



# Child labour legislation in Nigeria

An analysis of national legislation and policies in Nigeria that aim to protect children from child labour, with a focus on the cocoa sector.

November 2023

## Protecting children and their families from child labour and forced labour

ICI is a non-profit foundation that works to ensure a better future for children in cocoa-growing communities. We are a multi-stakeholder partnership advancing the elimination of child labour and forced labour, by uniting the forces of the cocoa and chocolate industry, civil society, farming communities, governments, international organizations and donors. We innovate, catalyse and support the development, implementation and scale-up of effective practices and policies that promote child rights and that prevent and remediate child labour and forced labour in cocoa and other global supply chains.

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## Abbreviations

CLMRS	Child Labour Monitoring and Remediation System
CRA	Child Rights Act
CRC	Convention on the Right of the Child
ICI	International Cocoa Initiative
ILO	International Labour Organization
MICS	Multiple Indicator Cluster Survey
NAPTIP	National Action Plan for Trafficking in Person
NAP	National Action Plan
NBS	National Bureau of Statistics
NGO	Non-Governmental Organisation
SDG	Sustainable Development Goal
UN	United Nations
UNCRC	United Nation Convention on the Rights of the Child
UNICEF	United Nations International Children's Emergency Fund
US	United States
WFCL	Worst Forms of Child Labour

# 1 Background and context

Child Labour exists in every country and in many economic activities, particularly in the agriculture sector where about 70% of all children in child labour work. As of 2020, 160 million children – 63 million girls and 97 million boys were estimated to be in child labour globally. Nearly half of those children – 79 million were in hazardous work (ILO & UNICEF, 2020). In terms of prevalence, nearly one of four children in Sub-Saharan Africa (23.9%) are in child labour while West and Central Africa accounts for a significant portion with an estimated average of 30% children in child labour. The ILO estimates that about 15 million children under the age of 14 work to earn a living in Nigeria. Many of these children were engaged in the worst forms of child labour<sup>1</sup>. Overall, about 32.8% of children aged 5–17 years were engaged in some form of child labour in Nigeria (NBS and UNICEF, 2018).

Child labour deprives children of their childhood, their potential, and their dignity. It harms children mentally, physically, socially, and morally. It interferes with their schooling, preventing them from attending or concentrating in school. In the most serious cases, it may involve children being separated from their families, exposed to serious hazards, or enslaved.

Cocoa is identified as one of the agriculture sub-sectors where child labour is predominant. The US Department of Labour lists cocoa as a good produced by child labour or forced labour in Nigeria<sup>2</sup>.

## 1.1 Aims of this report

This report reviews the existing national legislation and policies in Nigeria that aim to protect children from child labour, and their linkages with relevant international conventions and standards ratified by Nigeria. The report makes a series of recommendations on hazardous activities related to cocoa production on which the child labour monitoring and remediation systems (CLMRS) in cocoa sector should focus on and address from supply chains.

## 1.2 Child Labour and Cocoa Cultivation in Nigeria

Cocoa is one of the major cash crops in Nigeria. The importance of cocoa to the rural economy in Nigeria can be best understood from the fact that about 300,000 farmers are primarily engaged in cocoa cultivation (Abayomi Samuel Oyekale 2022). Most farmers in Nigeria are smallholder farmers, who rely on their family members, including children, to work on the farms. These children work in a variety of tasks, which depending on conditions, may or may not be detrimental to their wellbeing. Children engaged in work on cocoa plantations might be exposed to pesticides, apply chemical fertilizers without protective gear, use sharp tools or carry heavy loads, and sometimes work under conditions of forced labour (US Department of State 2011).

The Nigerian government has put in place national legislation, in which child labour is legally condemned. It has also ratified relevant international conventions, instruments and protocols, including:

- the United Nations (UN) **Convention on the Rights of the Child (CRC)**, 1989, the most ratified children's convention in the world)
- the ILO **Convention 182 on the Worst Forms of Child Labour** (1999)
- the ILO **Convention 138 on Minimum Age of Employment** (1973)

<sup>1</sup> National Action Plan for the Elimination of Child Labour and its Worst Forms 2021-2025

<sup>2</sup> Bureau of International Labour Affairs – ILAB (2022). 2022 List of Goods Produced by Child Labour or Forced Labour

- the Convention against Transnational Organised Crime and its Supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, 2000 (Palermo Protocol)

These Conventions govern child labour laws, regulate, and help prevent violations of children's rights. Following these, Nigeria has enacted legislation and developed policies to protect children from harmful work, such as Labour Act of 2004 and Child Rights Act of 2003, National Child Labour Policy and National Action Plan for the Elimination of Child Labour and its Worst Form.

### 1.3 Definition of a Child in Nigeria

Before 2003, various enactments in Nigeria provided different age limits for the term "child". Under the Children and Young Persons Act, a "child" was defined as a person under the age of 14 years while a young person means any person above the age of 14 years but below 17 years. The Labour Act and Criminal Procedure Act define a child as a person below the age of 12 and 14 years respectively.

However, Child Rights Act 2003, section 277 **explicitly defines a child as any person under the age of 18 years**. According to section 274(1) of Child Rights Act 2003, the provision of the Act supersedes the provisions of other enactments relating to children. The List of Hazardous Child Labour in Nigeria also define a child as a person under the age of 18 years (Federal Ministry of Labour and Productivity, 2013). Again, National Child Labour Policy refers a child as a person less than 18 years old. The definition of a child under the Child Rights Act 2003, National Child Labour Policy and the List of hazardous child labour 2013 are in consistent and consonance with regional and international treaties and conventions ratified by Nigeria. These include United Nation Convention on the Rights of the Child (UNCRC), ILO Worst Forms of Child Labour Convention No 182 of 1999, ILO Minimum Age Convention 1973, No 138, and the African Charter on the Rights and Welfare of the Child.

