

AFRICAN PHILOSOPHY AND THE HERMENEUTIC INTERROGATION INTO CHILD LABOUR VIS-A-VIZ CHILD RIGHT ACT

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DOI: 10.13140/RG.2.2.25338.81600

Abstract

This paper explores the complex relationships between African philosophy, the Child Rights Act, and the phenomenon of child labour. While the Child Rights Act aims to protect children from exploitation and ensure their access to education, African philosophy emphasizes community, interdependence, and collective well-being. This tension raises critical questions about the cultural and hermeneutical context of child labour, economic realities, and the balance between individual child rights and collective well-being. The bone of the African economy prior to colonial invasion is characterized by skilled development. As such, skills in farming, carpentry, art works etc. are acquired from childhood as children learn skills of their parents and grow into adulthood. In learning such skills, the child is developing economically with the intention of independent sustainability and sustenance. The paper argues that the Child Rights Act has dangerously hampered on the skills learned in the process of the development of the African child. Hence, an average African child is left with an unskilled growth for economic empowerment. The paper contends that a blanket application of the Child Rights Act may not be effective in addressing child labour; as it fails to account for the complex cultural and economic contexts in which it occurs. This research adopts a qualitative approach in addressing these complexities so as to contribute to a deeper understanding of the intersections between African philosophy, child labour, and the Child Right Acts, and to inform more effective strategies for protecting children's rights while respecting cultural heritage and addressing economic realities.

Keywords: African Philosophy, Child Rights Act, Child Labour, Hermeneutics, Culture and Development

Introduction

The extent to which African philosophy must truly be African is such that it must understand itself and present its own narrative in a manner that it frees itself from external influence and not disregarding global road map, international standards and world best practices in the realization of its own development. It therefore means that before we begin to adopt, we should first look inwardly to understand ourselves as Africans, how we perceive what we do, and in so doing determine measures to improve and augment for

what we have. Hence, for any development to be authentic and sustainable, it should not be extricated from the culture and experience of its people.¹ To this end, before Africans can adopt best practices as standards from international organizations it should bring such issues to Africa and then look into it with the critical eyes of our own experience as Africans and adopt what works for us. This is the path African philosophy should operate with as the basis of authentic developmental strategies towards the contribution of African philosophy to the development of Africa.

A philosopher is the product of his environment “just as the life of an individual is shaped by environmental and cultural elements”.² The term 'child labour' does not fit into the dictionary of the African philosophical lexicon due to the misinterpretation, misunderstanding, and misappropriation of the term. The term 'child labour' is strange to the African; just as Western feminist ideological framework is strange to a typical African society. Most times there is this hasty attitude to quickly consider Western narratives as the best narrative for theoretical understanding of reality. This has landed Africans in waters of developmental hullabaloo.

The Child Rights Act despite its lofty principles and laws undermines human capacity development in Africa. The insistence on formal education has succeeded in putting the developmental process of the African child into a state of an unskilled and unprepared personality and has become a victim of unemployment in African societies. To this end, African societies have become inadequate in industrial development, and have become victims to shortage of food, and there after depend on foreign investment for industrialization.

The paper does not argue against the Child Right Acts; but what is considered Child labour is actually a method of skill acquisition through hands on learning whereby the African child learns a skill through cultural mentorship and parenting. This according to MarySlyvia Nwachukwu is the powerful effect of kids watching and learning from adults do something³&⁴ through hands on experience. This paper does not completely do away with formal or Western form of education; rather a symbiotic and complimentary analysis would have brought about mutual respect of cultures; rather than imposition and superiority of cultural imperial dynamics.

