

# The Increase of Child Labour in Nigeria: Legal Custody of Victim by the Nigerian Government as a Panacea

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## ABSTRACT

It is apt to state that there are numerous rights and obligations guardians or parents owe to their children or children in their custody. Although several laws seem to secure the right of children against child labour in Nigeria, however, it has been observed that there has been a recurrent increase in child labour, which is becoming a major challenge truncating the features of most children. In this regard, this study adopts a hybrid method of research in ascertaining if the Nigerian government takes custody of a child experiencing child labour could aid in curtailing the major challenge of child labour. In this regard, the study employs an online questionnaire sent to 307 respondents who reside in Nigeria. The study, therefore, found that, though several international and local laws tend to discourage child labour in Nigeria, there is still an increase in child labour. The study further found that several factors are often the root causes of child labour, and third-party custody of children suffering from child labour is a better solution. The study, therefore, concluded and recommended that to curb the major challenge of child labour, the Nigerian government needs to take a proactive step in assuming custody of children experiencing child labour. Hence, this study contributes to knowledge by determining if third-party custody is a possible consideration by the Nigerian government in legal-social intervention regarding diminished child labour and enforcing gaps left in existing child protection structures.

## Introduction

It has always been the saying that future leaders and the continuity of every generation or nation depend on the well-being of the children of that society<sup>1</sup>. It is concerning this assertion that the international community and most nations of the global environment have emphasized the welfare and well-being of a child, given their vulnerability within society.<sup>2</sup> Several institutional and relevant frameworks have

<sup>1</sup> C.A. Adegbenro et al., "Predictors of Child Labour Among In-School Adolescents in a Rural Local Government Area in Oyo State, Nigeria," *European Scientific Journal, ESJ* 13, no. 23 (August 31, 2017): 193, <https://doi.org/10.19044/esj.2017.v13n23p193>.

<sup>2</sup> Paul Atagamen Aidonojie, "The Societal and Legal Missing Link in Protecting A Girl Child Against Abuse Before and Amidst The Covid-19 Pandemic in Nigeria," *Jurnal Hukum* 38, no. 1 (May 29, 2022): 61, <https://doi.org/10.26532/jh.v38i1.18412>.

emphasised the need to safeguard and protect the child from any form of child labour within the international community.<sup>3</sup>

Child labour involves the employment of a child that tends to deprive and interfere with their childhood benefits such as attending school and moral development. Child labour often has harmful effects on children, which could include physical harm, health, social, mental and moral effects.<sup>4</sup> In this regard, it suffices to state that child labour is often considered exploitative and hazardous to the development of the child. In this regard, to ensure the effective protection of every child from child labour,<sup>5</sup> the international community, and most nations has, via legal framework, condemned every form of child labour that tends to drastically reduce a child to a second-class citizen or a lower animal in the society.<sup>6</sup> However, despite the condemnation of the international community and most nations within the global terrain, child labour is still a monstrous challenge and problem to virtually all developing countries.<sup>7</sup>

However, it suffices to opine that Nigeria, a developing country, is currently being over hit by the major challenge of child labour.<sup>8</sup> Child labour has become a thing of normal practice children are deprived of their proper upbringing and are forced to fend for their family. In Nigeria child labour takes the following forms; mining, hawking in streets and markets, domestic labour, acting as a sales representative and other industrial activities. Furthermore, these children subjected to child labour are often remunerated with a lower pay, despite working for long and under hazardous working conditions. However, several factors are often the root cause of child labour in Nigeria and they include but are not limited to the following; poverty, illiteracy of parents or guidance, discrimination, lack of access to education, cultural belief and ineffective implementation of the laws that provide for the rights of a child. Although it is apt to state that several laws and institutions are being set to hunt the major challenge of child labour, there is still a high rate of child labour within Nigerian society.<sup>9</sup> This is concerning the fact that it has been observed that many children in Nigeria have been forced into hard labour, either by their parents

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<sup>3</sup> Abiodun Osaiyuwu, Sarah Burch, and Adriana Sandu, "Acceptance, Obedience and Resistance: Children's Perceptions of Street Trading in Nigeria," *Children & Society* 36, no. 1 (January 9, 2022): 36–51, <https://doi.org/10.1111/chso.12482>.

<sup>4</sup> Paul Atagamen Aidonojie et al., "Curtailling Male Rape in Nigeria: Legal Issues and Challenges," *Journal of Sustainable Development and Regulatory Issues (JSDERI)* 2, no. 3 (September 24, 2024): 287–303, <https://doi.org/10.53955/jsderi.v2i3.43>.

<sup>5</sup> Emeka E Obioha, "Becoming a Street Child in Poverty Ridden Society: A Descriptive Case of Kaduna Metropolis, Nigeria," *J Soc Sci* 19, no. 1 (2020): 41–49, <https://doi.org/10.31901/24566756.2009/19.01.06>.

<sup>6</sup> EF Ugochukwu et al., "Socio - Demographic Characteristics of Child Street Vendors in Nnewi, Nigeria," *Nigerian Journal of Paediatrics* 39, no. 4 (August 15, 2012), <https://doi.org/10.4314/njp.v39i4.5>.

<sup>7</sup> Stephen Nkereuwem Ekpenyong and Asain E. Sibiri, "Street Trading and Child Labour in Yenegoa," *Journal of Scientific Research in Education* 4, no. 1 (2011): 36–46, <https://doi.org/www.ijre.com/>.

<sup>8</sup> O A Adegun, "Practices of Child Labour Among Parents in Ekiti State , Nigeria : Implication for School Administrators," *Journal of Education and Practice* 4, no. 11 (2013): 1–7, <https://doi.org/www.iiste.org/>.

<sup>9</sup> Maria Charity Agbo, "The Health and Educational Consequences of Child Labour in Nigeria," *Health Science Journal* 11, no. 1 (2017), <https://doi.org/10.21767/1791-809X.1000486>.

or guardians.<sup>10</sup> Children are meant to serve as bread-winners for their family or guardian at the detriment of their health, psychological well-being, and education.<sup>11</sup>

Concerning the above, it is apt to state that protecting children from the major challenge of child labour is a central concern of all and sundry.<sup>12</sup> It is not the work of the government and the international community alone. This is concerning the fact that children are weaker vessels, and in the African adage, “everyone is a parent to every child born into this world.”

Furthermore, it must be noted that despite Nigeria's ratification of international treaties against child labor, as well as national laws such as the Child Rights Act, enforcement is lax. Also, most of the current research addresses the drivers of child labor such as economic limitations, poverty, and lack of education; however, little attention is paid to legal mechanisms and the appropriate means of child custody after the rescue. Scant evidence from field studies shows how legal custody could serve as a system curing these social welfare services. This study will therefore address such a gap by studying the appropriateness of legal custody frameworks, challenges to their application, and pertinent policy recommendations to the Nigerian socio-economic context.<sup>13</sup>

In this regard, it suffices to state that this study brings a novel viewpoint by exploring the legal custody of a government measure to end child labor in Nigeria. Most of the existing literature focuses on regulatory frameworks, economic issues, and international conventions, while very little attention is given to statutory custody: a potential rehabilitative and preventive measure.<sup>14</sup> The novel takes overdue state-administered custody as a protective measure and strategic disruption of exploitative labor cycles and long-term welfare provision to victims through education, vocational training, and psychosocial support.

