



**A CRITICAL APPRAISAL OF THE SOCIAL AND  
EDUCATIONAL RIGHTS OF THE INTERNALLY DISPLACED  
CHILDREN IN NIGERIA: THEIR RELATIONSHIP TO OTHER  
RIGHTS, AND THE QUALITY OF DEMOCRACY.**

**BY**

**REGINA JEGBEFUMEN OKHIRIA  
STUDENT IDENTIFICATION NUMBER: U201N1549**

**PhD (DOCTOR OF PHILOSOPHY) IN SCHOOL OF LAW**

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## Abstract

Several incidents of Internally Displaced People (IDPs) have been reported in various nations around the world. Nigeria is one of these countries where citizens have been forced to flee their ancestral homes. Internal displacement in Nigeria is caused by a variety of factors, raising major problems. Natural disasters and human actions, such as flooding, environmental hazards, war, intra-ethnic disputes between ethnic/religious groups, politically motivated crises, attacks by Fulani herders, bandits, kidnappers, and Boko Haram insurgency, are among these causes. Displacement disrupts the life activities of the people, results in the loss of their means of livelihood, and creates difficulty in housing situations in their host communities. They experienced health and security challenges, as well as disruptions in children's education, and this situation is compounded for vulnerable groups, such as women, the elderly, and children. As a result, the displaced cannot earn a living, contribute to their local economies, or participate in their socioeconomic growth. When displacement occurs, displaced children have difficulty accessing education and other socioeconomic needs. The lack of education provisions for internally displaced children violates their right to education, and the benefits of other human rights. It would affect their quality of life and the quality of democracy in the country. This violation of the right to education is contrary to the provisions of Section 2(1) of the Free, Compulsory, Universal Basic Education Act 2004, Section 15 of the Child's Right Act 2003, and Section 18 of the Constitution of the Federal Republic of Nigeria, and other international instruments which states *"Every government in Nigeria shall provide free, compulsory, and universal basic education for every child of primary and junior secondary school age," according to these requirements*. Education benefits include gaining knowledge, improving skills and talents, and enhancing a country's economic strength, development, and sustainability. A country's ability to appropriately adjust to changing development is highly tied to its educated population for sustainable development and the benefits that come with it. The inability of children, even internally displaced children, to attend school is the basis and root of poverty in a country. This research examines the social and educational rights of internally displaced children in Nigeria, its relationship to other rights and the quality of democracy. This thesis is based on doctrinal and empirical research that includes primary and secondary data sources, and visits to chosen internally displaced persons (IDP) camps in Nigeria. The study revealed that most internally displaced children do not have access to education and other socio-economic rights, thereby depriving them of the benefits of other human rights and consequently affecting their quality of life and the tenets of democracy. Furthermore, the study found that when the government fails to provide education for internally displaced children, Section 6(6)(C) of the 1999 Constitution of the Federal Republic of Nigeria (as Amended in 2018), makes enforcement of these rights non-justiciable. The primary sources include relevant national laws and regional and international instruments, the secondary sources are journal articles, internet sources, periodicals, law reports, and newspapers. The research is in five chapters and provides the findings and recommendations.

**Key Words:** Internally Displaced Children, Rights, Child Rights, Displaced Person, Camp, Constitution, Free, Compulsory Basic Education, Child Right Act, Law, Democracy, Insurgency, Violation, Protection.

## **Dedication**

I dedicate this thesis to God Almighty, my helper.

Also, to my children, grandchildren, and sons-in-law for all their inspiration, assistance, and commitment to ensure this dream becomes a reality.

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### **Declaration**

I declare that the work in this thesis was carried out in accordance with the regulations of the University of Nicosia. It is a product of original work of my own, unless otherwise mentioned through references, notes, or any other statements.



Signed: .....



Date: .....



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 Federal Republic of Nigeria & Universal Basic Education Commission*, Suit ECW/CCJ/  
 APP/08/08, ruling of 27 October 2009  
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*Tripartite Steering Committee & Anor v. Minister of Basic Education and Ors.* [1830/2015]  
 [2015] (5) SA 107 (ECG);  
*Ugboma v Ibeneme* (1967) FNLR 251  
*Ukeje v Ukeje* (2014) 11 NWLR (Pt. 1418) 384  
*Uzoukwu v Ezeonu II* (1991) 6 NWLR Part 200.  
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## **Abbreviation Index**

ACHPR	African Charter on Human and Peoples' Rights
ACRWC	African Charter on the Rights and Welfare of the Child 1990
CRA	Child Rights Act
CFRN	Constitution of Federal Republic of Nigeria
CRC	Convention on the Rights of the Child
CYP	Children and Young Persons Act
FCT	Federal Capital Territory
CEDAW	Committee on the Elimination of Discrimination Against Women
DTM	Displacement Tracking Matrix
EU	European Union
ICRC	International Committee of the Red Cross
ICJ	International Court of Justice
IDMC	Internal Displacement Monitoring Centre
IDPs	Internally Displaced Persons
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of all Forms of Racial Discrimination
JAMB	Joint Admission and Matriculations Board
IOM	International Organisation for Migration
LGAs	Local Government Areas
MRRR	Ministry of Reconstruction, Rehabilitation and Resettlement
NAPTIP	National Agency for the Prohibition of Trafficking in Persons
NCFR	National Commission for Refugees
NCFRMI	National Commission for Refugees, Migrants, and Internally Displaced Persons
NMP	National Migration Policy
NPE	National Policy on Education
NEMA	National Emergency Management Agency
NGO	Non-Governmental Organisation
NHRC	National Human Rights Commission
NRCS	Nigerian Red Cross Society
NUC	National University Commission
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
PTA	Parents Teachers Association
SEMA	State Emergency Management Agency
SPEBS	State Primary Education Boards
UBE	Universal Basic Education
UN	United Nations
NPEC	National Primary Education Commission
UNHCR	United Nations High Commission for Refugees



UNICEF	United Nations Children’s Fund
UNCRPD	UN Convention on the Rights of Persons with Disabilities
UNTOC	United Nations Convention against Transnational Organized Crime
UDHR	Universal Declaration of Human Rights

## CHAPTER ONE

### INTRODUCTION

#### 1.1 General Introduction

Both natural and man-made factors have been responsible for the displacement of persons, particularly children in Nigeria over time. Family units are separated and broken to seek safety elsewhere in most cases to unknown destinations. This is a result of flooding, overflow of riverbanks, internal communal/religious clashes, and politically motivated violence attacks for example by bodies such as Boko Haram, bandits, herdsmen, and other human rights abuses, thereby displacing them from their homes in Nigeria. According to Beiter<sup>1</sup>, on Internal Displacement, internally displaced persons (IDPs) means persons or groups of persons who have been forced or obliged to flee or to leave their homes or place of habitual residence, in particular as a result of or to avoid the effects of armed conflicts, situations of generalized violence, violation of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border. However, available literature studies displacement as a process of removal from a proper place or position; they are forced to flee for safety from their indigenous sphere of influence and homestead because of artificial tragedies such as activities of insurgency, bandits, kidnappers, attacks by Fulani headsmen, violent conflicts with ethnic inclination, religious or political undertones and natural disasters because of flooding, landslides, earthquakes and volcanoes.<sup>2</sup>

Internally Displaced Persons (IDPs) also referred to as IDPs, are one of the essential humanitarian challenges confronting the world.<sup>3</sup> IDPs are part of the larger human persons in society that needs lots of assistance such as homes, clothing, food, health facilities, education, protection from human rights abuses, improvement of the quality of life and other basic

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<sup>1</sup>K.D. Beiter, 'The Protection of the Right to Education by International Law: Including a Systematic Analysis of Article 13 of the International Covenant on Economic, Social and Cultural Rights' (*The Netherlands: Brill/Nijhoff Publishers and VSP, 2006*) 104

<sup>2</sup> C. Phuong, 'The International Protection of Internally Displaced Persons' (Cambridge: CUP, 2004) 2; M. Vincent and B.R. Sorensen(ed), 'Caught Between Borders: Response Strategies of the Internally; 'Towards a Comprehensive Approach to Protecting Refugees and the Internally Displaced' in A.F.Bayefsky (ed), *Human Rights and Refugees, Internally Displaced Persons, and Migrant Workers* (Leiden: Martinus Nijhoff Publishers, 2006) 15

<sup>3</sup> International Committee of the Red Cross (ICRC), 2009, 20018-0> accessed 7 October 2019

amenities that could help ameliorate their sufferings arising from the traumatic experience from conflicts, violence and natural disasters that has led to their displacement.

There has been a tremendous global increase in internally displaced people growing from 43.3 million in 2009 to 70.8<sup>4</sup> million in 2018. This increase has been between 2012 and 2015, mainly driven because of Syrian conflicts, although conflicts in other areas such as the Middle East, Iraq, Yemen, and parts of Sub-Saharan Africa, namely, Democratic Republic of Congo (DRC) South Sudan, Rohingya refugee to Bangladesh at the end of 2017.<sup>5</sup>

In 2018, Syria had the largest number of displaced persons, with a population of about 13<sup>6</sup> million; these displaced population includes refugees, internally displaced persons (IDPs) and asylum seekers. The second leading country group of displaced populations was Columbia, with about 8.0 million forcibly displaced; about 98 (Ninety-Nine) per cent of the displaced persons were inside their country at the end of 2018.<sup>7</sup> The Democratic Republic of Congo had about a total of 5.4 million<sup>8</sup> forcibly displaced, comprised of refugees or asylum seekers and other displaced persons in 2018. Afghanistan has a largely displaced population of about 5.1 million<sup>9</sup> comprising refugees, asylum seekers and internally displaced persons. Others are Somalia 3.7<sup>10</sup> million, South Sudan 4.2 million<sup>11</sup> populations, Lugares 2.5 million,<sup>12</sup> Iraq 2.4 million<sup>13</sup> and Sudan 2.7 million.<sup>14</sup>

The situation in the West African Sub-region, notably in the nations surrounding Lake Chad was marked by several armed conflicts, violent extremism, human rights violations, increased

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<sup>4</sup> The UNHCR Global Trends: Forced Displacement in 2018: "The World now has a Population of 70.8 million Forcibly Displaced People, available at: <https://reliefweb.int/report/world/unhcr-global-trends-forced-displacement-2018-0> accessed 11 October 2019

<sup>5</sup> Ibid

<sup>6</sup> Ibid

<sup>7</sup> The large number of registered IDPs in the Colombia comes from the total cumulative recorded in the Government's Victim Registry which commenced in 1985.

<sup>8</sup> The UNHCR Global Trends: Forced Displacement in 2018: "The World now has a Population of 70.8 million Forcibly Displaced People, available at: <https://reliefweb.int/report/world/unhcr-global-trends-forced-displacement-2018-0> accessed 11 October 2019

<sup>9</sup> Ibid

<sup>10</sup> Ibid

<sup>11</sup> Ibid

<sup>12</sup> Ibid

<sup>13</sup> Ibid

<sup>14</sup> Ibid

poverty, acute food shortages, water scarcity, and drought.<sup>15</sup> Of these displaced persons, are two categories of persons, these are adults and children. During attacks, conflicts and violence, women and children suffer more. In contrast, children are the most vulnerable group among the displaced people and without the safety of family; unaccompanied and separated children are frequently exploited and abused. The absence of accurate information and statistics about this group is a major issue, as the number of children reported requesting asylum in 2018 was about 27,600. At the end of 2018, the refugee population had 111,000 unaccompanied and separated children. Because of the small number of countries reporting data, these figures are likely to be underestimated.<sup>16</sup>

Cameroon's situation was complicated because it was both a source and a destination country for migrants and asylum seekers.<sup>17</sup> Furthermore, it was confronted with numerous internal displacements in 2018.<sup>18</sup> The Sub-Saharan African area continues to host the greatest number of persons of concern to the United Nations High Commissioner for Refugees (UNHCR), with an estimated 24.2 million<sup>19</sup> people of concern in the region at the end of 2017, a 4.6 million rise since 2016.<sup>20</sup> Due to a global financial deficit, the complex humanitarian situation was exacerbated by additional variables such as drought, food and security issues, which drove certain places to the brink of famine.<sup>21</sup> The Central African Republic's situation has deteriorated as a result of widespread violence and confrontations between opposing armed groups, as well as an increase in reprisals against civilians. The situation remains complicated, with limited access to many places and resources to address their basic needs.<sup>22</sup>

More than ten years into the Nigerian conflict, the displacement situation remains dreadful, with violence raging across the country and the number of civilians killed in violent incidents has

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<sup>15</sup> Ibid

<sup>16</sup> Ibid

<sup>17</sup> The UNHCR Global Trends: Forced Displacement in 2018: "The World now has a Population of 70.8 million Forcibly Displaced People, available at: <https://reliefweb.int/report/world/unhcr-global-trends-forced-displacement-2018-0> accessed 11 October 2019

<sup>18</sup> Ibid

<sup>19</sup> Update of UNHCR is operations in Africa, 14 September 2018, available at <https://reliefweb.int/report/world/update-unhcr-s-operations-africa-14-september-2018> accessed 11 October 2019

<sup>20</sup> Ibid

<sup>21</sup> Ibid pg 1

<sup>22</sup> Ibid

grown. The Boko Haram insurgency began in 2009 and has steadily become the leading source of displacement in the Lake Chad Basin, with over 2.3 million people becoming refugees. The number of Internally Displaced Persons (IDPs) has more than doubled in three years, from 868,000 identified by the Nigerian government in the northeastern regions at the end of 2014 to 1.7 million by June 2017.<sup>23</sup> Evidence from the post-cold war era suggests that most intrastate conflicts happened in Africa, and Nigeria has made a significant contribution to the worldwide displacement total. Over the previous decades, coups, internal armed conflicts, generalised violence, human rights violations, natural disasters, militant activity in the Niger Delta region, and overflow of riverbanks in riverine areas have contributed to internal displacement in Nigeria. With increased infiltration, suicide bombings, attacks, and recruiting by the armed group, the violence has increasingly overflowed into neighbouring countries, forcing population flows from Northern Nigeria across borders to Cameroon, Chad, and Niger. The violence instilled fear and uncertainty among the region's people, exacerbated social tensions, and caused hardship, particularly among those accused of having ties to the insurgency movement. These beliefs have influenced regional governments' responses to forced displacement as part of efforts to resolve legitimate security issues.<sup>24</sup> Many camps in North-East Nigeria remain under military administration, raising security concerns; in certain cases, these camps are targeted by Boko Haram and penetrated by terrorists.

In Nigeria, the activities of the mounting Shiite group are on the increase, staging riots against the military at will, the Boko Haram sect activities in Northern Nigeria seems unending. The agitations of the Niger Delta Militants' group evidence from the post-cold war era and the Independent People of Biafra (IPOB) in Southern Nigeria have taken both political and economic dimensions to leave much to worry about. It shows that most interstate conflicts that occurred in Africa and Nigeria have contributed immensely to the global displacement figure. The resultant effects of these conflicts are mostly on the vulnerable groups in that society, such as women and children, who constitute most of the displaced population in Nigeria. After the

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<sup>23</sup> UNCHR, 'Nigeria Situation Supplementary Appeal 2017' available at <https://www.unhcr.org/sites/default/files/legacy-pdf/597704b87.pdf> accessed 13 October 2019

<sup>24</sup> Ibid at pg 3

civil war, millions of people were forcibly displaced due to violence, which can be grouped into two main categories: natural disasters and man-made.

The issue of internal displacement of persons is an enormous problem in Nigeria; this has its long time history far back to the time of Civil war popularly called the Biafran War in between 1967-1970, it was recorded that about 2 million people were internally displaced.<sup>25</sup> In 1989, Nigeria government provided protection for 9000 refugees who were stranded at the shores of Lagos.<sup>26</sup> In 1991, when the seat of government was moved from Lagos to Abuja, though the exact number of indigenous people that were displaced from the Federal Capital Territory (FCT) was not available, about 300,000 indigenous people from 600 communities in Abuja were identified for relocation within the FCT.<sup>27</sup>

In the 1990s, there were inter-communal and inter-ethnic confrontations in Plateau, Benue, Taraba, and Nasarawa over land boundary disputes between indigenes and settlers,<sup>28</sup> in 2008 there were disputed Plateau State elections and tensions between the indigenous Christian minority and settlers from the Hausa-speaking Muslim north which resulted in the internal displacement of over 30,000 people.<sup>29</sup> Between 2003 and 2008, 3.2 million people were displaced owing to ethnic and religious violence, both from and inside the countries.<sup>30</sup>

Following the intervention from the International Court of Justice (ICJ) in the disagreement between Nigeria and Republic of Cameroon, Nigeria surrendered the Bakassi Peninsula to the Republic of Cameroon in August 2008; this again resulted to an estimated 400,000-755,000 people who were displaced.<sup>31</sup> In 2010 and 2011, due to environmental degradation and natural

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<sup>25</sup> F.K. Mohammed 'The Causes and Consequences of Internal Displacement in Nigeria and Related Governance Challenges' (2017) Working Paper, FG SWP Berlin, 9

<sup>26</sup> Ibid

<sup>27</sup> I.T. Sylvester, 'A Post-Resettlement Appraisal of the Socio-Economic Condition of Gbagi People in Kubwa, Federal Capital Territory (FCT) Abuja, Nigeria' (2014) 5(4) Academic Research International

<sup>28</sup> A.S. Adesola and P.A. Ola, 'A Historical Analysis of Violence and Internal Population Displacement in Nigeria's Fourth Republic, 1999-2011' (2015)

<sup>29</sup> Ibid

<sup>30</sup> B.U. Mberu and R. Pongou, 'Nigeria: Multiple Forms of Mobility in Africa's Demographic Giant' (2010) The Online Journal of the Migration Policy Institute

<sup>31</sup> United Nations Environment Programme (UNEP), 'Environmental Assessment of Ogoni land report' (2011), available at <https://wedocs.unep.org/handle/20.500.11822/7947?jsessionid=6A81F36DC9EB632703908312D9E2B5E8> accessed 11 November 2019

disasters in the Niger Delta region, affected approximately 5,000 vulnerable families, over 350,000 people were displaced and with about 80 internally displaced persons settlements registered in 26 states across six geographical zones.<sup>32</sup>

In 2012, Nigeria experienced its worst floods in 40 years, affecting over 7 million people across 33 states,<sup>33</sup> and in addition it was reported that not less than 363 people died as a result of flooding.<sup>34</sup> According to NCFRMI, between April 2011 and January 2012, riots stemming from electoral violence forced more than 65,000 people to evacuate their homes for safety.<sup>35</sup> From March 2012, at different time, clashes occurred between nomadic Fulani and ethnic Tivs, Benue States, which lead to the displacements of about 15,000 persons.<sup>36</sup> According to reports in 2012, there was an increase in youth migration within the country in search of a means of livelihood, gainful employment, climate change,<sup>37</sup> 48.5 percent youths migrated for family reasons, 22.9 percent for work possibilities, 2.6 due to conflicts and disturbances, and 9.2 moved for education. However, the situation has since shifted from regular migration due to the activities of insurgencies and kidnappers.<sup>38</sup>

This was the position of IDPs in Nigeria before the Boko Haram insurgency emerged from a tiny group of extremists challenging Nigerian authorities in the early 2000s. The Boko Haram sect invaded the northeast part of the country, and their drive became openly violent, embracing and employing terrorist techniques as well as targeted killings, suicide bombings, hostage grabbing, and outright attacks on local communities and villages in the region's rural areas.<sup>39</sup> The situation became exacerbated by attacks, mass abductions of school children, and people travelling on the highways, randomly and from people's homes. Today, the attacks have extended to urban cities, and the situation has resulted in millions of people being internally displaced while as they safer areas.

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<sup>32</sup> Ibid

<sup>33</sup> NRCS 2013 Annual Report

<sup>34</sup> The National Emergency Management Agency (NEMA) Reports (2012)

<sup>35</sup> National Commission for Refugees, Migrants, and Internally Displaced Persons (NCFRMI) (2012)

<sup>36</sup> Ibid

<sup>37</sup> National Baseline Youth Survey, National Bureau of Statistics in Collaboration with Federal Ministry of Youth Development(2012)

<sup>38</sup> Ibid

<sup>39</sup> Ibid

In October 2016, it was estimated that the number of internally displaced persons in Nigeria through 13 states was 2,155,618 in "Round 12" of the Displacement Tracking Matrix, while "Round 13" was estimated to be 1 770 44443 in the country's northeast alone.<sup>40</sup> By June 2017 it was recorded that about 1.7 million persons were displaced,<sup>41</sup> in 2018, Nigeria had 2.2 million<sup>42</sup> internally displaced people. In 2019 reports revealed that Boko Haram sect and other insurgence groups displaced about 2.4 million Nigerians who were living in the Lake Chad Basin of the northern part of the country,<sup>43</sup> at the end of December 2020, the number of internally displaced persons in the country's northeast<sup>44</sup> was not less than 2.9 million. In August 2021, Nigeria's data on internally displaced persons revealed a total of 2,887,107, excluding the country's accommodation of 71,380 refugees and 1,813 asylum seekers.

According to UNICEF, the global estimate of displaced children in 2019 was 19 million who were living in displacement inside their own countries because of conflict and violence. While in the northeast part of Nigeria, about 1.9 million people were displaced from their homes, of which sixty per cent of them are children, with 1 in 4 under the age of five.<sup>45</sup> As COVID-19 continues to spread around the world, these children are among the most vulnerable to its direct and indirect impacts.<sup>46</sup>

Since 2009, virtually 15 million people in Nigeria's northeast have been affected by armed conflict, characterised by indiscriminate killings and attacks on villages, schools and

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<sup>40</sup> IOM Nigeria Situation Report 2016.

<sup>41</sup> International Organization for Migration (IOM), 'Nigeria — Displacement Report(2017)<<https://dtm.iom.int/reports/nigeria-%E2%80%94-displacement-report-20-december-2017>>accessed 6 October 2021

<sup>42</sup>The Internal Displacement Monitoring Centre (IDMC) Report, (2019) <https://reliefweb.int/report/niger/forced-displacement-december-2019>accessed 6 October 2021

<sup>43</sup> S. Varrel, 'Number of Internally displaced Persons (IDPs) in Nigeria 2013-2020'(2021), available at <https://www.statista.com/statistics/1237374/number-of-internally-displaced-person-in-Nigeria>>, accessed 26 September 2021

<sup>44</sup>Ibid

<sup>45</sup> Nigeria Emergency: UNHCR; <https://reporting.unhcr.org/nigeria-2021-year-end-report-population-trends>accessed 06 October 2021

<sup>46</sup>19 Million Children Internally Displaced by Conflict and Violence in 2019 is Highest Number Ever, (UNICEF, May 2020), <<https://www.unicef.org/nigeria/press-releases/19-million-children-internally-displaced-conflict-and-violence-2019-highest-number>>accessed 8 October 2021

<sup>47</sup> Ibid



communities. The violence has caused massive displacement and the frequent abduction of women and children, with children suffering the most significant impact of the conflict.<sup>47</sup>

From the North-Eastern part, as well as other parts of Northern Nigeria, we hear daily tales of unmitigated acts of terrorism: chilling, blood-letting escapades of an Islamic sect called 'Boko Haram.' The Federal Capital Territory Abuja is not spared from the attack with the incidents of the bombing at Nyanya, other parts of the country, and the unmitigated act of wickedness of dramatically kidnapping over 200 high school girls from their hostel in Chibok, Borno state in April 2014. Yet the sect is not done. Without any doubt, these are trying times in Nigeria.<sup>48</sup>

One of Nigeria's challenges is the problem of insecurity, which is one of the major causes of internally displaced people. According to Section 14 (2) (b) of the 1999 Constitution<sup>49</sup>, "...the security and welfare of the people shall be the primary purpose of government..." This Section makes security the government's fundamental and primary goal. Despite this provision, there have been cases of unrestrained killings and wanton destruction of lives and property. There has also been an increase in kidnappings and terrorist attacks from the rapacious beasts who have made Nigeria their permanent home.

This constitutional provision is non-justiciable, so the government is unconcerned about the loss of lives and property that occurs every day in the country. The enforcement of Section 14 (2) (b), and with the payment of damages to victims of insecurity attacks,<sup>50</sup> would have compelled the Nigerian government to find a long-term solution to the country's insecurity challenges.

It is against this background that this thesis, appraises the social and educational rights of the internally displaced children in Nigeria, their relationship to other rights and the quality of

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<sup>47</sup>A.A. Panchanan and F. Adebayo 'Their Long Road to Freedom: At the Bulumkutu Interim Care Centre in Maiduguri, north-east Nigeria, boys formerly Associated with Armed groups are finding answers to the question [of peace and purpose]' (30 September 2021) <<https://www.unicef.org/nigeria/stories/their-long-road-freedom>> accessed 8 October 2021

<sup>48</sup>K.S.A. Ebeku, 'Boko Haram and Nigeria's National Security: Some Reflections from Historical-Constitutional Perspective'(2020)7(5) *Advances in Social Sciences Research Journal* 503-521, 504

<sup>49</sup> 1999 Constitution of the Federal Republic of Nigeria (As amended in 2018)

<sup>50</sup>T. Durodola, Esq., 'Chapter Two of the 1999 Constitution of Nigeria; The Fraud, Illogicality and Prospects' available at <https://lawpavilion.com/blog/chapter-two-of-the-1999-constitution-of-nigeria-the-fraud-illogicality-and-prospects/> accessed 24 March 2023

democracy. It considered the impact of displacement on the educational and social rights of internally displaced children, the enjoyment of other rights and the quality of democracy in Nigeria. It further examines the gap in the education laws, the quality of education accessible to internally displaced children, the provision of the child's right to education in the Compulsory, Universal Basic Education Act 2004, Section of the Child's Right Act 2003, the Chapter II of the 1999 Constitution, and any other laws relevant to the child's right to education and social economic rights.

Some of the consequences of the constant attacks include the displacement of people to internally displaced person camps throughout the country, which has contributed to an increase in the number of out-of-school children roaming the streets and being used for street hawking. The increase in these numbers of unemployed youths is also alarming, and it calls for urgent attention. According to *Okechukwu*, some of these youths already recruits for criminal activities continue to plague Nigeria,<sup>51</sup> and these recruitments are part of the resultant effects of the displacement of persons. According to *Osuji*, Boko-Haram sect activities signify the furthestmost threat to Nigeria's internal security; the objectives of this Boko-Haram sect are to obliterate the present democratic institutions for these motives embarked on a series of the bombing of public facilities, killing of innocent lives in an unprecedented spate of terrorist attacks in the history of the nation.<sup>52</sup> The lack of adequate provisions in other to ameliorate the sorry situations of the IDPs in general and vulnerably displaced children, in particular, tends to undermine the country's human resources development, social, economic, political development, security network architecture, and the quality of democracy. However, it is necessary to provide for progressive and quality development in all aspects of the democratic society. There should be conformance to democratic tenets that must saturate into the Nigerian structure to ensure a secure society where the lives and property of all citizens can be safe, and people would live in the society without fear.

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<sup>51</sup>O.A. Okechukwu, 'Rising Youth Unemployment and Violent Crime in Nigeria' *American Journal of Social Issues & Humanities*, (2012) 2, 315-321 [https://www.researchgate.net/publication/340376177\\_Rising\\_Youth\\_Unemployment\\_and\\_Violent\\_Crime\\_in\\_Nigeria](https://www.researchgate.net/publication/340376177_Rising_Youth_Unemployment_and_Violent_Crime_in_Nigeria) accessed 13 October 2019

<sup>52</sup>K.C. Osuji, 'Internal Security Threat to Nigeria: A Personal Perspective'. In I.O. Mbachu and U.M. Bature, (eds), *Internal Security Management in Nigeria: A Study of Terrorism and Counterterrorism*. Kaduna: (Medusa Academic Publishers Limited, 2013)

The provision of adequate medical health facilities for all people is the prime responsibility of the government. According to Section 17(3)(d), "there are adequate medical and health facilities for all persons..." Notwithstanding this position of the law, there is a lack of adequate healthcare facilities accessible to the displaced persons in the camps. The children are undoubtedly exposed to a variety of health risks, including mosquito bites that can cause malaria attacks, because they lack treated mosquito nets. They are exposed to numerous water-borne disease outbreaks, including cholera, skin conditions, measles, guinea worm, diarrhea, and coughing. The health centres one may find at the IDP camps are merely sick bays with a lack of qualified medical personnel, with little or no drugs, which are often managed by auxiliary or nurse staff who may not be able to diagnose any serious ailment thereby exposing them to health issues that may lead to death. IDPs live in an overcrowded, unsafe environment with substandard housing, and are exposed to dangerous environmental air pollution and food contamination due to a lack of adequate sanitary facilities.

Gaining access to educational opportunities is a serious difficulty for internally displaced children, as Mooney and French<sup>53</sup> observe: "Despite the benefits of education for internally displaced children, dislocation often offers distinct impediments to teaching and learning. The impact of displacement on education includes loss of human resources, physical infrastructure, pressure on the already overstretched educational infrastructures in their immediate host community, lack of schools, inadequate physical facilities, lack of infrastructures, such as classrooms, teaching materials, trained and qualified personnel, lack of teachers, unavailability of schools, the long-distance location from the camp to the nearest school and unaffordable cost.

Without prejudice to the provisions of Item 30 of Part II of the Second Schedule and Item 2 (a) of the Fourth Schedule to the 1999 Constitution dealing with primary school education, the Federal Government owns the duty of intervention<sup>54</sup> for the provision of uniforms, free books, instructional materials, classrooms, furniture, free lunch, and qualitative basic education. Regardless of this provision, there is also the barrier of incidental costs such as books, uniforms, and other school materials, which may be difficult for many parents, and guardians of many low-

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<sup>53</sup> E. Mooney and C. French, 'Barriers, and Bridges: Access to Education for Internally displaced Children' (Brookings, 2005) 5

<sup>54</sup> PART I, S. 1 The Compulsory, Free Universal Basic Education Act, 2004

income earners to provide for their children. This has further added to the number of out-of-school children. A large number of internally displaced children staying in the immediate host community are out of school due to the inadequate educational facilities on the ground to accommodate the displaced children.

Adults who survived the displacement lost their means of livelihood, employment, and home and became more exposed to insecurity; they faced arbitrary arrests, enforced disappearances, forced conscription, and assaults.<sup>55</sup> Less attention has been paid to the unfair treatment of IDPs in host communities as because of the government's indifference to the inadequate delivery of humanitarian aid to IDPs in host communities as opposed to the absence of government employees in formal camps. With these challenges faced by the displaced people, what is uppermost in their minds is survival and not education. This neglect of the IDPs and the protection of their human rights in crises have a negative implication for the quality of democracy in Nigeria.

Women and children are the worst hit by displacement; they are the most vulnerable in a crisis and need greater protection against human rights abuses. Education is not only a right in emergencies and chronic crises; it also provides physical, emotional, and cognitive protection that can be both lifesaving and life-sustaining. Education provides a method of life sustenance in the form of a safe environment for learning, the expertise to identify and assist impacted individuals, particularly children and adolescents. The government's ineffectiveness to provide education for internally displaced children violates their right to an education as well as efforts to achieve Education for All (EFA) goals. Hence, the government must develop an educational structure that permits internally displaced children to learn.

Children are regarded as the future leaders of nations and the world at large, children will be useful to themselves, and contribute to the development of the country's social sustainability,

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<sup>55</sup>D.O. Adekola, and others, 'Restoration of Water Supply in Post-Conflict Communities in Nigeria and Sustainable Reintegration' (2019) 10, 191-201 IJCIET [https://www.researchgate.net/publication/331975495\\_Article\\_ID\\_IJCIET\\_10\\_02\\_022\\_Restoration\\_of\\_Water\\_Supply\\_in\\_Post-Conflict\\_Communities\\_in\\_Nigeria\\_and\\_Sustainable\\_Reintegration](https://www.researchgate.net/publication/331975495_Article_ID_IJCIET_10_02_022_Restoration_of_Water_Supply_in_Post-Conflict_Communities_in_Nigeria_and_Sustainable_Reintegration) accessed 20 October 2019

human rights will be recognized, the rule of law will be respected, and these qualities will have a positive impact on the country's democratic quality.

The government's inability to provide adequate education and other social and economic rights for the displaced children would expose them to such abuses as child marriage, which could lead to a health situation where the child would have to suffer from Vesico-Vaginal Fistula (VVF),<sup>56</sup> child labour,<sup>57</sup> unlawful sexual intercourse,<sup>58</sup> domestic slaves, which often may lead to child physical abuse,<sup>59</sup> buying, selling to beg and prostitution,<sup>60</sup> and the rate of abuse could become endless.

Several IDP children have become orphans who lack adequate government support, lack emotional support, and suffer intolerance among the host community and the attitudes of some host landowners who may resort to violence because they are not welcomed in their communities as if they deserve what they are going through. They are not noticed as deserving of social integration, for individual contributions to national growth and development. and internally displaced children are not adequately mainstreamed in the government's policies, and the laws available lack effective enforcement mechanisms.

Sovereignty belongs to the people of Nigeria, from whom the government derives its power, this implies national responsibility for guaranteeing the welfare and security of those who live within a country's territorial authority. Governments are supposed to take actions such as enacting policies and legislation, establishing institutions, distributing resources, and coordinating as

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<sup>56</sup> Child's Rights Act, 2003 s21, LFN 2004; See also I.A. Ayuah, and I.E. Okagbue, (eds), 'The Rights of the Child in Nigerian' (NIALS 1996) 236; the team 'Vesicovaginal Fistula (VVF)' This is a health situation whereby little girls give birth very early before they get to maturity age, or when their pelvic bones are not matured to the state of given birth. Girls of these ages involved in this health situation usually have an obstructed or hindered labour during childbirth which will result in injuries to their bladder, the lower end of the bowel and the urethra thereby causing continuous leakage of urine and occasionally excretion of faeces from their vaginal; see also K Harrison, "Obstetric Fistula: One Social Calamity Too Many" (1983) 90 BJOG, 385-386

<sup>57</sup> Child's Rights Act, 2003 s. 28; See also National Centre on Child Abuse and Neglect *Interdisciplinary Glossary on Child Abuse and Neglect* (Washington DC.U.S. Dept. of Health Education and Welfare, 1978) 9

<sup>58</sup> Child's Rights Act, 2003 s. 31-33; I.A. Ayuah, and I.E. Okagbue, (eds) 'The Rights of the Child in Nigerian' (NIALS 1996) 222

<sup>59</sup> Child's Rights Act, 2003 s. 21; Application of Labour Act 1990, Cap 198 LFN; M E Wolfgang 'Patterns in Criminal Homicide (Montclair N.J. Patterson Smith, 1975)

<sup>60</sup> Child's Rights Act, 2003 s.30

needed with international, regional, national, and non-governmental organizations to guarantee that adequate provisions for the assistance of the IDPs are met.<sup>61</sup>

The United Nations rules on children's rights include the right to survival through access to health care services such as immunization against childhood diseases, oral rehydration treatment (ORT), and access to safe and clean water. The health of these children has been recognised as a necessity for long-term social and economic growth. Many African children, however, are trapped in a cross-current of poverty, underdevelopment, economic downturn, and foreign indebtedness. As a result, this has had a severe impact on children's health and emotional development, resulting in somatic problems, neurosis, and psychotic cases.<sup>62</sup> The health and living conditions of displaced children are not encouraging; the poor nutritional status of children in IDP camps also has an impact on health; many children are susceptible to infection as a result of malnourishment, which is attributed to the poor state of the environment, and other social amenities.

Nobody plans to be without a home or a roof over their heads. Even when one does, one will be bewildered by being homeless. There are no schools and no shelters in several IDP camps; where there are schools, they are built of fragile materials with inadequately trained personnel to teach, and the structures are easily destroyed by the winds, posing many challenges such as exposure to uncomfortable weather and poor sanitary conditions. People who volunteer to tutor children in IDP camps are frequently left stranded due to a lack of funding.

To *Mooney*, going to school is known to provide a sense of security and normalcy in the damaged lives of children, including internally displaced children, and it can be an important source of psychosocial support. Education can assist in limiting children's exposure to hazards such as sexual exploitation, physical assault, and conscription into military service. The act of displacement violates the human rights of those affected, and the subsequent loss of indigenous homes, lands, livelihoods, personal effects, family members, and social networks can hurt IDPs'

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<sup>61</sup> S.17(2)(a) of the 1999 Constitution (as Amended in 2018)

<sup>62</sup> F. Akpan, 'Rights of the Child and Socio-Economic Environment' *The Reporter Thursday* (11 October 1990) 5

ability to affirm and enjoy the array of human rights,<sup>63</sup> and by extension affects the quality of democracy in a country like Nigeria.

The right to education in Nigeria is described as a free, compulsory, and universal basic education for child or ward between the ages of primary school and junior secondary school, and "child or ward" means a person of primary and junior secondary school age who is between the age of 6 years and 16 years whether disabled or not.<sup>64</sup>

Section 2 (1) of the Universal Basic Education Act 2004 declares that "Every Government in Nigeria shall be responsible for free, compulsory, and universal basic education for every child of primary and junior secondary school age." In furtherance, Section 15 of the Child's Rights Act of 2003 states that "every child has the right to free, compulsory, and universal basic education, and it shall be the duty of the Government of Nigeria to provide such education." Section 18 (3) (a) and (c) of the Constitution mandated "free, compulsory, and universal primary education, as well as free university education."

International instruments on the child's rights to education and welfare are *Article 26 of the Universal Declaration of Human Rights (UDHR) of 1948*, *Article 13 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), 1966*, *Article 28 of the Convention on the Rights of the Child, 1989*, *Article 10 of the Committee on the Elimination of Discrimination Against Women (CEDAW) of 1979*, *The African Charter on Human and People's Rights*, *The African Union Convention for the Protection and Assistance of IDPs in Africa, 2009 otherwise known as the Kampala Convention*. Based on the foregoing situation, this thesis examines the social and educational rights of internally displaced children, the implication of non-access to education, their relationship to other rights, and the quality of democracy in Nigeria.

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<sup>63</sup> E. Mooney and C. French, 'Barriers, and Bridges: Access to Education for Internally displaced Children' (Brookings, 2005) 5

<sup>64</sup> S. 15 The Compulsory, Free Universal Basic Education Act, 2004

## 1.2 Statement of the Problem

Internal displacement is rife with challenges and efforts to tackle it have been beset by questions including those related to its nomenclature legal framework, the possible need for an international partnership in creating an organisation solely focused on the associated problems, structures for long-lasting solutions to the problems, and importantly, the protection of internally displaced persons (IDP) as well as investigating the social needs and access to education of internally displaced children.

The Boko Haram insurgency, which began in Nigeria's north-eastern region, has affected every group of people living there. The groups most affected are women and children because of their susceptibility to and incapability to protect themselves against the activities of the sect. The United Nations International Children's Emergency Fund (UNICEF)<sup>65</sup> has reported that the largest populations of internally displaced persons (IDP) are women and children, and more than 90 per cent of them are usually hosted in communities, where native families live with insufficient resources because of their poor condition, resulting in added demands on the few resources accessible to them. When there is displacement, women typically drift from one location to another with their children, while some children, particularly those of advanced age, may also drift without their parents. Frequently, many end up at IDP camps either established by the government or some non-governmental organization (NGO) or settlement location that is used for the distribution of relief materials. Large numbers of these camps are in the northeastern part of Nigeria, while others are scattered across other parts of the country, including the Federal Capital Territory (FCT).

The operations of the Boko Haram insurgency, bandits, and kidnappers have continued to elicit public outrage, drawing international attention to the kidnapping of over 276 girls in Chibok, Borno State, on the night of April 14-15, 2014, of which over a hundred of them are still unaccounted for till date. On April 13, 2018, UNICEF reported that Boko Haram terrorists had kidnapped over 1000 children since 2013. On December 10, 2020, over 300 schoolboys were abducted in Katsina State, though they were subsequently released. On November 29, 2020, not

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<sup>65</sup> United Nation International Children's Emergency Fund (UNICEF), 2014



less than 79 rice farmers, including children, were killed in their farms by bandits. On February 17, 2021, 42 persons, including students, were abducted in Niger state, though they were subsequently released. On February 27, 2021, 279 girls were abducted in Zamfara State and released on March 2, 2021. Gunmen abducted 39 students from the Federal College of Forestry Mechanization in Mado on March 11, 2021, in Kaduna state, and on May 30, 2021, about 150 students were missing. On May 30, 2021, about 200 children who were in school, in Tegna, Niger State, were kidnapped by gunmen. Other information puts the figure at about 800 school children who have been kidnapped in Nigeria since December 2020.<sup>66</sup> The activities of the Boko Haram insurgency, bandits and kidnappers are still ravaging the communities in the Northeastern part of Nigeria and other parts of the country are being infiltrated by these insurgent groups in Nigeria. Many people and communities have abandoned their ancestral homes for fear of being killed, kidnapped, or maimed.

When insurgents, kidnappers, bandits, and unknown gunmen attack these people in their various communities and villages, they not only kidnap them, but they also kill most of them, destroy their property, and burn down their houses. Those who are left behind in the attacked communities and villages, as well as neighbouring villages, flee for safety, fearing further attacks, and end up in Internally Displaced Persons (IDP) camps and host communities across Nigeria.

Between 2015 and 2021, the number of kidnapped victims increased from approximately 658 in 2015 to approximately 2944 in 2021.<sup>67</sup> There may be some kidnapped cases that these statistics did not cover. When this occurs, women and children suffer the most, and children are disproportionately affected by the crisis due to their vulnerability. The statistics of mass abduction have risen dramatically, and the trouble of kidnapping, which was previously carried out by the northeast and south-south, has shifted to the Northwest and North-Central.

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<sup>66</sup>*Al Jazeera News* (13<sup>th</sup> June 2021 at 17:47 GMT)

<sup>67</sup> K. Adebayo, 'More Nigerians Kidnapped in first 6 months of 2022 than all of 2020' <<https://humanglemedia.com/data-more-nigerians-kidnapped-in-first-6-months-of-2021-than-all-of-2020/>> accessed 24 January 2022

Living in IDP camps is very difficult; it affects displaced people's living conditions and disrupts children's education. These people face numerous challenges, including the rigours of long journeys in search of settlements; they lack health care, and suffer psychologically. They lack security, schools, adequate physical facilities, infrastructure, such as classrooms, teaching materials, trained and qualified medical personnel, lack of teachers, long distance location from the camp to the nearest available school, an unaffordable cost, violations of human rights, such as harassment, exposure to sexual abuse, child molestation, and poor hygiene. These challenges expose everyone living in the camps to communicable diseases such as fungi and bacteria growth. The lack of healthcare facilities to help control the spread of such contagious diseases exacerbates the situation. Other health issues they face include poor living conditions, malnutrition, environmental diseases, malaria, measles, guinea worm, diarrhea, cough, pollution, food contamination, unsafe work conditions, unsafe drinking water, cardiovascular diseases, and air borne diseases.

The prevalence of the COVID-19 pandemic made living in the internally displaced person camp worse due to the lack of facilities to comply with the World Health Organization (WHO) safety guidelines for the prevention of the spread of COVID-19, such as space for social distancing, regular supply and flow of water for regular hand washing, lack of good health care facility with the laboratory for the medical test of the COVID-19, lack of provisions of hand sanitizers, poor road network, security, lack of access to regular COVID-19 information amongst others.

The high rate of children out of school in IDP camps in Nigeria is worrisome. According to UNICEF, around 27 million children were absent from school in conflict zones.<sup>68</sup> The value of schooling for children forced to flee their homes due to conflicts and natural catastrophes cannot be overstated. It should be underlined that failing to provide learning opportunities for displaced children has serious implications for individuals, societies, nations<sup>69</sup> and the democratic integrity in Nigeria in a country. Lack of access to education denies children the full enjoyment of other

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<sup>68</sup> United Nation International Children's Emergency Fund (UNICEF) (New York, 18<sup>th</sup> September, 2017) <[https://www.unicef.org/media/47861/file/UNICEF\\_Annual\\_Report\\_2017-ENG.pdf](https://www.unicef.org/media/47861/file/UNICEF_Annual_Report_2017-ENG.pdf)> accessed 16 November 2020

<sup>68</sup> Ibid

<sup>69</sup> Ibid

human rights, physical well-being, and good quality of life, and lack of education is the foundation of the root of poverty. Children and youths who cannot access education and those with stumpy education are exposed to more exploitation, resulting in a cycle of poverty.

Collecting statistics on the number of internally displaced children who are out of school is not easy due to their circumstances, all the children are not centered in the various camp, some have been given out as house helps in homes or housemaids, some are on the farms working in farm settlements, some are street hawkers and shop attendants, and some could be in other categories not visible to the public.

The distribution of these children is usually done through agents who make beautiful life promises to their guardians and parents to encourage them to easily give in by releasing these children to them. In a different twist, some parents will willingly give out their children without any of these promises, with the expectation that money will be sent to them through these agents as payment for their services to whomever they are staying with. They will tell you categorically not to send them to school; all they are interested in is the wage being paid at the end of the month that will be remitted to them through these agents. At the end of the day, there is no doubt that everyone in the chain is gaining from the exploitation of these children, thereby violating their human rights.

This figure of out-of-school children could be much higher than what is revealed to the public, especially since the government wants the public to believe that it is doing a lot to help its people. One of the reasons why official figures in developing countries may be lower than the actual figure is to protect the ruling government's image. Sometimes, government interest makes it difficult for the condition of IDP to be reported due to inaccurate data collection, making it difficult for the government to be aware of the enormity of the displaced persons' plight.

*According to Section 2(1) of the Compulsory, Free, Universal Basic Education Act of 2004, "it is the duty of every government in Nigeria to provide free, compulsory, and universal basic education for all children of primary and junior secondary school age. Section 15 of the Child's Rights Act of 2003 states that, every child has the right to free, compulsory, and universal basic education, which shall be provided by the government of Nigeria. Sections 18 (3) (a) and (c) of the Constitution require "free, compulsory, and universal primary education, as well as free*

*university education.*" Despite these, internally displaced children are unable to receive compulsory, free universal basic education, and other services under this Act, such as the provision of free books, instructional materials, classrooms, furniture, and free lunch, are not available in most of the basic public schools. This failure on the part of the government is not enforceable due to the limitations imposed on the law by Section 6(6)(c) of the Constitution, which render them unenforceable even in the face of the failure of the government to meet their primary obligation of providing free, mandatory, and universal services, to its citizens, which is a complete betrayal of democratic principles.

Under international law, the right to education is also recognized under human rights treaties. There is a procedure for the domestication of international laws in Nigeria, and these laws or treaties would become binding on the Nigerian government if it has been domesticated into the national laws. However, these treaties include the Convention on Economic and Social Rights, the Convention on the Rights of the Child, the Convention to Eliminate All Forms of Racial Discrimination, and the Convention to Eliminate Discrimination against Women,<sup>70</sup> and regional treaties, which include the African Charter on Human and Peoples' Rights and the European Convention on Human Rights are examined in the later part of this thesis.

International instruments on the child's rights to education and welfare are *Article 26 of the Universal Declaration of Human rights (UDHR) of 1948, Article 13 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), 1966, Article 28 of the Convention on the Rights of the Child, 1989, Article 10 of the Committee on the Elimination of Discrimination Against Women (CEDAW) of 1979, The African Charter on Human and People's Rights, The African Union Convention for the Protection and Assistance of IDPs in Africa, 2009 otherwise known as the Kampala Convention.*

Even though, Sections 18 (3) (a) and (c) of the Constitution require "free, compulsory, and universal primary education, as well as free university education," Nigeria seems to have the

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<sup>70</sup> K. Walter, 'Guiding Principles on Internal Displacement' *The American Society of International Law: Studies in Transnational* (Legal Policy No. 38 2008) ASIL

highest number of out-of-school children in Sub-Saharan Africa.<sup>71</sup> Our state-owned university is becoming increasingly out of reach for the average Nigerian, and the strike has become such an important part of our academic calendar that no student can graduate from a government university.<sup>72</sup>

The challenge of non-justiciability of the contradictory provisions of Sections 13 and 6 (6) (C) of the Constitution is a severe legal challenge confronting the provision of education in Nigeria in general, such that even when the government fails to meet their obligations, Nigerian citizens have no way of seeking redress for this significant injustice. According to Black's Law Dictionary, justiciability is the quality or state of being appropriate or suitable for adjudication by a court.<sup>73</sup> While non-justiciability means not proper for judicial determination.<sup>74</sup>

Nigeria being a member of the signatory to the international and regional instruments such as the Kampala Convention, there is no adequate reflection of these policies and strategies in the concerns of the internally displaced persons. This may be a result of the non-adoption of the instruments into Nigerian legislation, or it may be suffering from poor implementation of the laws and policies. If there is no policy on internal displacement in Nigeria, there will not be a coordinated response to the plight of IDPs as the response will largely remain fragmented, and this will also lead to a poor and ineffective response to the root causes of internal displacement. The existing institutional arrangements in managing the IDP situation are struggling, and the lack of a clear policy framework for IDP Children complicates the situation further.

Notwithstanding the plethora of laws, and institutions put in place to make education accessible to children in Nigeria and to solve the problems of internally displaced persons, the IDPs and the children in most of the camps in Nigeria, still find themselves in a sorry situation. Life in the IDP camps is very difficult, harsh, and uncondusive, particularly on the vulnerable children, whose

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<sup>71</sup>A. T. Durodola, 'Chapter Two of the 1999 Constitution of Nigeria; The Fraud, Illogicality and Prospects' available at <<https://lawpavilion.com/blog/chapter-two-of-the-1999-constitution-of-nigeria-the-fraud-illogicality-and-prospects/>> accessed 24 March 2023.

<sup>72</sup> Ibid.

<sup>73</sup> Blacks' Law Dictionary (8<sup>th</sup> edition 2004) 2530

<sup>74</sup>Ibid p 3342

right to education has been disrupted and denied. Hence, this research critically examines the social and educational rights of internally displaced children as a category of IDPs in Nigeria.

The gaps this thesis intends to fill are as follows:

To seek the government's attention to the need of providing access to excellent education for internally displaced children, including other human rights benefits in budgets, and implementing a development strategy to strengthen the quality of democracy in Nigeria. To seek amendments to Chapter II of the 1999 Constitution and any other education and internally displaced person laws deemed insufficient and seek to develop a plan for removing children from street trade and other visible forms of child abuse, as well as to raise awareness of these children's entitlement to education so they can enjoy other human rights.

As a result of the foregoing, this thesis investigates the social and educational rights of internally displaced children, examine the legal and institutional framework for the protection of internally displaced persons, with particular reference to children, in Nigeria by evaluating relevant national laws, and regional and international instruments, the legal framework on the Child's Right to Basic Education in Nigeria, to further identify the reasons why internally displaced children in Nigeria lack access to basic education, and the consequence of educational deprivation on human rights and democratic integrity in Nigeria. In addition, this research seeks to reveal how lack of education affects the quality of life of internally displaced children. It also shows that the right to education is the central point for the enjoyment of other human rights. The following research questions are put forward.

### **1.3 Research Questions**

- 1) Who are the internally displaced persons?
- 2) What are the causes of internal displacement in Nigeria?
- 3) Which of the categories of persons among the internally displaced persons are most vulnerable?
- 4) Are there legal and institutional frameworks for the protection of internally displaced persons in Nigeria?
- 5) What are the modes of implementation of government policies on internally displaced persons?

- 6) What are the challenges encountered in the protection of the IDPs in Nigeria?
- 7) What are the social and educational impacts of displacement on children?
- 8) Is education a crucial factor for the quality of life of internally displaced children?
- 9) What legal frameworks are available to protect the child's right to basic education in Nigeria?
- 10) Is there a legal framework for ensuring the child's right to education in Nigeria?
- 11) Is there a legal framework ensuring the protection of internally displaced persons generally?
- 12) Is education right justiciable in Nigeria?
- 13) What are the government's efforts to ameliorate, the plight of the IDPs in Nigeria?
- 14) What effects does lack of access to education by internally displaced children have on the quality of democracy in Nigeria?
- 15) How does lack of access to education by internally displaced children affect the enjoyment of other human rights?

#### **1.4 The Objectives of the Study**

The objectives of this study are to examine the social, and educational rights of internally displaced children, the implication of non-access to education, their relationship to other rights, and the quality of democracy in Nigeria. The objectives of the study are as follows:

- 1) To examine the legal and institutional framework for the protection of internally displaced persons, in Nigeria by evaluating relevant national laws, and regional and international instruments, and to examine the legal framework on the Child's Right to Basic Education in Nigeria.
- 2) It further seeks to reveal how lack of education could affect the quality of life of the internally displaced children
- 3) To identify reasons why internally displaced children in Nigeria lack access to basic education.
- 4) To find out the causes of internal displacement in Nigeria.
- 5) Investigate the effect of lack of access to education among children in IDP camps on human rights protection.

- 6) To examine the consequence of educational deprivation on democratic integrity in Nigeria.

## 1.5 Significance of the Study

This study is significant for the following reasons.

Generally, most researchers have written a lot on the issues concerning internally displaced persons; however, not much consideration was made concerning the most vulnerable of these groups of displaced persons, the internally displaced children. Arising from the above, the need for this research became imperative. *Section 2(1) of the Compulsory, Free, Universal Basic Education Act of 2004*, "it is the duty of every government in Nigeria to provide free, compulsory, and universal basic education for all children of primary and junior secondary school age." *Section 15 of the Child's Rights Act of 2003* states that *every child has the right to free, compulsory, and universal basic education, which shall be provided by the government of Nigeria.* *Sections 18 (3) (a) and (c) of the Constitution* require *"free, compulsory, and universal primary education, as well as free university education."* It further provides that the Nigerian government must ensure such education. From this provision, it is crucial for the government to wake up to its responsibility of providing this education; this study will wake up the urgency in this government's obligations to ensure the provision.

This study became significant because, for the past decades, Nigeria has experienced incessant cases of internal displacement of persons. This situation has become very alarming, and while the causes are known the reasons why there are no long-lasting solutions are not far-fetched. In this thesis, the causes of the internal displacement will be examined, and awareness will be created. Moreover, recommendations for possible solutions will be made.

This study is important because most of the children in the IDPs camps are not aware of the rights provided for them in *Section 2(I) of the Compulsory, Free, Universal Basic Education Act of 2004*, and *Section 15 of the Act*,<sup>75</sup> *that every child has the right to free, compulsory and universal basic education and it shall be the responsibility of the government in Nigeria to make available such education*, and *Section 1* states that the best interests of the child must be the

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<sup>75</sup> Child's Right Act, 2003 s. 15 and s 1



priority in every action involving a child, whether conducted by an individual, a private or public entity, an organization or service, a court of law, or a governmental or lawmaking authority. Failure to consider the child's best interests, as outlined by these laws, is a lapse on the part of the government and stakeholders, necessitating an assessment of the social and educational rights outlined in the specific objectives described above.

This study also aims to advocate for the protection of internally displaced persons in general and vulnerable children who will be the future leaders of the nation and for the peace and progress of any nation. This brings to the serious concern why the government should mainstream the education, care, and protection of the displaced children into the nation's policy and budgets.

This study is further important because education increases economic strength, development, and sustainability in a nation. The ability of a country to successfully adjust to the changing circumstances directly depends on its educated people in the 21st century. Nations with educational systems of more educated populations will have more productive workers and creative scientists and be able to respond to new ideas and innovations. These nations will be more enticing places for people to reside, hence the advocacy for education for the displaced children, so that Nigeria can be one of those enticing nations.

Citizens will be able to compel the government to carry out the duties imposed on them by Chapter II of the Constitution through the Courts. With reference to the right to compulsory free universal basic education, Chapter II of the Constitution, which has been non-justiciable, would become justiciable, and such enforceability would give citizens the privilege of suggesting the desired area of concentration of the government when planning the budget in favour of the Nigerian populace.

Another significance of this study is that it attempts to ensure that these rights are enforced for internally displaced children. The study will also bring to the awareness of members of the public and other stakeholders the need to ensure that the displaced children attend school. The government will ensure that the enforcement agency will enforce rules and procedures to reduce the problem of children working as market, street hawkers and store attendants.

The study also aims at pushing the boundaries of knowledge in protecting internally displaced people in general and vulnerable children regarding their social and educational rights. The

existing works on internally displaced persons in Nigeria focus more on an overview or general appraisal of the legal and institutional framework than the most vulnerable set, the children in the IDP camps.

This study is significant because it aims to show how lack of education affects the quality of life of internally displaced children; it also demonstrates that the right to education is the starting point for the enjoyment of other human rights; and it shows how important education is to the children's quality of life, the protection of human rights, and value it adds to the quality of democracy in Nigeria.

In addition to the benefits that this PhD will provide, other researchers in the selected field of academics will refer to my work and discoveries when educating students in the future, allowing me to contribute to and expand my field of study.

## **1.6 Research Methodology**

This thesis employs doctrinal and empirical research methods, including primary and secondary sources of information, as well as visits to some chosen internally displaced persons (IDP) camps in Nigeria.

The primary sources included relevant domestic laws, statutes, and regional, and international instruments. The domestic laws are the Constitution of the Federal Republic of Nigeria, 1999 (as amended), The Child Rights Act 2003, the Compulsory, Free, Universal Basic Education Act 2004, the National Commission for Refugees Migrants, and Internally Displaced Persons (NCFRMI), the National Human Rights Commission, the African Charter on Human and People's Rights 1981 (African Charter)

The regional instruments are the African Charter on the Rights and Welfare of the Child (ACRWC), the Convention on the Rights of the Child (CRC), the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, 2009; also known as the Kampala Convention, the international instruments are the Universal Declaration of Human Rights (UDHR) 1948, the International Covenants on Economic, Social, and Cultural Rights (ICESCR) 1966, The Convention on the Rights of the Child of 1989, the Geneva Convention of 1949 and its supplementary Protocols 1-2 of 1977, the United Nations Guiding Principles on

Internal Displacement of 1998, and other applicable legislation and court decisions. The secondary sources are textbooks, journal articles, internet sources, law reports, and newspapers.

Visitation was made to some chosen internally displaced persons (IDP) camps for this study in Nigeria. A purposive sampling method where focus group discussions with residents, caregivers, and staff were held, to examine the provision of educational facilities available to the children in the camps visited. The focus group discussion involves open-ended questionnaires and interviews. Investigation to find out the rights of the child that may have been violated due to the displacement was made. Also, a structured online questionnaire was used to elicit information from some members of the public on their knowledge about the internally displaced persons, and the displaced children's ability to access education.

### **1.7 The Structure of the Study**

This thesis is structured into five chapters. Chapter one contains the background to the study, which comprises the introduction to the study, Statement of the Research Problem, Aims and Objectives of the Study, Significance of the Study, Research methodology, the structure and explanation of keywords.

Chapter Two consists of the literature review, which consist of the definition of education under the human rights instruments, education as a crucial factor for children's quality of life, lack of education, its effect on the quality of life, the link of the right to education to the enjoyment of other rights and the quality of democracy in a country, the social and educational rights of the internally displaced children, the historical development of human rights and types of human rights are examined.

Chapter three contains an examination of the legal and institutional framework for internally displaced persons and the legal framework of the child's right to basic education in Nigeria. This is broken down into international, regional, national, and state levels. Under this framework, the *Universal Declaration of Human Rights (UDHR) 1948*, *International Covenants on Economic, Social and Cultural Rights (ICESCR) 1966*, *Convention on the Rights of the Child 1989*, at the regional level are the *African Charter on Human and People's Rights 1981 (African Charter)*,

*African Charter on the Rights and Welfare of the Child (ACRWC), the Convention on the Rights of the Child (CRC) and at the national level the 1999 Constitution,<sup>76</sup> the Compulsory, Free, Universal Basic Education Act 2004, and the Child's Right* will be examined. This chapter also examines the legal and policy framework for internally displaced persons in Nigeria. It is broken down under the international, regional, national and state government levels; namely, the Geneva Conventions of 1949 and its additional protocol of 1977, the United Nations Guiding Principles on Internal Displacement of 1981, the African Union Convention on the Protection and Assistance for Internally Displaced Persons in Africa, also known as the Kampala Conventions, the Federal Republic of Nigeria's Constitution, the National Commission for Refugees,<sup>77</sup> National Migration Policy 2015<sup>78</sup> will all be examined in this chapter.

Chapter four presents the main thesis of the research, it consists of the observations and findings from the situational analysis of the visitation to the IDPs camps, and it explains the link of the right to education to the enjoyment of other rights. It argued that education is a crucial factor for children's quality of life; the thesis further presents the rights of the children that are being violated when displacement occurs.

Chapter five contains the summary, conclusion, and recommendation of the study.

## **1.8 Explanation of Key Words**

Keywords explain or signify the study's content related to a particular document. The keywords used in this research are explained below. This is to make it easy to understand the meaning and the context in which they have been used. The keywords include displacement, displaced person, internally displaced persons (IDP), camp, protection, refugee, rights, and who is child? education, right to education, human rights, democracy, social rights, access to education and the internally displaced children. Other key words are child or ward, primary school, basic education, primary school age, parents, public school, public primary school or junior secondary school, junior secondary school, and treaties, conventions, and declarations.

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<sup>76</sup> CFRN, 1999

<sup>77</sup> This was established by Decree 52 of 1989, now Cap No.1, Laws of the Federation and Ministry of Reconstruction, Rehabilitation and Re-Settlement (MRRR). The Borno state government undertook this project to aid responses to humanitarian crises in areas affected by Boko Haram and other insurgencies.

<sup>78</sup> Adopted on 13 May 2015

### 1.8.1 Displacement

Black's Law Dictionary<sup>79</sup> defined displacement as removal from a proper place of position, Forced removal of a person from the person's home or country, mainly because of war, conflicts or other forms of hostilities, bandits, kidnappers 'etcetera.

### 1.8.2 Displaced Person

A displaced person remains inside a domestically recognized state boundary after being compelled to evacuate their home or place of habitual residence due to armed conflict, internal unrest, systemic breaches of human rights by governments, or a natural or artificial disaster.<sup>80</sup>

### 1.8.3 Internally Displaced Persons (IDPs)

Internally Displaced Persons (IDPs) are defined by the United Nations Guiding Principles on Internal Displacement as "individuals or groups of individuals who have been forced or compelled to flee or leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights, or natural or harmed disasters."<sup>81</sup> The north east state of Nigeria has a sizable number of Internally Displaced Persons. From 2009 until the present, the northeastern states (Borno, Adamawa, Yobe, and Gombe) and certain states in Nigeria have seen extraordinary insurgency and conflicts, and the country's insurgency situation has now doubled.<sup>82</sup> In 2013, the states of Borno, Yobe, and Adamawa declared a state of emergency because of this.<sup>83</sup>

### 1.8.4 Displaced Persons Camp

In a nation in the grip of war, natural disaster, ethnic cleansing, or some other extraordinary event, a displaced-persons camp is defined as a temporary settlement where citizens who have

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<sup>79</sup> B.A. Garner, "Black's Law Dictionary" (9th edn. 2009) 1257

<sup>80</sup> *Ibid* at page 539

<sup>81</sup> United Nations Office for the Coordination of Humanitarian Affairs [OCHA], *Guiding Principles on Internal Displacement*, (U.N. Doc. E/CN.4/1998/53/Add.2 1998)

<sup>82</sup> E.B. Nemine, and J.I. Zalakro, 'Educating Children in Internally Displaced Persons (IDPs) Camps Through Blended Learning: Prospects and Challenges' (2019) *IJELD* 7(4), pp.152-164. 155. <[www.eajournals.org](http://www.eajournals.org)>accessed on 14 February 2020

<sup>83</sup> 'International Organization for Migration (IOM)' (2015)

become homeless are temporarily provided with the necessities of life or given assistance in resettling or emigrating.<sup>84</sup>

### **1.8.5 Protection**

Protection means to keep someone or something safe. Things are sheltered and defended through protection. Protection is to shelter from harm and is the act of safe guiding. For example, children are under the protection of their parents, who keep them safe from being vulnerable. Protection is a legal or formal measure intended to preserve civil liberties and rights. Black's Law Dictionary defines protection as the act of protecting.<sup>85</sup>

### **1.8.6 Child**

A child could be seen as a young person or human being who is below the age of puberty or below the legal age of the majority. Child means a person under the age of eighteen years.<sup>86</sup> While Section 21 of the Act defines a child as a person under the age of 18 years, and any child under the age of 18 years is not capable of contracting a valid marriage, and accordingly, any marriage that is so contracted is null and void and of no effect whatsoever.

### **1.8.7 Rights**

Rights are defined as those which are proper under the law, morality, or ethics (know right from wrong), something that is due to a person by claim, legal guarantee, or moral principles (the right to liberty).<sup>87</sup> A power privilege or immunity secured to a person by law (the right to dispose of one's estate). A right is a legally enforceable claim that another will do or will not do a given act, a recognized and protected interest, the violation of which is a wrong (a branch of duty that infringes one's right).<sup>88</sup> There are various forms of rights, including natural rights, which are viewed as part of natural law and thus thought to exist irrespective of rights created by government or society, such as the right to life, liberty, and property.<sup>89</sup> Rights for the objectives

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<sup>84</sup> B.A. Garner, "Black's Law Dictionary" (9th edn. 2009) 539

<sup>85</sup> *Ibid* at p. 1343

<sup>86</sup> CRA 2003 s. 21

<sup>87</sup> CRA 2003 and s. 277 under the Interpretation

<sup>88</sup> B.A. Garner, "Black's Law Dictionary" (9th edn. 2009) 1436

<sup>89</sup> *Ibid* p. 1437

of this research, we shall examine the social and educational rights of the internally displaced children, the enjoyments of other rights and the quality of democracy in Nigeria.

### 1.8.8 Education

Education is defined as facilitating, learning, or acquiring knowledge, skills, values, morals, beliefs, and habits. Teaching, training, storytelling, conversation, and focused study are all examples of educational practices. It is a process of receiving or giving systematic institutions, especially at a school, enlightening experiences. Education also means values, critical thinking, problem solving and creativity. Education can be classified into two types: formal learning through an institution such as school and self-taught learning or what is commonly referred to as life experience.

### 1.8.9 Refugee

Refugees, according to the Organization of African Unity Convention, also known as the Kampala Convention of 1969, are persons who are compelled to leave their place of habitual residence due to external aggression, occupation, foreign domination, or events seriously disrupting public order in either part or the entirety of his country of origin or nationality in order to seek refuge in another place.<sup>90</sup> A refugee is also defined as someone who fled outside the country of his or her nationality due to a justifiable fear of being persecuted for reasons of rape, religion, nationality, membership in a particular social group, or political opinion, and is unable or unwilling to avail him or herself of that country's protection.<sup>91</sup>

There are some similarities between the refugees and Internally Displaced Persons (IDPs).<sup>92</sup> It is argued by some authors that internal displacement and the refugee crisis are similar problems with related causes and needs. IDPs are like refugees fleeing from a dangerous place to a new safe area within the state where the fight occurs. They are uprooted from their homes and seek shelter and safety elsewhere. Both categories of people are forced to flee their homes for the

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<sup>90</sup>Organisation of African Unity, 1969

<sup>91</sup> 'Refugee Convention 1951' in the United Nations High Commission of Refugees (UNHCR), 2012)

<sup>92</sup> Y.P. Adhikari, and U. Joshi, 'Rapid Assessment of Conflict Induced Internally Displaced Persons (IDPs) for their Return, Resettlement and Reintegration (2008) *Nepal Health Research Council*; F. Deng, 'International Response to Internal Displacement: A Revolution in the making Human Rights Brief' (2004), 11(3), 24-27; L.T. Lee, 'Protection of Internally Displaced Persons in Internal Conflicts' *ILSA (1997) 3JICL*, 529-536

same reason: fear for their lives. Their vulnerable and helpless situations make them categories of concern. However, the studies of *Muggah*, *Adhikari*, and *Joshi*<sup>93</sup> distinguish between the two groups of people based on whether the migrant crosses an international border. Refugees are people who have been forced to flee their home country. In other words, people leave their homes and go across international borders. On the other hand, IDPs are displaced people within the territorial borders of their country's place of abode.

### 1.8.10 Who is a Child?

Section 2 of the Children and Young Persons Act (CYPA)<sup>94</sup> defines a child as someone under the age of 14, while a young person is someone between the ages of 14 and 17. The United Nations Convention on the Rights of the Child defines a child as someone under the age of 18 unless a country's laws set the legal age for adulthood lower. The Committee on the Rights of the Child, the Convention's monitoring organization, has encouraged nations to reconsider the age of majority if it is set below 18 and to strengthen protection for all children under 18. In the case of *Re Carlton*,<sup>95</sup> it was mentioned that the meaning of the word "child" must be determined in each situation based on the context in which it appears. Aside from local statute and treaty definitions, a child has various meanings. The customary definition of a child differs from ethnic group to ethnic group due to Nigeria's<sup>96</sup> absence of a standard system of customary law. A child remains a child in some ethnic groups until he is introduced into an age-grade society or until he is old enough to contribute financially to communal development.<sup>97</sup> Others consider puberty to be the end of childhood.<sup>98</sup> The legal definition adopted by the states of the federation through the CYPA is a comprehensive definition which is not in consistency with the different system of customary laws, nor the perception of the several ethnic groups as there are over 350 ethnic pluralism and ethnicity in Nigeria.<sup>99</sup>

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<sup>93</sup> R. Muggah, O.S. Deslocados, 'Conceptualizing Internal Displacement in Brazil, Humanitarian Actions in Situations other than War, Rio de Janeiro, Brazil: Humanitarian Action in Situations other than War' (2014)

<sup>94</sup> Children and Young Persons Act (CYPA) 1958

<sup>95</sup> [1945] I Ch 372

<sup>96</sup> G.I.U. Azogu, 'Women and Children a Disempowered Group under Customary Law in Towards a Restatement of Nigerian Customary Law' (Federal Ministry of Justice, 1991) 133

<sup>97</sup> I.A. Ayuah, and I.E. Okagbue, (eds), 'The Rights of the Child in Nigerian' (NIALS 1996) p 30

<sup>98</sup> G.I.U. Azogu *supra*

<sup>99</sup> O. Otite, *Ethnic Pluralism and Ethnicity in Nigeria* (1990) 44 – 57



The CRA defines a child as a person who has not attained the age of 18 years.<sup>100</sup> Section 21 of the CRA provides, “No person under the age of 18 years is capable of undertaking a legal marriage, and accordingly, a marriage so contracted is null and void and of no effect whatsoever”.

An assessment of this section reveals that any individual who has not reached the age of 18 years is a child, and the Immigration Law stipulates that a minor is any person below 16 years, while the Matrimonial Causes Act puts the age of maturity at 21 years. The Penal Code<sup>101</sup> states, “No act is an offence which is done by a child under seven years of age, or by a child above seven years of age but less than twelve years of age who has not attained sufficient maturity of understanding to judge the nature and the consequence of such act.” This research will adopt a section of the Child’s Right Act (CRA).

Every case raises the question of whether a person over the age of 14 should still be classified as a child. This appears to be related to the idea that a person over the age of 14 is capable of accounting for his or her actions and hence distinguishing between good and wrong.<sup>102</sup> This may explain why the CYPA refers to someone over the age of 14 but under the age of 17 as a young person. Section 2 of the CYPA sets an age limit of 18 years and reserves the term “child” for anyone under the age of 14.<sup>103</sup> Age is the determining factor of who falls within the definition of a child and the protection policy put in place by the various governments. One can safely say then that the perception of age as a definition of a child depends on who is defining and variant depending on cultural background, the purpose, and the region of the country.

However, for this research, the definition of the United Nations Convention on the right of the child and the Child Rights Act 2003 is considered.

### **1.8.11 What are Social Rights?**

Social rights have been defined as the rights to a satisfactory standard of living, adequate accommodation, and food; the right to the highest reasonable standard of health; the right to

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<sup>100</sup> CRA 2003 s. 21

<sup>101</sup> Penal Code (PC) Northern Nigeria s 50

<sup>102</sup> I.A. Ayuah, and I.E. Okagbue, (ed) *supra* no. 123

<sup>103</sup> CYPA s. 2

education and social safety.<sup>104</sup> Several treaties include social rights,<sup>105</sup> all of which aim to achieve effective measures to achieve a standard of health, an adequate standard of living, social protection, social security, and social services education and training, equal participation in cultural activities, the ability to live independently, and inclusion in the community. Social rights are obvious to everyone, but they are essential to the poor, internally displaced persons.

#### **1.8.12 Child's Right Act**

The Child's Right Act (2003) is a Nigerian law that guarantees the rights of all children. Out of the thirty-six states in Nigeria, twelve (12) have yet to incorporate the CRA into their legislation, the Child's Right Act (2003) defines children as anybody under the age of eighteen.<sup>106</sup>

#### **1.8.13 Access to Education**

The word 'access' in education particularly means how educational policies and institutions make sure, guarantee, and make a great effort to ensure that children or students have equal opportunities to take full advantage of their education system, particularly children in difficult situations like the children in the IDPs camps.

On the other hand, lack of education is a state where people are worse than average level of common knowledge or something known by most people about basic, primary things that they would urgently need in their day-to-day life.

#### **1.8.14 Basic Education**

Early childhood care and education, as well as nine years of formal schooling, constitute basic education.

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<sup>104</sup>P. Hunt 'Social Rights are human Rights' (Publisher: Centre for Welfare Reform 2017)9 <[www.centreforwelfarereform.org](http://www.centreforwelfarereform.org)>accessed 26 February 2020

<sup>105</sup> The International Covenant on Economic, Social and Cultural Rights (1976); The Convention on the Rights of the Child (1991); The International Convention on the Elimination of All Forms of Racial Discrimination (1966); The Convention on the Elimination of All Forms of Discrimination against Women (1981); The Convention on the Rights of Persons with Disabilities (2007); The European Social Charter (1962), The EU Charter of Fundamental Rights (2009)

<sup>106</sup> CRA 2003 s. 21

### **1.8.15 Primary School**

"Primary School" refers to a school that offers a six-year basic course of full-time instruction for students aged six to twelve years.

### **1.8.16 Child or Ward**

A child or ward is a person of primary and junior secondary school age who is between the ages of 6 and 16, regardless of disability.

### **1.8.17 Primary School Age**

Any age between the age attained by the commencement of the school year after he attains the age of six years and the age attained by the person at the end of the school year after he attains the age of twelve years shall be deemed to be of primary school age and a person shall be deemed to be over primary school age if he has attained the age of six years at the commencement of any school year.<sup>107</sup>

### **1.8.18 "Public School", "Public Primary School" or "Junior Secondary School"**

"Public School," "Public Primary School," or "Junior Secondary School" refers to a primary or junior secondary school that receives funding from the federal or state governments or local education.<sup>108</sup>

### **1.8.19 Parents**

In relation to any child, means the person who has legal custody of the child, which includes a guardian or someone who has care and custody of a child.

### **1.8.20 Junior Secondary School**

"Junior Secondary School" refers to a school that offers a three-year post-primary course of full-time instruction for students aged twelve to fifteen.<sup>109</sup>

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<sup>107</sup>*Ibid*

<sup>108</sup>*Ibid*

<sup>109</sup>*Ibid*

### **1.8.21 Declaration**

A declaration, according to Black's Law Dictionary,<sup>110</sup> is a formal statement, proclamation, or announcement, particularly one embodied in an instrument. It is part of a treaty that contains the stipulations under which the parties agree to conduct their actions.

### **1.8.22 Convention**

A convention, according to Black's Law Dictionary, is an agreement or compact, particularly one among nations, such as a multilateral treaty. It is also known as an agreement or convention; an agreement between two or more people that governs their legal relationships.<sup>111</sup>

### **1.8.23 Treaty**

According to Black's Law Dictionary,<sup>112</sup> a treaty is an agreement formally signed, endorsed, or held to between two nations or sovereigns; an international agreement established in writing among two or more states and governed by international law. A treaty is a unilateral declaration made by one country that affects the rights and duties of other countries.

## **1.9 Conclusion**

This chapter introduces the research work, it examined the statement of the problem, the aim, and the objective of the work; and identified the significance of the study. It also consists of the research method, the structure of the thesis, the explanation of key words and the conclusion. The details of this work will be provided in the various chapters of the thesis.

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<sup>110</sup>Bryan A. Garner *Black's Law Dictionary* (9<sup>th</sup> Ed.) page 467

<sup>111</sup>*Ibid*, page 1380.

<sup>112</sup>*Ibid* page 1640.

## CHAPTER TWO

### LITERATURE REVIEW

#### 2.1 Introduction

This chapter consists of the introduction, the Literature Review.

#### 2.2 Review of Literature

Internal displacement is becoming more common due to wars, insecurity, human rights violations, natural catastrophes, and climate change. As of the end of 2018, 41 million people were internally displaced as a result of conflict and violence, with 6.1 million of them in Syria.<sup>113</sup> Natural disasters such as storms, earthquakes, and floods were responsible for more than 17 million additional displacements throughout the year, with China and the Philippines each accounting for 3.8 million.<sup>114</sup> As of the end of 2018, an estimated 17 million children were expected to be living in internal displacement as a result of conflicts and violence; among the population were 6.2 million girls and 6.4 million boys of primary or secondary school age. One of the effects of internal displacement is the significant stress on previously limited amenities such as on education infrastructure in many conflict-affected nations, and many displaced children miss out on their education due to a lack of resources.<sup>115</sup>

In 2015, just 32% of internally displaced children and adolescents in Iraq had access to some education. In Yemen, in 2014, just one-third of internally displaced school-age children in Lahj districts were enrolled.<sup>116</sup> Much of the displacement caused by disasters occurs in the form of pre-emptive evacuations that last only a few days. However, events that cause significant damage and destruction may cause a displacement that lasts for years as communities and infrastructure are rebuilt and disrupting education. In locations prone to frequent disasters, the risk of education disruption is also high. In a year, natural mishaps such as storms and floods

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<sup>113</sup>Internal Displacement Monitoring Centre (IDMC), 'Global Report on Internal Displacement' (2019), <<https://www.internal-displacement.org/global-report/grid2019/>> accessed 14 February 2020

<sup>114</sup> Ibid

<sup>115</sup> United Nations High Commissioner for Refugees (UNHCR), 'No More Excuses: Provide Education for all Forcibly Displaced People' (Policy Paper, 26, 2016) 6 <<https://unesdoc.unesco.org/ark:/48223/pf0000244847>> accessed 14 February 2020

<sup>116</sup> Ibid

destroy around 900 schools in Bangladesh.<sup>117</sup> When sea-level rise or other slow-onset climate change consequences force families to leave their homes, their displacement may be indefinite. Such occurrences are likely to become one of the primary causes of displacement in the coming decades.<sup>118</sup>

When children are out of school, they are deprived of their educational development and other significant benefits. Displaced children do not have secure, supportive, or enriching settings, therefore, they miss early childhood interventions, such as education and care, which are necessary for their growth and development. Going to school can provide crucial mental and social support; it encourages mixing with other children, as well as a sense of security and normalcy in their traumatic life. Education reduces the likelihood of child recruitment, sexual abuse, and exploitation and serves as a conduit for life-saving information about matters such as unforeseen challenges example, HIV/AIDS (HIV Human Immunodeficiency Virus, AIDS Acquired Immunodeficiency Syndrome).<sup>119</sup>

Effective social inclusion should be incorporated into their activities since it is critical not only for internally displaced children but also for their hosts. Education policies and procedures that assure the protection and access of displaced children to learning programs have the potential to improve their ability to adapt and integrate into society in the face of hardship and trauma.<sup>120</sup> It is also critical to teach children from host communities to value uniqueness, variation, and inclusiveness from a young age. Investing in education brings enormous economic returns. Each additional year of schooling is associated with an increase in national GDP per capita (per

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<sup>117</sup> United Nations educational scientific and Cultural Organization (UNESCO), 'Global Education Monitoring Report: Migration, Displacement and Education – Building Bridges, Not Walls, Summary' (2019) <https://www.unesco.org/gem-report/en/migration> accessed 14 February 2020

<sup>118</sup> Internal Displacement Monitoring Centre (IDMC), 'No Matter of Choice' (2019) <https://www.internal-displacement.org/publications/no-matter-of-choice-displacement-in-a-changing-climate/> accessed 14 February 2020

<sup>119</sup> E. Mooney, and C. French, Barriers, and Bridges: Access to Education for Internally displaced Children, (Brookings, 2005)1. HIV (human immunodeficiency virus) is a virus that affects the body's immune system. If HIV is not treated, it can result in AIDS (acquired immunodeficiency syndrome). There is currently no effective cure. Once people get HIV, they have it for life. But with proper medical care, HIV can be controlled. Restricted

<sup>120</sup> United Nations Peace Building Support Office, 'Peace Dividends and Beyond– Contributions of Administrative and Social Services to Peace Building' (2012) paras 31-32 [https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/peace\\_dividends.pdf](https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/peace_dividends.pdf) accessed 14 February 2020

person)<sup>121</sup> from 13% to 35%. The World Bank has reaffirmed that providing students with basic conscious intellectual activity and skills could massively boost economic outcomes, especially in developing countries."<sup>122</sup>

Internally Displaced Children have considerable hurdles in exercising their right to an education, owing to infrastructural capacity and resource limits, as well as ongoing instability, social conflicts, and intolerance. Females and boys face different challenges; for example, girls are expected to stay at home and help their families by caring for their siblings, especially if they are the eldest child, which puts more pressure on them to drop out of school. Early or forced marriage and pregnancy are additional obstacles, especially during humanitarian crises when parents may send their daughters away to be married or cared for by another family. Boys are frequently forced to work to augment their families' finances rather than attend school, and they may even experience forced recruitment.<sup>123</sup>

The availability and quality of schooling services vary greatly depending on the displacement situation. Some camps, for example, have more resources than others to provide schooling for displaced children. Camps in Somalia's Mogadishu, Bay, and Bakool regions have had operational schools for at least two decades, attracting IDPs from neighbouring areas with limited access to education options.<sup>124</sup> In Nigeria, by comparison, as of June 2015, 23 of 42 relocation camps across six states lacked formal or informal education facilities.<sup>125</sup> Internally displaced children who live outside of camps typically have limited access to schooling. Humanitarian interventions and supporters' attention tend to be more concentrated on camps at the expense of IDPs in other contexts, particularly metropolitan neighbourhoods, where they may

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<sup>121</sup> Gross Domestic Product (GDP) per capita means per person is obtained from a Simple division of total GDP according to the population; GDP is usually expressed in standard units of currency in the international market example is the United States Dollars (USD) <https://www.focus-economics.com/economic-indicator/gdp-per-capita> accessed 25 March 2020

<sup>122</sup> Thomas and others, cited in 'the investment case of education and equity' (2013), in UNICEF (January 2015) 7, [https://www.usaid.gov/sites/default/files/2022-05/Investment\\_Case\\_Education\\_Equity.pdf](https://www.usaid.gov/sites/default/files/2022-05/Investment_Case_Education_Equity.pdf) accessed 14 February 2020

<sup>123</sup> United Nations Children Emergency Fund (UNICEF) Somalia Country Office, Cooperation International, (2018)

<sup>124</sup> Ibid

<sup>125</sup> United Nations High Commissioner for Refugees (UNHCR), 'No More Excuses: Provide Education for all Forcibly Displaced People' (Policy Paper, 26, 2016) 6 <https://unesdoc.unesco.org/ark:/48223/pf0000244847> accessed 14 February 2020

face extra-economic, organizational, and social barriers to education.<sup>126</sup> Due to instability in some rural areas, limited humanitarian access may impair the learning of displaced children, and sparsely inhabited rural areas in other nations lack education facilities significantly.<sup>127</sup>

In Nigeria, most out-of-school children live in the northeast, a historically neglected region that has recently been devastated by conflict. The violence has had a devastating impact, and the deliberate targeting of schools, teachers, and children has damaged an already fragile education sector.<sup>128</sup> Many schools were forced to close during the insurgency, and classrooms and equipment were destroyed. Some burned-out schools now stand as empty shells, a terrible reminder of a time when we failed to preserve children's right to an education.<sup>129</sup> Around 10.5 million children in Nigeria are currently out of school.<sup>130</sup>

Nigeria has been experiencing armed conflict for the past decade arising from the attacks on the people by the Boko Haram terrorist group whose domicile origin is in North-East part of Nigeria. The intention of these terrorist groups is to wage war against corrupt Muslim by extensions and against Nigeria in general, with the goal of establishing a 'pure' Islamic state ruled by Sharia law.<sup>131</sup> "Although the twelve northern states have implemented *Sharia* control, Boko Haram believes it is too compassionate and violates the strict rules of Islam.<sup>132</sup> The conflict also extends to the rejection of western education, as followers were forced to withdraw from schools where they got formal education, and those who had previously obtained certificates were instructed to tear them up, based on their belief that anything "Western" is wicked.<sup>133</sup>

The term "Boko Haram" is a combination of the Hausa word Boko (which means "book") and the Arabic word Haram (which means "something banned, unholy, or sinful"). Simply put, it

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<sup>126</sup> International Committee of the Red Cross (ICRC), 'Displaced in Cities: Experiencing and Responding to Urban Internal Displacement outside Camps' (2018) <<https://www.icrc.org/en/publication/4344-displaced-cities-experiencing-and-responding-urban-internal-displacement-outside>>accessed 14 February 2020

<sup>127</sup> United Nations Children Emergency Fund (UNICEF) Somalia Country Office, Cooperation International, (2018)

<sup>128</sup> Plan International, 'Delivering education to Nigeria's displaced children' (2018) <<https://plan-international.org/education/mobile-learning-nigeria>>, accessed 15 February 2020

<sup>129</sup> Ibid

<sup>130</sup> Plan International, 'Delivering Education to Nigeria's Displaced Children', <https://plan-international.org/education/mobile-learning-nigeria>>accessed 15 February 2020

<sup>131</sup> A. Walker, U.S. Institute of Peace, Special Report What is Boko Haram? (Report 308, 2012)

<sup>132</sup> R. Mauro, The Clarion Project, Boko Haram: Nigerian Islamist Group (2017), <https://clarionproject.org/boko-haram-nigerias-islamist-group/>, accessed 15 February 2021

<sup>133</sup> E.O. Ojo, "Boko Haram: Nigeria's Extra-Judicial State", (2010), 12 J. Sustainable Dev. AFR. 45, 50



means that "books are wicked;" however, "its underlying implication is that Western education is sinful, blasphemous, or profane, and should hence be prohibited."<sup>134</sup> " The official name of the organization is *Jama'atu Ahlis Sunna Lidda'awatiwal-Jihad*,<sup>135</sup> which translates as "People Committed to the Propagation of the Prophet's Teachings and *Jihad*." According to Amnesty International, the situation in North-East Nigeria became a non-international armed conflict in May 2013 due to several "factors, including the level of intensity of hostilities and the fact that Boko Haram is a well-organized force that controls territory and has a clear command structure."<sup>136</sup> " Nigeria has also used its armed troops to attack Boko Haram, rather than depending exclusively on its police force."<sup>137</sup>

Significant percentages of the more than 27 million children that are deprived of education in emergency situations are internally displaced.<sup>138</sup> Since the beginning of the Boko Haram-instigated armed war in Nigeria, attacks on education have been at the forefront, as seen by the group's name, which translates as "Western education is prohibited," with teachers and schools being the group's initial targets.<sup>139</sup> "Prior to the conflict enrolment and attendance rates in North East Nigeria were among the lowest in the country with girls particularly lagging behind."<sup>140</sup> " This will create a substantial knowledge gap for kids who are unable to keep up with their peers once the dispute has ended."<sup>141</sup>

Boko Haram has carried out planned and regular attacks on primary and secondary schools in northern Nigeria throughout the years.<sup>142</sup> Between 2009 and 2014, the organization burned down

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<sup>134</sup> A. Adesoji, 'The Boko Haram Uprising and Islamic Revivalism in Nigeria' (2010) *Africa Spectrum*: 45, Issue: 2, 95-108

<sup>135</sup> The Clarion Project, *supra* note 13, at 3.

<sup>136</sup> Amnesty Int'l, 'Stars on Their Shoulders. Blood on Their Hands: War Crimes Committed by the Nigerian Military' 19 (2015), <<https://www.amnesty.org/en/documents/afr44/1657/2015/en/>> accessed 15 February 2020

<sup>137</sup> Int'l Criminal Court [ICC], 'Office of the Prosecutor, Report on Preliminary Examination Activities (2013 Reports/otp-report-2013.aspx,207) <https://www.icc-cpi.int/OTP/Reports/otp-report-2013.aspx> accessed 15 February 2020

<sup>138</sup> Women's Comm'n for Refugee Women and Children, 'Global Survey on Education in Emergencies', (at iii (2017)).

<sup>139</sup> Ocha, 2017 Humanitarian Response Plan: Nigeria 8 (2016)

<sup>140</sup> O. Olusegun, and A. Ogunfolu, 'Protecting Internally Displaced Children in Armed Conflicts: Nigeria in Focus' (2019) 9 *NDJICL* 38, <<https://scholarship.law.nd.edu/ndjicl/vol9/iss2/4pg>> accessed 15 February 2020

<sup>141</sup> Ibid

<sup>142</sup> A. Oluwagbemi, 'Boko Haram Killed 611 Teachers in Six Years—UN' *The PUNCH* (Nigeria, 23 September 2016), <http://punchng.com/boko-haram-killed-611-teachers-displaced-952029-pupils-six-years-un/> accessed 25 February 2020

hundreds of school buildings, threatened and murdered instructors, and kidnapped and murdered kids.<sup>143</sup> University professors have also been targeted, in 2017; five teachers at the University of Maiduguri in Borno State were killed, while four others on an oil prospecting mission in the Lake Chad Basin were kidnapped by Boko Haram.<sup>144</sup> All these form part of the challenges faced by internally displaced children especially those in the North-East of Nigeria.

Internally Displaced Persons (IDPs) have less reliable data. However, studies from the International Organization for Migration and the Internal Displacement Monitoring Centre show that their displacement puts great pressure on already under-resourced education institutions. In Nigeria, for example, children displaced by Boko Haram attacks in 19 of 42 camps had no access to education in June 2015. In Iraq, just 32% of internally displaced children and adolescents had access to any schooling in 2015. Only one-third of school-age IDP children in Yemen's *Lahj* governorate were enrolled.<sup>145</sup>

Those already marginalized, such as girls, are frequently disproportionately affected among refugees. Only 38% of primary school students in Kenya's *Kakuma* camps were female in 2015. In Pakistan, where child marriage and adolescent pregnancy are frequently mentioned among refugee girls, withdrawal rates for refugee girls can reach 90 per cent.<sup>146</sup> Girls and women make up 70% of the world's internally displaced population and are the most disadvantaged in terms of schooling. In *Najaf*, a region administered by a governor in *Iraq*, 81 per cent of 15–17-year-old girls were not in school, compared to 69 per cent of boys of the same age. In metropolitan regions of *Afghanistan*, only 1% of IDP women were found to be literate, compared to 20% of IDP men.<sup>147</sup>

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<sup>143</sup> Watchlist 'Who Will Care for Us?': Grave Violations against Children in North-eastern Nigeria' (2014), <[https://watchlist.org/wp-content/uploads/2111-Watchlist-Nigeria\\_LR.pdf](https://watchlist.org/wp-content/uploads/2111-Watchlist-Nigeria_LR.pdf)> accessed 25 February 2020

<sup>144</sup> H. Abdulkareem and Agency Report, 'Boko Haram NNPC Ambush: Unimaid ASUU Confirms Five Staff Dead, Four Missing' *Premium Times* (Nigeria 2017) <<https://www.premiumtimesng.com/news/headlines/238366-boko-haram-nnpc-ambush-unimaid-asuu-confirms-five-staff-dead-four-missing.html?tztc=1>> accessed 25 February 2020

<sup>145</sup> UNESCO Digital Library, 'No More Excuses – Provide Education to all Forcibly Displaced People' <<https://unesdoc.unesco.org/ark:/48223/pf0000244847>> accessed 15 February 2020

<sup>146</sup> Ibid

<sup>147</sup> Ibid

Gaining access to educational opportunities is a serious difficulty for Internally Displaced Persons (IDPs). According to Mooney and French,<sup>148</sup> "despite the benefits of schooling for internally displaced children, relocation frequently offer special impediments to teaching and learning." The effects of displacement on education include the loss of human resources and physical infrastructure, increased pressure on the host community's already overstressed educational infrastructure, lack of funds to pay school fees or purchase other materials, and increased poverty, which leads to some internally displaced persons staying out of school in order to work to supplement the family's income.<sup>149</sup> While internal displacement has an impact on the quality, cost, and accessibility of educational opportunities, the critical role of education as a response to emergencies has been recognized with the establishment of the Inter-Agency Network for Education in Emergencies (INEE). This is a global network of approximately 1,400 individual and organizational members who collaborate within a humanitarian and development minimum stand-off.<sup>150</sup> Education is not only a right, but it also gives physical, emotional, and cognitive protection in times of emergency, chronic crises, and early reconstruction, can be both lifesaving and life-sustaining. Education maintains life by providing safe learning environments and the ability to detect and support afflicted persons, particularly children and adolescents. Education reduces the emotional impact of conflict and disasters by providing a feeling of normalcy, stability, structure, and hope for the future during crisis, and it also provides vital building blocks for future economic stability.<sup>151</sup>

The United Nations High Commissioner for Refugees (UNHCR)<sup>152</sup> has characterized refugee populations' access challenges as limited livelihood options, a lack of physical access to schools

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<sup>148</sup>E. Mooney, C. French *Barriers and Bridges: Access to Education for Internally Displaced Children* (Brookings 2005) 5

<sup>149</sup> 'Internal Displacement Monitoring Centre (IDMC), 'Learning in Displacement Briefing Paper on the Right to Education of Internally Displaced People' *IDMC Norwegian Refugee Council*(2010)

<sup>150</sup>A. Terhemba Nom, 'The right to Education for Internally displaced Persons in Nigeria through open and Distance Learning' (2012)<<https://www.ajol.info/index.php/huria/article/view/110832>>accessed 15 February 2020.