Definition of Child Labour

According to International Labour Organization (ILO) “Child labour refers to the exploitation of children through any form of work that deprives them of their childhood,

¹G.E. Ogbenika, *African Philosophy and the Quest for Development in Africa* (Benin: Mindex Publishers, 2020) p. 30

²M. Nwachukwu, “Maintaining Quality and Innovation in Catholic Higher Institutions of Learning in Africa: Towards Mentoring Young Africans” Stan Chu Ilo, Nora K. Nonterah, Ikenna U. Okafor, Justin C. Nabushawo & Idara Otu (Eds). In *Faith in Action: Reimagining the Mission of the Church in Education, Politics, and Servant Leadership in Africa* (Abuja: Paulines Publications, 2020) p. 186

³M. Nwachukwu, “Maintaining Quality and Innovation in Catholic Higher Institutions of Learning in Africa: Towards Mentoring Young Africans” p. 186

⁴M. Nwachukwu, “Maintaining Quality and Innovation in Catholic Higher Institutions of Learning in Africa: Towards Mentoring Young Africans” p. 186

interferes with their ability to attend school, or is harmful to their physical and mental development”.⁵ In addition to the definition of ILO, the United Nations Children's Fund (UNICEF) defines child labour as “work that is mentally, physically, socially, or morally harmful to children; interferes with their schooling; or deprives them of the opportunity to attend school”.⁶ The worst form of Child labour according to the International Labour Organization (ILO) Convention are “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”.⁷

Defining the Child Right Act (CRA)

The Child Right Act (CRA) is a legislation aimed at protecting the rights and well-being of children. According Awa Kalu, “it is a law that provides for the protection and welfare of children, and sets out the rights and responsibilities of children, parents, and the state in ensuring the best interest of the child”.⁸

What makes Philosophy African?

In defining African philosophy or what makes philosophy African is also a problem in the study of African philosophy. This does not mean this problem is associated with stumbling blocks to the discipline; nor does it mean that the existence of the discipline is threatened; nor does it suggest that it is controversial; but that the discipline is worth the enterprise of research to be undertaken. According to Osita Asogwa, “The idea of what constitutes African philosophy has occupied rational space for a long time. Many question what it really means to be African and whether the quality of its people's rational enterprise can be regarded as philosophy. Does the idea of African refer to the dark – skin inhabitants of the sub-Sahara or would that include their counterparts in North America and other parts of the globe? What marks a thought or an idea as 'African philosophy?' Indeed, there is an ongoing debate on the possibility of anything that could be called philosophy originating from traditional African culture, and whether the philosophical product of the African past and present can be generally designated as 'African philosophy’”.⁹

African philosophy is different from Western philosophy in every ramification most

⁵International Labour Organization “Child Labour: A Handbook for Action” (Geneva: ILO Publications, 2002) p, 13

⁶United Nations Children's Fund (UNICEF) “The State of the World's Children” (UNICEF Publication, 1997) p. 43

⁷International Labour Organization “Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour” (ILO Publication, 1999) p. 23

⁸A.U. Kalu, “The Child Right Act: A Commentary” (Abuja: Nigerian Institute of Advanced Legal Studies (NIALS) Publications, 2004) p. 1-5

⁹O.T. Asogwa, “Philosophy and Theology in Dialogue in an African Ecclesial Context: Lessons from Veritatis Gaudium” Stan Chu Ilo, Nora K. Nonterah, Ikenna U. Okafor, Justin C. Nabushawo & Idara Otu (Eds). In Faith in Action: Reimagining the Mission of the Church in Education, Politics, and Servant Leadership in Africa (Abuja: Paulines Publications, 2020) p. 164

nd Theology in Dialogue in an African Ecclesial Context: Lessons from Veritatis Gaudium” p. 182

especially in terms of hermeneutics, culture, and history. More importantly and fundamental it is the search for the African identity.¹⁰ This search for the African identity prompts the philosopher in Africa to interrogate the realities that confronts the African condition and how we understand reality. Doing philosophy in Africa or African philosophy does not seek to combat Western philosophical traditions; but, seeks to compliment and present to the world the African story,¹¹ heritage, culture, traditions and history imploring reasoning or critical thinking in the search for African personality, identity and cosmology. It is the reflection of the African condition or an inquiry into the African condition in other to progress from where we are as Africans, who we are and to better understanding where we are going as a continent. This therefore, underscores the necessity of telling our own story to the world using the African methods of telling her story so that the world will better understand the African who seeks not to be misjudged, misconstrued, misinterpreted, misunderstood, misrepresented, and misplaced.

