WHERE ARE THE CHILDREN? AN APPROACH TO EXTERMINATING CHILD-HAWKING IN NIGERIA*1

Abstract
In the full glare of the law, child labour continues to thrive in Nigeria, enhancing economic, social and security issues. This conceptual paper interrogates the problem of child-hawkers in Nigeria. It evaluates the remote causes of child-hawking and x-rays the debilitating effects of this menace on the children and society at large. It critically appraises the legal and institutional framework, as well as the mechanism for law enforcement, for the protection of children from this form of child labour. The paper attempts to propose resolutions to curb this menace and proffers solution towards a sustainable inhibition of the problem of child-hawking in Nigeria and the issues of enforcement. Our findings reveal that child hawking is widespread and gaining momentum. It infringes on the child’s rights to life, education, personal dignity and development as provided by extant Laws. It advances several social, educational, criminal, environmental, economic, security and health issues. Enforcement is fraught with complexities. The paper recommends legislative and governance initiatives to formalise the informal sector street hawking in general, by legalising it into a progressive economic dimension for job creation, income generation and fostering inclusive integration and development. This will lead to the integration of that informal economy into the national plan thereby formalising the economic activities of street hawkers, building solidarity and prestige, providing protective regulations, and social protection, formulating innovative policies and practises and providing social welfare for hawkers. Under this system where hawkers are registered, provided for and protected under the law, the resultant effect will address poverty, hunger, environmental pollution and inequality. Ultimately, the hawkers will act as policing agents in eradicating the issue of child-hawking.

Keywords: Child, Child-hawking, Child labour, Nigeria, Law

1. Introduction
The protection of children has generated ample concerns at both the national and international level due to the vulnerability of children. Incessant violations and undermining of children’s rights has necessitated critical attention to the plight of children all over the world. This has given rise to international conventions, policies and institutions for the protection of children. It is trite that the children are the future, so like an endangered species; children must be given utmost attention for the sustainability of the human race. They should be at the heart of the struggle for economic and sustainable development. The Sustainable Development Goals (SDGs) embody the universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity. The SDGs are most concerned with the world’s most marginalised and vulnerable people, including children and makes the universal call to leave no one behind. Goal 8 of the SDG seeks to ‘promote inclusive and sustainable economic growth, full and productive employment and decent work for all’. Target 8.7 of this goal states that member states should ‘Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms’. Also Target 16.2 of Goal 16 asks member states to ‘End abuse, exploitation, trafficking and all forms of violence and torture against children.’2

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Nevertheless, a report by the International Labour Office\(^3\) showed that in 2000 about 246 million children between 5 to 17 years of age were working. The number decreased to 168 million in 2012, with over 50% of the children involved in hazardous work. Similarly, the 2017 report\(^4\) places the number of child labourers at 152 million with 72 million in hazardous work. This shows a continuous but slow decline, especially between 2012 and 2016 and calls for accelerated progress in other to meet the target date of 2025 for achieving the SDGs. Of the 152 million child labourers, 19.6% live in Africa. Africa has been fraught with a lot of social, economic and political issues like conflicts, disasters, wars, economic downturn, unemployment, poverty etc. There is a strong correlation between poverty, conflict and disaster and child labour.

Child labour is commonplace in Nigeria with child-hawking as one of the predominant acts. Despite legal interventions, child-hawking is widespread and continues to thrive, with its devastating effects on the children. The inadequacies of the law coupled with the complexities confronting implementation and enforcement, together with the existing economic condition of Nigeria, among other factors, advance the problem of child-hawking. Given the prevailing deplorable economic situation in Nigeria which is intensifying the problem of child labour, there is an urgent call to action for government and all stakeholders to rise to the challenge of child labour and child-hawking for Africa and the world. This concern is captured aptly in the United Nations Declaration of the Rights of the Child 1959, which provided in its preamble that: ‘the child because of his mental immaturity needs special safeguards and care including appropriate legal protection before as well as after birth.'\(^5\) Hence the need for inhibition of child-hawking through sustainable legal interventions and initiatives to save the vulnerable Nigerian child from this menace has become imminent.

