

AN APPRAISAL OF THE LEGAL IMPACTS OF COVID-19 ON THE *ALMAJIRI* CHILDREN IN THE NORTHERN PART OF NIGERIA

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Abstract

This paper examined the legal impacts of COVID-19 pandemic on Almajiri children in the Northern part of Nigeria with consideration of the current serious socio-economic and political challenges ravaging the peaceful existence of the region. The varying threats of insurgency, banditry, cattle rustling, ethno-religious crisis and kidnapping that have substantially wrecked the Northern part of Nigeria in the recent times obviously make the Almajiri children soft target to this novel pandemic. Factors such as overpopulation, paucity of funds, inadequate human and material resources and large scale ignorance widespread in the region predispose Almajiri children to devastating impact of COVID-19 regulations. It was observed that the current structural formation of the Almajiri system which has blown out of proportion across the Northern states in Nigeria is a serious concern which requires meticulous planning and viable mechanism to avert a devastating catastrophe in the region. This paper is analytical and based on the survey of relevant available literatures and verifiable reports. This paper thus asserts that the current overwhelming socio-economic and political quagmire in which the Northern part of Nigeria has degenerated into makes the Almajiri children negatively affected by the COVID-19 regulations. This paper finally concludes that the cross repatriation of the Almajiri children to their respective states of origin is not only a breach of their Constitutional rights as citizens of Nigeria but also an ill-conceived approach anathema to the fundamental objectives and directive principles of state policy.

Keywords: Legal impacts, Vulnerable persons, COVID-19, Northern part of Nigeria, *Almajiri* Children

INTRODUCTION

The emergence of COVID-19 and its sporadic global spread poses a great threat and immense challenge to state actors worldwide. According to the World Health Organisation (WHO), Nigeria amongst other African Countries remained precisely susceptible and vulnerable to the pandemic considering the state of its poor health infrastructure; acute shortage of medical personnel; widespread ignorance, and rate of illiteracy; corruption amongst other challenges. As COVID-19 cases increase around the world, mortality rates are likely to be higher in countries

with limited health services and with large amounts of people on the move."COVID-19 is highly infectious and will spread easily in places where there are unhygienic conditions, crowding, and where health services and monitoring are weak."¹

There is no gainsaying the fact that Nigeria was amongst the first contact of the pandemic in Africa as predicted by the World Health Organisation (WHO) when Lagos State recorded its index cases as far back as February, 2020.² The virus gradually spreads across the Southern part of the country. Neighbouring state with Lagos State recorded COVID-19 cases as a result of trans-border migration and business interactions. However, anxiety heightened when the disease started spreading to the northern part of the country considering the extreme vulnerability of the regions and its people to contagious disease in the past.³ As a matter of fact, the spread of COVID-19 to the Northern region further aggravated the crisis ravaging the region more particularly as the disease found its way in the midst of the *Almajiri* children.

Consequently, it was reported that there has been cross repatriation of *Almajiri* children amongst the Northern States.⁴ The propriety of the repatriation of the *Almajiri* is not only technically abhorrent to the principles of natural justice, equity and good conscience, but also constitutes a double standard in flagrant breach of fundamental human rights. Similarly, it is difficult to fathom the rationale behind the discrimination and general non-consideration of the *Almajiris* in the various relief measures rolled out to contain the spread of the virus. Sadly, this apparent attempt by Northern political elites to side-line or downplay the legal consequences of COVID-19 regulations on the *Almajiri* children depicts high level of political irresponsibility and nonchalant character at the hems of political affairs. Although, successive administrations have expressed their concern about the *Almajiri* system in the North, yet, repatriation of these children during a pandemic period is inimical to the COVID-19 regulations restricting exodus inter-state

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¹ Tom Davis, *World Vision International's Head of Health and Nutrition*, "COVID-19 and the World's Margin", <<https://act.newmode.net/action/world-vision-canada/covid-19-and-worlds-margins>>, (May 7, 2020)

² <<https://ncdc.gov.ng/news/227/first-case-of-corona-virus-disease-confirmed-in-i=nigeria>>, (February 8, 2021)

³ IRIN Background Report on Epidemic in Northern Nigeria (19990727), Available at <https://www.africa.upenn.edu/Newsletter/irinw_72779a.html>, (February 8, 2021)

⁴ Isaac Anyaogu, *21 out of 61 Almajiri returned to Kaduna tested positive for Covid-19*, (Business Day Newspaper), <<https://businessday.ng/coronavirus/article/21-out-of-61-almajiris-returned-to-kaduna-tested-positive-for-covid-19-el-rufai/>>, (May 2, 2020).

migration. The policy of repatriation of *Almajiri* children to their respective state of origin under whatever guise is not only wrongly timed but also unlawful.

A glimpse into the various regulations made by the various Northern state governors clearly depicts a deliberate neglect of the most vulnerable in the fight against the pandemic. Unfortunately, these *Almajiri* children who are estimated to be about 9.5 million in Nigeria according to UNICEF reports may eventually become vectors for COVID-19 considering their vulnerability, susceptibility, lack of physiological resistance, poor hygiene, malnutrition, unregulated migration and population across the Northern part of Nigeria.⁵ Thus, there is a need to streamline the various policies or regulations made by the government to ensure a holistic approach in the fight against the pandemic.

