nigeria, each state of the Federation has to adopt the Act in its jurisdiction for it to become a law. Prior to 2022, six states did not adopt the CRA and while five additional Nigerian Governors signed the Child Rights Act (CRA) in 2022, Kano state in Northern Nigeria is still left out. One of the instances is section 21, 22, 23 which prohibits child marriage and betrothal and so some states that have domesticated the CRA set a different age in their laws. For example, Jigawa defines a child by the age of puberty and Akwa Ibom set the age at 16 years as opposed to age 18.[63] To address this issue, Umeobika and Obiorah clamour for a constitutional amendment to include the laws protecting children in the exclusive legislative list to enhance a universal and direct application of the CRA.[64]

Furthermore, there are certain contradictory provisions in the laws. For instance, the CRA only permits children under the age of 18 to engage in light work for family members. While the Labour Act[65] on the other hand, sets the minimum age at 12 and allows for children of any age to work partake in domestic work or agricultural activities with a family member. The minimum age of 12 provided by the Labour Act does not apply to children who are self-employed. The implication of this is that children above the age of 12 but still less than 18 can be street hawkers and also in a situation where a child is an orphan or downtrodden that choses to fend to himself then he can be considered self-employed and as such permitted to do so by the Labour Act. This provision of the Labour Act is not in compliance with international standards.

The problems of enforcement and implementation are challenges that cannot be over stretched. Some of the challenges encountered by the agencies are lack of resources to cover transportation, and other necessities to carry out inspections. Thus, in order to adequately address some of the impediments of the CRA especially considering that child hawkers are equally a social problem as a legal problem, there is the need to find solution to some root causes. For instance, the eradication of poverty thereby affording parents and guardians the opportunity to basic needs and amenities. Also, issues like child hawking are prominent in developing nations due to the lack of social welfare, access to health and related packages that are available in developed countries.

6. Conclusion and Recommendations

Child hawking is an exploitative practice that infringes on the right of the child. The implication of the act goes beyond the activity itself and impedes on the physical and mental development of

[61]Section 29 CRA.

[62]Z Bashir, 'National Industrial Court of Nigeria, An Evaluation of the Impact of the Child Rights Act in Regulating the Rights of a Child in Nigeria'<https://www.iawj.org/content.aspx?page_id=2507&club_id=882224&item_id=4600> accessed 20 February 2024.

[63]<https://www.dol.gov/agencies/ilab/resources/reports/child-labor/nigeria> accessed 20 February 2024.

[64]CQ. Umeobika and O. Obiorah, 'Where are the children? An approach to Exterminating Child-hawking in Nigeria' [2020]*AFJCLJ 5*; 77

[65]Section 59 Labour Act 1990

the child. Nigeria has enacted and adopted laws to regulate child abuse and hawking is one of it. Despite this, the practise is very much rampant and affects the right of the child.

The work recommends that implementation of the laws and enforcement should be strengthened. In addition to this, there is a need for collaboration between all stakeholders to include government agencies, non-governmental organisations, civil society organisations and the society as a whole to ensure child street hawking is monitored and stopped. There is a need for harmonisation of the laws to provide a uniform minimum age to work. While the Labour Act for instance prescribes 12years for certain kinds of job, the CRA is explicit on the age of 18 years. The laws need to be unambiguous on the list of works that are considered to affect the wellbeing of the child. Also, the impact of awareness and public campaign on the rights of the child and the implication of engaging them in street hawking cannot be overemphasized. There is also the need for the government to address other root causes like the poverty rate, lack of basic and social amenities, fulfil their obligation on providing free compulsory education as this would go a long way in curbing the use of children as hawkers.