

THE VULNERABILITY OF ALMAJIRI CHILD AMIDST CORONA VIRUS PANDEMIC IN NORTHERN NIGERIA: MATTERS ARISING

By

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Abstract

A child cannot be considered and seen as an adult in respect to life. As regards to their rights an average child is weak, ignorant and less informed to fight for his rights as a citizen. It is against this background this paper intends to discuss the right of a child to education as well as the right of a child to health care under Islamic law and the conventional laws. The paper will also discuss Corona virus pandemic and its protocols in relation to Tsangaya (Islamic Education Centres) and the life style of Almajiri's (the students). The paper adopted qualitative method of legal research. This involved the use of doctrinal and non-doctrinal methods. The doctrinal method was based on a library research where the primary sources of information such as the Qur'an, *Sunnah* and Constitution were consulted, interviews were also conducted in line with non- doctrinal methods. The paper observed among others that both Islamic law and the conventional laws have recognized the right of a child to education and health care without any derogation at all times and makes it's the responsibility of the parents and government to provides the children with such rights. The paper concluded that, the present practice of Almajiri system of education is not in line with the provision of Shari'ah as well as the Conventional laws in Nigeria. The paper recommends among others that, the northern states government should as a matter of urgency remodeled the Almajri system of education in to the basic and compulsory education programme and integrate it in to the formal educational system

1.0.0 Introduction

Islam as a religion has great emphasis on Education and considers it as fundamental right upon of every human being whether young or old as provided for by the first revealed verse that descended upon the Prophet

(s.a.w) which states, Read (Iqra) In the name of your Lord who created all that exists'.¹ The Arabic word (Iqra) means to Read! To seek knowledge! Educate yourselves! Be Educated, to this end the Qur'an provides: Allah created man and provided him with basic means of acquiring knowledge such as hearing, sight and mind.² Childhood is the most fertile period in building the intellectual capacity of a human being generally,³ therefore Islam make it as a responsibility upon the parents, family and ummah (community) at large to educate their children the virtues of Islam as a religion as well as the worldly knowledge that will make their livelihood easy.⁴

In the same vein, Islam as a religion has laid much emphasis on the responsibility of parents to protect their children from any form of health hazard and at the same time making good health care service available whenever they fall sick. Children's rights to health also include preventing them against infectious diseases by providing the necessary vaccinations which improve their immune system.⁵ When parents do all this, they are deemed to have comply the tradition of the Prophet (s.a.w) which provides: "And your children have a right over you ... So, give to each what they have by right".⁶

The 2019 COVID-19 is a disease caused by a new strain of coronaviruses that has not been previously identified in humans.⁷ It was first detected on the 7th of January, 2020 in Wuhan, China. Coronavirus can be transmitted from person to person, usually after close contact with an infected patient, for example, in a household or healthcare setting.⁸ Initially, COVID-19 transmission appeared to be zoonotic, but recently, person-to-person

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¹ Qur'an Ch. 96 V.1

² Qur'an Ch.18 V.78

³ Samuelsson, I. P (2008). *The Contribution of Early Childhood Education to a Sustainable Society* Paris, France UNESCO REPORT 2008. <unesdoc.unesco.org> accessed on 29 May, 2020

⁴ Abdal-Ati, H, and Hamidah A. "Modern Problems, Classical Solutions: An Islamic Perspective on the Family." Vol. 5, No. 2, 1974 *Journal of Comparative Family Studies*, pp. 37-54. <www.jstor.org>Accessed 12 July 2020

⁵ Ibid

⁶ Al-Bukhari and Muslim on the authority of Abdullah Ibn Amr

⁷ Nigeria Centre for Disease Control (NCDC) <www.ncdc.gov.ng> accessed on 12 July, 2020

⁸ Ibid

transmission is the most common mode of transmission.⁹ The Nigeria Centre for Disease Control (NCDC), are monitoring the situation daily.

The Almajiri system of education also called (Tsangaya) in Hausa land, is a migratory system of Islamic education that emerged in the pre-colonial era of the Northern Nigeria.¹⁰ But the original status of Almajiri system of education has change with the conquest of the Emir's by the colonial masters in 1904, Almajirai plural of Almajiri are students of this system of education who grew up on the streets without the love, care and guidance of parents; their struggle for survival exposes them to abuse and health hazard.¹¹ It's against this background that, this paper will discuss the right of a child to education as well as the right of a child to health care under Islamic law and the conventional laws. The paper also intends to discuss Corona virus pandemic and its protocol at the same vein analyzing how the pandemic will affect the life style of Almajiri under the Tsangaya Islamic system of education. Finally, the paper concludes with observations and recommendation to the concern authorities.