From the foregoing, this paper will examine the legal impacts of COVID-19 without prejudice to the socio-economic, psychological and educational impacts of the disease on the *Almajiri* children in the Northern part of Nigeria. Meanwhile, the scope of this work will be restricted to the legal impacts of COVID-19 on the *Almajiris* children in the Northern part of Nigeria.

1. COVID-19 IN THE NORTHERN PART OF NIGERIA

On 21st of April, 2020, the governors of Northern part of Nigeria discussed the growing spread of COVID-19. By the end of the meeting, they unanimously agreed that classical Qur'anic education in their regions should be suspended and students sent back home.⁶ The following week, the Governor of Kano state which is the current epicenter of the outbreak in Northern Nigeria, said, "Over Two Thousand (2000) *Almajiris* had been returned to their states of origin and that more would soon follow suit."⁷ Similarly, the Governor of Kaduna State, Malam Nasir el-Rufai confirmed that *Almajiris* deported from Kano State about a week before brought 21 cases of COVID-19 to the state. Speaking on Arise Television, the broadcast arm of THISDAY Newspapers, "he said when the state took delivery of 148 *Almajiris* from Kano, it kept them in a

⁵ *History of Almajiri System in Nigeria*, <https://guardian.ng/features/history-of-the-almajiri-system-in-nigeria/>. (May 8, 2020).

⁶ Northern Governors begin the expulsion of *Almajiri* over Corona virus, (24 February 2021) <<https://guardian.ng/news/northern-governors-begin-expulsion-of-almajiri-over-corona-virus/>>

⁷ <<https://africanarguments.org/2020/05/07/as-covid-19-spreads-northern-nigeria-states-scapegoat-usual-suspects/>> (May 8, 2020).

holding facility where tests were conducted on eight of them with symptoms, adding that five tested positive to the disease.”⁸

Meanwhile, on the 24th March, 2020, Bauchi State amongst the Northern States confirmed its index case out of the four newly confirmed cases in the country. Meanwhile, on the 28th March, 2020, Kaduna state confirmed its index case.⁹ Ever since Kano state recorded a case in April, the figure kept rising geometrically and spreading sporadically. The North-western state of Kano in the past weeks experienced a spate of unknown deaths, including that of a first class traditional rulers, health workers and academics. Preliminary investigations showed that many of the victims died from malaria and cerebrospinal meningitis (CSM), according to the State Government. However, an address by the coordinator of the presidential task force on COVID-19 in Kano, Sani Gwarzo, on Sunday suggested that COVID-19 was the cause of the deaths.¹⁰

It is disheartening to state that although the emergence of COVID-19 in the Northern part of the country kicked off lately in April, 2020, it has however recorded the highest infections after Lagos State. According to the official updates of the Nigerian Centre for Disease Control (NCDC) of 7th May, 2020, Kano State has recorded 482; the highest amongst Northern States and closely behind Lagos State within the shortest period of time. Meanwhile, Kogi State remained the only Northern State that is presently immunized against the pandemic. More worrisome is the fact that 50 percent of the infection so far was spread by the *Almajiri* children as a result of the cross repatriations.¹¹ Governors under the aegis of the Northern Governors' Forum (NGF) had issued a statement where they discussed the risk that *Almajiri* children are exposed to due to the virus. They unanimously decided to ban the *Almajiri* system and evacuate the children to their parents or states of origin.¹²

While the propriety or otherwise of the cross-repatriation of *Almajiri* children will be examined later in this work, it is crucial as a matter of necessity to state that such repatriation

⁸ <<https://www.thisdaylive.com/index.php/2020/04/30/el-rufai-how-kano-almajiris-increased-covid-19-infections-in-kaduna/>> (8 May 2020)

⁹ <<https://nairametrics.com/2020/03/29/covid-19-cases-rises-to-111-as-14-new-ones-confirmed-positive/>> (13 May, 2020).

¹⁰ <<https://www.premiumtimesng.com/news/headlines/391558-no-evidence-yet-kano-mysterious-deaths-caused-by-covid-19-health-minister.html>> (8 May, 2020).

¹¹ <<https://www.google.com/amp/s/www.bbc.com/news/world-africa-52617551.amp>> (24 July, 2021).

¹² <<https://guardian.ng/news/northern-governors-begin-expulsion-of-almajiris-over-coronavirus/>> (8 May, 2020).

exercise is improper, ill-conceived and discriminatory against *Almajiri* children. No excuse will be substantial enough to justify the ill-treatment of the *Almajiri* children on the basis of their poor socio-economic status and wretchedness in the society. More painful is the fact that these children have been exposed to infection in the process of evacuation due to poor mechanism for repatriation; disregard for social and physical distance and failure to arm them with preventive materials such as hand sanitizer, face covers and other protective gadgets.

Invariably, majority of Nigerians reside outside their states of origin.¹³ It is perplexing and hypocritical that the *Almajiri* children were singled out for repatriation even though the index cases in the Northern States were from amongst incumbent Governors, political elites, and academics. Unfortunately, records show that some *Almajiris* have contracted the disease in the process of the repatriation; thus, aiding the spread of the contagious disease which may eventually worsen community spread.¹⁴ Also, such actions further spurred the existing marginalization of the most vulnerable in the region most of whom had lost their homes, parents and relatives to insurgency, ethno-religious crisis, and plague. In a nutshell, COVID-19 has further orchestrated severe pains and horror on the *Almajiri* children in the Northern part of the country more because of government's indifferent attitudes in policy-making and programmes towards alleviating their plights.