It is concerning the above that this study sort of embarks on a doctrinal and non-doctrinal method of study in evaluating the various legal frameworks that seek to condemn child labour and ascertain the current increase of child labour in Nigeria. Also, the study will evaluate the legal concept of custody and sample the opinion of

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<sup>10</sup> F. O. Omokhodion, S. I. Omokhodion, and T. O. Odusote, “Perceptions of Child Labour among Working Children in Ibadan, Nigeria,” *Child: Care, Health and Development* 32, no. 3 (May 29, 2006): 281–86, <https://doi.org/10.1111/j.1365-2214.2006.00585.x>.

<sup>11</sup> Joseph J. Amon et al., “Child Labor and Environmental Health: Government Obligations and Human Rights,” *International Journal of Pediatrics*, 2012, 1–8, <https://doi.org/10.1155/2012/938306>.

<sup>12</sup> Samuel Okoronkwo Chukwu-okoronkwo and Nnenna Ejije Okoronkwo, “Child Abuse and Prostitution Phenomena: Critical Issues in Nigeria’s Sustainable Development,” *American Journal of Environment and Sustainable Development* 2, no. 2 (2017): 16–22, <https://doi.org/aiscience.org/journal/ajesd>.

<sup>13</sup> Paul Atagamen Aidonojie et al., “The Causes of the Rising Incidence of Domestic Violence in Nigeria: Proposing Judicial Separation as a Panacea,” *Jurnal Hukum* 38, no. 2 (July 17, 2022): 99, <https://doi.org/10.26532/jh.v38i2.21592>.

<sup>14</sup> Olakunle Michael FOLAMI et al., “Child Labour and Protection: An Exploration of Vulnerable Children in Lagos State, Nigeria,” *Humanities and Social Sciences Letters* 6, no. 4 (2018): 171–79, <https://doi.org/10.18488/journal.73.2018.64.171.179>.

the general public if it will be preferable for government to assume custody of a victim of child labour.

## Methods

Given the nature of the subject matter, the study adopts the use of a hybrid method of research that involves a combination of the doctrinal and non-doctrinal methods of research. The doctrinal research method, it will aid the researcher in critically analysing and examining various International and local legal frameworks concerning child labour and legal custody of a child. Also, it will enable the researcher to review some literature such as; journal articles, internet articles, textbooks, and other relevant materials to this study. Also, it will enable the researcher to examine the concept and legal framework of judicial separation.

However, a non-doctrinal research method is also employed in this study to aid the researcher in collating extensive data with the use of an online questionnaire survey. The study adopts an analytical and descriptive approach in analysing the data obtained via or through the questionnaire. The essence of using a non-doctrinal method of research concerns the fact that it enables the researcher to ascertain the current increase and causes of child labour in Nigeria. Furthermore, it will enable the researcher to collate the opinion of the citizens of Nigeria on the suitability of the Nigerian government to assume custody of victims of child labour to curtail the monstrous major challenge of child labour.

## Discussion

This page describes the literature review, the study's scientific findings, and a clearly and concisely written scientific discussion. It provides suggestions for future research directions.

## Incidence of Child Labour in Nigeria

The phrase child labour is said to have several meanings, given the definition and identification of various legal systems of who is a child. Furthermore, the type and nature of the job that could be regarded as a difficult and hazardous labour in engaging a child also pose difficulties when defining what constitutes child labour.<sup>15</sup> However, child labour involves engaging a child in a dangerous, unsafe, and harmful to the child's health, physical, spiritual, psychological, and mental well-being.<sup>16</sup>

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<sup>15</sup> Paul Atagamen Aidonojie et al., "Menace of Internet Fraud on Nigeria Youth : Lesson from the Indonesia Experience," *Jurnal Mengkaji Indonesia* 3, no. 2 (2024): 189–218, <https://doi.org/10.59066/jmi.v3i2.807>.

<sup>16</sup> Ijeoma N Okoronkwo and Nnaji Akuchukwu Oprah, "Ocio-Economic Factors That Influence Child Labour in Nigeria," *British Journal of Multidisciplinary and Advanced Studies* 5, no. 1 (January 8, 2024): 1–15, <https://doi.org/10.37745/bjmas.2022.0383>.

Given the above, it suffices to state that in most developing states such as Nigeria, the above definition of child labour is prevalent.<sup>17</sup> This is concerning the fact that at every given place within the urban and rural areas in Nigeria, there are often several children undergoing several dangerous and harmful labour or activities that include any of the following bellows;

- a. Traffic hawking
- b. Street trading
- c. Brick-laying works
- d. Street begging
- e. Use of children in selling hard drugs
- f. Housemaids
- g. Domestic services
- h. Prostitution
- i. okada- riding and in several others

**Figure 1:** A capture of children being used in various forms of child labour in Nigeria



**Sources:** [pmnewsnigeria.com](http://pmnewsnigeria.com); [guardian.com](http://guardian.com); [information.com](http://information.com) and [nigerianobservernews.com](http://nigerianobservernews.com)

Given the above, it has been said by the various researchers that Africa, in general has the highest number of child labour. According to the International Labour Organisation, they stated that the increase of child labour in Nigeria is

<sup>17</sup> N. O. Enebe et al., "Prevalence and Predictors of Child Labour among Junior Public Secondary School Students in Enugu, Nigeria: A Cross-Sectional Study," *BMC Public Health* 21, no. 1 (December 7, 2021): 1339, <https://doi.org/10.1186/s12889-021-11429-w>.

becoming alarming.<sup>18</sup> This is concerning the fact that in the year 2013, the International Labour Organisation stated that there are about 15 million children being used as a worker in Nigeria.<sup>19</sup> However, it suffices to state that several scholar result and observations from their study review that in West Africa, Nigeria has the highest incidence of child labour.<sup>20</sup>

Painfully, the issues of child labour do not only affect the children physically, moral, and psychologically, but it is also life-threatening. For example, on June 3<sup>rd</sup>, 2021, a teenager of 14 years who was a street hawker was shot dead by a strayed bullet by the Nigeria police who were dispersing some agitators within Ojota, Lagos State, Nigeria.<sup>21</sup> Furthermore, it suffices to state that there are a lot of unreported incidences of children who lose their life during their involvement in child labour.