2.0.0 The Right of a Child to Education and Health Care under Islamic Law

Education in Islam is a fundamental right of every human being whether young or old. The importance of learning or seeking of Knowledge in Islam cannot be over emphasised because the first verse that was revealed to the Prophet (s.a.w) was read in the name of your Lord who created all that exists.¹² This verse ordered people to seek knowledge; reading and writing was vivid evidence of the respect and appreciation endowed by Islam for science and knowledge. It is because childhood is the most fertile period in scientific and intellectual building of a human.¹³ Islam encourages parents to send their children to schools so that they can obtain the basic knowledge of religion, the knowledge about this life and the hereafter and most importantly, the knowledge of how to developed their self and their society at large.¹⁴ Seeking knowledge in Islam does not stop at the borders of knowing rulings

⁹ Ibid

¹⁰ Hanah L. J Nigerian Almajiri Children Abused, Abandoned and Brainwashed <www.insideover.com> accessed on 29 May, 2019.

¹¹ Ibid

¹² Qur'an Ch. 96 V 1

¹³ Pramling Samuelsson, I. (2008). The Contribution of Early Childhood Education to a Sustainable Society, p. 12.

¹⁴ Ibid

of Shari'ah, but all sciences.¹⁵ This basic knowledge, if neglected, might lead the person to embrace kufr, then one proceeds to acquire further knowledge about this life and the hereafter.¹⁶ We find rich evidence in the Prophetic tradition that seeking knowledge is mandatory, Al-Tirmidhi reported that the Prophet (s.a.w) said: "He who departs (home) in pursuit of knowledge is in the cause of Allah until he returns."¹⁷

Child health care means protecting the child from disease and damage. Islam wants to ensure everyone has good health and functioning body system which is considered as trust kept with a person himself.¹⁸ Therefore, parents should care for the child's health and keep the child away from physical and health harm. Parents are accountable to Allah for their child's health so that the child may be raised strong and sound. This is included in the general statements urging parents to take good care of their children, providing them with all that they need for good health and growing up, and not to neglect them in any way.¹⁹

Also in similar development, the Organization of Islamic Conference (OIC), 's Covenant on the Rights of the Child in Islam' (OCRCI) was adopted in 2005 to provide a legal framework, based on tenets of Islamic principles and ethos, to define the claims, rights, and obligations of the child, family, society, and the State.²⁰ The covenant in its objectives seek to provide free and compulsory primary and secondary education for all children irrespective of gender, religion and nationality and at the same time develop education through the enhancement of schools curriculum, provision of vocational training and training of teachers.²¹ The child according to the covenants also

¹⁵ The Family from an Islamic Perspective. (2016). Dar al-Ifta al Misriyyah. <www.dar-alifta.org/Foreign/ViewArticle> accessed on 29 September, 2020.

¹⁶ Zarabozo, J. A. D. M. (2007). A Guide for A New Muslim. Islam Kotob, p. 6

¹⁷ Narrated by Al-Tirmidhi in his Sunan, Kitab Al-'Ilm (Book of Knowledge), chapter "The virtue of seeking knowledge," 5/29, Hadith 2647. Narrated on the authority of Anas bin Malik, May Allah Be Pleased with Him

¹⁸ Muhammed M, *Rights of the Child in Islam theory Mechanisms Practices* 1st edn, (Iqbal International Institute for Research and Dialogue 2017) <<https://www.amazon.com>> accessed on 15th May, 2020

¹⁹ Ibid

²⁰ Organization of Islamic Conference (OIC), *Covenant on the Rights of the Child in Islam*, June 2005, <www.refworld.org/docid/> accessed 27 October 2020

²¹ Article 2(4), Article 12 (1 and 2 i –vii) of the Organization of Islamic Conference (OIC), *Covenant on the Rights of the Child in Islam* 2005.

has a right to preventive medical care and malnutrition control as well as providing the necessary health care service when is required.²²

Although with a significant development in the provision of the Covenant, it falls short of providing an institutional mechanism to convert claims into rights and render actions obligatory for the protection and development of children.²³ It was further noted that only 8 Member States have so far signed the Covenant, out of which only two have ratified it. Even though, all the OIC Member States have signed and ratified the UN CRC.²⁴ Under Islam law and other international instruments child rights are safeguarded at three distinct levels, which include family, Community and Government level.²⁵

(a) Family level: Parental care is the main foundation for providing protection for children and enabling them to enjoy the rights guaranteed to them by Islam.²⁶ Under Islamic law, the concepts of rights and duties, especially within the family, are reciprocal. The parents' duty to raise and educate their children and treat them with compassion and kindness is reciprocated by the child's duty of 'Ihsan' to them, which imply deference and obedience.²⁷ This concept of reciprocal duty is also echoed in the African Children's Charter.²⁸

(b) Community level: The community has a vital oversight role in providing an enabling environment for positive mental and physical development of children. Community-based organizations and religious leaders can play an important role to expose negligence of the parents towards the wards in terms of their responsibility and Governmental neglect in the realisation of child rights.²⁹ Zakat (alms) and charities also play a significant role in ensuring welfare of the orphans, vulnerable and destitute children (Almajiri's).