1. VULNERABILITY OF *ALMAJIRI* CHILDREN TO COVID-19

The word “*Almajiri*” is derived from the Arabic “*Almuhajirun*”, which connotes “an emigrant”. It is usually referred to as a person who migrates from his home to a popular teacher in the quest for Islamic knowledge. This is the basis of the *Almajiri* system in what became Northern Nigeria today. Before British colonization, a system called *Tsangaya* prevailed in the Kanem-Borno Empire. It was established as an organized and comprehensive system of education for learning Islamic principles, values, jurisprudence and theology.¹⁵

The students were at liberty to acquire skills in between their Islamic lessons, and so were involved in trades such as farming, fishing, and masonry, among others. Many were the farmers

¹³ Uche C. Islugo-Abanihe and International Organization for Migration, Nigeria, *Migration in Nigeria - A Country Profile 2014*, (2016), International Organization for Migration Publication, 1211 Geneva 19 Switzerland, at 1.

¹⁴ Isaac Anyaogu, *21 out of 61 Almajiri returned to Kaduna tested positive for Covid-19*, “Business Day Newspaper”, On May 2, 2020. <https://businessday.ng/coronavirus/article/21-out-of-61-almajiris-returned-to-kaduna-tested-positive-for-covid-19-el-rufai/> (7 May, 2020).

¹⁵ <<https://guardian.ng/features/history-of-the-almajiri-system-in-nigeria/>> (May 8, 2020).

whose produce formed the famous groundnut pyramids after colonization; *Almajiris* were recruited by the British as miners in Jos. The system also produced the judges, clerks, and teachers who provided the colonial administration with the needed staff. The first set of colonial staff in Northern Nigeria was provided by the *Almajiri* schools.¹⁶ In fact, the *Almajiri* system produced eminent jurists, Islamic scholars and religious reformers in the past, when their numbers remained within manageable limits. Since the 11th century, Qur'anic teaching has been a medium of Islamic education in the country.¹⁷

Over times, the word *Almajiri* has gradually acquired a completely different meaning; it is more or less referred to as beggars roaming the streets in our towns and cities. They include young pupils who left the comfort and protection of their parents and relations at a very tender age for the purpose of Qur'anic education.¹⁸ The *malam* (teacher) is not responsible for feeding the *Almajiris* and, therefore, are forced to beg on the street. They depend on people for their food and other life needs.¹⁹ In the course of begging on the streets, they are exposed to various forms of hazards in quest of acquiring Qur'anic education.²⁰

With time, the *Almajiri* system, which was meant to inculcate Islamic virtues in the youth, degenerated into a practice characterized by unwholesome and inhumane activities. At the formative stage of *Almajiri* schooling, it was not envisaged that the Quranic pupils would have to beg for alms permanently or do menial jobs for their survival, as it is the practice today. These days, a typical *Almajiri* can be spotted by his unsavory appearance, dressed in tattered clothes, disease afflicted, and armed with a plastic plate, roaming the streets begging for alms. Socially regarded as nuisance, the *Almajiri* are often chased away by decent people. They hang around restaurants, markets, shops, petrol stations, and houses, most times sleeping on disused pieces of

¹⁶ <<https://guardian.ng/features/history-of-the-almajiri-system-in-nigeria/>> (May 8, 2020).

¹⁷ Iro Aghedo and Surulola James Eke, 'From Alms to Arms: The *Almajiri* Phenomenon and Internal Security in Northern Nigeria', <https://guardian.ng/features/history-of-the-almajiri-system-in-nigeria/> KOREAN JOURNAL OF POLICY STUDIES, <https://researchgate.net/publication/280309828>, at 103.

¹⁸ Sa'id I. *Menace of Almajiris in Kano municipal*. (A paper presented at Faculty of Education, Ahmadu Bello University, Zaria, 1992).

¹⁹ *The Socio-Economic Implications of the Almajiri Practice in Minna Metropolis*, *Journal of Social Science and Media Studies*. Vol., 02 issue 01.1.

²⁰ Salis T., *Impact of Islamic Education in Kano Metropolitan Nursery School on Muslim Children*, (Unpublished Thesis Submitted to Department of Islamic Education, Ahmadu Bello University, Zaria 1995).

cardboard or bare floors. The street urchins bemoan their fate as they watch other privileged children enjoying life with their parents.²¹

It is deducible from the foregoing that the plight of the *Almajiris* amidst the COVID-19 pandemic became more glaring and copious to all. Hence, the various impetus that contribute to the vulnerability of *Almajiri* children amidst COVID-19 pandemic are highlighted as follows;

- i. Lack of stable source of livelihood
- ii. Lack of access to information and health facilities
- iii. High risk of infection
- iv. Victim of hard labour, human rights abuses and exploitation
- v. Disposition of crime

The above listed impulses are examined below;

A. Lack of Stable Source of Livelihood

The *Almajiri* children are part of the citizenry that are minors, mostly left to cater for themselves; thus, depending on door to door begging for survival. The implication of this is that within the lockdown period, these children are subjected to unending starvation and are without protection thereby increasing their risk of exposure to incidence of outbreak of the pandemic in their locations.²²

