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## The Protection of Children's Right under International Human Rights Law: An Analysis

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**Abstract:** *In this study, we examined the rights of children, using interdisciplinary approach in our research methodology. We observed that despite the numerous laws, Declarations, Conventions and Charters promulgated to protect children's right, most countries failed to abide by it, thereby engaging children into forced labour, child soldiers and all sorts of degrading and inhuman treatments. Our findings are that the children of the poor and poverty are the root causes of child abuse. We conclude this study by recommending that those countries, institutions, governments and individuals who are engaged in child abuse should refrain from it. We suggested television programmes and various information dissemination mechanisms to continue to propagate such information that discourages child and children abuse.*

**Key words:** *Children's Rights, History of Protection of Children's Rights, Declarations and Conventions*

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### 1. Introduction

The Black's Law Dictionary 6<sup>th</sup> Edition, defines a child as "one who has not attained the age of 14 years". The New Webster's Dictionary of the English Language defines a child as "a boy or girl at any age between infancy and adolescence". The United Nation's Convention on the Rights of the Child defines a child as every human being below the age of 18 years unless where the national law recognizes a lower age of majority. The Cameroonian Penal Law stated that age 18 is the age of majority. But for purposes of marriage 18 years is the age of maturity for boys and 15 years for girls. From the foregoing we can say that a child is one who has not yet attained the age of maturity, is incapable of taking decisions and cannot enter into a valid legal contract.

### 2. Children's Rights

From the definition given earlier, a child is a minor, one who has not yet attained maturity, incapable of taking decisions sometimes of forming opinion. Children should therefore be loved, protected and taken good care of. The reverse is rather the case in the world of today. The wanton and unscrupulous exploitation of children for man's selfish desire particularly for pecuniary benefit attests to this.

Children are engaged in a variety of economic activities such as: hawking wares, in

prostitution, agricultural labour in all its forms. During wars in some countries, such as in Sierra Leon and Liberia, children are used as "child soldiers", which acts negates the laws of war and international charters. Child Trafficking is very rampant in West Africa: Nigeria and Cameroun are test cases. In rural areas parents withdraw their children from school during the planting season to plant and weed farms. In the Northern states of Nigeria, especially, during the dry season children are made to shepherd livestock by parents who believe it is more important than schooling. Some children are made to accompany their blind handicapped or old parents to public places like markets, shops, motor parks to beg. Many families of low socio-economic standing engage their female children as domestic servants to people in high and better socio-economic status.

### **3. The History of Protection of Children's Rights and the Various Instruments Adopted by the General Assembly to Protect the Rights of Children**

The protection of children in armed conflicts was one of the earliest concerns of the international law on the rights of the child; the standard of protection was, however, minimal. The Hague convention respecting the laws and customs of war on land 1907 incorporated only the principles of respect for family life without considering whether children with or separated from their families were entitled to additional levels of protection.

#### **(A) THE DECLARATION OF THE RIGHTS OF THE CHILD**

This Declaration owed its origin to the concern for children affected by armed conflicts in the Balkans. It provided that in times of distress, children should be the first to receive relief. In 1938, the International Committee of the Red Cross together with the International Conference of the Red Cross came together with the International Union for child welfare to study the possibility of providing protection under a convention and they produced a draft.

#### **(B) CONVENTION FOR THE PROTECTION OF CHILDREN IN EMERGENCY AND ARMED CONFLICT**

The draft was accepted by 12<sup>th</sup> January, 1939 and by 1949 the draft was incorporated into the Geneva conventions which contains 17 Articles of specific concern to children affording general protection to children as civilians and special protection for children living in both unoccupied territories.

#### **(C) THE DECLARATION OF THE RIGHTS OF THE CHILD**

The General Assembly of the United Nation proclaimed the Declaration on the Right of the child to the end that he may have a happy childhood and enjoy for his own good for the good of society their right and freedoms therein call upon parents, men, women as individuals and upon voluntary organizations, local authorities and national governments to recognize these rights. It has 10 principles.