## **Causes of the current increase of child labour in Nigeria**

Child labour though has gained international recognition and condemnation there is still a high surge of incidence of child labour.<sup>22</sup> In this regard, in the current increase of child labour is not curtailed, it will lead to the destruction of a large number of children in terms of education, health, mentally, psychological and moral well-being.<sup>23</sup> In curtailing the major challenge of child labour the root cause must be identified. In this regard, some of the root cause of the current increase of child labour in Nigeria is as follows;

- a. Poverty arising
- b. High rates of unemployment or low income
- c. Rapid population growth
- d. Inflation
- e. Bad leadership
- f. Illiteracy
- g. Cultural and traditional belief

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<sup>18</sup> Sacha Hepburn and April Jackson, "Colonial Exceptions: The International Labour Organization and Child Labour in British Africa, c.1919–40," *Journal of Contemporary History* 57, no. 2 (April 3, 2022): 218–41, <https://doi.org/10.1177/0022009420988063>.

<sup>19</sup> Amos Oluwole Taiwo, Adewumi Israel Badiora, and Temitope Muiyiwa Adebare, "Public Spaces and Concentrations of Child Labourers in Ibadan Municipality, Nigeria," *Journal of Asian and African Studies* 56, no. 7 (November 28, 2021): 1708–23, <https://doi.org/10.1177/0021909620988747>.

<sup>20</sup> Eric V. Edmonds and Caroline Theoharides, "Child Labor and Economic Development," in *Handbook of Labor, Human Resources and Population Economics* (Cham: Springer International Publishing, 2021), 1–29, [https://doi.org/10.1007/978-3-319-57365-6\\_74-1](https://doi.org/10.1007/978-3-319-57365-6_74-1).

<sup>21</sup> Peter Olayiwola, "Challenging Stories about Child Domestic Work: Evidence from South-West Nigeria," *Third World Quarterly* 42, no. 11 (November 2, 2021): 2690–2705, <https://doi.org/10.1080/01436597.2021.1956312>.

<sup>22</sup> Angelique Gatsinzi and Gavin Hilson, "'Age Is Just a Number': Articulating the Cultural Dimension of Child Labour in Africa's Small-Scale Mining Sector," *Resources Policy* 78 (September 2022): 102779, <https://doi.org/10.1016/j.resourpol.2022.102779>.

<sup>23</sup> Alice Boateng and Mavis Dako-Gyeke, "Child Labor in Ghana: Current Policy, Research, and Practice Efforts," in *Child Behavioral Health in Sub-Saharan Africa* (Cham: Springer International Publishing, 2022), 265–81, [https://doi.org/10.1007/978-3-030-83707-5\\_13](https://doi.org/10.1007/978-3-030-83707-5_13).

The above itemize causes of child labour are not limited to the only causes of child labour in Nigeria. In this regard, several other factors such as; family size, separation or divorce of biological parents, and lack of parental responsibility could also be some of the causes of the current increase of child labour in Nigeria.

## **Legal framework against Child Labour in Nigeria**

It suffices to opine that the issues of child labour have gone beyond the national concern. This concerns the fact that the international community is at the forefront of the war against child labour via a relevant legal framework. Also, given the international community's fight against child labour, it has also energized and vitalized its member states to, via legal framework, join in the fight against child labour.

It is concerning the above that the international and Nigeria's local legal framework concerning child labour will be examined as follows.

### **1) International Legal Framework Concerning Child Labour**

Nigeria being a member of the international community, has adopted and ratified several conventions, treaties, protocols and agreements. In this regard, some of these international laws that relate to child labour have also been duly adopted and ratified.<sup>24</sup> For example, the United Nations Convention on Rights of a Child is one of the notable international laws that tends to secure and protect the rights of a child globally.<sup>25</sup> However, there are some relevant provisions of the Child Rights Convention as they relate to the condemnation of child labour, are as follows. Article 1 of the convention defined a child as a person under eighteen (18) years old. Although articles 19 and 28 of the Child Rights Convention seem to stipulate that the protection of a child from any form of exploitation and violence is very paramount and nation must, via legal and administrative medium, seek to enforce the same. However, Articles 32, 34, and 38 of the convention seem to be very striking as they relate to child labour. Article provides that state party must endeavor to protect children by observing the following;<sup>26</sup>

- a. Prohibition of economic exploitation
- b. State parties should prohibit the recruitment of children into arm force
- c. Protecting children from being used in the trafficking of drugs
- d. Prohibit children from engaging in hazardous labour that affects their education, physical, health, and mental well-being

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<sup>24</sup> Trevor Buck and Andrea Nicholson, "Constructing the International Legal Framework," in *Child Slavery Now* (Policy Press, 2010), 43–60, <https://doi.org/10.51952/9781847429469.ch002>.

<sup>25</sup> Mukhlis et al., "Rejection of Former Shia Community in Sampang Perspective on Human Rights Law: Discourse of Religious Rights and Freedom in Indonesia," *Lex Scientia Law Review* 7, no. 2 (2023): 237, <https://doi.org/https://doi.org/10.15294/lesrev.v7i2.72156>.

<sup>26</sup> Janelle M. Diller and David A. Levy, "Child Labor, Trade and Investment: Toward the Harmonization of International Law," *American Journal of International Law* 91, no. 4 (October 27, 1997): 663–96, <https://doi.org/10.2307/2998099>.



- e. Stipulate employment minimum age
- f. Stipulate and regulate reasonable hour for children who engage in trivial works that do not affect them

To achieve the above, the convention further required the state parties to, through administrative, legal, and social means, ensure there is effective enforcement of the said article.<sup>27</sup>

Furthermore, the International Labour Organisation Convention concerning the minimum age for Employment and Work Admission<sup>28</sup> is another notable convention that deals with issues as it relates to child labour. The convention specifies the minimum age for admission of anyone to work or to be employed by a company or individual. Although article 2 of the convention seems to be too library to fix the minimum age for admission to work from the age of 15 years, however, by article 3, a child below eighteen (18) years of age is not permitted to be involved in unhealthy, dangerous and hazardous work that is likely to affect the child physical, health, and moral well-being. However, given the economic situation of most developing countries, articles 2 and 7 of the minimum age convention, therefore, created an exception concerning the general minimum age, that state parties should set for employment or work admission.<sup>29</sup> The provision provides that developing countries shall initially, to the commencement of the convention, set the minimum age for work or employment admission within their territory at fourteen (14) years of age.

It is also instructive to state that the Worst Forms of Child Labour is an international convention that addresses issues as they relates to the worse form of child labour. Article 1 of the said convention specifically requires state parties to take an urgent steps in truncating any form of hazardous labour that is detrimental to the children.<sup>30</sup> Although, article 4 of the convention it specifies that state parties should list out hazardous work in an individual, and company should not engage a child. However, to guide state parties on what constitutes hazardous work, article 3 of the Worst Form of Child Labour further itemise some worst form of child labour as follows;

- a. Selling or buying children like goods
- b. Using children as slave
- c. Recruiting children into the armed force

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<sup>27</sup> Paul Atagamen Aidonojie et al., "International Laws Regulating Human Rights in Business Operations in Uganda: Issues and Challenges," *Fenomena: Journal of the Social Sciences* 23, no. 2 (2024): 131–44, <https://doi.org/10.35719/fenomena.v23i2.188>.