In fact, subjecting the *Almajiri* children to lockdown without any palliative to cushion the effects of restriction may lead to more catastrophic consequences such as malnutrition, cholera outbreak, diarrhea, and weakened immune system to combat minor diseases. In the end, the *Almajiri* children are pushed into a dilemma of choosing between starvation and COVID-19 infection. Painfully, these children are not captured in the various palliatives programmes bankrolled by both Federal and State Government nor are they potential beneficiary of the Federal Government Social Intervention Programmes despite the fact that they are the cynosure of vulnerable in the society. If COVID-19 has successful made people with stable financial

²¹ Olagunju, L., *Almajirai, Street Kids and a Nation's Future*, *Nigerian Tribune*, (19 April, 2012). www.tribune.com.ng/index.php/the-friday-edition/39559-almajirai-street-kids-and-a-nations-future.

²² Advocates for Dan Almajiri, *COVID-19: Protecting The Rights to Life of the Almajiris Amidst the Pandemic*, (Position Paper). <https://reliefweb.int/report/nigeria/covid-19-forum-advocates-palliatives-almajiri-children>, (May 20, 2020).

means wretched, one wonder what the *Almajiri* children without financial means might metamorphose into in the nearest future.

B. Lack of Access to Information and Health Facilities

Basically, the *Almajiri* children obtain information on the street in the course of searching for sustenance. They are far removed from all major sources of information on COVID-19 despite their vulnerability. They also lack access to parental guidance on the messages and guidelines issued by medical experts on how to avoid infections. Impliedly, they are not able to protect themselves and will not be able to observe any socio-physical distancing nor access medical services should they contact the virus. Considering the lopsidedness or preferential treatment that characterized Nigeria health system, *Almajiris* do not have the socio-economic and political charisma to access the limited medical facilities at the expense of others.

When people are told to self-isolate, *Almajiri* children on the street situations may not have a safe home to go to. When people are told to wash their hands frequently, they have no soap or clean water to observe same. And when instructions are given out over the internet or in print media, most cannot read them and they remain uninformed of the basic information. They are unable to find the means to feed themselves. They are experiencing untold horrors, difficulties and severe human rights violations.

C. Exposure to Infection

The *Almajiri* children, given their means of survival which include begging, accepting other persons' leftovers, handling waste disposals for people, are most vulnerable to COVID-19. The likelihood of their getting contact with infected persons as beggars who take whatever comes to them as food or support from those willing to give, exposes them to the COVID-19 infection. This eventually make them potential vector for the spread of COVID-19. Giving the dimension of the disease, *Almajiris* do not have shelter to protect them from the disease. They live and sleep on the streets, motor parks, and public places. Invariably, the lockdown directives across the Northern States do not appeal to their sense of reasoning because they have no shelter to reside at night. Hence, they are readily more vulnerable to contact and spread the disease at rapid rate.

D. Victim of Hard Labour, Human Rights Abuses and Exploitation

When the desirables are not available, the available becomes the desirable. In a time when the street is empty in compliance with the lockdown directives, *Almajiri* children are left with no option of sustenance other than resorting to the few available difficult jobs.²³ They visit homes out of desperation in their vicinity soliciting for jobs to keep hearts and body together²⁴. In the process, they are exposed to hard labour, sexual harassment and abduction by human traffickers.²⁵ In order to save their lives, they submit their human dignity to all manner of oppressions while risking their lives to accomplish their employers' embellishments and needs.

On the other hand, the owners of *Almajiri* schools whom as individuals and as a group have been very conservative for too long refusing to restructure the system in tune with the reality of time. Majority of the Malams interviewed have no verifiable means of livelihood and feeding, those that have means of livelihood said they are either farmers or traders and they accept that their source of feeding cannot cater for the students under them. Without a comfortable means of livelihood, the Malams have obviously no choice but to push the students into the society to beg.²⁶

E. Disposition to Crime

The cumulative pains and struggle for survival amidst COVID-19 pandemic have forced many *Almajirito* give illegality and other acts of crime reluctant consideration.²⁷ Already, Boko Haram insurgency and Banditry have made the Northern part of Nigeria lucrative for crime business. The *Almajiris* become more susceptible to bad influence as pains of lockdown, social apathy and ostracism makes life meaningless to them. Thus, COVID-19 may eventually become a driving force or impetus to embrace crime due to high desperation for survival amongst the *Almajiri* children.

²³ Garba U.K. and Nik Ahmad K.N.M, *Child Trafficking and Religion: A Case Study Almajiri Education in Northern Nigeria*, INTERNATIONAL JOURNAL OF BUSINESS, ECONOMICS AND LAW, VOL. 8, ISSUE 4 2015, p. 120

²⁴ <<https://www.google.com/amp/s/www.theafricareport.com/27676/coronavirus-food--insecurity-fallout-from-nigeria>> (February 23, 2021)

²⁵ United Nations Office on Drugs and Crime, *An introduction to Human Trafficking Vulnerability, Impact and Action*, Available online at <https://www.unodc.org>.