**(D) THE DECLARATION ON THE PROMOTION AMONG YOUTH OF THE IDEALS OF PEACE, MUTUAL RESPECT AND UNDERSTANDING BETWEEN PEOPLES**

It provides in its principle that young people shall be brought up in the spirit of peace, justice, freedom, mutual respect and understanding in order to promote equal rights for all human beings and all nations, economic and social progress, disarmament and the maintenance of inter-national peace and security.

**(E) THE DECLARATION ON SOCIAL AND LEGAL PRINCIPLES RELATING TO THE PROTECTION AND WELFARE OF CHILDREN WITH SPECIAL REFERENCE TO FOSTER PLACEMENT AND ADOPTION NATIONALLY AND INTERNATIONALLY**

There are altogether 24 Articles.

Article 1 provides that "Every state should give a high priority to family and child welfare" and Article 3 provides that "The first priority for a child is to be cared for by his parents".

**(F) THE CONVENTION ON THE RIGHTS OF THE CHILD**

This Convention has altogether 45 Article and provides in its Article 3 that "in all actions concerning children whether undertaken by public or private social welfare institutions, court of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.

**(G) THE CHILD'S RIGHTS ACT**

This Act is published as the Federal Republic of Nigeria official gazette No. 16, volume 90. It is divided into 24 parts and has 278 sections. Some of the provisions of the Act include:

(a) Section 1 states that in every action concerning a child whether under taken by an individual, public or private body, institutions or service, court of law, or administrative or legislative authority, the best interest of the child shall be the primary consideration.

(b) Section 2(1) states that " A child shall be given such protection and care as is necessary for the well being of the child, taking into account the rights and duties of the child's parents, legal guardians or other individuals, institutions, services, agencies, organizations or bodies legally responsible for the child".

**4. Success Scored With Particular Reference To The Rural Child**

It is surprising that despite the negative use of children, the government has remained indifferent to their right; this is strange giving the various conventions on protection of children ratified by

party states. The state of Cameroun ratified the International Labour Organization Convention on the minimum age of employment of a child which fixed 15 years when the economy and institutions of learning are not developed.

The Cameroun government also ratified the convention on the elimination of the works forms of child labour but the state of Cameroun has not made any decision on child domestic workers and their plight, nor is there any official or unofficial statistics on the issue of child labour.

A recent report concerning Egypt shows that even though Egypt has ratified the ILO Convention, the issue of child labour in Egypt has been traditionally ignored. Interest has grown over the past few years in the plight of Egypt's estimated 2.1 million working children.

The majority work in agriculture, with over a million being hired each year for the cotton harvest during which they work 11 hours a day in 40-degree heat. In a recent UNICEF survey, nearly all children asked, reported beatings by foremen.

According to Osman, an Egyptian child, there is some hope of eradicating child labour in quarries because unlike agriculture quarry work is limited in scope. "Eradicating child labour in agriculture is impossible. It is too large and the issue is between the families", Osman said, "But in the quarries, the magnitude is known".

Henein, another Egyptian child, who has been working with quarry workers for over a decade confirms that interest in the issue had reached a new height. The new government in Minya has reportedly begun holding weekly meetings on the issue with both government and non-governmental parties.

In Nigeria statistics have shown that so many of our children are still being trafficked across our borders. Street hawking is still at its peak, and the government has not put any machinery in motion to physical stop this trade apart from sounding notes of warning on the radio, inspite of the fact that Nigeria is a party to most of the conventions against child labour. The reluctance in the implementation of some of the international treaties relating to child labour in Nigeria has facilitated the wanton exploitation of children. The use of the girl child as domestic worker is very common here in Nigeria.

The global scandal of violence against children is a horror story too often untold. With malice and clear intent, violence is used against the members of society least able to protect themselves - children in school, in orphanages, on the street, in refugee camps and war zones, in detention, and in fields and factories. In its investigations of human rights abuses against children, human rights watch has found that in every region of the world, in almost every aspect of their lives, children are subject to unconscionable violence, most often perpetrated by the very individuals charged with their safety and well-being.