<sup>28</sup> ILO Convention No. 138 on the minimum age for admission to employment and work (1973)

<sup>29</sup> Angela Daly et al., "Bricks in the Wall: A Review of the Issues That Affect Children of In-country Seasonal Migrant Workers in the Brick Kilns of Nepal," *Geography Compass* 14, no. 12 (December 25, 2020), <https://doi.org/10.1111/gec3.12547>.

<sup>30</sup> Venkatesha Murthy and Seeram Ramakrishna, "A Review on Global E-Waste Management: Urban Mining towards a Sustainable Future and Circular Economy," *Sustainability* 14, no. 2 (January 7, 2022): 647, <https://doi.org/10.3390/su14020647>.



- d. Using children as a commercial sex worker
- e. Using children for drugs trafficking, street hawking, and begging

Article 3 (d) of the convention further places a wide blanket description of other likely related child labour that does not fall within the above itemised child labour, by stating that child labour include any work that is unhealthy, dangerous, and bad for the moral upbringing of a child.

It suffices to state that the above convention being discussed as it relates to child labour has been adopted and ratified by the Nigeria government. In this regard, section 12 of the Nigeria constitution, which would have caused an impediment to the application and implementation of the said conventions for lack of adopting and ratification, had been legally amputated and truncated. However, it must be noted that the reasons for drawback and ineffectiveness of the said convention is as a result of the poor level of implementation mechanism in the Nigeria legal system.

## 2) National Legal Framework

The Nigeria legal framework concerning the protection and safeguarding the rights of a child is embedded in the Nigeria constitution and various legislation. In this regard, they examine as follows: First, The Nigeria Constitution, The Nigerian constitution is said to be the ultimate law that regulates the governed and the government.<sup>31</sup> Furthermore, it also provides for the rights of everyone residing in Nigeria, which are said to be fundamental and essential to the survival of humanity. In this regard, it suffices to state that the fundamental human rights contained in chapter four of the Nigerian constitution applies to male, female, adult, and children.<sup>32</sup>

However, the relevant provision as it relates to the condemnation of child labour is as provided for in section 34 of the Nigeria constitution. The section provides that everyone residing in Nigeria is entitled to be accorded respect for human dignity. In this regard, one should by any means be tortured, inhumanly treated, or reduce to degrading treatment, slavery, and required to perform compulsory or forced labour. From the wordings of section 34 of the Nigerian constitution, it is apt to state that any form of child labour could be labeled inhuman, slavery, and forced labour.<sup>33</sup>

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<sup>31</sup> Nurus Zaman et al., "Questioning the Constitutional Court Decision Regarding Age Limit of Presidential and Vice-Presidential Candidates," *PETITA: JURNAL KAJIAN ILMU HUKUM DAN SYARIAH* 9, no. 2 (2024): 611–29, <https://doi.org/10.22373/petita.v9i2.299>.

<sup>32</sup> Paul Atagamen Aidonojie et al., "A Facile Review On The Protection Of An Invention In Nigeria: Issues And Challenges," *Jurnal Hukum Dan Peradilan* 12, no. 2 (2023): 371, <https://doi.org/10.25216/jhp.12.2.2023.371-408>.

<sup>33</sup> Raden Bagus Mochammad Ramadhan Razief Hafid, Sahrudin, and Ahmad Farid, "Countermeasures for Environmental Damage Caused by Drilling Water Sources for The Mineral Water Industry," *Journal of Indonesian Constitutional Law* 1, no. 2 (2024): 140–50, <https://doi.org/ejournal.pustakaparawali.com/index.php/jicl/article/view/36>.

Furthermore, there are primary legislation that condemn the act of Child labour in Nigeria. One of which is the Child Rights Act, which is an upshot of the Child Rights Convention.<sup>34</sup> In this regard, the Child Right Act has several replica provision of the Child Right Convention that deals with issues of child labour.<sup>35</sup> For example, article 11 of the Child Right Act specifically provides that a child should be accorded respect and dignity of its person and should not be subjected to any form of slavery, degrading and inhuman treatment, or forced labour. Furthermore, articles 30, 32, and 34 condemn any act of using a child as a commercial sex worker, recruitment of a child into the Armed Forces and any form of exploitative labour that affect the child mentally, psychologically, physically, spiritually, and health-wise. Also, articles 25, 26, and 28 of the Child Right Act prohibit the usage of a child in drug trafficking, criminal activities, and, or any job that is deemed to be exploitative. The Act further provides that the Nigerian government must employ all relevant means to actualize the effective implementation and enforcement of the Child Right Act.

Second, Legal framework concerning custody of Child (Experiencing Child Labour) under the Nigeria Law. It is apt to state that the primary legal framework as it relates to the custody of a child is the Matrimonial Causes Act<sup>36</sup> (MCA). In this regard, section 71(1) of the MCA confers on the Nigerian court an absolute discretion to ascertain and determine what is considered the best interest of a child in a suit for custody of a child.

It must be noted that there is no exact definition or meaning of the phrase “interest of the child” by the MCA or in any other statutory law. Although, Belgore JSC, in the case of *Odogwu v. Odogwu*,<sup>37</sup> stated or itemized how to determine the best interest of a child when he stated thus;

“Welfare of a child is not the material provided in the house of good clothes, food, air conditioners, television, all gadgets normally associated with the middle class; it is more of the happiness of the child and his psychological development. While it is good a child is brought up by complementary care of the parents living happily together, it is psychologically detrimental to his welfare and ultimate happiness and psychological development if material care available is denied”.

Furthermore, Karibi-Whyte, JSC in the case of *Williams v. Williams*<sup>38</sup>, itemises the factors to be considered in ascertaining the best interest of the child. He stated

<sup>34</sup> Ranarosyidah Rihadatul’Asy, Widy Anastasya Putri, and Nor Lailatul Mutfaidah, “Comparison of Presidential Term Regulations in Several Countries with Presidential Systems: Indonesia, United States, and Philippines,” *Journal of Indonesian Constitutional Law* 1, no. 2 (2024): 84–95, <https://doi.org/ejournal.pustakaparawali.com/index.php/jicl/article/view/3>.

<sup>35</sup> Quraish Sserwanja, Joseph Kawuki, and Jean H Kim, “Increased Child Abuse in Uganda amidst <sc>COVID</sc> -19 Pandemic,” *Journal of Paediatrics and Child Health* 57, no. 2 (February 9, 2021): 188–91, <https://doi.org/10.1111/jpc.15289>.