2. The Case of Child-hawking

Street hawking is a major form of sustenance for many people at the bottom of the economic pyramid in developing countries like Nigeria. It is prevalent within urban and suburban contexts. It provides a means of livelihood for this large population of people on the lowest rung of the economic ladder and has become a culture and a way of life. Many households in this category incorporate their children into child-hawking to support the family income. The upsurge of child hawking in Nigeria has been attributed to the introduction of an International Monetary Fund Structural Adjustment Plan (IMF SAP) in the 1980s. This necessitated the devaluation of the currency; job cuts leading to unemployment and the removal of subsidies on fuel, water, and electricity. Consequently, many children dropped out of school as parents could no longer afford school fees and were subsequently engaged as; domestic servants to wealthy households, farmhands, street hawkers and other forms of labour. Child-hawking is an exploitative form of child labour. It continues to gain momentum in the full glare of the law. This is predominantly as a result of the poor economic situation of the country which has fostered

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unemployment, loss of family income, poverty, illiteracy and a thriving rural-urban migration. Child-hawkers can be found along the roads, on the streets, in the market, and anywhere they can access customers for their goods. While a good number of the child hawkers combine hawking and education, the resultant effect is poor performance, repeating classes, late enrolment, absence from school and dropping out of school in the long run\textsuperscript{6}. Some other children hawk on a full-time basis without education. People subscribe to hawking for many reasons including; a source of livelihood, a pastime, familial culture, socialising, self-reliance, freedom, unemployment, poverty, inflation, poor educational performance, unstable families, peer group influence, large family size, poor parental care, lack of employable skills, divorce/separation or loss of spouse, amongst others. They are encouraged by the minimal-capital entry requirement, absence of licence or registration, no maintenance costs nor payment of taxes, anonymity and the lack of accountability to anybody. However, the prevalence of child-hawking in Nigeria can be attributed to; poverty, high rate of unemployment, poor economic condition of the country, political instability, rural-urban migration in search of greener pastures, customary practices, family values and prevalent practices\textsuperscript{7}.

Poverty nevertheless seems to be the overarching cause of child hawking in Nigeria, and the major consequence of child-hawking is a perpetuated cycle of poverty. With poverty at the very heart of child-hawking, it spurs parents and guardians to engage their children in hawking to supplement the income of the family. It is normal to hear from parents of child-hawkers, how they had to hawk wares as children to support their families. Severally, children are trafficked from the rural to the urban areas, sometimes with the consent of their parents, and in many cases end up hawking on the streets for survival. Children who run away from home kidnapped children and some children given to wealthier family members end up on the streets hawking. Unemployment is closely linked with poverty and is a causative factor of child labour. About 20.9 million people are currently unemployed in Nigeria\textsuperscript{8}. And this has driven the boom in hawking. Conflicts and insurgency render many children orphans and homeless. For children caught in this situation, hawking becomes a means of survival.

The insurgency in the northern part of Nigeria and the incessant raids and killing by terrorists and herdsmen have created a huge demographic of orphans and displaced children hawking and begging on the streets of Nigeria. Daily, there is an influx of people into the urban and suburban areas of Nigeria, in a quest for a better life. With no money, jobs or security for the newcomers on the one hand and no requirement of capital, the cost for business space, levies, taxes and formal registration or documentation, on the other hand, many of them quickly resort to hawking. Gender inequality is embedded in some of the customs and traditions of people in Nigeria, particularly in Northern Nigeria. Female children in these customs are denied economic and social rights to education; despite the provisions of the law on non-discrimination because of sex\textsuperscript{9}. The female child is often sent to hawk to help out