<sup>151</sup> Inter-Agency Network for Education in Emergencies (INEE), 'Minimum Standards for Education in Emergencies, Chronic Crises and Early Reconstruction' Paris: UNESCO 2004 <[https://www.preventionweb.net/files/4546\\_MSEEreport.pdf](https://www.preventionweb.net/files/4546_MSEEreport.pdf)> accessed 15 February 2020

<sup>152</sup> United Nations High Commissioner for Refugees (UNHCR), 'Education Strategy 2007-2009 Policy, Challenges and Objective' (Geneva: UNHCR 2007) 5, <<https://www.refworld.org/policy/strategy/unhcr/2007/en/45423>> accessed 25 February 2020

or safe-school environments, and a lack of post-primary educational alternatives.<sup>153</sup> School fees and other school-related charges, opportunity costs of labour, instability, and a lack of schools in displacement zones have been identified as hurdles to IDPs' access to education. Extreme poverty is a significant barrier for IDPs and returns, as they frequently leave their belongings behind, with constraints on their freedom of travel and the regulation of professions.<sup>154</sup> Uncertainty about the future exacerbates poverty, leading to skepticism about the value of education.<sup>155</sup> Furthermore, the places designated by the host countries and communities for refugees and IDPs are frequently the most neglected, with barren terrain and a lack of access to services and infrastructure, including schools.<sup>156</sup> During displacement, community support systems disintegrate, social norms crumble, and laws stressing gender, disability and discrimination are not implemented.<sup>157</sup> This displacement culture can have an impact on refugees', IDPs', and returnees' capacity to attend school safely.<sup>158</sup>

Different authors in their research have recommended different learning patterns that will be appropriate for the internally displaced; open and distance learning, for example, can help to improve the right to education for internally displaced children.<sup>159</sup> To Moore and Kearsley<sup>160</sup> distance education is defined as planned learning that takes place in a different location than teaching and, as a result, necessitates special course design techniques, special instructional techniques, methods of communication via electronic and other technology, and special organizational, and administrative arrangements. Distance education is the transmission of learning and training to learners who are distant from those who teach and train, typically by time and distance. On the other hand, open learning refers to laws and practices that provide access to learning with no or little restrictions based on age, gender, or time, while

<sup>153</sup>Internal Displacement Monitoring Centre (IDMC), 'Nigeria: No End to Internal Displacement' (NRC 2009) 8

<sup>154</sup> C. Horst, 'Introduction: Refugee Livelihoods: Continuity and Transformations' *Refugee Survey Quarterly* [2006] RQJ 25(2), 6-22.2

<sup>155</sup> S. Dryden-Peterson, 'The Present is Local, the Future is Global? Reconciling Current and Future Livelihood Strategies in the Education of Congolese Refugees in Uganda' *Refugee Survey Quarterly* (2006) RQJ 25: 81-92

<sup>156</sup> K. Jacobsen, *The Economic Life of Refugees*. (Bloomfield, CT: Kumarian Press, Inc. 2005)

<sup>157</sup> M.J. Hynes, Ward, K. Robertson, and C. Crouse, 'A Determination of the Prevalence of Gender-based Violence among Conflict-affected Populations in East Timor' *Disasters* (2004)28(3): 294-321

<sup>158</sup> A. Terhemba Nom, 'The Right to Education for Internally Displaced Persons in Nigeria Through Open and Distance Learning' (2012) <<https://www.ajol.info/index.php/huria/article/view/110832>>363 accessed 15 February 2020

<sup>159</sup>Ibid, pg. 360

<sup>160</sup> M.G. Moore and G. Kearsley, 'Distance Education: A Systems View' (Belmont, CA, Wadsworth Publishing 1996)

acknowledging prior learning. These two phenomena, which are conceptually distinct yet complementary, are grouped under the umbrella phrase open and distance learning.<sup>161</sup> Another researcher suggested blended learning, which is defined as a mixture of Face-to-Face (FTF) is a mixture of having direct contact with others and in a computer-based method of teaching and learning. It is a means of an instructional strategy that will harness the better of the two different methods to improve the teaching process for children in the IDP camp, where schools are usually overcrowded with on-the-spot recruited teachers.<sup>162</sup> The absence of facilities, infrastructure, digital gap, and administrative financial assets, in the IDP camps in Nigeria prevents these methods of teaching. Moreover, participation depends on motivations for effectiveness.

In Nigeria, the right to education is recognised Section 2 (1) of the Universal Basic Education Act 2004 declares that *"Every Government in Nigeria shall be responsible for free, compulsory, and universal basic education for every child of primary and junior secondary school age."* Furthermore, *Section 15 of the Child's Rights Act of 2003 states that "every child has the right to free, compulsory, and universal basic education, and it shall be the duty of the Government of Nigeria to provide such education."* *Section 18 (3) (a) and (c) of the Constitution mandated "free, compulsory, and universal primary education, as well as free university education."* These rights are not justiciable in the context of Section 6(6)(c) of the 1999 Constitution because this clause is a serious impediment to their effective realization.

Under international law, the right to education is also recognized under human rights treaties. There is a procedure for the domestication of international laws in Nigeria, and these laws or treaties would become binding on the Nigerian government only if it has been domesticated into the national laws. However, these international treaties include the *Convention on Economic and Social Rights*, the *Convention on the Rights of the Child*, the *Convention to Eliminate All Forms*

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<sup>161</sup> COL, An Introduction to Open and Distance Learning, 'Vancouver, Canada: The Commonwealth of Learning' (2000) <https://www.col.org> accessed 14 February 2020

<sup>162</sup> B. Nemine, Ebi-Bulami, and J.I. Zalacro, 'Educating Children in Internally Displaced Persons (IDPs) Camps Through Blended Learning: Prospects and Challenges in International Journal of Education, Learning and Development' (2019) 7(4), 152-164, 152 <https://ejournals.org/ijeld/vol-7-issue-4-april-2019/educating-children-in-internally-displaced-persons-idps-camps-through-blended-learning-prospects-and-challenges/> accessed 14 February 2020

of Racial Discrimination, and the Convention to Eliminate Discrimination against Women,<sup>163</sup> and regional treaties, which include the African Charter on Human and Peoples' Rights and the European Convention on Human Rights are examined in chapter three of this thesis.

Global initiatives to provide education for internally displaced people have identified four key aspects of the right to education: availability, accessibility, acceptability, and adaptability (the "Four As"). These four provisions apply equally in times of peace and in times of war. Although these international instruments deal with internally displaced children, they are broad enough to include both children and adults who are displaced because of natural disasters, conflicts, and wars.<sup>164</sup>

Internally Displaced People have different demands than the general population because of their "unique needs", and heightened vulnerabilities because of forced displacement, including the need for a long-term solution.<sup>165</sup> The best interests of a child should be given priority consideration in all acts, and a child should be provided with the appropriate protection and care for their well-being,<sup>166</sup> including the internally displaced children. The displacement of the children in the IDP camps has put them in a more difficult and vulnerable situation, which needs to be given unique care and protection. Providing for their social well-being and making education accessible to them are all part of their needs. The CRA states that, every child has the right to free, obligatory, and universal basic education and that it is the responsibility of the Nigerian government to provide such education.<sup>167</sup> From the available literature, the government has failed to provide for the educational needs of the displaced children in Nigeria.

Social rights are another very important aspect of the needs of the children in the internally displaced camps. Social rights include the right to a decent quality of life, affordable housing, food, a good health-care accessible system, and social security. Social rights have the

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<sup>163</sup> K. Walter, 'Guiding Principles on Internal Displacement' *The American Society of International Law: Studies in Transnational* (Legal Policy No. 38 2008) ASIL

<sup>164</sup> A. Terhemba Nom "The Right to Education for Internally displaced Persons in Nigeria through Open and Distance Learning (2012) 363 <https://www.ajol.info/index.php/huria/article/view/110832> accessed 15 February 2020

<sup>165</sup> E. Mooney, 'The Concept of Internal Displacement and the case of Internally Displaced Persons as a Category of Concern' 24 *REFUGEE SURV* (2005) Q 9, 18

<sup>166</sup> CRA 2003 Part I

<sup>167</sup> CRA 2003 s 15

characteristics of human rights, which include legal or societal rules, morality which provides an understanding of what it requires to provide social needs, and the promotion of social inclusion, which positions person individuals as rights holders, not service users.<sup>168</sup> S. 13(1) and (2) of the CRA provided that "Every child is permitted to enjoy the best possible state of physical, mental and spiritual health, it further provides that every government, parents, guardian, institution, service, agency, organization or body responsible for the care of a child shall endeavour to provide for the child the best reasonable state of health" <sup>169</sup> However, little or no attention has been given to this provision towards the health of internally displaced children in Nigeria, despite the laws.

Social and educational rights can respect and set free individuals, communities, and societies at large. They can help develop policies and practices and, when provided and protected, will bring a positive impact to the country. The provision of social and education rights for the displaced children will help them to succeed in life, and they, in turn, will be able to help others by way of giving back to society. Education shields children from child labour and child marriage, as well as child sexual abuse and various other forms of child maltreatment.

Many of these children have lost their parents, therefore protecting, and providing for their social and educational needs will not only help to build them psychologically but the society is also built as this will lead to social and educational development and the quality of democracy attainable in the country. Education is crucial for children, especially displaced children who have suffered greatly. A comprehensive framework should be put in place by the government, partners, and stakeholders to deploy accessible educational technologies to enable displaced children in camps and marginalized areas to access education so that they are not excluded from education for all goals.

In theory, compulsory, free universal basic education is free in Nigeria, S. 15<sup>170</sup> states that it is the duty of the government of Nigeria to make available the "Services" that should provide free of charge books, instructional materials, classrooms, furniture, and free lunch. In practice,

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<sup>168</sup> P Hunt 'Social Rights are human Rights' (Publisher: Centre for Welfare Reform 2017), 9 <[www.centreforwelfarereform.org](http://www.centreforwelfarereform.org)> accessed 26 February 2020

<sup>169</sup> CRA 2003

<sup>170</sup> Compulsory, Free Universal Basic Education Act, 2004

however, parents and guardians are required to purchase books, uniforms, sanitation, sports equipment, and charges in the name of school “handwork materials submissions”, and other unspecified hidden charges children are made to pay in most sections of schools in the country. Children or wards whose parents or guardians are not able to provide for these school needs would be made to stay out of school. Yet the citizens are helpless not being able to enforce the rights react due to the inadequacy of the laws.

There is the problem of lack of infrastructure, such as habitable classrooms, sitting desks, and tables, lack of teachers, and adequate learning materials. In most cases, the learning environment, if any provided, is not conducive. The available school structures are makeshift structures which could be blown off by the slightest wind or rain, thereby adding to the number of out-of-school children in Nigeria. Most children of primary school age do not attend school; in most internally displaced person camps, this is owing to their parent's inability to pay various non-tuition expenses charged by school officials. Nigeria has many out-of-school children, and children with disabilities make up a major portion of that group. Disabled children in IDP camps require specialized training and teaching methods tailored to their specific learning requirements, such as sign language for the deaf or Braille for the blind.

When displacement occurs, education is often treated as a secondary need; this is a result of the children having to fight for survival first, a hungry child cannot learn on an empty stomach, and also a child with poor health conditions, traumatized arising from the conflict and hostility experienced that lead to them to the IDP camp will find it difficult to settle down mentally to study. However, conflicts and emergency circumstances can endure for years or even decades, depriving many IDP children of education as well as the development and support that coming to school can bring.<sup>171</sup> Thus, much attention must be directed to the obstacles and hurdles that hinder internally displaced children from moving or accessing school.

Violent conflicts in Nigeria have resulted in the displacement of children; this has exacerbated the problem of access to education in places with the lowest levels of human development,

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<sup>171</sup> E.B. Nemine, and J.I. Zalacro, 'Educating Children in Internally Displaced Persons (IDPs) Camps Through Blended Learning: Prospects and Challenges' (2019) *IJELD* 7(4), pp.152-164. 156 <[www.eajournals.org](http://www.eajournals.org)>accessed on 14 February 2020



particularly in the north. The efforts of government donors, non-governmental organization (NGOs) and religious bodies, foundations to provide emergency education opportunities for children in IDP camps fall short of delivering quality learning. This is due to a non-conducive learning environment and the psychosocial effects of violence on the children, which has affected their preparedness. The importance of social well-being and the right to education for internally displaced children cannot be overemphasized; it is essential for the practice of all other human rights and the development of society in general, and the quality of democracy in a country, the link, and the enjoyment of other human rights.

From the existing literature the gap this thesis seeks to fill are, to seek the government's attention to the need of providing access to excellent education for internally displaced children, including other human rights benefits in budgets, and implementing a development strategy to strengthen the quality of democracy in Nigeria. To seek amendments to Chapter II of the 1999 Constitution and any other education and internally displaced person laws deemed insufficient, and to develop a plan for removing children from street trade and other visible forms of child abuse, as well as to raise awareness of these children's entitlement to education so they can enjoy other human rights.

### **2.3 Education for Internally Displaced Persons (IDP)**

The importance of education to the internally displaced children in IDP camps in Nigeria occupies a main place in human rights. The right to education is recognized in the *Universal Declaration of Human Rights* as well as numerous major human rights treaties, such as the *Convention on Economic and Social Rights*, the *Convention on the Rights of the Child*, the *Convention on the Elimination of All Forms of Racial Discrimination*, and the *Convention on the Elimination of Discrimination against Women*.<sup>172</sup> The African Charter of Human and Peoples' Rights is one of the regional treaties which explicitly state the right to education. Between these regional conventions and others, most countries with substantial IDP populations<sup>173</sup> are bound by

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<sup>172</sup> K. Walter, 'Guiding Principles on Internal Displacement: Annotations (Rev. Ed.)' *The American Society of International Law: Studies in Transnational Legal* (Policy No. 38 2008) 107

<sup>173</sup> A. Terhemba Nom 'The Right to Education for Internally displaced Persons in Nigeria through open and Distance Learning' (2012) 363 <https://www.ajol.info/index.php/huria/article/view/110832> accessed February 15, 2020

the right to education. The information or substance on the right to an education is not entirely new,<sup>174</sup> as early as 1959, the United Nations General Assembly called for free and obligatory elementary education.

It has been emphasized that the right to education contains requirements that must be met as soon as possible, such as the obligation to provide free and compulsory primary education and to eliminate discrimination in education.<sup>175</sup> Other duties may be met gradually, with states progressing “as swiftly and effectively as possible” toward, for example, the provision of secondary and higher education in line with international law.<sup>176</sup> According to UNICEF’s 10-year Strategic Review, investment in education, notably secondary education, is “particularly crucial” in post-conflict transitions, including efforts to find long-term solutions to displacement. As a result, the right to education is an “enabling right,” allowing the enjoyment of many other rights. These include civil and political rights like freedom of information, expression, and the right to vote, as well as economic, social, and cultural rights like the ability to select labour and fair remuneration for work.<sup>177</sup>

According to UNESCO, in a humanitarian emergency, the right to education allows for the transmission of lifesaving messages, gives a feeling of normalcy, and absorbs the energies of an adolescent whose alternatives may include recruitment and violence.<sup>178</sup> As such, it has come to be regarded as the “fourth pillar” of humanitarian assistance to conflict victims, alongside nourishment, health, and shelter. Global efforts to provide education for internally displaced people have identified four essential characteristics of the right to education: availability, accessibility, acceptability, and adaptability (the “Four As”). These four provisions are equally applicable in times of peace and conflict.<sup>179</sup> Although the majority of these international instruments are concerned with internally displaced children, they are broad enough to cover

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<sup>174</sup> E. Mooney and J. Wyndha “The Right to Education in Situations of Internal Displacement,” In Walter Kalin, and others (eds), ‘Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges’ *The American Society of International Law: Studies in Transnational Legal Policy* No. 41 (2009) 51

<sup>175</sup> The Committee on Economic, Social, and Cultural Rights, *General Comment* (No. 13(E/C.12/1999/10, 1999) para 57

<sup>176</sup> A. Terhemba Nom, *supra* no. 174

<sup>177</sup> *Ibid*

<sup>178</sup> United Nations Educational, Scientific and Cultural Organization (UNESCO), ‘Education in Situations of Emergency, Crisis, and Reconstruction’ (Paris: UNESCO, 2003) p7-8

<sup>179</sup> A. Terhemba Nom *supra* no 134

both children and adults displaced during natural disasters, conflicts<sup>180</sup> and wars; however, there is a lack of domestic legislation, which explains why governments' policy and practice differ from international human rights standards. This scenario is consistent with the findings of *Alobo, Obaji*<sup>181</sup> and *Zachary*<sup>182</sup>, who discovered that the overwhelming magnitude of the displacement caused by Boko Haram, as well as the lack of a regulatory framework on internal displacement management, has hampered the government's ability to be proactive in planning for displacement.

Less attention has been given to the social and educational needs of the internally displaced children; there is neglect on the part of the government towards providing and making education accessible to internally displaced children in the host communities and various camp settlements. The effect of the lack of access to education and other social needs on displaced children, their quality of life, the protection of human rights and the quality of democracy in Nigeria is also the gap that this study seeks to address.

Education is not just about reading and writing but making the internally displaced children use it for their advantage and utilize the knowledge for their growth, lead their own life, using the reading-writing skills to improve their quality of life and the enjoyment of other rights. It will help the country to grow economically, thereby leading to the development of the country. Education is not just about gaining book knowledge and relating it to their lives but also improving the social, economic, and political lives of other people because it is the foundation on which the whole structure of human development is based. Providing education for internally displaced children is explicit for success in life; education is imperative for the nation's personal, social, and economic development. With access to education for internally displaced children, minds are empowered, and good thoughts and ideas will be conceived. Humans face various survival obstacles in life, but education teaches them how to overcome failure and achieve success. Education is a thing that can give internally displaced children future hope, change their

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<sup>180</sup> Ibid

<sup>181</sup> E. Alobo, and S. Obaji, 'Internal displacement in Nigeria and the case for Human Rights Protection of Displaced Persons' (2016) JLP 51, 26-33

<sup>182</sup> A.L. Zachary, 'The struggle for Protection of the Rights of Refugees and IDPs in Africa: Making the Existing International Legal Regime' (2000) *WBJL* 18, 268-283

situation, and support them for the future as leaders in the social and economic development and the quality of democracy of the nation.

## 2.4 Evolution of Internal Displacement in Nigeria

Internal displacement and forced migration in and into Nigeria are not new phenomena. This displacement has been on for the past 50 years of independence, and this increase in records of displacement has been caused by violent conflicts.<sup>183</sup> The first incidence of internal displacement could be traced back to the time of civil war popularly referred to as the Biafra War of 1967-1970. It took work to determine the number of displaced persons at that time due to inaccurate figures. However, the number of people that needed humanitarian assistance was estimated to be about 2 million scattered across the border during the war.<sup>184</sup> The International Committee of Red Cross, in its 1969 International Review, had it that provisions of foodstuffs and medical supplies were made to about 850,000 people of which many of them were children. Within one month,<sup>185</sup> there was a large movement of people; over one million people were relocated from the north to the south. There was the report of the International Committee of the Red Cross (ICRC) was that it had about 400 vehicles, undisclosed numbers of ships, and aircraft that were used in the delivery of over 3 million foods in a week in Biafra.<sup>186</sup>

Thousands of Librarian refugees were discovered stranded along the shores of the Nigerian Seaport in Apapa, Lagos, following the Librarian civil war in 1989,<sup>187</sup> whereby the military government had to provide protection and relocate the people to *Oru* Refugee Camp.<sup>188</sup> The federal government further enacted the Decree that which lead to the establishment of the

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<sup>183</sup> F.K. Mohammed, 'The Causes and Consequences of Internal Displacement in Nigeria and Related Governance Challenges' (Working Paper FG, April 8 2017, SWP Berlin) p 9 [https://www.swp-berlin.org/fileadmin/contents/products/arbeitspapiere/Mohammed\\_2017\\_Internal\\_Displacement\\_Nigeria.pdf](https://www.swp-berlin.org/fileadmin/contents/products/arbeitspapiere/Mohammed_2017_Internal_Displacement_Nigeria.pdf) accessed 27 September 2021

<sup>184</sup> M. Kelly Greenhill, 'Cornell Weapons of Mass Migration: Forced Displacement, Coercion, and Foreign Policy' (Cornell University Press, 2010); The State of the World's Refugees, 'Decolonization in Africa', UNHCR, 2000; H. Travis, *Genocide, Ethno-Nationalism, and the United Nations Exploring the Causes of Mass Killing Since 1945* (Routledge, 2013); K.C. Nwoko Counting the Cost: The Politics of Relief Operations in the Nigerian Civil War, A Critical Appraisal (African Study Monograph 2016)

<sup>185</sup> K.E. Orji & S.N. Uebari 'Nigerian Civil War and Refugee Crisis: The Fate of The Minorities in The Former Eastern Region' (2013) *IOSR*.

<sup>186</sup> H. Nathaniel, 'Humanitarian issues in the Biafra conflict, (Goetz, 2001)

<sup>187</sup> F.K. Mohammed, p 9

<sup>188</sup> National Commission for Refugees, Migrants, and Internally Displaced Persons (NCFRMI) (2 Data December 2016)

National Commission for Refugees (NCFR). In 1993, thousands of Sierra Leoneans arrived at the Apapa Sea Port, sparking civil turmoil that evolved into a full-fledged conflict.<sup>189</sup>

As the civil war ended, the Nigerian government, Liberia, Sierra Leone, and the UNHCR reached a tripartite agreement that resulted in the voluntary repatriation of Liberian and Sierra Leonean refugees. Liberia, Sierra Leone, Nigeria, the Economic Community of West African States (ECOWAS), and the United Nations High Commissioners for Refugees (UNHCR) signed a multilateral agreement for the local integration of the remaining Liberian and Sierra Leone refugees in Nigeria. In 1991, the Federal Capital Territory was formed out of the present-day states of Kogi, Nassarawa, and Niger.<sup>190</sup> The indigenous inhabitants lost their land and means of subsistence due to federal development programs.

The number of indigenous families resettled in the Federal Capital Territory was unknown. However, an estimated 300,000 people were resettled in various villages inside the Federal capital territory, giving rise to multiple satellite towns like as *Kubwa*, *Wasa*, *Apo*, *Galuwyi*, and *Shera*, among others.<sup>191</sup> The resettlement of these indigenous people went with so many challenges and uncertainty that lead to most cases to compel the government to take some forceful measures. Many of these resettled settlements still lack basic social services like primary and secondary schools, access roads, power, potable water, and health care facilities.<sup>192</sup> There were major communal clashes in *Taraba*, *Plateau*, *Nassarawa* and *Benue* states leading to the internal displacement between 2000 and 2002. The causes of dispute are centered on lands boundaries and indigenous indigenes settlers.<sup>193</sup> Other areas involved in religious riots that led to specific displacements of more than 30,000 people took place in Kaduna in the 1990s, 2000-2002.<sup>194</sup> The violence that took place in 2002, lead to a large-scale population's displacement and resulted to the sharp separation of communities in some areas. Other reported communal confrontations include the aftermath of a disputed Plateau election result in 2008, which resulted

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<sup>189</sup> Ibid

<sup>190</sup> F.K. Mohammed, p 9

<sup>191</sup> T.S. Iorliam, 'A Post-Resettlement Appraisal of the Socio-Economic Condition of Gbagi People in Kubwa, Federal Capital Territory (FCT) Abuja, Nigeria' 5(4) *Academic Research International*

<sup>192</sup> Ibid

<sup>193</sup> A. Samson Adesola & P. Akin Ola, 'A Historical Analysis of Violence and Internal Population Displacement in Nigeria's Fourth Republic' (1999-2011)

<sup>194</sup> F.K. Mohammed, op. cit, p 10

in inter-communal fighting, with tensions mostly reflecting resentments between the indigenous Christian minority and settlers from the Hausa-speaking Muslim of the north.<sup>195</sup>

According to the National Commission for Refugees, an estimated 3.2 million individuals were displaced between 2003 and 2008 because of ethnic and religious disputes both within and beyond the country.<sup>196</sup> Following several years of conflicts and interventions by the International Criminal Court of Justice (ICJ), Nigeria relinquished the *Bakassi Peninsula* to its neighbours, the Republic of Cameroon, in 2008. As a result of these, an estimated 400,000-755,000 individual was compelled to cross the boundary of *Cross-River, Akwa-Ibom, and Niger Delta* States. Many of these people were evicted from their homes, deprived of their means of subsistence, and rendered landless for years. According to authorities, the number of people left unsettled was estimated to be about 100,000. Thousands have continually been displaced in this region because of environmental degradation and natural disaster, which includes flood in the north-central, overflow of riverbanks, oil spillage, erosion in the south-east and development projects in the south-south Niger Delta region.<sup>197</sup>

In 2010, the Nigerian Red Cross Society identified approximately 5,000 vulnerable families in various locations of the country that were most affected by floods in a vulnerability analysis.<sup>198</sup> In its 2013 Annual report, and it stated that “heavy rains between July and October 2012, led to Nigeria’s worst flooding in 40 years affecting more than 7 million people in 33 out of 36 states.”<sup>199</sup> The flooding claimed the lives of 363 people, according to the National Emergency Management Agency (NEMA). In August, *Borno, Cross River, Ebonyi, Nassarawa, Bauchi, Gombe, Katsina, and Kebbi* states were hit; in September, *Taraba, Benue, Niger, Kaduna, and Kano* states were affected; and in October, *Delta and Bayelsa* states were affected.<sup>200</sup>

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<sup>195</sup> Ibid

<sup>196</sup> B.U. Mberu, R. Pongou, 'Nigeria Multiple Forms of Mobility in Africa's Demographic Giant' (2010)

<sup>197</sup> United Nations Environment Programme (UNEP) Nairobi, Kenya: Report on Environmental Assessment of Ogoni Land, Niger Delta Region, Nigeria (2011)

<sup>198</sup> F.K. Mohammed, p. 10

<sup>199</sup> Nigerian Red Cross Society (NRCS) Annual Report (2013)

<sup>200</sup> Ibid

Disputes between neighbouring villages have also resulted in violence and displacement in some circumstances. Inter-communal violence has included clashes related to election violence, which has led more than 65,000 people to evacuate their homes between April 2011 and January 2012, according to the National<sup>201</sup> Commission for Refugees, Migrants, and Internally Displaced Persons (NCFRMI). NEMA recorded approximately 80 IDP settlements in 26 states across six geographical zones from 2010 to 2011. Natural disasters, community and ethno-religious confrontations, and electoral violence displaced around 350 000 people. Most of the recognized villages have now been cleared.<sup>202</sup> Displacement caused by disputes between nomadic herders and rural farmers in some regions of the country, mainly where large expanses of farmland have eaten up into pastoralists' customary grazing paths, has fostered tension and violent clashes between communities. Renewed land conflicts between ethnic *Tivs* and nomadic *Fulanis* in Edo and Benue states have also displaced an estimated 15,000 people since March 2012.<sup>203</sup>

According to a National Bureau of Statistics (NBS) survey of youth in the country conducted in 2012, forced migration within the country is on the rise, with people, particularly the youth, migrating in response to inequitable distribution of resources, services, and opportunities, or to flee violence, natural disasters, or increasing occurrences of extreme weather conditions.<sup>204</sup> According to the same report, "most (48.5 per cent) of Nigerian youths' movement in selected states are tied to family reasons while a sizeable proportion (22.9 per cent) of them moved in search of job opportunities."<sup>205</sup> Other reasons for youth forced migration include civil turmoil, education (9.2%), and employment (4.8 per cent).<sup>206</sup>

The highest recorded number in the last decade, however, has been due to the insurgency in the country's northeast, where a series of violent attacks since 2009 has resulted in well over two

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<sup>201</sup> Ibid

<sup>202</sup> Ibid

<sup>203</sup> Ibid

<sup>204</sup> National Baseline Youth Survey: National Bureau of Statistics in Collaboration with Federal Ministry of Youth Development (2012)

<sup>205</sup> FK Mohammed, p 11

<sup>206</sup> Ibid

million<sup>207</sup> people displacement within the country and across borders to neighbouring countries, particularly in the last three years. This insurgency by Boko Haram has been the most significant cause of displacement since the civil war of 1967 to 1970. The insurgency, which arose from a small group of extremists that opposed the Nigerian state without success in the early 2000s, re-emerged under the leadership of Mohammed Usuf, who had returned from self-imposed exile in Saudi Arabia and proselytized in Borno<sup>208</sup> before he was killed in police custody in 2009.<sup>209</sup>

The movement became openly violent, employing terrorist techniques such as targeted assassinations, suicide bombings, hostage kidnapping, and blatant attacks on rural communities and villages.<sup>210</sup> In its 12th round of the Displacement Tracking Matrix (DTM) programme, the International Organization for Migration (IOM) in collaboration with the National Emergency Management Agency (NEMA) estimated the total number of Internally Displaced Persons (IDPs) in Nigeria at 2,155,618 across 13 states in October 2016.<sup>211</sup> The DTM Round 13 Report estimates 1,770,444<sup>212</sup> IDPs in the northeast<sup>213</sup> alone in December 2016. The country also hosts many refugees and asylum seekers; in 2015, the Refugee Status Determination (RSD) Unit of the Department of Refugee and Migrant Affairs, NCFRMI, registered 828 refugees and 1325 asylum applicants. Central African Republic, Democratic Republic of the Congo, Ghana, Guinea, Ivory Coast, Lebanon, Mali, Palestine, Syria, Sudan, and Togo are among the countries of origin. From August to September, a total of 187 refugees and asylum seekers were registered as of November 2016.<sup>214</sup>

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<sup>207</sup> The official displacement figures do not consider those above a particular social class who live with relatives or have relocated by their means. To date, there is no official registration centre for displaced persons outside of those in official camps and some informal settlements in host communities. (SWP-Berlin)

<sup>208</sup> Pérouse de Montclos et al., Boko Haram: Islamism, Politics, Security and the State in Nigeria, African Studies Centre (ASC) Institut Français de Recherche en Afrique (IFRA), West African Politics and Society Series, (2014) 2.

<sup>209</sup> E. Imasuen, 'Insurgency and Humanitarian Crises in Northern Nigeria: The Case of Boko Haram' (2015) AJPSIR 9, 284-296

<sup>210</sup> Ibid

<sup>211</sup> International Organization for Migration (IOM), *Nigeria Situation Report* (2016)

<sup>212</sup> The International Organization for Migration (IOM), 'Implementation of Displacement Tracking Matrix (DTM) Programme' (2014)

<sup>213</sup> The Northeast comprises six states: Adamawa, Bauchi, Borno, Gombe, Taraba, and Yobe.

<sup>214</sup> Interview with the Head of Unit, the Refugee Status Determination (RSD) Unit under the Department of Refugee and Migrant Affairs, National Commission for Refugees, Migrants, and Internally Displaced Persons (NCFRMI) (2016)



## 2.5 Evolution of Human Rights

the origin of rights could be traced to the beautiful Cyrus cylinder stone object tapering gently at each end and speckled with fragile inscriptions in the ancient writing on the cylinder; this is said to be the first human rights instrument, where the Persian king Cyrus in the sixth century before Christ (BC); where he proclaimed after he conquered Babylon granting protection to the local people the right to worship the God of their choice, he also restored their temple and freed the people captured to enable them to return to their homes. Though the Cyrus cylinder may not be a comprehensive covenant, for the age it happened, it was a significant record for the recognition of rights.<sup>215</sup>

The evolution of child rights could be further understood when it is connected with the growth of human rights generally, and this is because children all over the world are said to be susceptible to undue denial of their human rights and fundamental freedoms as a result of their features of weaknesses for which they are not answerable and which they are not in a situation to change.<sup>216</sup>

Many children have been oppressed, abandoned, neglected, ill-treated, physically and sexually abused, beaten, sold into slavery, mutilated, forgotten, ignored, or sometimes even killed with impunity, especially when exposed to a situation of hunger, war, or other hostilities.

From above, children are usually regarded by the global group to be granted the general provision of human rights enjoyed by all members of the human family, in addition to the protections and actions to ensure their enjoyment of human rights, protections of their welfare and fundamental freedoms.<sup>217</sup>

The preamble of the Universal Declaration of Human Rights (UDHR), adopted on Dec. 10, 1948, emphasized that acceptance of the natural dignity and equal and absolute rights of all members of the human family is the foundation of world freedom, justice, and peace. Despite the declared universal acceptance of the importance of human rights, however, there has not been a consensus among writers or philosophers in relation to the exact origin of the concept of human

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<sup>215</sup> Tristan McCowan, *Education as a Human Right: Principles for a Universal Entitlement to Learning* (London: Bloomsbury Publishing Plc., 2013) ISBN 9781441122773, pg. 27.

<sup>216</sup> A.K. Ahmed, *The Law, and the Child Rights in Nigeria* (Lagos, Malthouse Press Limited 2015) 1

<sup>217</sup> Ibid

rights.<sup>218</sup> This is because most of the writings on notions of human rights have been influenced by the time and circumstances of the writers or philosophers. Some have argued that the idea originated from Roman law, while others insist that the concept developed from natural law. Some others are simply of the opinion that the concept developed from the nature of man as a rational being or from the socio-economic condition of a given society.<sup>219</sup> In any case one very accepted argument is that the viewpoint of the rights of man or human rights is the modern name for what has traditionally been known as natural rights, and the source of these natural rights is the concept of natural law, which according to Greek and Roman philosophers was universal because it applied not only to citizens of a specific state but also to citizens of other states, instead to everybody, everywhere in the metropolis.<sup>220</sup> The works of writers such as Locke, Hobbes, Rousseau and Montesquieu ably presented the philosophical and legal basics.<sup>221</sup> In summary, the popular opinion here is that all men are made equal, favoured with certain defined and inviolable rights, such as the right to life, the right to freedom, and pursuit of one's happiness.<sup>222</sup> In their view, human right is not something that is within the power of the state or its machinery and so they describe it as something that no one may deprive anyone of without committing a grave injustice to justice, something that is owed to every human being simply because he is human, and something that is absolutely precious. They said human rights in this respect refer to certain deeds or freedoms, which must be respected by every civilized community.<sup>223</sup> According to *Cicero*:

“True law is the right reason in agreement with nature: for universal application, unchangeable and everlasting. It is not a sin to try to alter this law, nor is it allowable to try to repeal any part of it, and it is impossible to abolish it entirely. We cannot be free from its obligation by the senate or the people. And there will not be different laws at Rome or Athens or different laws now and in

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<sup>218</sup> *Ibid* p 51

<sup>219</sup> M. Ikhariale, ‘The Jurisprudence of Human Right’ (1995) JHRLP 5 (5) 54

<sup>220</sup> *Ibid*

<sup>221</sup> John Locke, *Two Treatise on Government*; Thomas Hobbes, *The Leviathan*; Jean-Jacques Rousseau, *Social Contract and Discourse* 11, and Montesquieu, *The Spirit of the Laws* (2004)

<sup>222</sup> M. Cranston, *what are Human Rights?* (New York, Taphinger, 1973)

<sup>223</sup> A.K. Ahmed, *The Law, and the Child Rights in Nigeria* (Lagos, Malthouse Press Limited 2015) 3

the future but are eternal and unchangeable, and law will be valid for all nations and for all times.<sup>224</sup>

Under this thought, human right is defined with the nature of man as a rational, social, and intelligent being which are attributes of man naturally given to him and which he has little or no control over. They are inalienable and exist like human beings; they insist that nature provided man with specific rights that protect and preserve the sacredness of the human person, making him inviolable, equal to his fellow man, free and independent, and endowed with the mental faculty to grasp human rights issues sensibly and rationally. Also, human rights are universal moral rights that all men, everywhere and at all times, should have nature provided man with specific rights that protect and preserve the sacredness of the human person, making him inviolable, equal to his fellow man, free and independent, and endowed with the mental faculty to grasp human rights issues sensibly and rationally. Also, human rights are universal moral rights that all men, everywhere and always, should have. Apart from having the general characteristics of being an independent claim that the individual can assert in the human state, such rights do not require any other attributes before they can qualify as rights.<sup>225</sup> *Nail Macdermott* said:

“Human rights are part of the common heritage of all humankind, without discrimination based on race, sex, religion, or other differences. These rights, common to all mankind, have a long history, many of them finding their origin in religious teachings, but now in our lifetime, they have been formulated more fully than ever before and agreed to by all peoples from all parts of the world.”<sup>226</sup>

The proponents of this view argue that these rights are due to the availability of high laws that differ from positive or human-made laws. These laws constitute a global and outright set of

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<sup>224</sup> G. Ezejiofor, ‘Development of the Concept of Human Rights: Definition and Philosophical foundations’, in AO Obilade (ed.) *Text for Human Rights Teaching in Schools*, (CRC Lagos 1999) 1

<sup>225</sup> A.K. Ahmed, *supra* no. 192, p 4

<sup>226</sup> M. Nail, Opening Address to the International Conference on Human Rights Education in Rural Environments quoted in Olisa Agbakoba, ‘The Role of Lawyers and the Observance of Human Rights’, (1995) JHRLP 5(1) p 115

principles guiding all human beings in length and breadth. They argue that human rights often help to identify the purposes toward which and the spaces within which every human being is free to act without further permission or consent from any person or body of persons. This, to them, is technically called the “freedom to do without hindrance.”<sup>227</sup> The rights should function to put certain matters beyond anyone else's ability to grant or deny. They give every human being a reason for acting in particular ways and grounds for condemning any interference or invasion.

In their argument, these rights operate to induce well-founded confidence of the people in their leaders, such that the values or objects protected by them will readily and predictably be obtained anytime and by everybody.<sup>228</sup> It is on this basis that *Maurice* defines human rights as a “twentieth-century name for what has been traditionally known as natural rights or, in a more exhilarating phrase, rights of man”.<sup>229</sup>

*Dawrick* had it that natural rights are better suitable words for natural law. He said:

“The postulates of natural law are general normative propositions offered by various philosophers as precepts for legislators and governments. These precepts are not like actual laws; they are precepts for law in any state or international law. So, to call them natural rights more aptly expresses the ethical rather than the legal nature of the doctrine.”<sup>230</sup>

Another view from the natural school is the one whose approach to the existence of such inalienable rights as the right to life, liberty, and property is based on a social compact that marks the end of the harsh conditions of nature's state. According to them, this allowed resort to a superior type of law, which would naturally give an effective manner of constraining arbitrary power. Human rights, therefore, in their argument, are not the outcome of the specific political institution but were founded on natural rights that were before the highest ranking and power of the nation since they are products of a social contract entered into by individuals to form a

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<sup>227</sup> Ibid

<sup>228</sup> Cranston Maurice, *what are Human Rights?* (New York Taplings Publishers, 1973) p 5

<sup>229</sup> Ibid

<sup>230</sup> F.E. Dawrick. (ed.) *Human Rights problems, Perspectives, and Texts*, (England Teak field Ltd., 1979) 11

community freely<sup>231</sup>. This view was articulated in the writings of *John Locke*, where he said that certain rights are self-evidently applicable to individuals in their natural state. That man engaged in a social compact in which he relinquished not his rights but simply the ability to maintain order and execute natural law to the sovereign. Individuals kept their natural rights to life, liberty, and property because they were man's fundamental and inalienable rights.

The government's objective is to protect these rights; it serves no other purpose than to preserve the members of that society's lives, freedoms, and possessions. So long as the government achieves this goal, its laws should be enforceable. Laws lose their validity when they stop to safeguard or begin to intrude on these basic rights, and then the government may be toppled.<sup>232</sup> These views eventually were said to be responsible for the establishment or the passing of the English Petition of Rights in 1672, the American Bill of Rights in 1791 and the French Declaration of the Rights of Man and Citizens in 1789.<sup>233</sup> It is therefore not surprising when the opening paragraph of the American Declaration of 1776 provided that:

“We hold these truths to be self-evident, that all men are created equal, endowed by the creator with certain inalienable rights, and that among these are life, liberty and the pursuit of happiness. In securing these rights, governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it and to institute a new government laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to affect their Safety and Happiness.”<sup>234</sup>

Commenting on this Declaration, *Henkin* said individual rights derive from and depend on a larger political conception. He said originally (that is, in a situation of nature) the person is

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<sup>231</sup> Ibid

<sup>232</sup> C.A. Oputa, *Human Rights in the Political and Legal Culture of Nigeria: 2nd Idigbe Memorial Lectures, Nigerian* (Law Publications Ltd. Lagos 1988) 47

<sup>233</sup> O.H. Philips, and others, *Constitutional and Administrative Law* (6th edn. Sweet and Maxwell, London, 1978) 16

<sup>234</sup> American Independence Declaration (1776)

independent; he is his or her own master. In principle, the original decision of individuals to form a society was voluntary, though inevitable; in principle, the form of political society established is voluntary. Upon entering society, each person's independence is joined with that of others and changed into the supremacy of the people; the supremacy of the people signifies self-government or democracy by the people directly or views those chosen as representatives. But every individual still holds some of his or her independence as rights that are protected even against the people and their representatives (that is state); autonomy, and self-government, is the basic right, the foundation of all others.<sup>235</sup> Also, that the government's responsibility to the people's submission to the government, and the basis of its legitimacy this is because the peoples "right" are "natural" and "inherent", they are not gifts from society or any government. They do not drive from the Constitution as they antecede it. They went on to argue that when the people adopted the law creating the government, they retained substantial autonomy and freedoms for themselves and for their descendants as individual rights against the government and, therefore, that the first thing the government must do to maintain its legitimacy is to recognize and respect these rights.<sup>236</sup>

Also arguing along the same line, *John Locke* stated that Men and women were free to choose their acts, and they were also equal in the sense that no one was subject to the will or power of another. To eliminate some risks and inconvenient aspects of nature's state, men and women engaged in a contract in which they jointly decided to form a community and establish a body policy. However, in establishing that political authority, they kept their fundamental rights to life, liberty, and property. The government was obligated to safeguard its subjects' natural rights, and if it failed to do so, the government's validity and office would be revoked.<sup>237</sup>

The natural rights theory contributes significantly to the advancement of human rights. It allows for an appeal from the realities of bare power to a higher authority, which is asserted to preserve human rights. It is associated with human freedom and equality, from which all other human

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<sup>235</sup> AK Ahmed, p 7

<sup>236</sup> W Henkin, *Rights: American and Human* (79 Colum. L. Rev. 405 1979)

<sup>237</sup> Locke John, *The Second Treatise on Civil Government* (7th ed, Amherst, NY Prometheus Books, 1986)

rights flow naturally. It also provides dependability, security, and support for a human rights system on a national and international scale.<sup>238</sup>

This idea was supported by Kayode Eso JSC, he defines human rights as follows in *Ransome Kutiv. Attorney General of the Federation*: "it is a right which stands beyond the ordinary laws of the nation and which, in reality, is antecedent to political society itself." It is a crucial requirement for a civilized existence, and our constitutions have done so since independence by enshrining these rights in the Constitution so that the rights may remain immutable to the degree of the Constitution's non-immutability.<sup>239</sup>

The idea of the development of human rights as natural rights did not enjoy universal support as it came under increasing attack by philosophical and political liberals and religious orthodoxy, and it is not scientifically verifiable. It was also heavily criticized by the positivist school of thinking, which held that the only law is the Sovereign's command. According to *Jeremy Bentham*, "right is the offspring of law; from actual laws emerged real rights' but from imaginary laws, from laws of nature came imaginary rights, a bastard brood of monsters. There are no such things as natural rights."<sup>240</sup> Positivism, as a doctrine, stressed the authority of the state and, as a result, left little room for rights in the legal system other than those derived from the system's constitutional basis.<sup>241</sup>

Other philosophers such as *Marx*, for instance, while not rejecting theories of natural rights, felt that individual rights were egoistic, and a bourgeois concept designed to maintain and reinforce the pre-eminent position of the ruling class. Rights, according to them, therefore, are adequately vested in the communities or whole societies and nations, which might ground only such legal rights as were necessary to promote the transition to a communist society. They argued that human rights have in the past been conditioned to differ in agreement with the changes in social, economic, political, and other aspects of the world. They insist that:

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<sup>238</sup>Hohfeldian, 'Fundamental Legal Conceptions as Applied in Judicial Reasoning' (1913) (23 Yale LJ 16 P14-15)

<sup>239</sup> (1985) 2 NWLR 6, 211

<sup>240</sup> J. Bentham, *Handbook of Political Fallacies*, in HA Larrabee (ed), (1962); See also Hart, *Utilitarianism and Natural Rights*, (53 Tul. L. Rev. 663 1979)

<sup>241</sup> *Ibid*

“Social opportunities and rights are not inherent like man's and do not constitute some natural attribute. Rights and freedoms of individuals in any state are materially stipulated and depend on the socio-economic, political, and other conditions of the development of society, its achievements and progress.”<sup>242</sup>

There was also the Universalist and relativist view of human rights, which was based on the historical beginnings and evolution of human rights doctrine.<sup>243</sup> It is argued in this regard that the doctrine of human rights is founded on a specific fundamental philosophical claim that there exists a rationally identifiable order, an order whose legitimacy precedes continental social and historical conditions and applies to all human beings everywhere and at all times.<sup>244</sup> In this light, *Cranston* defined human rights as a universal and shared right by all people.<sup>245</sup>

*Wasserton*, in his definition of human rights, identified four requirements that qualify a right as a human right, thus:

“First, it must be possessed by all human beings and only by human beings. Second, because it is the same right that all human beings possess, it must be possessed equally by all human beings. Third, because human rights are possessed by all human beings, we can rule out as possible candidates any of those rights which one might have in virtue of occupying any status or relationship, such as that of a parent, president, or promise. And fourth, if there are any human rights, they have the additional character of being assertable, in a manner of speaking ‘against the whole world.’”<sup>246</sup>

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<sup>242</sup>V. Kartashkin, ‘The Socialist Countries and Human Rights’ in Karel Vasak (ed) *The International Dimensions of Human Rights*, (UNESCO 1982) 631

<sup>243</sup> C. Cerna, ‘Universality of Human Rights and Cultural Diversity: Implementation of Human Rights in different Socio-Cultural Contexts’ (1994) HRQ 16, 740

<sup>244</sup> J. Donnelly, ‘Cultural Relativism and Universal Human Rights’ in J Donnelly (ed) *Universal Human Rights in Theory and Practice* (1989) 109

<sup>245</sup> M. Cranston, *What are Human Rights?* (1973) 1

<sup>246</sup>R. Wasserston, ‘Rights, Human Rights and Racial Discrimination’ (1964) JP 61, 528



All these arguments notwithstanding, the idea of human rights endured in one form or the other during the early period of its development, as evidenced by the abolition of slavery, the universal suffrage movement, the rise of trade unionism, the series of efforts aimed at protecting ethnic enmities, *et cetera*. Human rights, however, are now acknowledged as the intrinsic worth, equal, and inalienable rights of all members of the human family to a dignified existence. It is highlighted that its compliance is required for the advancement of social progress and higher living standards for all people. Indeed, proponents of various conceptions of human rights agree that the state should guarantee to the individual all his human rights without distinction or discrimination. For this reason, the Bill of Rights has now become a formal part of the constitutions of all sovereign states.

Human rights have been defined in a variety of ways. Human rights are the liberties, immunities, and benefits that all human beings should be able to claim as a right of the society in which they live, according to accepted modern principles.<sup>247</sup> Human rights are claims made by men, either for themselves or on behalf of other men that are supported by some theory that focuses on man's humanity, on man as a human being, a part of humanity.<sup>248</sup> It is defined by *Anold* as universal rights or enabling attributes of human beings or persons of the human race, adhering to the human-being wherever he appears regardless of time, place, color, sex, parentage, or environment.<sup>249</sup> Human rights, according to *Osita Eze*, are a demand or claim made by individuals or organizations on society, some of which are protected by law and have formed part of *Lex Lata*,<sup>250</sup> while others remain ambitions to be realized in the future.<sup>251</sup> It is defined by *Umozurike* as claims placed on society, particularly on its official managers, by individuals or groups based on their humanity. They apply independently of race, colour, sex, or other distinction, and governments, people, or individuals may not remove or derive them. They are the rights that every individual claims or strives to have, regardless of his or her skin colour,

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<sup>247</sup> J. Henkin, 'Human Rights in R Bernhardt (ed.) Encyclopedia of International Law (1985) 8, p 268

<sup>248</sup> F.E. Dowrick (ed.), *Human Rights, Problems, Perspectives and Texts*, (West Mead, UK Saxon House (1979) p8-9

<sup>249</sup> A.J. Lien, 'A Fragment of Thoughts Concerning the Nature, and The Fulfilment of Human Rights' (Westport Greenwood Press Publishers 1973) p 144-5

<sup>250</sup> *Lex lata* (also called *de lege lata*) is a Latin expression that means 'the law as it exists (as opposed to *referenda*, which is a Latin expression that means "future law")

<sup>251</sup> O. Eze, *Human Rights in Africa: Selected Problems* (Lagos: Macmillan 1984) 5

race, religion, social class, or other factors.<sup>252</sup> Given the historical foundation of human rights, child rights development is examined below.

## 2.6 Development of Child's Rights in Nigeria

The history of child rights and welfare in Nigeria dates to 1943 in the Children and Young Persons Ordinance.<sup>253</sup> This was retained as Chapter 32 of the Laws of the Federation of Nigeria and Lagos as revised in 1958. The same was extended to Eastern and Western Regions in 1946 and northern Nigeria in 1958. With the creation of states in 1967, many states adopted the Children and Young Persons Law in the same format as the original legislation. This has remained the situation with successive creation of states until the present.<sup>254</sup>

Nigeria has likewise ratified the Convention on the Rights of the Child and made it national legislation through the Child Rights Act. Nigeria also signed the Optional Protocol to the Convention on the Rights of the Child on the Participation of Children in Armed Conflict and signed and ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography. At the regional level, Nigeria has ratified the African Charter on the Rights and Welfare of the Child but has yet to incorporate it into national legislation.<sup>255</sup>

## 2.7 Legal Sources of Child's Right

Legal sources of children's rights under international law are traceable to the nineteenth century, which gave rise to the elevation of children as legal persons with rights and duties.<sup>256</sup> But the origins of the children's rights movement can be traced back to the mid-nineteenth century when *Jean Vales* attempted to organize a league for the protection of children's rights in the aftermath of the Paris Committee.<sup>257</sup> A considerable number of International, Regional, and National instruments contain special provisions ensuring that children have the same human

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<sup>252</sup> U.O. Umozurike, *The African Charter on Human & Peoples Rights*, (The Hague Martinus Nijhoff Publishers 1979) p 4

<sup>253</sup> Children and Young Persons Ordinance (1947)

<sup>254</sup> A.K. Ahmed, *The Law, and Child Rights in Nigeria* (Malthouse Law Books, Lagos, 2015) 51

<sup>255</sup> Ibid

<sup>256</sup> K. Weisberg, *Evolution of the Concept of the Rights of the Child in the Western World*, (1978) 21 I.C.J. Rev. 43

<sup>257</sup> T. Zeldin, France 1848-1945, in M Freeman (eds) 'The Rights of Children in the International Year of the Child Current Legal Problems' (33, 1980) 12

rights and fundamental freedom as all other human beings but that, in addition, they should have because of their disadvantageous position as children. The right to such special treatment and guidance as may be necessary to enable them to develop their skills and abilities and reach their maximum potential. The special treatment is not seen as discrimination against adults, resulting from the vulnerable nature of children. The purpose of this is to ensure equality for everyone as regards one's welfare and the enjoyment of human rights and fundamental freedoms.

Following the industrial revolution, child welfare legislation created provided for the implementation of criminal sanctions as well as the termination of parental rights in extreme situations of parental duties to children.<sup>258</sup> The establishment of compulsory education regulations to equip children with basic general education and vocational training, thereby removing children from the labour force, resulted in the withdrawal of children from the labour force. Child labour laws limited daily working hours and maintained this trend by regulating children's working circumstances, for example, the Act to regulate the Labour of Children and Young Persons in the Mills and Factories of the United Kingdom (UK) 1833. By the end of the nineteenth century, children had been removed from adult prisons, orphanages had been sponsored, and improved treatment for physically and mentally impaired children had been acquired.<sup>259</sup>

At the international community, at the United Nations level, and at the national levels, there have been concerns with such very serious issues that have negatively affected children, particularly those that border on child labour, the state of children, child prostitution, juvenile delinquency, juvenile justice, children's welfare and education *et cetera*. As a result, the early twentieth century was marked by the internalization and institutionalization of humanitarian values by organizations such as the International Committee of the Red Cross, the League of Nations, and the International Labour Organization. Children were one of the first populations to gain from this approach. The International Agreement for the Suspension of the "White Slave Traffic" was one of the first treaties to particularly deal with children as a group; it was signed in Paris on

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<sup>258</sup> The Poor Law Amendment Act 1868, Prevention of Cruelty to and Protection of Children Act 1889 UK

<sup>259</sup> C. Cohen, "Human Rights of Children" (1983) CULR 12, 369

May 18, 1904.<sup>260</sup> With the formation of the League of Nations and the International Labour Organization in 1919, international protection of children's rights received a boost. The League of Nations enacted the International Convention for the Suppression of Traffic in Women and Children in 1921<sup>261</sup> and the Slavery Convention in 1926 within a decade of its establishment.<sup>262</sup>

Nigeria's internal displacement legal and policy framework can be divided into international, regional/sub-regional, national, and state/local government levels. The Geneva Conventions of 1949 and its supplemental protocols 1-2 of 1977, as well as the United Nations Guiding Principles on Internal Displacement 1998, are some of the critical frameworks and institutions now in effect at the international level. The African Charter on Human and People's Rights, Cap A.9 LFN 2004, and the African Union Convention for the Assistance of Internally Displaced Persons in Africa, 2009, often known as the Kampala Convention, are at the regional/sub-regional levels. At the national level, the Federal Republic of Nigeria Constitution of 1999, as amended; the National Human Rights Commission Act of 1995; and the National Human Rights Commission Amendment of 2010. The National Commission for Refugees, Migrants, and Internally Displaced Persons (NCFRMI) Act, Cap 21, Laws of the Federation of Nigeria 2004 Draft National Policy on Internally Displaced Persons (IDPs) in Nigeria (2012), National Migration Policy 2015 (Adopted May 13, 2015), and the National Emergency Management Agency (NEMA) Act 1999, among other documents. At the state/local government level, there is the Ministry of Reconstruction, Rehabilitation, and Resettlement (MRR), which was founded in Borno state only in 2015, as well as state-level focal points for the National Human Rights Commission. At the national level, the National Human Rights Commission and the National Commission for Refugees, Migrants, and Internally Displaced People (NCFRMID) serve as focal points. The responsibility for protecting and assisting the IDPs first lies in the hands of the primary states where the incidents have occurred before the national authorities. However, the situation could be more difficult when it has to do with intra-state violent conflicts.

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<sup>260</sup> Cohen Cynthia Price "Freedom from Corporal Punishment: One of the Human Rights of Children" (1984) 2 JHR,1 <[https://digitalcommons.nyls.edu/journal\\_of\\_human\\_rights/vol2/iss1/6](https://digitalcommons.nyls.edu/journal_of_human_rights/vol2/iss1/6)> accessed 6 October 2021

<sup>261</sup> League of Nations, Treaty, Series Vol. IX, 415

<sup>262</sup> League of Nations, Treaty, Series Vol. LX 253

## 2.8 Definition of Education in the Human Rights Context

The importance of education in the life of man cannot be overstated; education improves the life of man by adding personality to human integrity, potential, identity consciousness, power, enlarge human capabilities and sustainable human development in society. In addition, education provides better exposure to wisdom and knowledge, enhanced imagination, creativity, identification of one's passions, and dreams of contributing to larger societal growth and getting rid of social prejudice.

No comprehensive and consistent definition has been made to define education.<sup>263</sup> The international human right instruments provide a functional and inadequate meaning of education and leave rooms or loopholes for further interpretation of the meaning of education without consideration to the benefit in terms of application and implementations of the meaning of education. The worldwide Bill of Human Rights classified human rights into two categories: civil and political rights and economic, social, and cultural rights. Education must also be defined using two distinct perspectives of positive and negative rights.<sup>264</sup>

It is proposed that a definition of education reflect the role, purpose, quantity, quality access, subjects, and contents that human rights to education have endeavoured to defend, prevent, and offer.<sup>265</sup> In view of the large diversity of the international instruments and literature on the meaning of human rights to education, this research furnishes definition and meaning of the human right to education.

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<sup>263</sup>K. Halvorsen, "Notes on the Realization of the Human Right to Education" (1990) HUM.RTS 12 Q. 341 "Without education, the individual could not develop his personality, which was the aim of human life and the most solid foundation of society." (Third Committee, 147th Management No.: A/C.3/SR.147, at 597, Nov. 19, 1948)

<sup>264</sup> The term "International Bill of Human Rights" is the combination of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; and See United Nations Office of the High Commission for Human Rights, and International Bill of Human Rights, pg. XI-34, United Nations Document ST/HR/1/Rev.6, U.N. Sales No.E.02.XIV.4 (2002)

<sup>265</sup>J. Lee, "The Human Right to Education: Definition, Research and Annotated Bibliography" (2020) Emory Int'l L. Rev. 34, 757 p762 <<https://scholarlycommons.law.emory.edu/eilr/vol34/iss3/2>> accessed 4 October 2021

Before the early twentieth century, education was only allowed to a defined group of members of the society<sup>266</sup> as a privilege and not a right. In the eighteenth century,<sup>267</sup> some countries like Germany attempted to enlighten the common public on the importance of education and started compulsory public education. Though this occurred formally by law, it was not fully implemented<sup>268</sup> as states indoctrinated authoritarian ideas through education.<sup>269</sup> International law was unable to properly manage this issue since it could not pierce sovereigns in human rights concerns prior to the United Nations (UN) Charter and the 1948 Universal Declaration of Human Rights (UDHR), which specifically grants a human right to education under Article 26.<sup>270</sup> The right to education would have been clearly understood when it is particularly defined from human rights instruments. International and national law, this would have provided a clearer understanding of the right to education between states and greater protection to humans nationally in a country like Nigeria where not all the children are in school, particularly the internally displaced children.

As a matter of policy, there are several international instruments, articles, treaties, and national laws that regulate the human right to education through their designated and specialized agencies, such as the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, International Covenant on Economic, Social and Cultural Rights (ICESR), the Convention on the Rights of the Child (CRC), the United Nations Educational, Scientific, and Cultural Organization (UNESCO), the International Convention for the Elimination of All Forms of Racial Discrimination (ICERD), and other similar instruments have been used to put a demand on the various government to protect the human right to education. The attempts to provide a suitable definition of the child's right to education are provided below.

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<sup>266</sup> Delbruck Jost, "The Right to Education as an International Human Right" (1992), *Articles by Maurer Faculty*. 2824 <<https://www.repository.law.indiana.edu/facpub/2824>> accessed 4 October 2021

<sup>267</sup> Ibid

<sup>268</sup> Ibid

<sup>269</sup> Ibid

<sup>270</sup> Universal Declaration of Human rights, G.A. Res. 217(III) A, U.N. Doc. A/RES/217 at art. 8 (Dec. 10, 1948)

## 2.9 Definition of a Child's Right to Education under the Human Rights Instruments

In different situations, the child's right to education is acknowledged and specified in numerous human rights instruments, which implies that a claim against states and their agencies could be filed if it has been domesticated by the states. According to Article 26(1) of the Universal Declaration of Human Rights (UDHR),<sup>271</sup> everyone has the right to free and compulsory education. This means that everyone has the right to a free education, regardless of race, culture, colour, nationality, age, or religion. Article 18 International Covenant on Civil and Political Rights (ICCPR) provide for the right of parents to protect and control the religious and moral education of their children.<sup>272</sup> Under Article 13(1) of International Covenant on Economic, Social and Cultural Rights (ICESCR), provides that a state party acknowledges the right of everyone to education.<sup>273</sup> While under Article 28(1) of CRC recognizes the right of the child to education as a progressive right.<sup>274</sup> UNESCO's Convention prevents discrimination in terms of access to education, the standard and quality of education and condition under which instruction is given.<sup>275</sup> Article 5(v) International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) encourages states not to racially discriminate when their citizens enjoy the right to education and training.<sup>276</sup> Article 10 Committee on the Elimination of Discrimination against Women (CEDAW) recognizes women's equal rights to education.<sup>277</sup> Article 24 UN Convention on the Rights of Persons with Disabilities (UNCRPD), recognizes the right of persons with disabilities to education.<sup>278</sup> The Refugee Conventionm1951

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<sup>271</sup> G.A. Res. 217 (III) A, Article 26, U.N. Doc. A/RES/217(III) (Dec. 10, 1948) UDHR Article 26(1)

<sup>272</sup>Opened for Signature (Dec. 19, 1966, 999 U.N.T.S. 171 ICCPR), Article 12, (Dec. 18, 1990, 2220 U.N.T.S. 3 MWC)

<sup>273</sup>Article13 (1) of ICESCR opened for signature (Dec. 19, 1966, 993 U.N.T.S. 3)

<sup>274</sup>Conventions on the Rights of the Child art. 28(1), opened for signature (Nov. 20, 1989, 1577 U.N.T.S. 3)

<sup>275</sup>Article 1–3, Dec. 14, 1960, 429 U.N.T.S. 93 (entered into force May 22, 1962).

<sup>276</sup>International Convention on the Elimination of All Forms of Racial Discrimination Article 5(v), opened for signature (March. 7, 1966, 660 U.N.T.S. 195 ICERD)

<sup>277</sup>Convention on the Elimination of All Forms of Discrimination Against Women Article. 10, it was opened for signature (Mar. 1, 1980, 1249 U.N.T.S. 13) (hereinafter CEDAW).

<sup>278</sup>Convention on the Rights of Persons with Disabilities art. 24, opened for signature (Mar. 0, 2007, 2515 UNTS. 3)

also recognizes refugees' equal rights to elementary education and most favoured treatment to other educations.<sup>279</sup>

However, all the definitions provided by human rights instruments do not clearly define education. According to Jootaek, the quantity, quality, and access are not clearly considered,<sup>280</sup> Quantity can include literacy percentages, number of schools and teachers, facilities, and budgets. Quality can also have the contents, pedagogies, class integration and interaction, class interaction, diversity, and access can include equality of opportunities, distance, roads, and transportation to facilities. He defined education as follows: also defined education as follows.

“as an instrument and process of teaching and learning at an institution—whether elementary, secondary, or tertiary, possessing the interrelated and essential features of availability, accessibility, acceptability, and adaptability, in which a human person or a group of persons develop the knowledge, abilities, and skills with the aims of respect for human rights and fundamental freedoms; to fully develop the human personality; to promote tolerance, gender equality, and friendship among all nations and groups of people; and to enable people to participate effectively in a free society, and to enable the maintenance of peace in a globalised society.”<sup>281</sup>

The meaning of education is complicated depending on the context it is used, can be the abstract freedom to educate someone or to be educated, which is related to the first-generational right to be free from state interference—a negative right.<sup>282</sup> Equal access to education and prohibition of

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<sup>279</sup>Convention Relating to the Status of Refugees Art.22, Jul. 28, 1951, 189 U.N.T.S. 137 (hereinafter 1951 Refugee Convention).

<sup>280</sup>J.Lee, “The Human Right to Education: Definition, Research and Annotated Bibliography”, 34 Emory Int'l L. Rev. 757 (2020) pg. 764. <<https://scholarlycommons.law.emory.edu/eilr/vol34/iss3/2/>>accessed 12 February 2020

<sup>281</sup>J. Lee, “The Human Right to Education: Definition, Research and Annotated Bibliography”, (2020) 34 Emory Int'l L. Rev. 757, 774 <<https://scholarlycommons.law.emory.edu/eilr/vol34/iss3/2/>>Accessed 10 May 2021

<sup>282</sup>K. Vasak, ‘A 30-Year Struggle: The Sustained Efforts to Give Force of Law to the Universal Declaration of Human Rights’, 1977 (UNESCO COURIER)



discrimination negatively prevents states from performing discriminatory activities,<sup>283</sup> which is recognized as international custom.<sup>284</sup> Alternatively, the definition of education can be more concrete and specific, including concepts such as the contents, facilities, and funds required for education, which is related to the second-generational social right to ask states to actively provide certain things—a positive right.<sup>285</sup> Education also can mean a process through which certain outcomes and goals, such as personality, capabilities, and dignity, can be reached through particular institutional instruction, which may be related to both negative and positive rights.<sup>286</sup> A negative right refers to inaction (negative rights) or action meaning (positive rights) these duties is either of legal or moral character. The idea of positive rights may also be applied to liberty rights.<sup>287</sup>

Leaving aside the definitions of education given by the human rights instruments, regional and national laws also defined education, though the definitions are not all-encompassing. The United State Supreme Court in *Brown v. Board of Education*<sup>288</sup> considers education as a means:

“A principal instrument, in awakening the child to cultural values in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has

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<sup>283</sup>International Covenant on Economic, Social and Cultural Rights (ICESCR), art 13(2)(c), (opened for signature Dec. 19, 1966, 993 UNTS 3) (hereinafter ICESCR). 14 Conventions on the Rights of the Child (CRC) art 28(1), (opened for signature Nov. 20, 1989, 1577 UNTS 3)

<sup>284</sup>D. Hodgson, ‘Education, right to, International Protection, in Max Planck Encyclopaedia of Public International Law’ (2006); see Connie de la Vega, ‘The Right to Equal Education: Merely a Guiding Principle or Customary International Legal Right? Black Letter’ (1994) 11 HARVLJ. 37

<sup>285</sup>Universal Declaration of Human Rights, (G.A. Res. 217 (III) A, art.26 (1), U.N. Doc. A/RES/217(III) (Dec. 10, 1948); see K Vasak, A 30-Year Struggle: This was Gear Towards the Sustained Efforts to Give Force of Law to the Universal Declaration of Human Rights UNESCO Courier (1977)

<sup>286</sup>Art 26(2), 22 at 29. 1

<sup>287</sup> ‘Meaning of Negative and Positive Rights’ [https://en.wikipedia.org/wiki/Negative\\_and\\_positive\\_rights#:~:text=Negative%20and%20positive%20rights%20are,be%20applied%20to%20liberty%20rights](https://en.wikipedia.org/wiki/Negative_and_positive_rights#:~:text=Negative%20and%20positive%20rights%20are,be%20applied%20to%20liberty%20rights), accessed 23May 2021

<sup>288</sup>*Brown v. Board of Education* [1954]347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 2d 873, 1954 U.S. LEXIS 2094, 27

undertaken to provide it, is a right which must be made available to all on equal terms.<sup>289</sup>

On the contrary, the European Court of Human Rights in its decision in the case of *Campbell v. United Kingdom*<sup>290</sup> broadly defines education as

“The whole process whereby, in any society, adults Endeavour to transmit their beliefs, culture and other values to the young, whereas teaching or instruction refers in particular to the transmission of knowledge and to intellectual development.”<sup>291</sup>

In addition to the inconsistent definitions—with one focusing on means and the other focusing on process—both approaches are limited, focusing only on the young and failing to consider specifically what kinds of beliefs and cultural values they are trying to deliver.<sup>292</sup>

In an examination of the definition of education by human rights instruments, it is observed that human rights instruments partly define education as “formal institutional instruction imparted within a national, provincial, or local education system (whether public or private) at the primary, secondary, and tertiary levels.”<sup>293</sup> The Child Right Convention (CRC) on the other hand viewed education as functional, literal and its social utilities outcome. The human rights instruments break education into primary, secondary, and higher education. It imposes different obligations onto state parties<sup>294</sup> and its economic accessibility.<sup>295</sup>

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<sup>289</sup>Brown v. Board of Education, 347 U.S. 483, 493 (1954). The United States does not recognize the human and fundamental right to education in its Constitution; however, many state constitutions recognize it. See Heidi R. Gilchrist, *Higher Education as a Human Right*, 17 WASH. U. GLOBAL STUD. L. REV. 646, 652 (2018).

<sup>290</sup> (Official *Citation*): [1990] ECHR 18 (Other *Reference*): (1991) 13 EHRR 157 ...

<sup>291</sup>*Campbell v. United Kingdom*, [1982] 4 Eur. H.R. Rep. 293, 303

<sup>292</sup>J. Lee, ‘The Human Right to Education: Definition, Research and Annotated Bibliography’, (2020) 34 Emory Int’l L. Rev. 757 pg. 765. <https://scholarlycommons.law.emory.edu/eilr/vol34/iss3/2/> accessed Feb. 25, 2021

<sup>293</sup>D. Hodgson, ‘Education, right to, International Protection, in Max Planck Encyclopaedia of Public International Law’ (2006); see Connie de la Vega, ‘The Right to Equal Education: Merely a Guiding Principle or Customary International Legal Right? Black Letter’ (1994) 11 HARVLJ. 37

<sup>294</sup> International Covenant on Economic, Social and Cultural Rights art 13(1), (opened for signature Dec. 19, 1966, 993 UNTS.3) [hereinafter ICESCR]

<sup>295</sup>*Ibid*

*UDHR Article 26(1)* imposes compulsory elementary education.<sup>296</sup> *ICESCR Article 13(2)(a)* and *CRC Article 28(1)(a)* also affirm compulsory primary education, which must be available and free to all.<sup>297</sup> Both secondary and higher education are not free to all, but the progressive introduction of free education as a goal was encouraged.<sup>298</sup> Education can also focus on the subjects of who enjoy the right; subjects can include adults,<sup>299</sup> parents, and vulnerable populations such as the young which includes, boys, girls and children living in the rural. A considerable number of the children belong to minority groups, migrant children, indigenous children, internally displaced children and refugee children<sup>300</sup>women, persons with disabilities, and minorities' indigenous people. The children re affected by infectious diseases, some of the children are sexually exploited, deprived of their liberty, live in the street, orphaned children, children hawking in the street, working in farms, and children deprived of their liberty.<sup>301</sup>

Arising from the above, attempt made in this work to define education ascribed the meaning of education to be the procedure of offering a structured learning process done either through manual or electronic means, for the impacting of general educational knowledge, leading to the choice of future careers, the teaching of other religious, cultural value, particularly at a primary or secondary school or university, it also involved other learning procedures, such as skill acquisition, learning of acts, crafts, and artisanship which could take place in a formal system or an informal teaching or learning environment, it's a process of imparting norms, value, culture, other ways of life, education further includes the internet, as a means of learning through the use of tutorial videos, notes, as major tools for essential and successful teaching and learning tools.

From this definition, it is observed that education encompasses other means of learning such as skills acquisition, internet use, and it gives it a broader view to show that education and learning

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<sup>296</sup>*Ibid*

<sup>297</sup> ICESCR, art 13(1); CRC, art 28(1)(a)

<sup>298</sup>ICESCR, art 13(2)(b)–(c); CRC, art 28(1)(b)

<sup>299</sup>United Nations Educational, Scientific and Cultural Organization (UNESCO), Recommendation on Adult Learning and Education I (United Nations Doc. ED-2016/WS/29 2015)

<sup>300</sup> United Nations Commission on Human Rights (Res. 2005/21, United Nations Doc. E/CN.4/RES/2005/21, Apr. 7 15, 2005).

<sup>301</sup>The Convention on the Elimination of All Forms of Discrimination Against Women, art 10, (opened for signature on Mar. 1, 1980, 1249) United Nations Treaties Series (is a publication published by the United Nations, containing treaties) 13 Convention Concerning Indigenous and Tribal Peoples in Independent, art 26–31, (Jun. 27, 1989) 1650 United Nations Treaties Series (UNTS) 383 (hereinafter ILO Convention No. 169)

are not all about conventional classroom teaching. Teaching has gone beyond the conventional classroom, particularly since 2019, due to the outbreak of the Covid-19 pandemic. There is an assumption in human rights instruments that every human has a right to education even when it is obvious that the right is scarcely applied when certain persons are to be included.<sup>302</sup> Due to this unclear description, protecting the child's freedom of education particularly became difficult.

## **2.10 The Children's Right to Education in Nigeria**

Education is established via the means of the collective desire to have a civil and supportive society. Hence the assumption that the social dynamic in countries found globally it's an indication that the more educated people are, the better their lives can be. Education contributes to enormous growth, better exposure to wisdom, and knowledge, and enhanced imagination and creativity. It is also a process through which identification of one's passion, and dreams, and getting rid of social prejudice are achieved. It is an avenue to improve human potential, integrity, identity, consciousness, power, human development, and the quality of life for educated individuals. Education is important for children; hence, the Millennium Development Goal (MDG) to achieve universal primary education by 2015 was established to fight for the right for all children everywhere, regardless of gender, to complete a course.

The child's right to education in Nigeria is examined under the international, regional and national levels of law below.

At the international level, the right to education gained proper recognition through adopting a series of instruments after the birth of the United Nations in 1948. Provisions of these instruments became the framework for the recognition and protection of human rights generally.<sup>303</sup> Education in Nigeria ought to be right and should have been made available and accessible as proof of protection to Nigerian children. Still, the implementation and enforcement of child's right to education in Nigeria is a mirage.

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<sup>302</sup>Universal Declaration of Human Rights, (GA Res. 217 (III) A, art 26, UN Doc.A/RES/217 (III) (Dec. 10, 1948) Art 26(1) and art 26(3)

<sup>303</sup>Art 1(3) of the UN Charter, 1945 and art 55(c)

When a child is educated, it is not only the immediate family that benefits from the educational development of a child; on a larger scale, a family is built, the community is created, the society at large is built, the state, the nation and the world at large are developed as well. Education is a catalyst to human and societal development; thus, Nigeria is a signatory to most of the international treaties and conventions recognising various rights and must work towards granting and protecting these rights as committed by relevant instruments.<sup>304</sup> Today, almost 75 million children across the world are prevented from going to school each day.<sup>305</sup> To realise the protection of the child's right to education, a seminar was conveyed in 1973 by the Nigerian government for the development of documentary guidelines for the educational goals and objectives of the country upon which a document known as National Policy on Education was produced. This document sets out, among other things, the philosophy, and goals of education guidelines for the accomplishment of the educational goals in Nigeria.<sup>306</sup> This document, elegantly composed by the experts, has not been given the expected attention in implementation.<sup>307</sup>

The legal basis for a child's right to education is based on the provisions of international human rights instruments that various United Nations Conventions govern as a matter of policy through its specialised agencies such as the United Nations Educational, Scientific, and Cultural Organization (UNESCO) and others. The American Declaration on the Rights and Duties of Man (the "American Declaration;" sometimes known as the "Bogota Declaration") was adopted on May 2, 1948, making it the world's first general international human rights instrument. According to the declaration:

"Everyone has the right to an education founded on the ideals of liberty, morality, and human solidarity. Similarly, everyone has the right to an education that will prepare them to live a decent life, enhance their living level, and contribute to society. The right to

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<sup>304</sup> A.H. Folorunsho, *Judiciary and Human Rights Protection: A case study of Nigeria: A Dissertation submitted by Ahmed Ibrahim Kulliyah of Laws, International Islamic University Malaysia*, (2010) 6

<sup>305</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966), art 13(2) <<https://treaties.un.org/Pages/showDetails.aspx?objid=080000028002b6ed>> accessed 1 April 2021

<sup>306</sup> National Policy on Education, 4th Edition (2004)

<sup>307</sup> FA Hussein, et al "The Children's Right to Education in Nigeria: Challenges and Solutions" (2014) JPLCP 6, 104

education involves the right to equal opportunity in all cases based on natural skills, merit, and a desire to use the resources that the state or community may provide. Every individual has the right to a free primary education.”

The American Declaration argued that its human rights protections are not based on nationality but are across the world pledged to everyone by the advantage of being human.<sup>308</sup> The implication of this is that there should be no discrimination against any human irrespective of their tribes, nationality, origin, language, colour, race and others alike in enjoying the right to education. It further made available the normative structure for fundamental human rights and liberty, of which purpose is for the total enjoyment of education as a right of man, total benefits in the individuals, in the society and the expected value educated person adds to the social, political, and economic development of a nation. Human rights to education are an international collective commitment, hence the recognition guarantee and protection of the same as fundamental objectives and mission of the United Nations. The provision and adoption of the Universal Declaration of Human Rights (UDHR)<sup>309</sup> specially provides for the recognition and guarantee of the right to education as follows: education shall be provided free and compulsory for everyone at the elementary and basic stages; it shall be made generally accessible, available, and affordable.<sup>310</sup>

From the provision of this article, it is noticeable that the right to education is internationally recognised and should be made available, and accessible to children at all levels. The UDHR further incorporated the status of the right to education as one to be respected, protected, and guaranteed. It declared the functions of education as a human right, the expected goals in the life of individual nations and the globe as the same if implemented as follows:

“Education shall be directed to the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance,

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<sup>308</sup>Ibid

<sup>309</sup>Adopted by the United Nations General Assembly (10th of December 1948)

<sup>310</sup> Art 26(1)

and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.”<sup>311</sup>

The article built the rights of parents out of the rights of their children by imposing the duty of providing education on the states; hence, "parents have a prior right to choose the kind of education that shall be offered to their children.”<sup>312</sup> Despite being declared by the UN, this declaration acts as a foundation mechanism for succeeding legal frameworks and policies on the right to education at the international, regional, and state levels.

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) was ratified,<sup>313</sup> giving credence and critical implications to the provisions of the UDHR; it is a multi-faceted instrument adopted by the United Nations General Assembly. This document confirmed the UDHR's position as one of the instruments that recognised, described, and defined the right to education as a fundamental right.<sup>314</sup> Articles 13 and 14 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) address the right to education. Article 13 of the Covenant is the most extensive and far-reaching provision on the right to education in international human rights law.<sup>315</sup>

Article 13 (2) states that the precise and appropriate purpose of the conditions will be determined by the circumstances that exist in a particular state party; education in all its forms and at all levels shall reveal the following interconnected and vital features, making education available, it explained that educational institutions and programmes that are adequate in measure should be made available under the control of the state party. The second is making education available and giving education; educational programmes must be accessible to everyone within the state party's control without discrimination; education is made accessible to all, especially vulnerable groups,

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<sup>311</sup> Art 26(2)

<sup>312</sup> Art 26(3)

<sup>313</sup> Art 26 (3).

International Covenant on Civil and Political Rights (ICCPR) art 2(1)

<sup>314</sup> ICESCR art 13 and art 14

<sup>315</sup> Ibid

without discrimination in law and reality. Education must be made available to everyone in a physically safe and geographically accessible manner.

Education must be economically accessible; state parties are therefore urged to introduce progressively free primary and secondary schools. In providing education, it is better to ensure the form; substance; curriculum, and teaching methods are relevant to the appropriate good quality of students and parents, taking into consideration the objectives and the minimum education standards that are approved by the state with reference to Article 13 (3) and (4). Finally, to respond to students' diverse social and cultural needs, education must be adaptable to the needs of changing cultures and communities.

In addition to the above framework, the International Covenant on Civil and Political Rights (ICCPR) corroborates the need for state parties to respect and protect human rights without discrimination; the document also calls for all states to domesticate the provision into their national laws.

In addition to the above framework, the International Covenant on Civil and Political Rights (ICCPR) corroborates the need for state parties to respect and protect human rights without discrimination;<sup>316</sup> the document also calls for all states to domesticate the provision into their local laws.<sup>317</sup> Other international instruments that form the legal framework and educational policies for the recognition and protection of a child's right to education include Article 13(1) of the MWC and Article 28(1) of the CRC,<sup>318</sup> which acknowledge the child's right to education as a progressive right for the child.<sup>319</sup> UNESCO prohibits any form of discrimination relating to access to education and improving the standards, quality of teaching and conditions in which education is offered.<sup>320</sup> Article 5(v) of the ICERD specifies that members must not discriminate against their citizens based on race when they exercise their right to education and training.

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<sup>316</sup> International Covenant on Civil and Political Rights (ICCPR) art 2(1)

<sup>317</sup> ICCPR ART 2(2)

<sup>318</sup> International Covenant on Civil and Political Rights (ICCPR) Art 18, (opened for signature Dec. 19, 1966, 999 UNTS 171) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Art 12, (Dec. 18, 1990, 2220 UNTS 3) [hereinafter MWC]

<sup>319</sup> Convention on the Rights of the Child (CRC) Art. 28(1) (opened for signature Nov. 20, 1989, 1577 UNTS 3)

<sup>320</sup> Convention against Discrimination in Education art 1–3, (Dec. 14, 1960, 429 UNTS 93 May 22, 1962).



Article 10 of the Convention on the Rights of the Child recognises women's equal rights to education. Article 24 of the CRPD recognises the right of people with disabilities to education.

At the regional level, the African continent is doing everything possible to encourage the recognition and protection of human rights, especially the right to education. To ensure that educational rights are protected at the regional level, human rights instruments in the form of documents and policies on human rights, in general, have been prepared and adopted at the African level under the auspices of the former Organization of African Unity (OAU), now African Union (AU).<sup>321</sup> The goal is to foster unity, defend member states' sovereignty and territorial integrity, promote international cooperation, eradicate all forms of colonialism, coordinate members' economic, diplomatic, welfare, health, educational, scientific, and defence policies. The African Commission and People's Rights,<sup>322</sup> and the African Court on Human and People's Rights (ACHPR),<sup>323</sup> are tasked with supervising this regional mechanism (ACHPR).<sup>324</sup> The ACHPR broadly recognises individuals' and states' rights<sup>325</sup> and duties.<sup>327</sup> Article 17(1) of the Charter briefly provides for the child's right to education,<sup>328</sup> thus: "Every individual shall have the right to education." Closely, the African Charter on the Rights and Welfare of the Child (ACRWC) made provision for the right to education thus:

"Every child has the right to an education, to develop his or her personality, talents, and mental and physical abilities to their fullest potential. This education also includes preserving and strengthening positive African morals, traditional values, and cultures. Governments should also take special measures in respect

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<sup>321</sup> The Organisation of African Union (OAU) is an International Organization that was established in Addis Ababa, Ethiopia, in 1963 and was later changed to the African Union (AU) (2002)

<sup>322</sup> A Regional Human Rights Commission Established for the Protection of Human Rights in the African Continent (1987)

<sup>323</sup> A Regional Court Set Up to Cater for Cases Having Human Right Flavours Established in 2006 to complement the work of the commission in the areas of Human Rights Protection

<sup>324</sup> The AU's bodies include the Assembly of the AU, the Pan-African Parliament, the African Court of Justice and Human Rights, the AU Commission, the African Central Bank of Africa, the African Monetary Fund, and the African Economic Community (AEC) *etc.*

<sup>325</sup> Art 1, 25 and 62

<sup>326</sup> Art 3-14, 15-18 and 19-24 of the African Charter.

<sup>327</sup> Art 27-29

<sup>328</sup> Art 17(1)

of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community.”<sup>329</sup>

The above provision of Article 11 further provided for measures to be adhered to about the condition of the charter. The international and regional instruments explained the above-placed duties of states on the recognition and protection of the child’s right to education. It also serves as a legal framework, policy document, and the base for members’ states to be taken as a guide towards how states should arrange their various policy and legal documents in the recognition, implementation, enforcement, and protection of the child’s right to education.

On a national level, the first law to consider regarding a child’s right to education in Nigeria is the Constitution because it is where other rights have their constitutional foundation, assurance, and protection. The stance on a child’s right to education has been unchanged since the start of the 1960 independence Constitution till the current 1999 Constitution.

The Chapter IV of the Constitution contains a list of fundamental human rights,<sup>330</sup> which excludes the right to education. The Constitution provides two essential matters: the Fundamental Human Rights<sup>331</sup> and the Fundamental Objectives and Directive Principles of State Policy.<sup>332</sup> They are both referred to as authentic in the language of the Constitution, but with a significant difference in their legal implication due to the underlying position of the Constitution. The former is a justiciable right and inviolable, while the latter, where education belongs, is not justiciable but a guiding principle to the accomplishment of the Constitution’s preamble vision.

The contents of a child’s right to education in Nigeria is described as compulsory, free, and universal basic education for children between the ages of primary school and junior secondary school. These are provided under *Section 2 (1) of the Universal Basic Education Act 2004* declares that “Every Government in Nigeria shall be responsible for free, compulsory, and universal basic education for every child of primary and junior secondary school age.” Second, *Section 15 of the Child’s Rights Act of 2003* states that “every child has the right to free,

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<sup>329</sup> Art 11 African Charter on the Rights and Welfare of the Child (ACRWC)

<sup>330</sup> CFRN, 1999 s 33-46 of Chapter IV

<sup>331</sup> Ibid

<sup>332</sup> CFRN, 1999 s13-24 of Chapter II

*compulsory, and universal basic education, and it shall be the duty of the Government of Nigeria to provide such education" and Section 18 (3) (a) and (c) of the Constitution mandated "free, compulsory, and universal primary education, as well as free university education."* Despite these provisions, internally displaced children do not have access to education facilities; thus, the lack of education for internally displaced children is a violation of their right to education and all benefits associated with it.

Even though, Sections 18 (3) (a) and (c) of the Constitution require "free, compulsory, and universal primary education, as well as free university education," Nigeria has the highest number of out-of-school children in Sub-Saharan Africa. Our state-owned university is becoming increasingly out of reach for the average Nigerian, and the strike has become such an important part of our academic calendar that no student can graduate from a government university without having to experience the strike.<sup>333</sup>

For this research work, our focus is on the section of the Constitution<sup>334</sup> *Section 2 (1) of the Universal Basic Education Act*,<sup>335</sup> and *Section 15 of the Child's Rights Act*<sup>336</sup> that are important to educational provision. Section 18 of the Constitution provides the educational objectives that the government shall direct its policy towards ensuring equal and adequate educational opportunities at all levels. Matters considered fundamental and enumerated in Chapter IV,<sup>337</sup> all the issues referred to in this Chapter IV are sacredly treated, and education as a right is not included here. Instead, it is provided for under Chapter II and unambiguously regarded as a Fundamental Objective and Directive Principle of State Policy and not "right," whether fundamental or otherwise.<sup>338</sup>

Financial policy on Education began in Nigeria with the education proclamations of 1882 and 1887 though it was not documentarily codified before it was followed subsequently by other

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<sup>333</sup> A.T. Durodola, 'Chapter Two of the 1999 Constitution of Nigeria: The Fraud, Illogicality and Prospects' (2022) <<https://lawpavilion.com/blog/chapter-two-of-the-1999-constitution-of-nigeria-the-fraud-illogicality-and-prospects/>> accessed 24 March 2023

<sup>334</sup> CFRN, 1999

<sup>335</sup> Compulsory, Free Universal Basic Education Act 2004.

<sup>336</sup> Child's Rights Act of 2003

<sup>337</sup> CFRN, s 33 to 46

<sup>338</sup> FA Hussein, et al "The Children's Right to Education in Nigeria: Challenges and Solutions" (2014) JPLCP 6, 109

laws and policies. This was the development until a few years after independence when it became necessary to have a precise definition of the educational objectives and the philosophy same in Nigeria, it was this reasoning that gave birth to the present National Policy on Education in 1977, and it has subsequently be edited up to the 4th editions.<sup>339</sup> This highly spirited blueprint document on education prompted the Nigeria government reasoning to invest on the importance of education and the role in people's lives, the community, society and the country at large.

In expectations of goals' requirement for standards of quality education delivery, the Nigerian government came up with a National Policy on Education (NPE) as a follow-up on national guidelines for the effective management and administration of all educational tiers of government,<sup>340</sup> NPE it's also otherwise referred to 6.3.3.4 system of education.<sup>341</sup> The Ten Sections of the NPE in its similar tone with the words of the constitutional provision in Section 18 of Chapter II and stated the need to make education accessible, available, affordable and adaptable at all the educational level of primary, secondary and tertiary to all the Nigerian citizens. However, the content of the NPE did not confer the educational right of any kind, whether ordinary or fundamental, especially when the Constitution has already declared its positions regarding education as being undisputable when violated or not complied with.

The Child Right Act is another legal instrument in Nigeria that ensures the well-being of all children (CRA).<sup>342</sup> Following the United Nations Convention on the Rights of the Child, the CRA considered various issues concerning the well-being of children's rights in Nigeria critical and must be preserved. The CRA generally guaranteed the protection of Nigerian children, stating that in any action involving a child, whether undertaken by an individual, public or private body institutions or service, the court of law, or administrative or legislative authority,

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<sup>339</sup> The National Policy on Education (4th edition of 2014) (Seminar of an expert in educational matters and interest groups, was convened in 1973. After serious delineations by the participating academic experts and agents on what should be the national policy on education for Nigeria as a sovereign and independent nation, a draft document was issued, which was later subjected to comments from states, and other stakeholders and the final document was afterwards produced titled The National Policy on Education and published)

<sup>340</sup> National Policy on Education, <<https://nigerianfinder.com/national-policy-on-education-in-nigeria/>> accessed 6 June 2021

<sup>341</sup> With the introduction of the 6-3-3-4 system of education in Nigeria, the recipient of the education would spend six years in primary school, three years in junior secondary **school**, **three** years in senior secondary **school**, and **four** years in a tertiary institution. <[https://en.wikipedia.org/wiki/Education\\_in\\_Nigeria](https://en.wikipedia.org/wiki/Education_in_Nigeria)> accessed 6 June 2021

<sup>342</sup> CRA 2003

the best interest of the child shall be the primary consideration.<sup>343</sup> According to the CRA, every child has the right to free, compulsory, and universal basic education, and it is the responsibility of the Nigerian government to provide such education.<sup>344</sup>

The CRA regarded education as an absolute right of every child and imposed corresponding duties on the government to provide education for the child, as well as supervisory roles on every parent or guardian to ensure that their child or ward attends and completes their primary school education and junior secondary education.<sup>345</sup> The Act subsumed penal provision by defining punishments for parents and guardians who may fail in carrying out their legally forced duties under the Act<sup>346</sup> but remained silent on the part of the government if they violated their role in discharging their responsibilities under the Act. According to the Act, on applying an appropriate education authority, the court may impose an order known as an education supervision order putting the child for whom the application is filed under the supervision of a designated appropriate education authority.<sup>347</sup>

The implication of this Section of the Act is only to ensure that the child comes to school and nothing more. In the entire content of the Act, no other attention is paid to the duties or responsibilities of the government to ensure that education is adaptable, affordable, accessible, and available to the Nigerian child. This makes it disheartening that after all the lofty provision of the CRA comprehensive provision for the protection of the child's right to education, the said right is not protected or guaranteed in the Constitution. This is due to the subjection of the Act, like any other law, to conform to the Constitution.

The provision of the CRA entitled the child to be educated, in confirmation with the *Education National Minimum Standard and Establishment of Institution Act*<sup>348</sup>; this Act regulates how best a child could be educated in Nigeria, and it stipulates the preservation of the minimum average of schooling from primary, secondary, higher education, technical, teachers' education in all

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<sup>343</sup> CRA 2003 s 1

<sup>344</sup> CRA 2003 s 15(1)

<sup>345</sup> CRA 2003 s 15(2)

<sup>346</sup> CRA 2003 s 15(6) (a, b, and c)

<sup>347</sup> CRA 2003 s 58

<sup>348</sup> LFN 2004, Cap E 3

forms of established educational institutions in Nigeria. Other functions of the Act are to regulate the expected standard of all organisational infrastructures, in schools and other educational institutions favourable learning activities, and the workforce expected provides supervisory authority vested with the power of inspection and necessary sanctions for failure in all forms.<sup>349</sup>

Other laws or legislation relating to education in Nigeria are subsidiaries; they are primarily enabling laws for the establishment, monitoring, and regulation of educational agencies assigned fully or partially to the duties of enabling the accomplishment and maintenance of the national objectives of education as stated in the National Policy on Education (NPE). *The West African Examination Council (WAEC) Act*,<sup>350</sup> the *National Examinations Council (NECO) Act*,<sup>351</sup> the *Joint Admission and Matriculation Board Act*,<sup>352</sup> the *National University Commission Act*,<sup>353</sup> and the *Compulsory Free and Universal Basic Education Act* are only a few of this legislation (otherwise known as UBE).<sup>354</sup> This Act defined Basic Education<sup>355</sup> and assigned the government the task of delivering free, compulsory and universal basic education.<sup>356</sup> It further placed duties on guardians, parents to ensure children attend school and spelt out punishment for any breach of such duty.<sup>357</sup> The UBE Act established the Universal Basic Education Commission who is responsible for the implementation of its provisions but failed to provide any remedy for any breach on the part of the government.

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<sup>349</sup> s 1-3, 4-7,8-11, 12-15,17, and s 24 of the Education Act

<sup>350</sup> *Ibid* s 2

<sup>351</sup> Education National Minimum Standard and Establishment of Institution Act 2004 established The West African Examination Council (WAEC) and the National Examination Council (NECO), see s 7 Education Act

<sup>352</sup> Joint Admission and Matriculations Board (JAMB) Act 2004 (This body is also structured by the act and empowered to organise, oversee, supervise, moderate effectuate, and centralise admission system for tertiary institutions, like the University, the Polytechnics and Colleges of Education in the country. This body has the statutory function of setting admission standards through a centralised examination to determine who is qualified to be admitted into the institutions mentioned above of higher learning. The functions of NUC and JAMB are collaborative to maintain quality higher education in Nigeria)

<sup>353</sup> National University Commission (NUC) Act 2004; (the Act established National University Commission (NUC) purposely vested with the supervisory power of Universities and University Education in Nigeria. It is a corporate body with an administrative structure as provided by the Act for the discharge of its functions. The Commission also serves as an advisory body for the government both at national and state levels on issues of higher education and university education precisely to ensure standard university education in the country)

<sup>354</sup> Federal Government of Nigeria, Official Gazette, 91 (66), Government Notice No. 142, Lagos, (2004)

<sup>355</sup> Compulsory Free and Universal Basic Education Act, 2004; s 15(1)

<sup>356</sup> *Ibid* s 2(1)

<sup>357</sup> s 2 (2) and (4)

In conclusion, the child's right to an education in Nigeria is an illusion. International and regional human rights treaties, as well as national laws and policies, designated primary, and secondary education as a priority duty of the state. Based on an examination of the law and procedures governing education, we discover that education is not recognised as a fundamental human right in Nigeria; it needs to be mentioned among the rights that can be disputed or rendered just in any constitutional law court. As a result of the preceding, the attribute of the child's right to education in Nigeria has yet to be realised due to flaws in the law and policy framework to ensure the protection of the child's right to education. As a result of the preceding, it is now recommended that a constitutional amendment be enacted to include the right to education in the bill of rights in Chapter IV of the 1999 Constitution, that the nation's legal policies on education be reviewed, and that active mechanisms be put in place to ensure successful execution and enforcement of the laws and policies. In addition, corruption should be fought to zero tolerance to enhance accountability so that there could be checks and balances in the management of education sectors for the country to achieve sustainable in social, economic, religious, and political development of the nation.

### **2.11 Non-Access to Education by Internally Displaced Children: Education as a Crucial Factor for Children's Quality of Life**

Education is an essential feature of the quality-of-life children can enjoy as they are growing because one of the reasons for attending school is to achieve a better quality of life which are dependent on one's life goals, on the realization of the social, economic, political, the output of production, and allocation of responsibilities as each procedure correlated with the rest. Education is the enabling factor connecting to other factors to determine the quality of life they could attain. Again, education gives one focus and directives; education helps advance social mobility; through education and learning, interactions with different people are made possible. Through education, important ideas, innovation are discovered to contribute to the growth and development in any society. With the aid of education, acquisitions of values, morals, beliefs, knowledge, and skills are made possible; children can attain their potential, leading to excellent career choice possibilities that could lead to their participation within that society, thereby contributing to the development of the nation.

Thus, education has a favorable impact on the quality of life a child can live while growing into adulthood and it is regarded as the very crucial wheel in the growth and development of any nation's social, political, legal, and economic, as this significantly affects the future and quality life of individuals and the country in general. To achieve this, it is essential that all concerned stakeholders in making education accessible, adaptable, available, and affordable to the children; by extension, the internally displaced children have to be urged to perform their duties by doing the needful.