The Historical Context of the Child Right Act

Laws are not made in a vacuum. Laws are made considering certain circumstances, situations and contextual dynamics that negatively affects a people. The African does not understand what constitutes abuse of human right until the Western understanding of abuse of human right resonates in the African mind. This is because Africans respect and uphold the dignity of the human being and persons. According to Zaynab Bashir “Tracing the history of child rights and child protection to the colonial period in Nigeria, it was observed that the issue of child protection was nonexistent in Nigeria for a long time and that during the colonial rule, the welfare of the Nigerian child was not particularly, a major concern to the colonial master”.¹² This is because such abuses were minimal and never drew the attention of the colonial masters. This does not mean that during the colonial era there were no laws protecting children or policies that did not care about the welfare of the child; there had been enacted the Criminal Code Act which regulates penalties for offences committed by citizens including children. Also, the Prison Ordinance of 1917 makes provision for the separation of children of below fourteen years from adult prisoners.¹³ In fact, abuse of human dignity is abhorred in the lens of African culture; and when abuses arise there were always corrective measures of internal cultural control that is used to put in check maltreatment and abuse. In the midst of the African understanding of what we do as Africans, there is no perfect culture anywhere in the world. There is much more awareness of cultural aberrations which does not undermine the African dignity of the child. Hence, culture is dynamic and constantly in the process of becoming what can make it renewed, change and revived from what it uses to be.

¹⁰T.D. Adidi, “Interrogation into the Defence of a 'Problem – Centric' Research Agenda for African Philosophy in the Thoughts of Oghenekaro Ogbinika and Elizabeth Oluwafumilayo Kehinde”. In AKU: An African Journal of Contemporary Research Vol. 5 No. 1, A Publication of the Association for the Promotion of African Studies, ²⁰²⁴

¹¹O.T. Asogwa, “Philosophy a

¹²Z. Bashir “An Evaluation of the Impact of the Child Right Act in Regulating the Rights of a Child in Nigeria” In a Publication of International Association of Women Judges, February, ²⁰²³ https://www.iawj.org/content.aspx?page_id=2507&club_id=882224&item_id=4600 Retrieved online ^{26th September, 2024}. Zaynab Bashir referenced the work of N.A. Iguh, 'An examination of the child rights Protection and Corporal Punishment in Nigeria' Nnamdi Azikiwe University Journal of International Law and Jurisprudence. Vol.2. ²⁰¹¹. P. ⁹⁹

¹³Z. Bashir “An Evaluation of the Impact of the Child Right Act in Regulating the Rights of a Child in Nigeria” In a Publication of International Association of Women Judges, February, ²⁰²³ https://www.iawj.org/content.aspx?page_id=2507&club_id=882224&item_id=4600 Retrieved online ^{26th September, 2024}.

The historical context in which the Child Right Acts was enacted was due to various factors, which can be categorized into international, national and social influences. Despite the international and national factors which aim at protecting the African child, the social factors include high child mortality rates, child exploitation and abuse, street children and child begging, child labour and trafficking, lack of access to education and healthcare, cultural and traditional practices harmful to children (e.g., child marriage, female genital mutilation etc.). These social factors are enough grounds for the Child Right Acts to protect the African child. Therefore, in order to protect the African child it became necessary to adopt the various international and national policy framework; and laws to protect the Nigerian child and this brought about the United Nations Convention on the Rights of the Child (CRC) in 1989 which was the springboard for the Child Rights Act was adopted in 1989 and the said convention with 54 articles have today been ratified by 196 countries with only 1 country still to ratify.¹⁴ These are laudable development to respond to the needs of the African Child. Unfortunately, the Child's Right Act was passed into law in July 2003.

However, the Act being a federal law does not automatically become applicable or operative in the 36 states of the Federation and therefore, each state is required to re-enact the said Act as a state law within its territory as matters of child right is not on any of the legislative list of the Constitution.¹⁵ This is not the immediate concern of this paper; nonetheless, this constitutes the matters arising as it pertains to why other states have refused to adopt or sign the Act into law? This suggests the interplay between law, culture and the dynamics of hermeneutics in the positioning of a critical evaluation of law in the study of jurisprudence or philosophy of law. Culture and religion have their vantage points in raising the Nigerian child. However, there are certain cultural and religious practices which tends to endanger the life of the child which the Act seeks to protect.¹⁶

