

## **CHILD LABOUR IN ACADEMIC DISCOURSE: A DISPOSITION OF ISLAM**

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### **Introduction**

Children, whether male or female are the greatest and most beneficial blessing that Allah has favoured his servants with. It therefore behoves to see such God's favoured gift being misused, mismanaged or maltreated. Work is not necessarily bad for children, children can help their parents in the home or in the family farm or business, as long as the work is not dangerous and does not interfere with school attendance and other normal childhood activities, and this is often referred to as "light work".

Some types of work make useful, positive contributions to a child's development. Work can help children learn about responsibility and develop particular skills that will benefit them and the rest of society. Often, work is a vital source of income that helps to sustain children and their families. But the most unfortunate thing is that across the world, millions of children do extremely hazardous work in harmful conditions putting their health, education, personal, and social development, even their lives at risk. This is the area that calls for serious academic debate, particularly as the responsibility of children in Islam lies on parents, of which they would be accountable on the Day of Judgment for their children's upbringing, religious education etc.

## **The Concept of a Child**

The word "child" could be defined as unborn or newly born human being, boy or girl, son or daughter. A young human being between birth and puberty or somebody not yet of age, that is, somebody under a legally specified age, who is considered not to be legally responsibly for his or her actions. In reference to the contextual meaning of a child in this paper, it is a human being of under age irrespective of his sex and who should be under the care and protection of the adult race in the society.

A child according to the United Nations Convention, African Charter and Child's Right Act: is any human being below the age of 18 years. According to a Law Dictionary "a child is a person who has not attained the age of 14 years". The meaning of a child varies in different statutes: under the English Children Act 1958, a child is described as a person under the age of 18 years while in Education Act, 1944, a child means a person who is not over compulsory school age (which is 16years).

In Nigeria, age of a child varies according to various statutes: Under labour Act, a child is a person under the age of 16 years. And under the Child and Young Personal Law, a child is a person before attaining the age of 14 years, and a young person is the one between the age of 14 and 17years. The law of contract places the age of a child at just before 21years.

Despite the clear cut age of a child definition under these instruments of law people have different conception of who a child is. A house wife has viewed that her sons and daughters would continue to remain her "children" no matter their ages. To her, a child continues to remain the child of his parent whatever the age. Under the Islamic Law, the word "Child" is synonymous to the Arabic word "al-Walad". The word "al-Walad" is used to refer to the son or daughter. In usage, it is employed in a wider sense which also refers to infant, kid or young ones. The word "Walad" is used in so

many places in the Quran to mean a child, for instance, in places like Qur'an 2:116, 17:111, 10:68, 19:35 and 23:91 among others. There are other words used in the Qur'an to mean child and children, they include: Banun (children), Tiflu (infant) and Sabiy (child). Baun is the plural of Ibn meaning a son or a child.

The word "Tiflu" and "Sabiyyun" are mostly used in Islamic Jurisprudenc when referring to a child who is yet to attain the age of understanding or maturity. The Word Walad" is however adopted as the "child" in this paper since it is often used to mean a minor and in some cases used for even adult child. This paper also adopts 18years as the age of puberty and any person below the age of 18 years shall be regarded as a child.

### **The Concept of Child Labour**

Child Labour is described as works that are essentially exploitative, Injurious to the physical, social, cognitive and moral development of children. In the same vein, child labour is also described as any work that harms children or keeps them from attending school." Child labour occurs when children especially young ones, are exposed to long hours of work in a dangerous or unhealthy environment with too much responsibilities for their age and at the expense of their schooling. According to Omoluabi, child labour is a condition in which a child is made to work for several hours in a day with inadequate food or rest.

Child labour is regarded as an abuse because a child's strength and capacity cannot sustain the long duration of work as well as the exertion' of the work: The children who hawk in the streets in urban centres, even for a few hours in a day, is also regarded as child abuse because they are exposed to the hazards of traffic (accident), harsh weather and other undesirable environmental conditions in the processes of hawking. Child labour is a universal problem and a serious violation of children's

loyal right. The types and condition of work varied, but many children who work in exploitative and under hazardous situation are deprived of education and the opportunity for healthy development.