It is worthy of note, however, that the Child Right Act is not yet applicable to the whole of Nigeria. Only 35 out of the 36 States of the Federation have adopted the Act (U.S. Department of State, 2022).

The Constitution of Nigeria, which is the supreme law of the land, does not specifically define who a child is. Though, Section 19, Part 1, Fifth Schedule of the constitution vaguely provides that, "child includes a step-child, a lawfully adopted child, a child born out of wedlock and any child to whom any individual stands in place of a parent." This definition does not state who a child is or when childhood ends. Although section 29 (4) (a) of the Constitution defines full age as 18 years and above, section 29 (4) (b) provides also that any woman who is married is deemed to be of full age. This is irrespective of the biological age of the woman at the time of marriage. This provision is capable of encouraging child marriage which consequently may lead to child labour.

### 1.4 Child rights in Nigeria

Nigeria has ratified the UNCRC, where Article 6 provides for the child's right to survive and develop to his or her individual full potential, while article 24 provides the child rights to health care (UNICEF, 1997). In addition, children have the right to receive information and express their views about the world around them (Article 12-13; UNICEF, 1997). Children have the right of registration immediately after birth, or on such other events agreeable to the culture of his/her parents or guardian, as well as being given a name and nationality (Article 7; UNICEF, 1997). The right to play and to be protected from all forms of sexual abuse and exploitations are enunciated in Articles 31 and 34 respectively (UNICEF, 1997). In alignment with UNCRC, Nigeria has included articles of UNCRC in its constitution regarding children's basic rights and privileges. It has also enacted Child Rights Act to affirm the rights of children. Section 11 of the Child Rights Act provides rights to the dignity of a child and accordingly a child shall not be:

1. subjected to physical mental or emotional injury, abuse, neglect or maltreatment, including sexual abuse
2. subjected to torture, inhuman or degrading treatment or punishment
3. subjected to attacks upon his honor or reputation
4. held in slavery or servitude while in the care of a parent, legal guardian or school authority or any other person or authority having the care of the child

Section 12 – 13 of the Child Rights Acts also provide the following as rights of a child:

1. Right to survival and development
2. Right to name
3. Freedom of association and peaceful assembly
4. Freedom of thought, conscience and religion
5. Right to private and family life
6. Right to freedom of movement
7. Right to freedom from discrimination
8. Right to dignity of the child
9. Right to leisure, recreation and cultural activities
10. Right to health and health services
11. Right to parental care, protection and maintenance
12. Right of a child to free, compulsory and universal primary education
13. Right of a child in need of special protection measure
14. Right of the unborn child to protection against harm
15. Prohibition of exploitative labour

#### 1.4.1 Responsibilities of a Child in Nigeria

Section 19 (1-2) of Child Rights Act provides details of a child responsibilities as follows:

1. Every child has responsibilities towards his family and society, the Federal Republic of Nigeria and other legally recognized communities, nationally and internationally.
2. A child shall, subject to his age and ability and such other limitations as may be contained in this Act and any other law, to:
  - a. work towards the cohesion of his family and community
  - b. respect his parents, superiors and elders at all times and assist them in case of need
  - c. serve the Federal Republic of Nigeria by placing his physical and intellectual abilities at his service
  - d. contribute to the moral well-being of the society
  - e. preserve and strengthen social and national solidarity
  - f. preserve and strengthen the independence and integrity of Federal Republic of Nigeria
  - g. respect the ideals of democracy, freedom, equality, humaneness, honesty and justice for all persons
  - h. relate with other members of the society, with different cultural values in the spirit of tolerance, dialogue and consultation
  - i. contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of Nigeria, African and world unity
  - j. contribute to the best of his abilities, at all times and at all levels, to the solidarity of the African people and the human race.

#### 1.4.2 Obligation of parents and guardians

Section 20 of the Child Rights Act provides details guidance of parents, guardians, institutions with respect to child's responsibilities.

It states: “Every parent, guardian, institution, person and authority responsible for the care, maintenance, upbringing, education, training, socialization, employment and rehabilitation of a child has the duty to provide the necessary guidance, discipline, education and training for the child in his or its care such as will equip the child to secure his assimilation, appreciation and observance of the responsibilities set out in this Part of the Act”

## 2 Working Ages under ILO Convention No.138 and Nigeria Legislation

The ILO’s Convention No.138 (1973) defines three different minimum ages for employment. These are:

- the basic minimum age for admission into employment
- the minimum age applied to hazardous work
- the minimum age applied to light work

According to ILO Convention No.138 on the Minimum Age for Admission to Employment, “the minimum age to be specified in conformity with the Convention shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years”. The convention No.138 also states that in countries where the economy and educational facilities are insufficiently developed for example developing countries, minimum age for admission into employment could be initially set at 14 years and that of light work could also be set at 12 years.

The minimum age for employment in Nigeria is 12 years of age. According to section 59(1) of the Labour Act, read in conjunction with section 91 of the same Act states that “no child under 12 years of age shall be employed or work in any capacity except where he/she is employed by a member of his/her family to perform light work of an agricultural, horticultural or domestic character”. The Labour Act (section 59) prescribes different ages for different types of employment which ranges from below 14 to 16 years. Section 59(2) of the Labour Act provides the different age for employment of children in industrial undertaking at age 15. It states, “No young person under the age of 15 years shall be employed or work in any industrial undertaking”. However, under section 59(3) of the same Act young person below 14 years may be employed only on a daily basis, or on a day-to-day basis and so long as he returns each night to the place of residence of his parents or guardian, or a person approved by his parents or guardian. Again, according to sections 28(1)(b) and 277 of the Child Rights Act of 2003, a child under 18 years shall not be “employed to work in any capacity except where he/she is employed by a member of his/her family to perform light work of an agricultural, horticultural or domestic character”. The Labour Act appears to be contradictory to section 277 of the Child Rights Act 2003 which prescribes the age of 18 years in all cases. It is worthy to note that the Child Rights Act, section 29 recognizes the provisions relating to young persons in sections 58, 59, 60, 61, 62 and 63 of the Labour Act and this section also shall apply to children under the Child Rights Act.