It is also crucial that individuals, parents, guardians, and the government play their role in ensuring that the structure of the education system set up for the provision of education for children is implemented and enforced to enable children to benefit from its expectation of having the liberty to do something with the education obtained for the improvement of the quality-of-life education tends to offer positively.

From the above, this topic is divided into five parts, namely the introduction, the meaning of quality of life, education and learning as a determining factor to the expected quality of life while examining it from the point of socialisation, economy, employment, productivity and its expected impact on the excellent quality of life for children and particularly the internally displaced children and finally the last part is the conclusion and suggestions.

## **2.12 Meaning of Quality Life (QoL)**

The word quality of life could be complex, and this is because the quality of life is determined by the individuals, depending on what they can provide for themselves, the kind of lifestyle they have chosen, the standards of living they set aside, emotional needs, health, relationships, family members' dependence and the amount that is earned by the individual. Quality of life (QoL)<sup>358</sup> is a concept that seeks to capture a population's or individual's well-being in terms of both positive and negative factors during their existence at a given period. For example, frequent aspects of QoL include personal health (physical, mental, and spiritual), relationships, education status, job environment, social status, affluence, a sense of security and safety, freedom, autonomy in

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<sup>358</sup>D Teoli; andA Bhardwaj. 'Quality of life' <<https://www.ncbi.nlm.nih.gov/books/NBK536962/>> accessed 5 April 2024



decision-making, social belonging, and physical surroundings.<sup>359</sup> It is critical to distinguish between QoL and other comparable terms that are sometimes conflated in the literature, such as standard of living and health-related quality of life. QoL differs from the former in that the standard of living is mostly determined by economic standing and money.<sup>360</sup> The quality of life as it relates to education status of internally displaced children is examined in this study.

The indicator that can bring about an achievable quality of life depends on the level of education, the nature of the job and the income earned by the individuals. However, quality of life could be regarded as the expected comfort, health, and happiness by a person or individual group as it relates to the things needed to create the quality of good life anticipated. What influence a person's good quality of life are components of different things such as financial decisions, job satisfaction, family life, health and safety and financial securities.

Quality of life has been defined in various ways; however, we will consider the one given by Robert Cummins<sup>361</sup> (by engaging an all-embracing quality-life scale), according to him, quality of life can be understood from objectives and subjective views. Each view contains seven aspects: "material well-being, health, productivity, intimacy, safety, community, and emotional well-being. Objective domains comprise culturally relevant measures of objective well-being. Subjective domains comprise domain satisfaction weighted by their importance to the individual."<sup>362</sup>

Individuals have different beliefs and notions on the purpose of education; however, there is the desire to create thoughtful children who would become adults apart from their individual lives as children but to individual thoughtful adults within the larger society. With the aid of learning or schooling, students would someday become part of the bigger society, and they need the skills and certificates acquired to live or survive within society as valuable and sensible people. With education, confidence will be instilled in the children about their learning abilities, and they will

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<sup>359</sup>*Ibid*

<sup>360</sup>*Ibid*

<sup>361</sup> M. Rapley, 'Quality of life Research: A Critical Introduction' (Thousand Oaks: Sage, 2003)

<sup>362</sup> R.A. Cummins, 'Assessing Quality of Life' in R.I. Brown, & R.I. Brown, (Eds.), *Quality of Life for People with Disabilities* (Cheltenham: Stanley Thorne 1997). 116–150

have the confidence to apply their knowledge in everyday life. It is imperative to take care of a strong balance between cheering excellent self-respect and pacifying impracticable goals,<sup>363</sup> through education, lifelong training, and routine developed to aid their future success. These lifelong trainings are repeatedly done daily in general as the learning procedure which they can pass on to their younger generations and the abilities to work as a team is achieved. Other factors that complement education as an indicator of the quality of life are discussed below.

Socialisation is the process of mixing with other persons in a way that allows them to be in public. It is a process in which norms and social and cultural values are on a continuum and are being achieved. One of the purposes of education is to socialise with individual groups. If there is no socialisation, education, therefore, has not fulfilled its aim; hence the standard functions of education rest in associating with people.

When the revenue of a state or a nation is improved, and the workers are well paid, and when due, it will positively affect the quality of life of the citizen has to live. Before one can partake in this economic benefit, which contributes to the quality of life, the child must be educated or learn a skill before growing into an adult for such life expectancy and the benefit of its yields. Gainful employment positively affects the quality of life; this is a result of the role it plays, such as giving people a sense of belonging and identity and the opportunities it provides for the employment of labour and other social contracts. The government owes the citizens a better standard of living by providing quality health care and education. With increased revenues, the government can spend on the essential amenities needed by the people, especially in health and education.

Improved healthcare facilities with states of the acts facilities for the citizens to treat health issues provide education, which life expectancy and quality of life.<sup>364</sup> In the assessment of reality that people take time to go to school to spend their money and time with the life

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<sup>363</sup>M. Kelly, "The Many Purposes of Education" <https://www.thoughtco.com/what-is-the-aim-of-education-8417> accessed 10 May 2021

<sup>364</sup>T. Pettinger, "Does Economics Growth Bring Increased Living Standards?" <https://www.economicshelp.org/essays/economics-growth-happiness/> accessed 10 May 2021

expectancy to get a better-paid job, it becomes imperative for the internally displaced children to have an education and learning of other skills to enable the achievement of their life dreams and expectancy of a good job and pay.

Material well-being is another area to be considered here on how education affects the quality of life. The level of education attained by an individual has a role to play in how much acquisition of materials the individual could, the nature of materials, the value and originality and how much such addition could add to the quality-of-life individuals can attain. When one is employed at a point, there's a subsequent increase in the amount of the individual earnings depending on the qualification and position.

Closely related to this are emotional well-being and resilience; there is a very high closeness between education, emotion and resilience, such as the individual's psychological well-being and health, as this has to do with confidence in oneself, capabilities, production output and earning at the close of work. The individual's competence to bear and recover speedily from difficulties; roughness on the job could have an impact on the work output and productivity, and earnings.<sup>365</sup> Physical health affects an individual's quality of life and is viewed from multidimensional perspectives as it relates to physical, mental, and emotional capabilities.

Quality of life is an essential concern in health care. Some health treatments can acutely destroy the quality of life without providing significant advantages, whereas others significantly improve the quality of life. There is a relationship between health and education, and there is the notion that more educated persons don't fall ill easily; this is a result of they have all the health information about their health on how they can follow up, and they have the financial means to settle any health issues as against the less educated individual,<sup>366</sup> with lower income. In my opinion this does not apply in all cases, because one may be well educated and have related

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<sup>365</sup> C. Hammond, 'Impacts of Learning on Well-Being, Mental Health, and Effective Coping' in T. Schuller, and others (Eds.), 'The Benefits of Learning: The Impact of Education on Health, Family Life, and Social Capital (New York: Routledge Farne 2004) 37–56

<sup>366</sup>R. Roberge, *et al* 'Health and Socio-Economic In equalities, Canadian Social Trends (Statistics Canada Catalogue No. 11–008E 1995)).7(2), 15–19

genetic health problems to the extent that no amount of money that they have may be able to solve the health issue.

Other areas that can affect the quality of life are intimate relationship which comprises marriage and related issues, for example, children and their care, dependents' family members and other marital challenges, as it affects the quality of life positively or negatively.

Conclusively, Education/learning is essential to internally displaced children, and the impacts of education on the quality of life the internally displaced children can attain should not be overstressed. Its positive effects are multidimensional, education prepares children to meet their future social, personal, and economic requirements needed in their daily life and the challenges life could bring before them now and in future. Through the knowledge acquired, the life of the displaced children will be improved and have meaning and a sense of belonging of being out of the downtrodden; the education or skills acquired will guide their behaviours and opportunities presented to them and to enjoy the benefit that education and learning brings. As society changes, the quality of life the individuals can live changes too. These changes could be in earnings, health, social, education and economy. The positive impact on quality of life could also be determined by the level of education the individual can attain. No aspect of life can be lived alone; each part of life is intertwined with the other for the proper attainment of good quality of life; education is the center point to the realisation of others because enjoying the quality of life is connected to social, economic, political *etcetera* needs of the individual.

### **2.13 Lack of Education: Its effect on Quality of Life**

The impact of lack of education affects every person; it is not restricted to only the persons who are uneducated.<sup>367</sup> People who lack education have difficulty in future personal development of themselves, they are poorer, and have worse health than the well-educated. Main effects of lack of education include exploitation, lack of a voice, shorter lifespan, unemployment, gender inequality and poor health.<sup>368</sup> There are arrays of risks that may threaten the situation and the quality of life a person lives. Those factors that could threaten the quality of lives of individuals

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<sup>367</sup>C. Drew, 'Lack of Education: 11 Lifelong Effects' (2023) <https://helpfulprofessor.com/lack-of-education/> accessed 10 May 2023

<sup>368</sup> Ibid

include lack of education and learning of skills that could keep individuals meaningfully engaged for a better future, health challenges, ageing, job loss, accidents, war, conflicts, and insecurity arising from the activities of insurgency. Lack of education would lead to limited job opportunities, long term effects of laziness, idleness, and increase crime rate.<sup>369</sup> Others could arise from a national or international level that may appear, such as financial and economic crises, which could be a sudden occurrence, unexpected deterioration of economic conditions, and the global COVID-19 pandemic. All these listed above could cause a significant fall in the standard of living and negatively affect the quality of life of the individuals in that society. The inability of the internally displaced children to have access to education or learn skills that could make their future brighter would go a long way in affecting the quality of life they may have to live in future, and life will be more difficult because without education acquisition of skill, life expectancy of a better future will be limited, and it will lead to poverty and cycle of more poverty.

Conclusively, it is imperative that providing access to education or acquisition of skills for the internally displaced children will give them the hope and expectancy of good quality of life achievable when they become grown individuals.

#### **2.14 The Link of the Right to Education to the Enjoyment of other Rights and the Quality of Democracy in a Country**

The right to education is regarded as a human right, and it is necessary for the operation and enjoyment of other human rights. It is fundamentally important to humanity, the most operative machinery for individual empowerment and creating a degree of self-determined way of their authority in society. Education is one of the indispensable instruments to ensure the degrees of proficient individuals and the growth of humanly excluded children and adults from deprivation and poverty into society.

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<sup>369</sup><https://www.coursesidekick.com/sociology/290274> accessed 10 May 2023

The right to education is for everyone, aimed for the complete progress and dignity of each individual and the capability of such individual to take part efficiently in public and the measure of value for a person's rights.

Education is imperative and seen as the centre or focal point of human rights, as the level of admittance and access to education impact the enjoyment of other human rights. The right to education necessitates specific requirements at various levels of education, beginning with primary education, and must be compulsory and free of charge for all, which will require consideration of both direct and indirect costs associated with education. According to the United Nations, education is a right to which all human beings are entitled, as well as an indispensable means of realising other human rights. As a result, stakeholders such as parents, guardians, institutions, and government must ensure that education is accessible, adaptable, and affordable to all, including internally displaced children. To create the progress of the educational system to comply and enforce the provisions of the international instruments on education, which can provide education for the people, giving them the liberty to do whatever they wish to do beneficially with themselves after obtaining the teaching and learning.

Education focuses on the issue of who enjoys the right to, including adults,<sup>370</sup> vulnerable children or populations who are young parents, women persons with disabilities, minorities such as indigenous people and what individuals, young and old persons, can gain differs. Education has been regulated by law since the eighteenth century after World War II. The requirement of new generation social rights is that states formulate laws to provide education to their citizens.<sup>371</sup> Laws could be manipulated by the politicians, brainwashing the individuals or the people with wrong plans to their advantage. There is the argument that the strength of

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<sup>370</sup>UN Educational, Scientific and Cultural Organization [UNESCO], Recommendation on Adult Learning and Education, (1, UN Doc. ED-2016/WS/29 2015) (Adult learning and education is a core component of lifelong learning" ensuring "all adults participate in their societies and the world of work" and enriching "their capabilities for living and working)

(Opened for signature Dec. 19, 1966, 993 UNTS 3)

<sup>371</sup>International Covenant on Economic, Social and Cultural Rights Art (ICESCR), art 13(1), art 14, (opened for signature Dec. 19, 1966, 993 UNTS 3)

government's involvement in education procedure might undermine the foundation of a free society and threaten individual freedom altogether.”<sup>372</sup>

To avoid this, the ICESCR and UDHR made provisions to protect “the full development of the human rights, personality and the sense of its dignity” and “strengthen the respect for human rights and fundamental freedoms.”<sup>373</sup> ICCPR Article 18 protects the rights of parents to the religious and moral education of their children.<sup>374</sup> An examination of the purpose and aims of education shows that it is linked with the enjoyment of other rights, this could be observed in the definitions of education provided by the ICESCR, and UDHR Article 26(2) states that.

Education shall be directed to the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all...<sup>375</sup>

Education and enjoyment of other rights could also be observed in the ICESCR in Article 13(1), it provides a likewise aim and contents of education like the UDHR and its contents of education in detail the human rights perspectives. The foundation of a free society is the rule of law, private property rights, solid democratic institutions, and a free press to hold elected representatives to account; freedom and solid national defences institutions are vital.<sup>376</sup> The UDHR and ICESCR emphasise the core values of human personality, dignity, and the fundamental freedom of humans.<sup>377</sup> Core value defines someone by making them who they are from day to day, equality, and freedom giving human rights and individual liberties, it is a function of personality, one's true self-nature and essence. General Comment 13 is in support of this idea.

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<sup>372</sup>J Delbrück, “The Right to Education as an International Human Right” (1992) 35 GER. YB INT’L L. 92, 95, 93

<sup>373</sup>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC) art 12, (Dec. 18, 1990, 2220 UNTS 3) and Covenants on Economic, Social and Cultural Rights (ICESCR) art. 13(1),

<sup>374</sup>International Covenant on Civil and Political Rights (ICCPR), article 18 (opened for signature Dec. 19, 1966, 999 UNTS 171)

<sup>375</sup>UDHR, Art 26(2)

<sup>376</sup>What are the principles of a free society? <[https://www.tfa.net/the\\_ten\\_principles\\_of\\_a\\_free\\_society](https://www.tfa.net/the_ten_principles_of_a_free_society)>accessed 17 May 2021

<sup>377</sup>Universal Declaration of Human Rights (UDHR), (G.A. Res. 217 (III) A, art.26, UN Doc.A/RES/217(III) Dec. 10, 1948)

Education is the focal point of the enjoyment of other human rights, with education, fundamental freedom and engagement, interaction, peaceful co-existence with other neighbours, communities, society, nation's peaceful international co-existence is achieved, and fight against terrorism, totalitarian society and other insurgencies will be defeated.

The relationship between the right to education, the enjoyment of other rights, and the quality of democracy in a country are examined below. The concept of democracy has developed significantly over time.<sup>378</sup> There are two types of democracy: direct and representative. In a direct democracy, the people debate and vote on legislation directly. People in a representative democracy, such as parliamentary or presidential democracy,<sup>379</sup> elect representatives to deliberate and decide on legislation. According to American political scientist Larry Diamond,<sup>380</sup> democracy consists of four key elements: a political system for choosing and replacing the government through free and fair elections; active citizen participation in politics and civic life; protection of all citizens' human rights; and the rule of law, in which laws and procedures apply equally to all citizens.<sup>381</sup>

## **2.15 The Link between the Right to Education and the Quality of Democracy**

The relationship between the right to education and the quality of democracy is complex. Education is critical to a democracy in any country; when people are educated, they will benefit from and enjoy the benefits of being educated. The advantage of education includes improving the economy, creating a modern society, giving back to society, providing a successful, happy life, securing a higher income, creating more employment opportunities, and securing the social, economic and political system of a country for its sustainable development. A country's educational training will enhance security awareness; an educated security staff increases compliance, and security training can help protect a country's integrity. The lives and properties of the citizens will be saved, there will be peaceful co-existence, and people will be able to go about their activities without fear or panic, knowing that having strong security policies and

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<sup>378</sup>T. Andranik, *Analytical Theory of Democracy: Studies in Choice and Welfare* (Cham, Switzerland: Springer, 2020) 1 ISBN 978-3-030-39690-9

<sup>379</sup>B. James Penny, *Building and Ruling the Republic* (Bradley Garretson and Company, 1884) 12-13

<sup>380</sup>*Ibid*

<sup>381</sup>L. Diamond, *Lecture at Hilla University for Humanistic Studies* (2004); L. Diamond, and L. Morlino the *Quality of Democracy* in L Diamond (ed) in *Search of Democracy* (London: Routledge 2016) ISBN 978-0-415-78128-2



machinery means fewer worries, relaxing the mind even having a good sleep at night. Education brings good representation in government, with good moral and disciplined personnel managing the country's economy and social, cultural, and political affairs for sustainable development. When there is a democratic crisis or revolutionary process towards democracies that could lead to fundamental challenges, with human rights education, individual or groups can raise awareness to claim adequately promote concretely and also offer a frame of reference as well as a solid foundation for a practical way to get effective solutions for a country's fundamental challenge.

The link of human rights to the quality of democracy in a country also experiences non-violent co-existence, promotes freedom from discrimination and racism, and practice heterogeneity as a chance, and it will encourage the government of a country, individuals and groups to think globally as the means arises, it also enables the citizens to practice and participate in democracy and to obey the rule of law. The human right to education affords capabilities or competencies which place the citizens into a position that grants those opportunities to respect and to campaign or drive for the protection and promotion of human rights in the day-to-day state of affairs of the life of the citizens. In addition to the above human rights, education plays roles in the context of democratic crisis and revolutionary process towards democracy, and it empowers citizen participation in a democratic society; it enhances the awareness of the importance of democratic opinion-building and decision-making procedure for humans to be alive it further empowers democracy and defining restraints of democracy, raises individual voices to point out violations of fundamental constituents of human lives and to confront against such violations and grant framework of reference for the establishment and building of a new society.

## **2.16 The Function of the Right to Education in the Enjoyment of other Human Rights**

Human rights refer to all rights available in human society; without them, one cannot live in a society as a human being, notwithstanding race, gender, colour or background. This right cannot be denied no matter the condition anywhere; anyhow, it is an inalienable right, and it cannot be repelled or restrained by laws, humans, and the government. This right is in our nature as free people, and the government must protect and promote these rights.

The international laws and regional laws spelt out obligations of government to act and stay away from specific actions that will hinder the promotion and protection of human rights and fundamental freedoms of persons and groups. Human rights are a set of rights and obligations that evolved from natural rights notions and were popularised by philosophers such as John Locke, Francis Hutcheson, and Jean-Jacques Burlamaqui during the American and French Revolutions.<sup>382</sup> The relationship between the right to education and other rights in terms of promoting and defending them in our daily lives are discussed below.

Human right education plays a significant role in promoting, protecting, and enjoying other human rights. With the aid of human rights education, citizens or individuals are made aware of first and second-generation rights, and the first generation right refers to civil and political rights, while the second-generation rights the social, economic and cultural rights and it is with proper education that one would be able to know about these basic rights and their duties. When awareness is created, it is easy to achieve peace and prosperity based on the people's understanding, and the human rights conflicts will be resolved, and this can only be achieved with human rights education. Other vital roles Education plays are in creating awareness, disseminating information, and passing knowledge among individuals, groups, and society. Education, once again, plays a critical role in promoting and preserving other human rights, influencing the mechanism that safeguards the inalienable right, as well as the information required to defend, apply, and promote human rights in the real world. One of the goals of human rights protection is to ensure that these rights are entirely and universally enjoyed. This can only be fulfilled if there are strong concerns towards human rights issues. Human rights to education are a device used to create knowledge of human rights and allow people to be aware of their role in their human context; through it, the violation and abuse of human rights can be eliminated. Individuals are educated and become knowledgeable about their rights, and the idea of protecting what they have become necessary when the need arises.

Without education, we can't see beyond ourselves and our small surroundings to the reality of global interdependence," says Kofi Annan.<sup>383</sup> We cannot understand how people of different

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<sup>382</sup>N. Mahapatra, "Role of Education in Promotion and Protection of Human Rights" (2012) OR, 26

<sup>383</sup>K. Annan, The former Secretary General of the United Nations

races and religions share the same dreams and expectations without education. We cannot recognise the universality of human ambitions and desires without education. Education must be geared at promoting respect for human rights and fundamental freedoms, according to UN requirements. These organisations were chosen because one is an expert body charged with monitoring states' compliance with the Human Right Education (HRE) obligation outlined in Article 13(1) of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the other is an intergovernmental body with a clear mandate on human rights education.<sup>384</sup> It is essential to make persons educated even if it cannot get to the university schools level, but at least to a level to enable them to recognise their rights and that of others even if the education they have cannot make them earn a living a large and flamboyant life. The human right to education will enable them to be more confident, especially in managing their life and claiming their rights, standing for their right, recognising rights abuses, to stand against it and fight for the prevention of human rights abuses.

As a result, strengthening human rights and respect is a crucial aspect of the human right to education. Everyone, including governments, now has a universal responsibility to promote education and thus human rights.<sup>385</sup> When a child's right to education is advocated, and children have access to quality education that will encourage and respect his or her right to the enjoyment of other rights and dignity and optimum development. The right to education is a top priority for the world community since it is not only a human right in and of itself, but it is also necessary for the practice of all other human rights.<sup>386</sup> The person's right to life and dignity can only be enjoyed and guaranteed if he or she also has the right to education.<sup>387</sup> Human rights are regarded as universal, and it is a right possessed by all humans in society globally. They are inalienable rights which cannot be taken away; any attempt to take them away will endanger the value and human existence, and this is so because it flows from and protects human existence. There are fundamental challenges associated with universality irrespective of their source or evolution. There is the problem of obtaining their authority with the inception of human rights. It is not everyone has the same inspiration for human rights or accepts that everything written as a human

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<sup>384</sup> Adopted by General Assembly Resolution (2200A (XXI) on Dec. 16, 1996, entered into force on 3 January 1976)

<sup>385</sup> N. Mahapatra, "Role of Education in Promotion and Protection of Human Rights" (2012) OR, 28

<sup>386</sup> Ibid page 29

<sup>387</sup> Ibid

right is a human right. A larger number of people live in remote villages that have not received adequate or had access to education to enable them to have ideas of what human rights are.

Larger numbers of internally displaced children are struggling for survival, they do not have access to education; with these challenges, and they wouldn't know if they have any right, let alone to protect or promote it as the internally displaced children are living hunger, the food would usually not be enough for them.

Conclusively, everyone should be educated so that they would be able to understand the importance of human rights and when such rights are being violated. The creation of awareness by educating some of the children who do not understand the English language outside their native dialect should be encouraged, and it will go a long way in the sensitisation campaigns on the understanding of human rights and protect them when their rights seem to be or being violated. To create human rights awareness among the citizens' courses on human rights should be included in the school curriculum right from primary school to higher education, improving on the course outline as they go higher during study. At the primary school teaching levels, subjects such as poems, rhythms, children's drama, and cartoons in human rights should be developed so that the children can catch up, considering their age and development. While at the higher level, courses like knowing your right, widowhood and human rights in Nigeria, marriage and family laws and rules of law, and lots more could be taught. Competition could be organised for students with takeaway prizes ranging from school reading materials, debate, and essays on human rights, trafficking, abuses and violation of human rights; the day could also be set aside for celebrating community, society, local government, state, national Human Rights Day and before joining the world human right day celebrations. These Human Rights Day celebrations will not only be done in the urban or city areas, but they should also be extended to the remote rural areas and villages before the day set aside for the celebration. There should be sensitisation through the head, chiefs' traditional ruler of the various communities, and visitations of the local/village markets to carry all the people along that the organisers intended to be included in the programmes. School activities such as school clubs, dramatic clubs, poetic clubs, and competitive activities should be provided. Photos and posters of human rights past and future actions should be strategically displayed in relevant public places, and this is geared towards

further creation of awareness, thereby making the issue of human rights become part of daily affairs and not only relevant when it becomes violated or infringed upon.

It is important to mention here that all mechanism that has been put in place for the enforcement of the child's rights to actualise and enforce the children's right should be active in doing their work. These mechanisms include courts of law, the national human rights commission, legal aid schemes, remand homes and reformatory schools. The legal and institutional framework for internally displaced persons and the legal status of a child's right to education is discussed in chapter three.

### **2.17 Analysing the Consequences of Educational Deprivation on Human Rights and Democratic Integrity in Nigeria**

Non-access or lack of education is a situation whereby people experience a very low standard of learning or education basically regarding that knowledge they would be required quickly in their day-to-day activities. These include fundamental knowledge, a technique of understanding in writing, spelling, and calculation. Non-access or Lack of education is a situation where people have no knowledge or ideas of basic things that they would usually need quickly during their daily activities, such that would include how to write, spell, and do some simple addition, subtraction relates, communicates with other people and the environments.

Access to education is a basic universal human right, and it is significantly crucial because it brings hope, expectation, and purpose to the lives of children. It can provide a daily structure, comforts to the company of others in the process of learning, as it also empowers, enlightens, and gives protection. When children and youths are educated, they can stand the opportunity of useful adults who would participate, contribute efficiently to social, political, and economic development of the society in all aspects of life.

The right to education is a focal point for other human rights to strive because education plays very significant roles in the promotion, protection and enjoyment of other human rights. It is the skills needed to defend, apply, and promote human rights in our day-to-day human right context. One of the purposes of protecting human rights is to enable them to be secured to the complete universal enjoyment of these other rights and to impact the mechanism that protects the inalienable right.

According to United Nations, human rights are inherent in human beings simply because of their humanity and have accordingly been defined as rights which are inherent in the human being.<sup>388</sup> They are rights to be enjoyed by all human beings of the global village and not gifts to be withdrawn, withheld, or granted at someone's whim or will,<sup>389</sup> they are indisputable or sacrosanct. They are part of the very nature of human beings and attach to all human beings everywhere in all societies in the world, just as much as do his arms and legs.<sup>390</sup> The Constitution, laws, charter system and other codes do not make or generate human rights but proclaim and protect already existing rights. Perhaps this is why statutory provisions for the first generation of human rights are couched in negative terms.<sup>391</sup> To say that no one shall be deprived of his liberty, for example, assumes that personal liberty is a pre-existing right.<sup>392</sup>

In its broadest sense, "human rights" refers to civil, political, economic, social, cultural, group, solidarity, and developmental rights that are thought to be inherent in human nature and thus necessary for a meaningful human existence.

The effects of implications of non-access to education go a long way in affecting society and the quality of democracy in a country. The effect of lack of access to education in any society includes lack of infrastructural development, such as lack of electricity, good roads, pipe born water, lack of good quality health care facilities, and lack of good and worthy social, economic, political leadership in the seat of government. In addition, there will be no respect for the rule of law, exploitation and gender inequality, high rate of unemployment, short life span, poor health of a more significant number of citizens, and lack of voice for the voiceless. Lack of access to education is the root of poverty, thereby making poverty a cycle; crime will become the order of the day, there will be no better civic involvement in society, and all forms of human rights abuses and violations will reign. A country whose citizens lack access to education will be governed like the country that is the theme "in the country of the blind an eyed man is a king."

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<sup>388</sup> 'Human Rights: A Basic Handbook for UN Staff Office of the High Commissioner for Human Rights', p. 1

<sup>389</sup> 'Universal Declaration of Human Rights: 'A *Magna Carta* for All Humanity' (United Nations Department of Public Information, 1998)

<sup>390</sup> M. Macdonald, 'Natural Rights' in Jeremy Waldron (ed) *Theories of Rights* (Oxford University Press, London: 1984) 27

<sup>391</sup> N.O. Osita, 'Human Rights Law and Practice in Nigeria' 2nd Edition (Enugu: Snap Press Ltd, 2013) 4

<sup>392</sup> B.O. Nwabueze, 'Constitutionalism in the Emergent States' (C. Hurst and Co. London: 1973) 41

In assessing the implication of lack of non-access to education to the full protection of human rights and the quality of democracy in Nigeria, human rights, democracy, and the rule of law, although each tends to stand separately, are both related and dependent upon the others, and the enjoyment of one is built on the power or strength of the others.

In promoting good governance, it is necessary to ensure respect for human rights. In the absence of the rule of law, and government institutions for the management of present-day society, which are the essential requirements of good governance, the expectation of human rights may remain just a promise not fulfilled.

When the elected government does not keep promises, enforcement of fundamental freedoms or rights will become impossible when the need to do so arises. When the government is accountable, responsible, and transparent and its citizens are participatory in governance, it is a prerequisite for recognizing and respecting human dignity and protecting and defending human rights.

It is worthy of note here that human rights can only have meaning in humans when they can be enjoyed in a practical sense. When there is good governance, it will aim for justice; the substance of the rule of law is important as an aspect of good governance for the promotion and protection of humans' rights, and these should be in line with the international human rights framework, with opportunities to promote and deliver justice.

### **2.17.1 Human Rights**

In the noun structure, the word 'right' refers to something a person has a just and legal right to possess, whether it's land, a thing, or the ability to do or say something. A legal right is either the freedom (protected by law) of doing or self-denial of acting in a specified manner or the ability to compel a specific individual to do or refrain from doing a specific activity. A legal right is thus the ability of one man or a group of men to control the actions of others, or even the state, with the consent and support of the state.<sup>393</sup> The term "right" is employed here not in the strict,

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<sup>393</sup>C.A. Oputa, 'Human Rights in Nigeria's Political and Legal Culture' 2<sup>nd</sup> *Idigbe Memorial Lectures* (Lagos: Nigeria Law Publications Ltd., 1988)38-39

Hohfeldian sense, legal right means a claim which has a correlative legal duty,<sup>394</sup> but in a broader sense, in this wider sense, the word right includes right in the strict legal sense (or claim), liberties, powers, and immunities. The term "human" is defined as "belonging to, possessing the traits<sup>395</sup> of, or possessing the nature of mankind." Human rights are rights that all human beings everywhere and always have or should have simply because they are human beings.

Democracy is a concept and set of concepts that incorporate rights based on the foundations of human rights. It is a feature of a democratic system that recognizes and respects human and human rights ideals. Democracy put together the machinery that will make for the recognition and respect for human rights relating to democratic opinion. It should be structured in such a manner to ensure that the possibilities of a democratic decision that will violate human rights are not included from the start. It is also seen as the structural explanation of the respect for the individual's freedom, which allows the citizens to participate and contribute to decision-making through the procedure of a legal system as a citizen of that country.

Nigeria has an estimate of about 300 ethnic tribes, with the most diverse culture in West Africa. Cultural diversity often affects the possibilities of making human rights universally effective. Despite the inclusion of cultural, religious, and traditional sources in the drafting process of the Universal Declaration of Human Rights and the confirmation of the universality of human rights by the United Nations Conference in Vienna 1993,<sup>396</sup> it still faces various criticisms because of the beliefs by some culture that human rights are western in origin. Other challenges facing the universality of human rights are poverty, deficits in democracy, discrimination, global inequities, weak institutions and framework, armed conflicts, violent situations, impunities thereby denying the victims of human rights abuses justice and redress, attack on journalism, nationality issues and workers right to mention but a few.

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<sup>394</sup>P.J. Salmond, and Fitzgerald, on Jurisprudence (12th ed, Bombay: NM Tripathi Private Limited, 2001 Reprint) 224; RWM Dias, Jurisprudence (5th ed) (London: Butterworth, 1985) 23

<sup>395</sup> Webster's Encyclopedic Unabridged Dictionary of the English Language (New Jersey: Gramercy Book, 1994) p.691

<sup>396</sup> K.F. Geiger, and M. Kieserling(eds.) 'Asiatische Werte. Eine Debatte und ihr Kontext.Münster' (Westfälisches Dampf Boot. 2001), see also E. Burke, 'Reflections on the Revolution in France' Indianapolis, (IN: Hackett, 1987)



There is the assumption that every human being is born with democratic skills and competence, and it is expected that citizens can participate in democratic decision-making for nation-building. According to Thomas, society is informed and strengthened when the citizens are educated. The United Nations High Commission has outlined the expectation to be realized from education, namely human right, the promotion of non-discrimination, prevention of human rights abuses, equality, enhancement of people's participation in the decision-making process, sustainable development, contribution to functioning democracy for citizens to be able to protect and defend their rights and that of others. The purpose of this empowerment is that it serves as a future investment to achieve a just society where the human rights of all persons are recognized, respected, and protected.

Human rights education and training services to raise awareness, train people, provide information, and promote universal respect and observance of all human rights and fundamental freedoms, thereby contributing to the prevention of human rights violations and abuses by providing people with knowledge, skills, and understanding, as well as developing their attitudes toward the creation and promotion of a just society. This means that education through human rights provides individuals with an understanding of human rights norms, principles, and values, as well as respect for educators and learners. It also empowers individuals to enjoy, exercise, and uphold their human rights while also respecting and upholding the rights of others.

Human rights education is the same as human rights education. This ideology is founded on the educational process, which aims to help students comprehend ideas and concepts. It is a thorough assessment of human rights that respects everyone's autonomy under human rights principles while also acknowledging the cultural difference in terms of religion, tradition, and worldview. It highlights the maturity of persons supported by the framework on critical human rights issues. Human rights education, on the other hand, refers to the formal and informal methods, instruments, tools, and context process of human rights that must be consistent with human rights<sup>397</sup> and their participation mode.

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<sup>397</sup>P.G. Kirchsclaeger, and T. Kirchsclaeger, 'Answering the 'What', the 'When', the 'Why' and the 'How': Philosophy-Based and Law-Based Human Rights Education'(2009) JHRE 126–36

The realization of human rights can only be achieved when individuals know their rights, understand the right as a holder and are able to identify the corresponding duties. In this situation, human beings will be able to claim their rights and that of others in solidarity. When individuals are aware of their rights, they will have the basis of the possibilities of defense of such rights to prevent their violation and the violation of others. Human rights can only be alive when one knows his or her rights and the duties that are attached or involved, namely, recognize them, promote them, protect them, defend them and be involved in the human rights participation.<sup>398</sup>

Conclusively, the practice of democracy, human rights, and the rule of law are intertwined; it can be described as a cogwheel. This means that democracy, human rights and the rule of law work together; one cannot be said to be successful in the absence of the other in theory and practice. Human rights cannot be realised in a government or political system that is not democratic. This is so because when citizens anticipate in governments, in the decision-making process and nation-building, it is a recognition, promotion and protection of their human rights. In judicial proceedings, the courts embrace human rights principles as a reference point for nation-building and implementing policies for the benefit of the citizens.

The relationship between human rights and democracy is complex, and this is why human right education is needed in democracy to overcome the reductionist, who always understands and recognise only the will of the majority. Human rights education is a must-have for everyone today in how society is pluralised. Human rights education is needed to enable a peaceful co-existence with others, respect for the human dignity of one and tolerance, and it sets boundaries for different cultures, traditions, religions, world ideas and opinions. Human rights education is required to create a society in which individuals are empowered to engage in democratic opinion formation and decision-making processes, and minorities are protected against rights-violating decisions made by a minority in the country.

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<sup>398</sup> F. Tibbitts, and P.G. Kirchschräger, "Perspectives of Research on Human Rights Education" (2010) JHRE 2(1), 8–29

### 2.17.2 Democracy

Democracy has been explained in one of the subject headings; Democracy is a Greek word written as ‘*dēmokratiā*, from *dēmos* ‘people’ and *kratos*’ rule meaning ‘people rule’.<sup>399</sup> The features of democracy are: is part of human rights, is based on the foundation of human rights, the right to participate, the right to express one’s opinion contribute to nation building, and to take part in the decision-making process as a citizen. Human rights and democracy are based on ideas, duties, inclusion, and participation of individuals in governance, respect for human dignity, integrity, personal liberty, and freedom; it involves collective decisions making sovereignty; in this case, the leaders are held responsible and accountable in various ways to the electorate. Democracy, according to Abraham Lincoln, is the “government of the people, by the people, and for the people.” It is a political system, in which the people participate through their representatives in the government, and human rights are recognised, and fostered and protected, the right of the opposition and minorities are recognised, promoted, and protected.<sup>400</sup>

### 2.17.3 Types of Democracy

Contemporary perception of democracy is based on fundamental sovereignty and collective decision-making, whereby leaders, through various ways, could be held accountable to the governed or those they rule.<sup>401</sup> Outside this consensus of democracy, there are different types of democracy “democracy with adjectives” that has been used by different scholars, practitioners and policymakers.<sup>402</sup> These definitions could be grouped under, procedural democracy, liberal democracy, and social democracy. The description of this democracy rest largely on the varying

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<sup>399</sup> ‘Democracy’, (Oxford University Press (1992) <https://global.oup.com/ushe/disciplines/political-science/political-theory-courses/democracy/> accessed 22 May 2021

<sup>400</sup> A.M. Mangu, ‘Constitutional Democracy and Constitutionalism in Africa’ (2006) JCT, 3

<sup>401</sup> D. Beetham and others “Assessing the Quality of Democracy: A Practical Guide.” *Stockholm: International Idea* (2008); see also T. Landman, ‘Human Rights and Democracy: The Precarious Triumph of Ideals’ (London: Bloomsbury Academic 2013)

<sup>402</sup> M. Coppedge and S. Lindberg and S.E. Skaaning, “Measuring High-Level Democratic Principles Using the V-Dem data.” 37(5), (2016) IPSR 37 (5), 580–593.

inclusion of different rights protections alongside the general commitment to popular sovereignty and collective decision-making.<sup>403</sup>

Procedural democracy refers to procedures used in frequent elections relying on general votes or franchise of the citizens that produce duly elected governors. According to *Landman*, procedural democracy aligned with *Robert Dahl*,<sup>404</sup> formulation of *Polyarchy*,<sup>405</sup> and they are in two dimensions: contestation and participation. The term "contestation" refers to the uncertain peaceful competition required for democratic rule; it is a principle based on the legitimacy of significant, organised opposition, the right to challenge incumbents, the protection of the twin freedoms of expression and association, the holding of free and fair elections, and the existence of a consolidated political party system. This procedural definition of democracy can be used as a starting point for assessing and accounting for the world's democracies.<sup>406</sup>

Liberal democracy refers to the use of political powers of the government; the rule of law often restricts it and the rights of the citizens as individuals are recognised and protected by the government. This type of democracy protects the notions of participation and contestation in procedural definitions. It contains institutions, the right dimension, in addition, adds extra explicit references to the protection of specific human rights, thereby containing institutional and human rights dimensions.<sup>407</sup> In the definition of liberal democracy, it encompasses features such as the government institutions, representation of citizens, leaders' restriction, accountability and the government institutions. While the human rights aspect is concerned with and governed by the rule of law, such as civil, political, and civil rights, in addition to the popular aspects in the

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<sup>403</sup>D. Collier and S. Levitsky, 'Democracy with Adjectives: Conceptual Innovation in Comparative Politics. *World Politics*' 49(3), (1997), 430–451

<sup>404</sup>R. Dahl's *Formulation in Polyarchy* (1971),

<sup>405</sup>In political science, the term polyarchy (poly "many" "rule") was used by Robert A. Dahl to describe a form of government in which power is invested in multiple people. It takes the form of neither a dictatorship nor a democracy.

<sup>406</sup>A.S. Banks, 'Cross-Polity Time Series Archive' (Cambridge, MA: MIT Press, 1971); See also T. Landman; *Human Rights and Democracy: The Precarious Triumph of Ideals* (London: Bloomsbury Academic, 2013) 3-5; A. Przeworski, and others 'Democracy and Development: Political Institutions and Well-Being in the World' (Cambridge: Cambridge University Press, 1950–1990)

<sup>407</sup>J. Foweraker, and R. Kzmaric, 'Measuring Liberal Democratic Performance: An Empirical and Conceptual Critique' *Political Studies*, (2000), 48(2), 759–787

derivation and accountability for power, such a definition is arguably richer or thicker since it includes legal limits or the exercise of power.<sup>408</sup>

Social democracy is consistent with the institutional and right dimensions found in liberal democratic models. It broadens the types of rights that must be safeguarded,<sup>409</sup> including social, economic, and cultural rights, some of which are also included in minority rights protection. Social democracy encompasses measures for social and economic well-being, a progressive realisation of economic and social rights. It covers cultural rights such as mother tongue language and land rights, as well as intellectual property rights relating to cultural activities, such as indigenous healing methods and remedies that may be of interest to multinational corporations.<sup>410</sup> Human rights are acceptable normative legal criteria by which the value of human dignity can be assessed. The right to participate in governance through direct or indirect representation and equitable access to public services through regular elections is mentioned in the UDHR. Due to the non-binding nature of the UDHR, as well as the paucity of specific references to democracy in its succeeding international human rights treaties, human rights have been more legally codified than democracy. Because international law recognises the moral claim of human rights, nations are obligated to respect, protect, and fulfill these claims.<sup>411</sup>

In these types of democracy, the human rights of individuals are recognised and protected. For a government to recognise human rights, this means that the government must stay away from violating human beings; it is the government institution that protects human rights from being violated by any other person, such as third parties, which includes individuals to individual, non-governmental organisations, military and Para-military agencies of the government, insurgency groups, uncivilised movements *etcetera*.

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<sup>408</sup>M. Coppedge, *Democratization and Research Methods*, (Cambridge: Cambridge University Press, 20012)

<sup>409</sup>D. Beetham, "Democracy and Human Rights". Cambridge: *Polity* (1999); See also N. Brandal and O. Bratberg, and D. Thorsen, "The Nordic model of Social Democracy." (London: Palgrave Macmillan 2013); R Doorenspleet, *The Fourth Wave of Democratization: Identification and Explanation* (Doctoral dissertation). University of Leiden, Leiden, (2005)

<sup>410</sup>T. Landman, "Democracy and Human Rights: Concepts, Measures, and Relationships" in *Politics and Governance* (ISSN: 2183-2463) 2018, Volume 6, Issue 1, page 50.

<sup>411</sup>I.E. Koch, 'Dichotomies, Trichotomies, or Waves of Duties?' *Human Rights Law Review*, (2005) 5(1), 81-103

When comparing democracy, human rights and the rule of law, the phrases democracy, human rights, and the rule of law are combined in terms of ideas; they are not wholly different from one another, and their definitions are the first reference points. Attributes of democracy, human rights, and the rule of law can be seen in elections, abuses of rights stemming from the issue of counting, or the outcome of the election and the position of the law. There are subtle distinctions between democracy, human rights, and the rule of law.

The challenges in the link between democracy, human rights, and the quality of democracy in a country are first and foremost, in their overlaps and how they are related to one another. There is a problem with over-reliance on issues and the classification of information received on democracy and human rights. In a democracy, the rule of law safeguards and protects the rights of the citizen while limiting the government's powers.

Section 14 (1) said that "the Federal Republic of Nigeria shall be a state founded on the principles of democracy and social justice," and Section 14 (2)(c) stated that "the people's participation in their government shall be carried out following the provisions of the Constitution." In relation to Section 153 of the 1999 Constitution, the Independent National Electoral Commission (INEC) was established. The combined provisions of Sections 76, 78, 116, 132, and 178, as well as the third schedule to the 1999 Constitution, have given it responsibility for conducting elections for President, Vice President, Governor, and Deputy Governor, as well as elections for the National and State Houses of Assembly. Article 21 of the Universal Declaration of Human Rights (UDHR) provides the right for everyone to participate in the government of their country. The people's shall be the foundation of government authority; this shall be expressed in periodic and authentic elections, held by secret vote or free voting methods and by universal and equal suffrage.

Democracy, when well-practiced, will guarantee the respect of human dignity and other rights and promote the rule of law. With adherence to the rule of law, there will be an enjoyment of every other human right enshrined in the 1999 Constitution.<sup>412</sup>

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<sup>412</sup>CFRN, 1999

Although there are challenges to the implementation and enforcement of these rights, however, the government of Nigeria should ensure that there is a strong interrelationship between human rights, democracy, and the rule of law. Citizens' human rights must be promoted and maintained as part of the country's delivery of democratic dividends.

When it comes to the rule of law and human rights protection in Nigeria, the opposite is the case because human rights are not respected. There are extra-judicial killings, killings by the Fulani headsmen kidnapping reign in the country as it has become a lucrative business where families of kidnapped victims will have to pay ransoms to the tune of millions of Naira to enable the release of their loved one or family relations to regain freedom from their abductors. Another worst nightmare is the activities of insurgency and unknown killers (as they are often called) that have displaced millions of people all over the country, coupled with the trauma and hardship the displacement has inflicted on the lives of the people, especially the most vulnerable one (women and children). The northeast part of the country is the worst hits zones leading to people finding themselves in internally displaced person camps all over the country.

#### **2.17.4 Rule of Law**

The rule of law relates to the procedure, institution practice machinery that wedge or bring about the equality of individuals subject to the law in a democratic government. It also saves and prevents the unnecessary use of power. The rule of law is a concept or process by which individuals, institutions, and entities are held accountable to publicly established and equally applied laws. It is a mechanism and norms that guide the equality of the citizens in a state or nation before the law. Under the rule of law, the government and private sectors are held accountable. For human rights to be respected, the functional or the practical rule of law must be active. Democracy is the guarantor of the rule of law; it ensures the protection and preservation of the right of individuals to be citizens and humans in society. The rule of law is not a respecter of anybody, and it is the supreme law of the land; everyone is subject to the rule of law, and the government in power's performance can be accessed or judged through the rule of law. According to *Anozie*,

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“The government must exercise its powers according to the law, and the citizens must not be exposed to the arbitrary whip of the leader, i.e. if the actions of the wielders of governmental powers are challenged, they must be prepared to defend their conduct that they acted under the rule of law.”<sup>413</sup>

*“Aristotle maintained that He who asks law to rule is asking God’s intelligence and not others to rule, while he who asks for the rule of a human being is bringing in a wild beast, for human passion is like a wild beast and strong feelings lead astray rules and the very best of men. In law, you have the intellect with passion.”*<sup>414</sup>

Different meanings are ascribed to the rule of law; according to *Appodorai*, under the rule of law, no one is punished or can be made to suffer lawfully in body or goods except for a violation of country laws; under the rule of law, no one is above the law; the law is for all, and the general principle of the constitution is frequently followed, and citizens' rights as outlined in Chapter IV of the Constitution are recognised and protected.<sup>415</sup>

From the above, it is discovered that justice's maintenance, preservation, and dispensation rest in the court. While *Zaato* further added that “Ideally, the rule of law aims at protecting and securing the above and the general fundamental human rights of man.”<sup>416</sup> Furthermore, the rule of law promotes social stability and offers citizens a sense of belonging by protecting them under the law; it is indispensable for the protection of human rights and the collective progress and happiness of any society or country.<sup>417</sup>

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<sup>413</sup> M.C. Anozie, *Notes on Nigerian Constitutional Law*, 2nd (ed) (Enugu: Victor Production, p.33

<sup>414</sup> *Ibid*

<sup>415</sup> A. Appodorai, *The Substance of Politics* (Oxford: Oxford University Press) 379

<sup>416</sup> M.N. Zaato, “Towards Nigerian Democratic Stability and the Rule of Law” Ike Odimegwu (ed) *World, Philosophy Day* (Awka: FAB Educational books 2007) UNIZIK 3, 285 17

<sup>417</sup> *Ibid*



## 2.18 Hohfeldian Analysis of Legal Rights

Hohfeldian analysis of legal rights has frequently been praised as a model of conceptual clarity and rigour that anybody interested in legal rights and liberties should study. Hohfeld revealed how various concepts generally referred to as legal rights are related, providing a valuable tool for comprehending conversation that uses the language of legal rights.<sup>418</sup> He discovered that a variety of notions are associated with typical legal applications of the word 'right'. He discovered that certain legal rights are related to specific legal obligations; these rights are referred to as right claims or (rights in the strict sense). Hohfeld's<sup>419</sup> analytical system of eight terms asserts that the legal arena provides the foundation for examining the concept of rights.

A legal right is an interest legally recognised, protected and enforced by law. Furthermore, any abuse of a legal right will be punished by law. Every citizen has legal rights. Legal rights are equally available to all citizens, without discrimination.<sup>420</sup> In law, it is most used to refer to property in a narrow sense, but it is also used to refer to power, prerogative, and privilege. The terms 'right' and 'privilege' have several meanings, including 'a legal claim to do', 'legal power', 'authority,' and 'immunity provided by authority'. A man has various rights to both material and intangible goods. He also has rights as a person.<sup>421</sup>

Rights can be classified into the following categories, namely rights in the strictest sense, Immunities, Liberties, and Powers.

Correlatives of each of these rights are:

- Duties

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<sup>418</sup> D.S.Hudson, and D.N. Husak, 'Legal Rights: How Useful Is Hohfeldian Analysis?' *Philosophical Studies: An International Journal for Philosophy in the Analytic Tradition*, vol. 37, no. 1, 1980, pp. 45–53. *JSTOR*, <<http://www.jstor.org/stable/4319347>> accessed 15 March 2024

<sup>419</sup> M. Toscano, 'The Hohfeldian Analytical Framework,' *Varieties of Liberalism*, (2014), (p. 2), accessed 14 March 2024.

<sup>420</sup> Legal Rights, 'Rights Kinds' <<https://www.toppr.com/guides/legal-aptitude/jurisprudence/legal-rights-rights-kinds/>> accessed 15 March 2024.

<sup>421</sup> Hohfeld Analysis of Legal Rights (March 5 2020,) available at <<https://lawbhoomi.com/hohfeld-s-analysis-of-legal-rights-jurisprudence/>> accessed 14 March 2024

- No-Rights
- Liabilities
- Disabilities

Hohfeld gave the notion of assessing legal rights and has mostly contributed to the subject of jurisprudence and simplified the word by evaluating many key legal ideas. Hohfeld claimed that the several connotations of the term right are frequently stated in the same sentence. This ambiguity in language suggests a lack of accuracy in thought and the conclusions drawn from it. He divided the notion of rights into eight distinct concepts. These concepts are defined with one another to avoid ambiguity.<sup>422</sup> Four pairs of opposites and correlatives exist, as listed below.

**Legal Rights in Strict Sense:** Every right comes with a commensurate duty. When a right is infringed, a responsibility is broken. This indicates that if A has a claim against B, B must respect that right.

**Positive and Negative Rights:** A positive act corresponds to a positive right, whereas abstaining from it constitutes a negative right.

The terms 'rights in *rem*' and 'rights in *personam*': These are both drawn from civil law. A 'right in *rem*' is a right against the universe, whereas a 'right in *personam*' is against a particular individual<sup>423</sup>. 'Rights in *rem*' are regarded as negative rights, but 'rights in *personam*' are typically positive.

**The Distinction between Proprietary and Personal Rights:** Is that the former is concerned with value, whereas the latter is not. Proprietary rights are valued based on estate, property, and other factors, whereas personal rights are related to status and reputation.

Furthermore, Hohfeld in his analysis of legal rights, most of the issues experienced with legal terminology arise from the fact that many of our terms were originally relevant solely to physical

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<sup>422</sup>Ibid

<sup>423</sup>'The Hohfeldian Analysis of Rights Philosophy Essay', <[www.ukessays.com](http://www.ukessays.com)>, accessed 15 March 2024.

things, thus their use in connection with legal relations is completely figurative or fictional.<sup>424</sup> The belief that all legal connections can be reduced to "rights" and "duties" is a major barrier to understanding and solving legal difficulties.<sup>425</sup> Hohfeld challenges this assumption, demonstrating that the term "right" has been employed to communicate four separate concepts: right, privilege, power, and immunity. (These are frequently referred to as claim-right, liberty-right, power-right, and immunity-right).

These are compared with the "jural opposites" of no right, duty, disability, and responsibility.<sup>426</sup> According to Hohfeld's concept, it is not proper to speak of a "right" to discharge one's firearm, but rather a liberty-right or a privilege (these two terms are interchangeable), "so long as he does not violate or infringe on anyone's rights in doing so."<sup>427</sup> It is therefore inappropriate to speak of having the right to divorce a spouse or pass an inheritance, as these are "powers."

To clarify, the four terms that are commonly mistaken with the single phrase "right" can be defined as follows:<sup>428</sup>

- Claim-Right: Person A is obligated to do acts-X about B; thus, B has a claim against A.
- Liberty-Right: Person A is under no compulsion to do or not do something; B is not obligated to A, nor A to B.
- Power-Right: Person A has the authority to perform act-X; A may act in a way that changes the legal standing of B.
- Immunity-Right: Person A is not affected by B's ability to alter another's legal position.<sup>429</sup>

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<sup>424</sup> W.N. Hohfeld, "Some Fundamental Legal Conceptions as Applied in Judicial Reasoning", *The Yale Law Journal*, Vol. 23, No. 1 (Nov. 1913), pp. 16-59, 30.  
<<https://doi.org/10.2307/785533>•<https://www.jstor.org/stable/785533>>accessed 14 March 2024

<sup>425</sup> Hohfeld, *Fundamental Legal Conceptions*, p 35

<sup>426</sup> Hohfeld, *Fundamental Legal Conceptions*, p 36

<sup>427</sup> Hohfeld, *Fundamental Legal Conceptions*, p 47

<sup>428</sup> *Ibid* p.50

<sup>429</sup> R.J. McPherson II, Introduction to Hohfeldian Rights Analysis, <<https://thereformedconservative.org/an-introduction-to-hohfeldian-rights-analysis/>>accessed 14 March 2024

### 2.18.1 Claim-Right

A "right in the strictest sense" is a claim against another for an enforceable duty. Thus, the Hohfeldian relationship is defined and constrained by its inverse, no-claim, and its corresponding responsibility. The example he provides is as follows: Person A has a claim to request that Person B refrain from trespassing on A's land. As a result, B has an obligation, or duty, to A to refrain from doing so. Every duty has a corresponding right; each right has a corresponding duty. As a result, each duty indicates a right, and each right is an obligation. Only two types of obligations can exist: an action to or a refraining from, which are positive and negative, respectively.<sup>430</sup>

### 2.18.2 Liberty Right

The second essential legal notion is liberty-right; liberty is defined as the exercise of a right without interference from the law. The degree of liberty can be calculated by summing up all the rights and duties across partnerships. A complete liberty is one in which no one has the unique right to prevent the occurrence of a specific act. A privilege is "merely a permission to do an act which, without such permission," would violate the rights of others.<sup>431</sup> Liberty does not imply interference with others, just as liberty to free speech on public matters does not provide a person the freedom to disseminate defamation. Similarly, one has the right to self-defence against violence, but no right to retaliate against the person who caused the damage. Liberty is the unrestricted exercise of legal rights. The basic distinction between liberty and rights in the literal sense is that what we do for ourselves is referred to as liberty, whereas what others do in our respect is classed as rights.<sup>432</sup>

The counterpart of a privilege (synonymous with liberty) is no-claim or no right, which means that person A has the privilege, or liberty, to do X, but B has no claim on A to do or not do X. For example, A has the right to possess and use a 1988 Ford Pick-up, but B has no claim on A in the sense that A has a responsibility to use or not use or own this truck. This is an awkward

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<sup>430</sup>Ibid

<sup>431</sup>Hohfeld, Fundamental Legal Conceptions, p 50

<sup>432</sup> Hohfeld Analysis of Legal Rights (March 5, 2020.) <<https://lawbhoomi.com/hohfeld-s-analysis-of-legal-rights-jurisprudence/>> accessed 14 March 2024

example, but it helps to appreciate that utilizing our property at will is not a right, but rather a privilege in the Hohfeldian sense, though it can and frequently does coexist with a claim right.<sup>433</sup>

A promise is another approach to tie a privilege right to a claim right. Assume individual A pledges to pay B remuneration in exchange for labour. A has the option of making or not making the promise, and once made, B has a claim on A (provided the responsibilities were met). However, they are two distinct Hohfeldian rights, each with its content. Indeed, the rights, advantages, powers, and immunities of legal personhood are intertwined in a complicated connection that the legal person bears.

### **2.18.3 Power Right**

Powers constitute another type of legal right, for example, the ability to form a will to take legal action against someone and sell a property if the mortgagee does not receive payment from the mortgagor. Power determines legal connections and creates either 'authority' or 'capacity'. "Capacity" is the exercise of power over oneself, while 'authority' is the exertion of power over others. Powers and rights differ in the strict sense because the latter always entails a commensurate duty, whereas the former does not. For example, the right to create a will does not imply a commensurate obligation for someone else.<sup>434</sup> A "power" can grant rights and impose duties because it modifies another person's relationship. This is like how a promise (equivalent to a contract in the legal sphere) can alter the relationships between parties, resulting in first-order relationships. In contrast, immunity is not being subject to power. The power connection is a liability; I have the authority to place my child for adoption, and the child is likely to be adopted. However, a child who is not my own is not vulnerable to my attempt to place him for adoption; consequently, as far as he is concerned, he is immune. I have no authority to affect the connection of a child who is not my own in such a way.

Liability is described as the change of a person's legal rights by someone with power. Examples include the decision of a lease by the landlord's re-entry, a tenant against whom a judgment has been entered, and the issuance of a decree of execution. Liability is unconcerned with the fruitful

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<sup>433</sup>Hohfeld, *Fundamental Legal Conceptions*, p 45

<sup>434</sup>*Ibid*

or unfruitful outcome in any specific circumstance. For example, if a person commits a tort, he or she is obligated to pay compensation and is also subject to legal action. Someone who is not a tortfeasor or offender, on the other hand, is not required to pay compensation but is equally accountable for initiating an action that will fail because there are no grounds.<sup>435</sup> Liability may sometimes be viewed as an advantage or gain. When a person claims to transfer his property as a gift through the exercise of power, the person entitled to the gift assumes accountability for receiving it.<sup>436</sup> People wield Private Powers. Public powers are exercised by state agencies or instruments performing public responsibilities. Example: powers wielded by the judiciary, legislature, and executive.

#### 2.18.4 Immunity Right

Another type of right is immunity from legal authority. Immunity and power have the same relationship as liberty and right in the strict sense. Immunity indicates a total lack of liability.

Disability, the opposite of immunity, is also known as incapacity and denotes the lack of power. The legal maxim '*Nemo dat quod non-habit*', which states that no one may convey a better claim to property than what they already own, expresses disability.<sup>437</sup>

In the analysis of Hohfeld's legal rights, some fundamental concepts of the study of rights are discussed, and his work is an essential instrument for getting a conceptual as well as a practical grasp of the nature of rights. Hohfeld's work is an investigation in which he aimed to reflect people's beliefs about rights. Although analytical, Hohfeld's analysis has significant practical utility, one such advantage of Hohfeldian analysis of legal rights is that it gives a great tool for comprehending conversation that uses legal rights terminology.<sup>438</sup> While Hohfeld's analysis is acknowledged and asserted by many legal philosophers, has not been fully implemented into legal practice. This failure has led Defenders of Hohfeld's Analysis of Legal Rights (also referred to DOHALR) to claim that the practical significance of Hohfeldian analysis has been

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<sup>435</sup> Hohfeld Analysis of Legal Rights (March 5, 2020), <<https://lawbhoomi.com/hohfeld-s-analysis-of-legal-rights-jurisprudence/>> accessed 14 March 2024

<sup>436</sup> <[https://en.wikipedia.org/wiki/Wesley\\_Newcomb\\_Hohfeld](https://en.wikipedia.org/wiki/Wesley_Newcomb_Hohfeld)> accessed 14 March 2024

<sup>437</sup> <http://classic.austlii.edu.au/au/journals/MurUEJL/2005/9.html>

<sup>438</sup> Ibid

overlooked, and judges and lawyers are prone to making conceptual errors and fallacious inferences that could be avoided by carefully following Hohfeldian analysis.<sup>439</sup>

The fundamental critique of the Hohfeldian analysis of legal rights is that all the formulations when viewed through the perspective of contemporary rights theories, fail to explain jurists' generally held beliefs about who or what constitutes a legal person.<sup>440</sup>In conclusion, Hohfeld's Theory of Jural Relations provides a valuable framework for comprehending the complicated links between legal rights and legal obligations. The theory emphasizes that these linkages are relative to one another, rather than absolute.

## **2.19 The Rights of a Child that may be violated due to Displacement.**

When displacement occurs, children and women are the more vulnerable as they are forced to flee their homes and communities for safety and in fear for their lives. In most cases they flee without carrying anything with them, including clothing, food, and other personal items. Under this situation they are faced with numerous challenges including discrimination, as they try to survive; they are exposed to the dangers of military recruitment, and other forms of human rights violations and abuses.

A person under the age of eighteen is referred to as a child.<sup>441</sup>Children are one of these displaced groups of people and they are considered as the most vulnerable groups of internally displaced people. The meaning of human rights violation, the types of violations, and the rights of children which may be violated when displacement occurs are discussed below.

### **2.19.1 Meaning of Human Rights Violation**

When children are displaced, they are subjected to various human rights violations and abuses. All humans are at liberty to a variety of human rights protections, including freedom from torture, freedom from discrimination, freedom of expression, and all other forms of human

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<sup>439</sup> D.S.Hudson, and D.N. Husak, 'Legal Rights: How Useful Is Hohfeldian Analysis?' *Philosophical Studies: An International Journal for Philosophy in the Analytic Tradition*, vol. 37, no. 1, 1980, pp. 45–53. *JSTOR*, <<http://www.jstor.org/stable/4319347>> accessed 15 Mar. 2024

<sup>440</sup> <<https://www.jstor.org/stable/4319347>> accessed 15 March 2024

<sup>441</sup> Article 2 of the Child Rights Convention (CRC) 1989 and Section 277 of the Child's Rights Act 2003, Act No. 26 of LFN, 2003

rights.<sup>442</sup> Individuals, states, and other varied actors may willfully violate human rights, and violations may also occur when individuals, states, and other actors fail to prevent violations, safeguard human rights, or seek justice for those whose rights have been violated. When government officials, judges, persecutors, police, or other paramilitary and other government agencies are implicated in human rights violations, the state is considered involved. Violations can be either physically aggressive, such as police brutality, or child abuse, such as defilement or sexual abuse of a child. Human rights can be violated without causing physical harm, such as the right to a fair trial. Second, when conflicts arise inside a society between individuals, organisations, or communities and the government or state fails to intervene and protect the rights of vulnerable persons or groups, the state is perceived as complicit in the violence.<sup>443</sup>

In the case of internally displaced persons, particularly displaced children, when the state fails to protect them, end the violence causing their displacement, and intervene in their vulnerable situation. They are neglected in terms of providing necessities of life and protecting lives and properties, and the government is said to be involved in violating humanitarian law.

Human rights violation is the refusal to grant freedom of movement, thoughts, and other human rights entitlements to which individuals are naturally and legally entitled because they are human, but the rights are denied to the holder and are abused, infringed, and transgressed by other people, organisations, or governments. Displacement exposes children to various forms of human rights violations and puts them in the most vulnerable position. Many children have become orphans, they are exposed to multiple forms of insecurity, and they are exposed to numerous health hazards that, if not treated due to a lack of basic health facilities, can lead to death.

Human rights violations are exacerbated during displacement, and children and women suffer more human rights violations, such as child labour, sexual abuse, rape, recruitment into the armed forces, loss of family members, documents, discrimination, and domestic slavery, which can lead to more physical, verbal, and emotional abuses, exposure to internal and external

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<sup>442</sup> 'What is Human Rights Violation'? <https://www.humanrightscareers.com/issues/what-are-human-rights-violations/>>accessed 12 July 2021

<sup>443</sup> *Ibid*



trafficking, and children's suffering from health and educational neglect. Human rights breaches negatively affect any country's social structure, humanity, democracy, quality of life, politics, and economics, including Nigeria.

Children are protected by all human rights instruments incorporated into international and national treaties such as the Convention on the Rights of the Child and the Guiding Principle on Internal Displacement. It is worth mentioning that most of the suffering among internally displaced children is caused by a failure to protect and fulfill their rights. Internally Displaced Children (IDC) and non-displaced children have equal rights and freedom in their own countries.<sup>444</sup>

### **2.19.2 Civil and Political Rights**

Civil and political human rights breaches can occur anytime, not just during wars or other violent actions. Human trafficking, for example, is a global issue that forces millions of men, women, and children to work and be sexually exploited. Then there's religious discrimination, widespread worldwide due to the government's refusal to save defenseless persons or groups in the country from harm.

Genocide, torture, and arbitrary detention are examples of civil and political rights abuses. These transgressions occur during times of war when human rights infractions are suppressed, and laws and orders concerning armed conflict are broken as a war crime. Conflict is one of the elements that might lead to violations of the rights to free expression and peaceful assembly, and it is the duty of the states to keep the peace by restraining rebellious societal forces.

### **2.19.3 Economic, Social, and Cultural Rights**

Economic, social, and cultural rights include:

- The right to work.
- The right to an education.

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<sup>444</sup>Convention on the Right of the Child (CRC), Art 2 and 29 Geneva Convention (GC) IV, arts 3 and 27, GC AP I, Art 75, GC AP II, arts2(1) and 4(1), and Guiding Principle on Internal Displacement (GPIDP), Principle 4.1. 22. and 4.2

- The right to bodily and mental health.

Like all other human rights, economic, social, and cultural rights are subject to governmental and third-party violations. According to the United Nations Office of the High Commissioner for Human Rights, the right to health, the right to adequate housing, the right to work, the right to family protection and assistance, the right to cultural participation, and the right to education are all human rights that can be violated.

#### **2.19.4 The Protection of Human Rights**

Several human rights declarations affirmed that states are responsible for protecting and advancing human rights. The government has three obligations regarding human rights: respect, protection, and implementation. It is the role of the government to act and prosecute those who violate human rights and hold everyone accountable, including the government itself.

Civil society, corporations, and institutions should work to prevent human rights violations and hold the government accountable when they occur, whether directly or indirectly. Individuals, on the other hand, should respect the rights of others and speak up when necessary. The international community must keep track of governments' human rights records. Human rights violations cannot be erased, but they must be addressed as soon as they occur.

#### **2.19.5 Types of Child's Rights that may be Violated**

Children are protected by all international, regional, and national human rights agreements, which are provided in the Convention on the Rights of the Child and the Guiding Principle on Internal Displacement. It is worth noting that the failure to safeguard and fulfill these rights causes most of the suffering among internally displaced children. Internally displaced children (IDC) and other children who are not displaced have equal rights and freedom in their home country.<sup>445</sup>

When children are displaced, their rights to a decent standard of living both during and after the war, their right to life, dignity, and moral integrity, and their right to an education are violated. And also have their right to be free of all forms of sexual and gender-based abuse or assault, their

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<sup>445</sup>*Ibid.*

right to a private and family life, their right not to be discriminated against, and their freedom to adequate health care.<sup>446</sup> Child soldier recruitment or use, child abduction, child labour, verbal and emotional abuse, physical abuse, rape and other forms of sexual abuse perpetrated on children, attacks on schools or hospitals, killing or maiming of children, forced early marriage, human trafficking and child neglects of various degrees are part of the challenges displaced children face.

- In general, child abuse or maltreatment can be categorised into a variety of types. For this thesis, the following human rights violations that internally displaced children may face during displacement as physical abuse of the child, child trafficking, child labour, sexual abuse, and lack of access to education are discussed below.

## 2.19.6 Child Abuse

Over the last five decades, child abuse has emerged as one of the primary societal problems that have drawn the attention of scholars, professionals, social workers, law enforcement agencies, legislators, politicians, non-governmental organisations and the general public. Many people are concerned about child abuse and neglect for various reasons. Child abuse may occur anywhere the child interacts, such as in homes, organisations, schools, and the community. Many individuals are concerned about child abuse because they believe it violates children's rights and endangers their well-being. Others are concerned about the alleged link between child maltreatment and aggressive/violent behaviour or criminal activity.<sup>447</sup> These people are worried that today's abused or neglected children will "become tomorrow's murderers and perpetrators of other terrible crimes if they survive."<sup>448</sup> These divergent concerns, which have resulted in child abuse legislation and research, can only be described as the beginning of efforts to understand, prevent, and control child abuse.

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<sup>446</sup> Chapter IV, s. 33, s. 34 CFRN, 1999 and Convention on the Right of the Child (CRC), Art 7, CRC, Preamble ICCPR, art6, American Convention on Human Rights (ACHR), Art 5(1) and African Charter of Human and Peoples Rights (AFCHPR), Art 5

<sup>447</sup> C.S. Wisdom, 'The International Transmission of Violence' in *Neil Alan Weiner and E Marvin and Wolfgang (eds.); Pathways to Criminal Violence* (Newbury Park, Ca, Sage Publications Inc., 1989) 137-201; and H Raymond Starr, Jr., *Physical Abuse of Children*, in *B Vincent and others (eds.)* (New York: Plenum Press, 1988) 119-155; and J Richard Gelles, 'Domestic Criminal Violence' in *E Marvin and Wolfgang and Neil Alan Weiner (eds.)*, *Criminal Violence* (Beverly Hills, CA: Sage Publications, 1982), pp. 201-235

<sup>448</sup> G.C. Curtis, "Violence Breeds Violence – Perhaps?" *American Journal of Psychiatry* (1963) *AJP* 120, 386-387

In all strata of society, intra-familial violence in general, and parent-on-child violence in particular, occurs at a higher rate than the family and society are willing and able to accept and acknowledge. According to criminological literature and studies, violence is more likely to occur between intimates than between strangers.<sup>449</sup> As a result, getting physically assaulted by a friend is more likely than being assaulted by a stranger. In addition, spouses are more prone to perpetrate violence on each other than they are to be victimised by others. Strangers are less likely to assault children than their parents, guardians, and teachers. However, in our intuitive minds, the stranger is the perpetrator of violence. As a result, we warn the kids to be cautious of strangers. This myth, in part, serves to conceal or accept family violence as usual, whereas violence by strangers is regarded as abnormal and terrible.<sup>450</sup>

Intimate partner violence is underreported, rejected, and normalised as a form of discipline. On the other hand, child abuse and domestic violence entail enormous psychological and societal harm. When a child is abused by someone, they are reliant on, they may experience a variety of behavioural disorders and psychosomatic symptoms, such as dread, withdrawal, low self-esteem, loss of confidence, rage, impatience, and so on. The 'love-hate' relationship that an abused child has with their abusive parent(s) may result in delayed bio-psychological and social development, which can have long-term ramifications for their well-being. As a result, child abuse is a severe social issue that must be researched, prevented, and managed.<sup>451</sup>

### 2.19.7 Meaning of Child Abuse

Kempe *et al.*, produced a paper in 1962 that called attention to the medical/clinical circumstances of traumatised children. They invented the phrase "battered-child syndrome" to illustrate the repercussions and scientific manifestations of purposeful or willful injury (primarily physical) inflicted on a child by a parent (or parents), guardian, or caregiver. The emphasis was then on bodily harm.<sup>452</sup> As a result, a battered child has been physically abused by an adult, resulting in injury.

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<sup>449</sup>M.E. Wolfgang, 'Patterns in Criminal Homicide' (Montclair, NJ: Patterson Smith, 1975)

<sup>450</sup>I.A Ayua, and I.E. Okagbue (eds), 'The Right of the Child in Nigeria' (NIALS Lagos: 1996) 197

<sup>451</sup>*Ibid*

<sup>452</sup>C.H. Kempe, and *et al* 'The Battered Child Syndrome' (1962) JAMA 181; 107-112

Kempe *et al* created the basic idea of "battered child syndrome," according to Gelles initial concept of "battered-child syndrome" has given way to terms like "child abuse," "child abuse and neglect," and "child maltreatment,"<sup>453</sup> the precise meanings of which are unknown. According to Gelles, these phrases brought starvation, failure to flourish, sexual abuse, educational neglect, medical neglect, and mental abuse, as well as "willfully inflicted trauma," into the characterisation or definition of child abuse.<sup>454</sup>

The difficulties that academics and policymakers face because of the definitional vagueness of the phrase "child abuse" have been noted; this is following a consideration of many difficulties concerning the concept's definition, *Gelles* contended that:

The existing definition of child abuse may be more political than scientific. It indicates immoral or wrong behaviour but fails to provide a, clear definition of the nature of that behaviour. Since 1962, the definition of child abuse has been progressively broad, encompassing many behaviours and misbehaviours by parents and caregivers. As a result, many, if not most, research investigations that measure the extent, patterns, and causes of child abuse are unsuitable for gaining insight into the extent, patterns, and causes of criminal violence against children, because acts of violence are lumped into the broader child welfare concerns of child abuse and neglect.<sup>455</sup>

Social, cultural, and legal norms all impact child abuse, the intention, and reasons of actors, as well as the consequences of their acts, play an essential part in defining or perceiving child abuse. However, purpose and motive are challenging to quantify, and the link between intention and action outcomes is frequently imperfect. These multifaceted issues have hampered research and comparison of the nature, manifestations, extent, and patterns of child abuse, as well as the

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<sup>453</sup>R.J. Gelles, (1982) 203

<sup>454</sup>*Ibid*, p. 203

<sup>455</sup>*Ibid* p. 204

implementation of child abuse legislation across countries and periods.<sup>456</sup> Several researchers have agreed that the concept of child abuse must consider the socio-cultural conditions in which the problem occurs. According to Afamefuna, "Child abuse and neglect transmit diverse meanings to people depending on their geographical, environmental, and cultural origins." As a result, the definition and interpretation of what constitutes abuse and neglect must take these cultural perspectives into account; otherwise, advocates for child abuse and neglect may find they are proposing therapy for conditions that the beneficiaries may not regard as necessary."

### 2.19.8 Elements of Child Abuse

The knowledge of child abandonment, infanticide, hunger, and various forms of violence against children predates civilisation.<sup>457</sup> According to history, children were hungry, untidy, and weak; they were abandoned, put out, and many of them were sexually molested. When evaluating the term "child abuse," the problem of culture, training, and parental and caregiver expectations must be explored. In any civilisation, culture, beliefs, norms, and behaviour refer to how people should behave and conduct themselves, both in their omissions and acts and in their interactions with other people, including near family and non-close relatives or strangers.<sup>458</sup>

Culture can be observed in people's lifestyles, religion, writing, language, music, dance, modes of dressing, the type of food they eat, how it is cooked, attitude, behaviour patterns, and knowledge, and it consists of accepted standards of rearing and caring for their offspring. Several cultures have different ideas on what makes suitable parenting approaches. Some experts believe that cultural perspectives on child rearing may diverge to the point where determining what constitutes abuse or neglect might be challenging.<sup>459</sup> Nonetheless, cultural differences in defining what constitutes abusive behaviour have a lot to do with emphasising specific aspects of parental

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<sup>456</sup>C. Grace Afamefuna (1986); Also see JE Korbin *The Cross-Cultural Context of Child Abuse in C.H. Kempe and R.E. Helfereds, The Battered Child*, (3rd ed.) (Chicago: IL.: University of Chicago, 1980) 21-35

<sup>457</sup>R.W. Ten Bensel, and M. Rheinberger, and S.X. Radbill, 'Children in a World of Violence: The Roots of Child Maltreatment' in: H.E. Helfer and R.S. Kempe and R.D. Krugman (eds.) *The Battered Child* (Chicago, IL, University of Chicago Press 1997)3-28. 2

<sup>458</sup>S.E. Estroff, *A Cultural Perspective of Experiences of Illness, Disability, and Deviance.* "In G.E/ Henderson, et al., (eds.) *The Social Medicine Reader* (Durham, N.C., Duke University Press, 1997):6-11, and J Korbin, "Cross-Cultural Perspectives and Research Directions for the 21st Century. Child Abuse & Neglect" (1991) 15, 67-77

<sup>459</sup>P. Facchin et al "European Strategies on Child Protection: Preliminary Report. Padua, Epidemiology and Community Medicine Unit, University of Padua National Research Council" (1998) 6

behaviour. Many cultures feel that child abuse should not be condoned, and they are nearly unanimous in their support for harsh punishments for sexual abuse.<sup>460</sup>

### **2.19.9 Forms of Child Abuse**

internally displaced children are exposed to the following human rights violations when displacement occurs because of jihadist violence, armed banditry, farmer-herder conflicts, inter-communal wars, attacks by unknown gunmen, and kidnapping, amongst others.

Child abuse is treated under the headings of child physical abuse, trafficking in children, child labour, child sexual abuse, and lack of access to education.

### **2.19.10 Child Physical Abuse**

The punishment parents or guardians use to instill discipline in their children or wards vary. Records on child abuse and neglect in Nigeria are insufficient and untrustworthy because estimates of the prevalence of incidents and a spate of child abuse in the country are non-existent. This is attributable to underreporting of child abuse incidents, insufficient categorisation, and a lack of institutional commitment to improving the country's consistent criminal framework.

On the other hand, physical abuse occurs when someone intentionally hits a child with harmful things, slaps, punches, and uses dangerous devices or materials to harm a child. It also consists of intimidation, compulsion, harassment, ridicule, swearing, and yelling, which can cause mental discomfort or be an indicator of emotional abuse. Vulnerable adults may also be abused by their unfavourable caregivers. This can happen when an adult is treated like a child, separated from family members, friends, and regular activities, and uses silence to regulate behaviour. Physical abuse could also mean a deliberate act or omission that injures or traumatises another person, causing misery and pain. For example, physical abuse could further occur when a person is forced to eat or swallow anything that may cause pain or made to swallow medicine when the person is well and healthy. Throwing objects or spitting at one, pulling one's hair, vigorously shaking one to cause discomfort, suffocating, burning with hot things such as hot iron to inflict

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<sup>460</sup>D.C. Brosset *al* *World Perspectives on Child Abuse: The Fourth International Resource Book*, COKempe, Children's Centre, University of Colorado School of Medicine, (2000).

serious bodily injury, smacking, hitting, slapping, kicking, punching, biting, pitching, and scratching with the intent to cause pain and distress on their victim.

In Nigerian societies, children's correction and punishment through beating, punching, and ridicule (shaming) are widely permitted and done. To define physical abuse, the cultural or normative threshold must be determined; that is, the point at which lawful correction and punishment end and abuse begin. Although objective criteria for judging whether physical punishment is damaging to children can be established, their use may be impacted by cultural or normative abuse thresholds. This is because, as *Parke* and *Collmer* explain, "child abuse is a community-defined issue that must be examined in the context of community norms and standards regulating adults' appropriate behaviour in their relationships with their own and others' children."<sup>461</sup> Child abuse analyses and explanations must be sensitive to the normative part of the problem's description, which varies among countries, cultures, professions, and research.

Regardless of the motivation, physical abuse is unacceptable and places the victim in a powerless position. Physical abuse is the intentional violent or aggressive behaviour of one person toward another that results in bodily harm. Physical abuse in a relationship usually begins gradually with a shove, slap, befits, exchange of angry words, severe altercation, and progresses over time until it becomes full-blown and, in some circumstances, results in the victim's death.

As for displaced children, when displacement occurs, they lose all parental support, making them more vulnerable to all forms of abuse. This is due to the parents', guardians', or caregivers' experiences of emotional, cultural, family, social, and economic deprivation, which prompts them to be abusive to their children by relying on projection, displacement, and so blaming the child as the object of irrational animosity.

Corporal punishment encompasses all forms of punishment, such as spanking, slapping, twisting, etc. Parents employ various disciplinary measures to cope with multiple types of "deviant" behaviour by their children. Minor stealing, lying, and disrespect to elders, for example, were the

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<sup>461</sup>R.D. Parke, and C.W. Collmer, *Child Abuse: An Interdisciplinary Analysis* in *M Hetherington (ed.), Review of Child Development Research* (Chicago: University of Chicago Press, 1975) 5, 509-590.



most common transgressions for which parents used corporal punishment, regardless of faith practice. Gluttony and failure to pass an exam received the least corporal punishment.

The use of corporal punishment is an essential tool for both discipline and aggressiveness against children. The severity and frequency of corporal punishment reveal whether the child has been mistreated.<sup>462</sup> The use of corporal punishment in the discipline of children is very likely to lead to physical injury and abuse.

### **2.19.11 Child Labour**

Children are working as enslaved people throughout the world. They beg on the streets, toil in fields and plantations beneath the sun, and workday and night in sweatshops and factories. Nigeria is no different. With the end of the oil boom and the Structural Adjustment Programme (SAP) implementation in the mid-1980s, many families had to resort to various tactics to earn a living. Because they are forced to labour at a young age, millions of children lose their health, are denied education, and never enjoy the delights of childhood. A casual visitor to Nigeria's major urban centre cannot fail to note the presence of vast numbers of young children in car parks, marketplaces, gas stations, near department stores, or on the streets hawking, generally asking for alms, working hard for a stipend, or simply wondering around,<sup>463</sup> during school hours when they are supposed to be in school.

Because of the negative consequences of child labour, governments worldwide have developed labour laws to limit the admittance of children into paid labour and the types of work they can do. *Article 32 of the United Nations Convention on the Rights of the Child (CRC)* requires State Parties to take adequate legal, administrative, and other measures to recognise the child's right to be protected from economic exploitation as well as from performing any task that is likely to be hazardous, interfere with the child's education, or be harmful to the child's health or physical well-being.<sup>464</sup> Section 28 states that no child shall be subjected to forced or exploitative labour,

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<sup>462</sup>I.A. Ayua, and I.E. Okabgue (eds.) *the Rights of the Child in Nigeria*, (NIALS, Lagos: 1996) 217

<sup>463</sup>*Ibid* p174

<sup>464</sup>*Ibid*

nor shall he be employed in any capacity, unless he is employed by a member of his family on light agricultural, horticultural, or household work.<sup>465</sup>

Child labour has characteristics that distinguish it from adult labour; the provision of child labour for production and recruitment is determined more by the person's connection, position, and structure than by the prevailing market situation; it makes for a cheap labour force; Child labour is not "free work"; it is most likely provided at subsistence wages. Children in the workforce are immature; they are utilised for jobs requiring a high level of agility and movement, such as handling heavy machinery. The size of the family and the adult-child relationship in society, the direction of technological change, and the impact of legislation and societal changes are all factors that might affect child labour.

The decision to work or not work, as well as the terms under which the job is to be done, is determined by the child's parents, guardian, caregiver, other adults, or loco parentis under their ability to distribute and appropriate children's labour within the family. Regardless of the work done by the children at home, it is deemed to be part of the usual process of child learning and hence is not considered to be paid for.<sup>466</sup>

#### **2.19.12 Meaning and Extent of Child Labour**

According to official statistical analysis, child labour is recorded in formal economic institutions when minors are paid or remunerated for their labour, making a precise definition of the term impossible. This official data did not reflect the genuine situation of other children working in a non-formal setting. The inadequacies in the statistics of the working population of children raise concerns about whether paid and unpaid children can be working, given that the unpaid jobs performed as household chores by these children may be as exhausting and tedious as remunerated work performed outside the home.

There are various reasons why children become involved in one type of labour or another. Some of the reasons include labouring for survival, for their families, and for economic reasons.

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<sup>465</sup>CRA 2003

<sup>466</sup>A.M. Scott, "Changes in the Structure of Child Labour under Conditions of Dualistic Economic Growth," in *Development and Change, Special Issue: Child Worker* (1982) Vol. 13, No. 4, 537-550

Concerns arising from these grounds for children being involved in child labour include survival, cost, and poverty, pushing children to work, frequently for long hours under awful conditions, to supplement the family income and socialization. According to the International Labour Organization (ILO), around 160 million children aged 5 to 17 were involved in child labour and other hazardous activities globally in 2020.<sup>467</sup> The majority of these children are from Third World countries, including Nigeria, a result of the continent's socioeconomic woes. Similarly, the current wave of insecurity difficulties, which has resulted in myriads of attackers by Fulani herders, unknown gunmen on residents, and systematic institutional kidnapping against schools, hospitals, and individuals in Nigeria, has exacerbated the country's position.

Black's Law defines child labour as the employment of those under the age of majority. Exploitative factory work, slavery, the sale, and trafficking of children, forced or compulsory labour such as debt bondage and serfdom, and the abuse of children in prostitution, pornography, drug trafficking, or anything else that jeopardizes their health, safety, or morals are all examples of this term. Some authors confine the term to behaviours that are prohibited under ILO minimum-wage treaties.<sup>468</sup>

Most major streets in Nigeria's urban centres are filled with children's hawkers throughout the day; for every woman selling goods in the market, at least five children are hawking for them in different locations, with little or no food, looking very unkempt, running after vehicles in major roads to sell their wares and goods, and for every bus driver, there are at least two bus conductors. This is one of the views a first-time visitor to Nigeria will be struck by.

For years, there has been no end to the spectacle of young school-aged children roaming the streets desperately trying to survive. These children, known as "*Almajiri*," or "poor children," are often sent to Islamic boarding institutions. Formal education is still a long way ahead for thousands of these children. Some academics have criticized the government for these children's

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<sup>467</sup> 'Global Estimates of Child Labour (ILO)' <<https://www.ilo.org/publication/wcms5754.pdf>> accessed 15 December 2022

<sup>468</sup> B.A. Garner, *Black's Law Dictionary* (9<sup>th</sup> edn. 2009) pg. 273; See ILO Minimum Age Convention Ch. 138 (1973). Fair Labour Standards, Acc. Cl. Child Work, Cases: Infants, Labour, and Employment.

condition.<sup>469</sup> While on the other hand, some scholars feel that the parents of these children should be more concerned about the welfare of these children and should not entrust Islamic teachers with their children, without so much as even visiting them during the period of their training. Other experts feel that the parents of these children should be more worried about their children's well-being and should not commit their children to Islamic teachers whom they would never see during their education.<sup>470</sup>

One of the most challenging difficulties in defining child labour is determining where the line should be drawn between authorized economic engagement, socialization, and exploitation. To characterize child labour, the United Nations Children's Education Fund (UNICEF) developed the following indices to define child labour (i) starting full-time work at a young age; (ii) working too many hours within or outside the family, resulting in excessive fatigue; (iii) denying children their right to an education in areas where schools are available or interfering with their education; (iv) engaging in work that leads to excessive physical, social, working, and living on the streets; (v) excessive work for a child; and (vi) Work that does not promote a child's psychological development, such as tedious, repetitive chores that do not encourage a child's creative potential.<sup>471</sup>

### 2.19.13 Effects of Labour on Children

Child labour has obvious ramifications for children's rights to education and social well-being; it is not a remnant of the past but an inherent component of most third world societies, including Nigeria. The following are some of the negative effects of child labour on children. Children are directly impacted by these events since they are left alone or must face the weight of working for the family's survival, often dropping out of school. Most of them end up working in the informal

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<sup>469</sup> 'Sustainable Almajiri reforms', <<https://reliefweb.int/report/nigeria/sustainable-almajiri-reforms>> accessed 15 December 2022. The Almajiri (a term used to refer to some children in Kano, Nigeria) children walk in packs while securing plastic bowls. They approach strangers, begging for help as they move from one to the other to survive. They return to their masters in the night to rest and carry on the following day.

<sup>470</sup> A.D. Shima, and P.C Dauda, 'Attitudes, Habits and the Opportunity of the Child: in Search of Administrative Measures, in *Children in Kaduna State Nigeria: Problems and Needs*' M.N Kisekka (ed.) (Zaria, Gaskiya Corporation, 1981) 186-191

<sup>471</sup> 'The Situation of Working Children and Street Children' (1986) E/UNICEF/CRP.3

sector, which is expanding in reaction to an increase in the number of unemployed people lacking skills, education, and capital.

Their work in family companies is heightened because various pressures demand that the only way to maintain a family unit from dissolving is for all family members to work more hours. In such cases, child labour ceases to be a kind of socialization and training. Instead, it becomes an economic necessity of child exploitation and waged child labour, and many of these children are sentenced to subsistence for the remaining part of their lives. Child labourers are an especially vulnerable labour class, and their vulnerability varies depending on their work type. In other cases, labour is increased and mistreated, and child labour exploitation takes on new dimensions, especially in urban regions.

Child labour is demoralizing for the children who work, both physically and psychologically. Children who hawk on the streets or are allowed to roam the streets, for example, are frequently exposed to the risk of motor accidents.<sup>472</sup> Child labourers are frequently deficient nutritionally; they are underfed, with little or no adequate food for their survival, the dangers of children scouring rubbish dumps for food cannot be overstated, as they are at risk of contracting communicable diseases.<sup>473</sup> Street children are also exposed to a wide range of morally bankrupt individuals, and they frequently engage in truancy and delinquent behaviours such as cheating, lying, stealing, drug abuse, and prostitution.

Many students who are still in school and are obliged to sell their commodities after school hours complain of exhaustion and an inability to study at home. It was also discovered that such children do poorly in school and frequently perform below their chronological age.<sup>474</sup> Most of these children sleep in class when they get to school because of fatigue of being over work.

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<sup>472</sup>R.J. Shelling, *A Study of the Street and Working Children in Zaria Town: Psycho-social Implications for Child Labour* (Unpublished M.Sc Thesis, Department of Sociology. Ahmadu Bello University, Zaria, 1991)

<sup>473</sup>The Situation of Working Children and Street Children (1986) E/UNICEF/CRP.3

<sup>474</sup>O.Ekwe, 'Health Hazards in Child Labour: A Case for Juvenile Hawkers' in *Child Labour in Africa*, P Egbigbo, and (ed) (Enugu: ANPPCAN/UNICEF, 1986) 17-25; see also NS Vinola, and MS Fubara, MS. 'Street Hawking as an Aspect of Child Abuse' in P Egbigbo, and others (ed) (Enugu: ANPPCAN/UNICEF, 1986) 64-70

#### 2.19.14 Child Sexual Abuse

Child sexual abuse is a horrible crime that carries legal consequences. Child sexual abuse is evaluated based on the following factors: the abuser's relationship with the child victim, the abuser's age in comparison to the child victim's age, the degree of violence on the child, threat inducement, manipulations used by the abuser, the frequency of the abuse, and the severity of the abuse. When a child is sexually molested, major worries arise concerning the abused child's health, including bio-psychological<sup>475</sup> development and morals. Despite widespread scholarly and professional concern over child sexual abuse, classification issues remain debatable.

Child sexual abuse is defined as “any act of a sexual sort upon or with a child” by an adult, including parents, guardians, and other adult caregivers, according to the National Centre on Child Abuse and Neglect (NCCAN) in the United States.<sup>476</sup> According to Schechter and Roberge, Child sexual abuse is described as the involvement of dependent, developmentally immature children and adolescents in sexual activities that they do not fully comprehend, for which they are unable to express informed consent, or that break societal taboos in their families.<sup>477</sup>

Children who have been battered sexually face long-term physical, psychological, and social trauma issues.<sup>478</sup> According to the study, sexually abused children exhibit a variety of behavioural problems and performance deficiencies, such as the emergence of new anxieties, changes in normal behaviour patterns, such as lack of appetite, bedwetting, increased irritability, sleep difficulties, or sudden concern about cleanliness, changes in school performance, such as an inability to concentrate, a sudden drop in grades, comments to teachers regarding sexual activity or worries, or an unwillingness to participate in previously enjoyed activities; the child's interactions with his or her parents grow strained, and he or she becomes more reserved or

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<sup>464</sup> Biopsychology a branch of psychology that discusses how the brain, neurotransmitters, and other biological factors influence our actions, opinions, and thoughts. It also entails the interaction of genetic processes with emotions, cognitions, and other mental processes.

<sup>476</sup> National Centre on Child Abuse and Neglect Interdisciplinary Glossary on Child Abuse and Neglect (Washington DC, US Dept. of Health Education and Welfare, 1978) 9

<sup>477</sup> M. Schechter, and L. Roberge, *Child Sexual Abuse* in R. Helfer and K. Kempe (ed) *Child Abuse and Neglect* (Cambridge, MA: Ballinger, 1976) 60

<sup>478</sup> A. David Wolfe and V. Vicky Wolfe and Connie L. Best ‘Child Victims of Sexual Abuse’ in V.B. Van Hasselt and others (ed) *Handbook of Family Violence* (New York: Plenum Press, 1988) 157-185

introverted.<sup>479</sup> These characteristics, however, are not definitive in that they are indicative indicators of a child suffering from sexual abuse, and there is no pattern of attitude that is sufficient evidence per se. There is a need for caution, and more verification from other relevant evidence sources and the abused child is required.<sup>480</sup>

One of the issues with child sexual abuse in Nigeria is the lack of reliable statistics on the criminal acts of child sexual abuse. As a result, there are no accurate epidemiological estimates of child abuse across the country. Violence against children has become a common occurrence in Nigerian society. These numerous forms of violence occur in places where the child should be safe and protected, such as homes, among family members, parents, communities, on the street, schools, among caregivers, acquaintances, and so on.

There is a large incidence of sexual violence against women and girls when Boko Haram begins its fights, attacks, and brutality against the population, which is widely recorded in human rights reports, media coverage, and humanitarian evaluations. Kidnappings, forced conversion to Islam, physical and mental abuse, forced labour, forced involvement in insurgency operations, forced marriage, rape, and other types of sexual abuse against women and girls in northern Nigeria have all contributed to Boko Haram's notoriety locally and internationally.<sup>481</sup>

Women and children in the IDP camp are often vulnerable to various sorts of exploitation and abuse indicating that the cycle of exploitation and abuse is prevalent. These reports on exploitation and abuse have raised awareness of the unmet needs of vulnerable women and girls in northeast Nigeria, but it has proven difficult to demonstrate a humanitarian response in the form of preventative and protective measures, as well as survivors' support programs.<sup>482</sup>

More allegations of rampant sexual assault, as well as other major safety concerns for internally displaced women and girls, have surfaced.<sup>483</sup> Gender-based violence, for example, has been

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<sup>479</sup>A.N. Brenner, *Helping Children Cope with Stress* (Lexington, MA: Dc Health, 1984)

<sup>480</sup> A.D. Wolfe, *et. al*, p. 170.