²⁶ *The Socio-Economic Implications of the Almajiri Practices in the Minna Metropolis*. Available online at <https://www.athensjournal.gr/review/2019-2812>

²⁷ Freedom C. Onuoha, "Why do youth Join Boko Haram?", (Special Report 348, United State Institute of Peace, June 2014) available at; www.usip.org

However, these children lack access to proper information which consequently make them unaware of basic guidelines about preventive measures against the virus. They lack shelters which make compliance with lockdown directives impossible. They lack access to sustenance which makes hard labour and crime more worthwhile. Lack of parental training and basic orientation make life meaningless to them. All these and many others underscore the vulnerability of the *Almajiri* children to COVID-19.

2. GOVERNMENTS' RESPONSE TO COVID-19

It is important to state here that the power of Federal Government to make regulations to contain the pandemic; COVID-19 is derived from the Quarantine Act 2004²⁸ which vested unto the President of the Federation to make regulations to promptly address emergency health related issues. Basically, the Quarantine Act²⁹ empowered or vested the president to declare any part of the country infected area and to make regulations to ensure effective control of the disease. Pursuant to the above premise, the Executive signed into law COVID-19 Regulations on the 30th of March 2020 but did not state a specific commencement date. However, based on the content it can be inferred that the Regulations commenced on the 30th of March 2020. The President has directed the cessation of movements in Lagos, Ogun and Federal Capital Territory, Abuja for an initial period of 14 days with effect from 11pm on Monday 30th March 2020.³⁰

In the same vein, most state governors whose States were not considered in the Regulation, took heed to make similar regulations to reinforce Federal Government measures in order to contain the spread of the virus. Similarly, on the 23rd of April, the Nigeria Governors Forum placed a ban on interstate travel except for transportation of essential goods such as food, drugs and medical equipment. This resolution was made to stop community spread of the virus. Another notable regulation was the lockdown and closure of schools, markets, religious gatherings, club houses, cinemas, banks and other public places to prevent transmission of the disease and to identify the asymptomatic contacts. Although, most of the States opened window to ease the effects of the lockdown on the peoples as it became apparent that neither the state nor

²⁸ CAP Q2 Laws of the Federation, 2004.

²⁹ Section 3 & 4, Quarantine Act CAP Q2 LFN 2004.

³⁰ <https://pwc-nigeria.typepad.com/tax_matters_nigeria/2020/03/the-federal-government-of-nigeria-has-issued-covid-19-regulations-2020.html?utm_source=Mondaq&utm_medium=syndication&utm_campaign=LinkedIn-integration> (May 11, 2020).

the Federal Government has the capacity to provide sufficient palliatives during the lockdown for the vulnerable.

Regulations for COVID-19 pandemic include closure of schools, businesses, and restriction of inter-state movement. However, curative programmes were rolled out to cushion the economic impact of the restrictions on the vulnerable groups. Some of the relief programmes include distribution of relief materials to masses, feeding programme for school children, 3-month repayment moratorium for Trader Moni, Market Moni and Farmer Moni loans, moratorium will be granted for all Federal government funded loans issued by the Bank of Industry, Bank of Agriculture, and Nigeria Export Import Bank.

The aforementioned regulations and measures although are specifically meant for Lagos State, Federal Capital Territory and Ogun State from a narrow perspective. Notwithstanding, some of the measures aforementioned affect the entire federating units. Similarly, it is important to note that none of the aforementioned states fall within the Northern part of Nigeria; however, a critical assessment shows that the Federal Capital Territory is a host of a sizeable number of *Almajiris* children and neighboring states such as Niger, Kogi, Nasarawa and Kaduna especially in the suburb town. Hence, it is crucial to consider the Federal Government Regulations *vis-a-vis* its legal impacts on the *Almajiris*.

It is worthy to note that the measures put in place by the Federal Government were meant to cushion the effect of the lockdown on the most vulnerable as a result of the socio-economic impacts of COVID-19. The Social Investment Programme (SIP), Market Moni, Trader Moni and other forms of relief materials shared across the Federation were meant to assist the less privileged most of who earn their sustenance from daily struggles. Unfortunately, the *Almajiris* children do not have any parent or guardian that may directly benefit from the loan moratorium nor are they technically qualified to get palliatives as they are helpless with no voice to attract government's attention.

It is observed that while government has invested enough energy and resources in ensuring that laws and orders are kept during the crisis period, there is no evidence of special attention to issues affecting vulnerable children, especially the *Almajiris* and other street kids, who are more

vulnerable in periods of emergency which offer a supportive environment for potential predators.³¹

It is pertinent to highlight some others regulations made by some Northern State government as they are partially excluded from the Federal Government's regulations. A major regulation distinct from Federal Government regulation is the decision of some Governors in the North to repatriate the *Almajiri* children to their state of origin. State like Kano, Kaduna, Katsina, Bauchi and Nasarawa³² have commenced repatriation of *Almajiris* children to their respective states of origin.

Also, civil servants have been instructed to work from home while markets, Mosques, Churches and other public places have been temporarily closed to avoid social contact and community spread of the disease. Palliatives were also facilitated by both state government and private individuals to the less privileged in order to ease the effect of the lockdown. Unfortunately, the most vulnerable and most affected by the regulations were rather excluded by kicking them out of their states in disguise of repatriation. By implication, the haphazard disbursement of palliative and relief packages to the exclusion of *Almajiri* children contravenes the constitutional provisions on economic rights.