The minimum age for employment is lower than ILO Convention 138 and also to the 15 years compulsory education age. Therefor the minimum age of employment in Nigeria does not meet the international standards. For example, the Labour Act allows children of any age to do light work in agriculture and domestic work if they are working with a family member. Again, the minimum age protections in the Labour Act do not apply to children who are self-employed or working in the informal economy<sup>3</sup>. This may encourage children to leave school for work before the completion of compulsory education.

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<sup>3</sup> US Department of State 2022 Trafficking in Person Report



## 2.1 “Light work” in Nigeria

ILO Minimum Age Convention 1973 (No.138) allows children of 13-14 years (12-13 years for developing economies) to perform light work for specific number of hours (less than 14 hours per week), as long as the work does not fall under the scope of the worst forms of child labour and does not interfere with the child’s education and physical and mental development. Light work helps develop a child’s skills and encourages the child to learn family responsibility. The ILO Minimum Age Convention No.138 defines light work as work:

*“not likely to be harmful to children’s health or development that does not prevent children from attending school or from participating in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.”*

Though light work is not specifically established by the national legislation of Nigeria, both the Child Rights Act of 2003 and the Labour Act have provisions on light work as:

*Labour Act, section 59(1a) and Child Rights Act 2003 section 28(1b) state, “No child shall be employed or work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character”.*

Although the CRA and Labour Act state that children can be employed on light work (section 28(b) of CRA and section 59(a) Labour Act), both laws failed to define what constitute to light work as prescribed in the ILO Convention No. 138 on Minimum Age Convention. The table 1 below provides the minimum ages of employment according to ILO Convention No.138 and Nigeria Labour Act.

Table 1: Working Ages under ILO Convention No.138 and Nigeria legislation.

Type of work	Minimum legal age at which children are allowed to work according to International Standards (ILO Convention No. 138)	Minimum legal age at which children are allowed to work in Nigeria (Labour Act)
Light work	13 - 14 years	-
Minimum age of employment	15 years	12 years
Hazardous work	18 years (16 years under certain conditions)	18 years

ILO Minimum Age Convention 1973 (No.138), and Nigeria Labour Act 1990

## 2.2 Child labour in Nigeria

ILO’s Convention on the Worst Forms of Child Labour 1999 (No.182) defines Child Labour as “any work that deprives children of their childhood, potential, dignity and undermines their physical and psychological development”. It includes all work that:

- Is mentally, emotionally, socially and morally dangerous and harmful to children
- Restricts or deprives children of the opportunity to attend school and force children to leave school prematurely
- Makes children combine school and labour ious work for excessive periods of time.

Nigeria is a member of the ILO and has ratified the Worst Form of Child Labour 1999 Convention (No. 182) for the protection of children. Therefore, Nigeria is bound by the above ILO definitions. Nigerian laws that prohibit child labour have incorporated the provisions that comprise the worst forms of child labour as defined above. For example, Section 28(1) of the Child Rights Act, states that no child shall be:

1. subjected to any forced or exploitative labour
2. employed to work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character
3. required, in any case, to lift, carry or move anything so heavy as to be likely to adversely affect his physical, mental, spiritual, moral or social development
4. employed as a domestic help outside his own home or family environment.

Section 28(2) also states that: “No child shall be employed or work in an industrial undertaking and nothing in this subsection shall apply to work done by children in technical schools or similar approved institutions if the work is supervised by the appropriate authority”.

Section 30(2) of the Child Right Act also has relevant provisions that prohibit child labour and state that a child shall not be used:

1. for the purpose of begging for alms, guiding beggars, prostitution, domestic or sexual labour or for any unlawful or immoral purpose
2. as a slave or for practices similar to slavery such as sale or trafficking of the child, debt bondage or serfdom and forced or compulsory labour
3. for hawking of goods or services on main city streets, brothels or highways
4. for any purpose that deprives the child of the opportunity to attend and remain in school as provided for under the Compulsory, Free Universal Basic Education.

The Trafficking in Person (Prohibition) enforcement and Administration Act 2015’, PART IV, No. 23(1b) on Employment of Child as Domestic Worker and Inflicting grievous harm states that:

*“Any person who employs, requires, recruits, transport, harbors, receives or hires out a **child to do any work that is exploitable, injurious or hazardous to the physical, social and psychological development of the child**, commits an offence and is liable on conviction to imprisonment for a minimum term of 2 years but not exceeding 7 years without an option of fine”.*

The Child Labour Policy also define child labour as “engagement of children below 18 years of age in any work that is essentially exploitative and injuries, to their physical, social, cognitive, and moral development of children”. On the other hand, the policy also defines child work and states that “child work consists of moderate involvement of children in household and occupational activities carried out in safe conditions and environment, and constitutes a mechanism for socializing children with the norm, tradition, and skills necessary for effective adjustment to their social and economic milieus”<sup>4</sup>.