(c) Government level: It is a prerequisite that the State constitution should unequivocally mention that children are holder of specific rights. States

²² Article 15 of the Organization of Islamic Conference (OIC), Covenant on the Rights of the Child in Islam, 2005

²³ Tajudeen O. I. Legal Framework for The Protection of Child Rights in Nigeria (2015) No. 3 *AGORA International Journal of Juridical Sciences*, pp. 46-52

²⁴ Ibid

²⁵ Ibid

²⁶ Art 20(3) United Nations, Convention on the Rights of the Child as adopted in 1989.

²⁷ Abdl al Ati (1982) *Family structure in Islam* Indianapolis, IN: American Trust Publications p. 189.

²⁸ Art 31 African Children's Charter on the Rights and Welfare of the Child as adopted in 1990.

²⁹ Tajudeen O. I. Legal Framework for The Protection of Child Rights in Nigeria op.cit

should take all appropriate measures to ensure realisation of child rights including the highest attainable standard of physical and mental health without discrimination and, in doing so, be guided by the best interests of the child.³⁰ States must pass specific laws guaranteeing the protection of children from exploitation; set up specific national mechanisms to enforce the CRC provisions and take all necessary measures to abolish harmful practices compromising the dignity and integrity of the child. States must also exercise due diligence to prohibit, prevent and investigate acts of violence against children, eliminate impunity and provide assistance to the victims in all settings.

2.1.0 The Right of a Child to Education and Health Care under the Conventional Laws

The Constitution of the Federal Republic of Nigeria (CFRN) makes provision for general framework within which human rights are protected in Nigeria. The constitution contains an elaborate Bill of Rights,³¹ as well as the provisions on Fundamental Objectives and Directive Principles of states policy which are geared towards the promotion and protection of children's rights in Nigeria under a separate chapter of the Constitution.³² Under this chapter, government are required to provide free compulsory and universal primary education, free secondary education, free university education, and free adult literacy programs when practicable.³³

Certain provision s of the Constitutional imposes obligation on all arms and tiers of government to observe the fundamental objectives relating to socio-political, economic, educational and cultural matters.³⁴ According to the constitution, the State social order is to be founded on freedom, equality and justice and the State shall direct its policy towards ensuring that: (d) there are adequate medical health facilities for all persons.³⁵ However, these provisions are only directive principles of State Policy and no action can be brought against the government for enforcement of the provisions as they are

³⁰ Ibid

³¹ Chapter IV

³² Chapter Two

³³ Section 18(3) of the 1999 Constitution of Federal Republic of Nigeria (CFRN) as amended and see also Section 2 of the Compulsory, Free Universal Basic Education Act, 2004.

³⁴ Section 13 of the 1999 Constitution of Federal Republic of Nigeria (CFRN) as amended and

³⁵ Section 17 (d) of the 1999 Constitution of Federal Republic of Nigeria (CFRN) as amended and

not justiciable. The Nigeria government ratified the Convention on the Rights of the Child (CRC)³⁶ and the African Charter on Human and People's Rights respectively.³⁷ Nigerian government also signed the African Charter on the Rights and Welfare of the Child but decline to ratify it among others.³⁸ Following the ratification of the above cited international and regional instruments by the Nigerian government, it has instituted various legislative and institutional measures aimed at addressing various forms of violence against children.³⁹

In 2003, the Child Rights Act 2003 was passed into law by the National Assembly and domesticated the Convention on the Rights of the Child.⁴⁰ The CRA of 2003 expands the human rights bestowed to citizens in Nigeria's 1999 constitution to children.⁴¹ Although this law was passed at the Federal level, it is only effective if State assemblies also codify the law.⁴² As of 2009, the Child Rights Act was codified into law in 19 of Nigeria's 36 states.⁴³ There are four states in Nigeria in where the legislators have passed the law, but the governors have not instituted the act into law. In order to enforce Act, The National Child Rights Implementation Committee was created. Committees were also established for some of the states which have ratified the act.⁴⁴

3.0.0 The Almajiri System of Education and COVID-19 Pandemic in Nigeria

The Almajiri system of education are Islamic schools with a longstanding tradition in northern Nigeria, dating back to the 11th century.⁴⁵ During the pre-colonial era, the Almajiri system was established as an organized and comprehensive system of education for learning Islamic principles, values,

³⁶ United Nations, Convention on the Rights of the Child (CRC) op.cit

³⁷ Ogunniyi, D., The Challenge of Domesticating Children's Rights Treaties in Nigeria and Alternative Legal Avenues for Protecting Children". (2018) *Journal of African Law*. Vol 62 p. 447

³⁸ African Children's Charter on the Rights and Welfare of the Child op.cit

³⁹ Ogunniyi, D., The Challenge of Domesticating Children's Rights Treaties in Nigeria and Alternative Legal Avenues for Protecting Children. "op.cit

⁴⁰ Child Rights Act 2003 Laws of Federation 2004

⁴¹ Opeyoye, M., Child Rights Act 2003 in Nigeria: What Implications for the Application of Child's Rights in Islam? (2016) *1st International Conference On Women and Children Legal and Social Issues*, pp. 183–189.