<sup>481</sup>R. Joe, 'Sexual Violence, and the Boko Haram Crisis in North-East Nigeria' <<https://odihpn.org/magazine/sexual-violence-and-the-boko-haram-crisis-in-north-east-nigeria/>>, accessed 22 July 2021

<sup>482</sup>*Ibid*

<sup>483</sup>United Nations Special Rapporteurs on Sale of Children, Child Pornography and Child Prostitution, Contemporary forms of slavery and the right to the highest Attainable Standard of Health-visit to Nigeria (18 to 22

documented in Nigeria's north-east, where the UN has discovered a combination of Boko Haram cruelty and sexual exploitation and abuse in displacement, leaving displaced women and girls significantly vulnerable.<sup>484</sup> According to the United Nations Special Rapporteurs on the Human Rights of Internally Displaced Persons, sexual abuse and exploitation of women and girls by members of civilian militias, as well as military, national, and state government disaster management professionals, has been widespread. IDPs have also been accused of being sexually exploited, trafficked, and assaulted by camp managers.<sup>485</sup>

Domestic abuse and rape are commonplace among women and girls. When looking for work to earn a living and provide for their families, women and girls are subjected to increased sexual assault. The inability of women to afford food for their families often exposes them to become more vulnerable as they are involved in solicitation and sexual mistreatment in places of foodstuff and other aid. Movement is restricted due to security concerns; they have become accustomed to the negative coping techniques that have become more prevalent as household assets have been depleted, such as child labour, early marriage, and transactional sex for protection, food, and non-food needs. There were reportedly 3,213 pregnancies because of sexual assault in the Bakassi internally displaced persons camp in Maiduguri between June and December 2016.<sup>486</sup>

### **2.19.15 Lack of Access to Education by the Internally Displaced Children**

Many of the internally displaced children (IDC) in Nigeria do not have access to education due to concerns that can be characterized as school-related, health-related, socioeconomic, and cultural. Such school-related concerns include the lack of quality of schools, the distance of schools from the houses of the host communities and camps, the inability to afford the costs, the inadequacy of physical facilities, and the curriculum's incapacity to meet the basic learning needs

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January 2016), <<https://www.ohchr.org/en/statements/2016/01/un-special-rapporteurs-sale-children-child-pornography-and-child-prostitution>> accessed 22 July 2021, Joint UN Multi-Sector Assessment Summary Report: Borno and Yobe States, Nigeria' (April 2016) <[https://www.humanitarianresponse.info/system/files/documents/file/joint\\_un\\_multi-sectorassessment-summary-report-borno-yobe-nigeria.april2016\\_final\\_lowres.pdf](https://www.humanitarianresponse.info/system/files/documents/file/joint_un_multi-sectorassessment-summary-report-borno-yobe-nigeria.april2016_final_lowres.pdf)> accessed 22 July 2021

<sup>484</sup> Refugees International Field Report: Nigeria's Displaced Women and Girls (April 2016) accessed 22 July 2021

<sup>485</sup> R. Joe, Sexual Violence and the Boko Haram Crisis in North-East Nigeria <<https://odihpn.org/magazine/sexual-violence-and-the-boko-haram-crisis-in-north-east-nigeria/>> accessed 22 July 2021

<sup>486</sup> *ibid*



of education. Furthermore, there is a shortage of suitable infrastructure and a decline in skilled teaching people and quality teaching or learning materials. Inability to gain from basic education can also result from socioeconomic restraints; due to the child's family history, they may be pushed to engage in income-generating activities by his parents/guardians.

Absence from school during farming seasons to assist parents on the farm is especially common in Northern states such as Kano, Sokoto, Bauchi and most rural areas. Absence from school on market days is common in Eastern states such as Imo and Anambra. Children of primary school age are employed as bus conductors in Lagos, Oyo, and Ogun States on a part-time and full-time basis. When these types of children are involved in displacement, schooling will be meaningless to them.<sup>487</sup>

However, because the difficulty is a national issue, it is critical to comprehend the level of understanding of children's rights to education among policymakers, administrators, teachers, parents, and the children themselves to respond correctly and overcome the limits. Such information helps establish programs to promote children's rights, particularly in addressing the educational challenges faced by Nigeria's internally displaced children. According to the *United Nations Committee on Economic, Social, and Cultural Rights (CESCR)*, the right to education is vital on a global scale because it "epitomizes the indivisibility and interdependence of all human rights."

The *1960 Convention against Discrimination in Education (CADE)* was the first international normative instrument on the right to education, and it addressed issues including discrimination, equality of opportunity, free primary education, and minority group rights. Article 4 of the CADE not only establishes the legally enforceable clause but also imposes on States Parties the responsibilities and tasks stated.<sup>488</sup>

In Nigeria, the content of the right to education is described in Section 2 (1) of the Universal Basic Education Act 2004 declares that "Every Government in Nigeria shall be responsible for

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<sup>487</sup>IA Ayua, and IE Okagbue (eds.) *The Right of the Child in Nigeria*, (NIALS, Lagos: 1996) 67

<sup>488</sup>United Nations Educational, Scientific and Cultural Organization (UNESCO), 'The Right to Education, Law and Policy Review Guidelines' (Publisher UNESCO, 7 places de Fontenoy, 75352 Paris 07 SP, France 2014)

free, compulsory, and universal basic education for every child of primary and junior secondary school age." Furthermore, Section 15 of the Child's Rights Act of 2003 states that "every child has the right to free, compulsory, and universal basic education, and it shall be the duty of the Government of Nigeria to provide such education." Section 18 (3) (a) and (c) of the Constitution mandated "free, compulsory, and universal primary education, as well as free university education." Details of this are examined in Chapter three of this thesis.

Section 1 of the Child's Right Act,<sup>489</sup> Act states that "in every action concerning a child, whether undertaken by an individual, public or private body, institution or service, court of law, or administrative or legislative authority, the interest of the child shall be the primary consideration. Therefore, the government has the responsibility to put the interest of the internally displaced children first, by making education available and accessible. The government must direct its policies toward fostering equitable and appropriate educational opportunities at all levels, according to Section 18 of the Federal Republic of Nigeria's 1999 Constitution (as amended). This is analyses further in chapter three of this thesis.

Schools are supposed to provide a secure haven for internally displaced children. It could be an important place to help traumatized children regain their normalcy, overcome the fear of conflicts and dangers they were also exposed to because of the long-distance journey, and develop the psychological health balance they need to integrate into the new lives they now must leave as a result of their displacement experiences. However, these internally displaced children, particularly those in urban areas, frequently encounter major barriers to their access to education.

These include financial difficulties in their families, the children's lack of documentation or legal status, prejudice, and linguistic obstacles. Children who have been displaced may be unable to attend school because they have been compelled to work or marry or because schools are being used as emergency shelters for IDPs. Overcrowding in classrooms is another barrier to a proper education.<sup>490</sup> IDP camps, in other countries on the other hand, may have greater educational

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<sup>489</sup>Child's Right Act, 2003

<sup>490</sup> Internal Displacement Monitoring Centre (IDMC), Global Report on Internal Displacement (2019), <https://www.internal-displacement.org/global-report/grid2019/> accessed 7December,2020

resources because of being the focus of humanitarian operations and donor attention,<sup>491</sup> but this is not the case in large number of the IDP camps in Nigeria.

IDP children face discrimination and are denied access to Universal Basic Education (UBE) because they cannot afford to pay fees, purchase books, or buy school uniforms. There are no schools in some camp locations, and education is only partially available in others. This is also another area where the government is failing, because it is their primary responsibility to provide intervention of these services as stated in Section (1) of the Act.<sup>492</sup> The classrooms are filthy and made of tents, there are no teachers, the teachers in the school are volunteer teachers who only come to teach the displaced children when they are free, and once it rains, teaching and learning cease. They have expressed worries about educational inequality and vulnerability, compared to the schools they attended before displacement, the schools are not as good as those back home and are not taught according to a syllabus. As a result of these difficulties, they are trailing behind their peers who have not suffered displacement.

Towns and cities where forcefully displaced individuals flow in frequently must be prepared to accommodate major population shifts. This entails incorporating displacement into urban designs, which must be adaptable enough to change to manage expansion better. Relocation locations should be found in disaster-susceptible metropolitan areas as part of disaster preparedness. This form of contingency and readiness planning also necessitates increasing the capacity of local governments and providing them with the tools they need to manage displacement effectively in both normal and crises. While primary and secondary health care services are typically more available to internally displaced children in metropolitan areas than in rural regions, secondary health care is frequently pricey.<sup>493</sup>

Nigeria took some encouraging steps to guarantee that internally displaced children have opportunities to be cared for and have some level of access to be educated, engaging in training

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<sup>491</sup> ICRC, 'Displaced in Cities: Experiences and Responding to Urban Internal Displacement outside Camps and ACAPS Iraq' Displacement KR-2010 (2018) <https://www.icrc.org/en/publication/4344-displaced-cities-experiencing-and-responding-urban-internal-displacement-outside> accessed 7 December 2020

<sup>492</sup> Compulsory, Free, Universal Basic Education Act 2004.

<sup>493</sup> Internal Displacement Monitoring Centre (IDMC), Global Report on Internal Displacement (2019) <https://www.internal-displacement.org/global-report/grid2019/> accessed 7 December 2020

some community-based volunteers deployed across the countries northeast. This was done to improve access to child safety programs, which help to prevent and address some of the major reasons for internal displacement, to make education and birth registration more accessible, and to aid caregivers in engaging in behaviour-changing activities.<sup>494</sup>

In conclusion, internally displaced children are in a pitiful condition because most of their rights are being violated, making it impossible for them to enjoy part of their rights as children. Internally Displaced Children (IDC) faces considerable risks and are highly vulnerable due to circumstances beyond their control. They lack social economic necessities, such as excellent health care, safe access to school, and, in most cases, normal upbringing.

As a result, it is the obligation of the national authorities to care for the well-being of internally displaced children on both the local and national levels. The national government should not limit their care to temporary palliatives but should give a long-term solution to their displacement, as well as provide security for the nation in general, by preventing conflict and other forms of violence and attacks that could lead to displacement.

#### **2.19.16 Human Trafficking**

Human trafficking is defined as the unauthorized employment, transit, transfer, harbouring, or receiving of a person, particularly one from another nation, to keep them prisoner or exploit them for labour, services, or body parts. Forced prostitution, forced marriages, and sweat shopping are all examples of human trafficking violations. It is also known as trafficking in humans, people smuggles, or organ trafficking.<sup>495</sup> Human trafficking, sometimes known as person trafficking, is means, by Section 64 as, “all acts and attempted acts involving the use of deception, coercion, or debt bondage in the recruitment, transportation within or across Nigerian borders, purchase, sale, transfer, receipt, or harbouring of a person for the purpose of placing or holding the person whether for or not in involuntary servitude, (domestic sexual or reproductive), bonded labour, or slavery-like conditions.”<sup>496</sup> Human trafficking refers to the enlistment, movement, conveyance,

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<sup>494</sup>UNICEF, *African Action Agenda for Children Uprooted*, (2019)

<sup>495</sup> B.A. Garner, *Black's Law Dictionary* (9th ed. 2009) pg. 1635

<sup>496</sup>The Trafficking in Persons (Prohibitions) Law Enforcement and Administration Act (TIPLEA), 2003, as amended in 2005, the Trafficking Act is also known as TIPLEA in s 64.

harbouring, or reception of individuals or groups through intimidation other use of force or other types of coercion, seizure, deception, fraud, misuse of power or position of defenselessness, or the making or receiving of payments or repayments in order to secure the permission of a person exerting control over another person, according to Article 3(a).<sup>497</sup> When any of the methods described in paragraph (a) of this Article are employed, the victim of human trafficking in people' assent to the planned exploitation is immaterial.<sup>498</sup>

Human trafficking is a well-organized, well-funded business recognized as one of the most severe crimes and injustices against humanity and our planet. It is regarded as the world's second-largest criminal enterprise, second only to the drug trade. Human trafficking affects roughly 40.3 million people globally, with hundreds of thousands of victims in the United States, according to the International Labour Organization.<sup>499</sup>

According to the most recent United Nations figures, Nigeria's current population is 211,660,928,<sup>500</sup> and making it the most populous country in West Africa. Nigeria gained independence on October 1, 1960, and since then, the country has experienced institutionalized, systemic corruption, religious and cultural violence, Boko Haram terrorist activities, insurgencies such as banditry, attacks by unknown gunmen, Fulani herders' killings, attacks on lives and properties, organized kidnapping on schools, institutions, human rights violations, and a lack of human rights viability.

Despite abundant oil and other natural resources, the structural adjustment program's credit burden has generated economic turbulence. These factors contributed to tumultuous socioeconomic conditions for Nigerians, particularly women and children.<sup>501</sup> Approximately

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<sup>497</sup> Article 3 para (a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons

<sup>498</sup> J.A.A Agbonika, 'Human Trafficking and Kidnapping in Nigeria: Crimes Against Humanity' (Ibadan: St. Paul's Publishing House, 2016) 7

<sup>499</sup> 'Victims and National Human Trafficking Hotline', <<https://humantraffickinghotline.org/what-human-trafficking/human-trafficking/victims>> accessed 2 August 2021

<sup>500</sup> 'Information on World Meter Elaboration of the latest United Nations Data', (August 3 2021) <<https://www.worldometers.info/world-population/nigeria-population/>> accessed 2 August 2021

<sup>501</sup> National Bureau of Statistics, <<https://www.nigerianstat.gov.ng/>> accessed 2 August 2021

70% of Nigerians live in poverty.<sup>502</sup> The COVID-19 pandemic has increased the amount of poverty in Nigeria. COVID-19 resulted in the loss of lives worldwide, an unprecedented public health challenge, food shortages, and job losses worldwide. In addition to these challenges, it brought additional hardship to developing countries, including Nigeria, and increased poverty among the populace.

Human trafficking thrives on ignorance and taking advantage of the uninformed. According to MacGregor, over 200,000 Nigerian children are forcibly removed from their homes and parents with the promise of good works, while some parents grant permission to their children, while others go of their own. Boys as young as five- or six-years old wind up working as household slaves distant from home or as agricultural workers on small farms or in quarries, shattering large chunks of granite with heavy iron hammers for pennies on the dollar. As a result, some of the younger ones die, while others suffer horrific physical and psychological scars. Many of the girls who are abducted end up as prostitutes, perhaps in Ivory Coast or Gabon, but increasingly in Europe, particularly in Italy, where a well-organized network distributes them to big towns like Rome, Florence, and Turin.<sup>503</sup>

Unemployment and illiteracy are among the factors driving women and children to migrate worldwide; gender discrimination rates are high, partly due to a failing education system. Quite often, this condition motivated women to look for work; some moved with the purpose of continuing their education abroad, the hope of bettering their life in a developed nation, and the prospect of assisting their family back home by sending money to them. These are some of the reasons why some of them, on the other hand, prompt many of them to enter illegal contracts with human traffickers; some even go so far as to perform dangerous oaths of diabolical rituals with the traffickers to bind them to whatever agreement they have reached before taking them overseas.

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<sup>502</sup>J.S. Olanrewaju, 'Understanding Nigerian Development Crisis' (2015) *AAJOSSEVI* (1); and J.A.A Agbonika, 'Human Trafficking and Kidnapping in Nigeria: Crimes Against Humanity' (Ibadan: St. Paul's Publishing House, 2016) 8

<sup>503</sup>S. MacGregor, *The Long Road to Freedom*, (the Independent, 2004)

Sometimes parents agree to send their children to work to earn money and contribute to the family's income to better their children's futures without realizing what a dreadful predicament they have placed those children in. Because there are no parents, family members, or guardians to assume financial responsibility for them, displaced children and orphans are the most vulnerable to being trafficked from Nigeria. Of course, there is a great demand for the commercial sex trade, and the organizers of this horrific commerce against humanity are organized criminal groups or gangs. Human trafficking for sexual abuse is a serious public issue, and it is the most widespread human trafficking, with most victims being women and children; it is a crime against humanity.

Human trafficking victims face numerous hardships and difficulties as they are used as domestic servants, street hawkers, manual labourers, beggars, and some are killed for the harvest of vital organs such as their hearts, liver, kidney, eyes, and embryos, which may be sold to shady doctors for patients in need of transplant or implantation.<sup>504</sup> According to the United Nations Office, Nigeria is the world's eighth most trafficked country, and it is the primary source of African trafficking women in Europe. Human deception is a lucrative business, and human trafficking is estimated to generate between \$9 billion and \$32 billion in revenue each year.<sup>505</sup>

In September 2003, the *United Nations Convention against Transnational Organized Crime (UNTOC)* was founded in response to public outrage over transnational crimes. This instrument aims to strengthen states, promote international collaboration in the fight against transnational crime, create worldwide awareness, and develop preventative measures against human trafficking and other forms of transnational organized crime. Nigeria's *National Agency for the Prohibition of Trafficking in Persons* domesticated the fundamental provisions of the UNTOC and the Trafficking Protocol in 2011, setting rules for the ECOWAS area and beyond (NAPTIP).<sup>506</sup> There is a bilateral cooperation agreement in place with Italy, the Netherlands, the Nordic countries, France, and the United Kingdom, which has resulted in the breakup of various

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<sup>504</sup> J.A.A Agbonika, p. 10

<sup>505</sup> K. Bala, 'New Slavery California: Contemporary World Issue Series' (2nd ed.2006).

<sup>506</sup> F. Oniorebholo, 'Nigeria: Country among World's Highest in Human Trafficking' *The Daily Independent* (Lagos: 22 December 2008) 4; See also JAA Agbonika, p. 14

international criminal networks.<sup>507</sup> Over 17,000 victims of human trafficking have been rescued, over 550 perpetrators have been arrested by the *National Agency for the Prohibition of Trafficking in Persons (NAPTIP)*,<sup>508</sup> and other forms of the legislations against human trafficking in Nigeria.<sup>509</sup>

Conclusively, human trafficking is a global problem that must be addressed. To combat and prevent human trafficking or trafficking in persons, people should be encouraged to speak out, raise funds and donate to organizations that assist in the fight against human trafficking, and public awareness of the issue of human trafficking should be raised. People should donate their time and efforts to anti-trafficking organizations, thereby assisting in the fight against human trafficking; the public should be educated on the signs of human trafficking and the antics of traffickers. Advocacy groups should be active on local and national levels, educating people about the battle against human trafficking. People should voluntarily assist survivors of human trafficking by contributing clothes, food, and shelters, rehabilitating them, and engaging them meaningfully in occupations they can do or set up small businesses for them to take up from there, allowing them to put their lives back together. The public should be informed, the school curriculum should be amended to include human trafficking as a subject so that children can be acquitted and educated about how heinous the crime is, and the government's enforcement of all the various laws dealing with human trafficking should be improved.

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<sup>507</sup>*Ibid*

<sup>508</sup>The National Agency for the Prohibition of Trafficking in Persons (NAPTIP), 'Human Trafficking: NAPTIP rescues 17,000 victims' *The Guardian* <https://guardian.ng/news/human-trafficking-naptip-rescues-17000-victims/> accessed 2 August, 2021

<sup>509</sup>The Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003; the Federal Republic of Nigeria's 1999 Constitution; the Criminal Codes, Immigration Act 1963, Cap 1771, Laws of the Federation of Nigeria, 2004; and the Child Rights Act, 2003, The Universal Declaration of Human Rights of the United Nations, Nigeria has ratified the African Charter on Human and People's Rights (Enforcement) Act, the United Nations Convention against Transnational Organized Crimes, the Convention on the Rights of the Child (CRC), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) are some of the legislations against human trafficking in Nigeria.



## **2.20 What is the Nature of Internally Displaced Children's Right to Education? Is it an Individual or a Social Right?**

Human rights are inseparable and interdependent because a violation of one right frequently affects the respect of other rights. Access to education, for example, influences career options, information use, public involvement in decision-making processes, susceptibility to violence, and access to justice. All rights are crucial to guarantee that all individuals can live lives of liberty and self-respect. It is important to understand the meaning of individual and social rights to realize the nature of the right to education by internally displaced persons, whether social, individual, or not.

### **2.20.1 Meaning of Individual Rights and Social Rights**

Individual rights are those that individuals require to conduct their lives and achieve their goals without interference from other people or the government. Individual or personal rights include the right to life, the dignity of human persons, personal liberty, and the freedom to migrate to pursue happiness.<sup>510</sup> Individual rights are also considered so crucial that the covenant includes statutory safeguards against infringement.

Social rights, on the other hand, include the right to a reasonable standard of living, affordable housing, food, education, and equitable healthcare facilities, as well as social security based on respect rather than sanction, and these rights improve the lives of people, individuals, and society at large. Social rights are vital because they protect people's self-esteem, free will, and well-being by ensuring state-supported entitlements to education, public health care, housing, a living wage, acceptable working conditions, and other social goods.

Many individual or personal rights are enshrined in international and regional instruments, conventions, and national legislation such as the Constitution and the Child Rights Act. Individual rights and political rights might be observed, for example, as could the protection of the legal rights of individuals all over the world who are accused of crimes so that they could be treated fairly and protected from abusive treatment at the hands of the government. In dealing

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<sup>510</sup>C.C. Nweze, "Human Rights and Sustainable Development in the African Charter" (a paper presented at a workshop on Human rights organized by the Nigerian Bar Association (NBA), Enugu Branch on 17th September, 1997

with individuals and the government, the Nigerian constitution ensures the due process of law. Furthermore, most constitutional democracies safeguard the personal rights of individuals under their jurisdiction.

Under social rights, for example, most democracies defend the right to freedom of belief and opinion, which includes the right of individuals to practice, discuss, teach, and promote the religion of their choice.<sup>511</sup> The concept of the right to privacy includes the protection of an individual's personal information from public inspection.<sup>512</sup> The right to personal property, which includes the legal or philosophical use of resources, is included in the foregoing. Finally, there is the right to free speech and expression,<sup>513</sup> which includes voluntary association with others, political speech, peaceful demonstration, petitioning the government, expressing one's viewpoint, political speech, religious communication, and so on.<sup>514</sup>

Social rights are founded on equality and guaranteed access to critical social and economic goods, services, and opportunities. Social rights are aware of what is required to meet people's needs and to promote social inclusion and solidarity. It is also considered moral, legal, or societal rules. Social rights, for example, include the human right to employment, the right to a suitable standard of living, such as food, clothing, and shelter, the right to physical and mental health, the right to social security, the right to a healthy environment, and the right to education.

The qualities of their persisting members, for example, organization rights, include the rights of indigenous people who seek the protection of their culture and the rights of a religious group that has a collection of displays of religion and sacred locations.

In the second and third phrases of Article 13 (1) of the (ICESCR),<sup>515</sup> it is stated that the goal of education is split into two categories. The first group believes that education is linked to the whole development of a human personality, with individual goals. The second group includes

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<sup>511</sup>CFRN, 1999 s 38

<sup>512</sup> s 37

<sup>513</sup> s 3

<sup>514</sup>R. Longley 'What are Individual Rights? Definition and examples' <[<sup>515</sup>The International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](https://www.thoughtco.com/individual-rights-definition-and-examples/5115456#:~:text=Individual%20rights%20are%20the%20rights,typical%20examples%20of%20individual%20rights,>accessed 8 August 2021</a></p></div><div data-bbox=)

increasing the value of human rights and fundamental freedoms, promoting consideration, forbearance, and closeness among all nations and ethnic, racial, or religious<sup>516</sup> groups, and advancing the United Nations' efforts to maintain harmony. These goals are social, indicating how individuals and groups should interact with others of different national, cultural, or religious backgrounds. The educational goal, which states that education should enable all people to participate effectively in a free society, is more challenging to characterize. On the one hand, it aims to enhance the individual, but it also includes a social component, as it envisions the individual playing a constructive role in society.

The second generational social welfare right to obtain an education unquestionably imposes obligations on states to make education available as an alternative to depressingly eliminating it or prohibits states from interfering with people's educational choices.<sup>517</sup> The provision of free education, including vocational and technical education and higher education, necessitates that states provide that remuneration without exception.<sup>518</sup> Article 13 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) includes the "interconnected and crucial features" of availability, accessibility, acceptability, and flexibility in the social right to an education (2).<sup>519</sup> The availability of high-performing educational institutions and programs, as well as buildings, cleanliness amenities, safe drinking water, qualified teachers, teaching materials, a library collection, computer facilities, and information technology, indicates that those institutions and programs have adequate capacity.<sup>520</sup>

Finally, the right to an education is considered a human right rather than a privilege. This right is legally guaranteed to everyone, without exception. The various states are responsible for respecting, protecting, and ensuring that the full right to education is fulfilled, and when these rights are violated, states are held accountable for such violations. The nature of the rights of internally displaced children to education is that they are both individual and social rights.

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<sup>516</sup>*Ibid*

<sup>517</sup>J Delbruck, 'The Right to Education as an International Human Right' (1992) 35 GER. YB INT'L L. 92, 95, 2 I

<sup>518</sup>International Covenant on Economic, Social and Cultural Rights, art 13(1), (opened for signature Dec. 19, 1966, 993 UNTS 3)

<sup>519</sup>General Comment on Economic and Socio-Cultural Rights, on the Implementation of the International Covenant on Economic, Social and Cultural Rights: (General Comment No. 13: The Right to Education, 1, UN Doc. E/C.12/1999/10 (Dec. 8, 1999))

<sup>520</sup>*Ibid*

Individual rights are important in society because they protect an individual's right to certain freedoms without interference from the government or other individuals. Social rights are essential to everyone, but they are especially important to the disadvantaged individual and the vulnerable in society, such as internally displaced persons in general and children in particular; they represent a very significant value in our society. It is a necessary means of protecting people who endure abuse, isolation, and various forms of neglect, such as displaced children.

### **2.21 How does the Displaced Children's Situation affect the Quality of Democracy in Nigeria?**

Children are important in nation-building and human resource development in any community, society, country, or global. As a result, all stakeholders in childcare, including the child's parents, guardians, caregivers, and foster parents, are held to the same standard. Regarding parenting, the child's growing environment, the school he or she attends, community, society, local government, and state are all crucial factors to consider.

Raising and training children in Nigerian society is the responsibility of the child's parents and the caregiver, foster parents, guardians, the immediate environment, the community, and society. This indicates that in a home where a child is being raised, every adult male or female regards the child as his or her own. All stakeholders should view the child's best interests regarding safety and moral upbringing as a critical consideration in all areas stemming from this concept.

To secure the safety of children, their role in nation-building and the development of human resources in any nation, all parties involved in the child's care and upbringing must ensure that the child's basic requirements are met. As the child's first family before entering society, the parents should provide for housing, food, medical care, and physical and emotional needs, protect the child from any form of child abuse or molestation, and ensure that the child attends school the extent that their income can support the child's and other family members' needs.

Other institutions, such as schools, courts of law, the National Human Rights Commission, the Legal Aids Scheme, Remand Homes, and Reformatory Schools, are tasked with directly or indirectly caring for and nurturing children. These multiple institutions play one or more roles in actualizing the care, protection, and enforcement of children's rights in any society. As a result, the duty of raising children to be better members of society and so contribute to the quality of

democracy in a country should not be considered just the responsibility of the child's parents; it also falls on the government of that country, who are to be extensively involved in the well-being and quality of life of children, and one of the ways to achieve this is to ensure the children's education.

A child whose well-being has been neglected from childhood, as he or she grew up may constitute a severe threat to society's lives, property, and peace on a national and international scale. A child that performs an extraordinary and progressive act during his or her early years of development is more likely to mature into a productive citizen who contributes to a progressive economy and participatory democracy. Any investment in a child's well-being generates long-term dividends that benefit society's development and value well into any nation's future.

Some parents are either patient or selfless enough to make appropriate sacrifices for their children, which may be due to the family's limited resources. Families must prioritize what has to be done first based on their financial resources under these circumstances. To alleviate the suffering of vulnerable families, such as internally displaced persons and their children, one would expect the government to have a policy of assisting vulnerable persons, such as displaced persons in IDP camps and their children, in addition to providing basic amenities such as health care, good housing, education, electricity, and a reliable water supply.

To accomplish this, the government would set aside money each month to pay stipends to vulnerable families who are not government employees. There should be a systematic mechanism for acquiring information about the vulnerable to avoid corrupt and unethical government officials dividing cash aside for them. To improve the well-being of vulnerable children in society and those living in IDP camps, a democratic country should be able to pass policies that benefit them. This could be one of the criteria for judging whether a country's democratic features are favourable or unfavourable.

Parents in IDP camps lack the financial resources to support and provide for their children's basic social needs, such as medical treatment, education, adequate food, acceptable clothing, and housing, among other necessities. The government's incapacity to offer these amenities for displaced children negatively influences the children's future human resource development and the quality of democracy in Nigeria. Parents in IDP camps lack the information necessary to

make the best decisions for the interest of their children; they lack knowledge and understanding of the link between early childhood experiences and the positive outcomes they will have on their children later in life, resulting in a poverty cycle among the people.

Children have their own legal identities and interests that are distinct from those of their parents, and these legal identities are deserving of protection. States are then compelled to ensure their well-being because their legal rights are acknowledged and equal in the face of any law or policy. This paragraph of the Convention on the Rights of the Child also applies to children in internally displaced person camps. Children in many IDP camps are in poor health and lack many amenities that could contribute to a country's enjoyment of life and improvement of democracy; they are frequently left in the care of surviving poor parents and camp chairmen/coordinators for upbringing, and they rely on sporadic aid from members of the public, concerned individuals, religious groups, and non-governmental organizations.

Raising and caring for displaced children should not be placed entirely in the hands of camp managers and poor surviving parents or relatives. They lack almost all the benefits required for a child's proper growth and development in the IDP camp, which would otherwise have contributed to the betterment of the children's lives in the society they will confront. The general well-being of IDP children is crucial for ethical or moral reasons, economic reasons, and public policy reasons.

Failure of the government to perform a sufficient role in the development of displaced children who are healthy, happy and well-educated will result in a lesser decline in developed human resources. The lack of developed psychological, economic, and technological human resources among displaced children would have a substantial impact on economic growth, a knowledgeable workforce, a lack of resources, physical capital, and, in general, the quality of democracy in any country, including Nigeria.

Internal displacement is becoming a severe problem in Nigeria due to well-planned frequent kidnapping for ransom, attacks on institutions, school children, university students, individuals, passengers embarking on journeys, patients and staff in hospitals and the list of their targeted victims is endless. Homes, villages, and communities are frequently attacked, lives and property are damaged, women and girls are kidnapped, and many of the victims remain in the hands of the

abductors today. Abduction has become a lucrative business for several insurgent groups in Nigeria. This is one of the critical issues leading to the difficulty in getting accurate data on the number of displaced people in the country and exacerbating the situation of IDP children.

Management of IDPs, such as rehabilitation, resettlement, meeting basic social needs and making education available, affordable, and accessible to all stakeholders in charge of the administration and care of IDPs in general, and children in particular, has become a difficult task for all those in charge of the administration and care of IDPs. This is true despite the government's assurances that it has met its goal of providing care for Nigeria's displaced children.

Despite government assurances to the contrary, the challenges of internal displacement have become a global concern, as the plight of internally displaced children remains grave or at an all-time low. Whether officially or privately acknowledged, the predicament of internally displaced children has a tremendously detrimental impact on the quality of democracy and Nigeria's socio-economic and political advancement. To find a lasting solution to the condition of internally displaced children, the numerous parties responsible for their care should carry out their responsibilities. The failures to perform their roles and responsibilities have made IDPs' lives in general, and children in particular, a sorry state.

The global number of displaced children is estimated to be over 19 million, with roughly 1.9<sup>521</sup> million of these children being from Nigeria's northeast region, and this is except for displaced children in other geopolitical zones in the country. With the global outbreak of the COVID-19 pandemic, the plight of internally displaced children in Nigeria has worsened; living in the camp of the displaced, vulnerable children is becoming increasingly dangerous. This is the precarious scenario in which displaced children have found themselves, not just in Nigeria but throughout the world.<sup>522</sup> Children living in congested camps and informal settlements due to the nature of the environment and people, lack access to essential cleanliness, health care, and proper facilities. Because of the nature of the environment and population, no social distancing is

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<sup>521</sup> G. Njoku, Communications Specialist UNICEF, Nigeria, 2019 Report, 'UNICEF Monitoring the situation of Women and Children COVID-19, UNICEF DATA HUL', (2020) <<https://www.unicef.org/nigeria/press-releases/19-million-children-internally-displaced-conflict-and-violence-2019-highest-number>> accessed 2 August 2021

<sup>522</sup> *Ibid*

possible, and as a result, people's lives in general without restriction, and children's lives in particular, are exposed to COVID-19-related health hazards. In this COVID-19 pandemic age, this is one of the primary difficulties in Nigeria's IDP camps, offering a significant barrier to the ability to control the spread of infectious diseases.

The Northeast Region of Nigeria has a long history of anti-education sentiment and has been impacted the hardest. The relentless barrage of kidnappings and assaults on schools has made children, parents, caregivers, and everyone else terrified of the unknown. More than 600 teachers have been killed, over 19,000 people have been evacuated, and 1200 schools have been destroyed, according to reports. Nearly 3 million conflict-affected children are in desperate need of education and humanitarian support such as food, shelter, health care, and protection; however, this is only in the short term until long-term government assistance is available.<sup>523</sup>

The government's inability to offer the resources for displaced people to follow the World Health Organization's (WHO) COVID-19 guidelines has made life in the camps tough). They lack electricity, a congenial atmosphere, enough housing, and potable water, and the government's actions or inaction have harmed the quality of democracy in Nigeria. Internally Displaced Children face several insecurity difficulties, women and girls face numerous sexual cases of abuse and rape daily, and youths engage in hard drugs, smoking, and other illegal activities.<sup>524</sup> They have been traumatized; they have also suffered from starvation, sexually transmitted diseases because of unprotected sex, and a lack of adequate health services. Due to their travel conditions and the government's inadequate provision of school facilities for the children, they lack inexpensive, available, and accessible education in the camp, resulting in a lack of clear guidance for the IDPs.

The major role of the government is to care for, provide for, and protect IDPs, especially children, who are the most vulnerable population. The government's inability to address the plights of children has had far-reaching effects on Nigeria's educational growth. Lack of prompt

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<sup>523</sup>United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 'Humanitarian Response Plan' <https://www.unocha.org/nigeria> (OCHA 2016)

<sup>524</sup>G.W. Akuto (PhD), 'Challenges of Internally Displaced Persons (IDPs) in Nigeria: Implications for Counselling and the Role of KeyStakeholders' (2017) *IJIPSD-J-4* <https://seahipaj.org/journals-ci/june-2017/ijipsd-j-4> accessed 6 October 2021



intervention, a lack of solid institutions rooted in the value of good governance, a lack of social welfare and functional institutions to produce policies for nation-building and true dividends of democratic governance for the people, and a lack of promotion of peace, reconciliation, and respect for human rights, as well as protection of the rights of internally displaced persons.

### **2.21.1 Rights of the Internally Displaced Persons (IDPs) Participation in Election**

According to Sections 77(2) and 117(2) of the Nigerian Constitution, all Nigerians over 18 have the right to register and vote in any electoral process. Section 78 of the 1999 Constitution and other portions of the Electoral Act 2010 (as amended) empower the Independent National Electoral Commission (INEC) to monitor and control voter registration and election process determination. This right is addressed prominently in the Guiding Principles on Internal Displacement and other international human rights instruments, a globally recognized framework that articulates IDP rights and assurances, as well as well-established international human rights standards. The right of internally Displaced Persons (IDPs) to participate in political activities is supported by a large body of international human rights law. The right to political action is founded on the concept of universal and equal suffrage, which includes the ability to vote in elections and be elected.<sup>525</sup>

Everyone has the right to participate in his country's government, including the right to freely choose government representatives and equal access to public services and the people will serve as the foundation of the government's power.<sup>526</sup> This will be proved through indisputable elections with universal suffrage, and secret ballots performed regularly. Internally Displaced Persons have the same rights as other citizens, including the right to participate in government and public affairs, which should not be denied. Individuals who have been internally displaced benefit from the notion of universal and equal suffrage, which ensures that everyone with the right to vote can exercise it without prejudice. As a result, the INEC ensures that all registered voters, including IDPs, exercise their right to vote and participate in the electoral process.

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<sup>525</sup> Universal Declaration of Human Rights; (G.A. res. 217A (III), U.N. doc. A/810 at 71 1948) and see also Article 25 of the International Covenant on Civil and Political Rights; (G.A. res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1967), entered into force Mar. 23, 1976

<sup>526</sup>Article 21 of the 1948 Universal Declaration of Human Rights,

Governments are responsible for ensuring that internally displaced people (IDPs) can fully and unconditionally exercise their political rights. These obligations apply both during a displacement situation and after IDPs are repatriated or resettled. The ability of internally displaced persons to exercise their right to equitable political engagement is unquestionably a vital component of their reintegration. As a result, IDPs' political participation rights must be safeguarded through substantive, procedural, and institutional regulatory features in national legislation and practice.<sup>527</sup>

Through the democratic process, a significant and larger portion of society is included in the political and constitutional community. This usually is accomplished through the exercise of the franchise, which grants eligible electorates the right to vote. However, for IDPs, participating in the voting process has been a herculean task due to being relocated from their home, address, and local government regions.

### **2.21.2 Obstacles Militating against Internally Displaced Persons (IDPs) Participation in Election**

IDPs face numerous challenges when exercising their franchise, such as residence requirements, voters' cards, registration venues, wards at local government areas of locations, polling units, constituency, and documentation, and these requirements by INEC are frequently tied to where people live. Their cards must have been lost while fleeing from their homes for the safety of their lives; the problem of insecurity, the IDPs are now located in areas frequently affected by insurgencies, the IDPs lack access to information on the need to access electoral services in order to participate in the electoral process, and there is difficulty with the actual number of internally displaced people in Nigeria's numerous camps.

As a result of the foregoing obstacles experienced by internally displaced persons that impede their participation in the electoral process, the INEC undertook a technical brainstorming on the IDP's situation as part of a grant from the Ford Foundation on how to overcome the challenges described above. The technical debate determined that INEC should ensure that internally displaced persons are not disenfranchised in elections. Follow the spirit of S. 78 of the

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<sup>527</sup> J. Grace, and E. Moyne, 'Democracy and the Displaced: Political Participation Rights, in particular, the Right to Vote and to Be Elected' (2007) 1

Constitution, create laws to preserve IDPs' voting rights, and update legislation to include residents in internally displaced person camps and other distress places in the scheme of things.<sup>528</sup>

Universal suffrage, or the right of all mature individuals to vote in an election, includes IDPs and extends to all internally displaced people eligible to vote in an election. Individuals who meet the electoral qualifications for the right to vote and the right to be elected are not to be handicapped or restricted by displacement. These rights apply to all citizens, regardless of race, nationality, or geographical region. Special safeguards are in place to ensure that historically marginalized groups, such as women, ethnic groups, minorities, and indigenous peoples, who frequently have a disproportionate number of internally displaced people, have access to this right.

Internally displaced persons are not precluded from exercising their right to political participation because of the difficulties they face. Indeed, many normative announcements expressly state that the right to political participation is still applicable in circumstances of internal displacement. To summarize, all internally displaced persons who are otherwise qualified to vote and run for office retain their rights after displacement and their exclusion from the system impacts the quality of democracy in Nigeria.

Internally displaced persons have an absolute right to participate in political activities, but they face challenges in implementing the Guiding Principle of IDPs' right to vote. As a result of these barriers, IDPs are denied their right to participate; they are excluded from their community's political life and public transactions, as well as those of society and the country. The exclusions of the IDPs from political life and public events in their community have the tendency to harm a country's democratic characteristics.

The difficulties of residency restrictions, which are linked to an elector's place of residence, are hurdles to applying the Guiding Principle. The second hurdle is a lack of documentation; it is difficult for IDPs to obtain personal documents since they are lost, destroyed, confiscated, or left

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<sup>528</sup>O. Ibeanu, 'Between Refuge and Rights: Internally Displaced Persons and Inclusive Electoral Process in Nigeria' Lecture delivered at The Electoral Institute (TEI) Independent National Electoral Commission (INEC) Abuja, Nigeria, (15th December 2015) 23

behind while fleeing for safety. There is also the possibility of prejudice against IDPs because of their displacement due to their ethnic, religious, or minority status. Some components of election procedures are affected by discrimination, such as access to information, language, harassment, and intimidation at polling places. The fear of insecurity and intimidation in the situation of a displaced person is produced by communal tensions and conflict, as a result, IDPs risk physical threats and intimidation when exercising their right to vote and running for office, and acquiring replacement documents is difficult.

The ability to access polling stations in disaster-affected areas is another barrier to IDPs' political participation and public affairs in their community. Finally, a lack of knowledge and openness is a concern that prevents IDPs from participating in elections; this is because information and transparency are required for a free and fair election. Elections are vitally essential to IDPs because they are the means and mechanism through which people, express their choices for whom they want to govern them.

Non-participation of IDPs in the electoral process will result in the loss or reduction of many voices and votes; IDPs' rights to vote and participate in political activities will be violated because they cannot choose who will govern them. This implies partial political suffrage, rights to democratic practice and procedure, and, as a result, prejudice in the minds of IDPs, significantly if their rights are not immediately restored to allow them to participate.

Citizenship implies civic responsibility, and voting is a necessary component of democracy. When IDPs are denied the right to vote, their voices will be drowned out by those of others, as voting is a fundamental right in a democratic society. When people or internally displaced persons (IDPs) are denied the opportunity to vote, their voices and authority are removed. This denying action has an impact on the democratic qualities of a country. Every vote count when it comes to elections, especially when the results are close; a single person's voice or vote can make or break the outcome.

Denying IDPs the right to participate in political concerns will negatively influence democracy's quality since it will limit people's ability to participate directly in their governance. This could lead to exploitation, as the wrong person could be elected because one's inability to vote. When IDPs are denied political participation, it implies and promotes inequality in government

systems, when few individuals identify with the government; it leads to a lack of patriotism and harms the democratic quality of a country.

## 2.22 The Problem of Internal Displacement in Nigeria

The Problem of Internal Displacement in Nigeria is frightful; while the predicament of the internally displaced persons is a huge problem, internal displacement can be caused by natural disasters (famine, flood, and drought), conflict (war and ethnic violence), violation of human rights and development induced displacement.

The issue of internally displaced persons is not a recent phenomenon, but since 2014, it has become exacerbated due to the infiltrations of Boko-Haram, in the North-East part of the country, taking over the six states of the geopolitical zones of the northern-east part of the country. The causes have become multifarious and complex and increases daily, due to the activities of bandits, kidnapping, other non-state armed groups, cattle rustling crime, land disputes, tensions among pastoralists and farmers, armed violence, ancient violence among Fulani herdsmen and farmers have all triggered the number of displacements in the North-East part of the country, Nigeria.<sup>529</sup>

In the last 60 years of independence, the enormous maximum recorded figures of causes of internal displacement then were provoked by a violent conflict which is traced in retrospect to the Civil War popularly referred to as the Biafran War between 1967-1970, and this Civil War lasted for about 30 months.<sup>530</sup> Due to conflicting data and figure it was difficult to ascertain the actual number of displaced persons. Several sources estimated that there were about 2 million people internally displaced persons that required humanitarian needs and assistance within and across the border.<sup>531</sup>

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<sup>529</sup> Internal Displacement Monitoring Committee, available at <https://reliefweb.int/report/nigeria/nigerias-displacement-dilemma> accessed 26 September 2021

<sup>530</sup> F.K Mohammed, 'The Causes and Consequences of Internal Displacement in Nigeria and Related Governance Challenges' Working Paper FG 8 April 2017 SWP Berlin, 9

<sup>531</sup> K.M. Greenhill, 'Weapons of Mass Migration: Forced Displacement, Coercion, and Foreign Policy' (University Press, 2010); see also 'The State of the World's Refugees, Decolonization in Africa' (UNHCR, 2000); H Travis, *Genocide, Ethno Nationalism, and the United Nations Exploring the Causes of Mass Killing Since 1945* (Routledge, 2013); K.C. Nwoko, 'Counting the Cost: The Politics of Relief Operations in the Nigerian Civil War, A Critical Appraisal, African Study Monographs' (2016)

Records had it that over one million displaced people were transported from the north to the south during September and October 1966.<sup>532</sup> According to another source on the International Community's Intervention in Biafra, the International Committee of Red Cross (ICRC) had 400 cars, various ships, and aircraft, delivering almost three million meals every week in Biafra."<sup>533</sup> In 1969, the International Committee of the Red Cross offered food and medical supply gifts to 850,000 persons, many of whom were displaced children, in its International Review.<sup>534</sup>

In 1989, the Nigeria government protected Librarian refugees who were stranded at the shores of Lagos and went ahead to enact Decree No. 53, which led to the setting up of the National Commission for Refugees (NCFR) in Nigeria.<sup>535</sup> In 1993 the NCFR registered a total of 9000 refugees from the Democratic Republic of the Congo, Chad, Republic of Sudan, Republic of Cameroon and Sri Lanka. From 1996-1998 the government of Nigeria, Liberia, Sierra Leon, and UNHCR entered a tripartite agreement that led to the voluntary repatriation of the refugees back to their countries. In 2007, a multipartite agreement was signed by the Nigeria government, Liberia and Sierra Leone, the Economic Community of West African States (ECOWAS) and UNHCR for the local integration of the remaining Librarian and Sierra Leonean refugees in Nigeria.<sup>536</sup>

Following Decree No. 6 of 1976, in 1991, the Nigerian government's headquarters were relocated from Lagos to Abuja. The Federal Capital Territory was formed by caving out from the existing states of Niger, Kogi, and Nasarawa. This resulted in the indigenous *Gbagis* losing land and means of subsistence due to the expansion and development of the headquarters projects. Although the exact number of indigenous people that were displaced from the Federal Capital Territory (FCT) was not available, about 300,000 indigenous people from 600 communities in

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<sup>532</sup> K.E. Orji, and S.N. Uebari, 'Nigerian Civil War and Refugee Crisis: The Fate of the Minorities in the Former Eastern Region' (2013) 16 IOSR- JHSS 2, 45-57 <https://www.iosrjournals.org/iosr-jhss/papers/Vol16-issue2/F01624557.pdf> accessed 26 September 2021

<sup>533</sup> H. Nathaniel, 'Humanitarian issues in the Biafra Conflict' (Goetz, 2001)

<sup>534</sup> International Review of the Red Cross, No. 94, 1969, accessed.

<sup>535</sup> F.K. Mohammed 'The Causes and Consequences of Internal Displacement in Nigeria and Related Governance Challenges' (Working Paper FG 8 April 2017) SWP Berlin, 9

<sup>536</sup> *Ibid*

Abuja were identified for relocation within the FCT.<sup>537</sup> As a result, many settlements, towns arose, including *Apo, Wasa, Dei-Dei, Kubwa, Galuwyi, Shere* and others. These resettled native people face a variety of challenges and disagreements in some situations, which lead to the governments taking some harsh action.<sup>538</sup> Some of these communities as at today are still suffering from the effect of that displacement, as they currently lack adequate basic social facilities, such as means of subsistence, water supply, adequate health care, primary and secondary schools, and others and calling for government's attention for provision of these social and basic amenities.

In the 1990s, there were primarily inter-communal and inter-ethnic confrontations in Plateau, Benue, Taraba, and Nasarawa over land boundary disputes between indigenes and settlers,<sup>539</sup> which resulted in massive population displacement. In 2002, religious violence lasted four days and resulted in the displacement of over 30,000 people, including children. Other ethnic incidents that occurred in 2008 included the disputed Plateau State elections, as well as tensions between the indigenous Christian minority and settlers from the Hausa-speaking Muslim north.<sup>540</sup>

It was reported that between 2003 and 2008, the National Commission for Refugees estimated that at least 3.2 million people were displaced owing to ethnic and religious violence, both from and inside the country's several million people states.<sup>541</sup>

Following several years of disagreement and intervention from the International Court of Justice (ICJ) in October 2002, Nigeria surrendered the Bakassi Peninsula to her neighbour, the Republic of Cameroon, in August 2008; this resulted in an estimated 400,000-755,000 people who were forced to cross the border to Cross Rivers and Akwa-Ibom States in the Niger Delta region.

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<sup>537</sup>I.T. Sylvester, 'A Post-Resettlement Appraisal of the Socio-Economic Conditions of *Gbagi* People in *Kubwa*, Federal Capital Territory (FCT) Abuja, Nigeria' (July 2014)

<sup>538</sup>*Ibid*

<sup>539</sup>A. Samson, *et al* 'A Historical Analysis of Violence and Internal Population Displacement In Nigeria's Fourth Republic, 1999-2011' (2015)

<sup>540</sup>*Ibid*

<sup>541</sup>B.U. Mberu, R. Pongou, 'Nigeria: Multiple Forms of Mobility in Africa's Demographic Giant' (June 2010)

Many families were poor after their lands were taken away from them, and many became homeless after being cut off from their sources of income for many years.<sup>542</sup>

Thousands of people have been displaced in the south-south Niger Delta region due to environmental degradation and natural disasters such as flooding, erosion, oil leakage, and construction projects.<sup>543</sup> Floods occurred in some parts of the country and harmed approximately 5,000 vulnerable families in 2010. In 2012, Nigeria faced its worst floods in 40 years, affecting over 7 million people across 33 states<sup>544</sup> and it was also reported that 363 people died as a result of flooding.<sup>545</sup>

According to NEMA, over 350,000 people were displaced during 2010 and 2011 due to natural disasters, communal and ethnic religious confrontations, and electoral violence; with about 80 internally displaced person settlements registered in 26 states across six geographical locations zones. There were communal disagreements between neighboring towns, and riots stemming from electoral violence forced more than 65,000 people to evacuate their homes for safety between April 2011 and January 2012. The clashes between the local farmers and nomadic herdsman in parts of the country usually occur predominantly in areas where there are large areas of farming lands that have been eaten up and taken over as grazing routes by pastoralists resulting in conflicts and violence between communities. At a different time, clashes occurred between nomadic Fulani and ethnic *Tivs* in Edo and Benue States, which led to the displacements of about 15,000 from March 2012.<sup>546</sup>

According to reports from the National Baseline on Youth Survey in 2012, there is an increase in youth migration within the country in search of a means of livelihood, and gainful employment, primarily in response to unequal distribution of resource prospects and opportunities to escape

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<sup>542</sup>F.K. Mohammed, 'The Causes and Consequences of Internal Displacement in Nigeria and Related Governance Challenges' (Working Paper FG SWP Berlin 2017), p. 10

<sup>543</sup>United Nations Environment Programme (UNEP) Nairobi, Kenya: Report on Environmental Assessment of *Ogoni* Land, Niger Delta Region, Nigeria (2011)

<sup>544</sup>NRCS 2013 Annual Report

<sup>545</sup>The National Emergency Management Agency (NEMA) Reports (2012)

<sup>546</sup>*Ibid*



violence, natural disasters, and the effects of climate change.<sup>547</sup> According to the research, 48.5 per cent of Nigerian youths migrated for family reasons, 22.9 per cent moved for work possibilities, 2.6 moved due to conflicts and disturbances, and 9.2 moved for education. However, the situation has shifted.<sup>548</sup> These official figures did not include other displaced persons who went living with family relations or friends or took to other means of relocating and resettling themselves.

In 2015, the Nigerian government hosted 828 refugees and 1325 asylum seekers, according to the Refugee Status Determination (RSD) Unit of the Department of Refugee and Migrant Affairs. From August to September, 187 refugees and asylum seekers were registered in November 2016. The Nigeria situation reports were 4542, and the migrants' places of origin included the Central African Republic, the Democratic Republic of the Congo, and Nigeria. Ghana, Guinea, Ivory Coast, Lebanon, Mali, Palestine, Syria, Sudan, and Togo are among the countries involved.<sup>549</sup> Between 2015 and 2016, the Nigerian government hosted a total of 828 refugees and 1325 asylum seekers, according to the Refugee Status Determination (RSD) the Nigeria situation reports were 4542.<sup>550</sup>

This was the state of internal displacement in Nigeria from 2009 to early 2020, when the Boko Haram insurgency invaded the northeast part of the country, launching a wave of violent attacks that left at least two million people internally displaced inside and around the country's borders of neighbouring countries.<sup>551</sup>

Boko Haram emerged from a tiny group of extremists challenging Nigerian authorities in the early 2000s but failed and reappeared under the leadership of *Yesufu Mohammed* following his return from self-imposed exile in Saudi Arabia.<sup>552</sup> The Boko Haram sect's drive became openly

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<sup>547</sup> National Baseline Youth Survey, 'National Bureau of Statistics in Collaboration with Federal Ministry of Youth Development' (2012)

<sup>548</sup> *Ibid*

<sup>549</sup> International Organization for Migration (IOM) Nigeria Situation Report 2016; The National Commission for Refugees, Migrants, and Internally Displaced Persons (NCFRMI)

<sup>550</sup> *Ibid*

<sup>551</sup> *Ibid*

<sup>552</sup> Pérouse de Montclos and others 'Boko Haram: Islamism, Politics, Security and the State in Nigeria' (African Studies Centre (ASC) Institut Français de Recherche en Afrique (IFRA), West African Politics and Society Series, 2014)2

violent, embracing and employing terrorist techniques as well as targeted killings, suicide bombings, hostage grabbing, and outright attacks on local communities and villages in the region's rural areas.<sup>553</sup> Today, the attacks have extended to the urban cities, and the situation has resulted in millions of people being internally displaced.

Over a decade, the lives of the people in the country, particularly the northeast part, have not been relatively peaceful, without one form of violent attack, kidnapping, killing, invasion of homes in their sleep, killing people, rapping of women and young girls, kidnapping them, burning, and destruction of lives and properties daily. Daily displacement is caused by the Boko Haram sect, mysterious gunmen, bandits, and Fulani herdsmen. The recent wave of displacement in Nigeria, as well as the challenges it poses, have attracted the attention of the international community, with potentially fatal implications. It is sad that when displacement occurs, men, children, and women are not affected similarly. Women and children are among the vulnerable groups and suffer the most because of the crises,<sup>554</sup> with children suffering the most as a result of losing their parents, witnessing people being killed in there, experiencing pain, torture, and fear all over again, and the psychological and physical trauma they would endure.

In October 2016, the International Organization for Migration (IOM), in collaboration with the National Emergency Management Agency (NEMA), estimated the number of internally displaced persons in Nigeria through 13 states to be 2,155,618 in "Round 12" of the Displacement Tracking Matrix, while "Round 13" is estimated to be 1, 770,443 in the countries northeast alone.<sup>555</sup>

For three years, the number of internally displaced persons has more than doubled, from 868,000 in the north-eastern districts specified by the Nigerian government at the end of 2014 to 1.7 million by June 2017.<sup>556</sup> According to IOM data, most internally displaced people are

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<sup>553</sup>*Ibid*

<sup>554</sup> D. Skujyte, 'Rights of African Child under the African Charter on the Rights and Welfare of the Child: The Addition to the Universal Protection of a Child' University of Tilburg Master International and European Public Law Accent on Human Rights Law' (2011)

<sup>555</sup> International Organization for Migration (IOM) 'Nigeria Situation Report' (2016)

<sup>556</sup> Report by the International Organization for Migration (IOM), 'Nigeria Situation' (2017) <https://dm.iom.int/reports/nigeria-%E2%80%94-displacement-report-20-december-2017>>accessed 6 October 2021

concentrated in three main regions: Borno (79%), Adamawa (8%), and Yobe (6%). Sixty-three per cent of the displaced reside with host communities, while 37% live in camp-like displacement situations.

Internal displacement is a severe issue in Nigeria since the country faces multiple security challenges and natural calamities, and displacement is increasing daily. In 2018, Nigeria had 2.2 million<sup>557</sup> internally displaced people, with the primary causes of displacement being insurgent activities, a series of abductions, destruction of lives and property by unknown gunmen, bandit and Fulani herdsmen activities in the northeast, massive flooding, and inter-communal conflicts.

Reports for 2019 revealed that Boko Haram and other insurgence groups displaced about 2.4 million Nigerians living in the Lake Chad Basin of the Northern part of the country. Nigeria has the largest number of internally displaced persons (IDPs) in Africa.<sup>558</sup>

According to statistics from the end of December 2020, the number of internally displaced persons in the country's northeast<sup>559</sup> was not less than 2.9 million. In August 2021, Nigeria's data on internally displaced persons revealed a total of 2,887,107, omitting the country's accommodation of 71,380 refugees and 1,813 asylum seekers.<sup>560</sup> In the southern part of the country, there is the report of communal violence, the cases of flooding leading to the displacement of hundreds of thousands every year during the raining season. In 2020, violence and conflict resulted in the displacement of about 169 000.00 new cases of displacement and about 2.7 million people living in displacement at the end of the year 2020, an additional increase from 2019. The problem of flood triggered about 279,000 as part of the new

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<sup>557</sup> The Internal Displacement Monitoring Centre (IDMC) Report (2 December 2019) <https://reliefweb.int/report/world/2019-africa-report-internal-displacement> accessed 06 October, 2021

<sup>558</sup> V. Simona, 'Number of Internally Displaced Persons (IDPs) in Nigeria' 2013-2020, Published May 19, 2021, <https://www.statista.com/statistics/1237374/number-of-internally-displaced-persons-in-nigeria/> Accessed 26 September 2021

<sup>559</sup> Nigeria Emergency, UNHCR; <https://www.statista.com/statistics/1237374/number-of-internally-displaced-persons-in-nigeria/> accessed 6 October 2021

<sup>560</sup> Operational Data Portal, <https://data.2.unhcr.org/en/country/nga>06> accessed 6 October 2021

displacements recorded, many of which resulted in the second movement of the IDPs who were initially displaced by violence in the North-East part of Nigeria.<sup>561</sup>

The problem of internal displacement of persons has continued to aggravate daily, and it is a major challenge coupled with the state of insecurity in Nigeria. According to the report, the daily number of displacement of persons that occurred in the North-east part of Nigeria between March 29th to September 12, 2021, when added is about 330 339 persons that were displaced within this short period, possibly not all involved in the internal displacement was captured in this figure.

Children are given birth daily in the various IDP camps in Nigeria, and these additional children are quite different from the number of children already on the ground. According to IOM reports, over 17,050 babies have been given birth to internally displaced persons in 18 locations in Borno State camps since 2019. This figure is from just one state out of the 36 states in the country; according to the UN agency, this number is a representation of the records of babies who have been registered between 2019 to May 2021.<sup>562</sup> About 1000 children in IDP camps in Abuja were issued Certificates of Birth, most of these children were born before they came to live in the IDPs, and this camp has records of 185 live births that have not been registered.<sup>563</sup> Over 1,500 displaced Children received a birth certificate in Abuja.<sup>564</sup> These goes to buttress how enormous the problem of internally displaced persons in Nigeria.

Some of these children who earlier had the certificate of birth must have lost theirs in the cause of violence and conflicts that made them flee their homes. This Certificate of Birth is vital to internally displaced children; the certificate will give them a state of identity and nationality; they would be able to exercise their rights to education, social needs such as health care, own a

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<sup>561</sup> Nigeria Internal Displacement Monitoring Centre (IDMC) <<https://www.internal-displacement.org/countries/nigeria/>> accessed 26 September 2021

<sup>562</sup> Over 17,000 Babies Born in 18 Borno IDP Camps in Two Years – International Organization for Migration (IOM) Daily Trust, <https://dailytrust.com/over-17000-babies-born-in-18-borno-idp-camps-in-two-years-iom/> accessed 9 September 2021

<sup>563</sup> 'About 1000 Children in IDPs camps in Abuja issued Certificate of Birth' *The TVC News* (Nigeria, 9 August 2021) <<https://www.youtube.com/watch>> accessed 9 October 2021

<sup>564</sup> Gabriel Adeyemo 'Over 1,500 displaced Children received a birth certificate in Nigeria in Abuja' (31 August 2021), <https://www.unhcr.org/africa/news/stories/over-1-500-displaced-children-receive-birth-certificates-nigeria> accessed 9 October 2021

business of their own in future and be able to vie for electoral position to represent their people and participate in a democratically elected government and thereby improving the quality of democracy in a country such as Nigeria. A child that is not registered at birth or subsequently, the child is lost without a name and would be deprived of the benefits of states and nationality, and the child will live a life of statelessness. It is in the bid to prevent a state of statelessness in Nigeria in fulfillment of the national action plan and high level of stateless held in Geneva 2019, where Nigeria pledged to scale up the issuance of a certificate of birth to prevent stateless in Nigeria and in order to achieve this the Federal Executive Council adopted an action plan to prevent a child with statelessness in Nigeria by the issuance certificate of birth.<sup>565</sup>

Against this backdrop, this thesis analyses the social and educational rights of internally displaced children, their link to other rights and the quality of democracy in Nigeria. It assessed the effects of displacement on the educational and social rights of internally displaced children, as well as the enjoyment of other rights and investigated the gap in the quality of education available and accessible to internally displaced children, along with the provisions in international conventions on the rights of the child and national laws.

## **2.23 Conclusion**

The chapter reviewed the work of other authors on internally displaced persons, causes of internal displacement of persons in Nigeria and how it has caused millions of children to be faced by multifaceted acts of violence, ranging from activities of Boko Haram, bandits' kidnappers, and others such as natural disasters. These children are currently scattered into various internally displaced person camps; some are being used as domestic house helps, street hawkers, shop attendants and farm workers in different parts of the urban and rural areas across the country. Major challenges these displaced children face are a lack of social amenities such as health care facilities and access to education. National governments have the primary responsibility for the protection and aid of IDPs. States have a responsibility to protect individuals in their territory from arbitrary displacement, to protect and help those who have

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<sup>565</sup>*Ibid*

been displaced, and to support and facilitate voluntary, safe, and dignified displacement alternatives.<sup>566</sup>

The assessment of the meaning of human rights shows that by man's creation, man has rights common to all human beings, including children, protected by different international instruments and various state laws. In Nigeria, these rights are fundamental and are stated in Chapter IV of the Constitution. The recognition, respect, performance, and protection of these human rights in any society are the foundation of civilization in any society; likewise, the collapse of the same society is hinged on the non-performance and protection of these rights.

Because many conflicts last long, access to schooling for internally displaced children should be a top priority so they do not miss out on essential components of their development. As a result, providing social amenities and educational facilities for internally displaced children is critical to their long-term success. It is the only thing that can give people hope, and a future, transform their circumstances and prepare them to lead any nation's social, political, and economic progress that would positively impact the quality of democracy in a country.

Internal displacement is a problem in Nigeria which calls for solutions to solve the problems. When displacement occurs, the most vulnerable, particularly the children who may have lost their parents, suffer the most, and in addition, their education is completely disrupted. Many authors have written generally about the displaced persons without reference to the vulnerable children's right to education and advocating for making education available and reachable for them to be educated. Hence, it is crucial that the displaced children have access to education to improve their quality of life and enjoy other human rights. When the children are not educated, it will lead to exploitation of the children, violation of the child's rights, leads to a cycle of poverty and negatively affect the quality of democracy in a country.

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<sup>566</sup> U.N. Office of the Special Representative of the Secretary-General for Children and Armed Conflict, Working Paper No.2: *The Rights and Guarantees of Internally Displaced Children in Armed Conflict*, 11-12 (2010)

**CHAPTER THREE**

**AN EXAMINATION OF THE LEGAL AND INSTITUTIONAL  
FRAMEWORK FOR THE PROTECTION OF INTERNALLY  
DISPLACED PERSONS, THE LEGAL FRAMEWORK OF THE  
CHILD’S RIGHT TO BASIC EDUCATION IN NIGERIA, AND  
CONCEPTUAL FRAMEWORK**

**3.1 Introduction**

The legal and institutional framework is a broad component that includes the obligations of the government, private or personal enterprises, supporting jurisdictions, judicial systems, government organizations, and regulatory agencies. In conjunction with a legal and institutional framework, the governmental and operational administration manages circumstances such as internally displaced persons. A legal and institutional framework contains laws, conventions, guiding principles, and valuable information and regulations for policymakers to be aware of, to build, and strengthen their legal and institutional capability, and other matters connected to it. A legal framework may be relevant and applicable on an international, regional, and national scale, and it could be a combination of these several levels. Often, nations improved the capacity of their national legal-making system to allow for the incorporation of any reference to international and regional law.

To ensure that human rights are respected, all state agents must follow human rights law and refrain from engaging in any behaviour that may block or hinder the enjoyment of rights. When their lives are threatened or in danger, IDPs, for example, must be allowed to move freely in and out of camps and flee to safer settlements. The state is responsible for taking all necessary steps to prevent and stop any violation of rights, including those of other individuals and groups. The state is expected to investigate, prosecute, and punish such rights violations and compensate victims in accordance with the applicable laws. The third duty to fulfill human rights comprises the state providing and implementing a legislative and administrative framework to ensure that human rights are respected, as well as creating and assembling national capacity to assist in the execution of requests. States were also required to take all necessary steps to ensure that individuals subject to their jurisdiction can exercise their rights, such as the right to a fair trial and hearing. There should be an effective judicial system, freedom from torture, police and

prison personnel is adequately trained and the government invests adequate resources in human rights fulfillment regularly.

This chapter examined the legal and institutional framework for internally displaced persons and the legal status of a child's right to education. The study of the necessary legal, institutional framework is divided into international, regional/sub-regional, national, and state/local government levels are discussed below.

### **3.2 International Law and Internally Displaced Persons**

International law is the body of law that controls the conduct and interactions of states. International law is based on two basic sources: international treaties and customary law. International treaties are agreements between states. A treaty is legally binding on all states that have consented to be bound by it, whether through ratification or accession. A treaty could also be identified as a covenant, convention, charter, or protocol. Customary international law, often known as custom, is the consequence of a general and consistent practice by states that are motivated by a sense of legal obligation. It is binding on all states unless a state has consistently objected to the practice.<sup>567</sup>

In addition, international law incorporates peremptory norms (*jus cogens*), which are established and recognized by states as norms from which no deviation is ever authorized. These include, for example, the prohibitions on genocide, slavery, and racial discrimination. When accepted under Chapter VII of the UN Charter, UN Security Council resolutions become legally enforceable on states. Non-binding resolutions and declarations of states, such as those issued by the UN General Assembly and the UN Human Rights Council, can serve as important normative pronouncements, and even suggest evolving international custom.<sup>568</sup>

International law establishes every individual's right as well as the responsibility of states and other authorities to assure their protection, and it is vital for conducting protection operations at the national and international levels. International law offers objective criteria for assessing human rights and identifying obstacles to exercising them within domestic legal systems and dispute-resolution mechanisms. Clarify the national authorities' responsibilities and the steps that must be taken to fulfil that responsibility.

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<sup>567</sup> 'Handbook for the Protection of Internally Displaced Persons', pg15  
<<https://www.unhcr.org/sites/default/files/legacy-pdf/47949f342.pdf>> accessed 19 April 2024

<sup>568</sup> Supra



Develop a solid operational response to humanitarian emergencies, employing rights, and community-based techniques that increase persons' ability to protect themselves; Establish a foundation for advocacy, awareness-raising, training, capacity-building, and other related activities; Direct our activities, actions, and contacts with populations of concern.

National law, which serves as a legal framework for protective actions, should include the state's international legal obligations. It is critical to respect the rights of internally displaced people as well as the legal obligations of governments and other authorities under international law when working within a domestic legal framework.

No collective legally binding implements comparable to the 1951 Refugee Convention specifically address the problem of internally displaced persons. However, internally displaced persons are protected by international humanitarian and domestic law in armed conflict and widespread violence.

The principles reiterate that the national government has the primary responsibility to ensure that IDPs' basic rights to food, water, shelter, dignity, and safety are met in addition to expediting their access to all other rights. They have the right to request and receive protection and humanitarian assistance from these authorities and they shall be no punishment for making such a request.<sup>569</sup>The African Union ratified the Kampala Convention on Internally Displaced Persons (IDP)<sup>570</sup> as a regional mechanism in 2009. This was a significant step forward, in assisting and protecting IDPs in any of the continent's most affected by displacement.

The international community is quite supportive of IDP, and many states have included them in their national legislation. Several policies outlined in the Guiding Principles are based on international humanitarian law. For example, the principle stated unequivocally that states must assist displaced individuals with lasting return; resettlement and reintegration solutions and those

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<sup>569</sup>Principle 3 paragraphs (1) and (2), Guiding Principles on Internal Displacement, 30-09-1998 Article, International Review of the Red Cross, No. 324

<sup>570</sup>African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), adopted by the Special Summit of the Union, held in Kampala on 22 October 2009.

IDP should be involved in conversations, planning, and organizing matters affecting their concerns.<sup>571</sup>

International humanitarian Law (IHL) seeks to limit the consequences of armed conflict and to protect those who are not or no longer participating in the fighting. IHL violations, such as attacks and maltreatment of civilians, damage of life and property, sexual abuse, and restrictions on access to health care and other necessary services, are, among others.

When there is displacement, the people in the community struggle and find it challenging to meet critical parts or requirements of their needs amid the heightened sufferings, and they are likely to face threats and uncertainties and become vulnerable. There would be significant conflict between the displaced people and the host communities, such as settlements in unsafe and uncondusive locations and forced returns to unsafe areas.

International Humanitarian Law (IHL) contains significant provisions to prevent people from being displaced and the hardships that they would face, as well as to protect people who have been forced to flee because of human causes such as conflicts and violent attacks, as well as natural disasters such as floods, in the affected communities or areas.

### **3.2.1 The Geneva Conventions, 1949 and their Additional Protocols 1-2 of 1977**

The Geneva Conventions are ruling that apply exclusively during times of armed conflict and aim to protect those who are not or are no longer involved in warfare. International Humanitarian Law includes several provisions relating to preventing displacement and protecting internally displaced persons (IDPs). Most of these protections are found in Geneva Convention IV (GC IV), Additional Protocols I and II (AP I and APII), and customary international law. It is the state's responsibility to incorporate these safeguards into its domestic legal system.

The Geneva Conventions are a set of international conventions signed in Geneva between 1864 and 1949 to reduce the impact of war on troops and civilians. It includes restrictions that only

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<sup>571</sup>Principle 30, Guiding Principles on Internal Displacement, 30-09-1998 Article, International Review of the Red Cross, No. 324

apply during times of armed conflict and strive to protect persons who are not or are no longer involved in the battle. In 1977, two additional protocols to the 1949 agreement were ratified. The development of the Geneva Conventions was inextricably linked with the Red Cross. The following provisions should be considered by states when enacting national legislation.

#### **Prohibition of displacement and the right to voluntary return**

This provision allows IDPs to return to their origin after security concerns in the affected area have been alleviated. GC IV Articles 49 and 147, AP I Articles 51(7), 78(1), and 85(4)(a), AP II Articles 4(3)(e), and 17, International Customary Humanitarian Law (ICHL) Rules 129 and 132.

#### **Non-discrimination**

IDPs have unique vulnerabilities because of their current situation of displacement. Even because they are displaced, IDPs do not need to face discrimination. GC IV Articles 3 and 27, AP I Article 75, AP II Articles 2(1) and 4(1), CIHL Rules 87 and 88.

#### **Protection as part of the civilian population**

Under this Article, IDPs are considered civilians and entitled to the same rights as all other civilians. GC IV, specifically Articles 4 and 27. API Articles 51 and 75, APII Articles 4 and 5, and CIHL Rules 1 and 7 are also relevant.

#### **. ...The right to life, dignity, and freedom**

It is stated under this provision that the life and dignity of IDPs shall be respected. GC IV Art. 3, 27 and 32, AP I Art 75(2) and AP II Art. 4.

#### **Education**

In international armed conflict, it is the responsibility of the parties to the conflict to take the necessary steps to ensure that children under the age of fifteen who have been separated from their families or who have become orphans because of the war are not abandoned to their resources and that their education is facilitated in all situations, GC IV, Art. 24. (1). The entity in charge of the conquered areas must also make educational facilities operational. Art. 50, GC IV (1). In addition, while there is no international armed conflict, children should be educated, including religious and moral instruction (AP II Art. 4(3)(a), 28). (2).

### **Prohibition of forcible recruitment of children**

Displacement makes children especially vulnerable to forcible recruitment into the armed forces and forced recruitment of children under 18 is illegal under international humanitarian law.

Other provisions affecting internally displaced people include preserving family unity and taking steps to foster reunion when families are separated. GC IV Art. 82 (2), and (3), AP I Art 75 (5), CIHL Rule 131, GC IV Art 26, 27, and 49, AP II 4 (3).

### **Documentation**

Under this provision, every person is entitled to registration and a name immediately at birth, especially in situations of occupation GC IV Art. 50. States are indebted to ensure that vulnerable groups such as refugees and locked up civilians are occupied territories are provided with vital records. GC IV Art. 97(6).

### **Property and Possessions**

Civilian property and other things or wealth should not be looted during an armed war. ICHL Rule 52, GC IV Art. 33. There should be no direct or indiscriminate attacks (AP I Art. 85, CIHL Rule 11) or being used as a guard for military activities and aims (AP I Art. 51) or destruction or misappropriation as retaliation (AP I Art. 52), or collective punishment (AP I Art. 75(2) d).

In all circumstances, belonging and property should be protected from harm or arbitrary and illegal misappropriation, occupation, or use. The Geneva Conventions and Additional Protocols are not expressly provided for the shelter to safeguard protected individuals, GC IV Art. 147.

The four 1949 Geneva Conventions have been incorporated into Nigerian law. This is not the case with the Additional Protocols to the Geneva Conventions, adopted in 1977 and ratified by Nigeria in 1988.

### **3.2.2 The United Nations Guiding Principles on Internal Displacement 1998**

The Guiding Principles on Internal Displacement outlined the specific requirements of internally displaced people worldwide and the responsibilities of national governments and non-state partners for IDPs. They acknowledged the importance of rights and guarantees in the protection of people against forced displacement, as well as their protection and aid during displacement,

returns, resettlement, and reintegration.<sup>572</sup> Though the Guiding Principles are not a legally binding instrument, they are like treaties in that they are based on and reflect existing binding principles of international law. Then, the principal authority is bolstered by the widespread international recognition and approval that they have gained.

The Guiding Principles give a detailed framework for recognizing protection issues and establishing, carrying out, and monitoring protection efforts in circumstances of internal displacement. These Guiding Principles could be utilized by International Agencies, Governments, Non-governmental Organizations, and IDPs themselves to promote and preserve the rights of IDPs.<sup>573</sup>

The Guiding Principle's introduction paragraph defines internally displaced persons, claims that the principles mirror international human rights law and international humanitarian law, and goes on to explain why the principles exist. It is organized into five sections: General Principle (Principles 1-4), Protection from Arbitrary Displacement (Principles 5-9), Protection and Assistance during Displacements (Principles 10-23), Access to Humanitarian Assistance (Principles 24-27), and Double Solution (Principles 28-30).<sup>574</sup>

#### Section I: General Principle (Principles 1-4)

- National authorities have the primary responsibility to protect and assist
- IDPs within their jurisdiction
- IDPs are entitled to enjoy in full equality the same rights and freedoms as other persons in their country and shall not be discriminated against

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<sup>572</sup> The Guiding Principle on Internal Displacement 'International Review of the Red Cross' No.324; <<https://www.icrc.org/en/doc/resources/documents/article/other/57jvgl.htm>> accessed 7 October 2022

<sup>573</sup> 'The Legal Framework: Handbook for the Protection of Internally Displaced Persons', pg 19, <<https://www.icvanetwork.org/uploads/2022/04/Chapter-Global-Protection-Cluster-Handbook-for-the-Protection-of-Internally-Displaced-Persons-Part-1-The-Legal-Framework-for-the-Protection-of-Internally-Displaced-Persons.pdf>> accessed 7 October 2022

<sup>574</sup> 'The Legal Framework: Handbook for the Protection of Internally Displaced Persons', pg 28, <<https://www.icvanetwork.org/uploads/2022/04/Chapter-Global-Protection-Cluster-Handbook-for-the-Protection-of-Internally-Displaced-Persons-Part-1-The-Legal-Framework-for-the-Protection-of-Internally-Displaced-Persons.pdf>> Accessed 7 October 2022

- Certain IDPs, especially unaccompanied minors, expectant mothers, mothers with young children, female heads-of-households, persons with disabilities and the elderly, might require specific attention.

#### Section II: Protection from Arbitrary Displacement (Principles 5-9)

- Articulates a right not to be arbitrarily (unlawfully) displaced and spells out the situations in which displacement is prohibited
- States have a duty to avoid the displacement of populations unless essential and to protect against the displacement of groups with a special dependency on their lands
- When displacement is unavoidable, certain guarantees must be established for displacement to be lawful.

#### Section III: Protection and Assistance during Displacement (Principles 10-23)

- All persons, including IDPs, should enjoy a broad range of civil, political, economic, social, and cultural rights, including the rights:
- To live and to protect against acts of violence and torture, sexual and gender-based violence, landmines, and recruitment of children into armed forces or groups and their participation in hostilities
- To safe access to essential food, potable water, basic shelter, appropriate clothing, medical services, and sanitation
- To freedom of movement, including in and out of IDP camps, to seek asylum in another country
- To personal documentation to respect for family life and unity
- To education and training equally for women and girls
- To employment and participation in economic activities
- To vote and participate in government and public affairs.

#### Section IV: Access to Humanitarian Assistance (Principles 24-27)

- When State authorities are unable or unwilling to assist the displaced, international organizations have the right to offer their services and to enjoy rapid and unimpeded access to the displaced
- Humanitarian assistance shall be provided consistent with the principles of humanity and impartiality and without discrimination

- Humanitarian actors should consider and work to address the assistance and protection concerns of IDP.

#### Section V: Durable Solutions (Principles 28-30)

- IDPs should have access to a durable solution to displacement, namely rights to return to their place of origin, integrate locally at the displacement site, or resettle elsewhere in the country – voluntarily, safely and in dignity
- Participate in planning their return or settlement and reintegration
- Return of lost property or, where not possible, to receive compensation
- Equal access to public services.<sup>575</sup>

### 3.3 Human Rights Law Relevant to Internally Displaced Persons at the Regional/Sub-Regional Level

International human rights law is a plethora of regional human rights instruments that promote human rights safety for everyone in the region, including IDPs. The regional human rights structure is primarily necessary for Africa, Latin America, and Europe since rights can be enforced in regional human rights courts.

Regional human rights instruments, such as treaties, conventions, and declarations, help to contain international human rights norms and standards that demonstrate the region's exertion of human rights issues. For this research, we will look at the African regional instruments as they pertain to IDPs, which have been ratified and domesticated into the federation laws in Nigeria.

#### 3.3.1 The African Charter on Human and Peoples' Rights<sup>576</sup>

Nigeria is a member of the African Union and was one of the first African countries to sign the African Charter on Human and Peoples' Rights on August 31, 1982, and it was ratified on June 22, 1983, and has been domesticated. Section 12 of the Constitution<sup>577</sup> states that when Nigeria signs an international treaty, it does not automatically become obligatory; it does not have the force of law or any provision to make it justiciable in any law court until it is passed into law by the National Assembly. The African Charter on Human and Peoples' Rights asserts several civil,

<sup>575</sup>*Ibid* p.28

<sup>576</sup>The African Charter on Human and Peoples' Rights, (Ratification and Enforcement) Act, Chapter A9 (Chapter 10 LFN 1990)

<sup>577</sup>CFRN, 1999

political, economic, social, and cultural rights, the right of all people to free movement and residence, and property rights. The African Charter on the Rights and Welfare of the Child and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa supplement the Charter's provisions for the protection of women's and children's rights.<sup>578</sup>

Both instruments have specific provisions about the State obligation to regard human rights in times of armed conflict, as well as restating the duty of States to observe and ensure respect for international humanitarian law, as well as civilian protection. The Charter on the Rights of the Child also provided that no child under the age of 18 should be enrolled or directly participates in hostilities, and it made explicit reference to the need to protect and help internally displaced children, as well as to ensure family reunification in times of relocation.<sup>579</sup> The Protocol on the rights of the woman also includes obligations to protect internally displaced women from all forms of violence, such as sexual exploitation and rape, and to ensure that perpetrators are brought to justice; ensure increased participation of displaced persons, primarily women, in the administration of camps and settlements; and pay attention to widows' property rights, which is essential for women heads of households whose statistics show a proclivity for poverty.<sup>580</sup>

The African Commission on Human and Peoples' Rights oversees state obligations under the African Charter. Individuals and internally displaced persons will be able to submit personal complaints about rights abuses to the Commission for consideration by the African Court on Human and Peoples' Rights. Furthermore, the Commission has a Special Rapporteur on Refugees. Asylum seekers and displaced people persons in Africa who are instructed to seek, accept, study, and act on information relating to the rights of refugees, asylum seekers, and internally displaced persons, conduct investigations into displacement circumstances, engage in discussions with states and other essential stakeholders or actors, develop strategies to improve and protect the rights of this group of people and raise awareness of the legal principles used to protect them.

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<sup>578</sup> 'Database on National and Regional Laws and Policies on Internal Displacement' <<https://www.unhcr.org/sites/default/files/legacy-pdf/6401d5624.pdf>> accessed 8 February 2022

<sup>579</sup> 'Websites of the UN Human Rights Bodies' (Charter Bodies and Treaty-Monitoring Bodies): <<https://www.ohchr.org/en/treaty-bodies>> accessed 8 February 2022

<sup>580</sup> *Ibid*



The African Union, known initially as the Organization of African Unity, created a regional internal displacement treaty. At the sub-regional level, the Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons and Model Law (2006) and the Protocol on the Property Rights of Returning Persons (2006) are officially binding on every country that ratifies them.

The rights to education, housing, shelter, health, food, employment, social security, adequate quality of living, a safe environment, cultural life, and development are enshrined in Articles 2-24 of the African Charter. The African Charter both guarantees and imposes rights and duties, individual rights, people's rights, duties of state parties to the Charter, and respective duties are all guaranteed by the Charter.

#### Rights of Individuals

Individual rights guaranteed by the Charter include the right to enjoy rights without distinction of any kind Article 2, the right to equality before the law Article 4, the right to the dignity of human persons Article 5, the right to liberty and security Article 6, the right to the recognition of his legal status Article 7, the right to freedom of conscience, the profession and free practice of religion Article 8, the right to receive information as well as the right to express and disseminate opinions Article 9, the right to freedom of association Article 10, the right to freedom of assembly Article 11, the right to freedom of movement Article 12 (1), the right to asylum and the freedom from arbitrary expulsion from a state Article 12(3) (4), Article 13(1), (2), and (3), right to participate in government and equal access to public services and public property, right to work under equitable and satisfactory condition Article 15, the right to bodily and mental health Article 16, the right to education and involvement in community cultural life Article 17, and the right to property Article 14.<sup>581</sup>

#### Peoples' Rights

The Charter guarantees people's rights such as equality for all Article 19, the right to exist and self-determination Article 20, the right to free disposal of natural wealth and resources Article 21, the right to economic, social, and cultural development, and the equal enjoyment of

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<sup>581</sup> ON Ogbu, *Human Rights Law, and Practice* (2<sup>nd</sup> edn Snap Press Publishers, Enugu 2013) 76

mankind's common heritage Article 22, the right to international peace and security Article 23, and the right to a satisfactory environment Article 24.<sup>582</sup>

#### Duties of State Parties to the Charter

States parties to the Charter are obligated under the Charter to promote the rights and freedoms included in the Charter (Article 25), to ensure the independence of the courts, and to authorize the establishment of Human Rights Organizations (Article 26).

The contents of the Charter are constantly being implemented in Nigeria through various legal, policies, judicial, and institutional methods, including the National Human Rights Commission. Nigeria has not only accepted the African Charter on Human and Peoples' Rights, but it has also been incorporated into Nigerian municipal legislation.<sup>583</sup>

Most of the Charter's guarantees are conditioned by clauses too broad to allow for state encroachment on these clauses—claw-back clauses. Several articles in the Charter state that the rights granted may be limited by law,<sup>584</sup> or in the sake of national security,<sup>585</sup> or in the interest of health, safety, ethics, public necessity, or general interest,<sup>586</sup> or the rights of others, morality, or common interest.<sup>587</sup> There is no requirement that specific constraints imposed by a state be necessary for the concept for which the rights are insufficient, or that the laws limiting the right are substantially justifiable in a democratic society for the achievement of the special aims.<sup>588</sup>

Since its inception, the Charter has been attacked in many ways, one of the most serious of which is the lack of an enforcement mechanism resulting from the Charter's lack of provision for judicial authority to enforce the rights provided by the Charter. However, the gap has been filled by the establishment of the African Court of Human and People's Rights.

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<sup>582</sup>*Ibid*

<sup>583</sup>See the African Charter on Human and People's Rights (ratification and enforcement) Act 4, caps of the 10 Laws of the Federation of 1990.

<sup>584</sup>Article 11 and 12

<sup>585</sup>Article 11, 12, and 14

<sup>586</sup>Articles 11, 12, and 14

<sup>587</sup>IG Shivji, *the Concept of Human Rights in Africa*

<sup>588</sup>ON Ogbu *Human Rights Law and Practice* (2nd Revised edn, Snap Press Publishers, Enugu 2013) 88

Individual duty provisions may also be exploited by some regimes by prioritizing obligations over rights or broadening the scope of the duties. There are no provisions in the Charter dealing with the suspension of rights during times of war or state of emergency, as well as the question of not always derogating from specific rights. A state of emergency paves the way for violations of human rights. Other regional instruments demand that measures adopted in times of emergency or that have the impact of derogating from guaranteed rights be strictly required by the exigencies of the situation and be non-discriminatory.<sup>589</sup>

### **3.3.2 The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa 2009 (Otherwise Known as the Kampala Convention)**

The 2009 African Union Convention, commonly known as the Kampala Convention, was agreed upon based on the United Nations Guiding Principles on Displacement, which was signed by West African states in April 2006 during the first West African States Conference on Internal Displacement in Abuja, Nigeria. Its implementation began in 2012, making it the world's first legally binding regional document for the protection of the right of the displaced.<sup>590</sup> Following ratification, states were required to enact laws and policies or amend their legislation to reflect the treaty's terms. As of April 2022, 40 African countries had signed the convention, and 33 had ratified it.<sup>591</sup> On April 17, 2012, the Nigerian government ratified the African Convention, also known as the Kampala Convention for the Protection and Assistance of Internally Displaced Persons, yet to be domesticated.

The Kampala provision might be divided into the following categories: displacement prevention, protection for IDPs when displacement occurs, humanitarian assistance, double solutions

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<sup>589</sup>*Ibid*

<sup>590</sup>FK Mohammed, "The Causes and Consequences of Internal Displacement in Nigeria and Related Governance Challenges" Working Paper Division Global Issues Stiftung Wissenschaft und Politik German Institute for International and Security Affairs, [https://www.swp-berlin.org/publications/products/arbeitspapiere/Mohammed\\_2017\\_Internal\\_Displacement\\_Nigeria.pdf](https://www.swp-berlin.org/publications/products/arbeitspapiere/Mohammed_2017_Internal_Displacement_Nigeria.pdf) accessed 9 February 2022

<sup>591</sup>*Ibid*, and [https://au.int/sites/default/files/treaties/36846-sl-AFRICAN\\_UNION\\_CONVENTION\\_FOR\\_THE\\_PROTECTION\\_AND\\_ASSISTANCE\\_OF\\_INTERNALLY\\_DISPLACED\\_PERSONS\\_IN\\_AFRICA\\_KAMPALA\\_CONVENTION\\_1.pdf](https://au.int/sites/default/files/treaties/36846-sl-AFRICAN_UNION_CONVENTION_FOR_THE_PROTECTION_AND_ASSISTANCE_OF_INTERNALLY_DISPLACED_PERSONS_IN_AFRICA_KAMPALA_CONVENTION_1.pdf) accessed 9 February 2022

harmonization, financial monitoring, having meetings, dialogues with IDPs, and civilian protection. The Kampala Convention should not be considered in isolation; it contains provisions of international humanitarian law, international human rights law, and human rights enshrined in the Kampala Convention.

The Kampala Convention should be domesticated in Nigeria at the federal level. While rights that protect internally displaced people are reflected in some existing laws in Nigeria, the domestication of the Kampala Convention would guide implementation, eventually motivating the state to pass state laws. It is also necessary to evaluate the contents of various state laws in order to streamline and compare provisions of different acts in order to establish an articulated and harmonized framework for the protection and aid of IDPs.

The Kampala Convention is an avenue to restate some of the essentials of International Humanitarian Law; there is a need for more awareness to be created on humanitarian principles, and it is to be communicated to the humanitarian community in the right way, with the government understanding and create awareness of humanitarian principles without creating misunderstandings.

In Nigeria, the procedure for the domestication of a convention is done by introducing an executive bill to the National Assembly through the National Executive Council, it will be debated and voted on separately by the lower and upper houses, and after approval, it will be sent to the legislature of Nigeria, which consists of 36 states. It must be passed by at least a two-thirds majority of the states and then sent back to the National Assembly for approval.

### **3.4 Laws at the National, State and Local Government Levels for the Protection of the Internally Displaced Persons in Nigeria**

National law is often used to refer to domestic legislation that exists within a specific nation. It is a law or rule that has been formed in a nation and the law is regarded as the rule for all residents of the nation and all other individuals from other nations that reside in this jurisdiction.

### 3.4.1 The Constitution of the Federal Republic of Nigeria, 1999 (As Amended in 2018)

The Constitution is a set of fundamental principles or established precedents by which a situation or other societies are recognized to be ruled. It is a person's physical composition, the fundamental arrangement of something, the fundamental values or way of life and laws of a country, state, or common group by which the powers and duties of the government are established, and certain rights are guaranteed to the people, or a document that sets forth these values and laws.<sup>592</sup> It established the framework for the organization and administration of the government at both the federal and state levels, and its provisions are binding on all authorities and individuals throughout the country.

The state's responsibility to promote the security and well-being of all people are established explicitly in the constitution.<sup>593</sup> It defined citizens' rights as the right to life, human dignity, personal liberty, privacy, and family life, a fair hearing, religious, expression, assembly, and association freedoms, free movement, non-discrimination, and the right to acquire and own immovable property.<sup>594</sup>

The National Commission for Refugees, Migrants, and Internally Displaced Persons (NCFRMI), formerly known as the National Commission for Refugees (NCFR), is an agency of the Federal Government of Nigeria, established by Decree 52 of 1989, now Cap. N21, Laws of the Federation of Nigeria, 2004 (NCFRMI Act), to manage the affairs of refugees, migrants, and internally displaced persons in Nigeria..<sup>595</sup> This is the primary legislative framework in Nigeria for the protection of refugees and asylum seekers. It was formed during the military rule by Decree 52 in 1989 and is now known as the National Commission for Refugees, Migrants, and Internally Displaced Persons.<sup>596</sup>

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<sup>592</sup>The Constitution definition and meaning, <<https://en.wikipedia.org/wiki/Constitution#:~:text=A%20constitution%20is%20the%20aggregate,entity%20is%20to%20be%20governed.>> accessed 11 February 2022

<sup>593</sup>Chapter II, s.14 (2)(b), CFRN 1999

<sup>594</sup> Chapter IV, CFRN 1999

<sup>595</sup> Y Dina *et al*, Guide to Nigerian Legal Information, (New York University School of Law 2015) 50

<sup>596</sup> 1st, 2nd, and 3rd Schedules National Commission for Refugees (establishment, etc.) Act 2004

Article 1 of the Act<sup>597</sup> defines the term "refugee" as any person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a consequence of such incidents, is unable or reluctant to return due to fear.

The commission is responsible for the organization of all migration-related issues in Nigeria; it provides protection and support to refugees and internally displaced persons; it administers the provisions of the Act; it establishes broad guidelines and policies on issues concerning refugees and persons seeking asylum in Nigeria; and it advises the Federal Government on policy matters concerning refugees, taking into account such matters as the Secretary to the Federal Government considers.

The Act provides broad protection for refugees and describes the method to be followed by an application requesting refugee status in the country, as well as the appeal mechanism in the event of a refusal.<sup>598</sup> The Act also prohibits the expulsion or return of refugees, stating that in Nigeria, a refugee shall not be expelled, extradited, or returned in any manner whatsoever to the frontiers of any territory where life and freedom are threatened as a result of race, religion, nationality, and so on unless the refugee himself/herself is a danger to Nigeria's security or is convicted as stipulated by law<sup>599</sup> on commission of an offence. These regulations apply to all refugees, whether they entered Nigeria legitimately or illegally.<sup>600</sup>

It provides for the performance of activities related to the Assisted Voluntary Return and Reintegration (AVRR) for Nigerian IDPs who may be in unequal conditions in a foreign nation

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<sup>597</sup>Article 1, National Commission for Refugees (NCFR) (establishment, etc.), Act 2004, and Article 1 of the Organisation of the African Union (OAU), 1974 Convention Governing the Specific Aspect of Refugee Problems in Africa (on)

<sup>598</sup>s. 6 (1) s. 7, s. 1(3) of the National Commission for Refugees, Migrants, and Internally Displaced Persons (NCFRMI) Act, Cap. N21, Laws of the Federation of Nigeria, 2004

<sup>599</sup>National Commission for Refugees (Establishment etc.) Act

<sup>600</sup>Cap 257 Laws of the Federation 1990

and have indicated an interest in returning home.<sup>601</sup> Through an executive order to cover up issues related to IDPs and the coordination of migration and development in 2002 and 2009, in that order, this development became controversial as the bill to repeal the NCFR Act of 2000 to broaden its directive to IDPs, a nation fewer people, and migrants were never approved and, as a result, is still yet to obtain the legal authorization required.

On the other hand, the Commission has modified<sup>602</sup> its name and operational system in preparation for the necessary legislative changes.<sup>603</sup> Despite efforts to unify some activities, and there has been significant concern over the overlapping of mandates between NCFRMI and NEMA in recent years.

The criteria for awarding refugees are geared toward persons fleeing war or persecution rather than fleeing poverty, unemployment, or starvation. Nigeria is not seen as a war-torn country, but suffers attacks from Boko Haram, bandits, unknown gun men and kidnappers, including challenges on accountability issues at various levels of government sectors, a teeming unemployed youth, corruption, and failure to account for the people being represented, economic slump, poverty, and hunger.

There is tremendous unemployment in the country, making it difficult for individuals to find profitable employment; this raises the question of how the Nigerian government would be able to offer employment for the refugees, according to a clause of the Act. Pressure from unemployed refugees would add to the numerous unemployed Nigerian youths, causing even more challenges in Nigerian society.

Nigerians have faced a succession of deportations from other nations; for example, Nigerians are being deported from Germany because they were refused asylum. It is estimated that around

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<sup>601</sup><http://www.ncfrmi.gov.ng/60> accessed 20 February 2022

<sup>602</sup>Ibid

<sup>603</sup><http://infopointmigration.org.ng/wpcontent/uploads/NATIONAL-IDP-POLICY.pdf> 64

12000 Nigerian asylum applicants were deported from Germany, Libya, and many other nations, and there has been severe deportation to date.<sup>604</sup>

### **3.4.2 The Dichotomy between Chapter Two and Chapter Four of the 1999 Constitution of the Federal Republic of Nigerian (As Amended 2018)**

The 1999 Constitution of the Federal Republic of Nigeria is divided into chapters, each addressesspecific facet of governance. Chapter Two<sup>605</sup> describes the Fundamental Objectives and Directive Principles of State Policy and establishes broad national goals. It focuses on socioeconomic progress, equality, and welfare. It emphasises the government's commitment to ensuring social justice, equality, and the welfare of all citizens, particularly children. This Chapter provides a foundation for the government's policies and activities, directing its efforts to promote the common good and defend individuals' and communities' rights.

In contrast, Chapter Four<sup>606</sup> concentrates on people's Fundamental Rights, protecting liberties such as freedom of expression at the press<sup>607</sup>, the right to life<sup>608</sup>, the right to dignity of the human person<sup>609</sup>, the right to a fair hearing,<sup>610</sup>and the right to private and family life<sup>611</sup>, among others. Often, the problem is balancing Chapter Two's ambitions with Chapter Four's legal rights. Striking a balance between society's goals and individual liberties is an important part of Nigeria's constitutional system.