The List of hazardous child labour in Nigeria recognized that, child labour by its nature undermines the rights of children to good living and denies them the opportunity to acquire basic education necessary for productive adult life. It also emphasis that child labour has manifested in various forms with daring consequences on the health, safety and morals of children (Federal Ministry of Labour and Productivity, 2013). According to the 2021 Multiple Indicator Cluster Survey (MICS) of Nigeria, the proportion of children engaged in economic activities classified as child labour varied with age<sup>5</sup>:

- 43.2% of children aged 5–11 years

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<sup>4</sup> Federal Ministry of Labour and Productivity: National Child Labour Policy, 2013

<sup>5</sup> Nigeria 2021 Multiple Indicator Cluster Survey (MICS) & National Immunization Coverage Survey (NICS). Survey Finding Report 2022

- 10.9% of children aged 12–14 years
- 1.6% of children aged 15–17 years
- Overall, 31.5% of children 5-17 years were involved in child labour

The methodology of the MICS Indicator on Child labour uses three age-specific thresholds for the number of hours children can perform economic activity without being classified as child labourers. A child that performed economic activities during the week preceding the survey for more than the below age-specific number of hours is considered as in child labour:

- age 5-11: 1 hour or more
- age 12-14: 14 hours or more
- age 15-17: 43 hours or more

This definition according to MICS allows differentiation between child labour and permissible child work to identify the type of work that should be eliminated.

### 2.3 Worst forms of child labour in Nigeria

Nigeria ratified the ILO Worst Forms of Child Labour (WFCL) Convention 1999 (No.182) in 2002. Its provisions were codified into Child Rights Act. Article 3 of the Convention defines the WFCL as follows:

1. **all forms of slavery or practices similar to slavery**, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict
2. the use, procuring or offering of a child for **prostitution**, for the **production of pornography** or for **pornographic performances**
3. the use, procuring or offering of a child for **illicit activities**, in particular for the production and trafficking of drugs
4. work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children (**hazardous work**).

The first three category of the Worst forms of child labour (i.e., 1, 2 and 3 above) are known as the **unconditional** forms of child labour and are prohibited without regard to the age of the child, the nature of the tasks executed, the conditions and circumstances in which those tasks are executed, etc.

In relation to **seduction or prostitution of children**, sections 222A & 223 from the criminal code act also states that “Any person who causes or encourages the seduction or prostitution of a girl under sixteen or allows her to enter or continue in the employment of any prostitute commits an offence punishable by 2 years imprisonment without an option of fine” and “Procuring a girl under the age of eighteen years for unlawful carnal knowledge or to become a common prostitute or to reside in a brothel in Nigeria or elsewhere is an offence punishable by 2 years imprisonment”.<sup>6</sup>

The fourth category, which describes “work that is likely to harm the health, safety or morals of the children,” is generally referred to as hazardous work. This is a **conditional** worst form of child labour and has to be defined locally, through a nationally defined list of hazardous activities.

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<sup>6</sup> The trafficking in Persons (Prohibition) Law Enforcement and Administrative Act (2015) sections 13 to 22 focuses on the first 2 categories listed above, while the sections 47 & 61 to 65 lists their rights to non-detention, information, legal assistance and counselling.

It should be noted that children in the worst forms of child labour are a subcategory of all children in child labour. As part of Sustainable Development Goal 8.7 (SDG), the international community has recognized the urgent need “to eliminate the worst forms of child labour...as well as to end all forms of child labour by 2025”<sup>7</sup>.

## 2.4 Hazardous child labour in Nigeria

The ILO defines hazardous child labour as, “any work which, by its nature or circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of children” (ILO WFCL Convention 1999, No.182). In consonance with ILO WFCL Convention 1999, Nigeria Labour Act, has provision relating to hazardous child labour. Article 59 section 6 states “No young person shall be employed in any employment which is injurious to his health, dangerous, immoral and unsuitable”. According to ILO Convention 182, the precise nature of those tasks that are prohibited are to be defined and reviewed by each country.

To keep with the provision of ILO Convention No.182 on the WFCL which Nigeria has ratified, as well as the Article 28 of the Child Right Act which prohibits exploitative labour, Nigeria developed a list of hazardous child labour in 2013. The hazardous list was developed for 12 sectors including agriculture (cocoa, rice farming and milling). The objective of this hazardous child labour list is to identify and determine the most extreme hazardous conditions to which children are exposed in various occupation in Nigeria to facilitate maximum protection that will take into account the best interest of the child. The Nigeria hazardous child labour list itemized the following equipment/tools and materials used in cocoa farming activities.

Table 2: List of equipment/tools and materials used in cocoa farming activities in Nigeria

Activity	Equipment/Tool
Land preparation	Cutlass, Axe, Chain saw
Planting	Cutlass, Hoe, Earth chisel
Farm maintenance	Cutlass, Hoe, Knapsack, Motorised mist blower sprayer, Insecticides (scorpion, karate, harvestin), Herbicides (sarosate, weed off, clear weed, gramozone and uproot), Fungicides (heap D.Ridomil and Rocobre sacbx)
Harvesting	Long cutlass, Pluckers, So-so or Go-to-hell
Post-harvest	Small cutlass, Breaking mallet, Basket, Sack

List of Hazardous Child Labour in Nigeria, 2013

According to the List of Hazardous Child Labour in Nigeria, children between 8 to 16 years were observed to spend an average of 4-5 hours each day on the farms especially during the planting and harvesting season with an increased level of school absenteeism<sup>8</sup>.