<sup>36</sup> Matrimonial Causes Act 1970

<sup>37</sup> (1992) 2 NWLR (Pt. 225) 539

<sup>38</sup> (1987) All NLR 253; (1987) 2 NWRL (Pt 54) 66 at 89

that determining the best interest of a child is based on several factors, some of which are;

- a. Emotional attachment to any of the parent
- b. The inadequacy of the facilities
- c. Educational and religious welfare of the child
- d. Psychological, physical, moral, and well-being of the child
- e. Proper upbringing

Given the above, it can be said that the phrase “interest of a child” can not be best identified if limited to material provisions. However, the interest of a child can be said to include those things that will in promoting the happiness and security of a child from any form of abuse, untold hardship, and child labour.

In this regard, where the court has been able to identify what is considers the best interest of a child, the court is urged to make the appropriate orders concerning the custody of the child that best supports those interests. The order the court could make is as provided for by sections 71(3) and (4) of the MCA, and they are;

- a. Giving an order of custody of a child to a party to the marriage
- b. In order to place such a child in the custody of a third party that is not parties to the relevant marriage, the child was born into

Given the above, though, it suffices to state that the Nigeria court is given a wide discretionary power to decide what constitutes the best interest of a child in a custody matter and to decide whom to give custody of the child. However, the Nigerian court, in the case of *In Nwosu V. Nwosu*<sup>39</sup> had stated over time that in exercising its discretionary power of giving custody of a child, it must ensure that the award of custody of a child is given to a responsible adult.

Given the above, it suffices to state that, though the court is expected to exercise its discretionary power as specified by section 71 of the MCA. However, such discretion must be exercisedd judicially and judiciously. This means that the court must exercise impartiality and a merited judgment in determining the proper order to make in respect of custody of children.<sup>40</sup>

The Child Right Act<sup>41</sup> also emphasizes the need to protect a child from any form of discrimination and abuse. Several sections in the Child Right Act tend to secure a child's right and welfare. However, section 83(2) of the Child Right Act was more apt on the fact that where a parent or guardian is said to be unfit to care for a child, the necessary steps should be taken to secure the custody of a child from any form of abuse or exploitation. In this regard, the government or family member of

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<sup>39</sup> (2012) 8 NWLR (1301) PG 1

<sup>40</sup> Paul Atagamen Aidonjio et al., “The Challenges and Impact of Technological Advancement to the Legal Profession in Nigeria given the Covid-19 Pandemic,” *KIU Journal of Humanities* 6, no. 4 (2020): 5–19, <https://doi.org/kijhus.kiu.ac.ug/>.

<sup>41</sup> Child Rights Act 2003, <https://www.refworld.org/legal/legislation/natlegbod/2003/en/105082>.

the child shall apply to the court to appoint a responsible individual or authority to take custody of the child.

However, it suffices to state that by article 21 Convention on the Right of a Child<sup>42</sup> further emphasizes the fact that state parties must endeavor to ensure that the child's best interest shall be given paramount consideration. In this regard, article 39 of the Child Right Convention further stipulate that parties to the convention should endeavor to, through legal and administrative framework, takes an appropriate step in promoting the psychological and physical well-being and social reintegration of a child who is a victim of any form of exploitation, torture, abuse, degrading and inhuman treatment or punishment.<sup>43</sup> Furthermore, it also requires state parties to make sure that the environment where the reintegration and recovery of a victimized child must take place is a serene environment that could foster the child's self-respect, dignity, and health of the child.

Given the above, it is apt to opine that the above national and international legal framework empowers the government,<sup>44</sup> individual and organization or non-governmental organization to assume custody of a child who is a victim of child labour.<sup>45</sup>

## **The Increase of Child Labour in Nigeria: Legal Custody of Victim by the Nigeria Government as a Panacea**

### **Presentation and Analysis of Data**

Concerning the data obtained or generated from the questionnaire, the following data is therefore analysed as follows:

### **Sample Size and Techniques**

The study adopted or used a survey questionnaire (online google form to enable the researcher reach out to respondents across the various states in Nigeria).<sup>46</sup> Furthermore, the use of the online survey is also aimed at maintaining the social

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<sup>42</sup> International Convention on the Right of a Child, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

<sup>43</sup> Yanuar Farida Wismayanti et al., "The Problematisation of Child Sexual Abuse in Policy and Law: The Indonesian Example," *Child Abuse & Neglect* 118 (August 2021): 105157, <https://doi.org/10.1016/j.chiabu.2021.105157>.

<sup>44</sup> Paul Atagamen Aidonojie, "Environmental Hazard: The Legal Issues Concerning Environmental Justice in Nigeria," *Journal of Human Rights, Culture and Legal System* 3, no. 1 (February 14, 2023): 17–32, <https://doi.org/10.53955/jhcls.v3i1.60>.

<sup>45</sup> Paul Atagamen Aidonojie, Majekodunmi Toyin Afolabi, and Omolola Janet Adeyemi-Balogun, "Unethical and Uncensored Content Creation in Nigeria Entertainment Industry: Springing The Law to Action," *JHR (Jurnal Hukum Replik)* 11, no. 2 (October 17, 2023): 173, <https://doi.org/10.31000/jhr.v11i2.8302>.

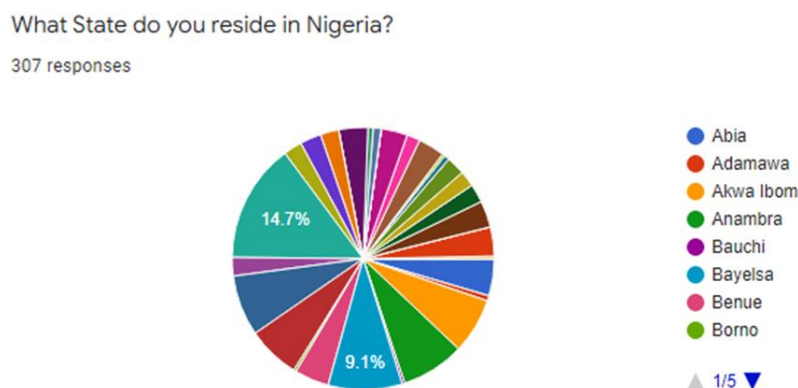
<sup>46</sup> Paul Atagamen Aidonojie et al., "Legal and Socioeconomic Issues Concerning the Nigeria Higher Institution Loan Act 2023," *JURNAL LEGALITAS* 17, no. 1 (April 24, 2024): 17–37, <https://doi.org/10.33756/jelta.v17i1.23143>.