Child labour could also be regarded as any type of paid and unpaid or exploitative work which places the interest of the beneficiary well above those of the child workers and is detrimental to the physical, mental, social, moral or educational development of the child." Child labour includes both paid and unpaid work and activities that are mentally, physically, socially or morally dangerous and harmful to children. It covers work that deprives them of opportunities for school or that requires them to assume the multiple burdens of schooling and hawking at home and in other places or work that enslaves them and separates them from their families. These are the works carried out to the detriment and endangerment of the child in violation of International and National legislations."

The phenomenon of child labour inculcates lots of exploitative practices and discrimination which hinder the child perceptions of himself and the society as a whole. The emergence of child labour seems more relevant in urban centres than the rural areas and it has become typical of economic activities in every urban location in Nigeria. The problem of child labour has become compounded to the extent that some state governments have to promulgate laws outlawing street hawking.

### **Child Labour and Child Work: A Distinction**

Child labour conventionally referred to children working before they reached the lawful minimum age for employment in their country (nowadays usually 14, 15, or, as in the UK, 16), often the same as the cut-off age for compulsory attendance at school. Now re-defined to refer to all young people engaged in harmful employment, whether they are of school age or older. While child work referred to children's or

adolescents' participation in work/economic activity that does not negatively affect their health and development or interfere with their education. Light work (that does not interfere with education) is permitted from the age of 12 years under ILO convention no. 138.

"Child labour is often confused with child work. Child labour is described as works that are essentially exploitative; injurious to the physical, social, cognitive and moral development of children." Child work on the other hand according to Save the Children Alliance is "activities children undertake to contribute to their own or family economy. "This means that we include the time spent on home maintenance chores, as well as on income. Thus, the unpaid agricultural work of many girls and boys on family run farms and the domestic task done by many children in their own homes are included in this definition.

Thus, child work unlike child labour means children's participation in various types of light works such as helping parents, care for the home and the family, working for a few hours after school or during holidays. In this context, the activities carried out by children do not necessarily deny them their basic rights. More specifically, child work has something to do with making children confident and contribute to their own well being and that of their families in their respective households.

### **Types of Child Labour**

There are different ways through which children are engaged in child labour. Some of these include.

- I. Working in the Factory/Mining
- II. Engaging in Agriculture
- III. Prostitution
- IV. Helping in the Parents Business

- V. Having One's Own Business (kiosk selling recharge card)
- VI. Car Wash Business
- VII. Hawking/Street Trading
- VIII. Some Children Work as Guides for Tourist
- IX. Waiters
- X. Cab Attendant /Bus Conductor
- XI. House Maid (Omo Odo)
- XII. Brick and Gravel Carriers at Construction Sites.

Apart from those listed above, other children are forced to do tedious and repetitive jobs such as assembling boxes, polishing shoes, stocking a store's product or clearing. However, rather than in factories and sweat shops, most child labour occurs in the informal sector "selling many things on the streets, at work in agriculture or hidden away in houses far from the reach of official labour inspectors and from media scrutiny". And the work that they did was done in all types of weather, and was done for minimal pay."

### **Causes of Child Labour**

Most children work because their families are poor and their labour is necessary for their survival. Children in developing countries start work so young because they and their families need the extra income. Indeed many end up working unpaid for their employers in exchange for their board and lodging.

AIDS is another contributing factor in many African countries. By killing so many bread winners, it has driven more families deeper into poverty.

Discrimination on grounds including gender, race or religion also plays its part in why some children work.

Children are often employed and exploited because, compared to adults, they are more vulnerable, cheaper to hire and are less likely to demand higher wages or better working conditions.

For many children, school is not an option. Education can be expensive and some parents feel that what their children will learn is irrelevant to the realities of their everyday lives and futures. In many cases, school is also physically inaccessible their everyday lives and futures. In many cases, school is also physically inaccessible or lessons are not taught in the child's mother tongue, or both. As well as being a result of poverty, child labour also leads to greater poverty. Many working children do not have the opportunity to go to school and often grow up to be unskilled adult trapped in poorly paid jobs, and in turn will look to their own children to supplement the family's income.