<sup>7</sup> See: <https://data.unicef.org/sdgs/goal-8-decent-work-economic-growth/>

<sup>8</sup> Federal Ministry of Labour and Productivity 2013

Table 3: Risk assessment findings in cocoa sector of the 2013 list of hazardous child labour

Daily tasks of children	Activities carried out	Hazards	Health Impact
Land preparation	Land clearing, felling and chopping of trees, burning, de-stumping, pegs cutting, lining, soil tilling, and pegging	Thorns, bending, long hours, insects and animal, biological toxins, smoke and exposures, exposure to extreme weather condition, dust, accidental falling trees	Back and muscle pain injuries, laceration blisters, exhaustion, infections, respiratory disorder and injury from insects and animal bites
Planting	Preparation of seedlings, carrying of seedlings, planting of seedlings	Heavy load, bending, long hours, awkward posture, exposure to soil pathogens, animals, exposure extreme weather conditions	Joint and bones deformities, blistered hands and feet, laceration, back injury, muscle injury, sunstroke, and other heat stress disorders
Farm maintenance	Weeding and thinning, sanitation and pruning, water spraying, spraying and application of pesticides, fertilizer application	Toxic chemicals, bending, long hours, insects and animals, heavy load, exposure to parasites and micro-organisms, sharp tools, exposure to extreme weather conditions	Rashes and other form of dermatitis, allergic reactions, breathing difficulties, eye irritations chemical poisoning, liver damage, nerve and neurological disorders, cancers, reproductive health disorders such as male and female fertility, sunstroke and other heat stresses, back and muscular injury respiratory disorder
Harvesting	Plucking, gathering, heaping, pod breaking, scooping of cocoa beans, fermentation	Falling objects, slippery surfaces, Sharp objects and tools, insect (bees), odour	Cut, fatal and non-fatal injuries including broken bones, skull fracture, and head injuries
Post-harvest	Carrying of cocoa beans to drying area or other farm products, drying and sorting of beans, begging, carrying of dry beans for sale	Thorns, bending, long hours, insects and animal, biological toxins, sharp tools and objects, exposure to extreme weather condition, dust, accidental falling trees	Back and muscle injury, heat stresses, puncture wounds, exhaustion, blisters, lacerations

Federal Ministry of Labour and Productivity, 2013

Not all work undertaken by children in cocoa production or sector is child labour or hazardous child labour which should be eliminated or prohibited. For example, children scooping cocoa beans, sorting cocoa beans, watering nursery are permissible child work. However, the hazardous child labour activity list of 2013 failed to establish this.

## 3 Legislation and Policies on child labour in Nigeria

Nigeria is a party to all the international instruments that protect children from child labour. The country has domesticated the UN Convention on the Rights of the Child and African Charter on the Rights and Welfare of the Child through the enactment of the Child Rights Act which is currently the most comprehensive legislation for protecting the rights of the child in Nigeria. The Child Rights Act prohibits child labour. Prior to the enactment of the Child Right Act, the Labour Act was enacted and also prohibits child labour. There are also relevant provisions in different piece of legislation including the 1999 constitution that protect children from inhuman treatment, and policies such as the National Action Plan for the elimination of child labour and its worst form and National Policy on Child Labour. These policies together with the national legislation on child labour will be examined in this section.

### 3.1 The 1999 Constitution of Nigeria

The 1999 Constitution of Nigeria is the supreme law of the land. The constitution has key provisions that protect children against inhuman treatment and child labour. Article 34(1) of 1999 Constitution of the Federal Republic of Nigeria states: Every individual is entitled to respect for the dignity of his person, and accordingly

- no person shall be subject to torture or to inhuman or degrading treatment
- no person shall be held in slavery or servitude
- no person shall be required to perform forced or compulsory labour.

Article 18(3): Government shall strive to eradicate illiteracy; and to this end Government shall as and when practicable provide: (a) free, compulsory and universal primary education; (b) free secondary education; (c) free university education; and (d) free adult literacy programme.

### 3.2 The Child Rights Act (CRA 2003)

The CRA codifies the rights of children in Nigeria and implements the core principles that were enshrined in the 1989 Convention on the Rights of the Child (CRC) and the 1990 African Union Charter on the Rights and Welfare of the Child. Each state must adopt and implement the Act in its territory for the CRA to become law. However, only 35 of the 36 states have adopted and implemented the CRA, leaving the state of Kano in northern Nigeria with a legal statute that does not meet international standards for the prohibition against the use of children in illicit activities<sup>9</sup>. The relevant provisions in the Child Rights Act that prohibit child labour are found in Sections, 28, 29 and 30 (see section 2.2 of this document).

- Section 28(2) states: “No child shall be employed or work in an industrial undertaking and nothing in this subsection shall apply to work done by children in technical schools or similar approved institutions if the work is supervised by the appropriate authority”.
- Section 28(3) states: “Any person who contravenes any provision of subsection (1) or (2) of this section commits an offence and is liable on conviction to a fine not exceeding fifty thousand Naira or imprisonment for a term of five years or to both such fine and imprisonment”.
- Section 28(4) stated: “Where an offence under this section is committed by a body corporate, any person who at the time of the commission of the offence was a proprietor, director, general manager or other similar officer, servant or agent of the body corporate shall be deemed to have jointly and severally committed the offence and may be liable on conviction to a fine of two hundred and fifty thousand Naira”.

<sup>9</sup> U.S. Department of State. 2022 Trafficking in Persons Report for Nigeria

- Section 29 of Child Rights Act recognized and incorporated the provisions of sections 59-63 of the Labour Act. This means that section 59 -63 of the Labour Act is applicable to children under the Child Rights Act.
- Section 30 (1) prohibits the buying, selling, hiring or dealing in children.
- Section 32 (2) prohibits the use of children for the following: begging for alms, prostitution, domestic or sexual labour or other immoral purposes; as a slave or for practices similar to slavery like, sale or trafficking, debt bondage or serfdom and forced or compulsory labour, hawking of goods or services on main streets, brothels or highways, for production of pornography or pornographic performance, for the production or trafficking of illegal drugs and for any purposes that deprives the child the opportunity to attend and remain in school. These relevant provisions in Section 30 and 32 of the Child Rights Act align with the unconditional and condition Worst Form of Child Labour in the ILO Convention No.182.

### 3.3 The Labour Act of Nigeria

The Nigerian Labour Act which provides for child protection within the workplace is currently being reviewed to ensure compliance with international labour standards with reference to clarifying the minimum age of work in Nigeria and covering emerging issues<sup>10</sup>. Section 91 defines a child as “a young person under the age of 12” and it further defines a young adult person as “... a person under the age of eighteen years.”