The Child Rights Act and Matters Arising

In the face of the provisions of the Child Rights Act, there is no gainsaying that the Act has intended the best life for the Nigerian Child. The question that however arises is to what extent has the life of the Nigerian child been impacted by the provisions of the Act to make for a change in the narrative of an average Nigerian child whose life is not hitherto guaranteed nor assured of a daily meal nor proper shelter.¹⁷ The adoption of these laws as invented by the international community and uncritically overlooked by the African people have created more problems than expected. This is particularly seen as considering more emphasis on the formal education to the detriment of skill acquisition

¹⁴Z. Bashir "An Evaluation of the Impact of the Child Right Act in Regulating the Rights of a Child in Nigeria" In a Publication of International Association of Women Judges, February, ²⁰²³. https://www.iawj.org/content.aspx?page_id=2507&club_id=882224&item_id=4600 Retrieved online ^{26th September, 2024}.

¹⁵G.A. Arowolo, "An Appraisal of the Legal Framework for Child Justice Administration in Nigeria". In Journal of Law and Criminal Justice (June ²⁰¹⁸), Vol. ⁶, No. ¹, p. ⁸⁹

¹⁶Z. Bashir "An Evaluation of the Impact of the Child Right Act in Regulating the Rights of a Child in Nigeria" ²⁰²³,

¹⁷Z. Bashir "An Evaluation of the Impact of the Child Right Act in Regulating the Rights of a Child in Nigeria" ²⁰²³,

which has always been a source of economic empowerment for the Nigerian child. When a child follows his/her parents to the farm to till the soil for produce and learn on the skill of Agri-culturing, such a child grows to become a farmer who would produce crops to feed the community and himself. Formal education was not an emphasis compared to informal education. In this regard, a child grows to become an entrepreneur selling produce and feeding the nation. Despite the intention of the to give the Nigerian child a better life, the Nigerian child is still a victim of circumstances as he grows to become an adult. The informal education due to the emergence of the Child Right Act has made the Nigerian child abandon the traditional method of education that would have empowered and cater for the growing unemployment in Africa. Unemployment is used to describe a situation whereby the population of people to work are unable to get something¹⁸ doing due to over reliance on formal education. The Nigerian society has constantly conditioned the child towards classroom education as a panacea for success without recourse to skill acquisition.

Entrepreneurial skills have a very close link with sustainable development for the Nigerian youth and child. So far in Nigeria there is now a clarion call for us to return to the status quo towards the realization of skill acquisition so as to help drive sustainable development in Nigeria, so that an average Nigerian child and youth can become self employed and in turn employ others.¹⁹ The Nigerian child ought to key into this venture of entrepreneurship education from the age of learning since the point of informal education is from the home as a proactive measure to meet current challenges in the realization of problem-solving skills.²⁰ According to Asuquo and Adidi “Entrepreneurship is an art as well as a science that studies the methods and pathways of skill acquisition; as it is very fundamental to wealth creation and integral development”.²¹ The Child Right Act has neglected the area of African Science and interpretation also known as African hermeneutics in proving a solution to a preconceived African problem. Therefore, to educate a child without skill acquisition in Nigeria can be frustrating; the Nigeria of today produces chunks of graduate to the extent that they come to the labour market without anything to offer. This implies that they are full of theoretical knowledge without the propensity or propelling force to apply what they have fully read into practical live.²²

African Philosophy and African Hermeneutics: Towards Cultural Interpretation of the African Personality

In doing African philosophy there is sense in which context should be applied and the

¹⁸T.D. Adidi & P.C. Omenukwa, “A Philosophical Appraisal of Igwebuikconomics in the Thoughts of Anthony Ikechukwu Kanu”. In OCHENDO: An African Journal of Innovative Studies” In a Publication of the Association for the Promotion of African Studies, Vol. 5, No. 1, 2024 p. 3

¹⁹T.D. Adidi, “Nigerian Youths and Sustainable Development: A Philosophical Analysis on the Speech of the Nigerian President at the Common Wealth Forum in London”. In IGWEBUIKE: An African Journal of Arts and Humanities, Vol. No. 4. A Publication of Tansian University, Umunya October, 2018 p. 63

²⁰T.D. Adidi, “Nigerian Youths and Sustainable Development: A Philosophical Analysis on the Speech of the Nigerian President at the Common Wealth Forum in London” p. 64