Lastly, child labour has been attributed to socializations. This is a process where children under the guidance of parents or guardians receive training that develops their future vocational skills.

### **Effects of Child Labour.**

Research has indicated the inherent hazards and risks that children often experience when working in exploitative industries. Physical consequences that range from malnourishment, diseases, musculo-skeletal disorders from heavy labour, physical and sexual abuse, to injuries, exposure to toxic agent, and prolonged working in cramped and hazardous conditions have been well documented. “These physical effects of the industrial sector have been determined to be detrimental to the well being of the child worker.

Socially, children in industries have been found to experience negative consequences to their educational development and performance. The prevalence of illiteracy, low

school attendance and low enrollment has been attributed to children's economic participation.

In the rural sector employment where agricultural activities prevail, some children work on family farms while others are employed on farm outside of the sphere of the familial household. In both cases, child labour has been found to have negative consequences for the children. The heavy and intensive labour that children undergo in the fields may lead to lack of pay, long hours on the job, physical exhaustion, physical abuse, and exposure to toxic pesticides and herbicides.

Physical and health consequences of children participating in the sales and services sector have been identified in Latin American, Asian and African regions. Child workers suffer from various diseases such as respiratory problems, injuries and accident, physical and sexual abuse such as rape and molestation, malnourishment, extortion of income, police harassment and participation in harmful or delinquent activities.

One common threat emerging from the effect of child labour in all the three sectors (i.e Industrial, Agricultural and Sales and Service Sectors) analyzed above is that child labour has detrimental effects for children's health, social and educational well being, although such effects are more serious in exploitative industries than in the other two sectors.

### **Islamic Disposition to Child Labour**

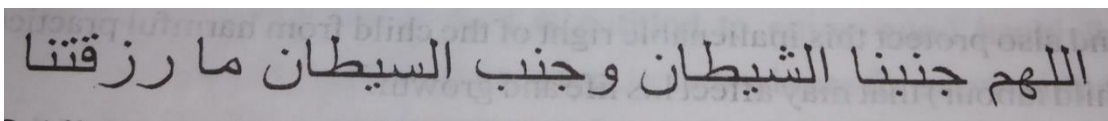
Islam is unfavourably disposed to child labour as it guides jealously the way and manner a child is handled. The position of Islam under this important topic can



not be better understood except one goes back to examine the various rights the Shari'ah provided for the children. These rights are too numerous to be discussed here, however, the following four will be analyzed in this paper:-

- (i) Right to Survival
- (ii) Right to Protection
- (iii) Right to Training and Upbringing
- (iv) Development Right/Right to Education

The Shari'ah recognizes the family as one of the most potent institution that enhances the Islamic Ummah (Community Society). The Shari'ah as a comprehensive legal code addresses the issue of protection of children, child labour as well as the responsibility of the Family, government and society. Toward this end. It is the duty of the father to choose a good mother so as to raise a child in proper manner. More so, at the time spouses cohabit which may eventually result, into the conception of the child, it is recommended and required that the parents are conscious of giving birth to upright child by seeking Allah's protection for the child from all evils of the devil. Thus, the prophet (SAW) recommends this prayer:



اللهم جنبنا الشيطان وجنب الشيطان ما رزقتنا

O Allah! protect us from the devil and take away devil from what you have granted us (i.e to the conceived foetus)

On the birth of the child, the parents of child are enjoined to perform certain things in form of rituals on the child and on the child's behalf at birth. These rituals have much impact in the future life of the child. The news of birth should be taken as

glad tidings as described in several verses of the Qur'an and the traditions of the prophet (SAW). "Other rituals includes)