Section 59(1) provides that “no child shall:

- (a) be employed or work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character; or
- (b) be required in any case to lift, carry or move anything so heavy as to be likely to injure his physical development.

Section 59(2): No young person under the age of fifteen years shall be employed or work in any industrial undertaking except in technical schools or similar institutions if the work is approved by the relevant authority<sup>11</sup>.

Section 59(3): A young person under the age of fourteen years may be employed only;

- (a) on a daily wage
- (b) on a day-to day basis
- (c) so long as child returns each night to the place of residence of his parents or guardians or a person approved by his parents or guardian: Provided that, save as may be otherwise provided by any regulations made under section 65 of this Act, this subsection shall not apply to a young person employed in domestic service.

Section 59(5): No young person under the age of sixteen years shall be employed:

- (a) to work underground
- (b) on machine work<sup>12</sup>
- (c) on a public holiday.

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<sup>10</sup> National Action Plan for the Elimination of Child Labour and its Worst Form (2021-2025) 2022

<sup>11</sup> Note that Section 49 of the Labour Act adds that “Any person aged 16 years or above may choose an apprenticeship by himself for not more than 5 years”.

<sup>12</sup> Section 26, sub-sections (8) and (9) of the Factories Acts (1987) also says that “No child should be given the responsibility to use any lifting machine driven by mechanical power or to give signals to the operator of such machines”.

Section 59(6): No young person shall be employed in any employment which is dangerous or immoral or injurious to his health.

Section 59(8): No young person under the age of sixteen years shall be required to work for a longer period than four consecutive hours or permitted to work for more than eight working hours in one day.

Section 60 prohibits the employment of children at night work and describes night work in Section 60(4) as a period of at least twelve consecutive hours, including:

- (a) in the case of young persons under the age of sixteen years, the interval between ten o'clock in the evening and six o'clock in the morning
- (b) in the case of young persons over the age of sixteen years but under the age of eighteen years, a prescribed interval of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning.

### 3.4 Compulsory, Free Universal Basic Education Act 2004

This Act provides for compulsory, free universal basic education for all children of primary and Junior Secondary age in the Federal Republic of Nigeria. The Act further seeks to provide punishment for parents for failing to comply with its provisions. PART 1, Section 2 sub-section 1 and 2 state:

1. "Every Government in Nigeria shall provide free, compulsory and universal basic education for every child of primary and Junior secondary school age"
2. "Every parent shall ensure that his child or ward attends and complete his:
  - Primary school education; and
  - Junior secondary school educationBy endeavouring to send the child to primary and Junior secondary schools".

### 3.5 National Policy on Child Labour of Nigeria

The national child labour policy is complimentary to all existing laws, protecting children in Nigeria. The policy recognises the need for networking among the stakeholders and provides them the opportunity to contribute to efforts on elimination of child labour particularly its worst forms. The ultimate goal of the policy is to provide a legally binding and standardised guidelines for actors implementing the national programme on child labour especially in its worst forms towards a drastic reduction of its prevalence. The policy targets include:

1. All children who are at risk of physical, emotional sexual and other forms of abuse and denial of their rights.
2. Child labourers, parents and guardians, relevant government ministries and agencies, Federal, State and Local government levels, employers of labourers, trade unions, media, NGOs. CBOs, FBOs trade associations, market associations, professional associations, community development associations, town unions, social workers, community leaders, traditional rulers, teachers, political parties, and international development agencies and other stakeholders.

### 3.6 National Action Plan for the Elimination of Child Labour and its Worst Form

The new National Action Plan (NAP) which replaced the 2013-2017 NAP is expected to run from 2021 to 2025, i.e., for five years period. The goal of the 2021-2025 National Action Plan on the Elimination of Child Labour is to provide a roadmap for accelerating action towards achieving the elimination of the worst forms of child labour by 2025 and child labour in its entirety in 2030. This new National Action Plan is to implement the phase two of the National Policy on Child Labour. It has a comprehensive thematic area with clear goal,



objectives and expected outcome. It has also identified gaps relating to child labour elimination and has outlined clear strategies to help achieve the goal of the NAP for the elimination of child labour and its worst form.

## 4 Enforcement of Child Labour Laws in Nigeria

The government of Nigeria has set up institutional mechanisms for the enforcement of laws and regulations on child labour. Key agencies responsible for child labour law enforcement include: the Federal Ministry of Labour and Productivity, Anti-Trafficking Agencies, Nigeria Police, Nigeria Immigration Service.

Table 4: Agencies Responsible for Child Labour Law Enforcement in Nigeria

No	Agency	Role
1	Ministry of Labour and Employment	Deploys labour inspectors across 36 state labour offices and the federal capital territory to enforce federal child labour laws. In 2021, the Ministry launched the commemoration for the International Year for the Elimination of Child Labour, which prioritized the elimination of child labour, forced labour, modern slavery, and human trafficking.
2	Anti-Trafficking Agencies	Enforces laws against human trafficking and exploitative labour. Coordinates with the Ministry of Women's Affairs and Social Development and state governments to provide child labour survivors with social services and reunite trafficked children with their families. Operates hotlines for survivors in Abuja and each zonal command center. Includes an Investigation and Security Unit tasked with the prevention and detection of human trafficking cases.
3	Nigeria Police	Enforces all laws prohibiting forced child labour and commercial sexual exploitation. Collaborates with the National Agency for the Prohibition of Trafficking (NAPTIP) to address human trafficking issues.
4	Nigeria Immigration Service	Collaborates with NAPTIP to enforce laws against child trafficking

Source: U.S. Department of State. Trafficking in Persons Report- 2021 and 2022, Nigeria.