\textsuperscript{9}(Sec 42 CFRN, 1999). Constitution of the Federal Republic of Nigeria, 1999(as amended) s. 42.
financially in the family. Since she will eventually end up as a wife, it is reasoned that she does not need education and hawking prepare her for ‘future economic independence and self-reliance’ as a wife. This is also in dissonance with the provisions of the African Charter on the Rights and Welfare of the Child which stated that any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties and obligations contained in the Charter shall, to the extent of such inconsistency, be discouraged. The Charter further provided that State Parties should 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 also those customs and practises discriminatory to the child on the grounds of sex or other status. The family is a key player in the African context; hence family values can be contributory to child-hawking. A child typically depends on the parents and other members of the family for survival and welfare. Hence the importance of the family as a social and a primary unit cannot be exaggerated. Therefore, where hawking is a family or culturally oriented norm, it becomes more difficult to tackle especially with illiterate parents.

3. The Effects of Child Hawking

Hawking exposes children to a myriad of debilitating effects. Child-hawking advances social, educational, criminal, economic, security and health issues which limit children from achieving their potential. The negative effects of hawking on the children cannot be overemphasised. First and foremost, the rights of the child to life, health, education, personal dignity, welfare and development are compromised. Chapter 4 of the Constitution of the Federal Republic of Nigeria 1999 (CFRN) and Section 3 of the Child Rights Act 2003 (CRA) guarantee these rights. Broadly categorised, street hawking has Physical, Psychological and Social consequences on children. Child-hawkers are exposed to delinquency, thereby resorting to crimes such as stealing, kidnapping, drug/substance abuse amongst others. The children fall victim to ritual killing and kidnapping, rape and other sexual assaults, in most cases perpetrated against the girl child. The children are also exposed to road accidents and the possibility of being knocked down by vehicles. There are incidences of sexually transmitted diseases and teenage pregnancy, which may lead to dropping out of school and having more children to cater for, who eventually are introduced to hawking at very early ages thereby perpetuating the cycle. The children are exposed to prostitution, banditry, cultism and other vices.

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11 African Charter on the Rights and Welfare of the Child which stated, Article 1(3).
12 Op cit, Article 24.

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Furthermore, the health of the child-hawker is also jeopardised as they in many occasions suffer from poor health, malnutrition and exposure to diseases. The long treks under the sun, with little or no food and the close contact with all manner of people, lack of sanitation, exposure to fumes and smokes all take a toll on the health of the child-hawker. Street hawking also has psychological consequences on the children. The fear of road accidents and being knocked down, stress, constant exposure to bad weather and risks, stigmatisation, fatigue amongst others lead to psychological problems for the child-hawkers. A most worrisome effect is the denial of proper education to the child-hawker. Without education and skills training, the children have no hope of exiting the cycle of poverty.

Apart from the negative effects on the children, child-hawking also impacts on the people and the planet. Environmentally, child-hawking relative to hawking in general poses problems of littering the environment with non-biodegradable materials by not disposing of them properly. The children are unaware and feel no obligation to the environment or society and are not concerned about how their actions destroy the environment. They contribute to loss of aesthetics through indiscriminate dumping of refuse, defacing, vandalism amongst others. Socially, they contribute to traffic jams and road accidents. Furthermore, humans are the most treasured resource in the world. Child-hawking which takes children away from education robs them of the basic knowledge to understand and manage their environment, and to conserve, advance and develop it sustainably for the coming generations while exposing them to a magnitude of dangers.

4. Government Frameworks and Interventions

Legal Framework

At the international level, Nigeria ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1991. The UNCRC mandates State parties to recognise the rights of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development. Accordingly, State parties should make primary education compulsory and available free to all; encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need. It mandates making higher education accessible to all based on capacity by every appropriate means; make educational and vocational information and guidance available and accessible to all children; take measures to encourage regular attendance at schools and the reduction of drop-out rates. Nigeria is a signatory to this Convention, is obligated to take appropriate and effective measures to implement the provisions of the Convention.