²¹G. Asuquo & T.D. Adidi, “Obafemi Awolowo's Concept of Magnitude and the Drive Towards Entrepreneurial Oriented education: A Case for Capuamanuism” Anthony Ikechukwu Kanu, Martins Onukwuba, Peter Kanyip Bakwaph, Mike Bassa Boni, Timothy Dokpesi Adidi (eds.) In Economics, Higher Education and Sustainable Development in 21st Century. A Festschrift in Honour of Professor Ichoku Hyacinth Ementa (Jos, Augustinian Publications, 2023) p. 385

interpretation of the African reality in which Africa's young people grow, develop, and are nurtured. African philosophy as a discipline ought to approach issues of concern through the intentionality of social control rather than interpreting the African reality from a perceived attitude such as a dehumanizing presentation of any given circumstances to suit the interest of African social constructionist school of thought. Hence, in doing African philosophy there is a need to separate African philosophy from African culture. Although, culture is philosophy; but philosophy is not culture; and African philosophy is not African culture. Nevertheless, in doing African philosophy there should be a certain degree of understanding, knowledge and perception of the African people and her cultures, traditions and history. According to Makinde, “the imprint of that of an individual thinker in a particular culture are the creative powers”. He went further to say, “since not everybody in a culture possesses a creative power,²³ not everybody in a society is a philosopher or a scientist. While both the philosopher and the layman share a similar culture because both are products of the same culture, the philosopher is not wholly bound by his lay culture and thus has an autonomous standing for reflective criticism.”²⁴

The study of hermeneutics as a science of interpretation is closely tied to doing African philosophy. Hence, there is a sense in digging, unearthing, understanding the cultural life of the African people so as to confront the cultural values that have been eroded by colonial interpretation of the African reality due to misinterpretation, misrepresentation, and a misjudged prejudice by racist ideology of colonial perception. Thus, according to Messay: “Africans are so alien to modern and rational life that they cannot be expected to make progress without a close and corrective European tutelage. The category of primitiveness divests African thinking of any inner impulse to liberate itself from irrationality, myths, and obsolete habits. Only under the supervision and guidance of the West can it be dragged into some kind of rationality”.²⁵

However, despite this strong description against the African people in constructing their own lifestyle without the influence of the West in an attempt to describe the African society; there is no better description that can best describe the African world unless the African people themselves.²⁶ This misrepresentation of the African story without recourse to a hermeneutic approach to African philosophy has led us to a cultural diffusion and confusion that has alienated Africans from the wealth of their traditions and cultures; a breakdown of cherished family unity, the ethnic and tribal tensions, and the socio-political crisis which led to war, displacement of persons, increased poverty orchestrated by insecurity and unemployment.²⁷ Therefore, African hermeneutics should seek to understand the meaning and significance of texts within the context of African

²²G. Asuquo & T.D. Adidi, “Obafemi Awolowo's Concept of Magnitude and the Drive Towards Entrepreneurial Oriented education: A Case for Capuamanuism”, p. 359

²³M.A Makinde, African Philosophy: The Demise of a Controversy (Ile-Ife: Obafemi Awolowo University Press, 2010) p. 14

²⁴M.A Makinde, African Philosophy: The Demise of a Controversy, p.14

²⁵K. Messay, “Development and the African Philosophical Debate” In Journal of Sustainable Development in Africa, Vol. 1 No. 2, Summer 1999 <https://www.rrojasdatabank.info/afro.htm> retrieved online 19th September, 2024

²⁶T.D. Adidi & J. Aye, “Negritude: Towards an Authentic African Narrative in the Thought of Leopold Senghor”. In IGWEBUIKE: An African Journal of Arts and Humanities, Vol. 10 No. 2 (A Journal of the Department of Philosophy and Religious Studies, Tansian University, Umunya: 2024) p. 45

²⁷M. Nwachukwu, “Maintaining Quality and Innovation in Catholic Higher Institutions of Learning in Africa: Towards Mentoring Young Africans” p. 187

cultures, histories, and experiences.