### 4.1 Government policies and programmes for the prevention of child labour

Further to the ratification of conventions and national legislation, the government of Nigeria also addresses child labour issue through policies, programmes and national action plans. Some of these are directly related to child labour, while others are indirectly linked to root causes or potential consequences of child labour.

Table 5: Government Policies related to Child Labour in Nigeria

No	Policy	Description
1	NAPTIP 2019 Plan of Action	Provides a framework for mobilizing NAPTIP and all stakeholders involved in addressing human trafficking, with an emphasis on enforcement, prosecution, and provision of services to survivors. NAPTIP support the work of civil society organizations to increase capacity, coordination, and services provision for countering trafficking in persons.
2	National Social Behavioral Change Communication	Addresses child labour at the household and community levels through awareness-raising activities. The country plans to use advocacy, research and communication to provide enlightenment on the dangers of the scourge

	Strategy for Elimination of Child Labour in Nigeria (2020-2023)	to physical, psychological and collective development.
3	National action plan for the elimination of child labour and its worst forms 2021-2025	Provides a roadmap for accelerating action towards achieving the elimination of the worst forms of child labour by 2025 and child labour in its entirety in 2030. This new Action Plan is to implement the phase two of the National Policy on Child Labour
4	List of hazardous child labour	Identifies and determines the most extreme hazardous conditions to which children are exposed in various occupation in Nigeria to facilitate maximum protection that will take into account the best interest of the child.

Source: U.S. Department of State. Trafficking in Persons Report- 2021: Nigeria and National Action Plan for elimination of child labour (2021-2025)

Table 6: Key Child Labour programmes implemented in Nigeria from 2017

No	Program	Description
1	NAPTIP Shelters for Human Trafficking Victims	Government-funded program that operates 10 shelters in Nigeria, capable of housing up to 315 trafficking survivors. Shelters provide legal, medical, and psychological services, as well as vocational training and business management skills, along with referring survivors to NGOs for additional care. Shelters continued to operate during the reporting period.
2	Accelerating Action for the Elimination of Child Labour in Supply Chains in Africa (2018–2022)	ILO-sponsored regional project aimed at eliminating child labour in supply chains, with particular focus on those involved in the production of cocoa, coffee, cotton, gold, and tea. Collaborates with global supply chain actors working in Africa on public policy, good governance, empowerment, representation, partnership, and knowledge sharing. Research was unable to determine whether this project was active during the reporting period.
3	USDOL-Funded project	USDOL-funded projects that aim to eliminate child labour. These projects include: Measurement, Awareness Raising, and Policy Engagement Project on Child Labour and Forced Labour, a project implemented by ILO to conduct research and develop new survey methodologies, improve awareness, strengthen policies and government capacity, and promote partnerships to address child labour and forced labour
4	World Bank-Funded Programmes	Projects aim to improve access to education. Include: National Social Safety Nets Project (2016–2022), a \$50 million project that aims to provide primary school lunches and offers conditional cash transfers based on children's enrolment; and the Better Education Service Delivery for All (2017–2022), a \$611 million project that aims to increase access to education for out-of-school youth and improve literacy. In 2021, the National Social Safety Nets Project continued working to enrol participants in 33 states across the country.

Source: U.S. Department of State. 2021 Trafficking in Persons Report for Nigeria

Nigeria policies and programmes response to child labour addresses several important aspects necessary to eliminate child labour. In spite of this, ILO estimates that about 15 million children are involved in child labour (<https://businessday.ng/news/article/child-labour-15m-children-engaged-in-child-labour-in-nigeria-ilo/>).

## 4.2 Agencies coordinating action related to child labour in Nigeria

The government has set up structures to coordinate its efforts to address child labour. These include National Steering Committees, National Steering Committee for the Elimination of the Worst Forms of Child Labour.

Table 6: Role of government Coordination Bodies on Child Labour in Nigeria

No	Coordinating Body	Roles and description
1	National Steering Committee for the Elimination of Worst Form of Child Labour	Coordinates efforts to address child labour. Led by Ministry of Labour and Employment and comprises representatives from seven governmental agencies, faith-based organizations, NGOs, ILO, and UNICEF. Members are charged with leveraging resources for project implementation from their institutions and identifying synergies with other existing programmes. This committee reviewed and validated the National Policy on Child Labour and the National Action Plan on the Elimination of Child Labour 2021–2025 to conform to the Regional Action Plan on Child Labour. In addition, the committee trained 37 Child Labour Desk Officers across the country on the application of the National Policy on Child Labour and the National Action Plan on the Elimination of Child Labour.
2	State Steering Committees on the Elimination of Child Labour	Operates in the 36 Nigerian States and executes the provisions of the National Action Plan on the Elimination of Child Labour at sub-national levels. The State Steering Committee trained media practitioners from the public and private sector on the contents and implementation of the National Social Behavioral Change Communication Strategy. Also, the State Steering Committee held meetings across the country to develop and align local plans with the National Action Plan.
3	Inter-ministerial Task Force on Trafficking in Persons	Coordinates child labour issues related to human trafficking. Chaired by NAPTIP, the task force is responsible for developing national policies on human trafficking

Source: U.S. Department of State. 2022 Trafficking in Persons Report for Nigeria

Table 7: International standards on child labour enshrined in Nigeria legal system

Standard	Meets International Standards	Age	National legislation
Minimum Age for Work	No	12	Section 59(1) of the Labour Act; Sections 28, 29, and 277 of the Child's Right Act
Minimum Age for Hazardous Work	Yes	18	Section 59 (5) and (6) of the Labour Act; Sections 28, 29, and 277 of the Child's Right Act
Identification of Hazardous Occupations or Activities Prohibited for Children	Yes		Sections 59–61 and 91 of the Labour Act; Section 28 of the Child's Right Act; (22,23)
Prohibition of Forced Labour	Yes		Sections 13, 21-25, and 82 of the Trafficking in Persons (Prohibition) Enforcement and Administration Act 2015; Sections 28, 30, and 277 of the Child's Right Act; Article 34 of the Constitution
Prohibition of Child Trafficking	Yes		Section 13, 16, 17, 21-25, and 82 of the Trafficking in Persons (Prohibition) Enforcement and Administration Act 2015; Sections 30, 33, and 277 of the Child's Right Act