Similarly, as part of measures to cushion the adverse effects of COVID-19 on the educational sector and school children at large, most States have introduced e-learning platform to reach the students from their comfort zones. Media platforms such as radio, television, internet were adopted by States to engage the students during the pandemic in order to keep them updated on their academics. This platform enables students to receive instructions and interact with instructors regardless of the distance. This medium is not without its own challenges. Challenges of epileptic power supply, financial incapacitation to access internets, lack of requisite skills amongst children, distractions on the social media etc. pose threat to the materialization of the

³¹ Advocates for Dan Almajiri *COVID-19: Protecting the Rights to Life of the Almajiris Amidst the Pandemic*, (Position Paper), (8th of May, 2020). <https://reliefweb.int/report/nigeria/covid-19-forum-advocates-palliatives-almajiri-children>, at.3.

³² <<https://www.pulse.ng/news/local/nasarawa-govt-sends-788-almajiris-back-to-their-home-states/7cd56zr>> (May 10, 2020).

medium. Most unfortunately is the fact that the *Almajiri* children who had zero knowledge and access to computer were completely and technically cut out of contemplation.

3. LEGAL IMPACTS OF COVID-19 ON THE *ALMAJIRI* CHILDREN

The emergence of COVID-19 has put the global world on its toes. It is unimaginable and defies human expectation in this century that a tiny invincible virus could shutdown global business, sports, education, entertainment and politics despite the amazing scientific and technology breakthrough recorded in recent times. COVID-19 has left no aspect of human endeavour untouched and any part of the world unshaken. In essence, the pandemic has successfully hijacked the world system; thereby forcing State actors worldwide to take extreme measures to curtail the spread of the virus. In other words, laws and rights have been suspended, contractual obligations, conferences and world biggest events were put on hold, resulting in the cancellation and postponement of fixed major events. Hence, governments worldwide are compelled to adopt extreme measures which have significantly affected the citizenry of every political and geographical setting. COVID-19 has impacted negatively on the world economy, overstretched the global health system, instilled financial discipline and propelled compulsory restructuring of administration.

Definitely, COVID-19 has devastating impacts on the *Almajiri* children in the Northern part of Nigeria. It has caused socio-economic havoc on the masses; threatened global political stability, stirred psycho-religion quagmire especially in places where high premium is attached to religion such as Nigeria. Good governance is not about resolving every problem. It is about choosing the best available option, taking into account the current challenge at hand. However, our concern here is to examine the legal impacts of COVID-19 on the *Almajiri* children in the Northern part of Nigeria. Thus, it is pertinent to examine the impacts of the various regulations made by both Federal and State Governments towards halting the spread of the pandemic beyond measures. It is pertinent to reproduce the regulations for COVID-19 in order to foster simplicity and avoid ambiguity.

- A. **Citizens are to stay in their homes and all businesses and offices should be fully closed while travel to other states should be postponed.** Restriction of movement is not applicable to; hospitals and related medical establishments; health care related

manufacturers and distributors; food processing, distribution and retails companies; petroleum distribution and retail entities; power generation, transmission and distributions companies; private security companies; urgent court matters as may be directed by the Chief Justice of Nigeria; financial system and money markets; and workers in telecom companies, broadcasters, print and electronic media staff who can prove they are unable to work from home. **(emphasis is added)**

The impact of the first regulation is far-reaching on the lifestyle of the *Almajiris* who are raised on the street. Most of the *Almajiri* children have lost their homes to communal crisis, herders-farmer crisis, insurgency, and natural disaster. This particular regulation directly forced them into a state of psychological commotion and dilemma. Apart from the fact that they are not categorized as essential servicemen that may be exempted from the lockdown, their business is not attractive to earn government compassion, palliatives, incentives and financial intervention packaged for traders, marketers, farmers or small scale medium enterprises.

In essence, *Almajiri* children are faced with the option of either complying with the lockdown while enduring starvation or violate the lockdown directives from government and risk been arrested or contract the disease unconsciously while sourcing for sustenance. Even if the *Almajiris* risk violating the lockdown directives in search for sustenance, there is low probability of getting anything as the streets are deserted either in compliance with the government directives or for fear of COVID-19. The first and foremost regulation has a devastating, and overreaching impact on the wellbeing, right to life³³ and freedom of movement³⁴ of the *Almajiris*.

Interestingly, Section 45 of the same Constitution makes provision for justifiable excuse or instances when citizens right to freedom of movement can be restrained. However, such justification does not cover violation of right to life under Section 33 of the Constitution. It is the authors view that restriction of *Almajiri* children movement without any arrangement for palliatives to mitigate the sudden hardship from lockdown is tantamount to death sentence.

³³ See section 33 of the CFRN (1999) as amended.

³⁴ *Id.*, section 41.

Although, right to life is not absolute as the law makes clear and unambiguous provision for instances that can warrant lawful violation of same.³⁵ Meanwhile, none of the constitutional excuses absolves government restriction of *Almajiri* children's movement. Accordingly, the Criminal Code³⁶ provides thus;

“A person who by **threat** or **intimidation** or any deceit causes another person to do an act or make an omission which result in the death of that other person is deemed to have killed him.”

The question agitating the mind and begging for answer is whether the regulations restricting movement of *Almajiri* children constitute threat or intimidation as contemplated by the Criminal code? A quick glance into the Black's law Dictionary defines threat as follows; “A declaration of intention or determination to inflict punishment, loss, or pain on another, or to injure another by the commission of some unlawful act”³⁷

Similarly, the Penal code which is largely applicable in the northern part of Nigeria describes homicide as follows;

“If the doer of the act knew or had reason to know that death would be the probable and not likely consequence of the act or any bodily injury which the act was intended to cause.”