Chapter Two of Nigeria's 1999 Constitution covers the fundamental objectives and directive principles of state policy. It focuses on socioeconomic goals such as maintaining economic stability, and educational objectives, fostering social fairness, and raising residents' living standards. Chapter Two emphasizes the necessity of education as a Fundamental Principle for

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<sup>604</sup> F. Anyogu and M.V.C Ozioko, 'An Appraisal of the Laws Regulating Refugee and Asylum Status in Nigeria' 2019 7(3):42-47, July-Sept., 2019 © SEAH/ IJB & LR <<https://en.wikipedia.org/wiki/Constitution#:~:text=A%20constitution%20is%20the%20aggregate,entity%20is%20to%20be%20governed.>> accessed 22 February 2020

<sup>605</sup> 1999 Constitution of the Federal Republic of Nigeria (CFRN) (as Amended in 2018)

<sup>606</sup> 1999 Constitution of the Federal Republic of Nigeria (CFRN) as Amended in 2018

<sup>607</sup> s. 39 1999 CFRN as Amended in 2018

<sup>608</sup> s. 33 1999 CFRN as Amended in 2018

<sup>609</sup> s. 34 1999 CFRN as Amended in 2018

<sup>610</sup> s. 36 1999 CFRN as Amended in 2018

<sup>611</sup> s. 37 1999 CFRN as Amended in 2018



individual and national growth and empowerment. It states that the state must direct its policy toward promoting equal and appropriate educational opportunities at all levels. This commitment represents the understanding of education as a catalyst for social and economic advancement, allowing individuals to reach their full potential and make important contributions to society. However, these ideas are not justiciable, which means they cannot be legally enforced in court.

In contrast, Chapter Four of the Constitution<sup>612</sup> addresses the fundamental rights of individuals. It protects a variety of civil liberties and freedoms, such as the right to life, human dignity, freedom of expression, and fair hearing. These rights are justiciable, meaning that if they are violated, citizens can seek legal retribution.

Chapter Two of Nigeria's 1999 Constitution is dedicated to the Fundamental Objectives and Directive Principles of State Policy. It explains the government's core obligations,<sup>613</sup> socioeconomic<sup>614</sup>, political<sup>615</sup>, and educational<sup>616</sup> goals, and the values that underlie governance. In contrast, Chapter Four concentrates on citizens' fundamental rights, assuring the protection and enforcement of individual liberty.

The conflict arises from the contrast between collective aspirations in Chapter Two and individual rights protected in Chapter Four. While Chapter Two establishes a wide socioeconomic framework, Chapter Four protects citizens' rights within that framework. Chapter Two of Nigeria's 1999 Constitution covers the Fundamental Objectives and Directive Principles of State Policy. It focuses on socioeconomic goals, such as promoting balanced and equitable growth. However, Chapter Four safeguards essential rights such as freedom of expression and personal liberty. While Chapter Two outlines lofty aims for the government, Chapter Four establishes a legal framework for individual rights, reflecting a conflict between collective growth and individual liberties.

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<sup>612</sup>1999 CFRN (as Amended in 2018)

<sup>613</sup>s. 13 1999 CFRN (as Amended in 2018)

<sup>614</sup>s.17 1999 CFRN (as Amended in 2018)

<sup>615</sup>s. 15 1999 CFRN (as Amended in 2018)

<sup>616</sup>s. 18 1999 CFRN (as Amended in 2018)

The dichotomy between Chapters Two and Four of the Constitution lies in the non-justiciability of all the items listed in Chapter II and the justiciability rights listed in Chapter Four of the Constitution.<sup>617</sup> Furthermore, the contradictory provision of Sections 13 and 6 (6)(C) under the 1999 Constitution is a severe legal challenge confronting the provisions of all the items listed in Chapter Two of the Constitution. There is no legal remedy if the government fails to fulfil these fundamental obligations as they can neither be challenged nor compelled by any authority court of law to fulfil the same due to limitations specified in the constitution.

Non-justiciability implies constraints on the judiciary, which is the branch of government authorized to interpret the Constitution. It also amounts to a rejection of the rights (although economic rights) of Nigerian citizens, who, upon infringement of rights as stated in Chapter II CFRN 1999, should seek remedy in a court of law. This is just an aberration because the constitution is not only the highest law but also the organic (living) law, which must be progressive to promote social justice, development, and the abolition of corruption.<sup>618</sup>

In practice, this contradiction could emerge in a variety of ways, such as conflicts over resource allocation for education, with competing priorities between supporting the educational requirements of children in IDP camps and solving broader social concerns. Furthermore, decisions about educational access for marginalized groups, particularly children in precarious situations such as those in IDP camps, may necessitate careful consideration of both the principles stated in Chapter Two and the rights provided in Chapter Four.

To properly address this duality, the government must work to align the goals indicated in Chapter Two with the rights provided in Chapter Four, ensuring that any restrictions on the right to education are justified, proportionate, and temporary. This may entail executing focused initiatives to provide education for children in difficult situations, such as those in IDP camps, but also preserving greater societal values of equality, social justice, and national development.

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<sup>617</sup>1999 CFRN

<sup>618</sup>OVC Ikepeze, “Non-Justiciability of Chapter II of the Nigerian Constitution, as an Impediment to Economic Rights and Development.” (2015) p 48, Available from <[https://www.researchgate.net/publication/282816601\\_Non-Justiciability\\_of\\_Chapter\\_II\\_of\\_the\\_Nigerian\\_Constitution\\_as\\_an\\_Impediment\\_to\\_Economic\\_Rights\\_and\\_Development](https://www.researchgate.net/publication/282816601_Non-Justiciability_of_Chapter_II_of_the_Nigerian_Constitution_as_an_Impediment_to_Economic_Rights_and_Development)> accessed 2 April 2024

By negotiating the intricate interaction of constitutional principles and rights, the government can seek to create an inclusive and fair educational system that meets the needs of all citizens, regardless of circumstance.

### 3.4.3 National Migration Policy (NMP) to the Government of Nigeria

The Technical Working Group (TWG) on Migration and Development established the National Migration Policy (NMP) for the Government of Nigeria,<sup>619</sup> which was presided over by the National Commission for Refugees, Migrants, and Internally Displaced Persons (NCFMI) with technical assistance from the International Organization for Migration (IOM) and funded by the European Union.<sup>620</sup> It was approved at the stakeholder's convention held on June 25, 2013, and granted by Federal Executive Commission on May 13, 2015.

The policy was established to provide a legal framework for regulating and monitoring internal and international migration in Diaspora mobilization, border management, collective and dissemination of migration data, decent treatment of migrants, internally displaced persons, asylum seekers, and the role of civil society in migration management to ensure more efficient migration management in Nigeria.<sup>621</sup>

### 3.4.4 The National Human Rights Commission

This Commission was established by the National Human Rights Commission (NHRC) cited as Act Cap N46 Vol.11 Laws of the Federation of Nigeria 2004.<sup>622</sup> This is under a decision made by the United Nations General Assembly, which calls on all member states to establish national human rights institutions tasked with the promotion and protection of human rights.

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<sup>619</sup><https://www.nigeriarights.gov.ng/>, accessed 15 February 2022

<sup>620</sup>The European Development Fund (EDF) is the main instrument for European Union(EU) aid for development cooperation in Africa, the Caribbean, and the Pacific (ACP Group) countries and the Overseas Countries and Territories (OCT). Funding is provided by voluntary donations by E Members State<https://euroalert.net/programme/621/decimo-fondo-europeo-de-desarrollo> accessed 15 February 2022

<sup>621</sup>UN Migration (IOM), <<http://nigeria.iom.int/government-nigeria-adoptsnational-migration-policy-action-plan-iom>>accessed 15 February 2022

<sup>622</sup> F.K. Mohammed, 'The Causes and Consequences of Internal Displacement in Nigeria and Related Governance Challenges Working Paper Division Global Issues Stiftung Wissenschaft und Politik German Institute for International and Security Affairs, <[https://www.swp-berlin.org/publications/products/arbeitspapiere/Mohammed\\_2017\\_Internal\\_Displacement\\_Nigeria.pdf](https://www.swp-berlin.org/publications/products/arbeitspapiere/Mohammed_2017_Internal_Displacement_Nigeria.pdf)> accessed 9 February 2022

The Commission is tasked with promoting, protecting, and ensuring that Nigeria's human rights duties are met, and to assist victims of human rights violations. However, the Commission lacks the authority to make binding decisions responding to accepted complaints. Furthermore, the Commission plays critical responsibilities in human rights protection and oversight of management behaviour by making a workable meeting available for the investigation and resolution of human rights concerns brought before it.<sup>623</sup> The NHRC has been an outspoken critic of human rights breaches against displaced people in Nigeria.

### 3.4.5 National Policy on Internal Displacement in Nigeria

The National Refugee Commission in 2003 urged the expansion of a national policy on internal displacement. This resulted in the formation of a presidential committee tasked with developing a national policy to strengthen the prevention of internal displacement and to recommend best practices for the organization of internally displaced people, as well as the requirements needed to alleviate their pains and challenges when displacements occur.<sup>624</sup> The early draft text of the policy outlined the roles of the federal, state, and local governments, as well as other civil society partners, international and national players, to educate people about their rights and obligations prior to, during, and after displacement.<sup>625</sup> The policy has remained a draft after being changed twice in 2009 and 2012 and is still awaiting adoption.

This policy's critical problem is non-domestication; it may be linked to Kampala convention; there is a lack of clear leadership, and there is overlap in the mandate to function on which the process is owned by the agency. The current leadership of the National Commission for Refugees, Migrants, and Internally Displaced Persons is reviewing the situation (NCFRMI).

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<sup>623</sup>Y. Dina, J. Akintayo, & F. Ekundayo, *Guide to Nigerian Legal Information*, (New York University School of Law, 2015)

<sup>624</sup>F.K. Mohammed, 'The Causes and Consequences of Internal Displacement in Nigeria and Related Governance Challenges' (Working Paper FG 8, 2017) SWP Berlin, p. 18, <[https://www.swp-berlin.org/publications/products/arbeitspapiere/Mohammed\\_2017\\_Internal\\_Displacement\\_Nigeria.pdf](https://www.swp-berlin.org/publications/products/arbeitspapiere/Mohammed_2017_Internal_Displacement_Nigeria.pdf)>accessed 17 February 2022

<sup>625</sup>*Ibid*

### 3.4.6 The National Emergency Management Agency (NEMA)

Act 12 established the National Emergency Management Agency (NEMA), revised by Act 50 in 1999. This agency's mission is to manage disasters in Nigeria, address disaster-related concerns, provide aid through the construction of solid organizations and measures, and organize responses to all situations.<sup>626</sup> The agency is led by a chairman, who is supported by many directors at the highest levels of management.

NEMA's actions are carried out through a range of strategies and frameworks, including the National Disaster Management Framework (NDMF), Emergency Response Standard Operating Procedures, the National Contingency Plan, Search, Rescue, and Epidemic Evacuation Plan.<sup>627</sup> The National Disaster Management Framework provides the regulatory guiding system used in Nigeria for the effective and efficient management of disasters (NDMF).<sup>628</sup>

The Agency provides a 24 (twenty-four) hour room situation, services that monitor and make available crucial information in the event of a disaster, seven (7) days a week. When a disaster happens, the Zonal Coordinator/State Emergency Management Agencies (SEMA) will submit the appropriate information to the NEMA headquarters, and the necessary help is provided regarding the situation, including humanitarian assistance, revamping, and reconstruction. NEMA and SEMA have been very active and play critical roles in management and humanitarian assistance efforts for internally displaced persons, search, and rescue missions when a disaster happens, and have assisted displaced persons across Nigerian borders.<sup>629</sup>

### 3.4.7 The Nigeria Red Cross Society (NRCS)

The Nigerian Red Cross Society (NRCS) was founded in 1960 due to the Nigerian Red Cross Act and the General Conventions Act. As a voluntary help group, it supplements the public authorities as a voluntary society aid. In September 1961, the President of the International

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<sup>626</sup> The National Emergency Management Agency (NEMA) <<https://www.devex.com/organizations/national-emergency-management-agency-news134115>> accessed 17 February 2022

<sup>627</sup> *Ibid*

<sup>628</sup> 'National Disaster Framework' <<https://www.refworld.org/pdf/>> accessed 17 February 2022.

<sup>629</sup> The National Emergency Management Agency (NEMA) <https://www.devex.com/organisations/natikon/emergency-management-agency-nema134115> accessed 17 February 2022

Federation of Red Cross and Red Crescent officially recognized the NRCS as an independent national society, making Nigeria the 86th member nation of the International Red Cross and Red Crescent Committee in Prague.<sup>630</sup>

The Nigerian Red Cross Society's Health Programme aims to minimize morbidity and death by increasing the competence of vulnerable displaced persons in their daily lives and enabling them to cope with their primary concern of health concerns.<sup>631</sup> The NRCS has been involved in the management of various IDP camps, providing aid such as basic health care in several IDP camps and settlements in collaboration with NEMA and SEMA, as well as other international organizations such as Doctors without Border.

According to the NRCS's vulnerability analysis, around 5000 persons were recognized as vulnerable families who were severely impacted by the flood in various parts of the country.<sup>632</sup> Between July and October 2012; the NRCS estimated that excessive rain in the country caused the worst flooding in Nigeria in 40 years, affecting nearly seven million people in 33 of the 36 states of the federation. The Nigerian Emergency Management Agency (NEMA) also announced that 363 persons died because of the flooding.<sup>633</sup>

In most emergency circumstances around the country, the NSRC acts as a swift and direct response to crises. The International Committee of the Red Cross (ICRC) in the United Kingdom has supported the NSRC. As one of the critical programs of the Nigerian Society of Red Cross Society, the area of health and care is administered by the Society of Red Cross to victims of catastrophes in any part of the country.

Under the NSRC Strategic Development Plan (SDP), the health and care department adopted a plan of action on HIV/AIDS matters and other general health issues that require emergencies. It has continued to play a significant role in responding to emergency health situations, it has also provided more Red Cross volunteers capacity built on health epidemics responses, carries out

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<sup>630</sup> <<https://www.redcrossnigeria.org/history.html>>accessed 17 February 2022

<sup>631</sup> <<https://redcrossnigeria.org/nrcs/health-and-care-.html>> accessed 19 February 2022

<sup>632</sup> MT Ladan, "National Framework for the Protection of Internally Displaced Persons (IDPs) in Nigeria" OIDA International Journal of Sustainable Development, the Journal of Ontario International Development Agency ISSN 1923-6654 (print). ISSN 1923-6662 (online) (2013)

<sup>633</sup> <<https://www.icrc.org/en/document/safe-access-covid-19-red-cross-niger>>accessed 12 February 2022

non-government organization with the basic responsibilities to make available humanitarian aid, carries out community-based activities, and both First Aid (FA). The International Committee of the Red Cross (ICRC) is unbiased, neutral, and autonomous.

During the COVID-19 pandemic, the International Committee of the Red Cross (ICRC) collaborated closely with the National Red Cross and Red Crescent Societies, which had already developed a Safer Access Framework (SAF) between 2002 and 2003, in order to prepare human responses in times of sensitivity and insecurity, such as the COVID-19 pandemic era.<sup>634</sup> During the COVID-19 pandemic, National Societies Red Cross already familiar with the Safer Access Framework (SAF) found it easier to respond to the epidemic, and create awareness of the COVID-19 pandemic by sensitizing the people, through television, radio, and providing on-the-spot information to the people. In handling and responding to the COVID-19 pandemic, this was carried out amidst knowing the importance of engaging with communities while respecting their cultural and religious beliefs.

Volunteers were trained in the use of Personal Protective Equipment (PPE) and raised awareness among family members and religious organizations about how to perform dignified and safe burials during the pandemic. Although it was difficult for everyone to fully accept infection-control procedures, especially at the burial of their loved ones, everyone was asked to comply for their safety. The Nigeria Red Cross Society's key restraints are the lack of appropriate finance to reach more states in the country, the lack of adequate health facilities, pharmacies, health professionals or skilled health workers and some community's lack of awareness of the programme.

### **3.4.8 The State Emergency Management Agency (SEMA)**

Part III of the 1999 National Emergency Management Agency focuses on forming State Emergency Management Committees for each federation state. These committees will be led by the government of the establishing state, as well as several related services such as the State Ministry of Health, the State Environmental Protection Agency, the Ministry of Women Affairs

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<sup>634</sup> <<https://www.icrc.org/en/document/safe-access-covid-19-red-cross-niger>> accessed 12 February 2022

and Social Welfare, the Police Force, the Nigeria Red Cross Society, and the Security and Civil Defense Corps (SCDC).

It is the state's responsibility to notify NEMA of any natural or other disasters that occur inside the state and to manage any other types of disaster operations that occur within the state. SEMA has been established in almost every federation state to handle displacement and other disaster cases. States such as Borno, Adamawa, Lagos, Plateau, Lagos, Jigawa, Kaduna, Anambra, and Yobe, to name a few, have SEMA on the ground and functioning as state agencies, primarily with internally displaced persons and other disaster areas that may have occurred from time to time. SEMA has been actively involved in managing humanitarian crises in IDP camps and states and returns, relocation, and reintegration.

SEMA oversees, developing policies for all actions related to disaster management and control at the state level and organizing plans and programs for effective and successful disaster response at all levels. SEMA is also responsible for managing and sponsoring research activities related to disaster control and supervision at the state level.<sup>635</sup>

#### **3.4.9 Ministry of Reconstruction, Rehabilitation and Resettlement (MRRR)<sup>636</sup>**

In addition to the establishment of the State Emergency Management Agency (SEMA), the Borno State government took additional steps to alleviate the hardships experienced by victims of disasters and the Boko Haram insurgency by establishing the Borno State Ministry of Reconstruction, Rehabilitation, and Resettlement, which is headed by the commissioner (MRRR). The MRRR's mission is to provide crucial lifesaving and sustaining assistance to places and populations in Borno State affected by conflicts and violence.

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<sup>635</sup> 'What is State Emergency Management Agency (SEMA)'

<https://sema.edostate.gov.ng/> accessed 20 February 2022

<sup>636</sup>F.K. Mohammed, 'The Causes and Consequences of Internal Displacement in Nigeria and Related Governance Challenges' Working Paper Division Global Issues Stiftung Wissenschaft und Politik German Institute for International and Security Affairs, <[https://www.swpberlin.org/publications/products/arbeitspapiere/Mohammed\\_2017\\_Internal\\_Displacement\\_Nigeria.pdf](https://www.swpberlin.org/publications/products/arbeitspapiere/Mohammed_2017_Internal_Displacement_Nigeria.pdf)> accessed 9 February 2022



The MRRR's tasks include organizing assistance for returning displaced persons from the Boko Haram insurgency to their communities; the ministry was actively involved in the World Bank's Recovery and Peace Building Assessment (RPBA) in early 2016. It has been involved in rehabilitating infrastructure in some of the local government districts determined to be safe for returning displaced people in the state. It is critical to note that, of the 36 states, Borno is the only one that has designated a ministry solely for the handling of the state's internal displacement situation.

### **3.5 Education Laws, Policies, and Access to Education in Nigeria by Displaced Children**

Education legislation is a set of laws and structures that direct the machinery of a society or country's educational system. Education law is a set of rules that govern the establishment and funding of schools, instructors' qualifications, pupils' rights, and school policy. It is the set of legal rules that govern all aspects of education, from kindergarten to higher education.<sup>637</sup> It also refers to the statutes, regulations, and policies that govern education, as well as cases and the resolution of disputes in educational institutions.<sup>638</sup> Education is a driving force in personal and societal development.<sup>639</sup>

The right to an education is a critical component of those rights that are expected to be secured and must be adequately enforced. In Nigeria, one of the fundamental rights recognised and safeguarded by international, regional, and national legislation is the right to education. Education in Nigeria should be available and accessible to all Nigerian children, including displaced children, always, especially when they are in a vulnerable situation due to their displacement. Nigeria has signed many human rights treaties and is expected to successfully implement the critical components of the conventions that guarantee such a right to education.

In this topic, the relevant laws, and policies on children's right to education under international, regional instruments and national laws are analysed, and the challenges militating against the

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<sup>637</sup> 'What is Education Law? – FindLaw' <<https://www.findlaw.com/hirealawyer/choosing-the-right-lawyer/education-law.html>>accessed 23 February 2022

<sup>638</sup> <<https://www.oxfordbibliographies.com/>>accessed 23 February 2022

<sup>639</sup> D. Peterside, *The Punch Nigeria Newspaper* (December 3, 2012) p.20

provision, recognition, protection, and access to education by the displaced children in Nigeria are discussed.

### **3.5.1 The Right to Education of Children in International Human Rights Instruments**

A right to education is a human right with a legal basis in international human rights instruments; it is governed by many United Nations Conventions and specialized bodies. The Soviet Union had a tremendous influence on the expression of the international right to education since it delivered the first commitment to universal, accessible, and state-sponsored education.<sup>640</sup>

Over time, it has been stated that the 1924 Declaration of the Rights of the Child is the first declaration of the universal right to education. The following section discusses a list of international human rights instruments pertinent to human rights to education.

### **3.5.2 Universal Declaration of Human Rights (UDHR) 1948<sup>641</sup>**

The United Nations General Assembly issued the 1948 Universal Declaration of Human Rights on December 10, 1948. It comprises thirty (30) rights that belong to the humanity and serves as the foundation for all human rights documents. The agreement includes key measures for human rights protection and provides standards and a model for governments to follow.

Article 26 of the Declaration of Human Rights ensures the right to free and compulsory basic and foundational education. Elementary education is formal instruction for children of primary school age, whereas basic education is education for children, teens, and adults who did not have the opportunity to attend or complete primary school and is provided outside of the conventional primary education system.<sup>642</sup>

In addition to acquiring general knowledge, the Declaration requires state parties to provide vocational and professional education skills acquisition and understanding relating to

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<sup>640</sup> K.D. Beiter, 'The Protection of the Right to Education by International Law' (Leiden: Martinus Nijhoff Publishers 2006) 90-91

<sup>641</sup> Universal Declaration of Human Rights (UDHR) 1948 <<https://www.amnesty.org/en/what-we-do/universal-declaration-of-human-rights/>> accessed 20 February 2022

<sup>642</sup> Article 26 of the Universal Declaration (UDHR) 1948

occupations in various sectors of economic and social life.<sup>643</sup> The document compels parties to make university education available to all on a merit-based basis.<sup>644</sup>

The main criticism leveled against the Declaration is that it is not a treaty and, as such, is not a legally enforceable instrument, yet the Declaration's relevance extends beyond its historical significance.<sup>645</sup> Some jurists consider it to be one of the<sup>646</sup> "Laws of the United Nations."<sup>647</sup> It has also been argued that it is enforceable under customary international law.<sup>648</sup>

The UDHR is a United Nations policy statement, not a treaty. The two treaties created from the UDHR are The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) aimed to offer a legally binding codification of the rights outlined in the Declaration. While the Universal Declaration of Human Rights is fundamentally significant in terms of its original concept, the most important expressions of the right to education in terms of legal force are the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC). The two treaties created to make the concepts of the International Covenant on Civil and Political Rights (ICCPR) was ratified in Nigeria on July 29, 1993. International Covenant on Economic, Social, and Cultural Rights (ICESCR) was ratified on July 29, 1993.

The Universal Declaration of Human Rights (UDHR) was the first worldwide human rights document to be drafted. The Second World War, which saw some of the worst human crimes committed on a worldwide scale, was the fundamental motivating reason for the establishment of the (UDHR). This proclamation was adopted on December 10, 1948.<sup>649</sup>

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<sup>643</sup>Article 26 of the Declaration of Human Rights Universal Declaration of Human Rights (UDHR) 1948

<sup>644</sup>Article 26 of the Declaration of Human Rights Universal Declaration of Human Rights (UDHR) 1948

<sup>645</sup>R.K.M. Smith, 'Textbook on International Law Rights', (Oxford University Press 2nd ed 2005) 45

<sup>646</sup>J. Dugard 'International Human Rights', in Van Wyk, Dugard, J, de Villiers B & Davis D. (eds), Rights and Constitutionalism: The New South African Legal Order". *Juta & Co*, (1994) 173

<sup>647</sup> S. Coetzee, 'Discipline in Nigerian Schools within a Human Right Framework', 10 (2), *African Human Rights Law Journal*, (2010) 483

<sup>648</sup>F. Coomans, Content and Scope of the Right to Education as a Human Right and Obstacles to its Realization in Donders, Y. & Volodin, V. (eds). *Human Rights in Education, Science Culture Legal Developments and Challenges*. (UNESCO Publishing/Ashgate 2007) 183

<sup>649</sup>UDHR, 'Universal Declaration of Human Rights' <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

The phrase "soft law" refers to legal documents that have no legally binding effect or whose binding force is "weaker" than the binding force of traditional law.<sup>650</sup> The (UDHR) is sometimes known as a "soft law" since it was enacted by the United Nations General Assembly as a Declaration and does not provide any way for stakeholders to be legally obligated to adhere to or enforce the provisions. According to the declaration's preamble, the (UDHR) is the common standard of accomplishment for all people and all nations, and states must aspire to meet this goal.<sup>651</sup>

### **3.5.3 International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966**

#### **Article 13**

The states parties to the present covenant recognise everyone's' right to an education. They agree that education should aim to foster the complete development of the human personality and a feeling of dignity and increase respect for human rights and fundamental freedoms. They also agree that education should enable all people to engage successfully in a free society, promote understanding, tolerance, and friendliness among all nations and racial, ethnic, or religious groups, and support the United Nations' efforts to keep the peace.

The states parties to the present covenant understand that to fully understand this right:

- (a) Primary education shall be compulsory and available free to all.
- (b) Secondary education, in all its forms, including technical and vocational secondary education, will be made widely available and accessible to all through all suitable means, including the increasing implementation of free education.
- (c) Higher education shall be made equally available to all, regardless of ability, through any suitable means, and through the progressive implementation of free education.
- (d) Fundamental education shall be fostered or intensified to the greatest extent possible for those who have not received or completed the entire period of elementary education.

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<sup>650</sup>*Ibid*

<sup>651</sup>*Ibid*

- (e) The creation of a school system at all levels will be vigorously promoted, a sufficient fellowship system will be developed, and teaching staff material conditions will be continuously improved.
- (f) The states parties to the present Covenant undertake to respect the liberty of parents and, where applicable, legal guardians to choose for their children's schools other than those established by public authorities that conform to such minimum educational standards as may be laid down or approved by the State, as well as to ensure their children's religious and moral education under their convictions.
- (g) No part of this article shall be construed in such a way that it infringes on the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set out in paragraph I of this article and the requirement that the education provided in such institutions conform to such minimum standards as the State may impose.

It is clear from the preceding clause that the term "right to education", as employed in the ICESCR, takes its cue from the examples of the UDHR. The provision is outlined by increasing the demand for state responsibilities. Article 13 2(d) is a significant development since it publicly considers people who could not attend school when they were meant to, as provided by the convention. The significance of teacher welfare was also explored, and a fellowship structure was suggested. The term "fellowship system" refers to forms of grant or scholarship for students at levels of education where free provision is unavailable<sup>652</sup>. The right of parents to pick the type of education for their children is limited by the state's minimal criteria. Section 4 attempts to reconcile the apparent inconsistencies between the entitlements of parents and children or between the obligations of parents and states, though it does not entirely address them.<sup>653</sup>

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<sup>652</sup> K. Beiter, 'The Protection of the Right to Education by International Law' (Leiden: MartinusNijhoff 2006); T.M.C. Cowan, 'Education as a Human Right: Principles for a Universal Entitlement to Learning' (Bloomsbury Pub. Plc. 2013) p 31

<sup>653</sup> *Ibid*

#### Article 14

Each state party to the present covenant that has not been able to secure compulsory primary education free of charge in its metropolitan territory or other territories under its jurisdiction at the time of becoming a party undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years to be specified in the plan, of the principle of compulsory education free of charge for all.

Given its legally obligatory form and widespread acceptance, theorists regard the ICESCR as the most authoritative embodiment of the right to education (160 states-parties).<sup>654</sup> However, the subsequent CRC of 1989, which includes provisions on education, has become possibly the most important of all international rights instruments.<sup>655</sup>

#### **3.5.4 International Covenant on Economic and Socio-Cultural Rights: Implementation, Problems and Potential in Nigeria**

Scholars frequently contend that economic, social, and cultural rights are programmatic<sup>656</sup> in the sense of having to be ‘realised gradually’, being of a ‘more political nature’ and ‘not capable of judicial enforcement and thus cannot be realized immediately.’<sup>657</sup> This allegation is supported by the text of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which allows states significant flexibility in the scope and timeframe of recognised rights.<sup>658</sup>

The significant disparity<sup>659</sup> between the reception and enforcement of economic, social, and cultural rights on the one hand, and civil and political rights on the other, assures that the former

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<sup>654</sup>K. Beiter, ‘The Protection of the Right to Education by International Law’ (Leiden: Martinus Nijhoff 2006); D. Hodgson, ‘The Human Right to Education’, (Dartmouth:1998)

<sup>655</sup> T.M.C.Cowan, ‘Education as a Human Right: Principles for a Universal Entitlement to Learning’ (Bloomsbury Pub. Plc. 2013) p 31

<sup>656</sup> A.Eide, ‘Economic, Social, and Cultural Rights as Human Rights’ in A Eide & A Rosas (eds) *Economic, Social, and Cultural Right: (A textbook 2001)*3. See also D Bilchitz “Towards a reasonable approach to the minimum core obligation: Laying the foundations for the future socio-economic rights jurisprudence” (2003) 19 South African Journal on Human Rights 1.

<sup>657</sup> Art 2 of ICESCR urges states to ‘progressively realise’ these rights.

<sup>658</sup> J. Cottrell and Y. Ghai, ‘The Role of the Courts in Implementing Economic, Social and Cultural Rights’ in Y. Ghai and J. Cottrell (eds) *Economic, Social and Cultural Rights in practice – The Role of Judges in Implementing Economic, Social and Cultural Rights* (2004) 61

<sup>659</sup>R.K.M. Smith ‘Textbook on International Human Rights’ (2003); A. Eide *Economic, Social, and Cultural Rights as Human Rights* in A. Eide & A. Rosas (eds) *Economic, Social, and Cultural Right: (A textbook 2001)*3; H.J. Steiner

are taken less seriously than the latter. However, economic, social, and cultural rights have lots of drawbacks for the lives and livelihoods of millions of impoverished and powerless Africans. Although the world community recognizes that all human rights are interrelated and equally important, economic, social, and cultural rights have often been overlooked. One element contributing to their marginalization has been the claim that economic, social, and cultural rights cannot be decided and enforced in court. Achieving equal status for civil, political, economic, social, and cultural rights requires bridging the justiciability gap.

Economic, Social, and Cultural rights are recognised in Nigeria as Fundamental Objectives and Directive Principles of State Policy (DPSP) in Chapter II of the 1999 Constitution. However, section 6(6)(c) appears to preclude courts from hearing cases stemming from Chapter II offences. If one considers that this is fatal to economic, social, and cultural rights litigation,<sup>660</sup> alternative ways to realize these rights must be sought.

### 3.5.4.1 Structure of the Economic, Social, and Cultural Rights

Economic, social, and cultural rights exist at three distinct yet interconnected levels, namely international, regional, and national. At the international level, the Universal Declaration of Human Rights (UDHR) recognizes a few economic, social, and cultural rights.<sup>661</sup> ICESCR<sup>662</sup> provides the basis for implementing these rights which include the right to an adequate standard of living<sup>663</sup> the Right to Property<sup>664</sup>; the right to work<sup>665</sup>; and the right to social security<sup>666</sup>. Until recently, victims of economic, social, and cultural rights violations did not have access to international remedies through the ICESCR in part because economic, social, and cultural rights were perceived as general principles for governments in the management of public affairs while

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& P Alston "International human rights in context (2000); MCR Craven the International Covenant on Economic, Social and Cultural Rights: A perspective on its development" (1995)

<sup>660</sup>S. Ibe, "Implementing Economic, Social, and Cultural Rights in Nigeria: Challenges and Opportunities", Afr. hum. rights law j. vol.10 n.1 Pretoria (2010) 198 <On-line version ISSN 1996-2096 Print version ISSN 1609-073X>

<sup>661</sup> Ibid

<sup>662</sup>10 S. Ibe 'Beyond the rhetoric: Transcending justiciability in the enforcement of socio-economic rights in Nigeria' unpublished LLM dissertation, Maastricht University, Netherlands, 2006 (on file with author 137 By Resolution 543 (VI) of 5 February 1952, while civil and political rights were considered enforceable. See Ibe (n 4 above) 6

<sup>663</sup>The International Covenant on Economic, Social and Cultural Rights (ICESCR)

<sup>664</sup> Art 25(ICESCR)

<sup>665</sup> (Art 17(ICESCR)

<sup>666</sup> Art 23 (ICESCR)

<sup>666</sup> Arts 22 & 25 (ICESCR)

civil and political rights were considered enforceable.<sup>667</sup> As a result, these victims<sup>668</sup> were forced to rely on domestic or regional systems. The African Charter on Human and Peoples' Rights (African Charter), described as a significantly innovative and demanding normative framework for the application of economic, social, and cultural rights,<sup>669</sup> presents economic, social, and cultural rights devoid of claw-back clauses.<sup>670</sup>

Unlike the ICESCR,<sup>671</sup> it enunciates the 'progressive realisation' principle, which the ESCR Committee has described as 'a recognition of the fact that full realisation of all economic, social and cultural rights will generally not be able to be achieved in a short period.' State parties to the African Charter accept commitments that take immediate effect. State parties must respect, safeguard, and implement all the Charter's rights, including economic, social, and cultural rights but, unfortunately, the Charter makes no mention of ICESCR rights such as the right to social security, an appropriate standard of living<sup>672</sup> freedom from hunger<sup>673</sup>, or the right to strike.<sup>674</sup> Although the African Charter mentions economic, social, and cultural rights and recognizes them as justiciable rights, some state parties to the Charter have yet to implement these rights, either through domestic legal systems or at the regional level.<sup>675</sup> The requirement to respect, like that arising under ICESCR, requires states to refrain from actions or conduct that infringe or are

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<sup>667</sup>By Resolution 543 (VI) of 5 February 1952, the Commission on Human Rights divided the rights contained in the Universal Declaration into what would become two separate covenants, ICESCR and the International Covenant on Civil and Political Rights (ICCPR)

<sup>668</sup> The Optional Protocol to ICESCR, adopted on 10 December 2008, rectified this. Unlike ICESCR, ICCPR was adopted with an Optional Protocol establishing the procedure for individual complaints in 1966. See L. Chenwi 'Correcting the Historical Asymmetry Between Rights: The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights' (2009) 9 African Human Rights Law Journal 23-51.

<sup>669</sup> C.A. Odinkalu 'Implementing economic, social, and cultural rights under the African Charter on Human and Peoples' Rights' in M. Evans & R. Murray (eds) *The African Charter on Human and Peoples' Rights – The System in practice 1986-2000* (2002) 178- 218 186.

<sup>670</sup>S. Ibe, 'Implementing Economic, Social, and Cultural Rights in Nigeria: Challenges and Opportunities,' *Afr. hum. rights law j.* vol.10 n.1 Pretoria (2010) 198 <[On-line version ISSN 1996-2096 Print version ISSN 1609-073X](#)>

<sup>671</sup> Art 2 of ICESCR, See General Comment 3 on the Nature of State Parties' Obligations under ICESCR, para 9.

<sup>672</sup>(Art. 11(1)), ICESCR

<sup>673</sup>(Art. 11(2)) ICESCR

<sup>674</sup>(Art. 8(1)(d)) ICESCR

<sup>675</sup>S. Ibe, "Implementing Economic, Social, and Cultural Rights in Nigeria: Challenges and Opportunities," *Afr. hum. rights law j.* vol.10 n.1 Pretoria (2010) 200 <[On-line version ISSN 1996-2096 Print version ISSN 1609-073X](#)>



capable of obstructing the enjoyment of economic, social, and cultural rights.<sup>676</sup> This commitment is not dependent on 'availability of resources' or 'progressive realisation'.

The need to protect includes a duty to persuade third parties (including non-state actors) to respect or refrain from breaching these rights. The obligation to fulfill imposes a duty on states to adopt adequate legislative, administrative, budgetary, judicial, and other steps to ensure the full realization of such rights<sup>677</sup> that are justiciable before the African Commission on Human and Peoples' Rights (African Commission).<sup>678</sup> Nigeria has ratified and domesticated the African Charter<sup>679</sup> in conformity with Section 12 of the 1999 Constitution. Article 1 of the Act states that "the provisions of the Charter shall have the authority of law in Nigeria and shall be granted complete consideration and effect and be applied by any entity or individual exercising legislative, executive, or judicial powers in Nigeria."

In a recent decision,<sup>680</sup> the Economic Community of West African States (ECOWAS) Court of Justice confirmed that 'rights granted by the African Charter on Human and Peoples' Rights are justiciable before this court'.<sup>681</sup> Nigeria's 1999 Constitution recognises economic, social, and cultural rights in Chapter II, which includes Directive Principles of State Policy provisions. The fundamental objectives are described as identifying 'the ultimate objectives of the nation' and the Directive Principles as laying down the 'policies which are expected to be pursued in the efforts of the nation to realise the national ideals'.<sup>682</sup> Chapter II was created to fulfill the promises made in the Constitution's Preamble, including the provision of a constitution to promote good government and the benefit of all persons in our country based on the ideals of freedom, equality, and justice, as well as to strengthen our people's unity.

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<sup>676</sup> F. Morka 'Economic, Social and Cultural Rights and Democracy: Establishing Causality and Mutuality' in HURILAWS Enforcing Economic, Social and Cultural Rights in Nigeria – Rhetoric or Reality? (2005) 85 88.

<sup>677</sup> See Maastricht 'Guidelines on Violations of Economic, Social and Cultural Rights' (1997) 15 Netherlands Quarterly of Human Rights 244.

<sup>678</sup> Article 45 of the African Charter.

<sup>679</sup> African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act A9, Laws of the Federation of Nigeria, 2004 See also the decision in *Fawehinmi v Abacha* (2000) 6 NWLR Part 660, 228.

<sup>680</sup> 17 Registered Trustees of the Socio-Economic Rights and Accountability Project (SERAP) v the Federal Republic of Nigeria & Universal Basic Education Commission, Suit ECW/CCJ/ APP/08/08, ruling of 27 October 2009 (on file with author). 18 n 17 above, para 19.

<sup>681</sup> Ibid at para 19.

<sup>682</sup> See *Archbishop Okogie v The Attorney-General of Lagos State* (1981) 2 NCLR 350).

The Preamble and contents of Chapter II reflect the lofty aspirations of a liberal democratic state and consequently serve as recommendations for achieving significant policy objectives.<sup>683</sup> The rationale for including Chapter II in the 1999 Constitution, as in the 1979 Constitution, is that governments in developing countries have tended to be preoccupied with power and its material benefits, with little regard for political ideas about how society can be organized and governed to the best advantage of all.<sup>684</sup> As a result of this preoccupation, existing social divisions among Nigeria's diverse people are reinforced.

The first part of Chapter II recognizes the duty and responsibility of 'all organs of government, and all authorities and people, exercising legislative, executive, or judicial powers, to adhere to, observe, and apply the requirements of this chapter of this Constitution'.<sup>685</sup> Similarly, section 224 states that a political party's programmes and objectives must adhere to the provisions of Chapter II. Finally, item 60 of the Exclusive Legislative List empowers the National Assembly to enact legislation establishing and regulating authorities to promote and implement the Directive Principles of State Policy (DPSP) outlined in Chapter II. However, section 6(6)(c) of the same Constitution appears to bar courts from hearing matters brought under Chapter II. Therefore, some have argued that economic, social, and cultural rights are not justiciable<sup>686</sup>

In the case of Archbishop *Anthony Okogie and Others v The Attorney-General of Lagos State*,<sup>687</sup> Nigeria's Appeal Court was allowed to investigate this intriguing topic. The Lagos State administration issued a directive on March 26, 1980, purporting to eliminate private primary education in the state. The plaintiffs claimed that the circular violated their constitutional rights. Relying on the relevant provisions of the 1979 Constitution, the plaintiffs applied to refer the following question to the Court of Appeal: Whether or not the provision of educational services by a private citizen or organization falls under the categories of economic activities outside the

<sup>683</sup>O. Agbakoba and U. Emelonye, 'Test of Progressive Realisation of Economic, Social, and Cultural Rights in Nigeria' (1990-1999 Budget Analysis) (2001) 1-2.21 J Akande Introduction to the Constitution of Nigeria (2000) 52

<sup>684</sup>J Akande Introduction to the Constitution of Nigeria (2000) 52

<sup>685</sup>Sec 13, 1999 CFRN

<sup>686</sup>E. Durojaye 'Litigating the Right to Health in Nigeria: Challenges and Prospects' paper presented at the Conference on International Law and Human Rights Litigation in Africa organised by the Centre for Human Rights, University of Pretoria, South Africa, and the Amsterdam Centre for International Law, University of Amsterdam, Netherlands, 14-15 August 2009, University of Lagos, Nigeria 11-12; F Falana Fundamental Rights Enforcement (2004) 9.

<sup>687</sup>(1981) 2 NCLR 350. The facts and key pronouncements are excerpted from Ibe (n 15 above) 241-242.

major sectors of the economy that every Nigerian citizen is entitled to engage in and whose right the state is obligated to protect under Section 16(1)(c) of the Constitution.

Mamman Nasir J held that no court had 'jurisdiction to pronounce any determination as to whether any organ of government has acted or is acting in line with the Fundamental Objectives and Directive Principles' in his decision on the merits of the case. He further defined the judiciary's job as 'limited to interpreting the general provisions of the Constitution or any other statute in such a way that the provisions of the chapter are observed'. The decision liberalised access to primary education by providing the platform for establishing privately owned primary schools in Lagos State.<sup>688</sup> If nothing else, the court's decision illustrates that judicial action is conceivable in cases involving Chapter II infractions. Furthermore, the court properly stated that its responsibility would be to interpret the Constitution in such a way that the provisions of Chapter II are followed.

Furthermore, Nigeria's Chapter II traces its origins to India.<sup>689</sup> It is critical to note that India's adoption of the DPSP was shaped by its historical and social environment, as well as international happenings at the time of its creation, which predated the broader trend of decolonization. Things have subsequently altered. For example, the Vienna Declaration of 1993 supports the current tendency toward universality, indivisibility, interdependence, and interconnectedness of human rights.<sup>690</sup> The Indian judiciary established a precedent for Directive Principles of State Policy (DPSP) in an expanded paradigm of interpretation for economic, social, and cultural rights. The concept establishes a clear relationship between justiciable civil and political rights and non-justiciable economic, social, and cultural rights. In a series of instances, beginning with *Maneka Gandhi*<sup>691</sup> the court broadened civil and political rights to include economic, social, and cultural rights. In the case of *Francis Coralie Mullin v Union Territory of Delhi*, the Supreme Court held that the right to life guaranteed under Art 21 of the

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<sup>688</sup> 26 See also *Uzoukwu v Ezeonu II* (1991) 6 NWLR Part 200.

<sup>689</sup> S. Ibe, "Implementing Economic, Social, and Cultural Rights in Nigeria: Challenges and opportunities", *Afr. hum. Rights Law j.* vol.10 n.1 Pretoria (2010) 203 <[On-line version ISSN 1996-2096](#) [Print version ISSN 1609-073X](#)>

<sup>690</sup> *Ibid*

<sup>691</sup> *Maneka Gandhi v Union of India* (1978) SC 597, 1 SCC 248

Indian Constitution includes the right to live with human dignity and all that goes along with it.<sup>692</sup>

It is critical to note that India's adoption of the Directive Principles of State Policy (DPSP) was shaped by its historical and social environment, as well as international happenings at the time of its creation, which predated the broader trend of decolonization. Things have subsequently altered. For example, the Vienna Declaration of 1993 supports the current tendency toward universality, indivisibility, interdependence, and interconnectedness of human rights.

There have been various situations where the judiciary has granted bail to a criminal suspect due to illness, therefore Courts are required to grant bail in exceptional circumstances, such as when refusing the application would endanger the applicant's health.<sup>693</sup> Whatever the point at which an accused person seeks bail, the accused's illness is a factor significant enough to be considered an exceptional circumstance.<sup>694</sup> The subject issue is a civil and political right, specifically the right to bail as an essential component of the right to personal liberty. However, a socioeconomic right (the right to health) is used to establish a civic and political right. This is a model that is deeply ingrained in Indian jurisprudence, but it is also noteworthy for its constructive contribution to the advancement of rights. It is consequently necessary to consciously employ this idea in the administration of justice.

#### **3.5.4.2 Economic, Social, and Cultural Rights in Nigeria: Challenges to the Implementation**

Challenges confronting the implementation and fulfillment of economic, social, and cultural rights in Nigeria are examined under *locus standi*, justiciability, and dualism, inbuilt structural problems of corruption, mismanagement, and bad governance that continue to stagnate the developmental processes and judicial procedures that could ensure the meaningful realization these of rights.

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<sup>692</sup> See Francis Coralie Mullin v Union Territory of Delhi (1981) 1 SCC 608,

<sup>693</sup> See the case of Fawehinmi v The State (1990) 1 NWLR Part 127 486. In Mohammed Abacha v State (2002) 5 NWLR Part 761 638 653 para-E.

<sup>694</sup> Mohammed Abacha v State (2002) 5 NWLR Part 761 638 653

### **The challenge of *locus standi***

The issue of *locus standi*, or standing to sue, is significant in the context of justiciable economic, social, and cultural rights. This is because it is only in this environment that people or groups must approach the courts for judicial interpretation or settlement of problems resulting from or due to infringement of economic, social, and cultural rights. Onnoghen<sup>695</sup> has described *locus standi* as 'the legal competence to institute actions in a court of law or tribunal'. To invoke judicial power, a person must demonstrate that their interest will be adversely affected by the action or that they have sustained or are in immediate danger of sustaining an injury that is greater than the general public's interest.<sup>696</sup>

Alternatively, it is 'the right of a party to present and be heard on the question for determination before the court or tribunal'.<sup>697</sup> To prove *locus standi*, a claimant must demonstrate a substantial interest in the suit or case. There are two criteria for indicating sufficient interest. The first is whether the party might have been joined as a party to the lawsuit. The second question is whether the party seeking redress would incur any loss or hardship because of the litigation.<sup>698</sup>

As a result, only a party in imminent danger from the adverse party's behaviour has *locus standi* to file an action. Because of the stringent requirements for establishing standing to sue and the ambiguous decision in Abraham Adesanya v President of the Federal Republic of Nigeria, it is often difficult or impossible for non-governmental organisations (NGOs) or other interested parties to sue on behalf of victims of human rights violations.

The Rules of Court provide for waiving the stringent standards of *locus standi*.<sup>699</sup> Section 3(e) of the Rules states, that no human rights lawsuit can be dismissed due to a lack of *locus standi*. Section 3(e)<sup>700</sup> identifies the following as potential applicants in a human rights case, anyone acting in his or her interest; anyone acting on behalf of another person; anyone acting as a

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<sup>695</sup> See *Berende v Usman* (2005) 14 NWLR Part 944 1 16 paras D-E, quoting the decision in *Alhaji Gombe v PW (Nigeria) Ltd* (1995) 6 NWLR Part 402 402. In *Thomas & Others v Olufosoye* (1986) 1 NWLR Part 18 669.

<sup>696</sup> See Ademola JCA, referring to the locus classicus on the issue of *locus standi* in Nigeria, *Senator Abraham Adesanya v The President of Nigeria* (2002) WRN Vol 44 80.

<sup>697</sup> As above. See also *Senator Abraham Adesanya v President of the Federal Republic of Nigeria* (n 34 above); *Fawehinmi v Col Akilu* (1987) 4 NWLR Part 67 797.

<sup>698</sup> *Niki Tobi J in Pam v Mohammed* (2008) 40 Weekly Reports of Nigeria 67 123.

<sup>699</sup> Fundamental Rights (Enforcement Procedure) Rules 2009.

<sup>700</sup> Fundamental Rights (Enforcement Procedure) Rules 2009.

member of or in the interest of a group or class of people; anyone acting in the public interest; and associations acting in the interests of their members or other individual groups.

### 3.5.4.3 The Challenge of Justiciability

Justiciability refers to the range of issues that a court can decide. If a matter is deemed "non-justiciable," the court cannot hear it. Much has been written and spoken regarding the justiciability of economic, social, and cultural rights.<sup>701</sup> Some writers' opinions on the reasons advanced for the non-justiciability of economic, social, and cultural rights are the implications for revenue allocation and separation of powers, the inability to rely on the unavailability of resources to escape the minimum core obligation must demonstrate that 'every effort has been made to use all resources that are at its (their) disposition to satisfy, as a matter of priority, those minimum obligations'.<sup>702</sup> The South African Constitutional Court, on the other hand, rejected the 'minimum core' requirement, arguing that states can only be held to a reasonable standard in their efforts to protect economic, social, and cultural rights.

The South African Constitutional Court, on the other hand, rejected the minimum core' requirement, arguing that states can only be held to a reasonable standard in their efforts to protect economic, social, and cultural rights. In a frequently quoted decision,<sup>703</sup> the Court declared:<sup>704</sup> in *Minister of Health v Treatment Action Campaign*<sup>705</sup> The ruling sets a conceptual and remedial framework for judicial examination and enforcement of the requirement to ensure access to healthcare, among other Economic, Social, and Cultural Rights. It offers an encouraging paradigm for combining political and legal action. 5,000 people marched to the courthouse in Johannesburg to begin the hearing. However, the case underscores the unspeakable suffering of so many people because of an epidemic that began with and continues to be fueled by abuses of Economic, Social, and Cultural Rights (ESC) rights in South Africa and elsewhere.

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<sup>701</sup> S. Ibe, "Implementing Economic, Social, and Cultural Rights in Nigeria: Challenges and opportunities," *Afr. hum. rights law j.* vol.10 n.1 Pretoria (2010) 206 <*On-line version* ISSN 1996-2096 *Print version* ISSN 1609-073X>

<sup>702</sup> Ibid

<sup>703</sup> *Minister of Health v Treatment Action Campaign (TAC)* (2002) 5 SA 721, <[https://www.escri-net.org/caselaw/2006/minister-health-v-treatment-action-campaign-tac-2002-5-sa-721-cc#:~:text=\)20%7C%20ESCR-Net-,Minister%20o](https://www.escri-net.org/caselaw/2006/minister-health-v-treatment-action-campaign-tac-2002-5-sa-721-cc#:~:text=)20%7C%20ESCR-Net-,Minister%20o)> accessed 20 March 2024

<sup>704</sup> Ibid

<sup>705</sup> (2002) 5 SA 721

It is difficult to provide everyone with rapid access to even a 'fundamental service'. The state is expected to give reasonable access to socioeconomic rights on a progressive basis.

#### 3.5.4.4 The Dualist Systems Challenge

A dualist legal system is one in which international law is not automatically incorporated into domestic law and requires further actions to be taken. Dualism 'recognises the basic distinction of international law and municipal law, consisting principally in the fact that the two systems regulate different subject matter under dualist systems, international law is only applicable within the state's legal system once the legislature approves special implementing laws.'<sup>706</sup>56 Nigeria has a dualist system of international law.

Section 12 of the 1999 Constitution states that '*no treaty between the Federation and any other country will have the force of law except to the degree to which any such treaty has been adopted into law by the National Assembly*'. The Supreme Court emphasised that section 12(1) was a condition antecedent to enforcing international treaties approved by Nigeria, interpreting this clause considering Nigeria's duties under the International Labour Organization Convention.<sup>707</sup> The Court specifically confirmed that "insofar as the ILO Convention has not been enacted into law by the National Assembly, it has no force of law in Nigeria and cannot possibly apply."<sup>708</sup>58 Although this decision violates a fundamental principle of international law, a state cannot argue against provisions of its law or deficiencies in that law in answer to a claim against it for an alleged breach of its duties under international law<sup>709</sup>, it still reflects the true position of the law in Nigeria for unincorporated treaties. For incorporated treaties, the

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<sup>706</sup>M. Dixon and R. McCorquodale 'Cases and Materials on International Law' (2003) 109, quoting A Cassese International law (2001) 168-171 180. See also ME Adjami 'African Courts, International Law and Comparative Case Law: Chimera or Emerging Human Rights Jurisprudence?' (2002) 24 Michigan Journal of International Law 103.

<sup>707</sup> See The Registered Trustees of National Association of Community Health Practitioners of Nigeria & Others v Medical and Health Workers Union of Nigeria (2008) 37 WRN 1.

<sup>708</sup> J.S. Onu, 53 lines 30-35. He also referred to the decision of Ogundare J in Abacha v Fawehinmi SC <<https://ihl-databases.icrc.org/en/national-practice/general-sanni-abacha-et-al-v-chief-gani-fawehinmi-supreme-court-28-april-2000>> accessed 21 March 2024

<sup>709</sup> See Art 27 of the Vienna Convention on the Law of Treaties, 1969, referring to justification for failure to perform a treaty.

situation is different. In *Abacha v Fawehinmi*,<sup>710</sup> a full panel of Nigeria's Supreme Court looked at the legal implications of incorporated treaties, notably the African Charter, Section 12<sup>711</sup> stipulation that 'an international treaty entered into by the government of Nigeria does not become binding unless adopted into law by the National Assembly' was reiterated.

The Court affirmed that such treaties are 'binding and courts must give effect to it like all other laws falling within the judicial authority of the courts.'<sup>712</sup> However, the Court was careful to emphasise that such foreign treaties did not gain precedence over the Constitution by being incorporated into domestic law. Interestingly, the Court unwittingly expanded access to courts for violations of economic, social, and cultural rights by agreeing that, once incorporated into domestic law; an international treaty without specific procedural provisions could be enforced using the Fundamental Rights Enforcement Procedure Rules enacted under Chapter IV of the 1999 Constitution.<sup>713</sup>

#### 3.5.4.5 Corruption and Poor Leadership

Since its independence on October 1, 1960, Nigeria's socio-political history has been marked by overt and systematic administration. Governments have pursued policies that erode democracy, hinder economic progress, and diminish the state's ability to meet citizens' demands. Poor leadership and institutionalized corruption have contributed to the current socio-political situation. These vices in the state are responsible for some of the militating elements impeding the country's human rights protection and human security goals.<sup>714</sup>

Corruption is dishonest activity by persons in positions of power. Those who abuse their authority might be individuals or members of institutions such as businesses or governments.

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<sup>710</sup>J.S. Onu, 53 lines 30-35. He also referred to the decision of Ogundare J in *Abacha v Fawehinmi* SC <<https://ihl-databases.icrc.org/en/national-practice/general-sanni-abacha-et-al-v-chief-gani-fawehinmi-supreme-court-28-april-2000>> accessed 21 March 2024

<sup>711</sup>1999 CFRN

<sup>712</sup> J.S. Onu, 53 lines 30-35. He also referred to the decision of Ogundare J in *Abacha v Fawehinmi* SC <<https://ihl-databases.icrc.org/en/national-practice/general-sanni-abacha-et-al-v-chief-gani-fawehinmi-supreme-court-28-april-2000>> accessed 21 March 2024.

<sup>713</sup> See judgment of O Achike J in *Abacha v Fawehinmi* (n 58 above) 20. See also *Oshevire v British Caledonian Airways* (1990) 7 NWLR Part 163 489 and *Ibidapo v Lufthansa Airlines* (1997) 4 NWLR Part 498 124

<sup>714</sup>I.M. Ajibade, 'Promoting Economic, Social and Cultural Rights: A Critical Step to Achieving Human Security in Nigeria' (2006) 10.2139/ssrn.1547424, SSRN Electronic Journal, accessed 21 March 2024



Corruption can take several forms, including providing or accepting bribes or illegal gifts, double-dealing, and scamming investors. Corrupt behaviour is frequently the outcome of government meddling in the economy, but it can be avoided with proper checks and balances. One example of fiancé corruption is an investment adviser running a Ponzi scam.<sup>715</sup>

Corruption is a global issue, but institutionalized corruption poses a significant challenge to economic and national development in Nigeria. It exists in both the private and public sectors but is particularly prevalent in the highest levels of government and bureaucracy. Corruption is a major issue in governance, stifling economic growth and justice. Corruption has become an art form among high-ranking politicians, including governors, deserving of a national museum<sup>716</sup>. Resources intended for basic facilities are being diverted to private Western bank accounts.<sup>717</sup>

#### 3.5.4.6 Poor Economic Policies and Mismanagement of Available Resources

Even if corruption and underdevelopment are such powerful forces, they only affect the amount to which human rights can be fulfilled and do not excuse complete non-fulfillment. Underdevelopment does not justify partial enforcement of ESC rights any more than parents nourishing one child while neglecting their other children.<sup>718</sup> In any case, it is widely acknowledged that if not for the weak management, terrible economic policies, and kleptomaniac tendencies of Nigerian leaders, the country could have reached a level where basic survival needs are met.<sup>719</sup> As it stands, most Nigerian governors and heads of state are wealthier than the state and continue to waste available resources. Inequitable resource allocation and government-controlled benefits are the root cause of the issue, rather than scarcity.<sup>720</sup> According to Richard Falk, existing information indicates that many Third World countries have the resources to

<sup>715</sup>J. Chen 'Corruption: Its Meaning Type, and Real-World Example' (2023) <<https://www.investopedia.com/terms/c/corruption.asp#:~:text=Corruption%20is%20any%20dishonest%20or,defrauding%20investors%20among%20other%20actions>> accessed 21 March 2024

<sup>716</sup>J. Oloka-Onyango, 'Beyond the Rhetoric: Reinvigorating the Struggle for Economic and Social Rights in Africa' 26 Cal. W. Int'l L.J. 1, 2 (1995).

<sup>717</sup> Ibid

<sup>718</sup> D.A. Ihenacho, 'Nigeria's Anti-Corruption Shenanigan', *Nigeria World* <<https://nigeriaworld.com/columnist/ihenacho/062104.html>> (June 21, 2004) accessed 30 March 2024.

<sup>719</sup> Basic survival needs in this context "refer to the minimum requirements for sustaining physical life, that is, health, food, housing, clothing, work, and literacy. See FStewart, "Basic Needs Strategies, Human Rights, and the Right to Development," 11 Hum. Rts. Q. 347, 351 (1989).

<sup>720</sup> Supra

eliminate poverty and provide fundamental human requirements if their governments are willing.<sup>721</sup>

Other challenges are those emanating from external factors inhibiting the realisation of Economic, Social, and Cultural Rights (ESCR) such as Globalisation and Global Economic Order, and the Role of International Financial Institutions.

### **3.5.5 Prospects for Realising Economic, Social, and Cultural Rights**

The present constitutional review process, the call for freedom of information law, legislative action, and citizen education, empowerment, and mobilization would all be assessed to determine the chances for the realisation of economic, social, and cultural rights in Nigeria.

#### **3.5.5.1 The Constitutional Review**

The Constitutional Review Process Nigeria's bi-cameral legislature, which includes the Senate and the House of Representatives, is constitutionally empowered to change the Constitution.<sup>722</sup> To carry out this mission, both houses have repeatedly attempted to revise the military-imposed Constitution of 1999. Unfortunately, all attempts have failed. Its current attempt provides an opportunity for legislative initiatives to establish economic, social, and cultural rights on solid ground. To assure equality of all kinds of rights under the Constitution, it may be necessary to combine all rights into a single chapter in the Bill of Rights and to provide the courts authority over any infringement or threatened violation of these rights. This way, the issue of justiciability will be resolved. Access to courts for abuses of economic, social, and cultural rights is accompanied by access to information required to evaluate the government's performance in this vital area.

#### **3.5.5.2 Access to Information**

Access to information enables the public to hold public officials responsible for their actions, as well as improves the quality and productivity of public discourse. Access to official information can also boost public confidence and trust in government and public sector agencies are

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<sup>721</sup>R.Falk, 'Responding to Severe Violations, in Enhancing Global Human Rights' Jorge I. Dominguez et al. eds., (1979), 205, 226

<sup>722</sup> s. 9 of the 1999 Constitution, CFRN

perceived as transparent. To press the necessary institutions to open the public debate, citizens can scrutinize government spending to ensure demands are provided on time. Access to information specifically, provides a latitude for citizens to interrogate government income and expenditure to ensure that needs are met in a timely fashion.

### **3.5.5.3 Legislative Action**

Item 60 of the Constitution's Second Schedule<sup>723</sup> authorizes the National Assembly to establish and control federal or state authorities 'to promote and enforce the compliance of the Fundamental Objectives and Directive Principles enshrined in this Constitution'. This provides an intriguing opportunity for the legislature to hold the government accountable for efforts taken to advance economic, social, and cultural rights. The Bar Association should engage in legislative advocacy to ensure that the National Assembly takes the appropriate actions; otherwise, it should petition the courts to compel the assembly to exercise its lawful duties as a public institution.

### **3.5.5.4 Education, Empowerment, and Mobilisation of Citizens**

NGOs and the Bar Association owe a sacred duty to Nigerians: to educate, empower, and mobilize them to take good action toward realizing their true potential. Ignorance and powerlessness are at the root of widespread poverty and near-complete contempt for residents' economic, social, and cultural rights. Public advocacy events aimed at providing rural and urban poor with the necessary skills to interact with government and, more significantly, demand decent governance are critical to sustaining Nigeria's young democracy.

To ensure success and sustainability, lawyers must be adequately prepared. As a result, human rights law should be established as a required course in the faculty curriculum programs of law schools around the country. For lawyers, the Nigerian Bar Association's continuing legal education curriculum should strive to give at least four hours of human rights training every year.

In the examination of the Economic and Socio-Cultural Rights in Nigeria: Implementation Problems and Potential, the problems and potential for realizing these types of rights have been identified. However, it is vital to highlight that economic, social, and cultural rights will only be

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<sup>723</sup>1999 CFRN

realized and perpetuated through the joint efforts of the three branches of government executive, legislative, and judicial as well as civil society, including the Nigerian Bar Association and other interest organisations.

Corruption must be recognized as a national security concern and dealt with accordingly.<sup>724</sup> 210 Nigeria must boost the anti-corruption fight to cabinet-level status. There is a definite requirement for an anti-corruption seat at Federal Executive Council meetings.<sup>725</sup> A legally mandated anti-corruption commission, program, and budget vote should be established to bolster the country's fight against corruption.

The selective implementation of human rights in the face of a concerning human security index is an unnecessary truncation of humanity.<sup>726</sup> The severe socioeconomic deprivation that highlights the security dangers of poverty, ethno-religious strife, and political instability necessitates an immediate concerted effort to protect Nigerians' socioeconomic rights. While such rights can be achieved in a variety of ways, the discriminatory enforcement of rights in the Nigerian constitution has led governmental bodies to treat these rights as development ambitions and simple concepts of state policy, with no specific effort to ensure their implementation.

Corruption must be recognized as a national security concern and dealt with accordingly.<sup>727</sup> Nigeria must boost the anti-corruption fight to cabinet-level status. There is a definite requirement for an anti-corruption seat at Federal Executive Council meetings.<sup>728</sup> A legally mandated anti-corruption commission, program, and budget vote should be established to bolster the country's fight against corruption. Undoubtedly, constitutional reform to accommodate such measures would be time-consuming; nonetheless, given the urgency and threat, the National Assembly should pass legislation requiring high-level government officials to reveal their financial records on a monthly, quarterly, or annual basis. This internal auditing approach would

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<sup>724</sup>D.A. Ihenacho, 'Nigeria's Anti-Corruption Shenanigan', Nigeria World <https://nigeriaworld.com/columnist/ihenacho/062104.html> (June 21, 2004) accessed 30 March 2024.

<sup>725</sup> Ibid

<sup>726</sup> I.M.Ajibade, 'Promoting Economic, Social and Cultural Rights: A Critical Step to Achieving Human Security in Nigeria' (2006) SSRN: <<https://ssrn.com/abstract=1547424> or <http://dx.doi.org/10.2139/ssrn.1547424>> accessed 21 March 2024

<sup>727</sup>D.A. Ihenacho, 'Nigeria's Anti-Corruption Shenanigan', Nigeria World <https://nigeriaworld.com/columnist/ihenacho/062104.html> (June 21, 2004) accessed 30 March 2024.

<sup>728</sup> Ibid

promote accountability, transparency, and responsibility inside governance structures and institutions. A "financial disclosure law" can provide accountability for high-ranking government officials. Such methods can also serve to limit the effectiveness of the "immunity clause."

However, if Nigeria is to address its mounting vulnerabilities with a resolve to succeed, it must first enhance people's socioeconomic freedom, as well as civil and political freedom. Achieving socio-economic freedom begins with ensuring that ESC rights remain the State's enforceable commitments. To accomplish this, I urge that civil society organisations, human rights NGOs, grassroots organisations, community groups, and individuals continue to advocate for the justiciability of ESC rights in the Nigerian Constitution. Considering this purpose, a constitutional amendment to revise the 1999 constitution should be pursued. Such an amendment should be more interactive; it should not be done behind closed doors by elites and government officials alone, but rather include people and groups from all strata of society to ensure that the people's actual needs and wants are addressed constitutionally. In addition to constitutional safeguards, the national legislature should establish regulatory bodies to promote ESC rights and independent commissions to oversee ESC-related issues. The executive authority shall submit an annual report to parliament on progress toward the protection and achievement of ESC rights. Human rights become genuine only when there are adequate instruments for protection and enforcement. Without a constitutional guarantee for ESC rights at the national level,<sup>729</sup> mechanisms for protecting and enforcing these rights are restricted, if not eliminated.

In the words of Bhagwati J:<sup>730</sup>

The task of restructuring the social and economic order so that social and economic rights become a meaningful reality for the poor and lowly sections of the community is one that legitimately belongs to the legislature and the executive, but mere initiation of social and economic rescue programs by the executive and the legislature would not be enough, and these social and

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<sup>729</sup> Human Development Report 2000, p 73

<sup>730</sup> *Peoples' Union for Democratic Rights (PUDR) v Union of India (1983)* 1 SCR 456  
<[https://www.legallore.info/post/people-s-union-of-democratic-rights-and-ors-v-union-of-india-and-ors#google\\_vignette](https://www.legallore.info/post/people-s-union-of-democratic-rights-and-ors-v-union-of-india-and-ors#google_vignette)> accessed 21 March 2024

economic rights will only be realised through multidimensional strategies, including public interest litigation.

In *Peoples' Union for Democratic Rights (PUDR) v Union of India*,<sup>731</sup> the Indian Supreme Court stated that the goal of public interest litigation is to 'promote and vindicate public interest, which demands that violations of constitutional or legal rights of large numbers of people who are poor, ignorant, or in a socially or economically disadvantaged position should not go unnoticed and un-redressed'.<sup>732</sup>

### 3.5.6 United Nations Convention on the Rights of the Child (CRC) 1989

The United Nations Convention on the Rights of the Child (CRC) was adopted; it is described as the universal rights bestowed to a child, with a child defined as a human being under eighteen. The Convention on the Rights of the Child (CRC) is the most well-known and ratified of all United Nations rights treaties, establishing a pioneering foundation for acknowledging children as right-holders who do not primarily receive protection.

It is thus relevant to a discussion of the right to education not only in terms of the changes made in the articles dealing with education specifically but also in terms of its broader application to children, who are the group most fully protected by the right to education.<sup>733</sup> The convention's necessities have been classified as 'Ps,' which stand for protection, provision, and participation.

Although the terms protection and provision were included in the pioneering Geneva Declaration on the Rights of the Child, ratified by the League of Nations in 1924 and prepared by *Eglantyne Jebb*, the founder of Save the Children. The 1959 Declaration of the Rights of the Child, which preceded the Convention, similarly emphasized protection and provision but not participation.<sup>734</sup>

The CRC provides an awareness of safeguarding children from abuse, neglect, or economic exploitation. It also provides resources and opportunities such as nutrition, clothes, and cultural

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<sup>731</sup> Supra

<sup>732</sup> *Peoples' Union for Democratic Rights (PUDR) v Union of India* (1983) 1 SCR 456 <[https://www.legallore.info/post/people-s-union-of-democratic-rights-and-ors-v-union-of-india-and-ors#google\\_vignette](https://www.legallore.info/post/people-s-union-of-democratic-rights-and-ors-v-union-of-india-and-ors#google_vignette)> accessed 21 March 2024.

<sup>733</sup> Ibid

<sup>734</sup> Ibid

involvement, allowing children to participate and take part in decisions that impact them, but this participation must be age and maturity appropriate.

Article 28 of the CRC is a detailed provision relating to education as follows:

**Article 28: Education**

1. States parties recognise the right of the child to education, and in order to achieve this right gradually and on an equal footing, they shall, in particular.
  - a. Make primary education mandatory and accessible for all.
  - b. Encourage the development of various forms of secondary education, including general and vocational education, and make them open and accessible to all children, as well as adopt suitable steps such as introducing free education and providing financial support in cases of need.
  - c. Make educational and occupational information and counseling available to all children.
  - d. Take steps to encourage regular school attendance and reduce dropout rates.
2. Take efforts to encourage regular school attendance, and states parties shall take all relevant measures to ensure that school punishment is administered in a manner consistent with the child's human dignity and in accordance with the present Convention. Dropout rates are being reduced.
3. States parties must promote and encourage international cooperation in educational affairs, particularly with a view to contributing to the abolition of ignorance and illiteracy worldwide and facilitating access to scientific and technical information as well as contemporary teaching methods. In this regard, the needs of developing countries must be prioritized.

Another significant feature in this article is the obligation for school discipline to protect children's dignity, addressing the global problem of corporal punishment.<sup>735</sup>

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<sup>735</sup>Ibid

The various articles related to education goals under this CRC are listed below.

#### **Article 29: Aims of Education**

1. States parties believe that a child's education should focus on the following:
  - a. The full development of the child's personality, talents, and mental and physical ability to their fullest potential.
  - b. Development of respect for human rights and fundamental freedoms, as well as the ideals, stated in the United Nations Charter.
  - c. Respect for the child's parents, his or her own cultural identity, language, and values, national values of the country in which the child lives, the country from which he or she may have emigrated, and civilisations other than his or her own.
  - d. Preparing children for responsible lives in a free society in the spirit of understanding, peace, tolerance, gender equality, and friendship among all peoples, ethnic, national, and religious groups, and indigenous peoples.
  - e. The development of respect and responsibility for the natural environment.
2. No part of this article or article 28 shall be construed to infringe on the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set out in paragraph 1 of this article and the requirements that the education provided in such institutions conform to such minimum standards as the State may impose.

The Convention against Discrimination in Education of 1960 is another valuable tool in education law and policy established by the United Nations Educational, Scientific, and Cultural Organization (UNESCO). This convention is significant because it influences the right to education while also emphasising responsibility and promises by states concerning equal educational opportunities.

#### **3.5.7 An Appraisal of the United Nations Convention on the Rights of the Child (CRC) in Nigeria: Implementation, Challenges and Prospects**

In the past, children were not granted or provided with any special protection; the only protection some children were granted stemmed from their parent's status, making the protection to these



privileged few afforded through discrimination based on social class and the status of each parent's social stratum. Children worldwide have received the attention they deserve in recent years, culminating in different declarations and conventions that have gained international recognition.<sup>736</sup>

The end of World War I opened the eyes of governments not just to human rights in general, but also to child rights in specifically. Following World War I, the League of Nations adopted the Declaration of the Rights of the Child in 1924 to address the impact of war on children.<sup>737</sup>

The Commission on Human Rights resolved in 1978 to begin work on a draft Convention on the Rights of the Child for the year 1979, which has been designated as the International Year of Children. Since then, the Commission has continued to investigate this issue, forming an open-ended working group at each of its meetings. At its 1987 session, the Working Group also reached a preliminary agreement on provisions about cultural, religious, and linguistic minorities or indigenous peoples, as well as the protection of a child from narcotic and psychotropic substances and sexual exploitation, and the prevention of child abduction, sale, or trafficking.<sup>738</sup>

On November 20, 1989, the United Nations General Assembly overwhelmingly adopted the Convention on the Rights of the Child, which recognizes the need for specific safeguards and care, including proper legal protection for children both before and after birth. On the first day, the convention was open for signatures, on January 26, 1990, an unprecedented 61 countries signed it. In September of the same year, the Convention received the 20 ratifications required by Article 49 to enter into force.<sup>739</sup>

The Convention is recognized as the most comprehensive single pact about human rights<sup>740</sup> because of its scope and widespread support. The Convention's provisions apply to all human

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<sup>736</sup>A. Ooreoluwa and A. Ooreoluwa, 'Rights of the Child: Nigeria's Legal and Practical Position' (June 30, 2020). <https://doi.org/10.6084/m9.figshare.12592127>, SSRN <<https://ssrn.com/abstract=3639563>> or <<http://dx.doi.org/10.2139/ssrn.3639563>> accessed 22 March 2024

<sup>737</sup>Supra

<sup>738</sup>A.B. Ahmed 'The Law and Child's Rights in Nigeria' (Malthouse Press Limited, 2015) p28.

<sup>739</sup> VD Pupaval, *Infantilisation of the South, and the United Nation Convention on the Rights of the Child*, in HT Steiner and PO Alston (eds.) *International Human Rights in Context*, 2<sup>nd</sup> ed. (Oxford, Oxford University Press, 2000) p517.

<sup>740</sup>Supra 519.

beings under the age of 18 unless the child lives in a jurisdiction where the majority is acquired earlier, in which case the state carries the burden of justifying specified lower age restrictions.<sup>741</sup>

The Convention on the Rights of the Child, which has 54 articles, includes the full range of human rights--cultural, economic, political, and social--and establishes the international foundation for the protection and promotion of human rights and fundamental freedoms for all people under the age of 18 years. The Convention reflects general recognition that children should be properly prepared to live an independent life in society and raised in a spirit of peace, dignity, tolerance, freedom, equality, and solidarity.<sup>742</sup>

Although the Convention's Articles are interconnected and should be evaluated together, the Committee on the Rights of the Child has designated four articles as general principles. The Convention is consequently predicated on the following ideas, which lay the groundwork for all children's rights.

**a) The Right to Equality**

No child may be discriminated<sup>743</sup> against based on race, colour, gender, language, religion, political or other opinion, national or social origin, property, birthplace, or other status.

**b) The Child's Best Interests Must Prevail.**

When making decisions that may affect children, the child's best interests must be addressed at all stages. This applies to both the family and state acts.

**c) Right to Life and Development.**

Every Member State must do everything possible to safeguard the child's survival and development, including providing access to health care and education, as well as protecting the child from economic and social exploitation.<sup>744</sup>

**d) Respect for children's viewpoints.**

Children should be respected and taken seriously, and they should be included in decision-making at the appropriate age and maturity level<sup>745</sup>.

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<sup>741</sup>Article 1 of the Convention.

<sup>742</sup>A.B. Ahmed 'The Law and Child's Rights in Nigeria' (Malthouse Press Limited, 2015) p 29.

<sup>743</sup>Article 2 UNCRC

<sup>744</sup>Article 24 UNCRC

The UNCRC is a legally binding United Nations treaty that establishes both children's rights and the obligations of state parties to respect, promote, fulfill, and safeguard those rights. It is a relatively new addition to the International Code of Human Rights Law. International human rights treaties include the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), both of which provide for general rights, while other instruments provide for the rights of specific groups of people. The UNCRC differs in that, despite dealing with children, it combines both civil and political rights, as well as economic and socio-cultural rights, in one text without separating or unlike the other, placing one above the other, or forming a hierarchy of either.<sup>746</sup>

A child is defined as any human being under the age of 18 unless they reach the age of majority earlier under national or municipal legislation<sup>747</sup>. According to the UNCRC, every child has the following essential rights: the right to life, the right to their name and identity, the right to be reared by their parents within a family or cultural grouping, and the right to have a relationship with both parents, even if they are separated.,<sup>748</sup> provides that "state parties must take all appropriate legislative, administrative, social, and educational measures to protect the child from all forms of physical or mental violence," to include the prohibition of corporal punishment. The United Kingdom has however rejected this interpretation of Article<sup>749</sup>

The UNCRC not only recognises the rights of the child, but it also spells out the duties of State parties under the fundamental rights, for example, it recognises that every child has an inherent right to life<sup>750</sup>, with a duty on State parties to ensure the child's survival and development to the greatest extent possible.<sup>751</sup> It also allows for the child's right to be registered immediately after birth, which includes the right to a name, the right to obtain nationality, and, to the greatest

<sup>745</sup> Article 12 UNCRC

<sup>746</sup>A. Ooreoluwa and A. Ooreoluwa, 'Rights of the Child: Nigeria's Legal and Practical Position' (June 30, 2020). <https://doi.org/10.6084/m9.figshare.12592127>, SSRN: <<https://ssrn.com/abstract=3639563>> or <<http://dx.doi.org/10.2139/ssrn.3639563>> accessed 22 March 2024

<sup>747</sup> 4 Article 1 of the UNCRC.

<sup>748</sup>A. Ooreoluwa and A. Ooreoluwa, 'Rights of the Child: Nigeria's Legal and Practical Position' (June 30, 2020) p 10 <https://doi.org/10.6084/m9.figshare.12592127>, SSRN: <<https://ssrn.com/abstract=3639563>> or <<http://dx.doi.org/10.2139/ssrn.3639563>> accessed 22 March 2024.

<sup>749</sup> Supra p 10

<sup>750</sup> Article 6(1) of the United Nations Convention on the Rights of Child.

<sup>751</sup> Article 6(2) of the UNCRC.

extent feasible, the right to know and be cared for by his or her parents.<sup>752</sup> It imposes a duty on States Parties to guarantee the implementation of these rights under their national laws and duties under other relevant International Instruments applicable to this field, particularly if the child would otherwise be stateless.<sup>753</sup>

### **3.5.7.1 Ratification of the UNCRC, its Optional Protocols and the UN Committee on the Rights of Child.**

The United Nations General Assembly adopted the Convention and opened it for signatures on November 20, 1989. It entered into force on September 2, 1990, after being approved by the required number of nations. It is currently signed by 196 countries, including all UN members except the United States of America<sup>754</sup>. The United Nations General Assembly adopted two optional protocols on May 25, 2000.

The protocols were made optional since the commitments they entail will be more exacting for some state parties than others. The First Optional Protocol to the UN Convention on the Rights of the Child limits children's involvement in military conflicts. The agreement requires state parties to ensure that children under eighteen are not compelled to join their armed forces. It urges states to do all possible to guarantee that members of their respective armed services under the age of eighteen do not take part in hostilities. The Second Optional Protocol to the UNCRC bans and compels State Parties to prohibit child prostitution, sale, and pornography<sup>755</sup>.

A third optional protocol to the UNCRC, a communications procedure, was adopted in December 2011 and made available for signature on February 28, 2012. It became effective on April 14, 2014, following the tenth ratification<sup>756</sup>. States that ratify this convention are bound by

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<sup>752</sup> Article 7(1) of the UNCRC. See *Law in Society: Reflections on Children, Family, Culture, and Philosophy*, edited by Alison Didukh, Noam Peleg, and Helen Reece.

<sup>753</sup> Article 7(2) of the UNCRC.

<sup>754</sup> A. Ooreoluwa and A. Ooreoluwa, 'Rights of the Child: Nigeria's Legal and Practical Position' (June 30, 2020) p 10, <https://doi.org/10.6084/m9.figshare.12592127>, SSRN: <<https://ssrn.com/abstract=3639563>>, <<http://dx.doi.org/10.2139/ssrn.3639563>> accessed 22 March 2024.

<sup>755</sup> *Supra* p10

<sup>756</sup> It allows for children or their representatives to file individual complaints for violation of the rights of children, this protocol currently have fifty signatories and twenty-five ratifications.

*Pacta sunt servanda*<sup>757</sup> under international law, which requires governments of countries that have ratified the Convention to report to and appear before the United Nations Committee on the Rights of the Child regularly for examination on their progress and success in the implementation of the Convention. The UN Committee on the Rights of the Child, which comprises members from across the world, oversees State parties' compliance with their rights obligations under the UNCRC<sup>758</sup>.

### **3.5.7.2 Examination of the Rights of the Child as Provided in the United Nations Convention on the Rights of the Child (UNCRC)**

Some of the rights that children have are shared by all humans; these types of rights, which are enjoyed by everyone, even unique persons, and groups, are referred to as universal human rights. Others have because they are children, while some do not because of their position. Most of the Convention's clauses address children's inherent rights.<sup>759</sup>

The agreement recognizes more special rights than basic rights, although it nevertheless includes rights such as the right to life, freedom from torture, inhumane and humiliating treatment, freedom of expression, thinking, conscience, and religion. The preamble to the 1959 United Nations Declaration on the Rights of the Child, this principle is one of the UNCRC's four general principles, alongside the best interests of the child, the right to life, survival, and growth, and the right to be heard. This concept describes the reason these specific privileges were provided. Article 2 introduces the notion of non-discrimination.<sup>760</sup> Article 12 states that the child's opinion shall be given weight and that State parties shall allow the child who can form his or her own opinion to freely express those views in all matters concerning and affecting them, considering the child's age and maturity. Article 24 of the Convention upholds the child's right to the highest possible standard of health, as well as assistance with illness treatment and rehabilitation.

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<sup>757</sup>Agreements must be kept: *Pacta sunt servanda* ("agreements must be kept") is considered the oldest principle of international law. Without this criterion, no international agreement would be binding or enforceable. <<https://www.britannica.com/topic/pacta-sunt-servanda>> accessed 23 March 2024

<sup>758</sup> Supra p11

<sup>759</sup>A. Ooreoluwa and A. Ooreoluwa, 'Rights of the Child: Nigeria's Legal and Practical Position' (June 30, 2020) p 10, <https://doi.org/10.6084/m9.figshare.12592127>, SSRN: <<https://ssrn.com/abstract=3639563>> or <<http://dx.doi.org/10.2139/ssrn.3639563>> accessed 22 March 2024.

<sup>760</sup> Supra

The UNCRC also includes the right to leisure,<sup>761</sup> and the right to an appropriate level of living<sup>762</sup>, which declares that 'Parties recognise the right of every child to a standard of living suitable for the child's physical, mental, spiritual, moral, and social development'.<sup>763</sup> The language of Article 27 makes it clear that no aspect of a child's development should be disregarded, and that this right continues beyond sexual maturity. The Convention also guarantees children's right to an education<sup>764</sup>. Article 13 of the UNCRC protects the child from neglect and abuse; Article 35 of the UNCRC places a duty on state parties to take measures to prevent the abduction, sale, or trafficking of children; Articles 32 and 34 of the UNCRC protect the child from economic and sexual exploitation; and Article 33, which provides for the duty of state parties to provide measures to protect children from the use of narcotic drugs.

### 3.5.7.3 Situation of Child Rights in Nigeria

The United Nations Convention on the Rights of the Child, the most unanimously adopted human rights instrument in history, was ratified by 194 states, including Nigeria, on August 28, 2004, changing how children were regarded and treated. Nigeria ratified the Convention on the Rights of the Child (CRC) on March 21, 1991. The treaty articulates the rights of all individuals under the age of 18 and outlines those who are accountable for ensuring that these rights are achieved,<sup>765</sup> with UNICEF's cooperation taking the vital step of domesticating the CRC into national legislation.<sup>766</sup> The Act aimed to consolidate all child-related laws into a single piece of legislation, outlining children's rights and responsibilities, as well as the duties and obligations of parents, organizations, authorities, adults, and the government to protect and fulfill these rights.

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<sup>761</sup> Article 31 UNCRC

<sup>762</sup> Article 27 UNCRC

<sup>763</sup> *Bion v Bion* (High Court of Zimbabwe).

<sup>764</sup> Articles 28 and 29 UNCRC

<sup>765</sup> Reports: Situation Analysis of Children in Nigeria, Multidimensional Child Poverty in Nigeria, and Monetary Child Poverty for Nigeria. <<https://www.unicef.org/nigeria/documents/reports-situation-analysis-children-nigeria-multidimensional-child-poverty-nigeria-and>> accessed 22 March 2024

<sup>766</sup> The United Nations Children's Fund (UNICEF), originally known as the United Nations International Children's Emergency Fund, works, <<https://www.un.org/en/cco/unicef-united-nations-childrens-fund#:~:text=The%20United%20Nations%20Children's%20Fund,devastated%20by%20World%20War%20II->>> accessed 23 March 2024

In Nigerian law, a child is defined as someone under the age of 18, and it is expressly stated that such a child's best interests must take precedence<sup>767</sup> over all other factors. The statute further states that a child must be provided with the required protection and care for his or her well-being<sup>768</sup> while keeping the right to survival and growth, as well as a name and nationality at birth<sup>769</sup>. The states are expected to formally adopt and adapt the Act through its domestication at the state level in the Houses of Assembly of each state as state laws, because issues concerning child rights protection are residual matters in Nigeria<sup>770</sup>, thereby giving states exclusive responsibility and power to make laws relevant to their specific situations. State legislation that violates children's rights must also be changed or repealed as necessary to comply with the Act and the Convention on the Rights of the Child.

In Nigeria, since the Child's Rights Act was passed into law, to date, 24 states of Nigeria's 36 states have adopted the CRA as state legislation. As a result, twelve (12) of Nigeria's 36 states have yet to incorporate the CRA into their respective legislation.<sup>771</sup> The legal effect of this is that millions of children in 12 states in Nigeria still do not have the appropriate legal framework for their rights to be protected, and millions of "our tomorrow's leaders" in states with legal frameworks for their protection are not being cared for as they should due to the absence of effective enforcement.

#### **3.5.7.4 Circumstances of Child Rights Violations in Nigeria**

Several circumstances expose children to abuse, violence, and exploitation, as well as child trafficking and forced labour, among others. Poverty is a major factor contributing to child vulnerability in Nigeria, and there is frequently a significant disparity between a child's rights in principle and what occurs in practice. Under Article 42 of the Convention,<sup>772</sup> countries agree to teach all children and adults about child rights. Children and young people who do not understand their rights are more vulnerable to abuse, discrimination, and exploitation.

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<sup>767</sup> This principle provided in part 1 section 1 of the Child's Rights Act 2003 is obtained from Article 3 of the UNCRC.

<sup>768</sup> Section 2(1) of the Child Rights Act of 2003

<sup>769</sup> Section 3 of CRA 2003

<sup>770</sup> Second schedule of the 1999 Constitution of the Federal Republic of Nigeria as Amended in 2018

<sup>771</sup> National Human Rights Commission <<https://www.nigeriarights.gov.ng/focus-areas/child-rights.html>> accessed 23 March 2024.

<sup>772</sup> United Nations Convention on the Rights of a Child (UNCRC)

Knowledge is essential. Knowledge enables children to feel a part of a global society and to assert their rights, both for themselves and others.<sup>773</sup>

Even though 196 countries accepted and ratified the United Nations Conventions on the Rights of the Child in 1989, which outline children's civil, political, economic, social, health, and cultural rights, children around the world continue to be abused, neglected, and exploited. Most Low and Middle-Income Countries (LMICs), including Nigeria, abuse children's rights daily and with impunity. Children are raped, maimed, and hungry, denied an education, ignored, and forced into child labour, with no judicial processes or institutions to seek restitution.<sup>774</sup>

In Nigeria, child rights violations include child marriage, violence against children<sup>775</sup>, female genital mutilation child rape, sexual violence,<sup>776</sup> and non-provision of identity, violence against children takes place in homes, families, schools, communities, and other settings where children should feel protected,<sup>777</sup> and lack of compulsory and quality education. Education is viewed as a privilege rather than a right. The situation in the north is no better, as the Boko Haram insurgency has put children in a perilous position, as they live in deplorable conditions as IDPs in IDP camps and are even subjected to rape by soldiers who are supposed to guard them, with many of the children becoming pregnant. "Childhood ought to be free from care, playing in the sun; not living a nightmare in the darkness of the soul."<sup>778</sup> Child slavery is still a common and accepted violation in Nigeria. Well-to-do families often hire children from the village to work in the city, with remuneration transferred back to the village to the sender, while some are used as street hawkers and shop attendants and cheap menial jobs. Abuse in all its forms is a daily reality for many Nigerian children, and only small percentages ever obtain assistance. Six out of every ten children are subjected to some type of violence; one in every four females and 10% of boys has been sexually abused. Among the children who reported violence, fewer than five out of

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<sup>773</sup> 'What is Child's Right' <https://www.amnesty.org.uk/issues/child-rights/what-are-childrens-rights> accessed 23 March 2024.

<sup>774</sup> O. Onome 'Violations of The Rights of The Child: The Nigeria Example' <<https://theowp.org/reports/violations-of-the-rights-of-the-child-the-nigeria-example/>> accessed 23 March 2024.

<sup>775</sup> UNICEF's report in 2015, <<http://www.unicef.org/nigeria/child-protection>> accessed 23 March 2024

<sup>776</sup> *supra*

<sup>777</sup> UNICEF Nigeria Key results for children 2018-2022 Highlights <<https://www.unicef.org/nigeria/child-protection>> accessed 23 March 2024

<sup>778</sup> DJ Pelzer, 'A Child called "it": One Child's Courage to Survive. Deerfield Beach, Florida, Health Communications,' (1995).



every hundred received assistance. The causes of Violence against Children (VAC) are entrenched in social norms, such as the use of forceful discipline, violence against women, and community beliefs about witchcraft, all of which make children more vulnerable.<sup>779</sup>

It is over three decades since the adoption of the United Nations Convention on the Rights of the Child (UNCRC). Based on the Convention's lofty ideas, which lay the groundwork for all children's rights, it would be necessary to develop a strategy to advance the protection of children's rights on how children have been able to enjoy their rights equally and without discrimination, the participation of children in the expression of their views, and how these views have been taken seriously in decision making that affects them directly if at all, the prevention and fighting all forms of violence, no matter where it takes place against the children and how the children are treated when coming in contact with the law, these would be base for further research.

The child's best interests should always be considered. It is believed that international regulations will perform better in some areas of sensitive child rights. For example, the United Nations includes sensitive issues of children's rights such as child prostitution, child trafficking, and child pornography in an optional protocol. These are extremely vulnerable aspects of children's rights that should be prioritized at this stage of the child's age. Ministry of Children, or at the very least, an agency, should be established to oversee children's civil, political, economic, social, health, and cultural well-being. Punitive actions and methods for violations of children's rights should be managed seriously to prevent future offenders. Furthermore, protecting children's rights is more than just the government's responsibility; it requires coordinated efforts from all strata and domains of society. To ensure a sustainable future for children, the Child Rights Act's provisions for protection and participation must be respected.

### **3.5.8 Convention against Discrimination in Education of 1960**

#### **Article 1**

1. For this Convention, the term "discrimination" refers to any distinction, exclusion, limitation, or preference based on race, colour, sex, language, religion, political or other opinions, national

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<sup>779</sup> UNICEF Nigeria Key results for children 2018-2022 Highlights <<https://www.unicef.org/nigeria/child-protection>> accessed 23 March 2024

or social origin, economic condition, or birth that has the purpose or effect of nullifying or impairing equality of treatment in education to:

- a. Depriving any individual or group of individuals of any type or amount of education.
- b. Limiting any individual or group of individuals to the instruction of a lower caliber.
- c. Establishing or maintaining different educational systems or institutions for individuals or groups of individuals, subject to the restrictions of Article 2 of this Convention; or
- d. Inflicting on any person or group of people situations that are incompatible with man's dignity.

2. For this Convention, "education" refers to all types and degrees of education, as well as access to education, educational standards and quality, and the conditions under which education is provided.

## **Article 2**

When permitted in a State, the following conditions are not considered discrimination under Article 1 of this Convention:

- a. The establishment or maintenance of separate educational systems or institutions for students of both sexes, if these systems or institutions provide equal access to education, teaching staff with equivalent qualifications of the same standard, as well as school premises and equipment of equal quality, and the opportunity to take the same or equivalent courses of study.
- b. The establishment or maintenance, for religious or linguistic reasons, of separate educational systems or institutions providing education under the wishes of the pupil's parents or legal guardians if participation in such systems or attendance at such institutions is optional and the education provided conforms to such standards as may be laid down or approved by the competent authorities, particularly for the education of the same level.
- c. The establishment or maintenance of private educational institutions if the object of the institutions is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities if the institutions are conducted in accordance with that object, and if the education provided conforms with such standards as may

be laid down or approved by the competent authorities, in particular for the education of the same level.

Article 1 defines the need for non-discrimination, while Article 2 identifies the circumstances under which discrimination may be tolerated. The critical parts of these fundamental policies are that there should be no discrimination in access to education on any grounds, the right to free and compulsory primary education, the right to quality education, the right to free choice of education, and the right to education in one's language. This latter argument, however, is acknowledged to be contentious, with states having commitments not to hinder members of linguistic minorities from receiving instruction in their mother tongue outside of the mainstream system, but no obligation to subsidise these institutions.<sup>780</sup> There are many other human rights instruments that particularly reference the right to education, including the Committee on the Elimination of Discrimination against Women (CEDAW). This human rights instrument is critical because of its historical impact on the current exclusion of girls and women from the educational system.

### **3.5.9 An Examination of Discrimination in Educational System in Nigeria**

Discrimination refers to the unfair or biased treatment of individuals and groups based on traits such as race, gender, age, or sexual orientation. Discrimination in education denies persons from specific demographics the full right to an education. Education discrimination can be based on ethnicity, nationality, age, gender, race, socioeconomic status, language, caste, disability, or religion. This is a violation of human rights. The Convention against Discrimination in Education, adopted by UNESCO on December 14, 1960, attempts to eliminate discrimination and racial segregation in education. As of December 2020, the convention had 106 member states.<sup>781</sup>

Discrimination in education can be 'direct', which means you are treated differently because of your age, handicap, or gender, among other things. Discrimination in education can also be

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<sup>780</sup> T. McCowan, 'Education as a Human Right: Principles for a Universal Entitlement to Learning' (Bloomsbury Pub. Plc. 2013) p 33.

<sup>781</sup> 'Discrimination in Education' <[https://en.wikipedia.org/wiki/Discrimination\\_in\\_education](https://en.wikipedia.org/wiki/Discrimination_in_education)> accessed 24 March 2024.

'indirect', which occurs when something (a 'provision, criterion, or practice') applies to everyone but is more difficult for some persons to comply with due to their age, handicap, or gender, among other factors.<sup>782</sup> An example of indirect discrimination would be refusing to allow someone to go on a school trip because they did not meet a certain level of attendance at school, and the reason for their absence was due to their disability.<sup>783</sup>

Direct discrimination in education would be refusing to allow someone to participate in a school trip because they are handicapped. Handicap is a disadvantageous situation in filling a position in life relative to a peer group, impairment, as conventionally defined, relates to a problem with a body structure or organ, and disability, is a functional limitation to a specific activity.<sup>784</sup>

Another aspect of discrimination in education is based on gender. The term "gender" refers to the distinction between humans based on the masculinity/femininity dichotomy. The term is often used in conjunction with "sex" to refer to the gender difference in society. It is also seen as a socio-cultural construct that assigns behaviours, attitudes, and values deemed fitting for each gender. Stereotyping has perpetuated gender bias as a norm, affecting several facets of life, including schooling.<sup>785</sup> Discrimination is not limited to the educational setting; it can occur in practically any environment. People frequently discuss workplace discrimination, but you might also face discrimination when attempting to use a service or purchase something in a store.