Prohibition of Commercial Sexual Exploitation of Children	Yes	Sections 13–17 and 82 of the Trafficking in Persons (Prohibition) Enforcement and Administration Act 2015; Section 23 of the Cybercrimes Act; Sections 30, 32, and 277 of the Child's Right Act
Prohibition of Using Children in Illicit Activities	Yes	Sections 25, 26, and 30 of the Child's Right Act
Compulsory Education Age	Yes	Sections 2 and 15 of the Education Act; Section 15 of the Child's Right Act
Free Public Education	Yes	Sections 2 and 3 of the Education Act; Section 15 of the Child's Right Act

Source: U.S. Department of State. Trafficking in Persons Report- 2022:

As can be seen from the table above, the Nigerian government already has legislation and several policies and programmes in place to address child labour. However, inadequate resources to implement interventions, hinders the government efforts.

## 5 Conclusions and recommendations

Nigeria has national legislation and has ratified several international standards necessary to protect children from child labour. Nigerian’s legislation protecting children from child labour is generally aligned with international standards. However, there are gaps/inconsistencies which need to be addressed. These include:

1. Nigeria Child Rights Act preserves certain portions of the Labour Act that are not in compliance with international child labour standards. This includes Section 59 and section 277, which sets the minimum age for employment at age 12 in contradiction to the Child Rights Act, which only permits children under age 18 to engage in light work for family members.
2. The minimum age for work is lower than the compulsory education age of 15 years. This is clear contradiction to ILO Minimum Age Convention No.138 which states that “the minimum age to be specified in conformity with the Convention shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years”. Therefore, the minimum age of employment in Nigeria legislation is capable of encouraging children to leave school for work before the completion of compulsory education and may lead to child labour.
3. Disparities continue to exist with the minimum age for employment. Documents and legal instruments continue to refer to different ages for the minimum age of work in Nigeria (NAP, 2021-2025)
4. The National Steering Committee for the Elimination of the Worst Forms of Child Labour developed a report in 2013 that identified hazardous child labour in Nigeria. The government is yet to determine by law or regulation the types of hazardous work prohibited for children. The List of hazardous activity has to be reviewed to help in the differentiation between child labour and permissible child work to identify the type of work that should be eliminated particularly in the cocoa sector.
5. The Labour Act also permits children of any age to do light work in agriculture and domestic work if they are working with a family member, which does not meet international standards. The Labour Act should be reviewed to ensure compliance with international labour standards and align with Convention 138 on the minimum age of work.
6. The minimum age protections in the Labour Act do not apply to children who are self-employed or working in the informal economy.

7. Section 29 (4b) of the Constitution provides that any woman who is married is deemed to be of full age. This is irrespective of the biological age of the woman at the time of marriage. This provision is capable of encouraging child marriage which consequently may lead to child labour.

The different definition of who a child in various legislation may create misunderstanding amongst the population, and children of the same age may be treated differently in some part of the country particularly when assigning work to them. It is recommended that the definition of who a child is in all the national laws be revised and harmonised for child rights protection and to ensure this meet the international labour standards.

The minimum age for admission of a child to employment must be clearly defined in Nigeria legislation to be in alignment or consonance with ILO Convention 138 on Minimum age of Employment. Same must be done with the minimum age for the engagement of a child in light work.

The List of hazardous child labour has to be reviewed to include particularly cocoa production activities that are permissible for children with varied age group. This is because not all work undertaken by children in cocoa production or sector is child labour or hazardous child labour which should be prohibited. For example, children scooping cocoa beans, sorting cocoa beans, watering nursery (at limited hours) are permissible child work. However, the hazardous child labour activity list of 2013 fails to establish this.

In the context of CLMRS and in alignment with the Nigeria Multiple Indicator Cluster Survey of 2022, list of hazardous child labour of Nigeria, and Minimum Age Convention No.138, the following categories of work by children will be considered as “child labour” in the CLMRS questionnaires used to conduct child labour monitoring in cocoa-growing areas:

<b>Child labour</b>	
<b>Employment (for pay or profit) of any child aged below 15 years</b>	
Work for <b>more than the maximum allowed working hours</b> for each age group:	
<ul style="list-style-type: none"> <li>• <b>Age 5-11:</b> &gt; 1h per week</li> <li>• <b>Age 12-14:</b> &gt;2h per day; OR &gt;14h per week</li> <li>• <b>Age 15-17:</b> &gt;7h per day; OR &gt;42h per week</li> </ul>	
<b>Any of the following hazardous activities</b> below 18 years:	
<ul style="list-style-type: none"> <li>• <b>Land preparation</b> (including clearing of land, felling and chopping trees, removing tree stumps and burning)</li> <li>• Working in <b>extreme weather condition (heat or cold or humidity)</b></li> <li>• <b>Carrying or lifting or moving heavy loads</b></li> <li>• Exposure to <b>dust, fumes, or gas</b></li> <li>• Exposure to <b>loud noise or vibration</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Using or working with sharp tools or unsafe equipment</b> (e.g., machete or long cutlass, axe, chain saw, pluckers, so-so or go-to hell) for weeding, pruning, pod breaking</li> <li>• <b>Exposure to chemicals or explosive</b> (e.g., pesticides / herbicides / fungicides, spraying or mixing or application)</li> <li>• Working <b>at night</b> (between 10pm to 6am)</li> <li>• Work for <b>long hours</b></li> <li>• Working at <b>heights</b></li> </ul>

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