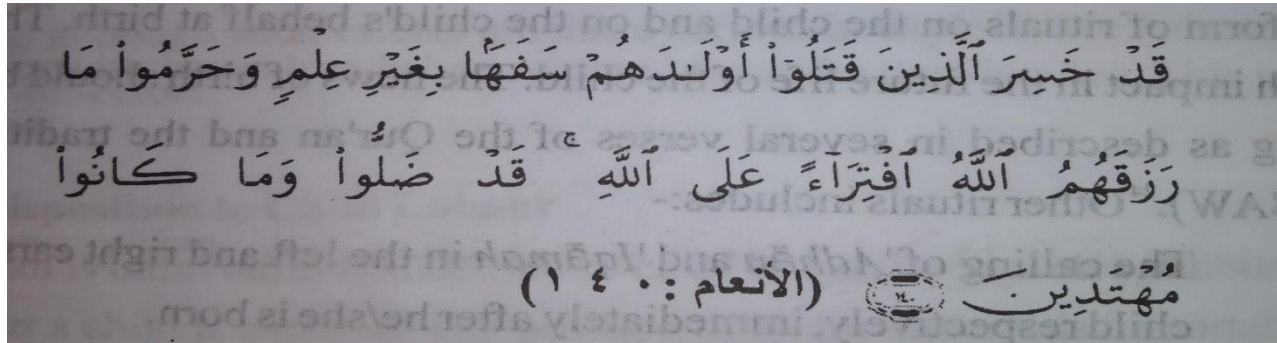
- (i) The calling of 'Adhân and 'Ilgâmah in the left and right ears of the new child respectively, immediately after he/she is born
- (ii) Giving of Tahnîk to the baby at birth (this means chewing of a date, rub the chewed part on the new born's mouth, by putting a little of the chewed date on a finger-tip and inserting it into the baby's mouth.)
- (iii) Shaving of the baby's head on the seventh day of his birth and giving the hair's weight in silver (money) to the poor and needy.

At the early stage of the child's life, the parent gives the children good examples and should as much as possible protect the child from witnessing the things that are objectionable under the Islamic Law. With the above background knowledge of a child needs and requirement at birth, we shall now consider the above listed child's right under the Shari'ah.

1. **Right to Survival:** - these are rights that ensure that the child is allowed to live and in a conducive livable environment: These rights include:-
  - A. **The Right to Life:** - by virtue of section 4 of the Child Rights Act, the child has the right to live and survive in order to enable him participate actively in the promotion of his rights: The section enjoins the government to recognize this inherent right and develop policies/programmes for the child's survival and also protect this inalienable right of the child from harmful practices (like child labour) that may affect his life and growth.

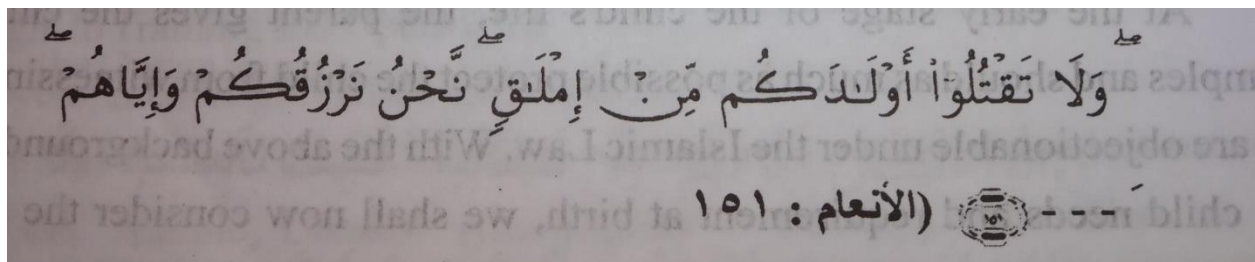
The Shari'ah is actually in tandem with this right as there are provisions in the

Qur'an which provide for measures that ensure that the right of the child to live is duly guaranteed. Allah said in the Quran thus:



Indeed lost are they who have killed their children, from folly, without knowledge, and have forbidden that which Allâh has provided for them, inventing a lie against Allâh. They have indeed gone astray and were not guided.