⁴² Ibid

⁴³ Ibid

⁴⁴ Ogunniyi, D., The Challenge of Domesticating Children's Rights Treaties in Nigeria and Alternative Legal Avenues for Protecting Children." op. cit

⁴⁵ Odumusu, O, Odekunle, S.O, et al, (2013) *Manifestation of Almajirai in Nigeria: Causes and Consequences* Ibadan University Press. Pp 21 -28

jurisprudence and ultimately the recitation and memorization of the Qur'an and where students also learn trade for livelihood which became basic Islamic learning centres in all Muslim communities.⁴⁶ The system is just a replica of Islamic learning centres in Muslim countries like the Malaysia's Pondok, Indonesia's Pesantren and Madrasah in Pakistan and Egypt.⁴⁷ At that time, the system was funded by the state treasury and Zakat funds under the control of the Emirs of the then traditional government system that existed before the coming of the British, as well as well-meaning community members and parents who contribute through Sadaqah (Giving of alms).⁴⁸ The Islamic revolution of the 18th century solidified the Almajiri system under the Sokoto Caliphate,⁴⁹ then Almajiri schools were regulated and teachers reports directly to the Emir of their province. Students in the school were raised by teachers, parents, leaders and the community at large.⁵⁰

Early judges of Sharia courts, government officials and teachers amongst others were all product of Almajiri system, the system also laid an elaborate system of administration in the then Northern Nigeria as well as provided the colonial administration with needed staff.⁵¹ In fact, the Almajiri system was a civilizing agent through which the Mallam's educate their community members and children with Islamic education, in addition to the development of Ajami i.e. reading and writing in Arabic Alphabets.⁵² Based on this system the Kanem Borno empire and the Sokoto caliphate were largely educated with a complete way of life, governance, customs, traditional craft and trade. It is on record that Northern part of Nigeria was well organized, literate and devout.⁵³

⁴⁶ Ibid

⁴⁷ Hashimet A., "Traditional Islamic Education in Asia and Africa: A Comparative Study of Malaysia's Pondok, Indonesia's Pesantren and Nigeria's Traditional Madrasah," *World Journal of Islamic History and Civilization*, Vol.1 No.2, (2011), P.94.

⁴⁸ Fafunwa, B. (1991) *History of Education in Nigeria*, Ibadan: NPS Educational Publishers Limited, P. 55

⁴⁹ Ibid

⁵⁰ Ibid

⁵¹ Abdulkadir I.A. The Al- Majiri System of Education in Nigeria Today (2003) a paper presented at the 21st convocation lecture of Bayero University Kano <www.gamji.com> accessed on 14 May,2020

⁵² Ibid

⁵³ Hoechner, H. 'Striving for Knowledge & Dignity: How Qur'anic Students in Kano, Nigeria, learn to live with Rejection and Educational Disadvantage'. (2011) Vol. 23 *European Journal of Development Research*, pp. 712-728.

The British also refused to recognize the Almajiri education system as an important education, arguing that they were mere religious schools. Boko, (meaning Western education) was introduced and funded instead.⁵⁴ Circumstantially, all the learned people who were at the helm in pre-colonial Northern Nigeria were abandoned and considered illiterate or uneducated in the new system of government, making them not only unemployed but unqualified to be employed despite being able to read and write.⁵⁵ Islamic scholars who were reserved professionally for controlling the moral character of the society gradually became neglected.⁵⁶ With loss of support from the government and the helpless emirs, the Almajiri system therefore suffered serious backwardness and thereby collapsed. The cumulative effect of dismantling the Almajiri system of education by the colonial masters directly created the structural problems facing the Almajiri educational system in Northern Nigeria as to what we have today is totally different from the original concept.⁵⁷

The children we see nowadays, roaming about the streets in shabby clothes, bare footed, extremely dirty, looking malnourished with dry lips and dry faces, rashes all over their body, moving from house to house, street to street, you will find them everywhere all in the name of seeking for knowledge.⁵⁸ It is really sad when you see these boys hungry in market places, car parks, restaurants, supermarkets including churches begging for food.⁵⁹

These children are victims of neglect on the part of their parents, community and the government because by the law they are considered minors and not responsible for their problems, but rather their parents and the authorities should be held responsible for the misfortune of these Almajiri children.⁶⁰ In fact, what we have today as the Almajiri system has deviated from its original

⁵⁴ Bako, A., Sule, K.A., 1994. 'The Impact of Early Colonial Policies on Islamic Scholarship in Nigeria', Paper presented at the National Seminar on Islamic Scholarship in Nigeria. Centre for Islamic Studies, Usmanu Danfodiyo University, Sokoto.