### **3.5.9.1 Features of Discrimination in Education.**

In most parts of the world today, women endure discrimination not only in school but also in other areas of life. Women face discrimination at work, leisure, and home. Sex influences people's positions in society and the educational system. Independence and initiative seem to be encouraged more in boys than in girls. According to Hoffman, girls are not so much trained in

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<sup>782</sup>'Discrimination in Education' (2018), Children Legal Centre Wales  
<<https://childrenslegalcentre.wales/discrimination-in-education/>> accessed 24 March 2024

<sup>783</sup>Supra

<sup>784</sup>S.L. Carter, 'Impairment, Disability and Handicap'

<<https://med.emory.edu/departments/pediatrics/divisions/neonatology/dpc/impairment-mx.html>> accessed 25 March 2024.

<sup>785</sup>I.O. Obielumani, 'Gender Stereo Typing and the Optimisation of Access to Education in Nigeria' (2010), Journal of Research in Education, Vol. 17 No. 1, 130

dependency as they are deprived of independence training.<sup>786</sup> Stereotyping of the sexes and their roles begins in early life. The child learns gender distinctions via adults' cues, whether consciously or unconsciously, and this process begins with the family. Boys' parents urge them to be more physically active, whilst girls are taught to be affectionate and tender. Parents easily help their daughters but urge that their males tackle challenges on their own. Even preschoolers had more preconceived ideas about sex roles than older children. Throughout primary school, children learn what it means to be male or female. Schools frequently promote gender inequality in a variety of ways. Before 1920, literature often depicted conventional roles and excluded women entirely. In literature, women are generally depicted as docile and fearful at home, while men are represented as dominant and adventurous, often rescuing their female counterparts.<sup>787</sup>

Culture rules our lives always, from the moment a child is born until he dies. The child is constantly pressured to conform to the behaviours that other males have enforced on her. Female children are married off at a young age. This is why women in ancient society had a singular function that defined their existence: to bear offspring, specifically male children. They had little, if any, legal and political rights and were regarded as inferior to men in all aspects. In the classical era, gender stereotypes were not only based on common beliefs but also justified by rational reasoning. As a result, women were consigned to domestic duties such as spinning, weaving, and childcare. They had no place in public politics and warfare because of their perceived physical, mental, and emotional inferiority.<sup>788</sup> "The male is by nature fitter for command."<sup>789</sup> Such an attitude results in a permanent imbalance in sex development in society. Formal education, which liberalized formerly authoritarian societies, also contributed to the development of female personalities in specific areas. In most of the Nigerian culture, women are often expected to stay at home and not pursue education. It is widely believed that women always survive without formal education. The only hope for masculine children is to be educated. Following from the above, the features of gender discrimination are discussed below.

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<sup>786</sup> Cited in E.D. Nakpodia, and J. Urien, 'Gender Discrimination in Nigerian School System' in International Journal of Development and Management Review, (*INJODEMAR*) (2012) Vol. 7, 74.

<sup>787</sup> E.D. Nakpodia, and J. Urien, 'Gender Discrimination in Nigerian School System' in International Journal of Development and Management Review (*INJODEMAR*) (2012) Vol. 7, 74.

<sup>788</sup> Aristotle, *The female Role" in Politics, in Women's Life in Greece and Rome*, R. Mary, R. Lefkowitz and M.B. Fant, (Baltimore: Johns Hopkins UP, 1982), 38.

<sup>789</sup> Supra

Furthermore, teachers frequently unwittingly reinforce sex inequality in classrooms. Spender and Sarah<sup>790</sup> found that in secondary schools, males dominate mixed classrooms, whereas girls receive less attention from teachers. While some classrooms are co-educational, many activities within them are gender specific. Girls and boys in the same classroom have unique experiences, interests, success levels, and expectations. The social system is thought to be responsible for these differences. Schools have an important role in passing down critical concepts and values to society and among these are sex roles and expectations. This happens through courses and curricula. It is easy to observe how male and female students can pick up diverse behavioural clues from their teachers' gender differentiation and generalisations, which present themselves in gendered educational interests and degrees of attainment. Clarricoates calls this the "hidden curriculum" because it differs from the official curriculum, which does not discriminate based on gender.<sup>791</sup> She observes that it stems from a teacher's underlying assumptions about gender behaviour, which cause them to act in favour of boys but against female students. This eventually leads to a self-fulfilling prophecy in the student's academic and behavioural performance.<sup>792</sup>

Most school curricula reflected gender distinctions, with household economy and embroidery given only to girls. All children should have a full and equal opportunity to learn in school. Many training opportunities and professional ladders have been either closed to women or much less accessible to women than men. As a result, the study will concentrate on male and female experiences in the educational system, as well as how this affects men's and women's social standing. Women's under-representation in the education and national advancement sector hinders genuine progress.

Most women in Nigeria are not held in high respect, which is due to the propensity for boys to receive an education. Any amount of money could be spent on educating males, but money spent on women is sometimes considered a waste due to the widespread idea that women will end up

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<sup>790</sup> D. Spender and E. Sarah, 'Feminism Sexism in education Girls - Psychology Women teachers' (London: Women's Press, 1980) 216, ISBN 0704338637, <<https://catalogue.nla.gov.au/catalog/3019567>> accessed 25 March 2024.

<sup>791</sup> K. Clarricoates, Classroom interaction, in V Burr (Ed.), *Gender and Psychology* (pp. 242–258). (Routledge/Taylor & Francis 1978)

<sup>792</sup> R. Robert; Jacobsen, Lenore *Pygmalion in the Classroom* (London: Holt, Rinehart & Winston 1968).

in the kitchen regardless of how much is spent on them. While the male's investment is unwavering, the female, who is considered a second fiddle, is given second thought. Allowing females access to school is a significant indicator of societal progress. Strong scientific evidence supports the argument that investing in female education is the "single most cost-effective investment to improve living standards in developing countries," particularly in the poorest countries.<sup>793</sup> General impediments to educational progress include widespread poverty, a lack of skilled personnel, gender and apartheid against women, rapid population increase, and foreign loan repayment agencies.<sup>794</sup> Women could rarely claim economic authority without men, with most women's efforts going unacknowledged. With education, women can manage their fertility by taking advantage of the multiplying benefits of education.

This was the dominant thought in classical culture and throughout history. Women's bodies were biologically adapted to the work of childrearing and hence were constrained to that duty, as "the dominant medical image of women reflected contemporary conceptions of female nature and women's role in society." Classical civilization believed that women's bodies were designed to bear, deliver, and nurture offspring.<sup>795</sup>

Despite regional variances, Nigerian women performed vital roles in food production and processing, actively participating in all main agricultural activities such as harvesting, processing, transportation, and marketing. Furthermore, they participate in political activity. Women make substantial contributions to the economy. They play an important part in the workforce and help businesses grow and thrive. Women have also been shown to be excellent entrepreneurs, and they are launching their enterprises. Empowering women socially, politically, and economically is not only morally important but also economically sound. Research has shown that increasing women's economic engagement benefits national economies, household productivity, living standards, and general well-being. In this context, education, training,

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<sup>793</sup>E. Kane, *Research Handbook for girls education in Africa*, (Washington DC: World Bank 1995), <[https://books.google.co.uk/books/about/Seeing\\_for\\_Yourself.html?id=ovKKtAEACAAJ&redir\\_esc=y](https://books.google.co.uk/books/about/Seeing_for_Yourself.html?id=ovKKtAEACAAJ&redir_esc=y)> accessed 26 March 2024

<sup>794</sup> UNESCO, 1995; United Nations Educational, Scientific, and Cultural Organization (UNESCO), and UNICEF (1997) <<https://unesdoc.unesco.org/ark:/48223/pf0000104325>>, and <https://www.unicef.org/history#:~:text=The%20United%20Nations%20International%20Children's,aftermath%20of%20World%20War%20II.>> accessed 26 March 2024

<sup>795</sup>E. Fantham, et al *Women in the Classical World: Image and Text*, (New York: Oxford UP, 1994), 184.

awareness raising, self-confidence building, choice expansion, increased access to and control over resources, and actions to transform the structures and institutions that reinforce and perpetuate gender discrimination and inequality are critical tools for empowering women...

### **3.5.9.2 Causes of Gender Inequality in Education**

There are numerous and different relationships between gender equality and the realisation of the fundamental right to education. Most women and girls are denied their human right to education around the world, Nigeria inclusive. The elements influencing gender imbalance in education have been listed as follows:

### **3.5.9.3 Poverty**

Poverty causes a variety of issues in meeting basic needs. In some situations, people struggle to satisfy their daily nutritional needs. Poverty-stricken individuals and families prioritize obtaining enough cash to meet their basic needs. They often lack the financial resources to cover education-related fees. Even with free education, students still incur additional fees. These include stationary, books, baggage, uniforms, and transportation expenditures. Individuals who are impoverished struggle to fulfill their bills. Traditional adolescent practices often impact girls' education. In rural regions, traditional behaviours can hinder girls' education<sup>796</sup>. Traditional perspectives hinder girls' education and self-sufficiency. These barriers prevent individuals from achieving their potential for empowerment. To empower women and girls, it's important to shift outdated perspectives and ensure equal rights and opportunities.

### **3.5.9.4 Prevalence of Traditional Belief**

Traditional adolescent activities typically have an impact on girls' educational attainment. In some rural communities, the existence of certain cultural behaviours creates barriers to girls' education. According to Olomjobi,<sup>797</sup> Nigeria is a country with various ethnic groups and correspondingly different cultures. Within these cultures, there are practices against women that have been practiced over time under the various patriarchal systems that are present in these

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<sup>796</sup>Z. Linda, 'Factors Causing Gender Inequality in Education in Tanzania: A Case of Korogwe District Secondary Schools' *University of Tanzania* (2014)

<sup>797</sup> Y. Olomjobi, 'Human Rights on Gender, Sex, and the Law in Nigeria' (Lagos: Princeton Publishing Company, 2015) 25



societies. “Gender perceptions are heavily established in cultural determinism and stringent religious beliefs founded on gender stereotypes. It is worth noting that gender discrimination deprives half of the population of essential human rights, restricting their contribution to economic and social growth. It is suggested that a strong measure of gender discrimination in Nigeria stems from a deep-seated custom. Men have wielded influence over custom. It is assumed that men are the keepers of a people's traditions. This is evidenced by the fact that traditional rulers and religious leaders have status and power over customary practices. It appears that traditional customs from the past are not developing but stay in a static form.”<sup>798</sup>

The foregoing demonstrates that in numerous Nigerian communities, norms and traditions have thwarted and hampered women's social growth over time. Traditional customs include juvenile marriages and female restrictions, widowhood practices, female genital mutilation, and denial of inheritance rights, among others.<sup>799</sup>

### 3.5.9.5 Child Marriage

Early marriage for girls remains prevalent in Nigeria. Many women are married at a young age, often without knowledge or skills due to their lack of participation in school. Many girls are married off in their teens without their consent to men far older than them, including men old enough to be their fathers. This significantly limits their opportunities for self-development and empowerment.<sup>800</sup>

When individuals marry before the age of 18, this is referred to as child marriage. Child marriage has harmful consequences for individuals, particularly girls. When girls marry at a young age, they are typically denied the opportunity to further their education, pursue work prospects, and participate in other childhood activities. They are just obliged to remain in their houses, carry out household tasks, and attend to the wants and requirements of other family members. According to research, females are frequently unwilling to obey their parents, yet they must do so.

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<sup>798</sup> Supra

<sup>799</sup> E. Essien Offiong *et al*, ‘Patriarchy, Culture and the Social Development of Women in Nigeria’ (online) Vol. 1, No. 4, (2021), 81 *Pinisi Journal of Art, Humanity and Social Studies* ISSN 2747-2671. <<https://ojs.unm.ac.id/PJAHSS/article/view/26708>>accessed 1 April 2024.

<sup>800</sup> E. Nkpe, ‘The Historical Legacy of Gender Inequality in Nigerian the Paradox of Gender Equality in Nigerian Politics: Essays in Honour of V Adeleke’ SO Akinboye (ed) (Lagos: Concept Publications Limited 2011).

Individuals and groups, particularly those from rural communities, marry their daughters at a young age because they hold traditional views and beliefs. They believe that if girls become educated and grow older, it will be harder to find acceptable grooms for them. They even train their girls to perform household duties from an early age. Because of the popularity of this practice, females are prohibited from obtaining an education.<sup>801</sup>

### 3.5.9.6 Inheritance Rights

Several customary laws in Nigeria prevent women from owning land or inheriting from their father's estate. Women face discrimination in terms of succession and equal opportunity under customary laws.<sup>802</sup> In Nigeria, customary law establishes a patriarchal structure dominated by men. This prioritizes men's interests and ideals over women's, resulting in gender imbalance. Customs and traditions often limit women's property rights in Nigeria. This has led to women facing social and economic disadvantages. Olomojobi argues that traditions and conventions have limited women's access to property rights and excluded them from community decision-making.<sup>803</sup>

Nigeria's Constitution bans discrimination based on gender, religion, ethnicity, or political affiliation (Constitution of the Federal Republic of Nigeria 1999). Courts in Nigeria have supported Igbo customary law, which prohibits women from inheriting landed property from their fathers or husbands *Ugboma vIbeneme*;<sup>804</sup>*Ejiamike vEjiamike*.<sup>805</sup> Traditionally, women were not allowed to inherit landed property from their fathers or spouses, leading to male dominance in inheritance and succession. This customary law, which violated the Federal Republic of Nigeria Constitution and was contrary to natural justice, equity, and good conscience, was upheld by the courts until recently. Recent Nigerian court judgments have denounced this

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<sup>801</sup> R. Kapu, 'Gender Inequality in Education' *International Journal of Transformations in Business Management, (IJTBM)* 2019, p5, Vol. No.9, Issue No. I, Jan-Mar e-ISSN: 2231-6868, p-ISSN: 2454-468X 1 <<http://www.ijtbm.com>> accessed 26 March 2024

<sup>802</sup> Y. Olomojobi, 'Human Rights on Gender, Sex, and the Law in Nigeria' (Lagos: Princeton Publishing Company, 2015) 27

<sup>803</sup> Supra

<sup>804</sup> *Ugboma vIbeneme* (1967) FNLR 251

<sup>805</sup> *Ejiamike vEjiamike* (1972) ECLSR, 68

customary law as inhumane, unconstitutional, and against natural justice, equity, and moral conscience.

However, in recent times, the courts have risen in defence of the fundamental rights of the female gender to inherit landed property not only of their husbands on their death *Anekwe v Nweke*<sup>806</sup> but also of their dads *Ukeje vUkeje*.<sup>807</sup> These verdicts are based on constitutional provisions that prohibit discrimination of any kind. This is a positive step towards addressing the injustice caused by Igbo customary law, which denied women the right to inherit landed property. Additionally, in the case of *Motoh V. Motoh* the Court of Appeal held that the native law and custom of the *Awka* people in Nigeria discriminate against female children of the same parent and favour the male children who inherit all the estate of their father to the exclusion of their female siblings, is repugnant to natural justice, equity, and good conscience as it is also unconstitutional.

Until recently, courts approved customary law that contradicted the Federal Republic of Nigeria's Constitution and violated natural justice, equity, and conscience. Recent Nigerian court rulings have condemned this customary law as inhumane to women, unconstitutional, and contrary to natural justice, equity, and morality. It has been criticized as barbaric, antiquated, unprogressive, and as an object that should be relegated to the rubbish can. To ensure that it does not continue, the courts must remain vigilant in their duty to condemn the customary practice whenever the occasion arises. Women should not be complacent; instead, they should resist any attempt to oppress them and strip them of their inherited rights. This is because if such an attempt is not challenged in the courts, the courts do not have the authority to condemn such behaviour.

### **3.5.9.7 Occurrence of Violent Attacks**

Women and girls have been subjected to significant levels of violence in both rural and urban populations. These crimes include verbal and physical abuse, sexual harassment, discriminatory treatment, rape, acid attacks, female feticides and infanticide, child trafficking, domestic violence, and neglect. Girls' and women's physical and psychological health are impacted by

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<sup>806</sup>*Anekwe vNweke* (2014)9 N.W.L.R. (Pt. 1412)393

<sup>807</sup>*Ukeje vUkeje* (2014)11 NWLR (Pt. 1418)384

their experiences with these acts. The severity of their pain is usually determined by how much they have been subjected to such acts. For example, when girls are verbally abused by their peers in school, they are less likely to drop out. However, if they face sexual harassment or other illegal behaviours, they may drop out of school. As a result, the prevalence of criminal and violent acts is viewed as a significant barrier to educational attainment.<sup>808</sup>

### 3.5.9.8 Discriminatory Treatment among Girls

Discriminatory treatment of girls is represented in numerous ways. These are the acquisition of education, attainment of employment opportunities, empowerment opportunities, deprivation of property rights, deprivation of having a say in decision-making matters, deprivation of expressing their viewpoints and perspectives, discouraged from participating in social, economic, cultural, and political activities, remaining confined within the households, implementing household chores, and taking care of the needs and requirements. Furthermore, they face discrimination in terms of health and medical services, as well as food. Male members received high-quality food, while female members received plain food. The presence of discriminatory treatment of women in various areas not only impedes their advancement but also the growth of communities and nations.<sup>809</sup>

Other causes of discrimination in education are parental education, which plays an important role in fostering education in children, instilling moral and ethical features in them, and ensuring their well-being. When parents are well-educated and engaged in reputable career prospects, it is obvious that they will provide good quality education to their children. Parents' occupations play a significant role in promoting education for girls. Girls are denied an education since their parents do not have wage-earning prospects. Individuals seek employment to ensure decent living conditions. Girls from poor families are often discouraged from pursuing school due to domestic duties. Lack of interest in the studies is another factor that can cause discrimination. To obtain an education and attain academic goals, pupils must generate passion and excitement.

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<sup>808</sup> R. Kapu, 'Gender Inequality in Education' *International Journal of Transformations in Business Management (IJTBM)* 2019, p4, Vol. No.9, Issue No. I, Jan-Mar e-ISSN: 2231-6868, p-ISSN: 2454-468X 1 <<http://www.ijtbm.com>> accessed 26 March 2024

<sup>809</sup>Supra

When struggling with academics, it's important to seek support from others to have a better understanding of subjects.

### 3.5.10. Consequences of Discrimination in Education

Discrimination in education can have disastrous consequences, including poor attendance at school, and poor academic achievement, children and young people would not be able to meet their full potential, and children and young people would experience isolation. Classroom interactions might have unexpected repercussions. Because gender is something we learn, our daily encounters impact how we perceive gender.<sup>810</sup> Teachers and staff in elementary schools may unintentionally reinforce specific gender norms. Their verbal interactions may also target other students.

Discrimination occurs primarily in low-status, sex-stereotyped occupations, which are influenced by gender inequalities in majors.<sup>811</sup> Even though their labour force involvement has increased, they must still bear many household obligations. Sex discrimination in high school and college courses also prevents women from becoming prepared or qualified for more prominent, high-paying jobs. Sex inequality in school causes women to be more meek, quiet, and less assertive because of the concealed curriculum.<sup>812</sup> Other implications include what is presented as appropriate behaviour for boys and girls in classes such as physical education. While a teacher may not intend to communicate these inequalities, they may make comments based on gender

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<sup>810</sup>J. Esposito, 'Negotiating the Gaze and Learning the Hidden Curriculum: a Critical Race Analysis of the Embodiment of Female Students of Colour at a Predominantly White Institution' (2011) *Journal for Critical Education Policy Studies* <[https://en.wikipedia.org/wiki/Sex\\_differences\\_in\\_education](https://en.wikipedia.org/wiki/Sex_differences_in_education)> accessed 25 March 2024

<sup>811</sup>J.A. Jacobs, (1996). 'Gender Inequality and Higher Education' *Annual Review of Sociology*, 22: 153–85. <[doi:10.1146/annurev.soc.22.1.153](https://doi.org/10.1146/annurev.soc.22.1.153), S2CID 145628367>

<sup>812</sup>P. Jennifer 'Gender, Education' *Blackwell Encyclopaedia of Sociology* in Ritzer, George (eds.). Blackwell Publishing, 2007. Blackwell Reference Online. <[https://en.wikipedia.org/wiki/Sex\\_differences\\_in\\_education](https://en.wikipedia.org/wiki/Sex_differences_in_education)> accessed 25 March 2024 <[http://www.blackwellreference.com/subscriber/tocnode?id=g9781405124331\\_chunk\\_g978140512433113\\_ss1-16](http://www.blackwellreference.com/subscriber/tocnode?id=g9781405124331_chunk_g978140512433113_ss1-16)>

and physical ability.<sup>813</sup> For example, a male may be informed that he throws like a girl, which encourages him to be more masculine and employ brutal power.<sup>814</sup>

### 3.5.11 Ways to Curtail Gender Discrimination in Education

To eliminate gender discrimination, the government and the public must do everything possible to raise the number of females in all schools, reform elementary and secondary school education to prevent girls from becoming housewives at a young age. More options for girls to learn science in secondary schools are necessary in today's scientific society. Efforts should be made to bridge the educational opportunity gap for women and men. This can only be accomplished now by investing more money in women's education through scholarships in secondary institutions and greater grants-in-aid, notably for science education in girls' secondary schools.

To encourage women to choose demanding occupations that provide stability and income, incentives such as employment and promotion chances are necessary. Enact or promulgate legislation to promote female education. Educate parents, particularly those with literacy skills, on the need to educate their daughters. Lectures should be organized to raise awareness of the consequences of gender discrimination. Governments and non-governmental organizations should prioritize education and training for girls and women, both formal and informal.

Finally, all ideas or practices that regard women as appendages to males, a submissive maid to do men's dirty work, should be abandoned and eliminated. Organizations such as the Forum for Women in Politics and the Beijing Conference aim to raise awareness among females about their importance in attaining equality, development, and peace. Non-discriminatory education benefits both boys and girls. If more women are to be change agents, they must have equal access to and obtain educational qualifications. Nigeria, as a global player, cannot afford to regress while other countries progress. Emphasis is laid on the need for Nigeria to fulfil its international duties to remove discrimination against women.<sup>815</sup> There should be a review of obsolete laws, as well as

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<sup>813</sup>M.A. Solomon, et al. "Research on Social Issues in Elementary School Physical Education"(2000). *Elementary School Journal*<[https://en.wikipedia.org/wiki/Sex\\_differences\\_in\\_education](https://en.wikipedia.org/wiki/Sex_differences_in_education)> accessed 25 March 2024

<sup>814</sup>V.Cooper, 'Boys Don't Cry and Female Masculinity: Reclaiming a Life &Dismantling the Politics of Normative Heterosexuality' (2002) *Critical Studies in Media Communication* 19 (1): 44–63<[doi:10.1080/07393180216552](https://doi.org/10.1080/07393180216552). ISSN 1529-5036. S2CID 145392513>

<sup>815</sup>N.M. MojekwuandChikezie, 'African Women: Sentenced by Tradition'(Lagos: A. A. Nuokebi &Company 2012)

the legislature's review of laws that enslave women. Such laws are those that discriminate against women, and any such odious laws should be repealed. Enforcement of girl child education should be enhanced. Relevant law enforcement institutions, as well as other societal agencies, should be trained and instructed to take violations of women's dignity seriously. Discriminatory practices cut across socioeconomic and party connections; thus, relevant institutions and civil society organizations should work to raise public awareness of such discriminatory practices.<sup>816</sup>

### **3.5.12 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**

On December 18, 1979, the United Nations General Assembly enacted the Convention on the Elimination of All Forms of Discrimination against Women referred to as CEDAW). It came into existence as an international treaty on September 3, 1981, when the twentieth country approved it. By the Convention's tenth anniversary in 1989, about one hundred nations had committed to abide by its provisions.<sup>817</sup>

The Convention marked the culmination of more than thirty years of work by the United Nations Commission on the Status of Women, which was established in 1946 to monitor women's conditions and promote women's rights. The Commission's work has helped to bring to light how women are denied equal rights with men. These attempts to advance women have resulted in several declarations and agreements, the most important and comprehensive of which is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).<sup>818</sup>

Among international human rights accords, the Convention plays an important role in bringing the female half of humankind to the forefront of human rights discussions. The spirit of the Convention is based on the United Nations' goals: to reaffirm faith in fundamental human rights, the dignity and worth of the human person, and the equality of men and women. The present document defines equality and explains how it might be attained. In doing so, the Convention

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<sup>816</sup>Y. Olomojobi, 'Human Rights on Gender, Sex, and the Law in Nigeria' (Lagos: Princeton Publishing Company, 2015) 27

<sup>817</sup>Convention on the Elimination of All Forms of Discrimination against Women New York' (18 December 1979)<<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>>accessed 27 March 2024

<sup>818</sup>Supra

provides not only a worldwide bill of rights for women but also an action plan for countries to ensure the enjoyment of those rights.

The Convention specifically states that "extensive discrimination against women continues to exist" and underscores that such discrimination "violates the principles of equality of rights and respect for human dignity" in its preamble. *Discrimination is defined as "discrimination against women" shall mean any distinction, exclusion, or restriction made based on sex that has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of marital status, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field based on men and women's equality.*"<sup>819</sup> The Convention affirms the principle of equality by requiring States parties to take "all appropriate measures, including legislation, to ensure the full development and advancement of women, to guarantee them the exercise and enjoyment of human rights and fundamental freedoms on an equal basis with men".<sup>820</sup>

The program for equality is outlined in fourteen additional articles. The Convention takes a three-dimensional approach to women's issues. Civil rights and women's legal positions are discussed in considerable length. Furthermore, unlike other human rights treaties, the Convention is concerned with both the dimension of human reproduction and the impact of cultural factors on gender relations.<sup>821</sup>

The States Parties to the current Convention noted that the United Nations Charter underlines core human rights, including dignity, worth, and equality for men and women. They also note that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on gender and noting that the States Parties to the International Covenants on Human Rights must ensure that men and women have equal rights to

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<sup>819</sup>Article 1 of Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (heretofore referred to as the 1979 Convention or CEDAW)

<sup>820</sup>Article 3 of CEDAW

<sup>821</sup>Article 14 of CEDAW



all economic, social, cultural, civil, and political rights. Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting the equality of rights of men and women, as well as the resolutions, declarations, and recommendations adopted by the United Nations and the specialized agencies promoting the equality of men and women.

The CEDAW is divided into six parts which comprise Thirty (30) Articles with duties and responsibilities duly spelt out to the state parties to present the Convention. In May 2001, 168 nations had approved CEDAW. 46 of them are African. Nigeria signed the convention on April 23, 1984, and ratified it without objections on June 13, 1985. The Convention acknowledges that discrimination against women persists and contradicts the principles of equality of rights (UN Human Rights). It addresses the impact of cultural variables on gender relations, such as cultural preconceptions, habits, and norms that limit women's growth, as well as their civil and legal status. It promotes a shift in men's and women's traditional roles in society and family to attain full equality while also eliminating prejudices and customary practices based on the belief that women are inferior. It also seeks to address cultural norms that classify the public domain as men's and the domestic field as women's.<sup>822</sup>

Nigeria also signed the Optional Protocol to CEDAW on September 8, 2000, and ratified it on November 22, 2004. The Optional Protocol allows people and groups to file complaints with the Committee if the government fails to implement the Convention's policies. This encourages states to follow CEDAW to avoid receiving complaints, as well as to correct violations by modifying legislation, eliminating discriminatory practices, and implementing affirmative action measures (UN Women). It presented its first report to the Committee on the Elimination of All Forms of Discrimination Against Women in 1986, followed by its second report in 1998.<sup>823</sup> Despite being a signatory to various women's rights conventions, Nigeria has yet to fully

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<sup>822</sup>O.C.Okongwu 'Are laws the appropriate solution: The need to adopt non-policy measures in aid of the implementation of sex discrimination laws in Nigeria', (2021), *International Journal of Discrimination and the Law* 21 (1), pp. 26-46. ISSN 1358-2291 <<https://journals.sagepub.com/doi/full/10.1177/1358...>> accessed 27 March 2024

<sup>823</sup>M.O.Okome "Domestic, Regional, and International Protection of Nigerian Women against Discrimination: Constraints and Possibilities" Fall (2002), 33, *African Studies Quarterly* | Volume 6, Issue 3 | <<http://www.africa.ufl.edu/asq/v6/v6i3a3.pdf>> see also Consideration of reports 2. Second and third periodic reports Nigeria CEDAW/C/1998/II/L.1/Add.6 7 July 1998 accessed 27 March 2024.

implement them. Domesticating international laws provides legal power within Nigeria.<sup>824</sup> Nigeria, as a global country, cannot afford to lag other nations in terms of progress; emphasis is made on the need for Nigeria to fulfill its international duties to remove discrimination against women.<sup>825</sup>

### **3.5.13 Committee on the Elimination of Discrimination against Women (CEDAW) 1979**

#### **Article 10**

States parties shall take all appropriate steps to prevent discrimination against women to ensure equal rights with men in the sphere of education, and in particular:

- a. The same conditions for career and vocational guidance, access to studies, and diploma attainment in all categories of educational establishments in rural and urban areas; this equality shall be ensured in pre-school, general, technical, professional, and higher technical education, as well as all types of vocational training.
- b. Access to the same curricula, tests, teaching staff with comparable qualifications, with the same standard and school facilities and equipment of comparable quality.
- c. of textbooks and educational programs, as well as the modification of teaching methods; Elimination of any conventional concept of men's and women's duties at all levels and in all forms of education by fostering co-education and other types of education that will aid in this goal, and, in particular, by revising.
- d. The same opportunities to benefit from scholarships and other study grants.
- e. The same chances for access to continuing education programs, including adult and functional literacy programs, particularly those geared at closing any educational gap between men and women as soon as possible.

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<sup>824</sup>N.M. Mojekwu and Chikezie, 'African Women: Sentenced by Tradition' (Lagos: A. A. Nuokebi & Company 2012)

<sup>825</sup>Y. Olomajobi 'Human Rights on Gender, Sex, and the Law in Nigeria' (Lagos: Princeton Publishing Company, 2015).

f. The same opportunity for active participation in sports and physical education.

g. Access to specific educational information to aid in the health and well-being of families, including family planning information and assistance.

CEDAW is one of many treaties and declarations that specifically include presentations in books and curriculums, while curriculum issues are largely absent from international human rights documents. Aside from a broad statement of goals, CEDAW is one of several treaty declarations related to specific populations, such as the Convention on the Status of Refugees (1951) and the International Convention on the Elimination of All Forms of Racial Discrimination (1966).

There are many regional documents and national laws that contain educational laws and policies, such as the 1948 Charter of the Organization of American States, the 1981 African Charter on Human and Peoples' Rights, the 1981 European Union Charter on Human and Peoples' Rights, and the 2000 European Charter of Fundamental Rights.

### **3.5.14 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): Protection of Nigerian Women from Discrimination, challenges, and prospects**

In most African countries, including Nigeria, men have had exclusive rule and control over women for centuries. This has been perpetuated through a variety of socio-cultural practices, including child marriages and female restrictions, widowhood rites, female genital mutilation, and denial of inheritance. The underlying elements responsible for women's rights infringement include inherent inequality (women do not have equality with males in society), Women's and girls' unequal access to education, damaging cultural behaviours, insufficient access to economic resources, and unequal politics. Furthermore, traditional gender roles and cultural conventions continue to hinder women's opportunities in Nigeria. Women's social roles in Nigeria vary depending on their religion, culture, and geography. However, many Nigerian societies regard women as only mothers, sisters, daughters, and wives.

Nigeria ranks 139th out of 156 nations in the World Economic Forum's Gender Gap Index, and civil society groups are concerned that the country's female participation in leadership is

declining.<sup>826</sup> While the Nigerian Constitution guarantees gender equality and non-discrimination, women continue to face injustices and marginalization. This is frequently due to discriminatory laws, religious and cultural conventions, gender stereotypes, low levels of education, and the disproportionate impact of poverty on women. Despite these challenges, several individual women have persevered to hold major leadership positions in Nigeria, frequently to great acclaim and the benefit of society.

The United Nations Covenants of 1966 prohibit gender-based discrimination.<sup>827</sup> However, the playing field should be balanced to enhance women's progress in those areas where they have traditionally been excluded and discriminated against. Nigeria is a signatory to several international instruments which include, The International Convention on Economic, Social, and Cultural Rights,<sup>828</sup> The International Covenant on Civil and Political Rights (CCPR)<sup>829</sup>, The International Convention on the Elimination of all Forms of Racial Discrimination<sup>830</sup>, The Convention Against Torture and Other Cruel, Inhuman Treatment, and Punishment<sup>831</sup>, The Convention on the Rights of the Child, (CRC)<sup>832</sup>, The Optional Protocol on the CRC on the Involvement of Children in Armed Conflict<sup>833</sup>, The Optional Protocol on the CRC on the Sale of Children, Child Prostitution, and Child Pornography,<sup>834</sup> among others.

In Nigerian law and administrative practice, men are viewed as home heads with primary authority. This mindset endures regardless of the past and women's rights in the domestic, economic, social, and political realms are all part of the rights of production and reproduction. Rights of production encompass recruiting, promotion, and training, as well as rewards and

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<sup>826</sup> A. Ewang, 'Nigeria Risks Falling Further Behind on Women's Equality' <<https://www.hrw.org/news/2022/03/08/nigeria-risks-falling-further-behind-womens-equality>> accessed 27 March 2024.

<sup>827</sup> Art. 2,1 Civil & Political Covenant; Art. 2,2 Economic, Social and Cultural Rights).

<sup>828</sup> Nigeria signed 29 July 1993

<sup>829</sup> Nigeria signed 29 July 1993

<sup>830</sup> Nigeria signed 29 July 1993

<sup>831</sup> Nigeria signed 28 June 2001

<sup>832</sup><sup>832</sup> Nigeria signed 19 April 1991

<sup>833</sup> Nigeria signed 8 September 2001

<sup>834</sup> Nigeria signed 8 September 2001, Nigeria is also not a signatory to the Optional Protocol to the CCPR, and the Second Optional Protocol to the CCPR or The International Convention on the Rights of all Migrant Workers and Members of their Family. Office of the United Nations High Commission for Human Rights. Status of Ratifications of the Principal Human Rights Treaties as of 26 November 2001. <[www.unhchr.ch/pdf/report.pdf](http://www.unhchr.ch/pdf/report.pdf)> accessed 27 March 2024

entitlements. States Parties "modify the social and cultural patterns of conduct of men and women, to achieve the elimination of prejudices and customary and all other practices which are based on the idea of inferiority or superiority of either of the sexes or on stereotyped roles for men and women." Despite the existence of many female-headed family units, there are contemporary examples of cross-gender cooperation in many households<sup>835</sup>. Women continue to be defined only in terms of their reproductive and associated duties. In Nigeria, women are required to cook and care for their husbands' and children's health.

There is also a significant dearth of information among women regarding the scope and nature of their rights. There are also legislative and administrative procedures that reinforce gender inequality within families. For example, only in cases involving women is infidelity regarded as adequate grounds for divorce.<sup>836</sup> In some societies, women who commit adultery have punitive penalties imposed on them by other women in their traditional settings. Furthermore, only when a man dies because of long-term illness is the wife allegedly accused of murdering her spouse; when the opposite occurs, there is no such allegation against the man.<sup>837</sup> Men's dominance in Nigerian communities has resulted in socio-cultural norms that disadvantage women. These laws and practices have created discriminatory attitudes and economic inequities, perpetuating women's disadvantaged position in society.<sup>838</sup>

The CEDAW periodic report on Nigeria identified women's self-perception, goals, and aspirations as a limiting factor in enforcing anti-discrimination legislation. Only enlightened and educated women who are aware of the laws and regulations in existence, as well as who understand their worth, can hope to benefit from them. According to the research, to reap the benefits of the Convention, additional issues such as tradition, customs, religion, illiteracy, and

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<sup>835</sup> I.Iweriebor, 'Women and the Family: Labour and Management - What can be done?' in *Women and the Family*, op cit, pp. 239-252, 1985.

<sup>836</sup> J.O. Akande, 'Laws and Customs Affecting Women's Status in Nigeria, Lagos: International Federation of Women Lawyers, Nigeria,' 1979 p.17; Nigerian First Report to CEDAW, op cit., p. 30.

<sup>837</sup> Author's statement, it was one of the most dehumanizing treatments I witnessed in a village in 2020 this incident remains in my memory.

<sup>838</sup> E.E. Offiong, 'Women in Society - A Contemporary Study of the Careers of Mary Slessor and Mother Teresa. Studies in Sikhism and Comparative Religion', (2012) 31 (1), 143-160, and EE Offiong, 'Society in Transition: The Encounter of Traditional African Socio-Cultural and Religious Practices with Modernity in Calabar' *Lafia Journal of African and Heritage Studies* 1(1).

poverty must be addressed to adopt laws and policies to eliminate prejudice.<sup>839</sup> The government established panels to provide suggestions to bring existing laws into compliance with the CEDAW and other conventions. Deliberate efforts were made to economically empower women and give them opportunities for political participation by increasing the number of female representations, which saw an increase in the House of Representatives and the Senate from 1.9% and 2.8% in 1999 to 6.9% and 6.4% in 2015.<sup>840</sup>

Notwithstanding these attempts, the CEDAW is unable to protect women's rights in Nigeria since it has not been domesticated. Treaties that have been signed and ratified do not take force unless the National Assembly passes a corresponding law, according to Section 12 of the Constitution. The Court of Appeal confirmed in the case of *MHWUN v Minister of Health and Productivity and Ors* that the provisions of an International Labour Convention cannot be invoked and enforced by a Nigerian court until they are re-enacted by an Act of the National Assembly.<sup>841</sup> CEDAW, even if ratified, has no impact and is inapplicable if no law addresses the convention's aim.

Regardless of the standing of CEDAW, the Court of Appeal acknowledged and applied it in *Ojukwu v Ejikeme*.<sup>842</sup> Section 254(c)(2) of the Constitution (Third Alteration) Act 2010 authorizes Nigeria's National Industrial Court to apply any ratified international convention, treaty, or protocol relating to labour, employment, workplace, or industrial relations to achieve international best practices.<sup>843</sup> Although this is a wonderful development, it is not applicable outside of work. Except for the Charter, international treaties have had no good or little impact

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<sup>839</sup>O.C.Okongwu 'Are laws the appropriate solution: The need to adopt non-policy measures in aid of the implementation of sex discrimination laws in Nigeria' (2021), *International Journal of Discrimination and the Law*, 21 (1). pp. 26-46. ISSN 1358-2291 <<https://journals.sagepub.com/doi/full/10.1177/1358...>> accessed 27 March 2024

<sup>840</sup>Nigeria, British Council 'Gender in Nigeria Report 2012: Improving the Lives of Girls and Women in Nigeria' (2012) <<https://www.britishcouncil.org/sites/default/files/british-council-gender-nigeria2012.pdf>> accessed 20 March 2024.

<sup>841</sup>F.A. Onomrerhinor, 'A Re-Examination of the Requirement of Domestication of Treaties in Nigeria', Nnamdi Azikiwe University, *Journal of International Law and Jurisprudence*, (2016) 7: 17-25.

<sup>842</sup>2000 5 N.W.L.R. (Pt. 657) 403.

<sup>843</sup>F.A. Onomrerhinor, 'A Re-Examination of the Requirement of Domestication of Treaties in Nigeria' Nnamdi Azikiwe University, *Journal of International Law and Jurisprudence*, (2016) 7: 17-25.

on the lives of Nigerian women since they have not been domesticated.<sup>844</sup> In 2007, an attempt was made in Nigeria to adopt a CEDAW Bill, which failed after passing through the National Assembly.<sup>845</sup> The Bill failed due to considerable resistance from some legislators who claimed it was anti-God and anti-family, and that as a foreign imposition; it would encourage abortion and sexual indulgence.<sup>846</sup> This fallacy stemmed from the assumption that women's subordination to men is a societal order created by God, and that challenging it is a threat to God and the family structure. Another complaint leveled against CEDAW was that it was insufficient to protect African women from discrimination, and it was based on Western norms that did not address challenges confronting rural African women.<sup>847</sup>

The CEDAW provides complete equality between men and women in the family. While the government recognizes the "need for public enlightenment in the area of marriage and family law," there is a need to create awareness of women's rights both in the urban and rural areas. In modern times, women face legal inequality in the administration of custody law. The Covenant states in Article 16, (1)(d) that parents have equal rights and responsibilities for their children, and that children's interests should be prioritised. Under customary law, marriage equality is frequently prohibited due to significant age differences between the spouses, giving the man more control over the wife. This also occurs in divorce, where mothers are only entitled to custody before weaning or, in some situations, after the kid reaches the age of seven. On a bright note, the woman has the right to seek maintenance from her child's father even if she is not married.<sup>848</sup> In some circumstances, divorce is only permitted when the bride's fortune has been

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<sup>844</sup>E.O. Ekhatior, 'Protecting and Promotion of Women's Rights in Nigeria: Constraints and Prospects' in: Micheal Addaney (ed) *Women and Minority Rights Law: African Approaches and Perspectives to Inclusive Development*. (The Hague: Eleven International Publishing, 2019), pp. 17–35.

<sup>845</sup>A.M. Iman 'Adopting Women's Human Rights Legislation in Nigeria: A Synthesis Analysis and Report' (Nigeria: InfoVision Limited 2010).

<sup>846</sup>Supra

<sup>847</sup> A.Akiyode-Afolabi, S. Amadi, 'Examination of the Provisions of the Women's Protocol to the African Charter and Its Relationship to the CEDAW Convention as well as the Interpretation and Implementation of the Protocol in Other African Countries in Adopting Women's Human Legislation in Nigeria' Imam AI (ed.) (Nigeria: InfoVision Limited 2008).

<sup>848</sup>O.J. Akande, 'Laws, and Customs Affecting Women's Status in Nigeria' Lagos, Nigeria: International Federation of Women Lawyers, Nigeria, 1979. pp 12-14.

returned; however, deductions are made based on the number of children the woman bore during the marriage.<sup>849</sup>

Articles 10, Sections a-h of the CEDAW ensure equal rights for men and women in education. Women's rights should be included in educational curricula. Gender education needs to be strengthened. To eliminate negative habits and promote modern trends, future generations must be educated and trained. Consistent education will eventually lead to the eradication of these barbaric practices.

In terms of domestic rights, one of the most significant obstacles to eliminating discrimination against women is the fact that *de jure* guarantees do not often entail *de facto* recognition. Imam contends that the Nigerian societal structure favours men over women, resulting in exploitation and effectively subordinating women in all aspects of life. For this exploitation to be removed, structural change is required. The most desirable kind of change must be multidimensional, embracing changes in both state law and social policies. In addition, power dynamics within the family must change.<sup>850</sup> However, it is encouraging that more recent research is scrutinizing the claim for generic male dominance in Nigerian society. The conclusion is that further research is needed to identify cases that refute generalizations about male dominance in Nigerian society.<sup>851</sup> Concrete actions to transform the social structure must include women organizing in large numbers to overcome class differences. This is crucial for raising awareness and creating a unified position in political discussions. Given that most prejudice is justified by cultural references, proof of women's beneficial roles in pre-colonial Nigeria should be given and publicly promoted to challenge negative preconceptions.<sup>852</sup>

Despite Nigeria's severe economic situation, women's education must be prioritized to improve their ability to exercise self-determination over their bodies and participate as equals in the

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<sup>849</sup> 61 Akande, op cit, p. 8.

<sup>850</sup> A.Imam, *et al* 'Women and the Family: Edited Proceedings of the Second Annual Women in Nigeria Conference Dakar: Codesria,' 1985, p144-147

<sup>851</sup> Coles & Mack, *Hausa Women in the Twentieth Century*, op cit; P.K. Uchendu, *The Role of Nigerian Women in Politics*, op cit; Oyeronke Oyewumi, *Mothers, not Women*, op cit.

<sup>852</sup> M.O. Okome 'Domestic, Regional, and International Protection of Nigerian Women against Discrimination: Constraints and Possibilities' Fall (2002), 55, *African Studies Quarterly* | Volume 6, Issue 3 | <<http://www.africa.ufl.edu/asq/v6/v6i3a3.pdf>> see also Consideration of reports 2. Second and third periodic reports Nigeria CEDAW/C/1998/II/L.1/Add.6 7 July 1998, accessed 27 March 2024.



labour field. The public must also be educated on the need to promote and safeguard women's rights. More women should be involved in government policymaking at the municipal, regional, and federal levels. The Federal Government of Nigeria has made some efforts in this regard, beginning with the Mohammed/Obasanjo administration, by mandating the nomination of one woman to every decision-making and consultative body. However, there must be legal reforms that improve the protection of women's rights in Nigeria and eliminate current abuses by requiring equal application of administrative procedures.<sup>853</sup>

The nature of the international system, which strives to formalize these rights, also creates constraints on the elimination of gender discrimination. The relatively young nature of these rights, as well as formalized methods for their promotion and protection, may contribute to some issues. The Committee on the Elimination of all Forms of Discrimination Against Women (CEDAW) investigates, reviews, and evaluates state performance under the Convention's Articles<sup>854</sup>. Unfortunately, the Committee lacked appropriate resources, for upholding legal guarantees inside the CEDAW and obtaining insufficient assistance from members, who are generally tardy to submit reports. Several countries, like the United States, have yet to ratify the CEDAW or have made significant concerns, rendering it worthless. In circumstances where the CEDAW has been ratified, self-enforcement methods are available. International protections are currently exhortatory and lack legal power. The Committee must coordinate and integrate its activities with other UN organizations focused on women, which presents an extra challenge.

A problem with international assurances is that members of the CEDAW are expected to make constitutional and legislative changes to implement its provisions. Governments are then expected to provide periodic updates on their progress<sup>855</sup>. Self-policing creates opportunities for abuse<sup>856</sup>. Due to these and other issues, the Committee's capacity to reach its full potential has been constrained.<sup>857</sup> There is little doubt that eliminating prejudice against women requires far

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<sup>853</sup> *supra*

<sup>854</sup> Articles 17-20 of CEDAW

<sup>855</sup> Art. 2 CEDAW

<sup>856</sup> Development, Human Rights, and the Rule of Law: Report of a Conference held in the Hague on 27 April - 1 May 1981. Convened by the International Commission of Jurists, (Oxford: Pergamon Press, 1981), pp. 44-45. 98.

<sup>857</sup> Andrew Colin Byrnes, The "Other" Human Rights Treaty Body: The Work of the Committee on the Elimination of all Forms of Discrimination Against Women, (Unpublished) Columbia University Thesis, 1988. pp. 16, 86-87.

more than legal protections and social engineering. It is apparent that women's activism, which has always played a significant role in Nigerian life, should continue. Furthermore, there must be more collaborative activity among women of all classes and from all parts of Nigeria. Their underlying premise aligns with that of some groups in the country: if certain women continue to face discrimination, all women suffer<sup>858</sup>.

Nigeria is committed to eliminating prejudice and has ratified international and regional instruments as well as provisions in national legislation to achieve this goal. Future research will investigate the challenges, and how these mechanisms and national laws affect the removal of various forms of discrimination against women in Nigeria.

The national constitution of nations enshrined and includes numerous rights to educational laws, and for the sake of this study, Nigeria's national laws on education is be examined below.

### **3.6 Regional Law and Policies on the Right to Education**

The African regional law and policies regarding the right to education are examined below.

#### **3.6.1 The African Charter on Human and Peoples' Rights 1981**

The African continent participates in the battle to recognise and protect human rights, particularly the right to education. As a result, the African continent took part in the campaign for the recognition and protection of human rights in general, and specifically, the right to education, under the auspices of the defunct Organization of African Unity (OAU).<sup>859</sup> On the African continent, legal papers and policy formulation tools linked to human rights, particularly the right to education, have been produced and adopted.<sup>860</sup>

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<sup>858</sup> Women and the Family: Labour and Management - What can be done," in Women and the Family in Nigeria: Edited Proceedings of the Second Annual Women in Nigeria Conference Dakar: Codesria, 1985.

<sup>859</sup>OAU is an International Organisation Established in Addis Ababa, Ethiopia, in 1963 to defend the sovereignty and territorial integrity of the member states, promote unity, promote international cooperation, eradicate all forms of colonialism, and coordinate members' economic and diplomatic, educational, health, welfare, scientific and defense policies. The Organisation was later changed to African Union (AU) in 2002 with the same objectives and functions.

<sup>860</sup>African Charter on Human and People's Rights (ACHPR) was adopted by the OAU in 1981 and came into force in 1986 as the African Charter of the Rights and Welfare of Child (ACRWC), which was adopted by the same Organisation in 1990.

The organisation's specialist organs,<sup>861</sup> especially the Africa Commission on Human and People's Rights<sup>862</sup> and the African Court on Human and People's Rights<sup>863</sup>, are charged with supervision. Individual duties and states<sup>864</sup> are two more fundamental rights recognised by the ACHPR<sup>865</sup>. Article 17(1) of the Charter provides a brief description of the right to education, which is discussed further below.

Article 11 of the African Charter on the Rights and Welfare of the Child made a broad provision for the right to education. Article 11(1) states that "Every child shall have the right to Education," while Article 11(1-7) made provision for additional procedures to be taken to respect the provisions of the Charter, including protection, enforcement, and enjoyment of the right to education through the responsibilities placed on stakeholders, including parents/legal guardians.<sup>866</sup>

The international and regional instruments listed above-imposed obligations on states to recognise, protect, and promote the right to education; they served as a legal framework and policy document to be viewed and used as a template by member states to make out their legal and policy documents in recognition, implementation, enforcement, and protection of the right to education.

### **3.7 National Law on Education in Nigeria**

Nigeria is a member of the United Nations and a signatory to a number of international human rights documents, including the Universal Declaration of Human Rights (UDHR), the African Commission on Human and Peoples' Rights (ACHPR), and the United Nations Convention on the Rights of the Child (UNCRC), among others. Domestic instruments are more important in creating the legal framework for the right to education in Nigeria because the bulk of

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<sup>861</sup> The AU's bodies include the Assembly of the AU, the Pan-African Parliament, the African Court of Justice and Human Rights, the AU Commission, the African Central Bank of Africa, the Africa Monetary Fund, and the African Economic established in 1987.

<sup>862</sup> A Regional Human Rights Commission was established to protect human rights in the African continent in 1987.

<sup>863</sup> Also, a regional court was set up to cater for cases having the right flavours, established in 2006 to complement the work of the Commission in the Area of human rights protection.

<sup>864</sup> Articles 3-14, 15-18 and 19-24 of the Charter

<sup>865</sup> Articles 27-29 of the Charter

<sup>866</sup> Article 11(1-7) of the African Charter on the Rights and Welfare of the Child

international instruments are conventions, which are soft laws that at most serve as guiding principles for domestic policy. The right to basic education has been established in national constitutions, bills of rights, and other domestic laws.<sup>867</sup> In this sense, Nigeria has extensive provisions on the right to education in its laws, statutes, related policies, and white papers on the subject. They include the 1999 Federal Republic of Nigeria Constitution, the Compulsory, Free Universal Basic Education Act 2004, and the Child Rights Act of 2003.<sup>868</sup>

### 3.7.1 The Nigerian Constitution<sup>869</sup>

In Nigeria, the Constitution addresses two fundamental issues: (I) Fundamental Human Rights<sup>870</sup> and (II) Fundamental Objectives and Directive Principles of State Policy.<sup>871</sup> The Bill of Rights has always been incorporated into the Nigerian Constitution<sup>872</sup> with certain rights designated as Fundamental Human Rights, except for the right to education. The rights listed under this provision of the fundamental rights by the authority and provisions in the Constitution are guaranteed and enforceable rights, whereas the rights listed under the Fundamental Objectives and Directive Principles of State Policy are not enforceable, even though they are both referred to as fundamental in the language of the constitution.

In Nigeria, the first legal instrument to be considered concerning education as a human right is the constitution, and the section of the Nigerian Constitution that is most significant to the provision of education in Nigeria is included in Section 18 of Chapter II, and it provides that:

*(1) Education Objectives: The government shall direct its policy towards ensuring equal and adequate educational opportunities at all levels.*

*(2) Government shall promote science and technology*

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<sup>867</sup>E.A. Taiwo, 'A Review of the Legal Instruments Protecting the Right to Education in Nigeria', *Afe Babalola University, Ado-Ekiti Law Journal*, (2013) 1 (1), p. 72.

<sup>868</sup>E.O. Akingbehin, 'The Justiciability of Right to free Basic Education Conundrum in Nigeria, South Africa and India: from Obstacle to Miracle' *ACTA UNIVERSITATIS DANUBIUS Vol. 17, No.1* (2021), page 69

<sup>869</sup> 1999 Constitution of the Federal Republic of Nigeria (As Amended in 2018)

<sup>870</sup> S 33-46 of Chapter IV, CFRN 1999

<sup>871</sup> S 13-24 of Chapter II CFRN 1999

<sup>872</sup> E. Claude, and Eelch Jr, 'Protecting Human rights in Africa: Strategies and Rules of Non-Governmental Organisation' Philadelphia: (the University of Pennsylvania Press) at 26  
<<https://www.jstor.org/stable/762364>> accessed 28 February 2022

*(3) Government shall strive to eradicate illiteracy; and to this end, the government shall, as and when practicable, provide-*

*(a) Free, compulsory, and universal primary education*

*(b) Free university education; and(c) Free adult literacy programme*

One of the key differences between the constitutional provisions on education and other fundamental rights is that the fundamental rights have legal rights granted by the constitution, whereas the provisions in Chapter II of the constitution do not.

About the legal implications of the directive principles in the Nigerian Constitution, Aguda stated that "on the face of it, the constitution does not offer any legal right to people, as far as the basic purposes and directive principles of state policy are concerned." It should be emphasized that the main impediment to the efficient realization of the fundamental objectives is that they are recognized as economic, social, and cultural rights that are not justiciable under the Constitution. Section 6(6)(c) of the Constitution of 1999.<sup>873</sup> Although the right to education is either guaranteed or protected by the Nigerian Constitution, the Compulsory, Free Universal Basic Education Act 2004, and Child Rights Act contains provisions concerning the right to education, which are examined.

### **3.7.2 Compulsory, Free Universal Basic Education Act 2004**

*The Act spelt out the type of education, the duty of government to intervene for uniform and qualitative basic education, and the right of a child to compulsory, free universal basic education and services in public primary and junior secondary schools are free of charge. This part also contains the duty of a parent to ensure the education of his child, The Act further states that the child that is entitled to this compulsory, free, universal basic education is a child resident in Nigeria, and it is not applicable to a child resident outside Nigeria. The court that has the authority to entertain matters over certain offences under the Act is the Magistrate court. Functions of the Commission, Financing of the Compulsory, Free Universal Basic Education.*

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<sup>873</sup> T.A. Aguda, 'Judicial Attitudes to Individual Rights in Nigeria' in M.A.Ajomo & B.Owasanoye, (eds). *Individual Rights under the 1989 Constitution*, (Nigerian Institute of Advanced Legal Studies, Lagos 1993), 87-88.

### 3.7.3 Child's Right Act 2003

The Child's Right Act was passed into law in Nigeria on July 16, 2003, to domesticate the Child's Right Convention,<sup>874</sup> in accordance with her obligations as a state party to the United Nations Convention on the Rights of the Child.<sup>875</sup> This is under the United Nations Convention on the Rights of the Child CRC, 1989, which considered important issues relating to the well-being of the Nigerian child, to provide and protect the rights of the child, and to supplement the human rights granted to children in the Nigerian Constitution.<sup>876</sup> Even if this law is passed at the federal level, it will only be effective if the laws are passed by the Houses of Assembly in each State.

The Act provides general guarantees on the care, protection, and welfare of the child in all aspects, taking into account that the best interests of a child should be the first concern in all activities.<sup>877</sup> The best interests of the child shall be the major priority in such care and protection as duties of all and sundry or by any individual or private organisation, institution or service, the court of law, or administrative or legislative authority.

The Child's Right Act recognised a child's right to education in Section 15 of the Act states that *every child has the right to free, compulsory, and universal primary education, and it is the responsibility of the Nigerian government to provide such education.*<sup>878</sup> It also established a *supervisory duty on the part of parents and guardians in the preservation and protection of the guaranteed right.*<sup>879</sup>

Section 20 of the Act also *requires guardians, institutions, parents, and authorities who are responsible for the care, maintenance, upbringing, education, training, socialization, employment, and rehabilitation of a child to offer the appropriate guidance, discipline, education, and training for the child in their care, such as will equip the child to ensure his*

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<sup>874</sup>D. Ogunniyi, 'The Challenge of Domesticating Children's Rights Treaties in Nigeria, and Alternative Legal Avenues for Protecting Children' (October 2, 2018), *Journal of African Law*. 62: 447–470 – via Cambridge University Press.

<sup>875</sup> See Article 4 of the Convention on the Rights of the Child

<sup>876</sup> United Nations 'Written replies by the Government of Nigeria to the list of Issues (CRC/C/NGA/Q/3-4) related to the consideration of the third periodic report of Nigeria of the third periodic report of Nigeria (CRC/C/NGA/3-4)' Convention on the Rights of the Child: 2-5.

<sup>877</sup>S 1, Child's Right Act 2003

<sup>878</sup>S 15 (1)

<sup>879</sup>S 15 (2)

*assimilation and observance of the responsibilities set forth, towards engendering the welfare of the child.*

The Act featured a penalty section in its provisions for parents and guardians who failed to discharge their legally imposed responsibilities under the Act, but it made no provision for any infringement on the part of the government under the Act.<sup>880</sup> Section 58 of the Act provided for supervisory orders, under which the court, on the application of an appropriate education authority, may make an order known as an education supervision order, putting the child in question under the supervision of a designated appropriate education authority.<sup>881</sup> This provision simply ensures that a child has access to schools in order for the child to be educated. However, it is noted in the Act that no more emphasis is paid to the government's role in making education available, inexpensive, and adaptable to the child.

Notwithstanding, the lofty nature of these laws, during school hours, children can be seen hawking and racing after automobiles to sell goods or various items on the streets of Nigeria's major cities, both urban and rural. Some work as housekeepers or maids in different homes, others in remote locations such as farms, and still others have been married off at a young age by their parents who were unable to provide adequate care or education for their children. The number of children not attending school in Nigeria is disturbing, especially because no arrests are made against the parents or guardians of these children who sent their children out for this type of street peddling. The non-justiciability challenge of the contradictory provisions of Sections and 6 (6) (C) of the Constitution is a severe legal challenge confronting education provision in Nigeria in general, such that even when the government fails to meet their obligations, Nigerian citizens have no way of seeking redress for this grave injustice.

### **3.7.4 The Educational Minimum Standard and Establishment of Institutions**

The child has a right to education under the CRA, and under this, the Educational Minimum Standard and Establishment of Institutions Act came into being to regulate how they should be educated by providing the enabling law in Nigeria on the maintenance of the minimum standard

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<sup>880</sup>S 6 (i, ii, and iii)

<sup>881</sup> S 58 (1-7) CRA, 2003

of education in all established forms of educational institutions, from primary to higher education, as well as technical and teachers' educations. The Act governs the standards that are required in the provision of infrastructure in schools and other educational institutions, the maintenance of learning activities, and the expected workforce. The Act gives supervisory authorities to conduct inspections and impose sanctions if any institution fails to meet the minimum maintenance standard at all levels.<sup>882</sup>

### 3.8 Other Legislations Relevant to Education in Nigeria

Other education-related legislations include the Joint Admission and Matriculation Board Act,<sup>883</sup> the National University Commission Act,<sup>884</sup> the West African Examination Council (WAEC) Act,<sup>885</sup> the National Examinations Council (NECO) Act,<sup>886</sup> and the Compulsory Free and Universal Basic Education Act (UBE).<sup>887</sup> The Compulsory Free and Universal Basic Education Act<sup>888</sup> defines basic education, imposes on the government<sup>889</sup> the duty of providing free, compulsory, and universal basic education, and imposes on parents and guardians the duty of ensuring their children's school attendance, as well as criminalising and punishing any breach of such duty.<sup>890</sup> The Universal Basic Education Commission was established under the UBE Act to oversee the implementation of the Act's requirements.

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<sup>882</sup>S 1-7, 8-11, 12-15, S 17 and S 24 of the Education Act

<sup>883</sup>Joint Admission and Matriculation Board (JAMB) Act 2004 is an educational legislation that established another corporate body called Joint Admission and Matriculation Board (JAMB). The Act establishes this authority entitled to arrange, manage, supervise, and moderate the country's centralised admission system for tertiary institutions such as universities, polytechnics, and colleges of education. The body is tasked with the legislative role of establishing admission standards through a centralised examination to decide who is qualified to be admitted into all of the institutions as mentioned earlier, of higher learning in Nigeria.

<sup>884</sup>The National University Commission Act is a 2004 National Act. The Act established a body known as the National University Commission (NUC), which was tasked with overseeing universities and university education in general in Nigeria. It is a corporate body with an administrative structure established by the Act to carry out its activities. It serves as a high education advisory body to the government at the state and national levels.

<sup>885</sup>This is a piece of educational legislation that created the West African Examination Council (WAEC). It is a corporate entity in charge of organising the WAEC the watch of its pre-requisite examination of the issuance of the O' level Certificate for onward qualification for higher learning, similar to the NUC and JAMB Act.

<sup>886</sup>The National Examination Council was founded by this Act (NECO). Section 7 of the Act goes into great detail on NECO's functions.

<sup>887</sup>Federal Government of Nigeria Official Gazette, 91(66), Gov. Notice No. 142, Lagos, 2004.

<sup>888</sup>S 15 (1)

<sup>889</sup>S 2 (1)

<sup>890</sup>S 2 (2 and 4)



Many of the laws mentioned above are primarily enabling laws for the establishment, monitoring, and regulation of educational agencies charged in part or entirely with the responsibility of maintaining and ensuring the success and sustainability of the national objectives of education as outlined in the National Policy on Education (NPE).

### **3.9 Enforcement Mechanism put in place for the Protection of the Rights of the Child in Nigeria**

Human rights are enshrined in the constitutions of many countries around the world. In Nigeria, several legal and institutional mechanisms have been put in place to preserve and enforce constitutionally protected rights to put into effect the legislation adopted for this purpose. Human rights result from a generation's struggle against injustice and exploitation, out of that struggle developed the first set of ethical, moral, and religious principles, which gradually evolved into legal laws, first at the local level, then at the global level. The purpose is to promote fundamental freedoms and the preservation of human rights. Among the instruments put in place for the preservation and enforcement of human rights are the National Human Rights Commission (NHRC), the Legal Aid Scheme, the Courts of Law, Remand Homes, and Reformatory School

#### **3.9.1 The National Human Rights Commission**

In 1995, the National Human Rights Commission (NHRC) was founded.<sup>891</sup> This is the formulation of the answer to the Vienna Conference on Human Rights recommendation in 1993. Though either a judicial body or a court, the Commission is accountable for enforcement through the courts. It promotes respect for human rights and the rule of law, and it urges all state parties to establish human rights institutions to promote and protect human rights. The goal of this mechanism is to improve and enhance human rights enjoyment, to create an enabling environment for extra-judicial recognition, promotion, and enforcement of human rights, treaties, and obligations, and to provide a forum for public enlightenment and dialogue on human rights issues, thereby limiting controversy and confrontation.<sup>892</sup>

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<sup>891</sup>Cap N46 LFN 2004 Vol. II. It came into effect on 27th September 1995

<sup>892</sup>S.O. Nnamani, 'Institutional Mechanisms for Human Rights Protection in Nigeria: An Appraisal' [2011] *JOUR of Int. Law* 7, *JURIS* p2.

Through its activities, the Commission is charged with a broad mandate.<sup>893</sup> It is in charge of all issues concerning human rights as guaranteed by the Constitution. The Commission is tasked with the responsibility to.

1. Deal with all issues concerning the protection of human rights as guaranteed by the Federal Republic of Nigeria's Constitution, the African Charter, the United Nations Charter, and the Universal Declaration of Human Rights, as well as other international human rights treaties to which Nigeria is a party;<sup>894</sup> Monitor and investigate all alleged cases of human rights violation in Nigeria and make appropriate recommendations to the Federal Government for the prosecution and such other actions as it may deem expedient in each circumstance;<sup>895</sup>
2. Assist victims of human rights violations in seeking proper retribution and remedies;<sup>896</sup>
3. Research all aspects of human rights and assist the federal government in developing appropriate policies to protect human rights;<sup>897</sup>
4. Publish regular reports on the state of human rights protection in Nigeria;<sup>898</sup>
5. Hold local and international seminars, workshops, and conferences on human rights problems to educate the public;<sup>899</sup>
6. Liaise and collaborate with local and international human rights organisations to advance the promotion and protection of human rights.<sup>900</sup>
7. Take part in all international activities about the promotion and protection of human rights;<sup>901</sup>

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<sup>893</sup>s. 55 of the Act

<sup>894</sup>Section 5(a) National Human Rights Commission Act Cap N46 LFN, 2004 (hereinafter referred to us as NHRC Act) 10

<sup>895</sup>*Ibid*

<sup>896</sup>*Ibid*

<sup>897</sup>*Ibid*

<sup>898</sup>*Ibid*

<sup>899</sup>*Ibid*

<sup>900</sup>*ibid*

<sup>901</sup>*Ibid*

8. Keep a library, gather data, and disseminate knowledge and materials about human rights in general;<sup>902</sup>
9. Carry out any other functions that are required or expedient for the performance of these Act-mandated functions.<sup>903</sup>

For the Commission to carry out its tasks successfully, a Governing Council of 16 members is formed, with a chairman who is a retired Justice of the Supreme Court of Nigeria or Court of Appeal or a retired Judge of a State's High Court, and an Executive Secretary.<sup>904</sup> These members are selected by the President on the recommendation of the Attorney General Federation.<sup>905</sup>

The Commission has power over all issues concerning the promotion and protection of human rights, particularly those concerning children, as stipulated by the constitution and international and regional treaties. The Commission provides a practical mechanism, particularly for children, which are inexpensive, simple, and non-technical in handling complaints of any form of human rights violation.<sup>906</sup> These have been accomplished through the development of public awareness, enlightenment, and education programs, complaint investigation, mediation, and reconciliation, conflict resolution, peace building, research advocacy, and training programs on existing human rights issues.<sup>907</sup>

Despite repeated reports to the Commission, no one has been prosecuted by the Commission since its inception until today. It is advocated that the Commission be led by a lawyer in order for it to fulfill its obligations. The Commission is faced with financial challenges and should be adequately funded.<sup>908</sup>

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<sup>902</sup>*Ibid*

<sup>903</sup>*Ibid*

<sup>904</sup>*Ibid*

<sup>905</sup>SO Nnamani, 'Institutional Mechanisms for Human Rights Protection in Nigeria: An Appraisal' [2011] *JOUR of Int. Law 7, JURIS* p2.

<sup>906</sup>K.A.Abdulmumini, 'The Law, and Child Rights in Nigeria' (Malthouse Press Limited Lagos. 2015), p104

<sup>907</sup>*Ibid* p9

<sup>908</sup>*Ibid*

### 3.9.2 Legal Aid Act 2011

This Act repeals the Legal Aid Act, Cap. L9, Laws of the Federation of Nigeria, 2004, and enacts the Legal Aid Act, 2011, under international standards, establish a legal aid and access to justice fund into which financial assistance would be made available to the Council on behalf of indigent citizens to prosecute their claims under the constitution, and empowers the existing Legal Aid Council to be responsible for the operation of the fund.

The Legal Aid Scheme provides aid to people who cannot afford legal representation or court access. It is critical in ensuring equal opportunity before the law, the right to counsel, and a fair trial.<sup>909</sup> The Act's objective is to ensure or guarantee equal access to justice for all.

The Act creates the Legal Aid Council, whose main goal is to provide defence services, advice, and assistance and to grant legal aid and access to justice in three broad areas, namely, Criminal Defense Service, Advice and Assistance in Civil Matters, including legal representation in court, and Community Legal Services, subject to merits and indigence tests for the parties, and the establishment of the legal aid fund. Individuals whose earnings do not surpass the national minimum wage are entitled to legal aid and the services of a panel of legal practitioners prepared to act on their behalf. To assess the conditions under which the suspects are being held, the Legal Aid Council will conduct inspections of persons in police cells, and other facilities.

It is not possible to say that a person has gotten justice if he was unable to fully defend himself in court, especially given the complexities of the Nigerian justice system fraught with so many technicalities.<sup>910</sup> The majority of the society, who are either poor or ignorant of their rights, are unable to afford the cost of legal services; therefore, these arrangements make legal assistance available to these categories of citizens, including indigent citizens in Nigeria, whose fundamental rights have been violated.<sup>911</sup>

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<sup>909</sup> [https://en.wikipedia.org/wiki/Legal\\_aid](https://en.wikipedia.org/wiki/Legal_aid) accessed 21/03/2022.

<sup>910</sup> A.K. Ahmed, 'The Law and Child Rights in Nigeria' (Malthouse Press Limited Lagos. 2015), p104

<sup>911</sup> s. 46(4)(b)(I) and (II) of the 1999 Constitution

In the case of *Godwin Josiah v The State*,<sup>912</sup> the court ruled that a person accused of a capital offence has the right to a court-appointed defence counsel if he cannot afford one. As a result of these arrangements, legal assistance is made available to people with limited or no financial means through government funds provided by the federal, State, or local governments on a case-by-case basis or through contributions/gifts from philanthropic and donors/non-governmental organisations.<sup>913</sup>

The main problem with this scheme is underfunding, which is increased by the failure of the governments that are supposed to make annual contributions to the scheme to do so. There's also the question of corruption,<sup>914</sup> and the system typically uses lawyers who National Youth Service Corps (NYSC) members who are unskilled and unqualified to face the challenge provided by more experienced lawyers.

### 3.9.3 The Courts of Law

A Law Court is a location or structure where trials and legal cases are determined by a judge and jury, a magistrate, or a group of people who deal with legal cases.<sup>915</sup> It is the judiciary's role to enforce human rights, and it is mandated to hear and decide matters involving claimed fundamental human rights abuses. The Nigerian Constitution provided access to the ordinary court through a simple application. 'Any person who asserts that any of the provisions of this chapter have been, are being, or are likely to be contravened in any state in relation to him may appeal to a High Court in that state for redress,' according to the Constitution.<sup>916</sup>

To that end, the constitution enables the Chief Justice of the Federation to set rules governing the practice and procedure of a High Court to enforce basic rights. In accordance with this provision, the Chief Justice of Nigeria issued the Fundamental Rights (Enforcement Procedure) Rules,

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<sup>912</sup> (1985) I.S.C. 406 at 416

<sup>913</sup> A.K. Ahmed, 'The Law and Child Rights in Nigeria' (Malthouse Press Limited Lagos. 2015), p105

<sup>914</sup> <<https://malthouselagos.com.ng/product/the-law-and-child-rights-in-nigeria-2015-by-abdulumuni-k-ahmed/>> accessed 22/03/2022.

<sup>915</sup> s. 46(1) of the 1999 Constitution

<sup>916</sup> On the 20th of December 1979, in a Supplement to an Official Gazette No. 84 Vol.66, by the Honourable Justice Atanda Fatai-Williams, the then Chief Justice of Nigeria.

which outlined the procedure for enforcing fundamental rights, commencing with the court that has authority over a subject matter.<sup>917</sup>

### 3.9.4 Legal Status of a Child in the Violations of Children's Rights in Domestic Courts

According to the Nigerian Constitution, "any person in Nigeria" has the right to make a complaint in domestic courts to have civil rights issues resolved.<sup>918</sup> Furthermore, the Constitution specifies that anyone who claims a breach of fundamental rights under the Constitution may initiate a case with the relevant State's High Court immediately. The Supreme Court, on the other hand, has ruled<sup>919</sup> that the Federal High Court and state high courts have concurrent jurisdiction over basic rights enforcement.

The Child Rights Act<sup>920</sup> outlines the procedure and jurisdiction for hearing any civil or criminal matter regarding a child's rights. The Act also forms and functions Local Government Child Rights Implementation Committees<sup>921</sup> and the Child's Right Act and Child's Right Convention. However, the Child's Right Act<sup>922</sup> has not been adopted in all the federation's states.

The Child Rights Act requires minors to have guardian *ad litem* (A person appointed by a court to represent an infant or another person in a specific litigation or action)<sup>923</sup> to defend their interests and undertake proceedings on their behalf unless the court is "assured that this is not necessary." If the child is not represented by a legal practitioner<sup>924</sup> and has not been assigned guardian *ad litem*, the court may appoint one if the child has the understanding and willingness to counsel a legal practitioner.<sup>925</sup>

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<sup>917</sup>s. 6 (6)(b) CFRN, 1999

<sup>918</sup>s. 46(1)

<sup>919</sup>*Jack v the University of Agriculture, Makurdi* [2004] 14 WRN 91, <<https://motun911.wordpress.com/wp-content/uploads/2019/09/grace-jack-v-university-of-agriculture.pdf>>; see also Brems, E. and Adekoya, C.O 'Human rights enforcement by people living in poverty: Access to justice in Nigeria' (2010), pp. 261f.

<sup>920</sup>s. 151 Child's Right Act, 2003.

<sup>921</sup>s. 89, and Part XIII of the Act

<sup>922</sup>s. 268 and 269

<sup>923</sup><https://placng.org/laws/nigeria/laws/C50.pdf>

<sup>924</sup>*Ibid* s. 89 (I)

<sup>925</sup>*Ibid*. s. 89(3) and s. 89 (4)

### 3.9.5 Government Programmes and Policies

Government programs occur in various shapes and sizes, and that would assist and relief individuals in need; the nature of being in a state of 'need' may vary depending on the facts of a given scenario. It may also refer to a group of plans or actions agreed upon by a government, political party, corporation, or other organisation. Insurance, financial assistance, housing assistance, education, enlightenment, and other initiatives related to people's well-being are examples of government programs.

The Nigerian government developed programs and policies to supplement the institutional structure for realising children's rights. Some of the programs and policies are discussed below. A series of nationwide programs for protecting and enforcing children's rights were held, and some of these programs are detailed here. In 1991, Nigeria convened a National Workshop on the Review and Application of Children and Young Persons Law, which resulted in publishing a 62-point communiqué that offered a national framework for special legal treatment of the child.

Furthermore, the Mass Mobilization for Social Justice, Self-Reliance, and Economic Recovery (MEMSER) and the African Network for the Prevention and Protection Against Child Abuse and Neglect in Nigeria (ANPPAN) collaborated to organise a workshop on the Rights of the Child in Nigeria. Among the topics covered in the workshop were issues affecting the rights of Nigerian children and probable solution, the federal government established the National Committee on Women and Children the same year to study all legislation about women and children.<sup>926</sup>

The Federal Ministry of Culture and Social Welfare organised a national seminar in March 1992 to sensitise media executives on implementing the Convention on the Rights of the Child. It also solicited the commitment of the mass media to report and monitors the observance of children's rights in the country. In 1992, a program for the formulation of a National Program of Action for the Survival, Protection, and Development of Children was adopted; this was intended to translate the goals of the World Summit for Children in 1990 into a pair of programs and

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<sup>926</sup>National Report on the Implementation of United Nations Convention on the Rights of the Child by National Child Rights Implementation Committee

activities.<sup>927</sup> As a result of the 1990 Children's Summit, the National Commission for Women, which is located in the presidency, established the Child Development Department (CDD) to cater solely to issues concerning children and to take over the functions of the then Federal Ministry of Social Development and Culture's Social Welfare Department, which had previously been the department with the mandate on issues relating to child care and juvenile justice.<sup>928</sup> The National Commission for Women established a National Working Committee on Child Welfare in March 1993, with the responsibility of developing strategies for the effective delivery of child development services in Nigeria and promoting collaboration among line ministries and relevant organisations on child development and protection. However, poor coordination among key agencies and line ministries and a lack of enough funding for the committee hampered its development.<sup>929</sup>

Recognising that the girl child is at a disadvantage in some parts of Nigeria due to cultural practices that favour male children, and also in order to increase girl child enrolment and promote their rights to education, the government established a National Taskforce on the Girl Child in 1993 with the goals of intervening in the education of the girl child, bridging the literacy gap between boys and girls, and so on. Following that, zonal and State task forces were formed to ensure effective monitoring and implementation of the female child education initiative at the grassroots level. There appeared to be a lack of an acceptable framework for determining relevant indicators and collecting statistical data and other information on the State of children, particularly the girl child, for use as the foundation for building programs per its terms of reference. However, there appeared to be a lack of aggressive actions by the relevant committees to prevent discrimination against girls, disabled children, and children born out of wedlock.<sup>930</sup>

### 3.9.6 Government Policy Measures

Any plan or course of action undertaken by the government, political party, commercial organisation, or the like to influence and make decisions, actions, and other topics are referred to as a policy measure. The policy is also defined as a plan of action-guiding philosophy or practice

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<sup>927</sup>K.A.Abdulmumini, 'The Law and Child Rights in Nigeria', (Malthouse Press Limited Lagos. 2015), p108

<sup>928</sup>*Ibid*

<sup>929</sup>*Ibid*

<sup>930</sup>*Ibid*



that is thought to be expedient, judicious, or advantageous.<sup>931</sup> Policy is an embodiment of ideas about the role of government in the lives of those who are governed; it positions the government in terms of what it will and will not support; it guides how funds are allocated and the processes that will be put in place to distribute the funds, and it represents an embodiment of ideas about the role of government in the lives of those who are governed.<sup>932</sup>

Concerns have been raised about the country's overall execution of the Convention and the Charter to enhance child survival and protection. The National Policy on Health (NPH), the National Policy on Education and the Social Development Policy for Nigeria, and the National Policy on Population are among the existing national policies vital to child rights protection. The National Policy on Education is examined below for this study.<sup>933</sup>

### **3.9.6.1 Education Policy**

The National Policy on Education, which provides for both formal and non-formal modalities of education delivery, guides education development policy in Nigeria. The official system required initial enrollment in primary school at the age of six, six years of primary education, six years of secondary education divided into two three-year stages, and four years of university education. There is a wide range of non-formal education programs available for illiterate people, as well as out-of-school children and teens. Nigeria's commitment to the *Jomtien* Declaration has bolstered her resolve and resulted in a broader view of the scope of basic education.<sup>934</sup>

As a result, Basic Education aspired to provide each child, adolescent, and adult with the knowledge and skills necessary to develop to his full potential, reap the most social, economic, and cultural benefits from his membership in the society, and fulfill civic obligations.

The guiding principles of education in Nigeria are to provide every citizen with the knowledge, skills, attitudes, and values that will enable him to derive the most significant benefit from his membership in the society, lead a fulfilling life, and contribute his fair share to the community's

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<sup>931</sup>American Heritage Dictionary of the English Language (1996), Longman Dictionary of Contemporary English, Longman Nigeria Plc(2003)

<sup>932</sup>*Ibid*

<sup>933</sup>K.A.Abdulmumini, 'The Law, and Child Rights in Nigeria' (Malthouse Press Limited Lagos. 2015), p118

<sup>934</sup>*Ibid*

development and welfare. These are the fundamental philosophies for delivery throughout the formal and non-formal systems, with educational aims and objectives for all levels of education.

The Universal Basic Education (UBE) program was officially reintroduced in 1999, and the office was founded and commissioned in February 2004 with the passage of the UBE Act. State Primary Education Boards (SPEBS) were established in each federation state to successfully administer and coordinate the UBE Program. In contrast, Local Government Education Authorities (LEA) was established at the local government area levels to effectively implement the UBE Policy at the grassroots level. The Act specifies the goals of UBE.<sup>935</sup>

The Nigerian government implemented a 9-year schooling system in 1992, requiring every child enrolled in primary school to remain in school until the end of the three years of junior secondary education. The National Primary Education Commission (NPEC) is responsible for the arrangement for funding primary education, and by law, the Federal government is liable for the National Primary Education Commission's operating costs.<sup>936</sup>

Tuition at the secondary school level is likewise free, but various charges are always placed on parents to complement the institutions' operating costs. Tuition and boarding fees are charged by all private elementary and secondary institutions (where applicable). These private primary and secondary schools get no public funding. On the other hand, tuition in higher education is not free at this level. Higher education in Nigeria faces funding issues, which have resulted in a decade of ongoing strikes by the Academic Staff Union of Universities and other staff unions of <sup>937</sup>Nigerian federals and state-owned universities.

In Nigeria, education management is centered on federalism, with administrative authority devolving from the central to the state and local governments. Although the core education policy in structure, curriculum, and the school year is established nationally, other areas of educational delivery are customized to meet local needs. The Federal Ministry of Education coordinates educational policies and processes across the federation via the National Council of

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<sup>935</sup>Blue Print on Basic Education, Federal Ministry of Education, Abuja, see also K.A. Abdulmumini, 'The Law, and Child Rights in Nigeria' (Malthouse Press Limited Lagos. 2015), p129

<sup>936</sup>The State of Education in Nigeria, UNESCO (1998), Lagos

<sup>937</sup> K.A.Abdulmumini, 'The Law and Child Rights in Nigeria' (Malthouse Press Limited Lagos. 2015), p131

Education's working organ (NCE). The National Education Council (NEC) is the country's top policy-making body on educational matters, comprised of federal Ministers of Education and all state Commissioners of Education. The Joint Consultative Committee (JCC) on Education assists this body, which comprises all Federal and State Directors of Education, Chief Executives of Education Parastatals, and Directors of University Institutes of Education. The Committee is led by a Director of the Federal Ministry of Education and advises the NCE on a wide range of educational issues.<sup>938</sup>

Various projects aimed at providing universal education were tried, and they proved beneficial in delivering universal basic education, particularly in Nigeria's northern region, but they were not sustained. Cap-Mn (Catchment Area Based Planning Management and Monitoring), Neighborhood (NEC), and Qur'anic Integrated Literary Program are a few examples.<sup>939</sup>

### **3.10 Legal Status of the Child's Right to Education in Nigeria, its Problems and Prospects**

The legal status of an entity is its position; it involves or entails a set of rights, obligations, powers, or limits that a person or entity has as established by law.<sup>940</sup> The legal status is a generic characteristic of a person with legal implications; it refers to a legal trait, such as being a social security recipient. Thus, legal status is defined as "a characteristic of individuals and their legal connections."<sup>941</sup> Tiffany Graham defines legal status as "a set of characteristics that indicate an individual's membership in an official class, as a result of which rights, duties, capacities, and incapacities are acquired."<sup>942</sup> The legal status of the child's right to education in Nigeria, its problems and prospect are examined below.

#### **3.10.1 Content of the Child's Right to Education**

The contents of the legal status of the child's right to education in Nigeria is described in the Compulsory, Free, and Universal Basic Education Act 2004, for a child between the ages of

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<sup>938</sup>*Ibid*

<sup>939</sup>*Ibid*

<sup>940</sup> Legal Status – Wikipedia <[https://en.wikipedia.org/wiki/Legal\\_status](https://en.wikipedia.org/wiki/Legal_status)>accessed 12/09/2022

<sup>941</sup>J.Balkin, "The Constitution of Status," (1997)Yale Law Journal, 106: 2313

<sup>942</sup>T.Graham, "Exploring the Impact of the Marriage Amendments: Can Public Employers Offer Domestic Partner Benefits to Their Gay and Lesbian Employees?" (2009), Virginia Journal of Social Policy and the Law, 17: 83.

primary school and junior secondary school.<sup>943</sup> These are provided under Section 2 (1) of the Universal Basic Education Act, which declares that *"Every Government in Nigeria shall be responsible for free, compulsory, and universal basic education for every child of primary and junior secondary school age."* Second, Section 15 of the Child's Rights Act of 2003 states that *"every child has the right to free, compulsory, and universal basic education, and it shall be the duty of the Government of Nigeria to provide such education"* and Section 18 (3) (a) and (c) of the Constitution mandated *"free, compulsory, and universal primary education, as well as free university education."*

Despite these provisions, internally displaced children do not have access to education facilities; thus, the lack of education for internally displaced children is a violation of their right to compulsory, free, and universal basic education and all benefits associated with it.

Even though, Sections 18 (3) (a) and (c) of the Constitution require *"free, compulsory, and universal primary education, as well as free university education,"* Nigeria has the highest number of out-of-school children in Sub-Saharan Africa.<sup>944</sup> Our state-owned university is becoming increasingly out of reach for the average Nigerian, and the strike has become such an important part of our academic calendar that no student can graduate from a government university without having to experience the strike.<sup>945</sup>

In this study of the inadequate provisions of the Constitution, Chapters II and IV are considered.

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<sup>943</sup> "Primary school age" concerning any person means any age between the age attained by the commencement of the school year after he attains the age of six years and the age attained by the person at the end of the school year after he attains the age of twelve years and accordingly any person shall be deemed to be of primary school age if, at the commencement of any school year, he has attained the age of six years and a person shall be deemed to be over primary school age if, at the end of the school year, he has attained the age of twelve years. Interpretation – s 15(1) of the Act

<sup>944</sup>The statement is made by the Minister of State, Education, Chukwumeka Nwajiuba during the inauguration of BETTER EDUCATION SERVICE DELIVERY FOR ALL.

<sup>945</sup>T.D. Ayobami, 'Chapter Two of the 1999 Constitution of Nigeria; The Fraud, Illogicality and Prospects' (2022) <<https://lawpavilion.com/blog/chapter-two-of-the-1999-constitution-of-nigeria-the-fraud-illogicality-and-prospects/>> accessed 24 March 2023

The Constitution includes measures that guarantee and safeguard the rights of all citizens, both adults and children.<sup>946</sup> It establishes some fundamental rights that are intended to safeguard all citizens from governmental or private intervention or infringement, allowing each citizen to conduct his or her activities as they deem fit to achieve maximum development and welfare.<sup>947</sup>

*Chapter IV of the 1999 Constitution establishes many fundamental rights, including the right to life and development,<sup>948</sup> the right to human dignity,<sup>949</sup> the right to personal liberty,<sup>950</sup> the right to a fair hearing,<sup>951</sup> the right to private and family life,<sup>952</sup> non-discrimination,<sup>953</sup> freedom of expression,<sup>954</sup> freedom of thought, conscience, and religion,<sup>955</sup> and the right to peaceful assembly.<sup>956</sup>*

In Chapter Two of the Constitution, provisions were created for “*fundamental Objectives and Directive Principles of State Policy*.” This provision aims to promote and defend the rights of Nigerian citizens, irrespective of age. The constitution imposes a constitutional requirement on all arms and tiers of government to observe the fundamental objectives relating to socio-political, economic, educational, and cultural issues in Nigeria, and that the primary purpose of government shall be the security and well-being of the people<sup>957</sup>

The states' economic objectives state that the constitution mandates that *the national economy be managed in such a way as to ensure the maximum welfare, freedom, and happiness of every citizen based on social justice and equality of status and opportunity and that the economic system is not run in such a way as to allow the concentration of wealth, power, or on a group by the same representation, that all Nigerians, particularly children and the elderly, are supplied*

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<sup>946</sup> CRFN, 1999 s 1(1) *National Assembly v. President* [2003] 9 NWLR 104, *A.G. Bendel v. AG Federation and 22 others* [1982] 3 NCLR1, *Doherty v. Balewa*[1961] All NLR 631

<sup>947</sup> N.O. Osita, ‘Human Rights Law and Practice in Nigeria: An Introduction’ (CIDAP PRESS, Uwani-Enugu 1999) 86

<sup>948</sup> s 33

<sup>949</sup> s 34

<sup>950</sup> s 35

<sup>951</sup> s 36

<sup>952</sup> s 37

<sup>953</sup> s 42

<sup>954</sup> s 39

<sup>955</sup> s 38

<sup>956</sup> s 40

<sup>957</sup> s 14(2)(b)

*with proper and adequate shelter, food, health care, reasonable national minimum living wage old age care and pensions, sick benefits and welfare of the disabled are provided for all citizens.*

The constitution also states that *the state social order is based on the ideals of liberty, equality, and justice*<sup>958</sup> *and that every citizen has equal rights, obligations, and opportunities before the law;*<sup>959</sup> *and that the sanctity of the human person is recognized, and that human dignity is preserved and enhanced. The Constitution mandated that government acts be humane and that the exploitation of natural resources in any form for motives other than the community's good be prohibited.*<sup>960</sup>

The state must direct its policies toward guaranteeing that all citizens, without discrimination on any basis, could secure enough means of livelihood and adequate opportunities to connect suitable work. It stipulates that working conditions be reasonable and humane and that convenient leisure, social, religious, and cultural facilities be provided. Government policy should also ensure that the health, safety, and welfare of all employees, including children, are protected and not jeopardized or mistreated and that there is equal compensation for equal work without discrimination based on gender, age, or any other factor.<sup>961</sup>

The social objectives also state that *states should protect children, young people, and the elderly from all forms of exploitation as well as moral and material neglect, that public assistance should be made available in deserving cases or other situations of need, and that the evolution and promotion of family life should be encouraged.*<sup>962</sup>

In terms of educational goals, the government must *direct its policies toward ensuring fair and adequate educational opportunities at all levels and promoting science and technology. The government is also required to work to eliminate illiteracy, and to that end, it must provide free compulsory and universal primary education, free secondary education, free university education, and free adult literacy programs as soon as practicable.*<sup>963</sup> Unfortunately, these latter

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<sup>958</sup>s 17(1)

<sup>959</sup>s 17(2)

<sup>960</sup> s17(2) (b-d)

<sup>961</sup> s 17(3) (a-e)

<sup>962</sup>s 17 (3) (f-h)

<sup>963</sup>CFRN, 199 s 13-18

provisions, which address children's rights directly, are believed to be non-justiciable and hence cannot be lawfully enforced in a court of law due to the ouster clause.<sup>964</sup> The court relied on S.6 (6) to hold that the provisions of Chapter II of the Constitution are not binding on the government of *Archbishop Olubumi Okogie v A.G. of Lagos State*.<sup>965</sup>

### **3.10.2 Problems Associated with a Child's Right to Compulsory, Free, and Universal Basic Education in Nigeria**

The problems associated with the child's right to compulsory, free, and universal basic education are classified under the inadequate provision of the constitution, lack of effective enforcement mechanism, poor management, lack of funds corruption and others.

#### **3.10.2.1 Inadequate Provision of the Constitution an impediment to the Child's Right to Compulsory, free and Universal Basic Education**

When something is inadequate, it means that an expected procedure is missing or ineffective. "Needs improvement" indicates that, while the approach exists, something more is required.<sup>966</sup>

The ouster clause in Section 6(6) (C) states that; *"...shall not except as otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution."*

The contradictory provision of the Constitution under Sections 13 and 6 (6) (C) is a severe legal challenge confronting the provision of education generally and primary and secondary education. Section 13 is to the effect that all government organs, all authorities and persons in their executive, legislative and judicial capacity, have duties and responsibilities to apply, observe and give effect to the provisions of Chapter II of the Constitution, where education is included though "... non-justiciable" right like other items in Chapter IV, but as Fundamental Objective and Directives of State Policy.

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<sup>964</sup> s 6(6)

<sup>965</sup> (1981) 2 NWLR

<sup>966</sup> 'Inadequate Definition Law Insider', <https://www.lawinsider.com/dictionary/inadequate> accessed 28 March 2023

The judiciary, on the other hand, as a mechanism of guidance in the light of the existing laws, must facilitate the enforceability of the undertakings in the Constitution.<sup>967</sup> Also, as an institution of multifarious functions which includes sustenance of constitutional governance, human rights protection safeguard and preservation of the value of the constitution, determination of the intent of the lawmakers and interpretation of the constitution and laws generally is its famous function.<sup>968</sup>

In the case of the judiciary and its power to attend to and address issues concerning Chapter II of the Constitution, Section 6 (6) (C) of the Constitution removed the Nigerian court's *jurisdiction and prohibited it from exercising its jurisdiction on issue or question of act or omission by either an authority or person concerning the Fundamental Objectives and Directive Principles of the Constitution*.<sup>969</sup>

The legal or judicial problems that education faces have made it nearly hard for citizens to criticize the government when it fails to carry out its mandated commitments under Chapter II of the Constitution. According to the provisions of this part of the constitution, the citizens are handicapped by the limitations specified in the Constitution.

From this perspective, the law is clear as to what is expected of the government in the provision of free basic education.<sup>970</sup> However, there is always a problem that there is no legal or judicial remedy if the government fails to fulfil these obligations as the government can neither be challenged nor compelled by any authority including the court of law to fulfil the same.<sup>971</sup> It suffices to say that the law on education in Nigeria is inadequate because, if Chapter II of the Constitution is non-justiciable, how much more can other laws be justiciable when these are laws which ordinarily derive their legitimacy from the constitution itself?<sup>972</sup>

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<sup>967</sup>T. Dare, 'The Role of Law and the Role of Lawyers' in Tom Campbell, Jeffrey Goldsworthy(eds.)*Judicial Power, Democracy and Legal Positivism* (USA: Ashgate, 2002) 372

<sup>968</sup> H. Kwasi Prempeh, and Marburu in Africa: Judicial Review and Challenge of Constitutionalism in Contemporary Africa 80 TulaneLaww Review, (2006) 80 TLR, 25; See also Chapter V, Part I and II and Chapter VII, Part I, II, III and IV of CFRN, 1999)

<sup>969</sup>CFRN 1999, s. 13

<sup>970</sup> CFRN, s. 18 (1-3) CRA 2003, s 15 (1)

<sup>971</sup>*Uzoukwu v Ezeonu*[1991] 6 NWLR (pt 200) 708 at 761-762

<sup>972</sup>CFRN, s .1(3)



### 3.10.2.2 Meaning of Justiciability

According to *Black's Law Dictionary*,<sup>973</sup> justiciability is the ability to enforce a right before a tribunal. Justiciability refers to the constraints on legal issues over which a court can exercise its judicial authority.<sup>974</sup> It includes but is not limited to, the legal notion of standing, which is used to evaluate whether the person filing the complaint is a proper party for determining whether an actual adversarial issue exists. When standing is in issue in a lawsuit, the question is whether the individual whose standing is contested is a proper party to request an adjudication of a particular issue, rather than whether the issue itself is justiciable.<sup>975</sup> Essentially, justiciability aims to determine if a court can provide a proper resolution of the disagreement; if a court considers it is unable to make such a final conclusion, the subject is not justiciable.