Allah also said in another verse thus:



"Kill not your children on a plea of want, we provide sustenance for you and for them-

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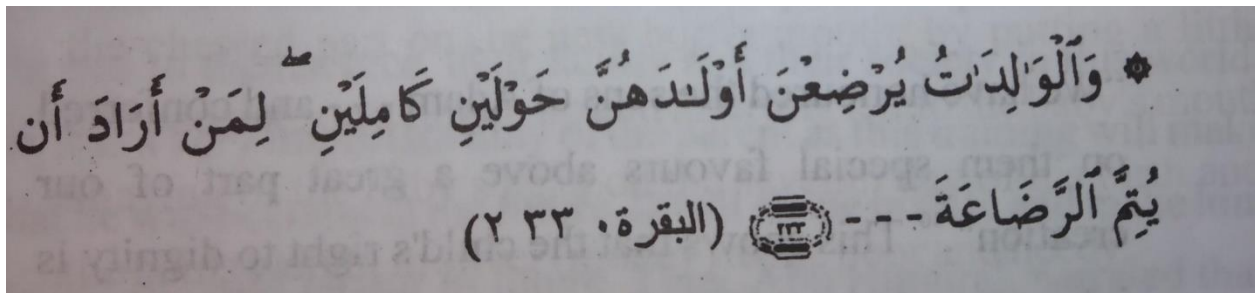
The same is also decreed in the Quran, Suratul Israi 17:31. All these are direct pointers to how much the Shari'ah holds the sanctity of the child's life in the ultimate esteem and thus guarantees the right of the child to live.

a. **Right to Health and Health Services:** According to the section 13 of the Child Rights Act, every child is entitled to enjoy good health by being protected from disease and given proper medical care for survival and growth.

In pursuance of this, the government is enjoined to roll out measures by which this right can be effectively guaranteed. The parents are also enjoined to ensure that the child is given adequate medical attentions which include giving the child nutritious food, adequate breast feeding e.t.c. they are also enjoined to avoid any traditional practices that may be harmful to the health of the child e.g. tribal marks. It also enjoins parents to practice family planning among others."

The Shari'ah is also in concordance with this aspect of right because it has been provided in the Qur'an that mothers must adequately breast feed their children.

Allah said.



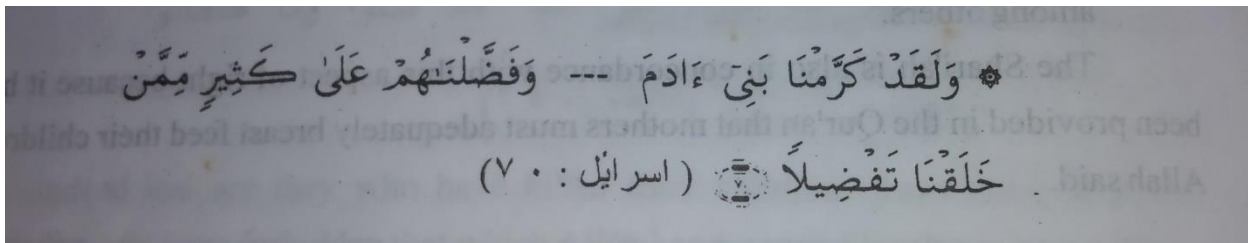
"The mother shall give suck to their offspring for two whole years, if the father desires to complete the term---

2. **Right to Protection:** - These are the rights that ensure that the child is protected from being exposed or subjected to any activity or treatment that may be iniquitous to his well being and proper survival in life. These rights include among others the protection against inhuman treatments.

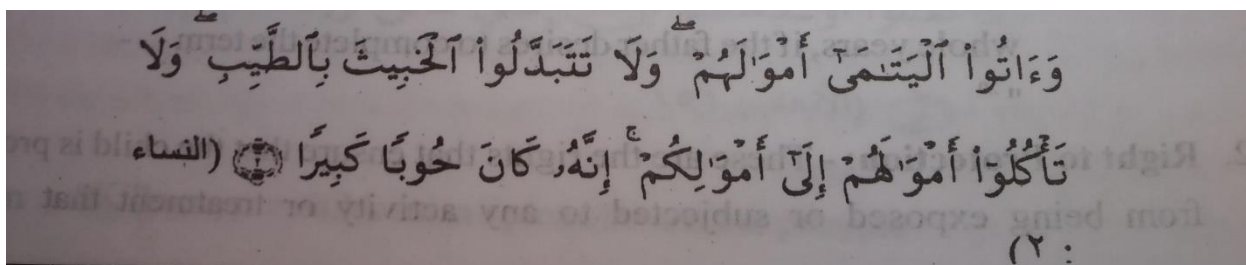
Pursuant to the provisions of the Child Rights Acts 2003, every child must be protected against all forms of exploitation, indecent or degrading treatment including child labour, abuse and torture, sexual exploitation, abduction and drug abuse etc.