distancing rules).<sup>47</sup> However, the respondents were randomly selected with the use or through a simple random sampling technique.<sup>48</sup> The purpose or essence of adopting a simple random method of sampling techniques is concerning the fact that Aidonojie et al.,<sup>49</sup> in several of their study, have argued that it is seemly reliable and suitable in selecting respondents from a population that is heterogeneous like Nigeria.<sup>50</sup> Also, it has been claimed by Aidonojie *et al.*<sup>51</sup> in several of their study that a simple random sampling technique is said to be hassle-free in sampling a population that is heterogeneous in nature,<sup>52</sup> in this regard there may be little or chances of being biased.<sup>53</sup>

Concerning the sample size, 307 of respondents living or residing in the various states of Nigeria were randomly choosen or selected in this study to respond to the questionnaire. Concerning the data obtained or generated from the questionnaire, the following data is therefore analysed as follows:

### Research Question One

**Figur 2:** Valid respondents' responses concerning the states they residing in Nigeria



<sup>47</sup> Paul Atagamen Aidonojie et al., "Prospect, Legal, and Socio-Economic Implication of Metaverse Operation in Nigeria," *YURISDIKSI: Jurnal Wacana Hukum Dan Sains* 19, no. 4 (March 11, 2024): 455–75, <https://doi.org/10.55173/yurisdiiksi.v19i4.201>.

<sup>48</sup> Paul Atagamen Aidonojie et al., "The Prospect and Legal Issues of Income Tax in the Nigerian Metaverse," *Trunojoyo Law Review* 6, no. 1 (February 26, 2024): 17–50, <https://doi.org/10.21107/tr.v6i1.23874>.

<sup>49</sup> Paul Atagamen Aidonojie et al., "The Role of Digital and Scientific Technology in Complimenting Global Legal Framework Towards Clean Energy Transition," *Journal of Sustainable Development Law and Policy (The)* 15, no. 3 (November 25, 2024): 314–43, <https://doi.org/10.4314/jsdlp.v15i3.12>.

<sup>50</sup> Paul Atagamen Aidonojie, Anne Oyenmwosa Odojor, and Patience Omohoste Agbale, "The Legal Impact of Plea Bargain in Settlement of High Profile Financial Criminal Cases in Nigeria," *Srinivaya Law Review* 5, no. 2 (July 28, 2021): 161, <https://doi.org/10.28946/slrev.Vol5.Iss2.852.pp161-174>.

<sup>51</sup> P. A. Aidonojie, S. A. Wakili, and D. Ayuba, "Effectiveness of the Administration of Justice in Nigeria Under the Development of Digital Technologies," *Journal of Digital Technologies and Law* 1, no. 4 (December 15, 2023): 1105–31, <https://doi.org/10.21202/jdtl.2023.48>.

<sup>52</sup> Simon Ejokema Imoisi and Paul Atagamen Aidonojie, "Legal and Socio-Economic Issues Concerning Black Marketer's Activities of Petroleum Products in Nigeria," *Yuridika* 38, no. 2 (May 1, 2023): 261–84, <https://doi.org/10.20473/ydk.v38i2.44999>.

<sup>53</sup> Paul Atagamen Aidonojie and Odojor Oyenmwosa Anne, "Impact and Relevance of Modern Technological Legal Educational Facilities amidst the Covid-19 Pandemic : A Case Study of Law Students of Edo University Iyamho," *KIU Journal of Humanities* 5, no. 4 (2020): 7–19, <https://doi.org/kijhus.kiu.ac.ug/>.

**Table 1:** Valid respondents' responses concerning the states they residing in Nigeria

S/N	States in Nigeria	Responses of Respondents	Percent
1	Abia	14	4.6%
2	Adamawa	2	0.7%
3	Akwa Ibom	21	6.9%
4	Anambra	24	7.9%
5	Bauchi	1	0.3%
6	Bayelsa	28	9.1%
7	Benue	13	4.3%
8	Borno	1	0.3%
9	Cross River	20	6.6%
10	Delta	23	7.5%
11	Ebonyi	7	2.3%
12	Edo	45	14.7%
13	Ekiti	7	2.3%
14	Enugu	8	2.6%
15	(FCT) Abuja	7	2.3%
16	Gombe	Nil	Nil
17	Imo	11	3.6%
18	Jigawa	2	0.7%
19	Kaduna	3	1%
20	Kano	Nil	Nil
21	Katsina	Nil	Nil
22	Kebbi	Nil	Nil
23	Kogi	10	3.3%
24	Kwara	5	1.6%
25	Lagos	10	3.3%
26	Nassarawa	1	0.3%
27	Niger	2	0.7%
28	Ogun	7	2.3%
29	Ondo	6	2%
30	Osun	7	2.3%
31	Oyo	10	3.3%
32	Plateau	Nil	Nil
33	Rivers	11	3.6%
34	Sokoto	1	0.3%
35	Taraba	Nil	Nil
36	Yobe	Nil	Nil
37	Zamfara	Nil	Nil
<b>TOTAL</b>		<b>307</b>	<b>100%</b>

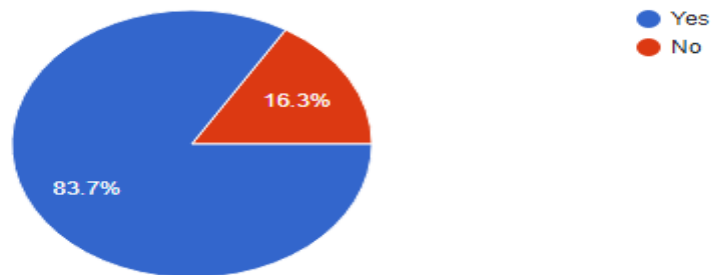
Figure 2 and Table 1 above are data presentation representing the valid responses gotten from respondents in stating or identifying the various states they live or reside in Nigeria.

## Research Question Two

**Figure 3:** Responses of respondents stating if there is an increase rate of child labour in Nigeria

Do you agree that there is a current increase incidence of Child Labour in Nigeria?

307 responses



**Table 2.** Valid responses of respondents identifying that they are aware of the increase of child labour in Nigeria

	Response	Percent
Valid Yes	257	83.7%
Valid No	50	16.3%
<b>Total</b>	<b>307</b>	<b>100%</b>

Figure 3 and Table 2 above are the responses of the respondents stating the fact that there is an increase of child labour in Nigeria.

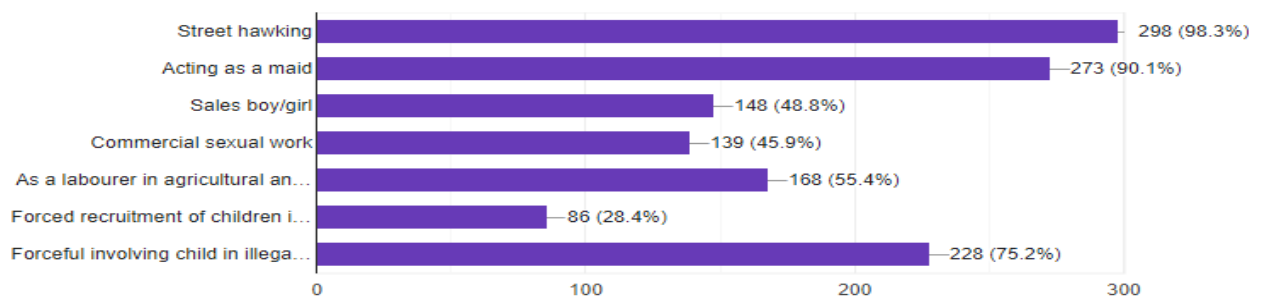
### Research Question Three

**Figure 4.** Cluster of responses by the respondents identifying the various forms of child labour in Nigeria

Which of the following could be regarded as types of child labour in Nigeria?