Children are exposed to other human rights abuses as well. Millions have no access to education, work long hours under hazardous conditions, are forced to become soldiers, or languish in orphanages or detention centers where they endure inhumane conditions and daily assaults on their dignity.

These abuses persist because children have few mechanisms for reporting violence and other human rights violations. They may be reluctant to speak out for fear of reprisals. And because they are children, their complaints are often not taken seriously. Even when children do make reports or abuse is exposed, perpetrators are rarely investigated or prosecuted. Those in a position to take action may be complicit in the abuse, reluctant to discipline or prosecute a

colleague, or fearful of negative publicity. Adults who witness abuse by their own colleagues and attempt to report it may be fired for speaking up.

The year 2005 marks the fifteenth year of the entry into force of the convention on the Rights of the child, the landmark treaty that guarantees children the right to be free discrimination, to be protected in armed conflicts to be protected from torture and cruel, inhuman, or degrading treatment or punishment, to be free from arbitrary deprivation of liberty, receive age - appropriate treatment in the justice system, and to be free from economic exploitation and other abuses, among other rights. Achieving these rights remains a challenge. Governments must take stronger action to implement the convention's provisions and fulfill their promises to the children of the world.

The International Labour Organization (ILO) has estimated that 250 million children between the ages of five and fourteen work in developing countries-at least 120 million on a full time basis. Sixty-one percent of these are in Asia, 32 percent in Africa, and 7 percent in Latin America. Most working children in rural areas are found in agriculture; many children work as domestic; urban children work in trade and services, with fewer in manufacturing and construction.

Child labour ranges from four years olds tied to rug looms to keep them from running away, to seventeen year olds helping out on the family farm. In some cases, a child's work can be helpful to him or her and to the family; working and earning can be a positive experience in a child's growing up. This depends largely on the age of the child, the conditions, which the child works, and whether work prevents the child from going to school.

The children's rights division at human rights watch focused its efforts on the worst forms of child labour. Children who work long hours, often in dangerous and unhealthy conditions are exposed to lasting physical and psychological harm. Working at rug looms, for example, has left children disable with eye damage, lung disease, stunted growth, and a susceptibility to arthritis, as they grow older. Children making silk thread in India dip their hands into boiling water that burns and blisters them, breath smoke and fumes from machinery, handle dead worms that cause infections, and guide twisting threads that cut their fingers. Children harvesting sugar cane in El Salvador use machetes to cut cane for up to nine hours a day in the sun; injuries to their hands and legs are common and medical care is often not available.

Denied an education and a normal childhood, some children are confined and beaten, reduced to slavery. Some are denied freedom of movement-the right to leave the workplace/and go home to their families. Some are abducted and forced to work. The human rights abuses in these practices are clear and acute. We have found similar problems in Asia, the Middle East, Latin America, and the United States that children who work for too many hours and too many days, for too little, or sometimes no pay, are subjected often to physical abuse, exposed to dangerous pesticides, and made to work with too dangerous tools. Our objectives in tackling these aspects of the complex and troubling child labour issue include drawing attention to the plight of child workers, helping to end these appalling practices, and contributing to the debate on the rights dimension of the larger issue of children and work.

Millions of children work as bonded child labourers in countries around the world; the full extent of the problem has yet to be shown. Millions work in India alone. In dozens of countries around the world, children have become direct participants in war. Denied a childhood and often subjected to horrific violence, some 300,000 children are serving as soldiers in current

armed conflicts. These young combatants participate in all aspects of contemporary warfare. They wield AK-47s and M-16s on the front lines of combat, serve as human mine detectors, participate in suicide missions, carry supplies, and act as spies, messengers or lookouts.

Physically vulnerable and easily intimidated, children typically make obedient soldiers. Many are abducted or recruited by force, and often compelled to follow orders under threat of death. Others join armed groups out of desperation. As society breaks down during conflict, leaving children no access to school, driving them from their homes, or separating them from family members, many children perceive armed groups as their best chance for survival. Others seek escape from poverty or join military forces to avenge family members who have been killed.