⁵⁵ Ibid

⁵⁶ Abdulkadir I.A. The Al- Majiri System of Education in Nigeria Today (2003) op.cit

⁵⁷ Amb. Bukar Al-Amin, The Almajiri Phenomenon in Northern Nigeria and the Burden on Society being a paper presented at the Women in Da'awah (WID) 14th Annual National Conference in Kaduna on 22nd June, 2019. www.dailytrust.com.ng/ accessed on 15th May, 2020

⁵⁸ Okugbeni, R.E Basic Education and the Right of the Al-Majiri Child: The Rhetoric of Universalism in Nigeria (2013) Master's thesis, submitted to the International Institute of Social Studies Hague, Netherlands.

⁵⁹ Ibid

⁶⁰ Ibid

concept and is currently giving Islam as a religion and Muslim ummah a bad image.

3.1.0 COVID-19 Pandemic in Nigeria

Nigeria is part of the worldwide pandemic of coronavirus disease 2019 (COVID-19) caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The first confirmed case in Nigeria was announced on 27 February 2020.⁶¹ The Federal government of Nigeria assured citizens of the country of its readiness to strengthen surveillance at five international airports in the country to prevent the spread of coronavirus. The Nigeria Centre for Disease Control (NCDC) also announced same day that they had already set up coronavirus group and was ready to activate its incident system if any case emerged in Nigeria.⁶² following this developments, the federal government of Nigeria set up a Coronavirus Preparedness Group to mitigate the impact of the virus if it eventually spreads to the country.⁶³ At the same time, the World Health Organization (WHO) listed Nigeria among other 13 African countries identified as high-risk for the spread of the virus.⁶⁴

The (NCDC) has issued COVID-19 protocols for the Guidance of Schools in Nigeria aimed at reducing the risk of attracting with the virus.⁶⁵ According to the protocol the best way to prevent infection and spread of COVID-19 is to avoid being exposed to the virus by following basic hand and respiratory hygiene measures. The NCDC recommends that schools and other learning institutions take the following measures among others:⁶⁶

- i. Ensure that students and staff wash their hands often; it is advised that the teachers supervise younger children.
- ii. Ensure that an alcohol-based sanitizer is made available at all entrances to the school.

⁶¹ COVID-19 OUTBREAK IN NIGERIA Situation Reports/N:001 29thFebruary2020 <www.ncdc.gov.ng> accessed on 12 July, 2020

⁶² Nigeria Centre for Disease Control (NCDC) <www.ncdc.gov.ng> accessed on 12 October, 2020

⁶³ Ibid

⁶⁴ Ibid

⁶⁵ Nigeria Centre for Disease Control (NCDC Guideline for Schools <www.ncdc.gov.ng> accessed on 12 October, 2020

⁶⁶ Ibid

- iii. Students and teachers should cover their mouth and nose with tissue when coughing or sneezing. Throw the used tissue away into a closed bin and wash your hands. If you don't have a tissue, cough or sneeze into your flexed (bent) elbow. Have tissues available. A demonstration should also be done on how to sneeze into their elbow if no tissue is available.
- iv. Students and teachers who feel unwell should stay at home and should not attend school or any educational or public setting.
- v. Students, staff and visitors should wash their hands:
 - a. before leaving home
 - b. on arrival at school
 - c. after using the toilet
 - d. after breaks and sporting activities
 - e. before preparing food
 - f. before eating any food, including snacks
 - g. before leaving school
 - h. Avoid touching eyes, nose, and mouth with unwashed hands
 - i. Avoid close contact with people who are unwell
 - j. Schools should clean and disinfect frequently touched objects and surfaces
 - k. Limit the number of visitors to your school; parents, care-givers and drivers should drop students off at the school entrance.

Presently, there is no any medication that prevents the spread of COVID-19 around the globe, what is only used in preventing or contacting COVID-19 is maintaining good hygiene at all times, avoiding crowds and the constant use of hand sanitizer.⁶⁷ Therefore going by the above listed NCDC guidelines for schools it will become difficult if not impossible for the Almajiri schools to

⁶⁷ Ibid

observed it considering the nature of their schools and condition of living which makes them vulnerable to the pandemic.

3.2.0 The Ban of Almajiri's Amid Covid – 19 Pandemic by Northern Governor's Forum (NGF)

According to UNICEF(2014) report reveal that Nigeria has between 13.2 million to 15 million out-of-school children, most of them in northern Nigeria with an estimated of 9.5 million Almajiri children making up 72 per cent population of the nation's out-of-school children.⁶⁸ Considering the structure and nature of the present day Almajiri schools which is characterized by lack of good hygiene, lack of shelter and lack of proper sanitation in their leaning environment makes them more vulnerability to the covid-19 pandemic.⁶⁹ considering the above discussed protocol/guideline for schools issued by NCDC it is impossible for any of the Almajiri schools to adhere to. With the COVID-19 pandemic outbreak, the Federal and State governments have taken various measures to curb its spread including restricting movement and closing both national and international boundaries and the move by the 19 Northern states governors under the aegis of the Northern Governor's Forum (NGF) to end the Al-Majiri phenomenon.⁷⁰