The singular act of the government to provide succor to other members of the public with the exception of *Almajiri* children gives strength to the fact that death or serious injury was anticipated from the lockdown directives. The deliberate act of excluding or non-recognition of the plights of the *Almajiri* children amidst COVID-19 pandemic portrays government's bias, indifference, nonchalance and discriminatory attitude towards its citizens.

Inference from the restriction against the right to movement of *Almajiri* children whose only means of survival is tied to their movement from one place to another is inimical to their

³⁵ See section 33 (2) a-c of the CFRN.

³⁶ Section 310 of the Criminal Code CAP “C38” of LFN 2004.

³⁷ Henry Campbell Black, *Black's Law Dictionary* (Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern), West Publishing Co. 4th Ed. Rev.pg. 1651, (In U. S. V. Daulong, d.c.la., 60 f.supp. 235, 236. A menace; especially, any menace of such a nature and extent as to unsettle the mind of the person on whom it operates, and to take away from his acts that free and voluntary action which alone constitutes consent. Abbott, United States v. French, D.C.Fla., 243 F. 785, 786).

wellbeing and material needs. It suffices to hold that threat to arrest lockdown violators without adequate concession for *Almajiri* children constitute threat to their right to life guaranteed under the constitution. In other words, government directives to restrict movement of citizens without concession for *Almajiri* children like other essential workers is suicidal and has the propensity to cause more harm than good. It is illogical to assume that government is ignorant of the condition of the *Almajiri* children whose existence and presence in the nooks and crannies of major city and all northern states can neither be denied nor downplayed.

There is no gainsaying the fact that such regulations actually threatened the life and existence of the *Almajiri* children in flagrant contravention of their constitutional and fundamental rights. Unfortunately, no meaningful arrangement or policy has been earmarked for *Almajiri* children in the northern part of Nigeria amidst the unabated increase in spread of COVID-19 in Nigeria.

B. Excerpt from the regulations and measures “Government will deploy relief materials to residents of satellite and commuter towns and communities around Lagos and Abuja whose livelihood will be affected by the restrictive measures.” Also, the school feeding program will be sustained without compromising social distancing policies **(emphasis added)**. As beautiful as the above measure appears, it is quite unfortunate that the *Almajiri* children despite possessing the required qualification to benefit from the palliative were not reckoned as deserving beneficiary. Also, the proposed feeding programme for school children, the category they ordinarily belong did not avail them because they lack access to formal education. Thus, they are unjustly excluded on the basis of a circumstance beyond their own means. In other words, they are unjustly exempted for government’s failure or negligence to provide free compulsory education in the country. The plight of the *Almajiri* children is pitiable, distressing and alarming. The legal impact of the pandemic is obviously devastating and unbearable.

From another perspective, the above measure can be simply described from the constitutional point of view as a discriminatory policy against the *Almajiri* children. Section 17(3) of the Constitution of the Federal Republic of Nigeria (as amended) provides as follows;

17(3). The state shall direct its policy towards ensuring that;

- a. all citizens, without discrimination on **any group** whatsoever have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment;
- f. children, **young persons** and the age are protected against any exploitation whatsoever and against moral and **material neglect(emphasis is ours)**.³⁸

Similarly, Section 18(3) a-d of the Constitution provides for free compulsory and universal primary education, free secondary education, free University education and adult literacy programme.³⁹

From the above cited statutory authorities, the mind boggling question that cross the mind is whether government school feeding programme to the exclusion of the *Almajiri* Children amidst COVID-19 pandemic is not *ultravires*, contradictory and anathema to the spirit and letters of the *grundnorm*? Whether governments' negligence to provide free compulsory, secondary, University and adult literacy programme for the *Almajiri* children is justifiable? This paper answers the above questions in the negative. The question is answered in the negative in view of the provision of the Constitution, specifically Section 15 (1 & 2)⁴⁰ which provide as follows;

15. (1) The motto of the Federal Republic of Nigeria shall be Unity and Faith, Peace and Progress.

(2)Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited. (emphasis is ours)

Hence, the *Almajiri* children should not be made to bear the brunt of government's iniquities and failure in the discharge of its responsibilities. Consequently, non-inclusion of the *Almajiri* children in the school feeding programme is discriminatory against the *Almajiri* children, unjustifiable and such programme merits prompt re-evaluation for possible redress.

³⁸ Sections 17(3) (a) and f, chapter 2 of the 1999 constitution of the Federal republic of Nigeria (as amended).

³⁹ Sections 18 (3) (a-d), *Ibid*.

⁴⁰ See section 15 of the 1999 Constitution (as amended).