[Copy](#)

303 responses



**Table 3.** Valid Cluster of responses by the respondents identifying the various forms of child labour in Nigeria

Types of Child Labour in Nigeria	Cluster of Response	Percentage
Street hawking	298	98.3%
Acting as a maid	273	90.1%
Sales boy/girl	148	48.8%
Commercial sexual work	139	45.9%
As a labourer in agricultural and factory work	168	55.4%

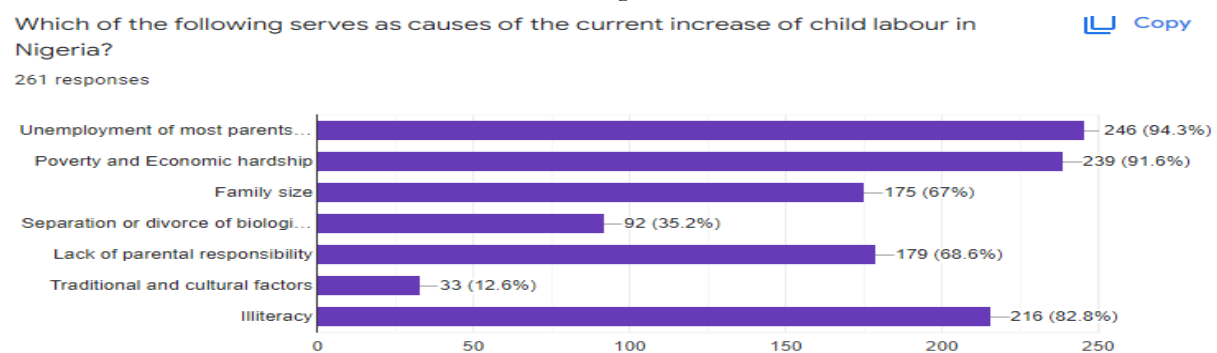


Forced recruitment of children into illegal armed conflicts such as book harm and other terrorist groups	86	28.4%
Forceful involving child in illegal activities such as kidnapping and drugs related issues	228	75.2%

Figure 4 and Table 3 are a cluster and a valid cluster of respondents' responses identifying the various forms or type of child labour current experience by children living in Nigeria.

### Research Question Four

**Figure 5.** respondents' responses in identifying the various causes of the increase of child labour in Nigeria



**Table 4.** Valid cluster of respondents' responses in identifying the various causes of the increase of child labour in Nigeria

Causes of Current Increase of Child Labour in Nigeria	Responses of respondents	Percentage
Unemployment of most parents or guidance of most child	246	94.3%
Poverty and Economic hardship	239	91.6%
Family size	175	67%
Separation or divorce of biological parents	92	35.2%
Lack of parental responsibility	179	68.6%
Traditional and cultural factors	33	12.6%
Illiteracy	216	82.8%

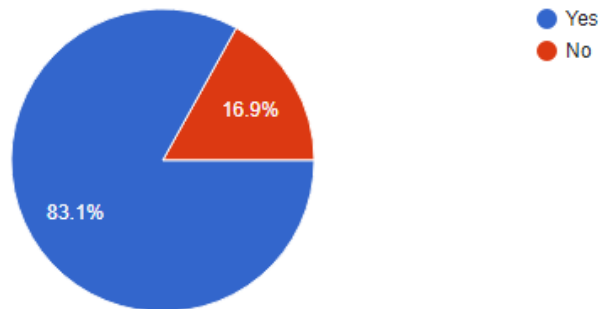
Figure 5 and Table 4 are a cluster and a valid cluster of responses of respondents identifying the causes of the current increase of child labour in Nigeria.

### Research Question Five

**Figure 5.** Responses of respondents identify if the Nigerian Government should take custody of victim of child labour

Do you agree that the Nigerian government should take custody of a child who is a victim of child labour?

307 responses



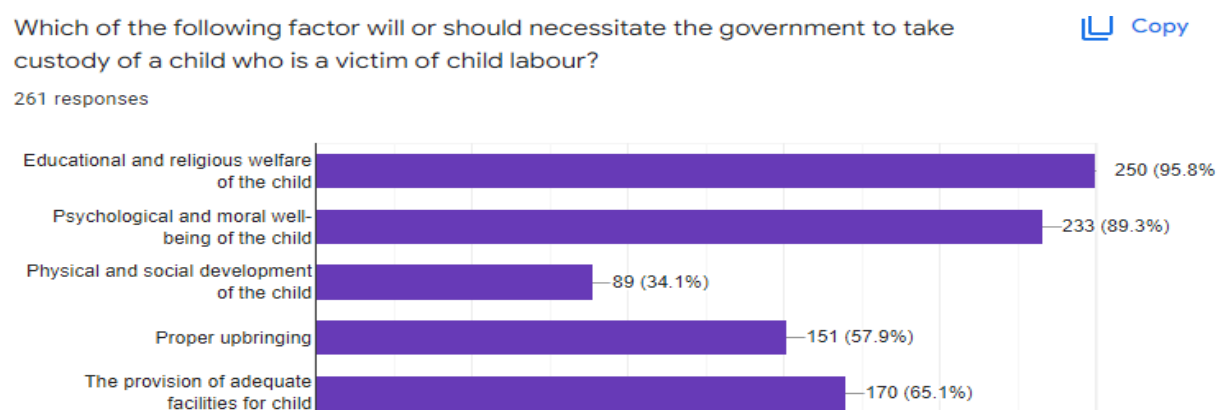
**Table 5.** Valid responses of respondents identify if the Nigerian Government should take custody of victim of child labour

	Response	Percent
Valid Yes	255	83.1%
Valid No	52	16.9%
<b>Total</b>	<b>250</b>	<b>100%</b>

Figure 6 and Table 5 are a cluster and a valid cluster of respondents' responses identifying if there is a need for the Nigerian government to take custody of victims of child labour in Nigeria.