Child soldiers are being used in more than thirty countries around the world. Human rights watch has interviewed child soldier from countries including Angola, Colombia, Lebanon, Liberia, Sierra Leone, Sudan and Uganda. In Sierra Leone, thousands of children abducted by rebel forces witnessed and participated in horrible atrocities against civilians, including beheadings, amputations, rape and burning people alive. Children forced to take part in atrocities were often given drugs to overcome their fear or reluctance to fight.

In Colombia, tens of thousands of children have been used as soldiers by all sides to the country's ongoing bloody conflict. Government-backed paramilitaries recruit children as young as eight, while guerrilla forces use children to collect intelligence, make and deploy mines, and serve as advance troops in ambush attacks.

In Southern Lebanon, boys as young as twelve years of age have been subject to forced conscription by the South Lebanon Army (SLA), an Israeli auxiliary militia. When men and boys refuse to serve, flee the region to avoid conscription, or desert the SLA forces, their entire families may be expelled from the occupied zone.

Girls are also used as soldiers in many parts of the world. In addition to combat duties, girls are subject to sexual abuse and may be taken as "wives" by rebel leaders in Angola, Sierra Leone and Uganda. In Northern Uganda, Human Rights Watch interviewed girls who had been impregnated by rebel commanders, and then forced to strap their babies on their backs and take up arms against Ugandan security forces.

Because of their immaturity and lack of experience, child soldiers suffer higher casualties than their adult counterparts. Even after the conflicts over, they may be left physically disabled or psychologically traumatized. Frequently denied an education or the opportunity to learn civilian job skill, many find it difficult to rejoin peaceful society. Schooled only in war, former child soldier are often drawn into crime or become easy prey for future recruitment.

## **5. Conclusion and Recommendation**

In Nigeria and other than African countries that are state parties to most inter-national treaties and covenants affecting the rights of children, they have either refused or neglected to enforce the provision of these instruments and conventions, both in private and public life in their countries. The case of Egypt illustrates this point. While the Egypt child Law bans the employment of children under 14 years and regulates the hours and conditions of those between 15 and 17, it remains largely unenforced. More importantly, it does nothing to address the root causes propelling youngsters into this dangerous line of work. The essential reason is poverty. The situation is much worse in Upper Egypt, especially in rural area like those surrounding the quarries.

Considering the peculiar and specific nature of children, if they must be allowed to work before the age of maturity, a special legislation is needed. Such legislation must raise issues such as:-

- a. The type of job and specific activity the child shall be engaged in.
- b. The least age from which a child can be engaged which should be at least 16 years.
- c. Conditions of employment.
- d. The consent of the child and both parents or guardians.
- e. Working hours and leave periods.
- f. Accidents at work.
- g. The appropriate salary the child should be give.

Working as a domestic servant *per se* does not hinder the child's development, but what she becomes after that.

Koffi Anan, the former United Nations' Secretary-General, challenged heads of government to make girl child education a priority. It is her illiteracy which makes her unaware of the fact that she has a right and can seek redress when it is infringed. If the girl child who is the centre of the economy is educated, she will understand the dangers of the illiteracy or half education. The plight of sending her daughters to work as domestic servants will not hold.

Where the girls are trafficked across borders, the solution is the re-enforcement of the border checks.

Children who are subjected to degrading treatment by their employers should be rehabilitated and given professional training in social centers. Mass media will be of help, as enlightenment can be through radio, and communication will be in local language so that frank talk on the vices of involving girls of tender age to do domestic work can be discussed.

Television programmes like: "WOMEN AND DEVELOPMENT" involving Religious and Tribal groups in the talk show programme can help educate people on the danger attached to child abuse.

Parent-Teachers Associations can also be a help, where discussions would center or the ills of removing girls from school and the attendant risks of involving their children in domestic activities.

Non-Governmental Organizations (NGOs) can make important contributions to the eradication of such exploitation.

Forums like children parliament will enable children to discuss this issue and seeks solutions. Vociferous youths could use such means to sensitize the masses as to their plight.

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