According to a statement attributed to the NGF, the Al-Majiri school is a breeding ground for Coronavirus because their students stay in a congested environment, they have no defined place for them to sleep, no prescribed food for them to eat, no provision for sanitation and therefore they become more vulnerable to the pandemic.⁷¹ The governors have reached an agreement on to ban the Al-Majiri system as part of efforts to curb the spread of COVID-19 in the region. They have also agreed to evacuate the children back to their parents or states of origin to minimise their exposure to the disease that has infected over four million people across the world.⁷²

Also the Kaduna State Governor, Mallam Nasir El-Rufai, recently said the NGF was determined to end the Al-Majiri system of education in the north, amidst the spread of COVID-19 among the children.⁷³ He further irritates the

⁶⁸ UNICEF Report 2014 <www.unicef.org/publications> accessed on 15th May,2020

⁶⁹ Ozioma J.O The Expulsion and Ban of Almajiri System in Northern Nigeria: Matters Arising, op.cit

⁷⁰ Ibid

⁷¹ The Northern Nigerian Governors Forum (NGF) Comprising of 19 Northern States

⁷² Ibid

⁷³ Interview with Governor Mal Nasir El-Rufai on Channels Television Program titled Politics Today on 6 May,2020.

opportunity given to the NGF by COVID-19 pandemic in determining the state of Al-Majiri system of education in Northern Nigeria. He said their decision to ban Al-Majiri system has been a subject of serious and deep deliberations within the leadership of the forum for more than a year before the COVID-19 outbreak. The Governors maintained that:⁷⁴

"We've been looking for the ways and means to end this system because it has not worked for the children, it has not worked for Northern Nigeria and it has not worked for Nigeria. So, it has to end and this is the time."

On the same issue from different point of view, the Attorney General and Commissioner of Justice of Nasarawa state said that:⁷⁵ Northern Governors did not ban Al-Majiri system of education, but the system in which under-aged children are sent to far away land without a means and source of livelihood is different from the historic system established during the age of Islamic renaissance in Sokoto caliphate.⁷⁶ The parents then did not abandon the kids at the mercy of hunger, weather and abusers, he maintained that, the Al-Majiri system as practiced today is a distortion of the original concept, adding many of the children are not actually learning the Quran which is the primary objective of the system, but rather spend most of their time on the streets which are riddled with more social hazards, health risks and physical dangers.⁷⁷ Notwithstanding the availability of large number of Islamic learning centres across all towns and mosques compared to the past.

According to him, the present day Al-Majirai schools are not equipped to cater for basic needs of a learning environment such as boarding facilities, feeding, clothing and worse of all the children are generally undocumented thereby leaving them vulnerable to disease and insecurity.⁷⁸ For that reason he is of the opinion that, those advocating for the retention of this distorted form of Al-Majiri system are either benefiting from it or being partisan. The decision of northern Governors is premised on the need for parents to take more responsibility for their children and ensure the children learn under the guidance of their parents or consanguineous guardians until they reach the

⁷⁴ Governor Mal Nasir El-Rufai Present Memo to Northern Governors on Almajiri System of Education <punchng.com> accessed on 15th May, 2020

⁷⁵ Dr. Abdulkarim Abubakar Kana

⁷⁶ Abdulkarim A.K Northern Governors Did Not Ban Almajiri Schools <www.dailytrust.com.ng> accessed on 25th May, 2020

⁷⁷ Ibid

⁷⁸ Ibid

age maturity.⁷⁹ Repatriation of Al-Majirai to be reunited with their families at time of pandemic may be controversial but it is a task that must be carried out at one point or another if Northern Nigeria wants to start social reconstruction. Ensuring kids are looked after by parents is key to society's growth the governors maintained.

President Muhammadu Bihari's, who said when he was inaugurating the new NEC that governors should enforce statutory provisions on free and compulsory basic education as provided for in the 1999 Constitution as amended⁸⁰ and the Universal Basic Education Act which provides that; every Government in Nigeria shall provide free, compulsory and universal basic education for every child of primary and junior secondary school age.⁸¹ The President statement by the created the impression around the country that a move is on to end or at least to substantially reform the practice whereby millions of children roam streets in the North begging for alms.

But many stakeholders including National Assembly members, civil society organisations and human rights lawyers are describing the action of NGF at this material point in time as inhumane and a violation of human rights. For instance the House of Representative at a plenary passed a resolution sequel to the unanimous adoption of a motion of urgent public importance, titled, 'Urgent Need to look into the Evacuation of Al-Majiri, Amidst the Coronavirus Pandemic', sponsored by Hon two (2) members.⁸² The lawmakers expressed concerns that the evacuation is jeopardizing the fight against COVID-19 due to the high level of movement of the children from different places and its attendant high risk of infection. The lawmakers raised alarm that such action is capable of putting Nigeria on the spotlight of human rights violators and at the same time jeopardize the country's fight against COVID-19.⁸³

"The evacuation of the children is against their fundamental human rights of residing anywhere in Nigeria as guaranteed in Chapter IV of the Constitution of the Federal Republic of Nigeria.