### 3.10.2.3 Meaning of Non-justiciability

Non-justiciability refers to a situation that cannot be resolved through legal principles or a court of justice. It is the notion that renders a subject unsuitable for resolution by a court of law. In other words, the Court cannot try an issue of jurisdiction. It is commonly featured in constitutions as a constraint on the judiciary, preventing them from intervening or ruling on subjects that are deemed unsuitable in nature.<sup>976</sup>

In Nigeria, non-justiciability is the most basic form of exemption. In every jurisdiction, some situations cannot be adjudicated by a court of law, either because they are inappropriate or because the courts lack the authority to do so. Non-justiciability is a common exception in many countries, but it is given far more weight in Chapter 11 of the Federal Republic of Nigeria's Constitution. Non-justiciability in Nigeria pertains to subjects that have been specifically excluded from judicial review or where legislation explicitly denies a court power to adjudicate on any relevant problems.

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<sup>973</sup>Bryan A. Garner, *The Black's Law Dictionary* (9<sup>th</sup> Ed.)

<sup>974</sup>M Christopher and NI Allan, *Constitutional Law: National Power and Federalism* (4<sup>th</sup> ed, New York, NY: Aspen Publishers 2007), pp. 97–99. See also Justiciability, <<https://en.wikipedia.org/wiki/Justiciability>> accessed 2 April 2024.

<sup>975</sup>*Flast v. Cohen*, 392 U.S. 83, 100 (1968)

<sup>976</sup> 'Non-justiciability' <<https://unacademy.com/content/clat/study-material/legal-reasoning/non-justiciability/>>

Chapter II of the Constitution,<sup>977</sup> consisting of 12 sections, ranging from section 13 to 24 contains the citizens' political, economic, social, cultural, and developmental rights. This chapter, however, is not justiciable under Section 6 (6) (c) of the same constitution. An examination of the ramifications of such non-justiciability reveals that citizens who are denied their socioeconomic, developmental, and other rights guaranteed by this chapter of the constitution cannot seek redress in the courts. It is thus a significant hindrance to socio-economic development.

The continued non-justiciability of Chapter II CFRN, with little possibility of a successful judicial challenge, may result in a lack of development and accountability by the Executive and Legislative branches of government. As a result, the non-justiciability of Chapter II of the Nigerian Constitution 1999, to say the least, breeds ambiguity and ousts the constitutional powers of the judiciary to interpret the laws in protecting the rights (albeit the economic rights) of citizens, as well as allowing the Courts to perform their constitutional duty to act as a check on the other arms of government to prevent arbitrariness and encourage accountability in governance.<sup>978</sup> It is advised that Nigeria reposition itself to solve this anomaly and allow for the justiciability of Chapter II of the constitution to promote socioeconomic growth.

### **3.10.2.4 Provision of Non-Justiciability in the 1999 Constitution of the Federal Republic of Nigeria**

This is elaborated in section 6 of the CFRN 1999. Section 6(1) states that the Federation's judicial functions will be vested in the courts referred to in this section, which are courts constituted for the Federation.

*Sections 6(6) provide that:*

*6 (6) The judicial powers vested in accordance with the foregoing provisions of this section.*

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<sup>977</sup> 1999 Constitution of the Federal Republic of Nigeria (CFRN) (as Amended in 2018)

<sup>978</sup> O.V.C. Ikpeze, 'Non-Justiciability of Chapter II of the Nigerian Constitution as an Impediment to Economic Rights and Development' (2015) p1 Available from <[https://www.researchgate.net/publication/282816601\\_Non-Justiciability\\_of\\_Chapter\\_II\\_of\\_the\\_Nigerian\\_Constitution\\_as\\_an\\_Impediment\\_to\\_Economic\\_Rights\\_and\\_Development](https://www.researchgate.net/publication/282816601_Non-Justiciability_of_Chapter_II_of_the_Nigerian_Constitution_as_an_Impediment_to_Economic_Rights_and_Development)> accessed Apr 2 2024.

*(a) Shall extend, notwithstanding anything to the contrary in this constitution, to all inherent powers and sanctions of a court of law.*

*(b) Shall extend to all matters between persons, or between government or authority and any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that persons.*

*(c) Shall not, except as otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person or as to whether any law or any judicial decision is in conformity with the fundamental Objectives and Directive Principles of State Policy set out in chapter II of this Constitution.*

This section 6(6)(c) is thus an anomaly that, in a constitutional provision, shakes the foundation of its constitutionality and runs counter to the preceding provisions of section 6 (a) (b), as well as public policy, which seeks to establish a fundamental policy that cuts across economic rights.

The Nigerian Constitution is the supreme law of the land, from which all other laws are derived. As a result, any provision of the constitution, particularly those relating to economic and social rights and good governance, that is not justiciable is unnecessary in the current implementation of human rights. Section 6(6)(c) of the CFRN 1999 should be repealed, and Chapter II should be changed to make it justiciable in its entirety.<sup>979</sup> This would ensure all types of rights while also providing Nigerian residents with ideal constitutional rights and holding the Nigerian government accountable to the people in accordance with the CFRN 1999. This would ensure good governance and sustainable development, which are the objectives of every democratic administration. In the end, justiciability of Chapter II of the CFRN 1999 will eliminate the CFRN's ouster clause, which is strictly speaking an anomaly. It suffices to say that research has

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<sup>979</sup>O.V.C. Ikpeze, 'Non-Justiciability of Chapter II of the Nigerian Constitution as an Impediment to Economic Rights and Development' (2015) p1 Available from <[https://www.researchgate.net/publication/282816601\\_Non-Justiciability\\_of\\_Chapter\\_II\\_of\\_the\\_Nigerian\\_Constitution\\_as\\_an\\_Impediment\\_to\\_Economic\\_Rights\\_and\\_Development](https://www.researchgate.net/publication/282816601_Non-Justiciability_of_Chapter_II_of_the_Nigerian_Constitution_as_an_Impediment_to_Economic_Rights_and_Development)>accessed Apr 2 2024.

demonstrated the indivisibility of economic rights; hence, full realisation of civil and political rights is unattainable without a commitment to fully enjoy economic rights.<sup>980</sup>

### **3.10.2.5 Inadequacies of the Compulsory, Free, and Universal Basic Education Act 2004**

Compulsory, free, universal basic education faces numerous challenges, including a lack of adequate funding to carry out its functions as specified in the Act. The Act established three sources of funding, namely local government authority, state government intervention, and federal government intervention. There is also the issue of theft of funds intended for the implementation of compulsory, free, universal basic education. The available funds have been misappropriated and squandered by corrupt leaders and management. A visit to much of the public primary and junior secondary schools reveals that many of the children learn on the bare floor with worn blackboards. Parents who can afford a chair and a desk for their children provide for them, whereas those whose parents cannot afford to provide for them must sit on the floor.

Corruption is another major problem, as corrupt officials who handle the responsibilities of the disbursement of funds to the appropriate quarters will divert funds to their personal use. Corruption is becoming a gradual norm in the governmental system in Nigeria which must be curbed urgently by the government itself. Another issue is a shortage of trained skilled individuals since nepotism has become the norm, with many officials being hired based on the advantage of having someone in the position. Poor planning, a lack of effective enforcement procedures, insufficient inspection, poor management, too many incomplete projects, and a lack of trust, integrity, and commitment also issues in any organization.

If the Compulsory, Free, Universal Basic Education law,<sup>981</sup> Child's Right Act and other laws say government at all levels must provide free basic education<sup>982</sup> and the constitution says if the government fails to provide the same, it goes to no issue.<sup>983</sup> Section 1(3) states, *if any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail and that other law shall to the extent of the inconsistency be void*. This simply means that there is a

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<sup>980</sup>Supra p 53

<sup>981</sup>S.2(1) Compulsory, Free, Universal Basic Education

<sup>982</sup>CRA 2003, s. 15(1)

<sup>983</sup>CFRN, 1999 s. 13 read along with s 6 (6) (C)

conflict between the provision of the constitution and other laws, and the constitution prevails as the mother of all other laws, and on the principle of supremacy of the constitution.<sup>984</sup>

The Constitution did not create an enforceable right on the child's right to education, but rather it directed the government's attention to Chapter II as a *Fundamental Objectives and Directive Principle of State Policy*. The right listed in Chapter II includes the right to education; however, the problem with this provision is that they are not non-justiciable rights, they are only objectives used to steer government activities. The education policy in the Constitution is akin to giving a 'gift to a child with your right hand and then withdrawing the right to that gift' with your left hand. This is because the provision is a non-enforceable right where the government fails to provide for it.

#### **3.10.2.6 Challenges with the Child's Right Act 2003**

The domestication and execution of the Child's Right Act 2003 through the country's 36 states is part of the difficulty with Child's Rights. Some states are constrained by cultural and religious beliefs, particularly in the federation's northern states.

Nigeria has a federal system of government therefore laws do not immediately apply to all 36 states. The legislature of each state must make national law applicable to its region. Yet, it is still susceptible to Section 6(6)(b) justiciability under the constitution. The Constitution, *in its chapter II, provides for the right to education in form of a directive principle of state policy* which has been described by Oni and Oyewo as a locomotive engine without lubrication, given the effect of section 6 (6) (c) of the 1999 Constitution.<sup>985</sup>

#### **3.11 Position of International Law on a Child's Right to Education in Nigeria**

The right to education is also recognized under international human rights laws or treaties. However, there is a procedure for the domestication of international laws in Nigeria before these human rights laws would become binding on the Nigerian government only if it has been

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<sup>984</sup>CFRN, 1999 s 1(3)

<sup>985</sup>S.O.Oni, A.T. Oyewo, 'A Critical Appraisal of the Fundamental Objectives and Directive Principles of State Policy in Nigeria' (2019) 2. *Redeemer's University Law Journal*, p. 244.

domesticated into the national laws. However, these treaties include the Convention on Economic and Social Rights, the Convention on the Rights of the Child, the Convention to Eliminate All Forms of Racial Discrimination, and the Convention to Eliminate Discrimination against Women<sup>986</sup> and regional treaties.

The legal basis for the right to education at the international level comes from international human rights instruments. Education as a human right is regulated as a matter of policy by various *United Nations Conventions on the Rights of the Child*, as well as its agencies, such as the *United Nations Education, Scientific and Cultural Organization (UNESCO)*, the *International Labour Organization (ILO)*, and the *Universal Declaration of Human Rights (UDHR)*, this was the first International human rights instrument to be drawn and declares that “All Human beings are born free and equal in dignity and rights.”<sup>987</sup> *Convention on the Right of the Child (CRC)*, Convention on the Rights of the Child was unanimously adopted by the United Nations General Assembly on the 20th of November 1989, which recognizes the need for special safeguards and care, including appropriate legal protection for children both before and after birth.<sup>988</sup>

### **3.12 Prospects of Chapter II of the Constitution 1999 (As Amended in 2018)**

Children are, without a doubt, the most vulnerable and a defenseless member of society and it is a good idea that children have unique rights that should be protected and enforced. In the past, it was widely assumed that most adults, particularly parents, had the best interests of their children at heart and that there was no need to consider children's rights.<sup>989</sup> This was regarded as a perfect perception of adult-child relations, ignoring the dire realities on the ground. But concerns for the protection of dignity, equality, and basic human rights of children rose to the forefront of public consciousness following the various reform movements of the nineteenth century.<sup>990</sup> Children have since become a constituency, with laws enacted on their behalf to protect them from

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<sup>986</sup> K. Walter, 'Guiding Principles on Internal Displacement' (Rev. Ed.) *The American Society of International Law: Studies in Transnational* (Legal Policy No. 38 2008) ASIL

<sup>987</sup> Adopted and Proclaimed by General Assembly Resolution 217, December 1948.

<sup>988</sup> K.A. Abdulmumuni, 'The Law, and Child Rights in Nigeria' (Malthouse Press Limited, Lagos, 2015)28

<sup>989</sup> M. Freeman 'Limits of Children's Rights in The Ideologies of Children's Rights' M. Freeman and P.Veeraman (eds)(Martinus Nijhoff Publishers, 1992) 30

<sup>990</sup> I.A. Ayua and I.E. Okagbue (eds.) *The Rights of the child in Nigeria* (NIALS, Lagos: 1996)3

parental and other adult abuse, economic exploitation, and social neglect. Today, child rights activism has expanded beyond mere protection to include an element of “self-determination” on the part of the child, in the sense that children are given some autonomy in the exercise of their rights; examples of such rights are the right to freedom of expression, freedom of religion, right to dignity of the child<sup>991</sup> right to leisure, recreation and cultural activities,<sup>992</sup> right to health and healing services,<sup>993</sup> Part II of the Child’s Right Act provides for the rights and responsibilities of a child *etcetera*.

During school hours, children can be seen hawking and racing after automobiles to sell goods or various items on the streets of Nigeria's major cities, both urban and rural. Some work as housekeepers or maids in different homes, others in remote locations such as farms, and still others have been married off at a young age by their parents who were unable to provide adequate care or education for their children. The number of children not attending school in Nigeria is disturbing, especially because no arrests are made against the parents or guardians of these children who sent their children out for this type of street peddling.

Nigerians must band together to demand that the National Assembly, through a constitutional amendment process, remove Section 6(6) (c) entirely from our Constitution. As soon as this is done, Chapter II of the Constitution becomes enforceable, and a section in Chapter II will be created to list the available defenses for the government. The citizens of Nigeria will be able to mandate the government through the courts to carry out the obligations imposed on them by Chapter II of the Constitution, and the benefits would be in the favour of the citizen. The enforceability will give the citizens the privilege of suggesting the desired area of concentration of the government when planning the budget and the choice of the project of the people finds its way to the budget through a Court order.

The legislature should remove Section 6(6) (c) from the Constitution having discovered that it is a clog on the wheel of National development. Following the removal of Section (6) (c) from the Constitution, the Judiciary must demonstrate its commitment to the welfare and social well-being

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<sup>991</sup> S 11 Child’s Right Act

<sup>992</sup> *Ibid* s 12

<sup>993</sup> *Ibid* s 12

by establishing clear rules that will guide the enforcement of Chapter II, especially in light of the need to expedite such cases so that the government has enough time to act on the court's decision.<sup>994</sup>Judges assigned to Chapter II cases should demonstrate their commitment by scheduling accelerated hearings to ensure that justice is served within 30 working days of the matter being filed. The administration, for its part, must show the utmost regard and dedication to the court's directives and decisions.

Arising from the above, it is discovered that the features of the right to education have not been fulfilled in Nigeria because the policy framework on the right to education in Nigeria is insufficient to ensure the protection of the children's right to education. Results in this research study revealed that the right to education is classified as a component of socioeconomic and cultural rights and it is generally non-justiciable under the Nigerian Constitution. This work, therefore, calls for a constitutional amendment for the inclusion of the right to education in the Bills of Rights under Chapter IV and there should be a general review of the National Policy on Education and its attendant mechanisms should be put in place for proper implementation of the policy and enforcement of the extant laws.

third, machinery should be put in place to ensure proper implementation of the procedure and enforcement of the existing law, accountability, a comprehensive evaluation of the national education policy, curb corruption, and nepotism, responsibility should be given to people with trust and dignity, and there should be checks and balances in the country's educational management system. The natural endowments of Nigeria should be adequately harnessed, so that, there would be sufficient cash to make the arms of government perform their obligations and responsibilities to the citizenry. This will go a long way in preventing the impasse which engenders the non-realization of the citizen's right to free and compulsory basic education in Nigeria.

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<sup>994</sup>Ayobami T. Durodola, Esq. 'Chapter Two of the 1999 Constitution of Nigeria; The Fraud, Illogicality and Prospects' <<https://lawpavilion.com/blog/chapter-two-of-the-1999-constitution-of-nigeria-the-fraud-illogicality-and-prospects/>> accessed 24 March 2023



### 3.13 The Role of Court in Advancing Child's Right to Education in Nigeria

Laws and legislation are critical for efficiently implementing the right to education, even when legislation alone is inadequate. However, an intensive non-legislative effort, solid government policies, and political will are required to realize the right to education. The judiciary is one of these non-legislative instruments and plays an essential role in defending and upholding the right to education as an entitlement.<sup>995</sup> The roles of the courts in the enforcement of the right to education in Nigeria are discussed below:

#### 3.13.1 Some Judicial Decisions on the Issue of Child's Right to Education in Nigeria

The act of deciding as an arbitrator, delivering authoritative judgment, opinion, and a ruling is a judicial decision. It is the rationale for a court's judgment (rather than the decision itself) finding a court's decision on matters of fact or law.<sup>996</sup> The following are some judicial decisions on the legal status of a child's right to education in Nigeria.

#### 3.13.2 Non-Justiciability of the Right to Education

There was a traditional view of the state law that socio-economic rights like the right to basic education are not justiciable in Nigeria.<sup>997</sup> This was informed by the constitutional restriction imposed on the enforcement of these rights by Section 6 (6) (C).<sup>998</sup>

In the case of *Archbishop Olubunmi Okogie & Ors v. Attorney General of Lagos State*,<sup>999</sup> the Supreme, unfortunately, gave judicial imprimatur to this view in response to a question before it on whether a circular issued by the Lagos State Government in respect of private schools violated Section 13 of the 1979 Constitution, the court held inter alia:

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<sup>995</sup>K. Singh, 'Right to Education and Equality of Opportunity in Education: An Analysis of Constitutional Obligations in African States' 16, *African Yearbook of International Law*, (2008). p. 425 (1983) 2 FNR 6

<sup>996</sup> Judicial decision - Definition, <https://www.vocabulary.com/dictionary/judicial%20decision> accessed 25 September 2022

<sup>997</sup>I Ogunniran, 'Enforceability of Socio-Economic Rights: Seeing Nigeria through the Eyes of Other Jurisdictions,' (2020), <http://www.ajolinfo/index.php/naujil/article/view/138181> accessed 23 September 2022

<sup>998</sup>See CFRN 1999 (as amended).

<sup>999</sup>[1981] 2 NCLR 337. Also, see *Adewole v. Jakande* [1981] NCLR 264 and *Olagbegi v. A. G. Ondo State*

Whilst section 13 of the Constitution makes it the duty and responsibility of the judiciary, amongst other organs of government, to conform to and apply the provisions of Chapter two, section 6 (6) (c) of the same constitution makes it clear that no court has jurisdiction to pronounce any decision as to whether any organ of the government has acted or is acting in conformity with the fundamental objectives and directive principles of the state policy. It is clear, therefore, that section 13 has not made chapter two of the constitution justiciable.

In the words of Justice Oputa: It must be admitted that as a result of our court's lethargic disposition towards expanding the jurisprudential frontiers for the justiciability of chapter II of the Constitution, the Nigerian judiciary is facing a legitimacy crisis as to whether it deserves such epithets as 'the fountain of justice', 'the last hope of the common man', 'the bastion of human rights' and 'the watchdog of the Constitution'.<sup>1000</sup>

While it is true that the courts cannot right wrongs overnights, it is also true that the reaffirmation of the directive principles by the courts will build up a body of public opinion which may compel all the persons and institutions enumerated in Section 13 of the Constitution to make up and do what is expected of them.<sup>1001</sup> Also, in its judgment on justiciable issues like the right to life, the courts can call on the legislature to actualise the expectation in the directive principles by passing appropriate and enabling laws.<sup>1002</sup>

Results in this research study revealed that the right to education is classified as a component of socioeconomic and cultural rights and it is generally non-justiciable under the Nigerian Constitution.

### **3.14 The Proposed Procedure for Enforcement**

This is a proposed procedure for enforcement of the items listed under Chapter II of the Constitution,<sup>1003</sup> to achieve this, it is essential for Nigerians to come together to jointly demand that the National Assembly through a Constitutional amendment process expunge completely

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<sup>1000</sup>E.O. Akingbehin, 'The Justiciability of Right to free Basic Education Conundrum in Nigeria, South Africa and India: from Obstacle to Miracle' ACTA UNIVERSITATIS DANUBIUS Vol. 17, no.1/2021, p. 76

<sup>1001</sup>*Ibid* p. 76

<sup>1002</sup>C. Okeke, 'Towards Functional Justice: Seminar Papers of Justice' (Chukwudifu A. Oputa Gold Press Ltd. (2007), p. 5.

<sup>1003</sup>1999 Constitution of the Federal Republic of Nigeria (as Amended in 2018)

Section 6(6) (c) from our Constitution. Once this is achieved, Chapter II of the Constitution automatically would therefore become enforceable.

The legislature should remove Section 6(6) (c) from the Constitution having discovered that it is a clog on the wheel of National development. Following the removal of Section (6) (c) from the Constitution, the Judiciary must demonstrate its commitment to the welfare and social well-being by establishing clear rules that will guide the enforcement of Chapter II, especially considering the need to expedite such cases so that the government has enough time to act on the court's decision.

However, there are challenges that would be associated with this lea way of enforceability and justiciability of Chapter II which includes flood gate of litigation as the courts would be besieged with mass cases of the enforcement of some rights contained in Chapter II.

This crowd of litigation would also be a distraction, as both relevant and irrelevant actions would flood the court, and the court would be congested. If the section of the constitution is amended, there would be a procedure that would take the excess of the litigants through also the enforcement procedures and court rules of law in the filing of the actions in courts.

The principle of *Res judicata* would be incorporated into the adjudication process for a period to be fixed based on the discretion of the Court; a decision of the Court on any of the sections in Chapter II shall be binding.<sup>1004</sup>

This means if an action is brought to enforce the right to free university education as contained in Section 18(3) (c), the decision of the Court in that action will stand for subsequent actions on Section 18(3) (c) within the jurisdiction of that Court. So the moment any other person brings an action to enforce Section 18(3) (c), the Government raises a principle based on *Res judi cata* and the Court in turn declines jurisdiction immediately.

Another way to ameliorate the challenge of a legion of court actions is to stipulate in the constitution, preferably Chapter II that the rights can only be enforced through a class action.

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<sup>1004</sup>*Res judicata* is the principle that a cause of action may not be relitigated once it has been judged on its merits. "Finality" is the term which refers to when a court renders a final judgment on the merits.

The section shall equally state a specific number of people as the benchmark expected to successfully form a class to be able to enforce any of the rights in Chapter II, preferably five thousand at least, to sign a petition online to challenge or enforce any of the rights. That way, nobody can suddenly wake up to approach the court for enforcement of Rights in Chapter II just for frivolity except he has the support of another four thousand nine hundred and ninety-nine people who share the same interest with him.<sup>1005</sup>

A section will also be created in Chapter II which shall state the available defences for the Government. One of such defences could be a lack of funds. In a situation where the government intends to rely on this defence, it must make bare to the Court and the Applicant the financial statement of the state showing all available funds of the state and how the same has been spent.

A defence of the existence of a similar project or similar program; this obtains where there exists a right or program like the one which the applicant seeks to enforce in court, which is also available for the Applicant to enjoy. One of the benefits would be that the citizens will be able to mandate the government through the Courts to perform the duties imposed on them by Chapter II of the Constitution and the maxim *Ubi jus, Ubi remedium*<sup>1006</sup> reigns supreme.

Judges assigned to Chapter II cases should demonstrate their commitment by scheduling accelerated hearings to ensure that justice is served within 30 working days of the matter being filed. The administration, for its part, must show the utmost regard and dedication to the court's directives and decisions. There should be a general review of the National Policy on Education and its attendant mechanisms should be put in place for proper implementation of the policy and enforcement of the extant laws.

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<sup>1005</sup> A.T. Durodola, "Chapter Two of the 1999 Constitution of Nigeria; The Fraud, Illogicality and Prospects": <<https://lawpavilion.com/blog/chapter-two-of-the-1999-constitution-of-nigeria-the-fraud-illogicality-and-prospects/>> accessed 24 March 2023

<sup>1006</sup> The well-known Latin maxim *Ubi jus, ibi remedium*, which means 'where there is a right, there is a remedy', postulates that where the law has established a right there should be a corresponding remedy for its breach. The right to a remedy is one of the fundamental rights historically recognized in all legal systems.

### 3.15 Some Books and Articles Written by Academics on Child's Rights to Education

The global recognition of human rights universality, independence and indivisibility is increasing. This emphasis on the need for its recognition was made at the United Nations World Conference on Human Rights held in Vienna in June 1993.<sup>1007</sup> This buttressed the stance that all human rights should apply to all persons at all times without distinction.<sup>1008</sup> It also means that political, economic, social and cultural differences cannot and should not be used as an excuse for denying or violating human rights.<sup>1009</sup> In the African context, the African Charter on Human and Peoples' Rights<sup>1010</sup> places some measures of emphasis on the universality of rights and recognizes in its preamble that 'the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights.' It is perturbing that despite the foregoing, civil and political rights tend to be the focal point of human rights violations in most African countries, though, in Africa, economic and social rights are the daily concerns of most people.<sup>1011</sup>

Economic and socio-cultural rights depict that every person must be offered conditions to meet their required needs for survival and enjoyment of life.<sup>1012</sup> These rights include education, food, housing, work, and social security. They are especially relevant for the vulnerable and disadvantaged groups in society and the displaced children in the internally displaced person camp as they help to, as much as possible, bridge the equality gap between the rich and the poor.

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<sup>1007</sup> Vienna Declaration and Programme of Action (12 July 1993) UN Doc. A/ CONF.157/23, Art 5

<sup>1008</sup> E.O. Akingbehin, The Justiciability of Right to free Basic Education Conundrum in Nigeria, South Africa, and India: from Obstacle to Miracle *ACTA UNIVERSITATIS DANUBIUS* Vol. 17, no.1/2021, p. 61

<sup>1009</sup> J.C. Mubangizi, 'The Protection of Human Rights in South Africa: A Legal and Political Guide' (2004) [https://books.google.com.ng/books/about/Theprotectionofhumanrightsinouth.html?id=MLJLP.2yM8YcC&redir\\_esc=Y](https://books.google.com.ng/books/about/Theprotectionofhumanrightsinouth.html?id=MLJLP.2yM8YcC&redir_esc=Y) accessed 15 September 2022

<sup>1010</sup> This is also referred to as the Banjul Charter (adopted on 17 June 1981 and entered into force on 21 October 1986).

<sup>1011</sup> E.O. Akingbehin, "The Justiciability of Right to free Basic Education Conundrum in Nigeria, South Africa and India: from Obstacle to Miracle" *ACTA UNIVERSITATIS DANUBIUS* Vol. 17, no.1/2021, p. 61

<sup>1012</sup> D. Brand, Introduction to Socio-Economic Rights in South African Constitution, in D Brand, & C Heynes, (eds). *Socio-Economic Rights in South Africa*. Pretoria University Law Press, (2005), p. 1

These<sup>1013</sup> rights are protected under the international and regional human rights instruments requiring member states to respect, protect and fulfill them.

Nonetheless, to actualise the right to education, the right must be effectively implemented at the national level by adopting a constitutional provision, legislation, and policies. The debate, in respect of which so much intellectual stamina has been applied, revolves around the twin questions as to the status of the right to education and the justiciability or enforceability of the right. In other words, there is the recurring question of whether socio-economic rights (of which the right to education is specie) are rights, the breach of which will attract legal repercussions. The status problem entwines a more intractable question of whether the courts can entertain a complaint on a breach of such right.<sup>1014</sup>

Since many states protect the right to education in their Constitutions in the form of a fundamental right, which is enforceable at law, others do so in the form of a 'directive principle of state policy', which constitutionally obligates the government but is perforce unenforceable.<sup>1015</sup> The Nigerian Constitution falls into the latter category. The Constitution, in its Chapter II, provides for the right to education in the form of a directive principle<sup>1016</sup> of state policy which has been described as a locomotive engine without lubrication, given the effect of section 6 (6) (c) of the 1999 Constitution.<sup>1017</sup>

In Nigeria, the 'right' to education is provided in section 18 of the 1999 Constitution, and it is contained in section 18 (1): The provision enjoins the government to direct its policy towards ensuring there are equal and adequate educational opportunities at all levels.<sup>1018</sup> The provision

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<sup>1013</sup> A.T. Shehu, 'The Enforcement of Social and Economic Rights in Africa: The Nigerian Experience' (2013). 2 (1). *Journal of Sustainable Development, Law and Policy*, p. 102.

<sup>1014</sup> S.I. Nwatu, 'Legal Framework for the Protection of Socio-Economic Rights in Nigeria' *Judicial Review*, (2012). 10, 22

<sup>1015</sup> D. Olowu, 'Human Right and the Avoidance of Domestic Implementation: The Phenomenon of Non-Justiciable Constitutional Guarantees', 69 (1), *Saskatchewan Law Review*, pp. 39 – 78., Olowu, D. (2007). *The Right to Social Security in Nigeria: Taking up the Gauntlet*, 1 (2), *CALS Review of Nigerian Law and Practice*, (2009), pp. 91 – 107 and R Miamingi, *Inclusion by Exclusion: An Assessment of the of Socio-Economic Rights Under the 2005 Interim National Constitution of Sudan*, 9 (1). *African Human Rights Law Journal* 76–102 @ 77.

<sup>1016</sup> S.O. Oni, & A.T. Oyewo, 'A Critical Appraisal of the Fundamental Objectives and Directive Principles of State Policy in Nigeria' *Redeemer's University Law Journal*, (2019), 2 p. 244.

<sup>1017</sup> *Ibid* p. 244

<sup>1018</sup> *Ibid* at p. 69

also requires that the government shall make every effort to eradicate illiteracy and provide as and when practicable, free, compulsory and universal primary education *inter alia*.<sup>1019</sup>

As to the legal effect of the directive principles in the Nigerian Constitution, Aguda postulated that, on the face of it, the constitution does not give any legal right to individuals in so far as the fundamental objectives and directive principles of the state policy are concerned.<sup>1020</sup> It must be underscored at this juncture that the major obstacle militating against the adequate actualization of the fundamental objectives is that they are regarded as economic, social and cultural rights which are non-justiciable in the context of the Constitution.<sup>1021</sup>

Despite its universal recognition as a fundamental right, realizing the right to education remains a fantasy in developing countries because of its non-justiciability.<sup>1022</sup> The guarantee of the right to education, especially for girls and women, remains a distant goal for millions of individuals worldwide, especially in sub-Saharan Africa.<sup>1023</sup> Also, in Nigeria, millions of school-age children have no access to any basic educational services, while several million adults are also illiterates, out of which almost two-thirds are women.<sup>1024</sup> According to *Coomans*, it is common place to say that everyone has a right to education.<sup>1025</sup>

*Govindjee* and *Taiwo* opined that sub-Saharan Africa still has many out-of-school children and illiterate adults.<sup>1026</sup> This position is at variance with the aim of the MDGS in ensuring that

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<sup>1019</sup> See s 18, 1999 CFRN.

<sup>1020</sup> T.A. Aguda, 'Judicial Attitudes to Individual Rights in Nigeria' in M.A. Ajomo, & B. Owasanoye, (eds). *Individual Rights under the 1989 Constitution* (Nigerian Institute of Advanced Legal Studies, Lagos, 1993), p. 68.

<sup>1021</sup> A.O/ Aguda, *Understanding the Nigerian Constitution of 1999*, (MIJ Professional Publishers, 2000) pp. 87 – 88

<sup>1022</sup> At the dawn of the century, 875 million citizens are illiterates. One out of every five children aged 6 – 11 in developing countries - an estimated 113 million – is not in School, and 60% are girls. Nine countries; Bangladesh, Brazil, China, Egypt, India, Indonesia, Mexico, Nigeria, and Pakistan (E9) – are home to 70% of the world's illiterates. See 'UNESCO Education for All: An Achievable Vision'. (UNESCO, Paris, 2000), 3

<sup>1023</sup> F.P. Dall, 'Children's Right to Education: Reaching the Unreached' in Himes, J. R. (ed), 'Implementing the Convention on the Rights of All the Child' (MartinusNijhoff Publishers, The Hague/London/Boston, 1995), p 143

<sup>1024</sup> F.P. Dall, 'Children's Right to Education: Reaching the Unreached' in J.R. Himes(ed), 'Implementing the Convention on the Rights of All the Child' (MartinusNijhoff Publishers, The Hague/London/Boston 1995), p143.

<sup>1025</sup> F. Coomans, 'Content and Scope of the Right to Education as a Human Right and Obstacles to its Realisation' In Y. Donders, & V. Volodin (eds) 'Human Rights in Education, Science and Culture. Legal Developments and Challenges' (UNESCO Publishing/Ashgate, 2007) p. 183.

<sup>1026</sup> A. Govindjee, & E.A. Taiwo, 'Globalisation and its Effects on the Emerging Jurisprudence on the Right to Education in South Africa and Nigeria' in Addicott, J.F. Bhuiyan, J. H & Chowdhury M.R. (eds). *Globalisation, International Law and Human Rights*. (Oxford University Press, India, 2012) pp. 111-146.

children worldwide can access good quality education at all levels by 2015.<sup>1027</sup> According to the latest global data on out-of-school children by the United Nations Educational, Scientific and Cultural Organization (UNESCO), Nigeria now has about 20 million out-of-school children, while there are about 244 million children and youth between the ages of 6 and 18 worldwide who are still out of school.<sup>1028</sup> Using what it described as a comprehensive measurement methodology which combines multiple data sources, the UN agency in new figures published online by the UNESCO Institute for Statistics (UIS) and the Global Education Monitoring (GEM) Report said Sub-Sahara Africa remains the region with the highest number of youth and out of school children. The report added the number of children and young people excluded from education in Sub-Saharan Africa at about ninety-eight million.<sup>1029</sup>

The National Policy on Education (NPE), 2004 states that education in Nigeria is an instrument par excellence for effecting national development. Consequently, it is imperative for the country to spell out in clear and unequivocal terms the philosophy and objectives that underlie its investment in education.<sup>1030</sup> Therefore, for the benefit of all citizens, the Nigerian government should be mindful of the fact that the country's educational goals should be set out in terms of their importance to the needs of the individual and those of the society, in consonance with the realities of our environment and the modern world.<sup>1031</sup>

While the Compulsory, Free Universal Basic Education Act<sup>1032</sup> provides free services in public primary schools, hidden costs are still being collected unabated. Books are not provided sufficiently, and parents are usually coerced to key into the extortionist's scheme through the Parents Teachers Association (PTA) levies and contributions.<sup>1033</sup> Consequently, regardless of the

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<sup>1027</sup> *Ibid* p. 127

<sup>1028</sup> F. Ndubuisi, 'UNESCO: Estimated Number of Out-of-School Children in Now 20 million', *ThisDay Newspapers* <https://www.thisdaylive.com/index.php/2022/09/02/unesco-estimated-number-of-out-of-school-children-in-nigeria-now-20m> accessed 16 September 2022

<sup>1029</sup> *Ibid*

<sup>1030</sup> See the Federal Republic of Nigeria, National Policy on Education, 4th ed. (FME, Abuja, 2004)

<sup>1031</sup> E.A. Taiwo, 'A Review of the Legal Instruments Protecting the Right to Education in Nigeria', *Afe Babalola University, Ado-Ekiti Law Journal*, (2013) 1 (1) p. 72.

<sup>1032</sup> See Federal Republic of Nigeria, Official Gazette, 91 (66), Government Notice No. 142, Lagos, 2004.

<sup>1033</sup> E.O. Akingbehin, 'The Justiciability of Right to free Basic Education Conundrum in Nigeria, South Africa and India: from Obstacle to Miracle' *ACTA UNIVERSITATIS DANUBIUS* Vol. 17, no.1/2021, p. 72 and part of the result of the interview conducted at the Internally displaced Persons Camp as part of my research findings in chapter four.



prevalence of robust laws and legislative measures towards ensuring the right to education in Nigeria, access to education in Nigeria is still a chimera<sup>1034</sup> and there is, therefore, no doubt that the government and other role-players have engaged in blatant violations of the Nigerian government's obligation to provide accessible education for all.<sup>1035</sup>

The Compulsory, Free Universal Basic Education Act,<sup>1036</sup> which provided for free, also provides free 'services' in public schools, including books, instructional materials, classrooms, furniture, and lunch. It is worrisome to discover that the quality of education is poor, with millions entering schools but not learning enough to meet their basic learning needs.<sup>1037</sup> It is observed that the link between access and success is weak in Nigerian schools.

The international instrument forms part of the legal status of human right and the child's right to education in Nigeria. Under international instruments, the Universal Declaration of Human Rights 1948 requires that state parties make vocational and professional education available. This refers to education which requires, in addition to general knowledge, the study of technologies and vocational skill acquisition, know-how, attitudes and understanding relating to occupations in various economic and social lives.<sup>1038</sup> Further, the instrument requires parties to make tertiary education acceptable to all based on merit.<sup>1039</sup> The major challenge of the Declaration is that it is not a treaty, and as such, it is argued that it is not a legally binding instrument as such.<sup>1040</sup> Nonetheless, the Declaration has its importance beyond merely being of

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<sup>1034</sup> S. Afonja, *The Right of the Child to Education*, in IA Ayua, & IE Okagbue, (eds). 'The Right of the Child in Nigeria' (NIALS, Lagos, 1996), pp. 66 – 67.

<sup>1035</sup> E.O. Akingbehin, 'The Justiciability of Right to free Basic Education Conundrum in Nigeria, South Africa, and India: from Obstacle to Miracle' *ACTA UNIVERSITATIS DANUBIUS* Vol. 17, no.1/2021, p. 72

<sup>1036</sup> See Federal Republic of Nigeria, Official Gazette, 91 (66), Government Notice No. 142, Lagos, 2004.

<sup>1037</sup> F.P. Dall, 'Children's Right to Education: Reaching the Unreached' in Himes, J. R. (ed), *Implementing the Convention on the Rights of All the Child*. MartinusNijhoff Publishers, The Hague/London/Boston, (1995) p. 143.

<sup>1038</sup> K.D. Beiter, 'The Protection of the Right to Education by International Law' MartinusNijhoff, Publishers, (2006), pp. 90 – 91

<sup>1039</sup> R.K.M Smith, 'Textbook on International Law Rights' (2nd ed. Oxford University Press, 2005) p. 45.

<sup>1040</sup> *Ibid*

historical significance.<sup>1041</sup> It has been regarded by some jurists as part of the 'Laws of the United Nations'.<sup>1042</sup>

### 3.16 The Concept of Vulnerability and Human Rights

The main irony of vulnerability is that it is both specific and universal, and these characteristics arose from our individual expression in the first place;<sup>1043</sup> as humans with such feelings or embodiments, we are all vulnerable, and we experience this vulnerability through our individual bodies.

The term vulnerability comes from the Latin *vulnus*, which means "wounds,"<sup>1044</sup> and in the broadest sense, vulnerability means that harm and suffering are prevalent in accounts of vulnerability.<sup>1045</sup> In two ways, vulnerability speaks to our universal capacity for pain. Primarily, a person is vulnerable because such a person is relying on the cooperation of others (including, importantly, the State) ... Second, a person is vulnerable because such person is permeable; is constantly open and exposed to various types of hurts and harm.<sup>1046</sup> Thus, as vulnerable citizens, we are continually susceptible to harm. Of course, harm comes in different variations that intersect and strengthen one another. Injuries can be bodily, moral,<sup>1047</sup> psychological,<sup>1048</sup> economic and institutional,<sup>1049</sup> just to mention a few. These various types of harm demonstrate vulnerability, both specific and universal. Our "various forms of embodiment" and our various positions within "webs of economic and institutional relationships"<sup>1050</sup> imply that each of us experiences vulnerability differently. The feeling of vulnerability "is profoundly influenced by

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<sup>1041</sup> D. Dugard, 'International Human Rights' in Van Wyk, Dugard, J., de Villiers B & Davis D. (eds), 'Rights and Constitutionalism: The New South African Legal Order' (1994), *Juta & Co.*, p. 173.

<sup>1042</sup> S. Coetzee, 'Discipline in Nigerian Schools within a Human Right Framework' *African Human Rights Law Journal*, (2010), 10 (2), pp. 483.

<sup>1043</sup> L. Peroni, and A. Timmer 'Vulnerable Groups: The Promise of an Emerging Concept in European Human Rights Convention law' *International Journal of Constitutional Law*, (2013) Volume 11, Issue 4

<sup>1044</sup> S.T. Bryan, *Vulnerability and Human Rights*, (2006) 28.

<sup>1045</sup> J. Butler, 'Precarious Life: The Powers and Mourning of Violence' (2006) at xii; EG Robert,

'Protecting the Vulnerable: A Reanalysis of Our Social Responsibilities' (1985); 110

<sup>1046</sup> M. Neal, 'Not Gods but Animals: Human Dignity and Vulnerable Subject hood', *Liverpool L. Rev.* (2012) 33177, 186–187.

<sup>1047</sup> S.T. Bryan, *Vulnerability and Human Rights*, (2006).at 28.

<sup>1048</sup> *Ibid*

<sup>1049</sup> M.A. Fineman, 'The Vulnerable Subject and the Responsive State' 60 *Emory* (2010) *L.J.* 251, 268.

<sup>1050</sup> *Ibid* at 269.

the quality and quantity of resources we have.<sup>1051</sup> However, in recent years, theorists have shifted toward a view of vulnerability that extends farther than (universal and particular) suffering to include positive aspects.<sup>1052</sup>

According to the argument, human vulnerability generates suffering, but also empathy, pleasure, innovation, social institutions, intimacy, and social connectedness. According to Martha, vulnerability's generative capacity "presents opportunities for innovation and growth, creativity, and fulfillment. It compels us to reach out to others, build relationships, and establish institutions."<sup>1053</sup> Undoubtedly, to remove the stigmatizing effects of the term, it is necessary to re-conceptualize vulnerability in this positive light.<sup>1054</sup>

Vulnerability describes the extent to which part of a system or structure may adversely react during the occurrence of an unsafe occasion.

The idea of vulnerable human nature is closely connected to some fundamental rights, such as the right to life. In fact, the right to life, to care for health and reproduction are vital to human rights. Thus, human rights are defined by vulnerability and are described as the general basis of human rights.

It seemed that there is an inherent close connection between vulnerability and human rights.<sup>1055</sup> The concept of vulnerability in human rights law is often used in other situations to describe that some people are more exposed to harm than others and for this reason measures of extraordinary protection are crucial to guarantee the attainment of their human rights. For instance, the concept of vulnerable and disadvantaged groups is used to refer to groups who have faced and/or

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<sup>1051</sup> Martha Albertson Fineman, 'The Vulnerable Subject and the Responsive State' 60 *Emory L.J.* 251, 268 (2010), 10

<sup>1052</sup> Debra Berghofer, 'Contesting the Politics of Genocidal Rape: Affirming the Dignity of the Vulnerable Body' 101–119 (2012); Martha Albertson Fineman, "Elderly" as Vulnerable: Rethinking the Nature of Individual and Societal Responsibility,' (2012) 20 *The Elder L.J.* 101; and Anna Grear, 'Redirecting Human Rights: Facing the Challenge of Corporate Legal Humanity' (2010), 132–133.

<sup>1053</sup> Ibid

<sup>1054</sup> Ibid at 126

<sup>1055</sup> C. Mackenzie 'The importance of Relational Autonomy and capabilities for an ethics of vulnerability' in C Mackenzie, W Rogers & S Dodds (eds) *Vulnerability: New essays in ethics and feminist philosophy* (2014) 33. Also Albertson Fineman, M, 'The vulnerable subject: Anchoring Equality in the Human Condition' *Yale Journal of Law and Feminism* (2008) 20, 1.

continue to face significant ingredients to these enjoyments of ...rights,<sup>1056</sup> such as women and children as used in the African Commission Principles and Guidelines.<sup>1057</sup>

The concept of vulnerability has been increasingly used and has also been argued that special protection is a tool for simply realizing the universality of human rights. To this end, the concept of vulnerability and human rights are looked at under the general vulnerability reasoning in the European and African human rights systems.

The concept of vulnerability has recently become a widely used concept in human rights law and policy. For example, in 2011, the African Commission on Human and Peoples' Rights (African Commission) adopted the Principles and Guidelines on the Implementation of Economic, Social, and Cultural Rights in the African Charter on Human and Peoples' Rights, which places a special emphasis on the protection of vulnerable and underprivileged groups.

### **3.16.1 Generally, Vulnerability Reasoning in the European and African Human Rights Systems**

While it is difficult to pinpoint exactly when vulnerability entered the practice of regional adjudicative bodies, the decision by the European Court - the court that oversees the European Convention of Human Rights and Fundamental Freedoms (European Convention) and its additional protocols - in *Chapman v the United Kingdom (2001)* is widely regarded as a landmark moment in European history.<sup>1058</sup>

In *Chapman*, the European Court emphasized Roma's vulnerable position and held that special attention should be paid to their needs and way of life.<sup>1059</sup> Although the European Convention makes no explicit mention of vulnerability, the European Court has identified several additional groups as vulnerable since *Chapman* and has expanded on the legal significance of such findings. As an indication of the growing legal significance of vulnerability thinking in the European

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<sup>1056</sup> African Commission Principles and Guidelines para 1(e).

<sup>1057</sup> M. Heikkilä, and M. Mustaniemi-Laakso, 'Vulnerability as a human rights variable: African and European Developments' 20 *African Human Rights Law Journal* (2020) 777-798  
<[https://www.scielo.org.za/scielo.php?script=sci\\_arttext&pid=S1996-20962020000200020](https://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1996-20962020000200020)>

<sup>1058</sup> L. Peroni, & A. Timmer, 'Vulnerable Groups: The Promise of an Emerging Concept in European Human Rights Convention law' 11 *International Journal of Constitutional Law* (2013) 1056; Zimmermann (n 6) 1063.

<sup>1059</sup> *Chapman v the United Kingdom* ECHR (18 January 2001) App 27238/95 para 96.

Court, it is worth noting that the concepts of vulnerable or vulnerability<sup>1060</sup> appear in over a thousand of its decisions. Many of these decisions date back as far as ten years, prompting some scholars to speak of the law's "vulnerability" or a "vulnerability revolution."<sup>1061</sup>

During the 2000s, vulnerability became a concept that was frequently referred to by the European Court, but it may not have been adequate or purposeful to speak of revolution as such.<sup>1062</sup> However, a comparable development can be found in the practice of the European Social Committee, which handles mutual complaints in relation to the European Social Charter (1961, revised 1996), Europe's central treaty guaranteeing social and economic rights.<sup>1063</sup>

Similarly, unlike the European instruments, the central African human rights treaties do not explicitly mention vulnerability. However, the concept appears in the practice of African human rights management structures, albeit not in comparable numbers to European practices, as might be expected given the lower overall figure of cases decided upon due to the African human rights system's younger age.<sup>1064</sup>

The African Charter on Human and Peoples' Rights (African Charter) was adopted in 1981 and became effective in 1986. The African Court, which issues binding judgments, and the African Commission, a quasi-judicial mechanism with corresponding obligations, currently oversee the Charter. Since its inception in 2006, the African Court has only used the concept of vulnerability once, in a judgment relating to the rights of an ethnic minority in Kenya, in its roughly 50 decisions.<sup>1065</sup>

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<sup>1060</sup> As of 19 November 2019, 1 394 hits for 'Vulnerable' and 484 Hits for 'Vulnerability' in the HUDOC database. This includes hits for the whole judgments, i.e. including the reasoning by the applicants and the respondents, and also hits where vulnerability does not refer to human Vulnerability, but e.g. vulnerable states.

<sup>1061</sup> A. Timmer "A Quiet Revolution: Vulnerability in the European Court of Human Rights in M. Albertson Fineman & A Grear (eds) *Vulnerability: Reflections on a new an Ethical Foundation for Law and Politics*" (2013) 147; F Ippolito. & S Iglesias Sánchez, *Introduction* in F Ippolito & S Iglesias, Sánchez, (eds) *Protecting Vulnerable Groups: The European Human Rights Framework* (2015) 5.

<sup>1062</sup> M.O. Boyle "The Notion of Vulnerable Groups" in the Case Law of the European Court of Human Rights Report Presented at the Conference on the Constitutional Protection of Vulnerable Groups: A Judicial Dialogue Organised 4-5 December 2015 in Santiago, Chile, 2.

<sup>1063</sup> Out of the around 700 decisions by the European Social Committee, 96 decisions include the word 'Vulnerable' and 38 'Vulnerability' as of 19 November 2019 (ESC HUDOC database).

<sup>1064</sup> Out of the around 700 decisions by the European Social Committee, 96 Decisions include the word 'Vulnerable' and 38 'Vulnerability' as of 19 November 2019 (ESC HUDOC database).

<sup>1065</sup> African Commission on Human and Peoples Rights v Republic of Kenya ACHPR (26 May 2017) App 6/2012.

In the African Commission, the concept of vulnerability appears frequently in the approximately 100 communications on which the Commission has issued a decision since its inception in 1987, with some early references found as early as 1999 to 2003.<sup>1066</sup>

Concerning the perception of special protection, it is worth noting that the African Charter has been complemented by protocols for the protection of the rights of persons with disabilities, the elderly, and women.<sup>1067</sup>

The African human rights architecture, unlike the European system, includes a specific instrument on children's rights, the African Charter on the Rights and Welfare of the Child (African Children's Charter) (1990), which is overseen by the (quasi-judicial) African Children's Committee. Since its first decision in 2005, this committee has referred to vulnerability in most of its merits-based decisions.<sup>1068</sup>

### 3.16.2 Chapman and the Origin of Group Vulnerability

The concept of vulnerable groups was introduced in the case of *Chapman v. the United Kingdom* in 2001, to describe the Roma minority,<sup>1069</sup> involving a Roma woman who was evicted from her own land because of her stationed caravan without planning permission. ("Vulnerable groups: The promise of an emerging concept in European Human ...") The court rejected the applicant's

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<sup>1066</sup> *Amnesty International & Others v Sudan* (2000) AHRLR 297 (ACHPR 1999) para 50; *Constitutional Rights Project & Others v Nigeria* (2000) AHRLR 227 (ACHPR 1999) para 33; *Social and Economic Rights Action Centre (SERAC) & Another v Nigeria* (2001) AHRLR 60 (ACHPR 2001) para 56; *Association pour la Sauvegarde de la Paix au Burundi v Kenya, Uganda, Rwanda, Tanzania, Zaire and Zambia* (2003) AHRLR 111 (ACHPR 2003) para 75; *Purohit & Another v The Gambia* (2003) AHRLR 96 (ACHPR 2003) paras 50 & 52. Even before that, the African Commission had made use of the notion of vulnerability in a resolution of the situation of human rights in Africa. African Commission Resolution about Human Rights in Africa, November 1994, ACHPR/Res14(XVI)94.

<sup>1067</sup> Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003); Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons (2016) (not in force); and Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa (2018) (not in force).

<sup>1068</sup> Communication 1/Com/001/2005, *Michelo Hansungule & Others (on Behalf of Children in Northern Uganda) v Uganda*, ACERWC (2013) para 63; *IHRDA & Another v Kenya* (2011) AHRLR 181 (ACERWC 2011) para 46; Communication 6/Com/002/2015 *The Institute for Human Rights and Development in Africa and Finders Group Initiative on behalf of TFA (a minor) v The Government of Republic of Cameroon*, ACERWC (2018) paras 47 and 73; Communication 10/Com/003/2016, *Etoungou Nko'o on behalf of Mr and Mrs Elogo Menye and Rev Daniel Ezo'o Ayo v the Government of Cameroon*, ACERWC (2018) para 47; and Communication 3/Com/001/2012, *The Centre for Human Rights (University of Pretoria) and La Rencontre Africaine pour la Defense des Droits de l'Homme v Senegal* ACERWC (2014) para 75.

<sup>1069</sup> *Chapman v. United Kingdom* (GC), 2001-I; 33 Eur. H.R. Rep. 18, 96 (2001).

alleged violation of the right to respect her minority lifestyle under Article 8 of the European Convention on Human Rights (ECHR), as well as her discrimination complaint under Article 14 of the ECHR.

The applicant claimed that the UK government prevented her from living and travelling in a caravan, which she considered essential to her cultural tradition. As Buckley implies the vulnerable position of Gypsies as a minority necessitates some special consideration for their needs and different lifestyle, both in the relevant regulatory planning framework and in reaching decisions in specific cases, according to the Court's Grand Chamber.<sup>1070</sup>

Roma vulnerability appears to stem primarily from the group's minority status and a failure to consider its minority lifestyle in planning and decision-making processes, according to this early formulation. However, group vulnerability has no bearing on the Court's proportionality reasoning.<sup>1071</sup>

Ms Chapman lost the case because of the large margin of appreciation given to states for implementing planning policies and environmental regulations. Nonetheless, Chapman's definition of vulnerability lays the groundwork for the Court's later formulations of "vulnerable groups": belonging to a group (in this case, the Roma minority) whose vulnerability is shaped in part by broader societal, political, and institutional circumstances (case, power differentials and a planning framework unresponsive to the needs arising from a way of life different from that of the majority).

### **3.16.3 The Vulnerability of Groups in Post-Chapman Case Law: The Vulnerable-Group Concept has the following characteristics: it is relational and harm-based**

Following Chapman's case, the court broadened and developed the concept's content and scope over the years. The court has not only reaffirmed Roma's vulnerability in various contexts and for a variety of other reasons; it has also expanded the list of "vulnerable groups" to include

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<sup>1070</sup>The Court refers to the *Buckley v. the United Kingdom* judgment from 1996, but in that judgment, the Court did not actually use the term "vulnerable" to describe Roma.

<sup>1071</sup> Cf. *Chapman v. United Kingdom* (GC), 2001-I; 33 Eur. H.R. Rep. 18, 3 (2001) (Riduejo, Bonello, Tulkens, Strážnická, Lorenzen, Fischbach and Casadevall J., dissenting).

people with mental disabilities, HIV-positive people, and asylum seekers. However, it is unclear what exactly binds all these groups together, as the Court has not (yet) fully developed a coherent set of indicators to determine what makes a group vulnerable.

However, it is unclear what exactly connects all these groups, because the Court has not (yet) fully developed a coherent set of indicators to determine what makes a group vulnerable. To be sure, in all cases, the Court consults European or international human rights reports and resolutions to determine what makes certain groups vulnerable.<sup>1072</sup>

As established by case law, the Court's understanding of the concept of group vulnerability has three characteristics:

- (i) Relational
- (ii) Particular
- (iii) Harm-based

As demonstrated by Chapman's case, the Court's understanding of group vulnerability is relational. The court locates vulnerability not in the person alone, but rather in her larger social situations.<sup>1073</sup> The court's concept of vulnerable groups is thus relational, as it sees certain groups' vulnerability as shaped by social, historical, and institutional forces. In other words, the Court links the individual applicant's vulnerability to the social and institutional environment that creates or sustains the vulnerability of the group of which she is a member. The importance of context inherent in the Court's understanding of group vulnerability is consistent with contemporary analyses that employ vulnerability as a critical tool.

The second distinguishing feature of the court's account of vulnerability is unique. The term "particular" refers to a group member whose vulnerability is formed by specific group-based

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<sup>1072</sup> D.H. and others v. the Czech Republic (GC), App. No. 57325/00, 47 Eur. H.R. Rep. 3, 182(2007) (Roma); *Alajos Kiss v. Hungary*, App. No. 38832/06, 20 May 2010, 44 (disability);

<sup>1073</sup> *M.S.S. v. Belgium and Greece*, App. No. 30696/09, 53 Eur. H.R. Rep. 2, ¶ 251 (2011) (asylum)



experiences. The word "particular" emphasizes the idea that people in these groups are simply "more" vulnerable than others.<sup>1074</sup>

The Court's emphasis on harm is a third feature of its interpretation of group vulnerability in post-Chapman case law. Indeed, the number of indicators used by the Court to determine group vulnerability demonstrates that harm is central<sup>1075</sup> to the Court's account of group vulnerability. The concept of harm is central to most basic reports of vulnerability.

Thus, historical prejudice and stigmatization are two indicators that emerge from the Court's case law. These indicators highlight the harm caused by misrecognition, which occurs when "institutionalized patterns of cultural value... constitute some actors as inferior, excluded, wholly other, or simply invisible—in other words, as less than full partners in social interaction...."<sup>1076</sup> These indicators point to a phenomenon known as misdistributions, which occurs "when some actors lack the necessary resources to interact with others as peers."<sup>1077</sup>

### **3.16.4 The Potential of Vulnerability to Expand Migrant's Social Rights**

Even though rights are formally granted to every person, migrants often need some kind of legal membership to enable them to have complete protection.<sup>1078</sup> Thus the concept of vulnerability has served as a further basis for social protection for migrants who do not have social or legal membership.

For decades, human rights courts and organizations have used the concept of vulnerability to determine the scope of migrants' rights. The European Court of Human Rights (ECHR or ECtHR) has applied the concept of vulnerability under Article 3 of the European Convention on Human Rights (ECHR) to expand the range of positive responsibilities as regards their social rights into the socio-economic circle.

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<sup>1074</sup>L. Peroni and A. Timmer 'the Promise of an Emerging concept in European Human Rights Convention Law' Oxford University press and New York University School of Law 2013) page 1064

<sup>1075</sup> Ibid at page 1064

<sup>1076</sup> N. Fraser, "Rethinking Recognition, 3 New Left Rev. 107, 113 (2000).

<sup>1077</sup> Ibid at 116.

<sup>1078</sup>M.B. Dembour, *When Humans Become Migrants: Study of the European Court of Human Rights with an Inter-American Counterpoint* (OUP 2015) Ch 8.

In the case of *M.S.S. v. Belgium and Greece*, for example, one of the arguments used by the courts to conclude that Article 3 of the ECHR was violated due to destitution was the court's observation that asylum seekers are members of a particularly underprivileged and vulnerable population group that requires special protection.<sup>1079</sup>

The concept of vulnerability was used by the ECSR to widen the individual scope of some of the European Social Charter's rights (ECR or Charter). It ruled that the Charter's limited personal scope "should" not have unreasonably negative consequences when it comes to protecting vulnerable groups of people.<sup>1080</sup>

According to the court's interpretation, irregular migrants are covered by the right to shelter. This is an example of an inclusive human rights law' being developed because of the vulnerability lens system.<sup>1081</sup>

With increased awareness of migrants' situations, the concept of vulnerability allows human rights courts to differentiate between cases based on the circumstances, which may result in rights-affirming, assertive judgments in certain cases, such as those involving unaccompanied minors or migrants with the right to shelter or with a health condition.<sup>1082</sup>

### 3.16.5 The Unsusceptible Danger of the Vulnerability Concept

The obvious risk associated with the concept of vulnerability is that it would stigmatize and stereotype people who are considered vulnerable. The word vulnerable is commonly used to describe something weak that should be avoided. Defining vulnerable groups of people in law

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<sup>1079</sup> *M.S.S v Belgium and Greece* App no 30696/09 (ECtHR, 21 January 2011) para 251; See also, *Shioshvili v Others* Russia App no 19356/07 (ECtHR, 20 December 2016); *Khan v France* App no 12267/16 (ECtHR, 28 February 2019)

<sup>1080</sup> *DCI v the Netherlands*, Complaint No 47/2008 (ECSR, 20 October 2009) para 37; *CEC v the Netherlands* Complaint No90/2013, (ECSR, 1 July 2014) para 123; the Committee in this decision did not explicitly refer to the concept of vulnerability, but it did refer to irregular migrants as 'individuals in a highly precarious situation'.

<sup>1081</sup> A.Timmer, 'A Quiet Revolution. Vulnerability in the European Court of Human Rights in Martha Fineman and Anna Grear (eds), *Vulnerability: Reflections on a new ethical foundation for law and politics* (Ashgate 2013) 169.

<sup>1082</sup> See, for instance, *Rahimi v Greece* App no 8687/08 (ECtHR, 4 April 2011) para 86; *Aden Ahmed v Malta* App no 55352/12 (ECtHR, 23 July 2013) para 97.

and policy reinforces and valorizes' the essence of the liberal issue of autonomy and independence.<sup>1083</sup> Vulnerable people are then viewed as outliers, as the exception to the rule.

This is a paternalistic mindset in which vulnerability is equated with the need for greater protection, rather than empowerment or participation. Vulnerability can be used as moral reasoning for social control<sup>1084</sup> and behavioural regulation.<sup>1085</sup> In the Netherlands, for example, the government was forced to provide housing to irregular migrants with minors due to human rights case law based on vulnerability and deservingness.<sup>1086</sup>

The government decided to house such families in 'family locations,' which severely limited their freedom of movement. The people were subjected to a daily duty to report to the authority, they were not allowed to leave the municipality of the shelter, despite their (supposed) vulnerability, and they ended up being subjected to extensive State control.<sup>1087</sup>

In theory, vulnerability is a chameleon concept, capable of changing its meaning depending on who uses it and in what context. This means that vulnerability can be abused to maintain the status quo.

The vulnerability could be used to investigate what specific disadvantages are being created, whether they are conducive to immigration control (or rely on an unproven assumption based on deterrence), and what the state and courts can and should do to mitigate them. In other words, migratory vulnerability could help courts to identify 'dependencies' grounded in the social relation between persons and the State, and ultimately reduce overall levels of 'domination'.

### **3.16.6 The Future of Vulnerability**

Vulnerability is a feature of the human condition, and as such, it will exist for as long as man does, and it will continue to evolve. It has a broad and perceptive application, proven strategic

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<sup>1083</sup> M. Fineman, 'Elderly as Vulnerable: Rethinking the Nature of Individual and Societal Responsibility' (2012) 20 *The Elder Law Journal* 71, 86.

<sup>1084</sup> K. Brown, 'Demoralizing Vulnerability' (2012) 6 *People, Place & Policy* 41, 41–53.

<sup>1085</sup> K. Brown, 'Questioning the Vulnerability Zeitgeist: Care and Control Practices with 'Vulnerable' Young People' (2014) 13 *Social Policy and Society* 371, 371–387.

<sup>1086</sup> L. Slingenberg, 'Deservingness in Judicial Discourse. An Analysis of the Legal Reasoning Adopted in Dutch Case Law on Irregular Migrant FAMILIES' (2021) 20, *Access to Shelter, Social Policy, and Society* 521, 521–530.

<sup>1087</sup> L. Slingenberg, 'Evaluating Life Steeped in Power Non-Domination, the Rule of Law, and Spatial Restrictions for Irregular Migrants' (2020) 12 *Hague J Rule Law* 399, 399–420.

value, and is already embedded in some human rights institutions' procedures. It would strengthen human rights practices in migration and environmental protection. Because the concept recognizes the relationship between humans and their environments, vulnerability has the potential to become a guiding principle of human rights law, alongside equality and dignity. The dangers mentioned above must be addressed for the concept to deliver on its potential, regardless of the individual's conception, whether technical or ambitious.

### **3.17 Understanding the Vulnerability of Internally Displaced Women and Children in Nigeria vis-a-vis Strategies for Protection and Support**

This section examines the concept of vulnerability of internally displaced women, and children, understanding their needs, and susceptibility to exploitation, abuse, and strategies for protection, and support. It will further explore whether Internally Displaced Persons (IDP) are a group of persons that should be treated differently.

#### **3.17.1 Internally Displaced Person and the Concept of Vulnerability**

Vulnerability is the state of being hurt or assaulted, capable of suffering physical or mental harm; open to assault or damage, assailable and critique. Vulnerability is the incapacity to withstand a hazard or respond to a calamity. Vulnerability derives from the Latin word for "wound," *vulnIus*. Furthermore, vulnerability is the condition of being susceptible to injury or appearing to be such. Most IDPs fall into at least one vulnerability category, in terms of psychological well-being, health care issues, access to essentials, non-availability of shelter, and protection challenges. Internally displaced people reported having multiple health vulnerabilities, notably chronic sickness, mental health concerns, and disability.<sup>1088</sup> Women and children have a larger risk of susceptibility than men. They are also still at significant risk of physical attack, exploitation, sexual assault, and kidnapping, and they are regularly denied proper shelter, food, and medical care. Their survival is dependent on the availability of help from the authorities, local communities, humanitarian agencies, and well-meaning individuals.

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<sup>1088</sup>Phuong N. Pham, *et al* 'Characterization of Vulnerability of Internally Displaced Persons in Burkina Faso, Mali, and Niger Using Respondent-Driven Sampling (RDS)' *Journal of Refugee Studies*, Volume 36, Issue 4, December 2023, Pages 818–841, <https://doi.org/10.1093/jrs/fead044>, <https://academic.oup.com/jrs/article-abstract/36/4/818/7227936> accessed 5 April 2024.

People forced to flee or leave their homes, especially during times of armed conflict, are often more vulnerable in a variety of ways. Displaced people have higher rates of mortality than the average population. They are also still at significant risk of physical attack, sexual assault, and kidnapping, and they are regularly denied proper shelter, food, and medical care.<sup>1089</sup>

Internal displacement is a global phenomenon, but nearly three-quarters of the world's IDPs live in just ten countries: Syria, Afghanistan, the Democratic Republic of the Congo (DRC), Ukraine, Colombia, Ethiopia, Yemen, Nigeria, Somalia, and Sudan, many of which are the result of unresolved conflicts that continue to cause significant displacement in 2022<sup>1090</sup> 11 May 2023, Geneva – According to the Internal Displacement Monitoring Centre's flagship annual report, the number of internally displaced people (IDPs) worldwide will reach 71.1 million by the end of 2022, a 20% rise from the year before.<sup>1091</sup>

In Nigeria, many IDPs have been driven from their homes for over a decade and a half, and there is little hope that they will return soon. Until the conflict is resolved, IDPs will have to care for their families and make a life away from home. A Boko Haram attack who is the major cause of internal displacement is an Islamic sectarian movement in northeastern Nigeria founded in 2002 by Muhammed Yusuf. Since 2009, it has conducted sectarian warfare, assassinations, and large-scale acts of violence in Nigeria's northeastern region over the past one and a half decades.<sup>1092</sup>

Given that internal displacement creates a series of circumstances that leave people impacted extremely vulnerable. Most clearly, it drives people out of their homes, robbing them of shelter and the most fundamental protection it can offer. Cut off from their land, and traditional livelihood, lost means of earning a living, and forced to leave all but a few items behind. IDPs are suddenly deprived of their means of life, and at the same time, it disrupts families and community support networks. Displacement causes massive loss not only of commodities such

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<sup>1089</sup>About Internally Displaced Persons, Special Rapporteur on the Human Rights of Internally Displaced Persons, (2023), <<https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/about-internally-displaced-persons>> accessed 6 April 2024

<sup>1090</sup>Global Report on Internal Displacement 2023 (GRID 2023): Internal Displacement and Food Security,'<<https://www.internal-displacement.org/global-report/grid2023/>> accessed 6 April 2024

<sup>1091</sup>Supra

<sup>1092</sup><<https://www.britannica.com/topic/Shariah/Development-of-different-schools-of-law>>

as homes, income, land, or other types of property but also of less visible symbolic values, such as cultural heritage, friendship, and a sense of belonging to a particular location. Its pernicious effects on individuals, families, and communities are wide-ranging, including poverty, social isolation, exclusion from health, welfare, and education provision, the breakdown of social relationships and support structures, and the undermining of authority structures and social roles.<sup>1093</sup>

Children are especially vulnerable since displacement not only affects their education and normal development but also frequently ends in their being separated from their families in the turmoil of departure, leaving them to fend for themselves and putting them at risk of abuse. Compounding their suffering, the displaced are frequently branded and may be viewed with suspicion and animosity in the places to which they fled. They are particularly vulnerable to acts of violence and human rights violations, including roundups, forced conscription, and sexual assault. It is worth noting that the International Committee of the Red Cross (ICRC), which was among those initially advocating the idea that IDPs in war situations should be treated no differently than other civilians caught up in the conflict, has come to appreciate that displacement puts people affected at a distinct disadvantage. According to the ICRC's director of operations, "Displaced people may have the same need for legal protection as other civilians during conflict, but it goes without saying that, deprived of shelter and their habitual sources of food, water, medicine, and money, they have different, and often more urgent, material needs."<sup>1094</sup>

Women and children make up the bulk of internally displaced people and suffer several unique dangers. Increased levels of sexual and gender-based violence, particularly among single unaccompanied women and girls, as well as female heads of households, have been well documented yet remain under-addressed. When food is not given to women, and they are frequently removed from camp management, their vulnerability to sexual assault and

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<sup>1093</sup> S. Castles et al *Developing DFID's Policy Approach to Refugees and Internally Displaced Persons, Volume 1: Consultancy Report and Policy Recommendations* (Oxford: Refugee Studies Centre, University of Oxford, February 2005), p. 12.

<sup>1094</sup> T. Jean-Daniel, 'We Should Have Humanitarian Access to Displaced Civilians', *International Herald Tribune* (1 March 2000), p. 1

exploitation increases considerably. Higher rates of domestic violence are not uncommon.<sup>1095</sup> Another severe risk is trafficking, which increases as people are displaced, families are divided, and livelihoods are destroyed. Children who have lost their homes and relatives are particularly vulnerable to military recruitment and abuse. The disruption to formal schooling caused by displacement reduces their chances of escaping these hazards in the short and long run.<sup>1096</sup>

Displacement causes vulnerabilities that do not necessarily fade with time. As previously noted, the International Committee of the Red Cross (ICRC) and World Food Programme (WFP) discovered that increased food and livelihood insecurity among internally displaced persons might persist long after the emergency has passed. IDPs who received and continued to rely on assistance, such as government subsidies (which often go unpaid<sup>1097</sup>), free housing in deteriorating makeshift shelters, or long-term reliance on relatives and friends, were vulnerable due to their fragility, which is often overlooked. When various elements of vulnerability are considered in tandem, it is difficult to avoid the conclusion that the region's IDPs are a group needing continuing major attention from government donors.<sup>1098</sup>

### **3.17.2 Vulnerability of Internally Displaced Women and Children**

Conflicts in Nigeria caused by Boko Haram's actions in the Northeast have resulted in significant threats to lives and property, the deaths of many people, and the relocation of many more, and the vast majority of Internally Displaced Persons in Nigeria are women and children. Despite varied statistics on the precise number of internally displaced persons in northern Nigeria, all sources reviewed suggested that women and children make up more than half of the population of the Internally Displaced Person Camps.

Internally displaced women and children forms the larger part of the general population of internally displaced people, they make up most internally displaced people, and they are

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<sup>1095</sup> See, for example, 'International Women's Day: Colombia's Displaced Women Tell of their Suffering,' (Bogota, Colombia: UNHCR, 8 March 2005).

<sup>1096</sup> E. Mooney and C. French, *Barriers and Bridges: Access to Education for Internally Displaced Children* (Washington, D.C.: Brookings Institution, 2005).

<sup>1097</sup> See *United Nations Commission on Human Rights, Profiles in Displacement: Georgia*.

<sup>1098</sup> S.B Holtzman and Taies Nezam, *Living in Limbo: Conflict-Induced Displacement in Europe and Central Asia* (Washington, D.C.: The World Bank, 2004), pp. 135-136.

particularly vulnerable to violations of their basic rights. Life in the camps is difficult. Living circumstances are dangerous and unhygienic, with significant food shortages, drinking water, and basic services like healthcare. There are also frightening levels of insecurity, in the country and some of the camp locations, sexual violence, which is exacerbated by poverty, power disparities between men and women, people's restricted ability to earn a living, and the larger backdrop of challenges faced daily by displaced women and children.

### **Insecurity**

The amount of insecurity in Nigerian camps is disturbing; it is a case of rushing from one threat to the next, as well as double jeopardy. Yet to recover from the psychological anguish of losing relatives, friends, and property, displaced people face security challenges as well as the obligation to protect themselves in their different camps. Terrorists and armed robbers can attack the IDP camps due to inadequate security measures. On March 3, 2024, suspected Boko Haram fighters abducted at least four hundred Internally Displaced Persons (IDP), most of them were women and children, from the Babban Sansani, Zulum, and Arabic IDP camps in Gamboru Ngala, Borno State. On March 7, gunmen seized at least 287 kids and teachers in Kuriga, Kaduna state. Hundreds of attackers arrived at the school on motorcycles, kidnapping pupils and instructors and transporting them into the jungle. On March 9, gunmen seized 15 children from an Islamic school and demanded a ransom.<sup>1099</sup> The issue of insecurity in Nigeria is becoming overwhelming, since the end of February 2024, over 500 persons have been kidnapped in a wave of mass abductions in Nigeria's Northeast and Northwest. On February 29, suspected Boko Haram fighters kidnapped at least 200 individuals, mostly women and children, in the northeastern state of Borno, while authorities and communities still suffering from these murders, armed bandits reportedly attacked Kaduna again on March 12, this time in Kajuru, killing 61 people.<sup>1100</sup>

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<sup>1099</sup> I. Sanusi, 'Nigeria: Fresh Abduction is a sign that Impunity Reigns' (March 13 2024) <[<sup>1100</sup> K. Madueke \*et al\* 'A Spate of Abduction in Nigeria is heightening tensions in the country. What has happened, who is responsible and what does it say about where Nigeria is headed?' \(Posted 15 March 2024\), <https://globalinitiative.net/analysis/mass-abductions-kidnappings->](https://www.amnesty.org/en/latest/news/2024/03/nigeria-fresh-abduction-is-a-sign-that-impunity-reigns/#:~:text=On%20March%202024%2C%20suspected,gunmen%20in%20Kuriga%20Kaduna%20state.> accessed 6 April 2024</a></p></div><div data-bbox=)



Most victims were women living in camps in Gamboru Ngala town near Nigeria's border with Cameroon and Chad. This incident has been criticised at the national and international level.<sup>1101</sup> Many communities plagued by kidnapping gangs have expressed disappointment with the government's lack of support. The fact that kidnappers are frequently not pursued after ransoms are paid has sparked widespread outrage.<sup>1102</sup> Given the difficult challenges that displaced people face, as well as the vulnerability of women and children, there is an urgent need for a concerted effort by federal and state governments, "International Actors," non-governmental organizations, and the private sector to collaborate in recovering and rehabilitating these displaced women and children as soon as possible.

The status of IDP women and children requires an assessment to identify what agencies and governments can provide, including shelter, food, water, clothes, sanitation systems, healthcare, and protection. They need to be prepared through counseling, skill acquisition, and other training, aimed at preparing them to survive physically, intellectually, and economically in camp and after they leave the camps.<sup>1103</sup>

## Education

Kidnappings of schoolchildren and general attacks on schools have profound consequences, including the loss of teachers and pupils, demotivation, distraction, delayed career pursuit, unemployment, and psychological impacts. Furthermore, it has health consequences such as anxiety, sadness, mental health, a lack of social engagement, and economic disadvantage. These are some of the most serious perceived consequences of kidnapping.

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[nigeria/#:~:text=Since%20the%20end%20of%20February,North%20Eastern%20state%20of%20Borno](#). Accessed 6 April 2024

<sup>1101</sup>M.M. Fall, the United Nations Nigeria Resident and Humanitarian Coordinator, released a statement criticising the abduction and calling for the immediate release of the victims. <<https://www.voanews.com/a/un-condemns-mass-abduction-of-displaced-persons-in-nigeria/7517987.html>> access 6 April 2024.

<sup>1102</sup>E. Akinwotu and A. Ungbaoje, 'The Risk of Kidnap Became the Cost of an Education in Nigeria' *The Guardian* (12 November 2021 08:30 GMT) <<https://www.theguardian.com/global-development/2021/nov/12/itll-get-worse-how-kidnappings-are-ruining-education-for-nigerias-youth#:~:text=In%20July%2C%20140%20pupils%20at,pupil%20retention%2C%20particularly%20among%20girls.>>> accessed 7 2024

<sup>1103</sup> T Kasali *et al*, "Determinants of Microcredit Access: Empirical analysis from South-West Nigeria" (2016), *Journal of Economic Cooperation and Development* 37(4):125-148.

The insecurity is generating an educational crisis, reversing improvements in student retention, particularly among girls. Since the kidnapping of the Chibok school children in 2014, abductions by armed groups have become a very profitable crime, with ransom demands totaling hundreds of thousands of pounds. Children are prize targets. The groups face little resistance at boarding schools and universities and have grown bolder, with some kidnappers establishing a celebrity image, issuing ransom demands on radio stations, and giving media interviews.<sup>1104</sup>

The UN reports that over 2,000 children and young people have been abducted in Nigeria this year 2024. The most recent incidence occurred in Zamfara in September when 73 students were taken from a secondary school. One was kidnapped at Bethel Baptist High School in Kaduna state, but 25 others fled.<sup>1105</sup> "On February 26, 2021, 300 girls were kidnapped at a girls' school in Zamfara, and as a result, other parents said, 'We're not taking our children to school.'<sup>1106</sup>" The insecurity is generating an education crisis, reversing improvements in pupil retention, particularly among girls, and there is a current education crisis.<sup>1107</sup>

The Nigerian authorities' repeated failure to curb the wave of abductions targeting children and schools means that a generation of children may miss out on education, as fear of abduction forces officials to close hundreds of schools and teachers to flee their rural postings.<sup>1108</sup> Without measures such as intelligence collection to prevent armed bandit attacks and maintain proper

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<sup>1104</sup> E. Akinwotu and A. Uangbaoje, 'The Risk of Kidnap Became the Cost of an Education in Nigeria' *The Guardian Newspaper* (12 November 2021 08:30 GMT) ><https://www.theguardian.com/global-development/2021/nov/12/itll-get-worse-how-kidnappings-are-ruining-education-for-nigerias-youth#:~:text=In>> accessed 7 April 2024.

<sup>1105</sup> Supra

<sup>1106</sup> Supra

<sup>1107</sup> P. Hawkins, 'Head of The United Nations International Children's Emergency Fund (UNICEF) in Nigeria' cited in E. Akinwotu and A. Uangbaoje, 'The Risk of Kidnap Became the Cost of an Education in Nigeria' *The Guardian* (12 November 2021 08:30 GMT) ><https://www.theguardian.com/global-development/2021/nov/12/itll-get-worse-how-kidnappings-are-ruining-education-for-nigerias-youth#:~:text=In>> accessed 7 April 2024.

<sup>1108</sup> I. Sanusi, 'Nigeria: Fresh Abduction is a sign that Impunity Reigns' (March 13 2024) <<https://www.amnesty.org/en/latest/news/2024/03/nigeria-fresh-abduction-is-a-sign-that-impunity-reigns/#:~:text=On%20March%202024%2C%20suspected,gunmen%20in%20Kuriga%20Kaduna%20state,>> accessed 6 April 2024

security of remote and rural schools, the existing approach of reactive military interventions is unlikely to stop this vicious cycle.<sup>1109</sup>

### **Economic Sustenance for the Women**

For sustainability, IDP women require support that will help improve their self-reliance and reduce their reliance on aids, especially in the area of access to skill training and affordable microcredit for agricultural needs, business start-ups, and other short-term consumption needs; this will involve gradually integrating education, health, agriculture, and livelihood-promoting activities that link up with longer-term development programs that provide a certain level of Income-generating activities for women include tailoring, petty trading, handwork (such as soap making, shoe making, and tie & dye), farming, and so on.<sup>1110</sup> These learned talents, however, have limitations in that they may not be valuable to the IDP if they are unable to create and sell to generate a living. The lack of a market and restrictions on women's movement in some IDP camps may harm the skills learned as a source of income. In all, displaced women should be involved in the entire process to guarantee a buy-in to the program while the children should be able to access education.

### **3.17.3 Are Internally Displaced Persons a Special Category of Concerns?**

Aside from definitional concerns, others dispute whether internally displaced people should be given special attention and treated as a distinct category of concern. When the issue of IDPs first surfaced on the world radar, it sparked controversy in both humanitarian and scholarly circles,<sup>1111</sup> this is a question that persists to this day. Some argue that instead of categorizing IDPs, they should be considered war victims.<sup>1112</sup> Of course, this argument ignores the fact that

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<sup>1109</sup>K. Madueke *et al* 'A Spate of Abduction in Nigeria is heightening tensions in the country. What has happened, who is responsible and what does it say about where Nigeria is headed?' (Posted 15 March 2024), <https://globalinitiative.net/analysis/mass-abductions-kidnappings-nigeria/#:~:text=Since%20the%20end%20of%20February,North%20Eastern%20state%20of%20Borno>

<sup>1110</sup>B. Adimula 'Opinion: The plight of women and children in Nigeria's IDP camps' (08 Mar 2016) <<http://naija.com/idp-women-children/>> and <<https://data.unhcr.org/en/news/12180>> accessed 6 April 2024

<sup>1111</sup>E. Mooney, 'The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern' Refugee Survey Quarterly, vol. 24, issue 3, UNHCR 2005.

<sup>1112</sup> F. Bouchet-Saulnier, 'Using the Law of War to Protect the Displaced', MSF Activity Report 2000-2001 (Paris: Médecins sans Frontières, 2001). That this view is not official policy within MSF, however, is evident from other literature and statements issued by the organization. See, for example, Nicholas de Torrente, 'IDPs in the Caucasus

displacement can result from causes other than war. One argument against categorizing internally displaced people is that doing so may lead to discrimination against other groups.<sup>1113</sup> Another study brought this subject to the forefront, noting that there is a strong vein of disagreement, not just to the treatment of IDPs as a separate category but even to their independent identification among all real and potential vulnerable groups.<sup>1114</sup> However, numerous compelling arguments on the opposing side highlight the need to define internally displaced people as a distinct group with unique needs. Violence perpetrated by armed gangs such as kidnappers, attacks by the Boko Haram sect, terrorists, and bandits has caused widespread displacement in Nigeria's North Central, Northeastern, and Northwest regions. International humanitarian law prohibits population displacement in war situations unless it is necessary for civilian security or military purposes. Forced population removal, even outside of armed conflict, is considered a crime against humanity under international law.

Another defining feature of displaced people is their desire for a permanent solution to their situation. Forced return poses a higher risk for IDPs compared to refugees who can rely on UNHCR to oversee safe and voluntary return or resettlement conditions. However, there are currently no effective monitoring procedures in place to protect IDPs. When safe and voluntary return or resettlement becomes possible, IDPs, like refugees, require additional aid to reconstruct their lives. Despite identical challenges and conditions, IDPs typically do not receive the same reintegration packages as refugees. To be sure, host communities, particularly in war-torn countries, will probably require reconstruction help as well.

However, IDPs will unavoidably have specific demands, particularly in terms of property and land restitution, special protection issues may develop as well. However, when compared to people who have remained in their native places, displaced people have a major disadvantage in recognizing where mines have been put in their absence. ICRC records and other studies reveal

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Region and Southeastern Anatolia,' Testimony given for the hearing before the Commission on Security and Cooperation in Europe, 108th U.S. Congress, 1st session, June 10, 2003, CSCE 108-1-2.

<sup>1113</sup> J. Borton, *et al Learning from Evaluations of Support to Internally Displaced Persons. IDP Synthesis Report: Final Report*, (Ohain, Belgium: Channel Research, 2005), p. 31.

<sup>1114</sup> Guiding Principle 6. For the legal Standards from which this principle is derived, see Kälin, Annotations, pp. 3-19.

that returning displaced people and refugees account for a disproportionate number of civilians injured or killed by land mines.<sup>1115</sup>

The World Health Organization, which is mandated by its constitution states that internally displaced people are one of the "special groups" most sensitive to health concerns.<sup>44</sup> Poor sanitation, a lack of clean water, and overcrowding are all common circumstances in IDP camps and settlements, posing additional health hazards. Epidemics such as cholera and tuberculosis occur frequently, and inadequate medical treatments often worsen the health of IDPs. Displacement trauma contributes to high rates of psychological issues among IDPs.

The question of whether internally displaced people are a distinct category of concern is difficult to dispute because IDPs have demands that differ from the regular population and require specific attention. The internally displaced are distinguished by the specific demands and increased vulnerabilities that develop as a result of forced displacement, including the need for a long-term solution. To be true, IDPs are typically part of a much larger group of people in need, such as civilians caught up in armed conflict or communities affected by natural disasters.<sup>1116</sup>

Nonetheless, the objective fact of being displaced entails specific requirements and exposes those impacted to additional hazards. Simply put, as human rights expert Roberta Cohen has stated, "The fact of the matter is that internally displaced persons have needs that distinguish them from the general population."<sup>1117</sup> Dennis McNamara, a seasoned humanitarian practitioner with over thirty years of experience working with populations in times of war and violence, says that "there is no doubt that the internally displaced have been among the most vulnerable." Furthermore, they receive insufficient assistance.<sup>1118</sup> Studies demonstrate that IDPs have unique demands. An evaluation found that humanitarian programming that is not tailored to the needs of

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<sup>1115</sup> B. Steven, Holtzman and T. Nezam, 'Living in Limbo: Conflict-Induced Displacement in Europe and Central Asia' (Washington, D.C.: The World Bank, 2004), pp. 135-136.

<sup>1116</sup> E. Mooney, 'The Concept of internal displacement and the case for internally displaced persons as a category of concern' *Refugee Survey Quarterly*, vol. 24, issue 3 UNHCR 2005

<sup>1117</sup> Steven B. Holtzman and Taies Nezam, 'Living in Limbo: Conflict-Induced Displacement in Europe and Central Asia' (Washington, D.C.: The World Bank, 2004), pp. 135-136.

<sup>1118</sup> D. McNamara, "Refugees in Their Lands: Internally Displaced are Among the World's Most Vulnerable. The G8 Must Not Ignore Them Again" (2005) <<https://publish.mersin.edu.tr/index.php/alm/article/view/1477>>

internally displaced people often falls short of their rights and priorities.<sup>1119</sup> Identifying IDPs as a distinct category of concern does not prioritize them over others, and does not limit the protection, needs and human rights of all other individuals.

#### **3.17.4 The Areas of Need/Support for the Internally Displaced Persons**

Given that when IDPs are forced to flee their homes, their most pressing need is shelter. It is hardly unexpected that, aside from protection, providing IDPs with emergency shelter remains one of the least addressed and most neglected parts of humanitarian aid.<sup>1120</sup> Whereas shelter is an essential component of refugee support, no United Nations Agency consistently satisfies the needs of IDPs during humanitarian emergencies. Many IDP camps and settlements lack the UN-blue emergency plastic sheeting often found in refugee camps worldwide. IDPs often seek shelter outside camps, such as railway trains, aluminum containers, abandoned houses, and urban slums. In Nigeria, they seek primary shelter in government-run public schools before making their way to the many internally displaced person camps spread across the country.

In addition, food is also one of the most pressing demands of the internally displaced. IDPs are more reliant on food aid than the general population since they have limited, if any, access to land and are cut off from their usual sources of income. They make up most recipients of World Food Programme (WFP) aid. In a 2001 policy statement, WFP acknowledged that displacement presents unique vulnerabilities that non-displaced people may not experience to the same level, hence increasing their food insecurity.<sup>1121</sup> The United Nations Food and Agriculture Organization has emphasized the importance of monitoring IDPs' household food insecurity, as well as understanding the specific constraints that prevent them from obtaining necessary food

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<sup>1119</sup> J. Borton, *et al* Learning from Evaluations of Support to Internally Displaced Persons. IDP Synthesis Report: Final Report, (Ohain, Belgium: Channel Research, 2005), p. 31.

<sup>1119</sup> Guiding Principle 6. For the legal standards from which this principle is derived, see Kälin, Annotations, pp. 3-19.

<sup>1120</sup> United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 'Internal Displacement Division,' 'Strengthening UN Agency Accountability in Crises of Internal Displacement', Background paper prepared for the Inter-Agency Standing Committee Working Group, 9 June 2005, p. 1; Norwegian Refugee Council Global IDP Project, Internal Displacement: Global Overview of Trends and Development in 2004 (Geneva: Norwegian Refugee Council, March 2005), p. 3

<sup>1121</sup> World Food Program, Reaching People in Situations of Displacement: A Framework for Action, WFP/EB.A/2001/4-C (Rome: World Food Program, 2001).

and ensuring that appropriate measures are taken to facilitate this access.<sup>1122</sup> Displaced women and girls are more likely to engage in prostitution and sexual exploitation due to a lack of food and cash, which may also lead to an increase in HIV/AIDS infection rates in IDP camps.<sup>1123</sup>

Individuals who have been displaced continue to have a wide range of economic, social, cultural, civil, and political rights, including the right to basic humanitarian assistance (such as food, medicine, and shelter), the right to be protected from physical violence, the right to education, freedom of movement, and residence. When displacement happens, internally displaced persons have numerous requirements that must be met to mitigate the effects of the displacement. These IDPs' needs include safety, shelter, non-food goods (such as blankets, clothes, and beds), health care, the right to be protected from physical violence, exploitation abuse and personnel to coordinate and manage the IDP camp. The United Nations High Commission for Refugees (UNHCR) is leveraging its decades of experience protecting and aiding refugees to collaborate with other agencies to assist IDPs with an emphasis on protection, shelter, non-food items (such as blankets), and camp coordination/management. However, all this assistance is only temporary; the recommended long-term solution is to combat insecurity and provide increased protection for citizens' lives and property. There are three main long-term suggested solutions to displacement, namely return, local integration, and relocation/resettlement.

In the examination of Understanding the Vulnerability of Internally Displaced Women and Children in Nigeria vis-a-vis Their Exploitation and Abuse: Strategies for Protection and Support, it is discovered that despite government troops' efforts to combat Boko Haram terrorists, which is one of the major causes of internally displaced persons in Nigeria, the spate of abductions in Nigeria remains troubling and overwhelming. This is so particularly with the wave of abductions of over 500 people in Nigeria's Northeast and Northwest at the end of February 2024. It is critical to quickly recuperate and rehabilitate mothers and children in these camps, respectively. This effort will not only reintegrate individuals into various social institutions, but

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<sup>1122</sup> E. Mooney, "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern," *Refugee Survey Quarterly*, vol. 24, Issue 3 (UNHCR) 2005

<sup>1123</sup> *supra*

it will also eliminate potential societal vices caused by inactivity. During this process, the following suggestions are made.

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) was ratified by Nigeria and other nations in 2009, however, it has not been domesticated. Domestication reaffirms the State's primary responsibility to defend the rights and well-being of persons displaced from their homes due to conflict, violence, disaster, or human rights violations.

Nigeria's escalating insecurity may persist until the government recognises the value of engaging and partnering with essential stakeholders in the country as well as every group, individuals and agencies and accepts their responsibilities, creates the enabling environment to discharge their responsibilities. It is therefore important that collaboration with the government, humanitarian groups, and civil society is essential in responding to conflict situations by providing aid, reconciliation, victim rehabilitation, and mediation. They should establish proper systems to detect and handle early warning signals of extremism and incitement. The government should fully cooperate with communities in diverse measures to counter violent extremism, as well as identify and prevent similar incidents. Women and youth approaches are vital because they provide a unique perspective from a predominantly underprivileged and vulnerable group.<sup>1124</sup>

As a nation whose principal obligation is to protect its residents' lives and property, as stated in Chapter Two, section 14(2)(b),<sup>1125</sup> and having a contingency plan in place always is critical. Nigeria's boundaries should be delineated to prevent extremists from freely entering the country. The welfare of military soldiers on the front lines of the struggle against rebel activities should be adequately compensated.

Nigeria's instability and terrorism may be resolved without the need for additional finances or aid; all that is required is a reformation of the country's institutions, structures, and ideals.

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<sup>1124</sup>J. McDappa, "What Measures Should be Taken to Counter Nigeria's Insecurities?" <<https://www.risetopeace.org/2021/11/22/what-measures-should-be-taken-to-counter-nigerias-insecurities/jmcdappa/>> accessed 7 April 2024

<sup>1125</sup>1999 Constitution of the Federal Republic of Nigeria (As Amended in 2018)



Simply developing policies without a mechanism to enable and enforce successful implementation would generate no results; this is still the situation in Nigeria.<sup>1126</sup>

The core reason for the militants should be addressed, and the government must accept responsibility for pushing development in Nigeria. Measures to mitigate the effects of the difficult economic situation should be adopted, as well as strong enforcement procedures. More developmental initiatives should be proposed and established. The core cause of insurgency and insecurity should be addressed, as the Nigerian constitution states that the government is responsible for the protection of lives and property.

Until the issue of insecurity in Nigeria is tackled, there is no ending soon the activities of Boko Haram insurgents, and this means there will continue to be displacements of persons. The role and functions of the international community in the care and protection of internally displaced persons are complementary. Many governments and the international community continue to face practical challenges in effectively responding to the specific predicament of IDPs in real-world settings. However, being aware of the risks that internal displacement often involves for the millions of individuals affected, regardless of the source, is a critical first step.

At the international level, no single agency or organization has been acknowledged as the global leader in the protection and aid of internally displaced people. The role of the international community is a "collaborative/complimentary" approach that requires everyone to work together to address these needs.<sup>1127</sup> Internally displaced persons are unlike the refugees whose protection is the primary responsibility of states, the countries that have signed the 1951 Convention who are obliged to protect refugees in their territory and treat them under internally recognised standards.<sup>1128</sup> Refugees and internally displaced people are vulnerable economically, socially, mentally, and politically. For future research, the parallels and distinctions between refugees and IDPs are briefly analysed.

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<sup>1126</sup>J McDappa, 'What Measures Should be Taken to Counter Nigeria's Insecurities?' <<https://www.risetopeace.org/2021/11/22/what-measures-should-be-taken-to-counter-nigerias-insecurities/jmcdappa/>> accessed 7 April 2024

<sup>1127</sup>UNHCR 'About Internally Displaced Persons' <<https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/about-internally-displaced-persons>> accessed 6 April, 2024

<sup>1128</sup>Protecting Refugees, UNHCR<<https://www.unhcr.org/sitesPDF>>accessed 14 April, 2024

### 3.18 The Refugees and the Internally Displaced Persons: Compared

The terms refugees and internally displaced persons are examined based on their similarities and differences.

#### Refugees

Refugees are people compelled to flee their native countries due to persecution, war, conflict, or violence. They are frequently unable or reluctant to return to their own country due to fears of persecution, therefore they seek refuge in another country. Refugees are often afraid of being persecuted because of their ethnicity, religion, nationality, political beliefs, or membership in a specific social group. The 1951 Refugee Convention and its 1967 Protocol provide a legal definition of a refugee, outlining refugees' rights and states' duty to protect them. The 1951 Convention's Article 1 defines a refugee as someone who:

*"owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of [their] nationality and is unable or, owing to such fear, is unwilling to avail [themselves] of the protection of that country; or who, not having a nationality and being outside the country of [their] former habitual residence, is unable or, owing to such fear, is unwilling to return to it."*<sup>1129</sup>

#### Internally Displaced Persons (IDPs)

Internally Displaced Persons are people who have been forced to flee their homes but are still within their own country's borders. IDPs, like refugees, are frequently relocated as a result of conflict, violence, human rights violations, or natural catastrophes, but they do not cross international borders. Unlike refugees, there is no explicit international convention defining the rights and obligations of internally displaced persons. However, the Guiding Principles on Internal Displacement, founded in 1998, serve as a soft law framework for protecting and assisting IDPs around the world.<sup>1130</sup>

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<sup>1129</sup> The United Nations Refugees Agency 'Refugee Facts', <<https://www.unrefugees.org/refugee-facts/what-is-a-refugee/>> accessed 13 April, 2024

<sup>1130</sup> United Nations, 'About Internally Displaced Persons' <<https://www.ochchr.org/en/special-procedure/sr-internally-displaced-persons/about-internally-displaced-persons>> accessed 13 April, 2024

Concerning children, the situation is largely identical, although their category may be expanded further by including children who are stateless or undocumented as IDPs and have not joined the asylum/refugee system. Children, both refugees and internally displaced persons experience physical and mental health concerns, such as exposure to violence, exploitation, separation from family, and disruptions to their education and development. Children in refugee and IDP situations require particular protection measures, as well as access to education, healthcare, psychosocial support, and chances for play and recreation, to maintain their overall health and resilience. Refugee and IDP children may face trauma, separation from caregivers, loss of community and family support structures, and uncertainty about their future, all of which influence their emotional and psychological well-being.