At the regional level, Nigeria has ratified the African Charter on the Rights and Welfare of the Child 1990 (ACRWC). The ACRWC provides that every child shall be protected from all forms of economic exploitation.


and from performing any work that is likely to be hazardous or to interfere with the child’s physical, mental, spiritual, moral, or social development. It mandates that penalties and sanctions be provided by state parties to ensure its effective enforcement through legislation. The Charter mandates member states to take appropriate measures with a view to achieving the full realisation of the right to education of the child and in particular provide free and compulsory basic education; encourage the development of secondary education in its different forms and progressively make it free and accessible to all; make higher education accessible to all on the basis of capacity and ability by every appropriate means; take measures to encourage regular attendance at schools and the reduction of drop-out rates; take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community.

The African Charter originated as a result of the important socio-cultural and economic realities particular to Africa (ACRWC, 1990). The ACRWC domesticated the provisions of the UNCRC at the regional level and is complementary and significantly coterminous to the UNCRC. However, ACRWC seems to provide a higher level of protection in some aspects.21 It specifically defines a child as one under the age of 18; deals with issues that resonate with children in Africa; has a wider mandate for its committee on implementation and a different focus which considers a child from a community perspective as opposed to an individual perspective22. Article a, in the UNCRC and Article 1 of the ACRWC demands of states to take appropriate administrative, legislative and other measures to implement the rights recognised in the conventions.

At the national level, Nigeria as a signatory to the UNCRC and ACRWC fulfilled the statutory demand of domesticating the conventions by enacting the Child Rights Act (CRA) 200323. Section 30(2) of the CRA, specifically prohibits child-hawking. It provides that no child should be used for hawking of goods or services on main city street, brothels or highways or for any purpose that deprives the child of the opportunity to attend and remain in school as provided under the Compulsory Free University Basic Education Act. Contravention of this provision attracts ten years’ imprisonment. The Act also prohibits the subjection of children to any forced or exploitative labour, among others. Every child under the Act has the right to free, compulsory and universal basic education, which shall be provided by the government, while the parents have the legal duty to ensure that their children attend and complete their basic and secondary school education or vocational training24. A contravention of the provisions of the Act attracts imprisonment and fine25 and the court should in all cases of child labour, give maximum punishment to the offender, to serve as a deterrent.

Despite the commendable steps taken by the Nigerian government to fulfil its obligations in enacting the CRA, implementation is fraught with a lot of complexities. First is the limitation to its application. The structure of the Nigerian government, impacts on its ability to holistically actualise its programme on children’s right and child labour. ‘Nigeria operates a federal system of government in which each of the thirty-six states of the federation is autonomous and equal to others. Each state has its legislative system as stated by the constitution. Until the child’s right is enacted into law in each of these legislative systems, it is not binding on the states. Hence, no court can

24Child Rights Act, 2003, s. 15.
prosecute a violation of the Child Right Act in states that have not enacted it. Under the Nigerian Constitution, matters relating to children are neither in the exclusive nor concurrent list (Section 4(7) CFRN). The legal implication is that States make laws concerning child welfare and justice in Nigeria. Consequently, individual states will need to adopt and adapt the CRA to be enforceable in their States. Presently, about 27 out of the 36 states have adopted the CRA as a law binding in their States. Some other states have cited cultural, religious and constitutional reasons for not signing the Act and passing the legislation. Invariably, states, where some provisions of the CRA conflicts with the customary and religious beliefs and practices prevalent in their states, have clamped down on the adoption of the CRA in their States. The implication is that the CRA does not protect children in those States.