⁷⁹ Northern Governors Did Not Ban Almajiri Schools < www.dailytrust.com.ng> accessed on 25th May, 2020

⁸⁰ Section 18(3) of the 1999 Constitution of Federal Republic of Nigeria (CFRN) as amended

⁸¹ Section 2 of the Compulsory, Free Universal Basic Education Act 2004

⁸² Hon. Aishatu Dukku member and Hon. Shehu Kakale members of the House of Representatives

⁸³ Covid-19: Reps urge FG to halt Evacuation of Almajiri<<https://businessday.ng/news>> accessed on 23 June,2020

It's disturbing that in some cases, these children after travelling for so many hours under harsh weather, were rejected and turned back by their states of origin or at best, they were kept in isolation under dehumanizing and demeaning condition."⁸⁴

The decisions of the state governments to send non-indigenes to their states of origin violated the 1999 Constitution, which respectively spell out the privileges of every Nigerian citizen and guarantee fundamental human rights. And warned that such decisions might stoke constitutional crisis and further endanger the unity of the country.⁸⁵

Falana,⁸⁶ faulted the decision of some state governments expelling non-indigenes residing within their territories, noting that such decision violated the fundamental rights of the affected citizens under the 1999 Constitution. He explained that the 1999 Constitution "has recognised the fundamental rights of citizens to move freely and reside in any part of Nigeria. To that extent, the expulsion of flotsam and jetsam otherwise called Almajaris by some northern governors is illegal and unconstitutional. According to him:⁸⁷

"The danger of the illegal expulsion at this point in time is that many of the expelled citizens are COVID 19 positive. So the actions of the governors are promoting community transmission of the infectious disease."⁸⁸

Odinkalu⁸⁹ in the same vein noted that issues that are strange to federal structure of government are happening in Nigeria such as expelling non-indigenes from their states of residence which is contrary to the Constitution and he further lamented that the federal government has not deemed it fit to call the governors to order.⁹⁰ He argued that; in any federation citizens can live anywhere or move from one place to the other without hindrance.

⁸⁴ Ibid

⁸⁵ Chapter III and Section 41 of the 1999 Constitution of Constitution of Federal Republic of Nigeria (CFRN) as amended

⁸⁶ Mr. Femi Falana (SAN); A former President of the West African Bar Association (WABA) and A Human Right Lawyer <punchng.com> accessed on 15th May, 2020

⁸⁷ Nigeria: More Pain for Nigeria's Children Living Under Difficult Circumstances <www.allafrica.com> accessed on 23 August, 2020

⁸⁸ Ibid

⁸⁹ Dr. Chidi Odinkalu. Former Chairman, Governing Council, National Human Rights Commission (NHRC) <punchng.com> accessed on 15th May, 2020

⁹⁰ Ibid

These people have not committed any crimes. Poverty is not a crime. Nor is destitution.⁹¹ But even if these were crimes, internal banishment is not a punishment and there is nothing like repatriation or deportation to your place of origin. As a fact, no one knows where most of these people come from in terms of origins.

Adegboruwa⁹² provided two interrelated grounds, which according to him, showed that the decisions of some state governments to expel non-indigenes living within territories are completely unconstitutional. He maintained that a whole chapter in the 1999 Constitution was devoted and the chapter explicitly outlined the rights and privileges attached to the citizenship status.⁹³ The section provides inter alia as follows:

‘Once you are born in Nigeria and can trace any of your parents to Nigerian origin, you are a free born citizen with all the rights and privileges attached to that citizenship in line with the provisions of the Constitution’.⁹⁴

This cannot be taken away by a simple declaration of a Governor. He is of the view that, the decisions of the Governors expelling citizens from their states on the ground that they are not indigenes and they are itinerant persons who have no visible means of livelihood which makes them more vulnerable to be affected by COVID 19 pandemic is totally unconstitutional.⁹⁵

Finally, the idea behind the Al-Majiri system may be worth preserving, but the schools ought to be properly integrated into the educational sector and their curriculums upgraded and revised in a way that allows the students get both Quranic and secular education. Therefore, the Northern Governors Forum are urged to provide the Al-Majiris with the requisite tools for the universal basic and technical education system.