The Hermeneutics of Parenting and Mentoring in African Culture

The hermeneutics of African parenting and mentoring encompasses the cultural, philosophical, and social contexts that shape the way Africans approach child – rearing and mentorship. Thus, parenting is the process of raising and educating a child from conception to birth and from birth until adulthood. This is because when an African woman becomes pregnant, she begins to be very careful about her activities from what she says and whatever she does; believing that any activities carried out by her affects the child in her womb. Parenting and mentoring go hand in hand in African culture. Parenting and mentoring do not just end in the home, but extended to learning parental duties and responsibilities outside the home as it pertains to work. The four walls of the classroom can always augment for what children learn at homes and the skill acquire as they learn from their parents by either going to farm, going with their parents to their place of work where they learn various arts as they assist their parents in doing their jobs and learning hands on experience. Typically, a culture is transmitted from one generation to the next, from intelligent adult to inquisitive child. The adult learns the customs and traditions of the culture from more experienced acculturated adults; therefore, this transmission usually occurs just by exposure and example. For example, the mother orangutan, who fishes food out of a fissure using a specially prepared stick, learned this ability and is passing it on to her youngster, who is carefully observing and perched on her shoulder (parenting and culture).²⁸ Parenting is seen as having many different forms in the African system, all of which can help a child grow up to be a responsible adult. While there are many different parenting approaches, there are certain methods that an African parent raises their child to help them grow up to be responsible adults as well as absorb the cultural values of their community.²⁹ Being a parent involves emotional needs as well as interpersonal skills.³⁰

The African culture of apprenticeship is fast going into extinction as many Nigerian youths now grow in pursuit of western education to acquire degrees. Yet, according to Adidi and Omenukwa, “Apprenticeship development affords the youth the opportunity to be productively engaged so as to divert their attention from negative vices such as crime, militancy and so on”.³¹ Apprenticeship is a well-known learning paradigm that can help people enhance their skills and sense of identity in the workforce. It is also becoming more and more alluring due to its capacity to improve attitudes and cultivate soft skills³² in a society that unemployment seems to have destroyed the very foundation of wealth creation in Africa. The African child must not solely rely on the four walls of the classroom as the basis for their development; but should return back to the African culture of learning through engaging in parental mentoring through informal education so as to prepare for the real world of unemployment to create employment for self and

²⁸P.M. Amos, Parenting and Culture – Evidence from Some African Communities. In an Open Access Journal Online Published December, 2023 <https://www.intechopen.com/chapters/45760>, Retrieved online 27th September, 2024

²⁹P.M. Amos, Parenting and Culture – Evidence from Some African Communities.

³⁰J.W. Santrock, Life-Span Development (New York: McGraw Hill Companies, Inc., 2006)

³¹T.D. Adidi & P.C. Omenukwa, “A Philosophical Appraisal of Igwebuikeconomics in the Thoughts of Anthony Ikechukwu Kanu” p. 11

³²K. Vaughan, “The Role of Apprenticeship in the Cultivation of Soft Skills and Dispositions” In Journal of Vocational Education and Training” Vol. 69 (1) May, 2017 https://www.researchgate.net/publication/316867190_The_role_of_apprenticeship_in_the_cultivation_of_soft_skills_and_dispositions Retrieved Online 27th September, 2024

others in Africa. To this end, understanding the African methodology of child development should not be left out in restoring the African child towards a harnessed dignity and proper guidance.

Conclusion

The uniqueness of the Child Right Acts does not in anyway undermine the African child. It rather has given a framework towards uplifting the African child. The understanding of child labour is alien the African; and as such what is termed child labour does not reveal the intent of what constitutes parenting and mentoring in African culture. Nevertheless, the Act did not put the African cultural and hermeneutical matrix into consideration despite the rich cultural heritage of the African people in providing certain cultural ingredients in enhancing the informal or traditional method of education in Africa. The African parenting and mentoring skills out not to be taken for granted as a tool and method towards enriching the African child. More so, the paper has however provided a framework towards an enhanced and harnessed process of learning and not neglecting the African rich and cultural values of mentoring.

The paper has established the necessity for pushing and advancing forward African philosophy as a discipline towards advancing the search for a true African identity and self-realization. Therefore, since globalization has become a necessary agent for change, it ought not to throwaway cultures, history, tradition of a people so as to have a blended and realistic approach towards authentic development that is sustainable and integral to the formation of the human person.

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