This further strengthens the need for a national application of the Child Rights Act in every State to curb customary and religious practices which are harmful to the children. This aligns with the provisions of the ACRWC which stated in Article 1(3) that any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties and obligations contained in the Charter shall, to the extent of such inconsistency, be discouraged. The Charter further provided that State Parties should 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 also those customs and practises discriminatory to the child on the grounds of sex or other status. Second is the problem of implementation. The attitude of Nigerian courts to international treaties is somewhat confusing. In two separate conflicting decisions by the same court, the provisions of the African Charter were deemed enforceable in Ogugua v The State, but in Chief GaniFawehinmivsSaniAbacha, the other was deemed not enforceable when in conflict with a provision of the Constitution. Although it is argued that the Charter is a distinct statute and therefore its provisions can be enforced without the ouster provisions of section 6 (6) (c) of the CFRN, it is still the prerogative of the courts to make such interpretations. Third, the overall attitude of the government is apathetic and hinders administrative efforts. Inadequate budgets, fragmented programmes, potty planning, low coordination and reliance on international agencies create a gap between theory (ratification and domestication) and practice (implementation). ‘The Nigerian problem is not the absence of appropriate legislation, but the failure of the executive arm of government to make concrete investment geared towards putting in place the right policy and mechanisms for determination of the best interest of the child in specific situations’.

Social Interventions

29 ACRWC, Article 21.
Social intervention programmes in Nigeria have yielded little or no efforts. The Universal Basic Education (UBE) Programme was launched in 1999 to guarantee tuition-free compulsory education for all children in Nigeria. However, corruption, inadequate funding and infrastructure as well as the fallen standard of education has robbed the programmes of any impact. Corruption, funding and infrastructure issues have created a scenario whereby students are still asked to make some form of payments to access education which is supposedly free. The very low standard of education has resulted in a lack of infrastructure and teachers. Parents now seek alternative paid and most expensive education for their wards. Consequently, the poor are still unable to access the so-called free education and are sometimes discouraged by the low standards to enrol their children.

In June 2016, the Federal Government launched the Nigerian National Home Grown School Feeding Programme. It was intended to tackle poverty and improve the health and education of children and other vulnerable groups through providing free school meals with food procured from local small farmers. It sought to increase school enrolment and completion; improve child nutrition and health; strengthen local agricultural economies by providing a school feeding market in which farmers can sell their products; and create employment opportunities with jobs on catering, processing and farming. According to data from their website, the programme currently feeds over 4 million children. The programme has been launched in about 27 States in Nigeria. The aim of the programme is for vulnerable families to feed and send their children to school. The programme, though a good initiative already encounters issues of effectiveness and sustainability due to corruption and economic issues. ‘It has been trailed by some challenges bordering on discrepancies in enrolment figures as well as the quantity and quality of food served by some food vendors’ and have only fostered an interest in the food but not education in most northern states. According to a report by LEAP, the programme is faced with many issues not limited to; level of spending, sustainable impact due to its political leaning, faulty design and strategy, absence of data and accountability, politically motivated, poor monitoring and evaluation, lack of technical expertise, relevance amongst others.

Poverty remains a driving factor for child labour and until poverty is addressed at its root, children remain vulnerable. Social interventions should be designed to provide relief from poverty. UNICEF in its report on implementation in Nigeria states that ‘Child right protection is not prioritised in Nigeria. Government agencies charged with these objectives are among the most marginalised. There are very few professional personnel, such as social workers, particularly at local levels. Enforcement is very nearly non-existent, and preventative awareness-raising campaigns are sporadic and underfunded.’

An Alternative Approach
Street trading is a core component of the huge African informal economy and a great contributor to the GDP. Albeit its tragedies and underlying problems to the society, it also possesses ‘positive economic dimensions for the