C. “Northern Governors’ Resolution to Evacuate *Almajiris*”

Governors under the aegis of the Northern Governors’ Forum (NGF) issued a statement where they “discussed the risk that *Almajiri* children are exposed to due to the virus. They unanimously decided to ban the *Almajiri* system and evacuate the children to their states of origin. As a result of the resolution, Kano state has already finalized arrangement to repatriate 251,000 *Almajiris* to their state of origin.⁴¹ Nasarawa state has equally sent back 788 *Almajiri* children to their states.⁴²

A careful evaluation of the legal impact of this repatriation policy on the *Almajiri* children revealed governments’ insensitivity to their primary obligations and lack of quality policy direction. Such policy depicts the epitome of injustice and discrimination against the *Almajiris*. It is incongruous, unconstitutional and repugnant to natural justice, equity and good conscience that a vulnerable sector of the community who ordinarily should be protected are further subjected to rash and inhumane policy. Such resolution constitutes a flagrant breach of human dignity, and right of personal liberty. If about 9% of infected cases at Lagos State COVID-19 centres are foreigners and are being treated free of charge,⁴³ it is astonishing for Northern Governors to resolve to evacuate *Almajiris* who are citizen and indigenes to their respective state of origin rather than being given adequate care and treatment. In essence, the policy is ill-conceived and embarrassing.

Specifically, the Nigerian Constitution guarantees every citizen freedom to move and reside in any part of the country.⁴⁴

41. (1) Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereby or exit therefrom.

⁴¹ <<https://www.vanguardngr.com/2020/04/kano-to-evacuate-almajiri-children-to-states-of-origin/>> (May 9, 2020).

⁴² <<https://www.pulse.ng/news/local/nasarawa-govt-sends-788-almajiris-back-to-their-home-states/7cd56zr>> (May 19, 2020).

⁴³According to Professor Akin Abayomi, Lagos State Commissioner for Health about 91 per cent of confirmed COVID-19 Cases in Lagos are Nigerians, nine percent are foreigners,” <https://businessday.ng/coronavirus/article/covid-19-weekly-summary/> (May 11, 2020).

⁴⁴ Section 41 (1) of the 1999 CFRN (as amended) “Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereby or exit therefrom”.

(2) Nothing in subsection (1) of this section shall invalidate any law that is reasonably justifiable in a democratic society-

(a) imposing restrictions on the residence or movement of any person who has committed or is reasonably suspected to have committed a criminal offence in order to prevent him from leaving Nigeria; or

(b) providing for the removal of any person from Nigeria to any other country to:

(i) be tried outside Nigeria for any criminal offence, or

(ii) undergo imprisonment outside Nigeria in execution of the sentence of a court of law in respect of a criminal offence of which he has been found guilty:

Provided that there is reciprocal agreement between Nigeria and such other country in relation to such other matters.

Although, the same section of the law provides for exceptional instances a citizen can be expelled from the country, it requires judicial interpretation to determine whether a citizen's right under Section 41 can be restricted for public safety or public health under Section 45(1) (a) of the 1999 Constitution contrary to the unilateral executive discretion by the executive arm of government. While the nationwide lockdown and restrictive regulations can be hesitantly or partially accepted to be in the interest of public safety, repatriation of infected *Almajiri* children cannot be justified under the same guise in the interest of public safety or public health because to do so will be discriminatory. Repatriation of the *Almajiri* children will amount to double standard if other victims of COVID-19 who reside outside their states of origin are not subjected to similar treatment (of repatriation).

From the foregoing, it is conceivable and obvious that the legal impacts of COVID-19 on the *Almajiri* children are distressing and upsetting. Unlike others, the *Almajiri* children bear more burden during the period of pandemic as a result of the varying regulations and measures put in place to contain the spread of COVID-19. Rules and regulations which ordinarily ignite peace, comfort, justice and convenience on the masses occasioned untold hardship on the *Almajiri* children.

CONCLUSION

This paper presents an in-depth critique of the legal impacts of COVID-19 on the *Almajiri* children in the Northern part of Nigeria using available data and reports as at the time of writing this paper. Thus, it is not out of place to observe little discrepancies in figure and data later as the number of infections keeps increasing. It considered the background and the concept of *Almajiri* system in the Northern part of Nigeria while highlighting the significant contributions of the system at the early stage to the socio-economic, judicial and political administration pre and post colonialism. Ironically, the system was abused and consequently became a burden on the socio-economic and political growth due to executive negligence, parent religious overzealousness and societal misconceptions in the North.

Similarly, the factors contributing to the vulnerability of the *Almajiri* children to COVID-19 were highlighted. It was observed that the traditional lifestyle of the *Almajiris*, lack of parental guidance, lack of shelter, stable means of sustenance and poor access to useful information and health services underscores their vulnerability to the pandemic in the Northern part of Nigeria. Thus, the *Almajiris* from all indication appeared to be the most vulnerable to COVID-19 infection

Also, the various regulations made by the Federal Government and Northern State Governments to flatten the curve of the disease occasioned serious socio-economic crisis on the people. However, measures put in place to mitigate the impacts were uneven and unfavourable to the *Almajiris* due to state actors' zero concern for them; thus, making the *Almajiris* disproportionately bearing the burden of Covid-19. It was also observed that Northern State policy and regulations in containing the disease aggravated the problems. While, the order of lockdown is understandable, the measure of repatriation of the *Almajiri* children in the Northern part of Nigeria is unconstitutional and ill-conceived.

It is submitted that the legal impact of Covid-19 on the *Almajiri* children is discriminatory, repugnant to natural justice, equity and good conscience. The legal impact of Covid-19 on the *Almajiri* children is devastating and poses serious threat to the society at large as they will find it unbearable to comply with lockdown and other regulations. Consequently,

partial compliance with the regulations may jeopardise all efforts to contain the contagious disease.