## Research Question Six

**Figure 6.** Respondents identifying reasons why the Nigeria government should take custody of victim of child labour



**Table 6.** Valid respondents identifying reasons why the Nigeria government should take custody of victim of child labour

Reason Necessitating Government Assuming Child Custody	Cluster of Responses	Percentage
Educational and religious welfare of the child	250	95.8%

Psychological and moral well-being of the child	233	89.3%
Physical and social development of the child	89	34.1%
Proper upbringing	151	57.9%
The provision of adequate facilities for child	170	65.1%

Figure 7 and Table 6 are cluster and a valid cluster of respondents' responses stating or identifying some of the reasons why the Nigeria government should take custody of victim of child labour.

Concerning the data that was obtained and collated questionnaire analyse and presented above, figure 1 and table 1 represent the fact that the respondents (307 respondents) reside in the various states in Nigeria. In this regard, it is apt to state that the essence of figure 1 and table 1 is to ensure that the respondents to the questionnaire are well knowledgeable to respond and give an informed response concerning issues as they relate to child labour and the legal concept of custody of a child in Nigeria.<sup>54</sup> However, having carefully identified the fact that the respondents are from Nigeria, Figure 2 and Table 2 above were aimed at ascertaining from the respondents if they are aware of the current increase in child labour in Nigeria.<sup>55</sup> From the respondents' response, 83.7% of the respondents responded in the affirmative that there is a current increase of child labour in Nigeria. Furthermore, in figure 3 and table 3, the respondents further identify the various forms of child labour in Nigeria as follows;

- a. 98.3% of the respondents stated street hawking
- b. 90.1% identify acting as a maid as a form of child labour often experienced by Nigeria child
- c. 75.2% and 55.4% of the respondent stated forceful involving child in illegal activities such as kidnapping and drugs related issues and as a labourer in agricultural and factory work respectively.

It suffices to state that for every happening, there is always causative factor. In this regard, question four (4) was meant to ascertain the causes of the current increased incidence of child labour in Nigeria.<sup>56</sup> In response to the question, figure 4 and table 4 represent the respondent identification of some of the causes of the current increase of child labour in Nigeria as follows;

- a. 91.6% and 67% of the respondents identify poverty and economic hardship experienced by most parents and family size respectively.
- b. 86.6% of the respondents stated that it is a lack of parental responsibility

<sup>54</sup> Paul Atagamen Aidonojie and Oaihimire Idemudia Edetalehn, "A Facile Study of The Statutory Challenges Concerning Customary Practice of Intestate Succession in Nigeria," *JHR (Jurnal Hukum Replik)* 11, no. 1 (April 1, 2023): 1, <https://doi.org/10.31000/jhr.v11i1.7552>.

<sup>55</sup> Paul Atagamen Aidonojie, Joseph Nwazi, and Eruteya Ugiomo, "Illegality Of Income Tax Evasion In Edo State: Adopting An Automated Income Tax System As A Panacea," *JURNAL LEGALITAS* 16, no. 1 (April 16, 2023): 62–86, <https://doi.org/10.33756/jelta.v16i1.19422>.

<sup>56</sup> Paul Atagamen Aidonojie et al., "Legal Issues Concerning of Data Security and Privacy in Automated Income Tax Systems in Nigeria," *Hang Tuah Law Journal* 8, no. 1 (March 8, 2024): 14–41, <https://doi.org/10.30649/htlj.v8i1.223>.

- c. Also 82.8 respondents stated that illiteracy on the part of the child's parents or guidance
- d. 94.3% of respondents stated high rate of unemployment of most parents or guidance of most child

Given the above, it suffices to state that the findings concerning the current increase and causes of child labour in Nigeria are the true reflection of what is currently obtainable. Furthermore, it is very apt to opine that there is a need for society and government to step up the game in curtailing the major challenge of child labour. In this regard, given the relevance of custody of a child as a legal panacea to the major challenge of child labour, question five (5) was meant to ascertain from the respondents whether it would be proper for the Nigeria government to take custody of a child suffering from child labour that arises from their parent or guidance. In response to the question, figure 5 and Table 5 represent that 83.1% of the respondents responded in the affirmative. The view of respondents is as intended by statutory law and the decision of most courts in Nigeria. This is concerning because the Nigerian court is urged to guide and protect the best interests of every Nigerian child. Furthermore, section 71(4) of MCA stipulates the Nigeria court can make an order to give custody of a child to any of the following persons;

- a. Giving an order of custody of a child to a party to the marriage
- b. In order to place such a child in the custody of a third party that is not party to the relevant marriage, the child was born into

Given the above, the court, in the case of *Nwosu V. Nwosu*<sup>57</sup> had stated over time that in exercising its discretionary power of giving custody of a child, it must ensure that the award of custody of a child is given to a responsible adult. Also, in the case of *Afonja v. Afonja*<sup>58</sup>, the court held that the welfare interest of a child should not only be the paramount consideration, but the conduct of the wrongdoing and guilty of its guidance or any of its parents is a matter to be taken into account when granting custody of a child.

Furthermore, in figure 6 and table 6, the respondents further identify the reasons why there is a need government must be proactive in taking custody of a child undergoing child labour as follows;

- a. 95.8% of the respondents stated educational and religious welfare of the child
- b. 89.3% stated psychological and moral well-being of the child
- c. 34.1% also identify the physical and social development of the child
- d. Furthermore, 57.9% and 65.1% of the respondents stated that proper upbringing and the provision of adequate facilities for a child, should be the reasons for the government to take custody of a child undergoing child labour in Nigeria.

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<sup>57</sup> (2012) 8 NWLR (1301) PG 1

<sup>58</sup> (1971) 1 UILR 105

## Conclusion

Concerning the above, it suffices to state that the study focuses on the important rights and obligations that guardians and parents owe with respect of children under their custody and signifies the overdue persistence of child labor in Nigeria, notwithstanding fairly comprehensive legal frameworks protecting children's rights. Furthermore, a hybrid research method is adopted in this study, according to the findings, implying that although child labor has been addressed under International and Domestic law, this widespread problem appears to become distressingly more aggravated and is driven by various underlying socioeconomic and cultural factors. Data empirical evidence under the online questionnaire reinforces the argument whereby third-party custody would provide a viable solution to this pervasive problem where the Nigerian government assumes care of children experiencing child labor.

Also, it was also founded by the study that the current increase of child labour is a result of several factors which include; a) Poverty and economic hardship; b) Large family size; c) Lack of parental responsibility; d) Illiteracy on the part of the child's parents or guidance; e) High rate of unemployment of most parents or guidance of most children. In this regard, curbing child labor can only be achieved through rigorous enforcement and by providing additional mechanisms for third-party custody by the Nigerian government, hence creating an organized intervention for these children while also addressing the factors causing child labor, which are poverty and lack of access to education. Furthermore, to curtail the major challenge of child labour truncating the features of most children in Nigeria, there is a need for the Nigerian government to take proactive steps in assuming custody of children experiencing child labour. The essence of the Nigerian government assuming custody of an abused child is as a result of guaranteeing the welfare and development of the child.

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