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33 2017.
country in the form of job creation, income generation and easy access to goods which fosters velocity of money in the economy. Governments all over have been known to harass street traders in the form of raids on grounds on modernisation, aesthetics, social menace, security, traffic congestion amongst others. It is perceived widely that street trading is a ‘manifestation of both poverty and underdevelopment; thus, its disappearance is viewed as progress’. In Nigeria, raids are persistently carried out with confiscation of goods and arrest of hawkers. Lagos state also promulgated a law banning and criminalising street hawking in totality, but it hasn’t been very effective. A more sustainable approach is legalisation instead of criminalisation. Rather than penalising street hawking in general, it can be harnessed for its economic benefits and social potentials, by formally incorporating it into the formal sector. It is a booming informal sector that has proved resilient despite various governmental efforts aimed at eradicating it. They save time for an average person in society by bringing the goods to them. This efficiency of directly reaching consumers is being key into by MNCs and other local organisations who now channel the goods directly to the hawkers. An estimated 60% of goods by the MNCs in Nigeria get to consumers through the hawking channel. Hence formal organisations are strategically integrating the informal organisations into their selling operations, and yet hawking remains informal, without records or taxes. Given the current state of the economy in Nigeria, with poverty being the driving factor for street hawking, it will be an uphill task to eradicate street hawking completely. Therefore, adopting legislative and governance initiatives to formalise the informal sector street hawking into a progressive economic dimension for job creation, income generation, and fostering inclusive integration and development seems a more viable option. In essence, street hawking can be fostered instead of hindered to catalyze an increase in GDP, equitable and appropriate labour practices, and standardisation of goods.

This will lead to the integration of that informal economy into the national plan thereby formalising the economic activities of street hawkers, building solidarity and prestige, providing protective regulations and social protection, formulating innovative policies and practises and providing social welfare for hawkers. The formal system will provide registration of hawkers with identification and hawking licences, which will permit people to hawk in specific areas, spaces and time, social protection and welfare. Registration and Licencing will be used to check the problem of child hawking as children will not be licenced. The licenced hawkers will be tasked to act as policing agents in eradicating the issue of child-hawking, by apprehending child hawkers and handing them over to the authorities. They will be tasked with owning and safeguarding their licence area and environment and apprehending unlicensed hawkers with consequences for falling short. Under this system where hawkers are registered, provided for and protected under the law, the resultant effect will address poverty, hunger, environmental pollution and inequality. Ultimately it will help to diminish the issue of child hawking.


5. Conclusion and Recommendations
Child-hawking is a major form of child labour in Nigeria with humongous implications on the physical, emotional, social, and economic development of the child. Its debilitating effects on children cannot be overemphasised. These negative consequences infringe on the constitutional rights of children to life, education, personal dignity and development which Nigeria should protect in line with its national and international obligations. The prevalence of child-hawking is high despite the legal and social policies in Nigeria geared towards eradicating child labour. The implementation and enforcement of the extant laws are fraught with complexities, while the policies are ineffective and not sustainable due to lack of commitment on the part of the government, bad governance and corruption. Child-hawking as a major form of child labour in Nigeria continues to advance negative social, educational, criminal, environmental, economic, security and health issues. Given that a huge percentage of child labour occurs in Africa eradicating child labour globally hinges on Africa. Thus a sustainable inhibition of the problem of child-hawking must take into cognisance the remote causes of child-hawking which primarily is poverty as well as unemployment, rural-urban migration, cultural practices, illiteracy among others. The government and all stakeholders must rise to the challenge imposed on them by law. The problem of implementation must be tackled by innovative and sustainable interventions which must be backed by law. The paper recommends as follows: Laws relating to children should be in the exclusive legislative list, to enable a direct and holistic application of CRA and other laws protecting the interests of children in all states of the Federation. This will ensure punishment for offenders. Hence a constitutional amendment is needed to put matters concerning children in the exclusive list and make the social, economic and cultural rights of the child justiciable. Government must ensure that every child is in school and can access free and quality education. Furthermore, the law on free and compulsory education should further provide incentives to unemployed parents and households within a certain earning bracket, whose children are in school in the form of ‘welfare taxes’ to encourage enrolment of children into schools and reduce child-hawking. Through the integration of hawkers into the formal sector, registered and licenced hawkers under a formal union will be tasked with the environmental, social and security protection of their sector and areas of operation. Ultimately, they will be tasked with policing their sector, including the apprehension of unlicensed practitioners, especially children.