4.0.0 CONCLUSION

The Qur'an and hadith of the Prophet (s.a.w) contains provisions on the rights of children which are compatible with the rights of children as outlined in the Universal Declaration of Human Rights, other international and regional human

⁹¹ Nigeria: More Pain for Nigeria's Children Living Under Difficult Circumstances op.cit

⁹² A Lagos based Human Right Lawyer

⁹³ Chapter 3 of the 1999 Constitution of Federal Republic of Nigeria (CFRN) as amended

⁹⁴ Section 25(1) a-c of the 1999 Constitution of Federal Republic of Nigeria (CFRN) as amended

⁹⁵ Nigeria: More Pain for Nigeria's Children Living Under Difficult Circumstances op.cit

rights instrument and the Child Rights Act of 2003. The right to education under *Shariah* is not only a mere right for its *ummah*, but an obligatory duty upon the parent, community and the government to prepare and provide conducive learning environment for their children to earn a better education.⁹⁶ The present day Al-Majiri system of education left Mallams as the sole proprietor of the Almajiri schools with the responsibility of establishing, managing, feeding, accommodating and clothing the Al-Majiris who are under his control and custody. The burden became overwhelmingly on the Mallams who were left with no option but to send these little boys called Al-Majiris out to beg for their daily needs such as food, water, soap and detergent among other from the good will of members of the society. The Al-Majiri system of education suffers a neglect from the community at large and the government at all levels, thereby making the children more vulnerable notwithstanding the provisions of Shari'ah, the Constitution and International instrument that protect the rights of these vulnerable children. Based on the above facts the aimed of Al-Majiris schools as a centre of leaning religious teaching has been defeated, thereby making it a place where the lives, dignity and health condition of the Almajiris are lost. By way of conclusion, the Al-Majiri system as is currently practice in northern Nigeria has deviated from its original concept, to a system which is considered to be un-Islamic to the extent of its deviation.

4.1.0 OBSERVATION

The following has been observed

- i. It has been observed with serious concern that, the Al-Majiri student are denied their basic rights to sound education and good health care service as contained in *Shariah*, the Constitutions and International Human rights instrument and generally lacks their basic needs of lively hood.
- ii. It has been observed with serious concern the phenomenon of Al-Majiri beggars which represents a scar on the face of the Northern Nigeria. The Al-Majiris roam about the streets in search for a lively hood looking dirty, tattered, bare feet, pale with flies pecking on their cracked lips and dry faces, which are filled with rashes which makes them equally more vulnerable to health hazard amidst corona virus pandemic is un-Islamic.
- iii. The curriculum offered in the Almajiri schools does not provide opportunity for literacy and it is not adequate. It does not also train them adequately on vocational skills, the knowledge of this will

⁹⁶ Olowu, D. Protecting Children's Rights in Africa: A Critique of the African Charter on the Rights of the Child. *The International Journal of Children's Rights*, (2002) p.72

greatly influence the living standards of Almajiri and the nation at large.

- iv. Poor funding from government is a major challenge facing the Almajiri system of education in northern Nigeria.
- v. Lack of provision of infrastructural facilities such as classrooms and hostel by government and wealthy members of the society is a problem facing the Almajiri system of education. The Almajiris don't have a tentative shelter or even where they have is not in a habitable condition which further expose them to more health hazard.
- vi. It has also been observed that, the call for banning or abolishing the Al-Majiri system of education by the Northern Governors Forum is not even the solution, as we cannot afford to throw away the bathing water with the child in it.
- vii. Finally, it has also been observed that, the neglect and lack of commitment to the plight of these Al-Majiris who are mostly minors by their parents and society is unfortunate and make them vulnerable to diseases and social crimes.

4.2.0 RECOMMENDATIONS

There is an urgent need for government to adequately reformed Al-Majiri system of education once and for all to meet the modern day demands and save these innocent children called Almajiris from perpetual abuse. So as to tackle the problem of underdevelopment, educational backwardness and mass poverty in Northern Nigeria. The gap in the realization of educational and health rights of the Al-Majiris calls for urgent action by the concern authorities. Based on the above facts this paper makes the following recommendations;

- i. It is therefore very critical at this moment for government at all levels to consider Al-Majri system of education and provide them with opportunities and access to Basic Education Programme by remodeling and integrating it in to the formal educational system, so that they can as well have access to good health care services.
- ii. The northern states government should consider addressing the general welfare of the Almajiri to avoid street begging and its social effects on the pupils as well as the society at large.
- iii. The curriculum of Almajiri schools should provide opportunity for literacy and adequacy. The school curriculum should be planned to

- include technical and vocational training and adult education to cater for the older members of the community.
- iv.** Funding the Almajiri system of education should be adequate, regular and must be properly monitored by the concerned authorities.
 - v.** Infrastructural facilities should be provided by the Government, Community, Civil Liberty Organisation (CLO) and the Non-Governmental Organisations (NGO) to Almajiri schools, which will play a vital role in reforming the system.
 - vi.** The northern states must put their heads together, through the Northern Governors Forum (NGF) must with policy that will handle the Almajiri phenomenon and try to forge a collaboration with other stakeholders willing and interested in being part of the programme to form a working synergy between them in finding a lasting solution to the issues surrounding Almajiranci in northern Nigeria.

The government shall put measures on ground enforce and implement the laws and policies that makes it a responsibility upon the parents to provide their children with the required basic education and good health care services.