In a nutshell; the child must be guaranteed his right to dignity. It is therefore, the responsibility of the government to set out machineries that will prevent the child from being subjected to any of the above treatments. Meanwhile, it is the duty of the parents to monitor their children and protect those children from undergoing any form of exploitation or inhuman treatment either from themselves or any other persons.

These rights have already been catered for under the Shari'ah. This is because Allah has said;

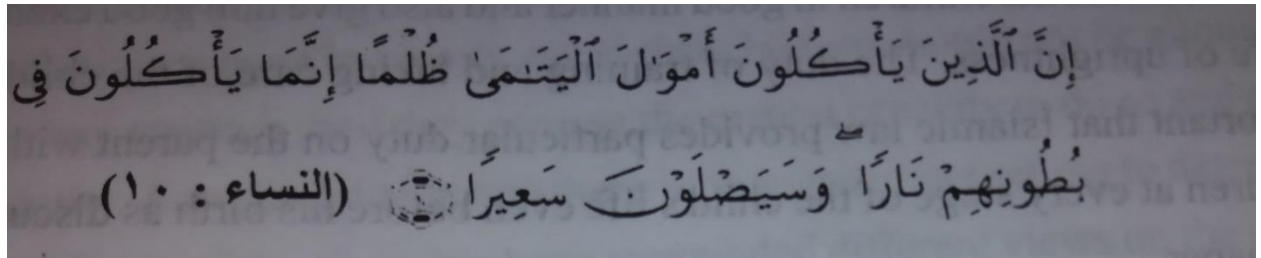


We have honoured the sons of Adam - - - and conferred on them special favours above a great part of our creation". This shows that the child's right to dignity is inherent and must not be deprived. Allah has provided in the Qur'an thus:



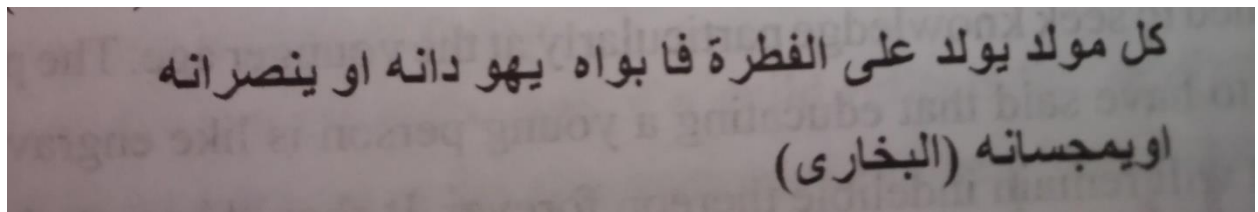
And give unto orphans their property and do not exchange (your) bad things for (their) good ones; and devour not their substance (by adding it) to your substance. Surely, this is a great sin.

This is certainly an admonition against exploiting the child particularly the orphans. But to adequately effect the sustenance of the child's right against exploitation, Allah then decreed thus:



Verily, those who unjustly eat up the property of orphans, they eat up Only a Fire into their bellies, and they will be burnt in the blazing Fire,

- 3. Right to Training and Upbringing:** It is the duty of both parents to give of their children a sound moral training and upbringing in accordance with the rules of Islamic law that will make them develop into responsible adults who will be useful to themselves, their family and their society in this world and hereafter. It is a very important duty of the parent as this training will make the child what he will become in the future. It will shape his life and make him not to fall victim of child labour in future. Thus, Abu Hurairah narrated that the prophet (SAW) said:



There is no child but is born upon nature (Islam). It is his parent who makes him a Jew or a Christian or a Magian (Sic) i.e. .Pagan".

Jabir bn Samara reported that the Messenger of Allah said; "the teaching of good manners by man to his children is better for him than to give Sa'a in Charity". This indicates that the parents especially the father is under the obligation to raise and train his children in good manner and also give him good example by living a life of uprightness. The duty of training and taking care of the child's future is so important that Islamic law provides particular duty on the parent with regard to his children at every stage of the child's life even before his birth as discussed earlier in this paper.

- 4. Development Right/Right to Education:** -These are the rights that positively develop the children and prepare them for a responsible life in the society and also to promote and develop their personality, talents, mental and physical potentials to the maximum for a positive enhancement of the societal norms and traditional values. These rights include the rights to leisure, and recreation and also the rights to education.

It is provided in section 15 of the Child Rights Act that every child is entitled to receive free and compulsory basic education and equal opportunity. This is in accordance with the dictates of Shari'ah on the right of the child to education. Islam values education most that there are various authorities to the fact that the believers are enjoined to seek knowledge particularly at the younger age. The prophet was once reported to have said that educating a young person is like engraving a mark on a rock, that will remain indelible thereon forever. It should be noted that children are like clean slates, if they are not educated and

trained in good morals, they only appear like human beings but their morals and habits are those of the brutes. This shows the esteem position to which Islam holds education. Islam considers right to education as the fulcrum for all other rights because it is the only one that would sensitize the children towards their right, duties and responsibilities in the society. Hence, the best education that could be given to the child is to educate him on the creed of Islam and good morals.

### **Conclusion/Recommendation**

In conclusion, it must be clearly stated that children should not be allowed to be involved in any contract until they possess the mental capacity to do so and reach the age of maturity. According to the fiqh there is no specific age setting to determine the age of maturity, but Islamic jurists have expounded different views on the age of puberty in order to determine whether a child is legally able to work or not under any circumstance. Seventeen years was proposed by Imam Malik for girls while eighteen years was suggested for boys as their age of maturity to be legally competent and qualified to be involved in any contract. However, the Shi'ah took fifteen years for boys and nine years for girls as their age of puberty respectively. The convention on the rights of the child stipulates that any child under the age of eighteen years is still a child unless it can be otherwise proved that he or she has attained the age of majority.

Article 1 of the United Nations Convention states that:

For the purpose of the present convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier."



The above discussion on the age of a child reflects the similarities of the purpose of the law which aims at the elimination of children from hazardous work due to their unsuitable age for labour. The UN convention and Nigerian law on children do not differentiate between the male and female child in term of age. On the contrary, Islamic fiqh stipulates different age for male and female child in order to determine puberty age as earlier discussed.

It is obvious that the fiqh gives male and female rights to education in order to develop their intellectual capacities which enable them to face and solve future challenges. Seeking knowledge is a religious duty and biological parents are responsible for their children's education based on the following evidence:

Imam Ali Ibn Abi Talib said to the effect: "teach your children things you did not learn when you were their age, for they have been created for a time that is different from your time".

Annas reported that the prophet (SAW) said; "the seeking of knowledge is obligatory upon every Muslim Man and Woman." in another hadith the prophet is reported to have said;" the superiority of the learned men over a (mere) worshiper is like my superiority over the least of you".

In the light of the above cited quotations, children should be allowed to acquire any useful knowledge and they should not be restricted to primitive idea and knowledge. So, both religion and modern knowledge should be imparted to them in their interest.

As nine years is not considered enough for compulsory education in order to allow a child to work, this period is out of tune for both females and males. In order to harmonize the United Nations Convention and Common Law with the Fiqh on the age of puberty, eighteen years is rationally accepted as the age for both male and female." On this analysis, the first six years is for parental training, after that, the next

six years is for Primary school and the last six years is for Secondary and is known as (6.3.3) that is: six years for Primary School, three years for Junior Secondary and last three years for Senior Secondary School. So, before any child could be employed, he should reach eighteen years of age based on the Islamic Fiqh and unless if otherwise proved. Therefore, fifteen years should be considered based on the principle.

Above all, there is no gainsaying the fact that if the proper and adequate maintenance is given to children, the children's labour plight will definitely disappear and children will be well prepared for future in the best interests of the children themselves, the family and the nation at large.

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