#### **Under International Laws**

##### **Refugees**

The 1951 Refugee Convention and its 1967 Protocol serve as the foundation for the legal system governing refugees. These international agreements define refugee, their rights, and states' responsibility in providing refugee protection and support. The principle of non-refoulement is central to these agreements, as it bans governments from returning refugees to countries where they would face persecution or substantial damage. The United Nations High Commissioner for Refugees (UNHCR) is responsible for safeguarding and supporting refugees around the world, as well as ensuring that their rights are upheld.<sup>1131</sup>

##### **Internally Displaced Persons (IDPs)**

While there is no comprehensive treaty exists to protect internally displaced people, the Guiding Principles on Internal Displacement are an important document that emphasizes IDPs' rights and the duties of states and other players in meeting their needs. These principles stress IDPs' rights to protection, help, and support, and they influence decisions about shelter, food, health, education, and long-term solutions to internal displacement. Despite being non-binding, the

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<sup>1131</sup> 'Human Rights Career' 'What is Refugee Protection'? <<https://www.humanrightscareers.com/magazine/what-is-refugee-protection/>>accessed 13 April 2024

Guiding Principles are an important resource for governments, humanitarian agencies, and politicians working with IDPs.

### **3.18.1 Similarities between the Refugees and the Internally Displaced Persons (IDPs)**

Refugees and IDPs are individuals who have been forcibly removed from their homes due to conflict, violence, persecution, human rights violations, or natural disasters. Both populations face similar risks and challenges regarding basic requirements, protection, service access, and future well-being. Refugee and IDP situations frequently necessitate coordinated humanitarian responses, which include assistance, protection, and support to meet the urgent and long-term needs of persons affected by displacement.

Given the increasing frequency and complexity of internal displacement crises around the world, there is a growing realization of the need for an international legal framework specifically designed for internally displaced people. Creating such a framework would establish clear criteria, norms, and processes for the protection and aid of IDPs, much like the legal framework in place for refugees. International rules for IDPs provide uniform and comprehensive protection that aligns with human rights and humanitarian ideals. Clarifying nations' legal responsibility in responding to internal displacement crises and meeting the needs of IDPs, improving coordination and cooperation among governments, humanitarian organizations, and other stakeholders to better protect and support internally displaced people, strengthening IDPs' rights and dignity, encouraging accountability for their safety and well-being, and facilitating long-term solutions to internal displacement situations.

While refugees and internally displaced people have similar experiences of displacement and vulnerability, they are controlled by separate international legal systems. Creating an international legal framework specifically for internally displaced people will increase the protection and support provided to this group, ensuring that their rights are protected, and their needs are adequately met in times of internal displacement. This framework would promote the rights, dignity, and well-being of IDPs while also contributing to more coordinated, efficient, and rights-based responses to internal displacement crises around the world.

### 3.19 Analysis of the Relationship between Democracy and Education

There is a close link or relationship between democracy and education. In a democratic society education is given predominance for it is a requirement for the continued existence and success of democracy and it encourages democratic dispositions in the people's minds.

Education is more effective, meaningful, relevant, and useful where democratic values such as sharing of responsibilities, cooperation, the dignity of individuals, equity and organization justice are practical and functional in it. For democracy to be a way of life and reality in the minds and lives of the people it must be introduced into the curriculum of early childhood education and its value taught in educational institutions.

In a democratic system of government, the ruling of most of the people prevails; no one is exploited economically, everyone is assured of equal opportunities for work according to capacities, and abilities, everyone is assured of a fair standard of living, and where the organization of the economy is based on a collective and co-operative basis.

Democracy means the govt of the people by the people and for the people. In a democracy, the economic projects are geared towards the benefit of the community, and country at large, and not for private individuals or bodies. The elected are accountable to the electorate.

Socially everyone is guaranteed fundamental rights, and equality of opportunities is given to the fullest development of personality irrespective of class of birth, religion, creed, caste, language rich or poor, and no individual or group domination over another. This social justice is central to the understanding of democracy. There is cooperation, liberty, responsibility, fellow feelings, the sharing of interests, understanding and justice.

A democracy is more than just a form of government; it is primarily a mode of associated living characterized by shared communicated experiences. ("art and literature — "A democracy is more than just a form of government; it..."<sup>1132</sup> Democracy is a lifestyle where issues or problems are solved through discussions, deliberation, persuasion, and transaction of views and arguments

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<sup>1132</sup>J Dewey, *Democracy and Education*, (New York. The Macmillan Company, (1961)109, <<https://www.gutenberg.org/files/852/852-h/852-h.htm>> accessed 14 February 2023

without dictation, violence, operation conflicts and distrust. In a democracy, limitless opportunities, potentials, powers, and responsibilities are shared among individuals on mutual bases without any conflict or confrontation. “Everyone has a share in a democracy as a form of government”<sup>1133</sup> Thus everybody is an actor or player in the business of governance and the determination of the people is accepted as dominant.

### 3.19.1 Educational Implications

There is an indivisible relationship connecting democracy and education. Democracy cannot always be taught in isolation from the field of education. The strength of democracy depends on the personality of all its citizens. The devotion of democracy to education is a familiar fact, a government resting upon popular suffrage cannot be successful unless those who govern and obeys their governors are educated”<sup>1134</sup> “Democracy implies the election of the competent few by the ignorant major. Therefore, education is the major means to enrich the strength and overcome the weakness of people. It is a means for the widespread diffusions of democratic values”<sup>1135</sup> “Education is the great instrument of social emancipation, by which democracy establishes, maintains and protects the spirit of equality among its members”<sup>1136</sup> It is very obvious that democracy can function well in a country if all its citizens are properly educated. As a result, democracy should make available the aims of education, and the doctrine of democracy ought to reveal the aims, and methods of teaching or learning, in the curriculum, organization, administration, discipline, school, teacher, parents and so on.

### 3.19.2 What are the aims of Democratic Education?

Education in a democracy ought to be largely based on implementing all the ingredients of sociology, psychology, philosophy *etcetera*. The most important aim of education in a democracy is to make democratic citizens who form independent judgments on complicated issues objectively understand the plethora of social, political, economic, and cultural problems.

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<sup>1133</sup> *Ibid*

<sup>1134</sup> J. Dewey, Democracy and Education, (New York. The Macmillan Company, 1961)109,  
<<https://www.gutenberg.org/files/852/852-h/852-h.htm>,>accessed 14 February, 2023

<sup>1135</sup> GB Shaw “on Education” Volume 89, Issue 11 <<https://doi.org/10.1177/002205741908901107>>

<sup>1136</sup> Radhakrishnan Commission (1948-49)

In a democracy, education must install the spirit of tolerance and enkindle the courage of conviction, aim for a passion for social justice and social services, and equip them with the power of scientific thinking, judgment and weighing the wrong and the right. The aim of education for school children is that it enables them to achieve their hidden potential to fully make human beings that can administer their own affairs and dealings and effectively live with others for them to be able to contribute their bit towards the success and good quality of democracy in a country.

Education must be oriented to producing the basic qualities of character which are essential for the working of democratic life. These qualities are a passion for social justice, a quickening of social consciousness, systematic of the critical intelligence in students, tolerance of intellectual and cultural differences in others, and cultivating a passion for work and a strong love for one's country.<sup>1137</sup>

The aims of democratic education are to promote democratic citizenship to develop the ability to clearly, thinking to different truths from deception, persuasion, and better exchange of ideas among people, and encourage, nurture, or cultivate the act of living with others in a community with the quality of corporation, discipline, social, sensitiveness, and tolerance. It also aims at a sense of patriotism of an appreciation of the cultural and social achievements of one's country sincerely; frankly recognizing its weaknesses, a decision to serve the country to the best of one's ability, and to lower one's interest for the larger interest of the nation. Other aims of democratic education are the development of a sense of world citizenship, improvement of vocational efficiency, development of personality, and training in leadership; this is so because democracy cannot run easily without effective and efficient leadership<sup>1138</sup>

### **3.19.3 The Main Purpose of Education**

The main purposes of education in a democracy are the objectives of self-realization of obtaining the ability of reading, speak, and acquire the necessary knowledge, as it regards health, seeing and hearing, and developing aesthetic interest and character. In the objective of human relations

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<sup>1137</sup> K.G. Saiyidain Education-Indian, New Delhi National Council of Educational Research and Training [1970]

<sup>1138</sup> The Secondary Education (1952-53)

in education, there should be respect for humanity, friendship skills in family relations, management, establishing democratic relationships in the family, courtesy, and polite behaviour.

The objective of economic efficiency is to acquire skills in choosing occupations, knowledge of different occupations, choice of one's own vocation of life, and maintaining one's economic system of life, and properties. The objectives of civic responsibility are to understand different social processes, to be faithful in social justice and democratic ideas, to abide by the law-making, and correct judgments, to be tolerant to perform the duties of a citizen to develop world citizens *etcetera*.

### **3.19.4 Curriculum in Democratic Education**

The curriculum in democratic education should be flexible so that it can accommodate the different aptitudes, abilities, tastes, temperaments, interests, and needs of the school children. It should encourage the thinking and creative abilities of the children. Largely to include the totality of the school children's experience through different activities done inside and outside school. It is important for a democratic curriculum to include local environmental demands; composed of social outlook and vocational skills should be provided in a democratic curriculum and it should be all-inclusive.

The democratic curriculum should not be disjointed, it should suit the different interests, needs, aptitudes, abilities, and attitudes of the school children, and it should be flexible to suit the changes of times and needs.

### **3.19.5 Empirical Relationship between Education and Democracy**

Globally, it is observed that the relationship between education and democracy is very high.<sup>1139</sup>

In the initial research of the time series relations between education and democracy, in that spirit, considers the evidence on transitions from dictatorship to democracy.<sup>1140</sup> Some scholarly studies

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<sup>1139</sup> Przeworski, Alvarez, Cheibub, and Limongi (2000), Barro (1999), Boix and Stokes (2003), Glaeser, LaPorta, Lopez-de-Silanes, and Shleifer (2004), and Papaioannou and Siourounis (2005)

<sup>1140</sup> R. Barro, 'Determinants of Economic Growth' (Cambridge, MA: MIT Press 1999), and R. Barro, "Determinants of Democracy" *Journal of Political Economy*, (1997) 107, 158–183.



have further shown that education is a strong predictor of transition to democracy,<sup>1141</sup> for others evidence suggests that schooling leads to democracy, but there is no evidence that democracy leads to schooling.<sup>1142</sup> Lipset's study considers education as highly correlated with democracy,<sup>1143</sup> and other overall findings seem quite favourable in support of this later.<sup>1144</sup>

With education, educated people are in a better position to be well informed, be able to express what they know, persuade, acquire new information, understand, and learn further new ideas and critical thinking. Education teaches rules of behaviour that make a discussion between educated people both more enlightening and less likely to degenerate into a quarrel.<sup>1145</sup>

At every level of study from kindergarten, primary, and secondary school to university, education is the acquisition of skills useful for operating with both knowledge and people, to be able to learn and teach. Education textbooks list socialization as a pillar of curriculum design and describe several curricular approaches to primary education and many of these list social outcomes among the goals:<sup>1146</sup> "the children will develop cooperative relationships, reflecting both social skills and understanding the perspectives of others."

In conclusion, education and democracy have a close relationship. One of the functions of education is to teach people to live, interact, accommodate, tolerate, and associate with other people in society in general. These abilities increase the advantages of civic obligation participation in organizing election activities and exercises of the right of franchise. Education

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<sup>1141</sup> E. Glaeser, R LaPorta, et al, 'Do Institutions Cause Growth? (2005), *Journal of Economic Growth*, 9, 271–303; and E. Papaioannou, & G. Siourounis, *Economic and Social Factors Driving the Third Wave of Democratization* (Mimeo, London Business School 2005)

<sup>1142</sup> L. Edward, et al 'Why Does Democracy Need Education?' Springer Science Business Media, 2007

<sup>1143</sup> S.M. Lipset, 'Political Man: The Social Basis of Modern Politics' (New York: Doubleday 1960), and K Milligan, et al *Does Education Improve Citizenship? Evidence from the U.S. and the U.K.* *Journal of Public Economics*, (2004) 88, 1667–1695.

<sup>1144</sup> M. Arellano, & S. Bond, 'Some Tests of Specification for Panel Data: Monte Carlo Evidence and an Application to Employment Equations' *The Review of Economic Studies*, (1991) 58, 277–297; A Castello-Climent, 'On the Distribution of Education and Democracy', Working Paper 0602 (2006), *Institute of International Economics, University of Valencia*, Glaeser, E LaPorta, et al Do institutions cause growth? *Journal of Economic Growth*, (2004), 9, 271–303; and Blundell, R., & Bond, S. Initial Conditions and Moment Restrictions in Dynamic Panel Data Model, *Journal of Econometrics*, (1998) 87, 115–143.

<sup>1145</sup> S. Bowles, et al *Schooling in Capitalist America: Educational Reform and the Contradictions of Capitalist Life* (New York: Basic Books (1976)

<sup>1146</sup> A. Driscoll, and N. Nagel, 'Early Childhood Education Birth to Eight (8): The World of Children, Families and Educators' (3rd ed. Boston: Pearson Education 2005).

expands the society-wide support for democracy since democracy depends on people with high-level participation advantages for its assistance. This shows that better-educated nations are more likely to defend democracy and protect it from coups.

The implementation and sustainability of democracies need the support of most of the society, and more equal distribution of education is strongly related to a higher level of democracy, in other words, the more people are educated the higher the level of democracy as the people would be able to assert their rights in all spheres. Education is a crucial factor in the development and sustainability of democracy for it promotes individual political participation and encourages a collective sense of civic duty.

### **3.20 Lessons from other `Jurisdictions on Child's Right to Basic Education: South Africa**

The Constitution of South Africa contains a solid foundation for the enforcement of relevant socio-economic rights. As pointed out by Ebadolahi:<sup>1147</sup>South Africa's Constitution is celebrated around the world for integrating socioeconomic and cultural rights into its Bill of Rights, thereby declaring such rights generally justiciable and as such, developing a sophisticated jurisprudence interpreting socio-economic rights<sup>1148</sup>.

In the case of *Governing Body of the Juma Muzjid Primary School & Ors v. Essay N. O. and Ors*<sup>1149</sup> the Constitutional Court expanded the scope of the right to basic education in South Africa by taking it beyond the bounds of internal limitation. According to Section 29(1) of the South African Constitution states, the court distinguished between 'basic education' under section 29 (1) (a) of the Constitution from 'further education' contained in section 29 (1) (b) of the Constitution and held that while the former is immediately realizable, the latter is to be 'progressively available and accessible.' The import of the judgment is that the right to basic education is justifiable in South Africa.

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<sup>1147</sup> Chapter 2, South African Constitution, See M. Ebadolahi 'Using Structural Interdicts and the South African Commission to Achieve Judicial Enforcement of Economic, Social and Cultural Rights', 83. New York University Law Review(2008), 1565 – 1606.

<sup>1148</sup> M.Ebadolahi, 'Using Structural Interdicts and the South African Commission to Achieve Judicial Enforcement of Economic, Social and Cultural Rights', 83. New York University Law Review(2008) 1565 – 1606.

<sup>1149</sup> 2011 (7) BCLR 657 (CC); BCLR 446 (CC).

In the *Governing Body of the Juma Masjid Primary School & Ors v. Ahmed Asruff Essay N. O. and Ors*,<sup>1150</sup> the Constitutional Court, also relying on section 29 of the South African Constitution, set aside the judgments of the High Court, and held that the government has a positive obligation to provide access to schools in fulfilling the right to basic education. Also, in *Section 27 & Ors v. Minister of Education and Anor*,<sup>1151</sup> where the applicants, a human rights organization, and others, applied for an order declaring the failure of the respondents to provide textbooks to Limpopo schools, at the beginning of the year unconstitutional, the court held that the provision of textbooks was an essential component of the constitutional right to basic education.<sup>1152</sup>

Nigeria should take a cue from South Africa by gravitating further from mere activism to making conscious efforts through the legislative body to incorporate the right to basic education and other indispensable socio-economic rights into the Bill of Rights under Chapter IV of the Constitution.<sup>1153</sup>

### 3.21 Conclusion

This study examines the legal and institutional framework for internally displaced persons, the legal framework for the child's right to compulsory, free, universal basic education, as well as the enforcement mechanisms in place and the roles of the court in enforcing the child's right to compulsory, free, and universal basic education in Nigeria.

The research findings revealed that there are numerous laws in Nigeria that express the child's right to education, including Section 18 of Chapter Two of the Fundamental Objectives and Directive Principles of State Policy of the 1999 Constitution, Section 2(1) of the Compulsory, Free Universal Basic Education Act, 2004, and Section 15 of the Child's Right Act 2003. Despite

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<sup>1150</sup> 2011 ZACC 13; 2011 (8) BCLR 76 (CC).

<sup>1151</sup> 2013 (2) SA 40 (GNP).

<sup>1152</sup> In the case of Tripartite Steering Committee & Anor v. Minister of Basic Education and Ors. [1830/2015] [2015] (5) SA 107 (ECG); (25 June 2015), the High Court held that the right to education is meaningless without transport to and from school at state expense in appropriate cases and that the failure of the state to provide means of transportation violated the student's right to basic education pursuant to section 7 (2) of the South African Constitution.

<sup>1153</sup> Emmanuel Olugbenga Akingbehin, 'The Justiciability of Right to free Basic Education Conundrum in Nigeria, South Africa, and India: from Obstacle to Miracle' ACTA UNIVERSITATIS DANUBIUS Vol. 17, no.1/2021, pg. 80

these rules, Nigeria has a large number of out-of-school children. This is due to the impediment provided by Section 6(6)(c) of the Constitution, which renders the provisions non-justiciable.

This study also investigated the legal and institutional framework for caring for and protecting internally displaced people. The findings indicated that internally displaced people are in an unpleasant situation since IDP regulations are insufficient to care for their well-being and necessities.

Even though several institutions have spoken out against human rights crimes against internally displaced people, the laws are weak and poor enforcement tools. Several of the agencies' tasks overlap, and they lack proper care facilities for internally displaced people.

It was also found that there is a paucity of funds for the agencies to carry out their statutory obligations efficiently. In displacement zones or locales, they lack proper health facilities, health specialists, and qualified health workers. There are also concerns about corruption by unscrupulous persons who would take advantage of the chance to aid the IDP to gain themselves from the government and other well-meaning Nigerian supplies.

As a result, it suggests that broad evaluations of laws, national policies on education, and laws and policies on internally displaced individuals be conducted. Effective enforcement procedures should be put in place to ensure that these policies and existing laws are properly implemented.

The courts should use judicial activism by interpreting the provisions of Chapter Two of the Constitution to demonstrate the guarantee of the right to education. There should be appropriate financial and other help and facilities available to support IDP, and after the amendments of the laws, the research recommended a justiciability method that would facilitate the justiciability of the child's entitlement to basic education.

As a result, this study, in addition, recommends that the Nigerian government should prioritize avoiding displacement above managing displacement issues caused by ethnic disputes, war turmoil, insurgency assaults, unknown shooters, kidnappers, and Fulani headsmen.

The Nigerian government should offer internally displaced persons secure and conducive environment by providing relocation facilities and executing suitable post-settlement shelter, sanitation, livelihood, and other support to enhance their living conditions.

Internally Displaced Children should be educated in schools, as education is a powerful tool with the ability to change lives; it is a tool for development and welfare, bridging social inequalities; it is a tool for breaking the cycle of poverty, and it contributes to the child's growth and survival. Education is critical for all children across the world, even the most vulnerable and disadvantaged, such as internally displaced children.

Education is an essential component of the basis of a democratic society; it contributes to the economic, political, and social growth of any nation. All children should have access to education, as well as a school atmosphere that respects, protects, and promotes human rights, as well as one that fosters regular attendance and a desire to study.

## CHAPTER FOUR

### METHOD, ANALYSIS, RESULTS AND DISCUSSIONS OF THE STUDY FROM SOME INTERNALLY DISPLACED PERSONS (IDPs) CAMPS IN NIGERIA

#### 4.1 Introduction

This Chapter discusses the study methodology, data collection, data analysis, and discussions based on the findings on why internally displaced children in IDPs camps are unable to access education, how displacement has affected the quality of life they live, the children's rights that may have been violated because of displacement and their level of awareness of the child's right to education under Nigeria law.

Regardless of the children's situation, displaced children have the right to basic education and other necessities, such as food, shelter, and healthcare facilities, which is especially vital given their vulnerability. The Child Right Act states that the best interests of the child must be the priority in all actions involving a child.<sup>1154</sup> It is the responsibility of the government, families, guardians, various institutions, and all stakeholders responsible for the care of the child to ensure that the child's best interests are prioritized in all actions, such as providing and ensuring an inclusive education that includes all children in the same classrooms in the same schools, with authentic learning opportunities for people who have traditionally been excluded, such as children with disabilities, children with special needs,<sup>1155</sup> and displaced children inclusive. The study's analysis, results, and discussions from some Internally Displaced Persons (IDPs) camps in Nigeria are discussed below.

#### 4.2 Method

Method refers to specific procedure for achieving or attaining something, particularly one that is methodical or well established.<sup>1156</sup> The method used for this research is discussed below.

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<sup>1154</sup>Part I of the Child's Right Act, 2003

<sup>1155</sup>Inclusive Education, UNICEF <<https://www.unicef.org/education/inclusive-education>> accessed 8 March 2022

<sup>1156</sup>Method 'Definition' <https://www.collinsdictionary.com/us/dictionary/english/method#:~:text=1..doing%20things%20or%20handling%20ideas>> accessed 25 April 2024

### 4.2.1 Research Design

Focus Group Discussions (FGD) interviews were used in this study to investigate the provision of educational facilities and the quality of education available to displaced children in some IDP camp settlements, it investigates the rights of children that may be violated because of displacement and examine the level of awareness of the child's right to education among internally displaced persons living in IDP's camp settlements. The Focus Group Discussions and interviews allowed appropriate questions to be asked about areas that require explanations from the researcher. Other assisted discussions focused on significant questions that could lead to a re-examination of the situation for future data analysis. Second, an online questionnaire was utilized to collect information from members of the public about their perceptions of internally displaced people.

Lastly, a short-structured questionnaire was also in use to collect information from children via their guardians for those aged 5 to 17 years living in IDP's camp settlements under the supervision of their guardian/camp co-coordinator, chairman, and director. The goal is to collect data from children about the nature of education and facilities available for their learning, as well as to allow them to participate in research on a topic that directly affects their well-being and to examine the impact of displacement on their education before and after displacement.

FGDs were the major mechanism of data collecting in the study by Amoo *et al*,<sup>1157</sup> and Olanrewaju *et al*,<sup>1158</sup> and aspects of structure analysis were used in data analysis. This method provides the opportunity to become acquainted with and understand data reading by defining framework analysis for several interrelated steps such as indexing, charting, mapping, and data interpretation.<sup>1159</sup> Furthermore, the application of this technique of analysis allows for

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<sup>1157</sup>E.O. Amoo, *et al*, 'Male Reproductive Health Challenges: Appraisal of Wives Coping Strategies. Reproductive Health' (2017) 14(1), Article 90.

<sup>1158</sup> F.O.Olanrewaju, *et al*, 'Datasets on the Challenges of Forced Displacement and Coping Strategies among Displaced Women in Selected Internally Displaced Persons' (IDP) Camps in Nigeria, (2018), *Data in Brief*, 20, 152-158.

<sup>1159</sup>E.O. Amoo, *et al*, 'Insurgency and the Invisible Displaced Population in Nigeria: A Situational Analysis'(2019), p3, April-June 2019: 1-12, *Journals.sagepub.com/home/sgo*, accessed 28 March 2022

the identification of themes from the study question and participant responses.<sup>1160</sup> Also, framework or structure analysis allows the progression of existing or occurring, in reality, the result through the use of data content analysis methods while also providing the opportunity to offer practical solutions to the problems of providing education for displaced children and other general IDPs problems in general.

This research approach is required for the study's goal and objectives to be met.

#### **4.2.2 Research Location**

The study is being carried out in three informal Internally Displaced Persons (IDP) camp settlements: *Durumi I*, Area I, Abuja Municipal Area Council, *Kuchingoro* Internally Displaced Persons (IDP), Abuja; New *Kuchingoro*, Pegi Internally Displaced Persons (IDP) Camp, Abuja; and one formal faith-based internally displaced person's camp, the Home for the Needy, *Uhogua*, Benin City, Edo State, Nigeria. These IDP camp communities were chosen for this research based on their relevance to the study.

Before conducting the Focus Group discussions and interviews with the people living in the separate camps, permission was obtained from the Director, Co-coordinator, or Chairman in charge of each of the IDP camp settlements where the research was done.

#### **4.2.3 Recruitment of Research Participants**

The Focus Group Discussions (FGD) participants were men and women between 18 and 60 who lived in the research locations in the internally displaced person's camps.

The purposive sample strategy was utilized in this study in the IDP camps visited (Purposeful sampling is also known as purposive and selective sampling; it is a sampling technique that qualitative researchers use to recruit participants who can provide in-depth and detailed information about the incident under investigation).

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<sup>1160</sup> J.Green, and N.Thorogood 'Qualitative Methods for Health Research (London, England: Sage 2004); and KR Mitchell, et al 'Managing Sexual Difficulties: A Qualitative Investigation of Coping Strategies' *Journal of Sex Research*, [2011] 48, 325-333.



Using the purposive sampling method, study participants from each camp were separated into smaller groups at each stage using multistage sampling techniques. The multistage sampling procedures provide the freedom to choose the sample carefully, considering the nature of the geographically distributed population, and it is also cost-effective, time effective, and helps to divide the population into smaller groups.

For this study, the listed IDP camp settlements in Abuja and Benin City were classified as A, B, C, and D. Durumi I (Camp A), Kuchingoro (Camp B), Pegi (Camp C), Abuja; and the Faith-Based Home for the Needy in Uhogua, Benin City, Nigeria (Camp D). The several groups of people who participated in the focus group discussion ranged in age from 18 to 60years old. They all live in the camp and come from various ethnic, religious, and social-cultural backgrounds.

The online questionnaire was sent via email and other social media platforms to obtain input from chosen stakeholders and members of the public on their perceptions, awareness, and opinions about Internally Displaced Persons (IDP) and, in particular, vulnerable children.

The IDPs camp settlement co-coordinator or chairman or directors physically distributed hard copies of the questionnaire to the children between the ages of 5-17 years living in the IDP camp settlement for completion, who collated the forms for the researcher's pickups. This basic questionnaire aimed to guide the children to quickly grasp the questions and to allow them to engage in the issue that interested them.

#### **4.2.4 Collection of Data<sup>1161</sup>**

Data collection is the process of gathering, measuring, and analyzing correct insights for research purposes through established approved methodologies. This study was conducted in four separate IDP camp settlements, with the venues created within the camps, and the environment was comfortable for those participating in the Focus Group Discussions. There was a total of six

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<sup>1161</sup>Data Collection: definition, methods, Examples and Design <<https://www.questionpro.com/blog/data-collection-methods/#:~:text=Some%20common%20data%20collection%20methods,about%20the%20study's%20subject%20matter.>> accessed 13 February 2022

focus discussions. In each of the IDP camp communities, two groups of older men and women and people over 18 participated in the discussions and interviews. There was a formal IDP camp settlement, a direct interview with the director and the members of the administrative staff at the faith based IDP camp was held.

Each group contained between 10 and 12 people. As a result, the total number of participants in the focus group discussion was no less than 80, and each session lasted between 90 and 120 minutes. Based on their responses, the participants were questioned further about their knowledge of the quality of education available and accessible to displaced children, their level of awareness of the child's right to education, challenges impeding access to education, and the impact on the children, the government, and society at large. The educational facilities on the ground were inspected after the discussions and interviews.

The children's involvement differed from that of the adult focus groups because the physical distribution of hard copies of the questionnaire to children aged 5 to 17 living in the IDPs camp was carried out under the supervision of the IDPs camp guardian or director or chairman or coordinator for filling, who then collated the forms for researcher pickups.

Because of the discovery of the Omicron variance of the COVID-19 virus, the IDP camp management-imposed entry restrictions on IDP camp settlement. As a result, the total number of participants in this group was at least 180 children throughout all IDP camp settlements in the study locations.

One of the difficulties was the presence of language limitations in the informal IDP camp settlements, as many participants communicated in their dialects, primarily Hausa, and only a few could speak pidgin. As a result, the services of an interpreter were hired, who interpreted for the researcher and participants, ensuring that everyone involved in the FGD, and interviews understood the purpose of what had been done. A postgraduate student and two National Youth Service Corps members joined in the supervision and conduct of the discussions and interview.

#### **4.2.5 Validity and Integrity of Data**

Data integrity and validity refers to the certainty that information is unchanged from its source and has not been unintentionally or maliciously manipulated, altered, or destroyed.

Participants in the study come from various social, religious, ethnic, ages, genders, socio-cultural backgrounds, and marital statuses. The uniqueness of the research participants helps the findings be more illustrative. As a result of the foregoing, the participants were able to apply their knowledge of educational facilities available and accessible to internally displaced children, their level of awareness of the child's right to education, other human rights violations, the effects of education on a nation, and the quality of democracy when there is many out of school children in any nation.

Most participants could not converse in the English Language at the informal camp settlements in Abuja, as a result, the services of interpreters were hired, who interpreted both sides for everyone to understand in each session of the focus group discussions and interviews, and the same procedure was followed in the subsequent discussion groups. Other random camp residents who were not part of the focus group talks were asked questions about the same aims, and their responses correlated with the research participants' narratives. However, there were no language obstacles or limitations in the faith based IPDs camp settlement. After the discussions/interviews, the camp director and other members of the management team supplied responses to the questions, and the educational facilities were examined at the end of the interview discussions.

The data was collected from the children using a simple questionnaire, which was read, and more explanation was given to each question, along with the head or director or chairman of each camp, to ensure that the children understood before responding by ticking one of the options in the questionnaire. Many of the young people in the camp were without parents, and the camp directors, chairman, or coordinators acted as their guardians. The replies from the online questionnaire and the responses from the paper copies of the questionnaire were evaluated qualitatively.

#### **4.2.6 Analysis of the Data**

Data analysis was performed in all sessions of the focus group talks held in the IDP camp settlement by taking and writing down notes throughout the discussions and interviews. The questions for the discussion about the study's goal and objectives were presented to the various groups, and any other questions that arose because of the talks and interviews were also addressed. The responses of the participants were written down and then examined.

Issues that were alike or similar to each other were classified and categorised, following the approach employed by scholars in studies that collect data through focus group discussions, and in-depth interviews.<sup>1162</sup> The data were analysed, and the findings were summarized.

The participants for the focus group discussion/interview in the IDP camp settlement were categorized and tagged to characterize the information from each IDP camp settlement to make it easier to discover relevant items that have the same IDP camp settlement information. Four IDP camp settlements were visited, with each camp hosting two focus group conversations. The information received in each camp would be easily identified using these tags in the following order: Camp A1-A2, Camp B1-B2, Camp C1-C2, and Camp D1-D2. The contents of the discussions, interviews and notes were taken in each IDP camp were analyzed.

An online questionnaire was used to elicit information from some members of the public in order to gain a general understanding of the public's perception of internally displaced persons, particularly children of school age, what the government and stakeholders are doing to realize the IDPs children's right to be educated, the impacts of education on the enjoyment of other human rights, and the impact of education on the quality of democracy in Nigeria. The substance of the responses was examined using a qualitative analysis technique.

Hard copies of the questionnaire were made and sent to the heads or directors or chairman of the various IDP camp settlements, which were labeled Camp A, Camp B, Camp C, and Camp D. In the case of children who have no parents in the IDP camp settlement, the basic questionnaire was shared and responded under the guardians or IDP camp head, director, chairman, or co-coordinators who are their guardians.

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<sup>1162</sup> R.Franzosi, Introduction, (2007)[http://www.unive.it/media/allegato/Scuola-Dottorale/2011/allegato/Content\\_Analysis\\_-\\_Introduction.pdf](http://www.unive.it/media/allegato/Scuola-Dottorale/2011/allegato/Content_Analysis_-_Introduction.pdf), accessed 15 March 2022, and F.O.Olanrewaju;*et al*, 'Boko Haram Insurgency and the Crisis of Internally Displaced Women in Nigeria: A Situational Analysis' (2018b). *African Population Studies*, 32(1), 3622–3633 and E.O.Amoo,*et al*, 'Male Reproductive Health Challenges: Appraisal of Wives Coping Strategies. Reproductive Health' (2017), 14(1), 90. doi:10.1186/12978-017-0341-2 PMID:28754166.

## 4.3 Results

The term ‘result’ refers to the study’s findings from the locations of the internally displaced persons camps visited, as well as the results of the questionnaire responses. The results of the study are given below.

### 4.3.1 Participants

The term ‘participants’, refers to those persons who took part in the study’s methodology. Most of those who responded to the Focus Group Discussions were between the ages of 20 and 60. Many of them in the informal camp settlements make their living as hired farm labourers, motorcycle riders who claim that the motorcycles are owned by different people who are not members of the camp settlement, and they go out to ride the motorcycle to run transportation business at the end of each day, making financial returns to the owner based on an agreement on the amount to be remitted to the owners on a daily basis. The motorcycles are also returned, and if there is any day of default in the cash to be paid, the owners withdraw the motorcycles from them. Other activities of the camp inhabitants include domestic housekeeping, and casual agricultural labourers, they go out hunt hunting for daily employment, such as bus conductors in motor packs, wheelbarrow load pushers, and all other forms of menial labour. Most of them are unemployed, a large number of the women are full-time housewives, and sizable percentages have no formal education.

As a result, the settlers in the informal camp are not economically productive, and if this is the labour they are doing, it will lead to a cycle of poverty to poverty. Most of them had no formal education; some could communicate in pidgin, but they were more fluent in their local dialect of Hausa speaking languages, but with the assistance of an interpreter, all participants could engage actively in the FGD.

The scenario differed in the faith-based formal internally displaced person's camp settlement. Respondents in the FGD included the foundation's founder/director and certain management team members of the IDP camp settlements. All pertinent questions were addressed with thorough explanations.

#### 4.3.2 *Durumi* Internally Displaced Persons (IDPs) Camp A

This camp comprises many IDP groups from Borno, Yobe, and Adamawa, working as a single unit in a dispersed manner. Roughly 2830 people live in the IDP camp, of which 103 are adults over the age of 45, 1750 are youths between the ages of 15 to 45 years, and 740 children under the age of 15 are infants and young children.

The *Durumi* camp is managed by the chairman and other members who coordinate the camp's affairs. The female leader revealed that she had helped ladies in labour birth their kids on multiple occasions by having to spread nylons and tarpaulin on the bare floor for the women to deliver their babies. What she characterized as a clinic in the *Durumi* IDPs camp settlement is a caravan supplied by a Non-Governmental Organization, which the respondents recognized as the clinic they use for baby birth and other health needs.

The facilities are managed by a non-governmental organization, which employs a nurse who comes to work twice a week. When the paid nurse is not on the ground to attend to patient, one of the nurses who moved with them to the IDPs camp settlement frequently volunteers to attend to patients to assist in the care of the sick person, and there is no doctor accessible in the clinic.

The clinic is barely equipped, has no pharmaceuticals or health facilities, and appears to be an empty room/caravan. When sick patients arrive at the clinic, they tell them to buy medicines from pharmacies; most children are malnourished, with whitish fungus irritation on their heads. However, since 2014, when the IDPs camp settlement began, the empty caravan clinic has given birth to at least 130 babies.<sup>1163</sup> The respondents expressed dissatisfaction that "IDPs in camp settlements" are "forgotten people" because they lack access to healthcare facilities, medicine, and other amenities.

According to the Focus Group Discussions, there was a primary school in the *Durumi* IDPs camp settlement between 2015 and 2016, built by a Non-Governmental Organization (NGO), with a

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<sup>1163</sup> Project, *Durumi Internally Displaced Persons Camp, Temporary Day School for 100-Out-Of-School Children*, Located in *Durumi, Area I, Abuja, Nigeria* accessed 15/01, 2022.

school enrollment population of not less than 900 (Nine Hundred) pupils in the school located inside the (IDP) camp settlement. The teaching crew included:

- members of the National Youth Service Corps (NYSC),
- some enlightened members of the (IDP) camp community, and
- other volunteers who had come to assist with the education of the students.

Gradually, the school's population began to decline dramatically; respondents attributed this to a lack of funding, insufficient teaching staff, and a lack of teaching aids before it was discovered that the school lacked statutory approval, as it was not registered with the local government authority, which would have qualified the school to enroll in external examinations for the issuance of the Primary Six School Leaving Certificate. Another challenge was that no secondary school would have admitted the pupils graduating from the primary school in the camp, which would have resulted in the children dropping out of school and joining their peers roaming around the IDP camp settlements in their surroundings. The school had 11 volunteer teachers and a headmaster in the past when it existed.

Another challenge suffered by the children was that many of the children, according to the responses, were going to school without breakfast and with little or no hope for lunch, making learning difficult for the children with an empty stomach.

Some private individuals and non-governmental organizations were coming to help by requesting many children for whom they could issue scholarships, enrolling them in schools outside the IDP camp settlements, and providing all the necessities while adhering to the terms of the scholarship for the children. These private people's assistants did not have it easy since there were frequent complaints about a lack of funds for transportation to and from school. Some children refuse to attend school even when their parents pay for transportation; it becomes an opportunity for them to engage in social vices and lifestyles such as drug abuse, drunkenness, smoking, casual sex, pocket-picking, and other activities that pose a severe threat to societal stability.

It was revealed that those between the ages of 8 and 17, depending on their level of primary or secondary education, who are registered in schools outside the camp and are focused on their

studies, were the ones who could read and write their books in the informal IDP camp settlements.

Twenty-four children attend school, and 66 children not attending school; this information was from the 90 sampled questionnaires of responses from the children. The questionnaires were distributed to the children through the camp chairman (Aside from this result, 28 other children are beneficiaries of sponsorship from an NGO group), who pays school fees for the children and provide them with schoolbags, textbooks, sandals, socks, and other essential materials.

During the camp visitation, many children wandered around, doing nothing, both within and outside the IDP camp settlements. At the time of these discussions, the only available and accessible school is a block of two kindergarten classrooms built and given by a Non-Governmental Organization (NGO)<sup>1164</sup> that can accommodate no fewer than one hundred elementary school kids.

The issues of exploitation of women/girls are noticeable in this camp, as restrooms are located a far distance from the main part of the camp, thereby adding to the risks of vulnerable women and girls, and they also lack access to adequate shelter.

#### **4.3.3 Kuchingoro Internally Displaced Persons (IDPs) Camp B**

There are about 1,006 IDPs, populations in this camp, with other unaccounted numbers of persons living there, who are formed from different states residing in this camp. Individuals in this IDPs camp associate along state lines of origin, which often lead to a very apprehensive situation in the camp settlement in the cause of distributions of aid and donations, and which often results to fights in many a time.

According to the respondent, they lack adequate healthcare facilities in this camp settlement and when they have health issues, they receive first aid from the camp's coordinator, who assists them to the extent he can help with his auxiliary knowledge of medicine, and if the health

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<sup>1164</sup>Life Builders Initiative for Education and Societal Integration is a Non-Profit Organisation Based in Abuja, with their primary Goal of Improving the Lives of the Poor and the Vulnerable Internally Displaced PersonsSecurity' Meaning and Definition for UK English/Lexicon.com, <<https://lifebuildersngo.org/>> accessed 01/04/2022.



situation is not within his auxiliary knowledge, they are referred to sort themselves out in hospitals with the health conditions.

Although some respondents stated that they receive medical assistance in informal IDP camp settlements, the majority claimed that there are no health services, while others claimed that there are insufficient health facilities. On different occasions, Non-Governmental Organization (NGO) comes to carry out some Outreach Health Programs with them in that situation; they receive such fundamental health care services. When those services are completed, the situation reverts to the previous state of inadequate healthcare facilities.

These children face many challenges, but education is one of the major ones. To assist in tackling the education issue, a group of people are in partnership with a Charity organization;<sup>1165</sup> volunteered to teach the children in the New Kuchingoro camp. They have about 250 children from one of the local government areas in one of the displaced states in the camp, being taught, while a large number of these children are still out there not having access to education because a larger number the children could not be captured in the teaching program, because of unaccounted numbers of children living in the camp according to the camp Chairman.

Summer classes are organized by an NGO<sup>1166</sup> to enable the children to get back to school; 16 were given sponsorship by the foundation, out of which four under ages were to be married because their parents could not send them to school.

Education in the *Kuchingoro* (Camp B) IDPs camp is provided in a limited capacity. A school is being run by a NGO<sup>1167</sup> for IDP children in an open area, with each classroom under a tarpaulin, in most of the occasions the children are not regular in school attendance according to respondents. The respondents concluded that rather than outside the camp, they would rather that education be made available and accessible to displaced children in IDP camp communities.

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<sup>1165</sup>Eternal Love Service is a schooling initiative for the underprivileged; the group is based in Abuja and others

<sup>1166</sup> Faith Base Foundations, Out of School Foundations and some others

<sup>1167</sup>Life Builders Initiative for Education and Societal Integration is a Non-Profit Organisation Based in Abuja, with their primary Goal of Improving the Lives of the Poor and the Vulnerable and Internally Displaced Persons.

<sup>1167</sup> Security/ Meaning and Definition for UK English/Lexicon.com, <<https://lifebuildersngo.org/>> accessed 01/04/2022

They don't have access to a pipe-borne water supply; instead, they fetch water from a small, nearby stagnant stream in some distance from the camp or pay for the camp's borehole, both of which must be accessed before the IDPs in this camp may use the water.

#### **4.3.4 *Pegi* Internally Displaced Persons (IDPs) Camp C**

About 250 IDPs are house in the *Pegi* IDP camp (54 male, 59 female and 150 children). Since many of these displaced people at the camp speak Hausa and claim that farming was their primary source of income before being evicted from their houses in Borno state, it appears that they know one another well.

There is a gradual strategy to ensure that IDP children attend school in this camp. From the research findings, 53 children attend school, (44 of the IDP children received scholarships to attend school, and the head of a small school in the host community provided free education to 13 additional children), and about 50 of the IDPs children are not enroll in school. Other difficulties encountered in this camp include a lack of clean restrooms and showers, access to medical care, medication, and enough food. Some charitable people in the village rented out rooms to some of the IDPs, and one household—consisting of up to 10 people—lived there.

#### **4.3.5 Faith-Based formal IDPs Camp D**

This camp has a **total population of 4,393** (Four Thousand, Three Hundred and Ninety-Three), most of whom are in school at the basic, secondary, and university levels as of March 2022. It is registered with the Corporate Affairs Commission (CAC) as a Non-Governmental Organization, while the school is registered with the Ministry of Education and Ministry of Health.

At the faith based formal IDP camp, the management team manages a health center/sick bay for children with health issues for primary healthcare. The primary health center is stock through purchases, gifts, and donations from pharmaceutical companies, pharmacy shops, individuals, and charitable organizations.

Education in the formal IDP camp differs significantly from that in the informal camp. It has primary and secondary school blocks and a pioneer Kindergarten (KG) block of classrooms, are all in the IDPs camp. It is registered as a Christ-Like School and in addition provides skill training that includes language, calculation skills, and others.

The camp offers interactive board classrooms, outdoor football grounds, an acting room, a multipurpose hall, a prayer hall, laboratories, a library, and other educational amenities. The school employs personnel, volunteers, and National Youth Service Corps members who are posted from time to time to assist in teaching there.

According to the assessment, the quality of education available to and accessible to pupils might be assessed at 65 per cent of Nigerian standards of education and 35 per cent of international standards stated by the founder. There are children in the camp who have grown up and are now enrolled in universities, studying various subjects of their choosing. All the children attend school and there is no room for children to be adopted or sent out as street hawkers.

The primary challenge of the IDP camp is finance; financial support is critically in need. The current government administration is not living up to expectations in terms of government support for them. Politicians come to campaign during the electioneering period but do not return to fulfill their promises after the election. It has not been easy to care for these displaced children; nonetheless, they are grateful to God for everything they have accomplished, according to the IDP camp Director.

#### **4.4 Commencement of Internally Displaced Persons (IDP) Camp Settlement**

The informal Internally Displaced Persons (IDP) settlement camps examined for this study all have related stories about how the camp settlement came to be. According to them, the spots or locations were designated points for the distribution of relief items for persons who had fled their homes due to violent attacks by insurgencies, terrorists, bandits, unknown gunmen, Fulani headsmen, and kidnapping of the people from their homes. Most of those living in the informal IDP camp settlements come from Adamawa, *Bauchi*, *Borno*, *Gombe*, *Kaduna*, *Kano*, *Jos*, and *Yobe* states in Nigeria's north-eastern region, as well as the Federal Capital Territory of Abuja. They gradually began to increase in number and now occupy these places in more significant numbers.

When asked how they learned about the IDP camp settlements, some residents said they learned about them from networks of relatives and friends while fleeing conflict and violent attack areas. When an assault occurs in the towns where they live, they connect with their family or friends

who may know one or more people in these crises who join them. Gradually they evacuate and locate where they believe they have found some safety.

According to excerpts from a researcher, most of the settlers were aided to the camp settlements by networks of invitations; the assistance IDPs received when fleeing to safe areas was transportation from kind individuals, and information was obtained from people who got to the camp settlements first, from relatives of neighbours, and the culture of strong communal link with individuals.<sup>1168</sup>

The population of the campsite for this research are *Durumi* (I) IDPs camp, which has a population of 2830 as of 2021, *New Kuchingoro* IDPs camp, which has a population of about 1,006 IDPs, with some other numbers unaccounted for and *Pegi* IDPs camp, has a population of 250 IDPs. These three research sites are in the Federal Capital Territory, Abuja, Nigeria.

The Home for the Needy Foundation Internally Displaced Persons (IDP) camp has been in operation since 1992, but displaced individuals began arriving in 2012 and increased in 2014. This camp had a total population of 4,393 (Four Thousand, Three Hundred and Ninety-Three), most of whom are in school at the basic, secondary, and university levels as of March 2022. The Faith Base IDPs camp is register with the Corporate Affairs Commission (CAC), Ministry of Health, Education, and Budget Planning in Nigeria as a Non-Governmental Organization as 'Home for the Needy'. The originator, who also serves as the Home's Director, has been a full-time preacher since 1986, when he adopted the Home for the Needy.

People are admitted to the camp unhindered, with particular attention paid to children, but when their identities are in doubt, and they are unsure of their origins and motives, they approach the ministries and the police for clearance and documents before letting the children into the camp. The people of the camp are from the south, the middle belt and others fleeing from violence, conflicts and insurgent areas brought from the northern part of Nigeria.

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<sup>1168</sup>Olanrewaju, F. O., and Amoo, E., and Adaina Ajayi, 'Insurgency and the Invisible Displaced Population in Nigeria: A Situational Analysis'(2019)p4, April-June 2019: 1-12, *Journals.sagepub.com/home/sgo*, accessed 28/3/2022

#### **4.5 General Situation in the Informal Internally Displaced Persons (IDPs) Camp**

The phrase situation refers to the circumstances or situation in which internally displaced people finds themselves and live in the in the camp visited for the study. Life in the informal IDP camps settlement is unsafe; there are no means of subsistence, and the IDP camp settlers face discrimination from some of their host communities, including the enrolment of their children in schools in the host communities. Earning a living in the informal IDP camps is a daily challenge for them. Their dwellings are made of improvised kiosks or batchers made of zinc and other discarded iron and polyethene materials. They do not have portable drinkable water in the camp and must purchase it because the available borehole does not function regularly. The security of life and property is another major challenge faced by the informal settlers in IDPs camp because they migrated to the settlement on their own. These features of the IDPs are similar features found in other informal camps.

Girls are particularly vulnerable to various sorts of abuse. For example, there are no bathrooms, some of the camp occupants practice open defecation in the bushes around them, because the few toilets that are provided must be paid for before they can be used by the settlers. The level of insecurity is such that human rights violations and other forms of child abuse, such as child labour and prostitution, as well as other social vices like drug abuse, cannot be avoided, and more attacks are unavoidable. One of the women leaders in one of the camps visited<sup>1169</sup> for the study, believes that the government has abandoned and forgotten the people living in the informal IDP camps despite many appeals for assistance.

The formal Internally Displaced Persons (IDP) camp settlement at the Home for the Needy Foundation differs significantly from the informal IDP camp settlement. They live in good shelters in these IDP camps, toilets are provided, the environment is protected, and the land occupied by the foundation camp is acquired and built by the founder of the camp foundations. Nobody enters the camp without being screened by security guards and subjected to further

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<sup>1169</sup>LuyatuAyuba, Women Leader Durumi I Internally Displaced Persons (IDPs) Camp Settlement, Durumi I, Area I, Dunamis-Redeem Church-Roses Hotel Way Garki-Abuja.

interrogations. In as much as the camp foundation's management is attempting to implement best practices, they require considerable financial support, clothing, and food of all kinds to keep everyone in the camp foundation functioning and progressing in their daily affairs.

Donations from any level of society, Non-Governmental Organizations (NGOs), individuals, agencies, and via faith-based activity, while expecting and believing God to satisfy their daily needs, are the sources of finances.

All responders at the various informal IDP camp settlements (CAMP A, B, and C) visited contended that they needed access to health care.

#### 4.5.1 Security

The safety of a state or organization against criminal behaviour such as terrorism, theft, and espionage<sup>1170</sup> is referred to as security. It also refers to the actions taken to be safe or protected to offer enough security for individuals and society's lives and property. Security is defined as a state of not being threatened, particularly physically, psychologically, and emotionally.<sup>1171</sup>

*The Focus Group Discussion (FGD) revealed that security is a big issue in the IDP camp. This was obvious the first day we went into camp A; there was no one to stop us at the entrance, the entrance gate had fallen to one side, and we walked inside the camp unobserved until we had to call the attention of bystanders before we were directed. The vulnerable children are among the IDPs in the various camps; hence, a lack of physical protection, such as a solid or sound perimeter fence system, would expose them to more hazards, but the level of the perimeter fence varies depending on the threat level in the camp location.*

The absence of physical security is a severe concern of IDP camp settlements; residents may face threats, harassment, and attacks from armed groups or other forms of attacks. The concentration of vulnerable children in these inadequately secured settings would make it simple for armed

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<sup>1170</sup> Security Meaning and Definition for UK English/Lexicon.com, <<https://lifebuildersngo.org/>> Accessed 01/04/2022

<sup>1171</sup> Security Meaning <<https://www.youtube.com › watch>> accessed 01/04/2022.

army groups to raid the camps and kidnap them for conscription.<sup>1172</sup> For example, in 2016, a double suicide bomb assault at an IDP camp community in *Dikwa, Borno State*, Nigeria, killed more than sixty people and injured seventy-eight others.<sup>1173</sup> The United Nations Guiding Principles on Internal Displacement, adopted in 1998, clearly forbids attacks or other acts of violence against IDP camps or settlements.<sup>1174</sup>

#### 4.5.2 Child Abuse

Child abuse and neglect are defined by federal and state laws in each state; at the state level, child abuse and neglect may be described in both civil and criminal statutes. Child abuse and neglect include any act or failure to act by a parent or caregiver that results in death, major bodily or emotional harm, sexual abuse, or exploitation, as well as any act or failure to act that poses an imminent danger of serious harm.<sup>1175</sup> Child abuse can happen in a home, in an organization, in a school, in a community, or anywhere a child interacts with other people.

Some of the elements of child abuse that are visible in children's daily activities include the involvement of children in the buying, selling, hawking, or otherwise dealing in children to beg for alms, guiding beggars, prostitution, domestic or sexual abuse or for any unlawful or immoral purpose which is contrary to Section 30(1) and (2) of the Child's Right Act,<sup>1176</sup> child labour, and child trafficking.<sup>1177</sup>

Molestation, or harmful sexual action by one person against another, is referred to as sexual abuse. It is frequently carried out with force without the intention of the person against whom the action is being carried out. The sexual abuse of children is defined as "the involvement of a child

<sup>1172</sup> Philistia Onyango, 'The Impact of Armed Conflict on Children (1998), *Political Science Child ABUSE REV.* 219, 222 (1998) <https://psycnet.apa.org/record/1999-00071-001> Accessed 04/04/2022.

<sup>1173</sup> Boko Haram Kills More Than 60 in Borno Internally Displaced Person's Camp, NEWS (Feb. 10, 2016), <<https://thenewsnigeria.com.ng/2016/02/10/boko-haram-kills-more-than-60-in-borno-idp-camp/>>, in 2017, two camps were attacked in Maiduguri, Borno State, Nigeria, leaving Two Persons Dead and Several Others injured.

<sup>1174</sup> Melanie Jacques, 'Armed Conflict and Displacement: The Protection of Refugees and Displaced Persons Under International Humanitarian Law' Citing Crisis in Northern Uganda, OCHA, IRIN NEWS, (2010), United Nations Office for the Coordination of Humanitarian Affairs [OCHA], Guiding Principles on Internal Displacement, U.N. Doc., E/CN.4/1998/53/Add.2 (1998)

<sup>1175</sup> Titilayo Ojo, 'Child Abuse and Inadequacies of the Child's Right Act in Nigeria' <<https://www.manifieldsolicitors.com/2018/06/06/child-abuse-in-nigeria/>> Accessed 04/04/2022.

<sup>1176</sup> s. 30 (1) and (2), ss. 31, 32, 33, and 34 of the Child's Right Act 2003

<sup>1177</sup> s. 26, 27, and 28 of the Act

in sexual behaviour that he or she does not fully comprehend and is incapable of giving informed permission to or that violate societal laws or social taboos." <sup>1178</sup>

Gender-based sexual violence may occur among internally displaced persons. Threats of such violence arise from both within and outside the camp and are frequently the result of inadequate security.<sup>1179</sup> Armed groups may abuse displaced women and girls as a weapon of war, either to humiliate or ethically cleanse groups of people.<sup>1180</sup> Due to difficulties to survival may lead to women and girls being coerced into having sex in order to acquire access to necessities like food, water, and medicine.<sup>1181</sup>

According to one of the respondents, the living conditions in the IDP camp settlement expose vulnerable children, particularly girls, to various types of child abuse. She imagined a situation where everyone who wishes to use a nearby conducive/convenient public toilet must pay the sum of N50.00 (Fifty Naira) for access to the public toilet, forcing them to walk far deep into the bush for their convenience. Similarly, a public restroom is located at the other end of the IDPs camp, where people are asked to pay N30.00 (Thirty Naira) before using the public bathing facilities, or they are forced to bathe in the jungle in the improvised bathroom. Furthermore, how they struggle to cope with their monthly menstruation period every month is severe difficulty for them, and they concluded that the conditions in the *Durumi* IDP camp settlement have "made many people do some inconceivable things they are ashamed to say."

In the formal faith based IDP camp, there is a good level of provision of toilet and sanitary facilities on the ground; nonetheless, they require finances to maintain the level of standard that the IDP camp has acquired.

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<sup>1178</sup> Einar A. Helander, *Children and Violence: The World of the Defenseless*, (2008) 20.

<sup>1179</sup> Kendra E. Dupuy and Krun Peters, *War and Children: A Reference Handbook* (2010), 28

<sup>1180</sup> *Ibid*

<sup>1181</sup> Save the Children, *State of the World's Mothers: Saving Mothers and Children in Humanitarian Crises 19-20* (2014)



## **4.6 Discussion**

This study provides evidence from the responses of the participants in the discussion and interview held in the IDPs camp settlement, the reasons why the internally displaced children in the IDPs camp settlements are unable to access quality education, and the general perception of some members of the general public through their social media awareness on the plight of the internally displaced persons in general, and particularly, the issues that concern the vulnerable children among the displaced.

When internal displacement occurs, the children's normal routine daily educational activities is interrupted, and with so much uncertainty placed on them, they are faced with so many challenges, such as the possibility of child abuse and neglect as some of the consequences of the internal displacement situation.

The findings of this study extend far beyond the existing studies on internally displaced persons in IDP camp settlements; in addition to contributing to the body of knowledge on internal displacement, it would aid in addressing the lackadaisical attitude observed on the impact of displacement on vulnerable children's right to education and its potential impact on the quality of democracy in Nigeria.

### **4.6.1 Accessibility of Education by the Internally Displaced Children**

The study's findings highlighted four significant reasons why most internally displaced children do not attend school. These include the lack of schools in IDP camp settlements, the great distance to schools outside of IDP camp settlements, a lack of funds to provide school items such as uniforms, books, shoes, and other educational needs, and security challenges.

Children in informal IDP camp settlements are the most vulnerable; they face neglect and abandonment, including the right to education and the enjoyment of other rights, such as food, housing, security, and appropriate health care services. These were corroborated by the responses of camp chairman/coordinator response to interviews and conversations held at some of the camps visited.

According to him, most of the children who had access to education outside the camp went to school hungry, with no guarantee of food when they returned. Some of the children took

advantage of the opportunity to get involved with miscreants outside the IDP camp and engage in various forms of social vices lifestyles such as prostitution, indecent dressing, pocket-picking, drug addiction, hooliganism, thuggery, gambling, smoking, premarital and unlawful sexual relations. As a result, they would want schools established for the children inside the IDP camp settlement.

Furthermore, an online questionnaire was utilized to obtain information from members of the public regarding their perceptions of internally displaced people; the questionnaire results are presented below.

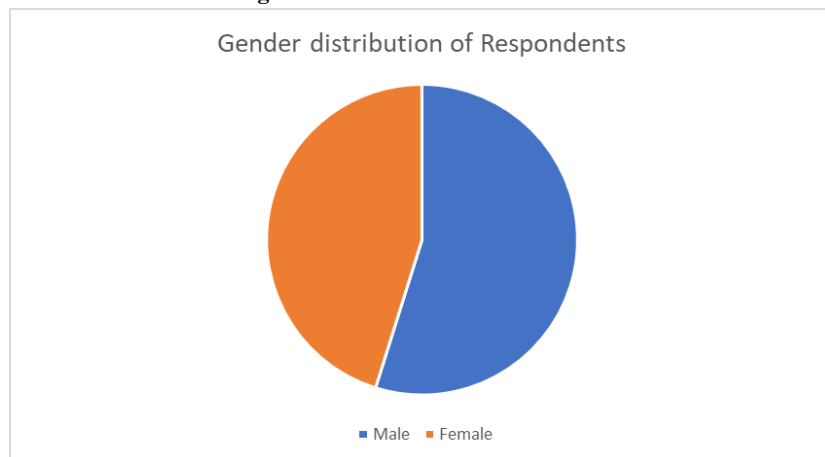
#### **4.6.2 Perception of some members of the public on the Internally Displaced Persons and the vulnerable Displaced Children Access to Education**

To shed light on their perspective of internally displaced persons in general and the availability of education accessible to vulnerable children regarding the child's right to education, various members of the public were polled. An online questionnaire was distributed to a total of 155 valid responses from respondents of all ages. A qualitative analytic method was employed to address the research questions posed (A qualitative analytic method refers to identifying, analyzing, and reporting patterns (themes) within the data collected for the aim of the study).<sup>1182</sup>

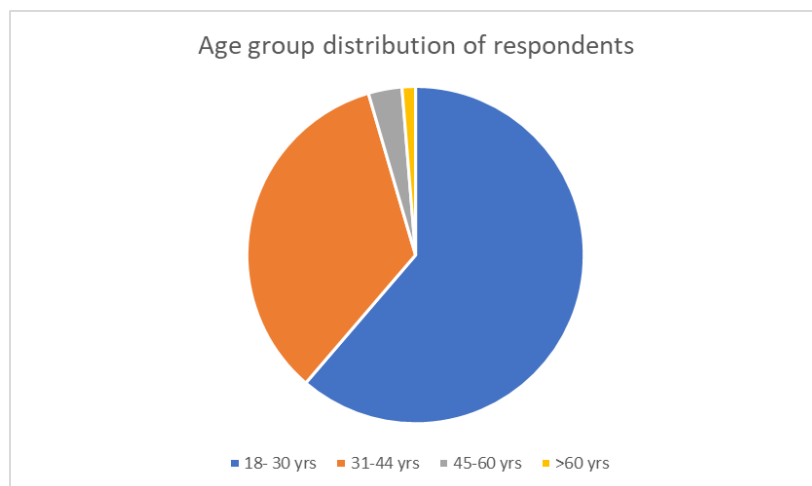
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<sup>1182</sup>V. Braun, V. Clarke, Using 'Thematic analysis in psychology. Qualitative Research in Psychology' (2006) Jan 1;3(2):77-101.

**The results of the findings are discussed in the various tables below.**



*Figure 1: Gender distribution of respondents. (See Appendix A)*



*Figure 2: Age distribution of respondents. (See Appendix A)*

This study had a total of 155 valid responses, of which 55% were male, and 45% were female. Respondents from this study were also categorized into age groups, with 61% making up the age group of 18-30 years, 34% within the age group of 31 – 44 years, 3% within the age group of 45-60 years and only 1% made up the age group of 60 years and above.

Table 1: Reasons why there are internal displaced people in Nigeria. (See Appendix A)

S/N	CAUSES OF DISPLACEMENT	GENDER		REGION			
		Male	Female	Africa	Europe	North America	Australia
1	Security reasons	75	56	119	8	4	1
2	Economic reasons	30	34	45	7	2	1
3	Medical reasons	9	14	19	4	0	0
4	Natural disaster	1	4	3	1	0	0

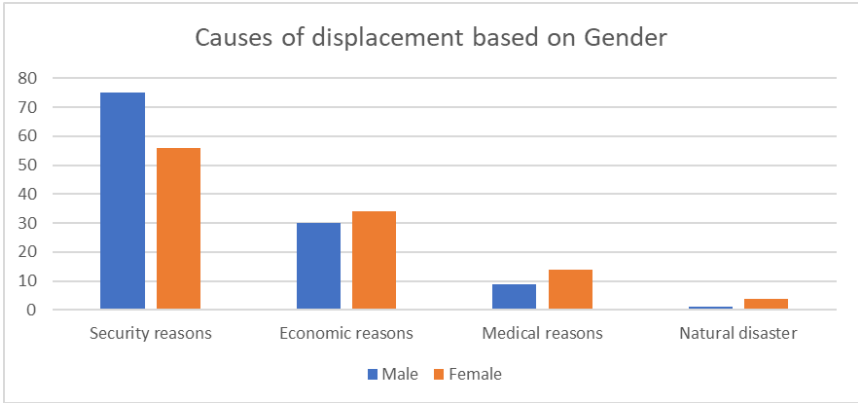


Figure 3: Causes of displacement based on gender. (See Appendix A)

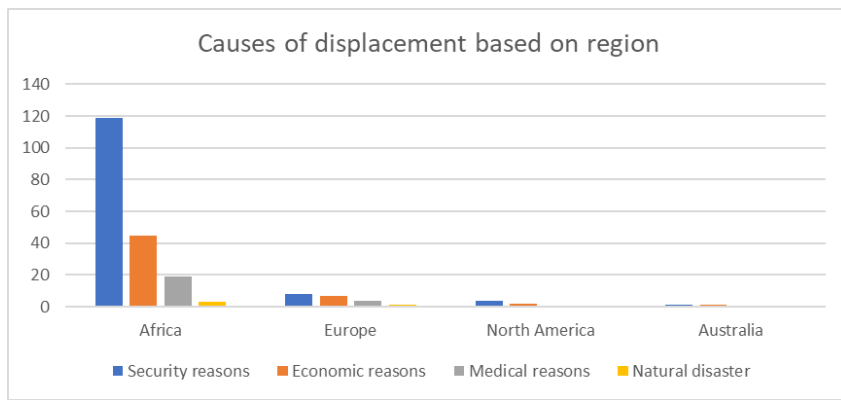


Figure 4: Causes of displacement based on region. (See Appendix A)

This study identified some major causes or reasons why there are internally displaced people in Nigeria; some of these causes are due to security, economic, and medical reasons, and natural disasters. The table above shows the opinion of respondents based on the grounds of displacement identified in this study with a comparison based on gender and geographical location. Overall, the issue of security ranked the highest among other reasons regarding the comparison on the table, therefore, indicating that most respondents believe that insecurity is a significant issue as to why there are displaced persons within Nigeria. Economic reasons ranked the second highest, showing that financial issues are another contributor to the displacement of people in Nigeria. Medical reasons and natural disasters are the last two reasons that ranked the lowest.

Table 2: Most vulnerable group of people within the IDP camps. (See Appendix A)

S/N	MOST VULNERABLE GROUP	GENDER		AGE GROUP			
		Male	Female	18-30 yrs	31-44 yrs	45-60 yrs	Above 60 yrs
1	Men	7	5	10	2	0	2
2	Women	49	41	56	32	5	2
3	Children	80	66	92	53	6	2
4	Toddlers	37	35	42	25	2	2

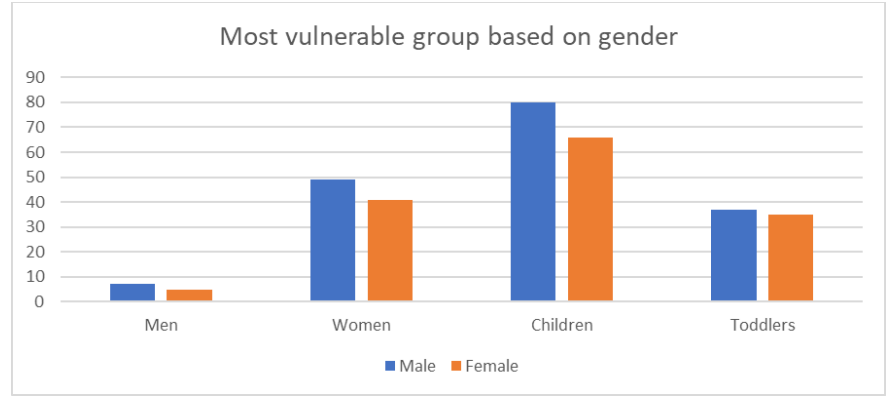


Figure 5: Most vulnerable group based on gender. (See Appendix A)

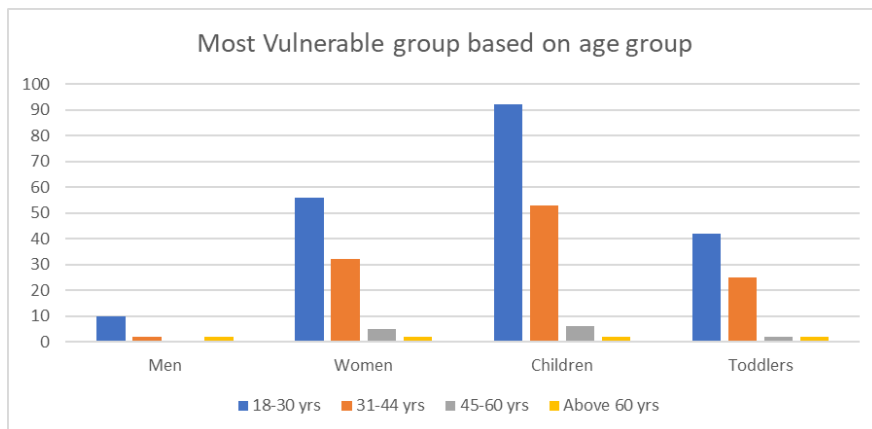


Figure 6: Most vulnerable group based on age group. (See Appendix A)

The internally displaced persons comprise men, women, children, and toddlers vulnerable to adverse impacts within the internally displaced camps. However, some groups are more vulnerable than others. Respondents from this study overall have shown that the most vulnerable groups are children, next to them are women, then toddlers and the least vulnerable are the men.

Table 3: Reasons why internally displaced children have little or no access to education. (See Appendix A)

S/N		GENDER						AGE GROUPS												
	Reasons why internally displaced children are unable to access education	Male			Female			18-30 yrs			31-44 yrs			45-60 yrs			>60 yrs			
		Agree	Disagree	Neutral	Agree	Disagree	Neutral	Agree	Disagree	Neutral	Agree	Disagree	Neutral	Agree	Disagree	Neutral	Agree	Disagree	Neutral	
1	Non-availability of schools	64	15	6	46	22	2	65	15	6	38	14	2	5	0	0	2	0	0	
2	Long distance to schools	53	17	13	45	22	5	63	23	10	31	14	9	4	0	1	0	2	0	
3	Security issues	61	14	7	52	14	6	72	13	10	35	16	4	2	1	2	2	0	0	
4	Health related issues	56	20	7	48	15	8	70	17	9	30	18	6	2	2	1	0	2	0	

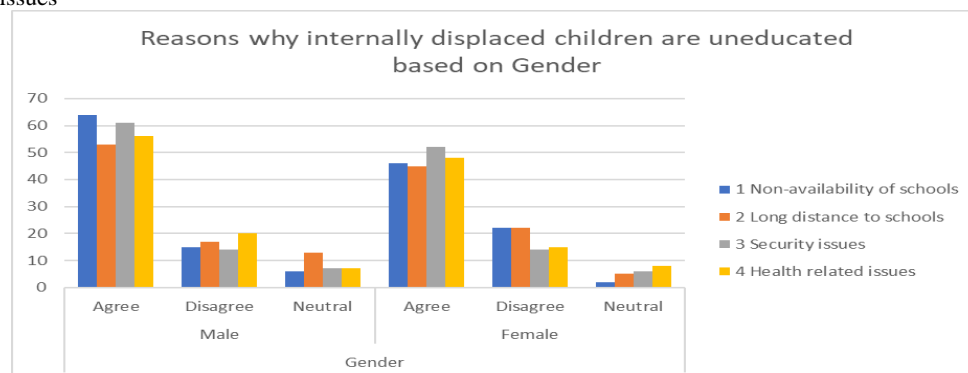


Figure 7: Reasons why internally displaced children are uneducated based on gender. (See Appendix A)



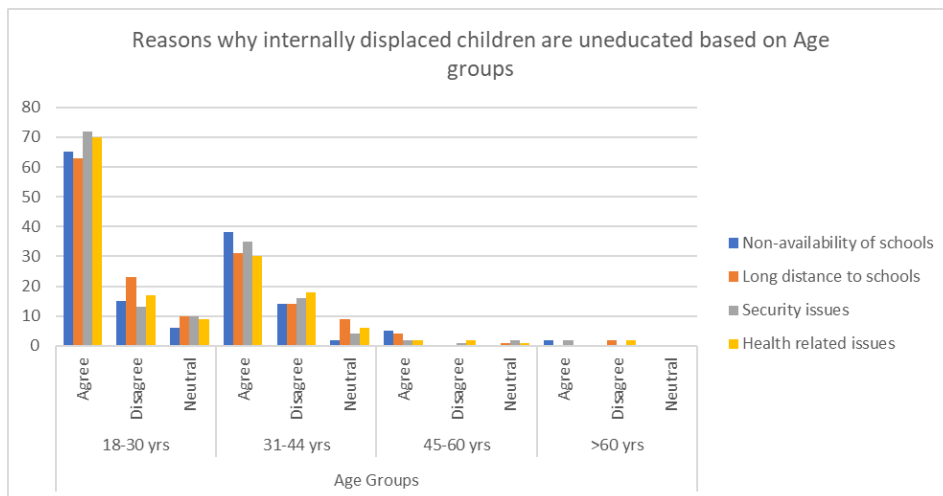


Figure 8: Reasons why internally displaced children are uneducated based on age group. (See Appendix A)

Most internally displaced children have little or no access to education, and respondents from this study have identified some of the primary reasons why these children are uneducated. Some of these reasons are the non-availability of schools, the long distance of the available school, security issues and health-related issues. From this study, the non-availability of schools ranked the highest based on responses from the male gender. In contrast, the female gender believed security issues were the primary reason internally displaced children are uneducated. Based on age group, those within the age bracket of 18-30 years thought security was the main issue, while those within the age bracket of 31-44 years believed non-availability of schools was the main issue. Overall, this study identified two major causes of uneducated, internally displaced children: the non-availability of schools and insecurity.

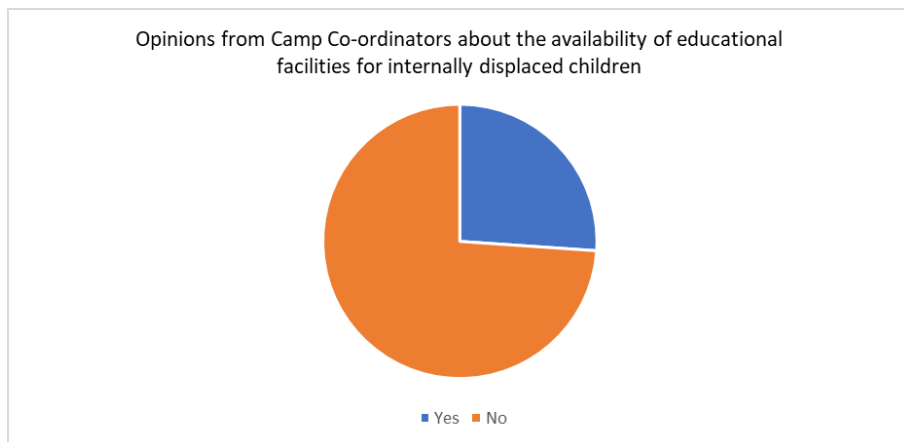


Figure 9: Opinions from Camp Co-ordinators about the availability of educational facilities for internally displaced children. (See Appendix A)

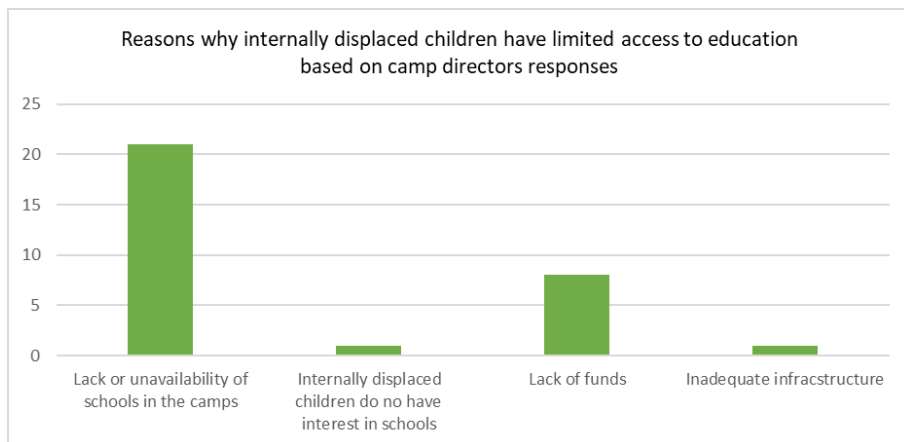


Figure 10: Reasons why internally displaced children have limited access to education based on camp directors responses. (See Appendix A)

From this study, responses from camp directors have also shown that education is not readily available to internally displaced children because there are limited or no educational facilities within the camp. These camp directors are also of the opinion that the lack of schools in the base is the major reason why internally displaced children are uneducated; the following slightly most significant reason is the unavailability of funds for education. These children generally have little or no access to education, thereby increasing illiteracy among them.

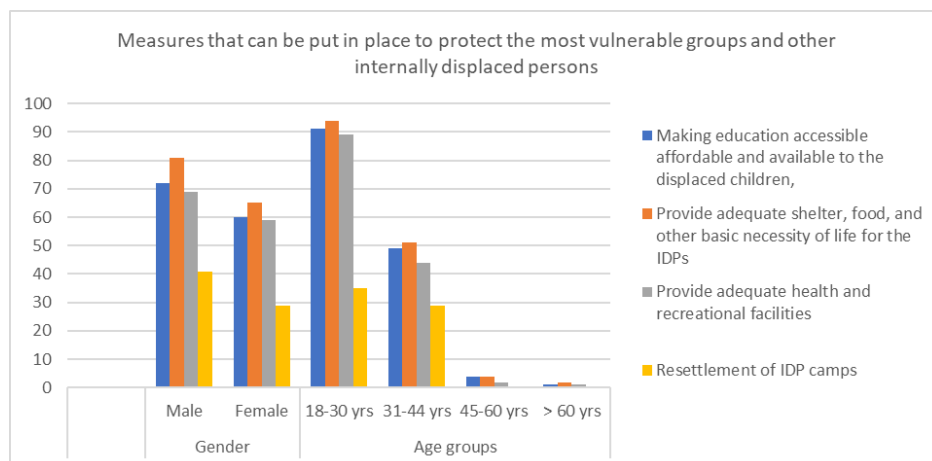


Figure 11: Measures that can be put in place to protect the most vulnerable groups and other internally displaced persons. (See Appendix A)

Respondents from this study showed that some measures could be implemented to ensure that internally displaced persons are protected and stay safe in their camps. Some of these measures outlined by respondents are the availability and easy access to education for internally displaced children as this would reduce the level of illiteracy in the camp; provision of adequate food, shelter and other necessities of life is very crucial to the safety and well-being of an internally displaced person. Another measure is providing adequate health and recreational facilities for internally displaced persons. These measures are some ways government can help make life in the internally displaced camps better and safer for its inhabitants.

Table 4: Responses from Children between the ages 5 - 17 years that live in an informal IDP camp settlement. (See Appendix B)

AGE GROUP	5 – 9 YEARS	10 – 13 YEARS	14 – 17 YEARS
<b>TOTAL NUMBER OF RESPONDENTS</b>	23	42	25
<b>GENDER</b>			
	Male = 11	Male = 20	Male = 10
	Female = 12	Female = 22	Female = 15
<b>DO YOU ATTEND SCHOOL?</b>			
	Yes = 8	Yes = 10	Yes = 6
	No = 15	No = 32	No = 19
<b>LOCATION OF THE SCHOOL ATTENDED?</b>			
	Inside Camp= 0	Inside Camp= 0	Inside Camp= 0
	Outside Camp= 8	Outside Camp= 10	Outside Camp= 6
<b>MOST IMPORTANT AMENITIES NEEDED IN THE CAMP TO MAKE IT A BETTER PLACE TO LIVE IN?</b>			
<b>FOOD, SHELTER,</b>	20	40	20

<b>AND EDUCATION</b>			
<b>HOSPITAL AND CLOTHES</b>	3	2	5
<b>ELECTRICITY, WATER AND VEHICLES</b>	0	0	0

Table 5: Statistics of children who attend and do not attend school in the Informal IDP camp settlement. (See Appendix B)

<b>AGE GROUP</b>	<b>5- 9 YEARS</b>	<b>10 – 13 YEARS</b>	<b>14 – 17 YEARS</b>	
<b>CHILDREN WHO ATTEND SCHOOL</b>	8	10	6	Total= 24
<b>CHILDREN WHO DO NOT ATTEND SCHOOL</b>	15	32	19	Total = 66

Table 6: Responses from Children between the age 5 - 17 years that live in a Formal IDP camp settlement. (See Appendix B)

<b>AGE GROUP</b>	<b>5 – 9 YEARS</b>	<b>10 – 13 YEARS</b>	<b>14 – 17 YEARS</b>
<b>TOTAL NUMBER OF RESPONDENTS</b>	19	27	54
<b>GENDER</b>	Male = 8 Female = 8	Male = 10 Female = 17	Male = 29 Female = 25
<b>DO YOU ATTEND SCHOOL?</b>	Yes = 19 No = 0	Yes = 27 No = 0	Yes = 54 No = 0
<b>LOCATION OF THE SCHOOL ATTENDED?</b>	Inside Camp= 19 Outside Camp= 0	Inside Camp= 27 Outside Camp= 0	Inside Camp= 54 Outside Camp= 0
<b>MOST IMPORTANT AMENITIES NEEDED IN THE CAMP TO MAKE IT A BETTER PLACE TO LIVE IN?</b>			
<b>FOOD, SHELTER, AND EDUCATION</b>	18	25	52
<b>HOSPITAL AND CLOTHES</b>	1	2	2
<b>ELECTRICITY, WATER AND VEHICLES</b>	0	0	0

Table 7: Statistics of children who attend and do not attend school in the Formal IDP camp settlement (See Appendix B)

AGE GROUP	5- 9 YEARS	10 – 13 YEARS	14 – 17 YEARS	
<b>CHILDREN WHO ATTEND SCHOOL</b>	19	27	54	Total= 100
<b>CHILDREN WHO DO NOT ATTEND SCHOOL</b>	0	0	0	Total = NIL

Responses from children in the informal IDP camps showed that most of them do not attend schools compared to children in the formal IDP settlement with the statistics showing that every child in the formal IDP settlement camp attends school, for the informal settlement IDP camps, average an 24 children attends school while 66 children do not attend school and this can be majorly attributed to the issues of not having schools present in the informal camps, which makes it difficult for those children to access education. But children in faith formal IDP camps have easier access to schools because they have schools inside their camps. Responses also show that they lack adequate food, shelter, and education for a better life in the camp; this is why most of the children believed that the government should provide more food, better shelter and improved educational facilities for them to have a better life while in their various camps.

#### 4.7 The Legal Implications of the Findings of this Research

Most researchers have written extensively on issues involving internally displaced people. However, not much consideration was made concerning the most vulnerable of these groups of displaced persons, which are internally displaced children, their inability to access school, the reasons they are unable to, and its impact of lack of access to education on the enjoyment of other human rights, as well as the democratic integrity of the country.

The study's findings revealed that the reasons why internally displaced children are unable to attend school are the lack of schools in the internally displaced person's camp settlements, the long distance to schools outside the camp settlements, a lack of funds to provide school items such as uniforms, books, shoes, and other educational needs, and security concerns. It is the responsibility of the Nigerian government to protect and provide for the needs of displaced people residing in their country, with a focus on the most vulnerable group, children, by making education available and accessible to them. According

to the provision of Article 1 of the Child's Rights Act, 2003, provides that "in every action regarding a child, whether taken on by an individual, public or private body institutions or service, the court of law, or administrative or Legislative authority, the best interest of the child shall be the primary consideration." This clause also applies to children in Nigeria's internally displaced persons camps.

The study also found that a higher proportion of internally displaced children do not have access to universal basic education. The legal implication is that internally displaced children's lack of access to education infringes on their right to education as well as other human rights. This would very certainly have an impact on the displaced children's quality of life as well as the country's democratic integrity. This infringement of the right to education violates Section 2(1) of the Free, Compulsory, Universal Basic Education Act of 2004, Section 15 of the Child's Rights Act of 2003, and Section 18 of the Federal Republic of Nigeria's Constitution.

According to the study, insecurity is the leading reason for internal displacement. Schools are being attacked, with hundreds of students being abducted regularly. Section 14(2)(b) states that the primary objective of government is to ensure the security and welfare of its citizens. The legal implications of this, highlight the Nigerian government's commitment to safeguard its citizens. Despite this constitutional safeguard, the current wave of insecurity, kidnapping, and killings in the country is deeply concerning and scary.

An examination of Nigeria's legal and institutional framework for protecting internally displaced children indicated that there are insufficient regulations in place to safeguard internally displaced persons in general. Participants in focus group discussions at various internally displaced camps visited in this study reported that government interventions, humanitarian organizations, non-governmental organizations, and contributions from philanthropic individuals were the primary sources of assistance and aid. When compared to the formal camp of study, the internally displaced persons appear to be neglected, reflecting a sense of abandonment due to their severe conditions.

Furthermore, after examining Nigeria's legal framework on children's rights to basic education, the findings found a gap in the country's law enforcement. This deficiency stems from the provision that all issues mentioned in Chapter II of the 1999 Constitution, which includes the right to education, are not justiciable. This is due to the ouster clause in Section 6(6)(C) of the Constitution.

Section 6, The judicial powers of the federation shall be vested in the courts to which this section relates being courts established for the federation. (6) The judicial powers vested per the foregoing provisions of this section. (c) shall not, except as

otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person or as to whether any law or any judicial decision conforms with the Fundamental Objectives and Directives Principles of the State Policy set out in Chapter II of the Constitution.

All rights or items specified in Chapter II of the Constitution are Fundamental Objectives and Directive Principles of State Policy; these are non-justiciable rights, as opposed to those stated in Chapter IV. Sections 13 and 6(6)(c) of the 1999 Constitution are inconsistent, posing a significant legal challenge to Nigeria's education laws in general. There is no legal remedy if the government fails to meet these commitments, as they cannot be challenged or compelled by authority or a court of law to do so due to the limitations provided in the Constitution.

The importance of education in the protection of human rights in the lives of internally displaced children cannot be overstated, because education, training, and information seek to foster a universal culture of human rights, which has a significant impact on communities and any nation's democratic integrity. Education reduces poverty, promotes a pleasant environment, increases work prospects, improves social life, lowers crime rates, contributes to contemporary civilization, and bridges gaps and barriers in competence. A comprehensive human rights education for internally displaced children not only provides knowledge about human rights and the mechanisms that protect them, but it also teaches the skills needed to promote, defend, and apply human rights in everyday life.

Additionally, this study found that a lack of access to education for internally displaced children would harm the country's democratic integrity because it would result in a lack of socioeconomic progress, as well as a lack of good and worthy social, economic, and political leadership in government. There would be a lack of respect for the rule of law, gender inequality, a high percentage of unemployment, and an increase in child abuse; life expectancy would be shortened; a significant portion of the nation's population's health would be affected; and minority voices would be underrepresented. Lack of access to formal education can impede a child's learning and cognitive development, which is the fundamental cause of poverty. The legal effect of this is that children will lack critical knowledge and abilities, causing obstacles in their future endeavours and raising their chances of unemployment and quality of life. This may lead to a significant number of individuals engaging in illegal activities, antisocial behaviour, and substance misuse. This negative consequence of reduced education access for internally displaced children may jeopardize a country's democratic integrity, increasing the number of uneducated youths.

Education is essential for learning knowledge about societal issues, political structures, and participatory democracy. The legal implication is that an education based on democratic values can serve as a core component in developing cohesive communities. It is critical to raise understanding of democratic principles/ways of life at all levels of society, including internally displaced people, to provide more opportunities for young people to participate in active citizenship. However, the research implications indicate that the findings may be important for policy, practice, theory, and future research, and recommendations are made based on the findings of this study.

#### **4.8 Contributions to Knowledge**

The study's research area, a critical appraisal of the social and educational rights of internally displaced children in Nigeria, their link to other rights, and the quality of democracy makes a substantial contribution to the body of knowledge.

Furthermore, the research approach adopted in this work makes an important contribution to the body of knowledge. Focus Group Discussions (FGD) interviews are used as a research method to investigate the provision of educational facilities and the quality of education available to displaced children, the child's rights that may have been violated as a result of displacement, and the level of awareness of the child's right to education among internally displaced persons living in IDP camps settlements. Nonetheless, the Focus Group Discussions and interviews added significantly to the body of knowledge by allowing the researcher to ask suitable questions that required explanations and may lead to a re-examination of the situation for future data and situation analysis.

The use of an online questionnaire to collect information from members of the public about their impressions of internally displaced individuals adds substantial value to the body of knowledge. Another contribution to the body of knowledge is the use of a short-structured questionnaire to collect information from children aged 5 to 17 years living in IDP camp settlements under the supervision of their guardian/camp co-coordinator, chairman, and director. The goal of this structured questionnaire is to give internally displaced children the opportunity to participate in a research topic that directly affects their well-being. This is an enormous contribution to the body of knowledge examining the impact of displacement on their education before and after displacement.



This study's techniques of participant recruiting, asking the relevant questions, correctly labelling similar information, extensive data analysis, and the findings from the study locations of the internally displaced person camp add to the body of knowledge. Also, areas of discoveries in which enough research has not been conducted on the subject matter, which is novel but may not have received sufficient attention, are significant contributions to knowledge.

This study helps to raise awareness about internally displaced persons. It also lists all vulnerable groups affected by internal displacement and the reasons behind it, with a focus on the recent negative events in Nigeria, which have increased the number of internal displacement cases there. This study makes recommendations that may lead to solutions to current problems, even if the causes of internal displacement in Nigeria are known and little to no effort is made to prevent them. The study also assists internally displaced persons, particularly the most vulnerable children, in better understanding their rights. It alerts the Nigerian government to the horrible living conditions that internally displaced persons endure and assists them in identifying the essentials for a better life.

Furthermore, by making more research space available, this project helps to improve the quality of life for internally displaced individuals. This study has helped to advocate for the protection of internally displaced people in general, as well as vulnerable children who are regarded as future quality leaders by the nation. This raises serious concerns about why the government should incorporate education, care, and protection for displaced children into national policies and finances.

This study added to our understanding of the importance of education because it increases a country's economic strength, development, and sustainability, and, in essence, contributes to a country's ability to successfully adapt to changing circumstances in the twenty-first century, as it is directly dependent on its educated people. Nations with better education systems will have more productive workers and innovative scientists, as well as the ability to respond to new ideas and inventions. These countries will be more appealing places to live, which is why we advocate for education for displaced children so that Nigeria can be one of them.

Furthermore, the results of the research contributed to our understanding of how a lack of education affects the quality of life of internally displaced children; demonstrated that the right to

education is the starting point for the enjoyment of other human rights; and showed how important education is to the children's quality of life, the protection of human rights, and the value it adds to Nigeria's democracy. In addition to the contributions and benefits that this PhD will provide, other researchers in the chosen field of academics will refer to the study, and this has allowed me to contribute to knowledge and broaden my field of study.

## **4.9 Conclusions**

According to the findings of this study, internally displaced people face various challenges, including security issues that increase their vulnerability to attacks, economic problems in which most people in internally displaced camps are unlikely to find work, and those who do may only have access to menial jobs with little or no stable income and also faced medical issues. The overwhelming majority are children and toddlers, the most vulnerable demographic. Due to insufficient educational facilities in the camp where they live, these groups are also confronted with the issue of substandard education in addition to all the other challenges already existing in the camp. Education is one of the most important things children need to grow and develop since they are and will continue to be the future leaders of any nation, and it is unjust to deny them such possibilities. In general, reports from this study demonstrate how insecure and unsettled people who live in internally displaced camps are; the majority are deprived of good living circumstances, a good health system, little or no social amenities, and no educational facilities. There is no doubt that life in the internally displaced camps is a huge mess; all stakeholders and the government must divert a lot of effort and resources to these people to provide them with a better life.

The result of this study reveals that internally displaced children are denied access to education that brings opportunities for intellectual advancement and other significant advantages. Internally displaced children's frequent attendance at school gives them a sense of stability and normalcy and can be a source of mental and emotional assistance. It can help lessen the risk of dangers like physical harm, sexual exploitation, and military recruitment for kids. From education, children would be informed about the risks around them, how to defend themselves from those risks, and how to speak up in such situations. Children's education is essential for new inventions, research, national economic progress, and enhancing the standard of democracy in a nation, but then the

lack of access to adequate education by these displaced children threatens the opportunities for this development and the future.

One of the most effective instruments for fostering a child's development is education, which may be gained through classroom instruction and real-world experiences. Education is something that children should always have, as it is very crucial for illustrating the stages of childhood development and stability in their lives. Education is essential for equality because it enables ambitions to be achieved, makes the world a better place for kids by educating them about right and wrong, and helps them avoid crime and other risky situations and activities. The integration of children into society involves education in a significant way. Children who have access to education will be able to contribute to the development of their country and the standard of democracy in any country, making them useful members of society as well as valuable to themselves.

It is revealed in one of the focus group discussions that some of the kids who went to school did so on an empty stomach sometimes, with little to no assurance that they would get a meal when they got home from school. As a result, children should be provided with nourishing foods to enable them to have energy and strength for learning activities.

Many children, who are internally displaced, easily have health concerns due to lack of clean water, lack of nutritional food, the trauma of displacement, and living in overcrowded places. Many of the children appeared malnourished; as a result, many displaced persons may suffer from ailments such as cholera, measles, malaria, respiratory diseases, malnutrition, scabies, fungi or skin infections, and tuberculosis. This is against the child's right to survival and development. In the absence of adequate nutrition, the children may not live and, even if they survive, may experience stunted growth. They have the right to receive adequate medical care in the event of illness; a child with a medical condition would not be able to concentrate on any form of learning if education is accessible.

It is also revealed in this study that vulnerable women and children make up many of the displaced population living in these camps, with kids under 17 making up half of all camp residents. They also found that children are more likely to suffer abuse, be forced into service as child soldiers for insurgents, become suicide bombers or sex slaves, or have their education

abruptly terminated. Their way of living keeps them starving and lacking the resources they need to survive.

In one of the Focus Group Discussions (FGD), it was revealed from the northeastern states where they were displaced from their homes, that most school-age children there in the states like Adamawa, Borno, and Yobe for instance, have had very few opportunities to pursue an education. Many schools are now vacant due to the Boko Haram rebels' destruction of educational facilities and the indiscriminate killing of students and instructors, and schools are used as a shelter, which prevents the commencement of the academic and children's access to education.

In one of the discussions, the IDP camp residents appealed that the cause of the internal displacement such as insurgencies of the Boko Haram, unknown gunmen, attacks by bandits, headers and other marauders should be put to an end as they would love to return to their ancestral homes to put the broken pieces of their lives together. They insisted that as vulnerable human beings, they are entitled to the enjoyment of all human rights such as the right to life, survival, freedom of movement, and association.

Some of them complained about the unfriendly nature of their host community where the camps are located as such because of the limited educational facilities in their schools a large number of the children could not be accommodated in the school because education planning does not take into consideration circumstances of population rise due to relocation, children are refused attendance at host community schools that do not have the resources or staff to take on additional students. The study discovered that insurgency activities affected children's attendance at school, and consequently, many internally displaced children would not finish their education and humanitarian aid is only allowed for life-saving procedures.

A major challenge facing the educational system in Nigeria is inadequate educational facilities that have affected quite a lot of the government-owned basic schools due to being underfunded, making the schools unfit for learning. The situation is compounded by militants' destruction of easily accessible school infrastructure, access to government-owned basic schools in the northeastern states for instance has been seriously damaged by Boko Haram's deliberate attacks

on educational infrastructure. According to UNICEF, not less than 314 kids died, and almost 300 schools were destroyed between 2012 and 2014.<sup>1183</sup>

It is one of my recommendations that the government try to provide basic education to the children in the IDP camps and host communities by constructing temporary school buildings, hiring teachers, providing teaching, and learning materials, or using alternative methods like broadcasting lessons over the radio or holding classes in secure community spaces until peace returns to the area.

Some of the respondents opined that due to a lack of intelligence gathering, the government security forces' use of schools for military operations, which puts schools at risk of attack, the government's failure to protect schools adequately, and the students' exposure to an unsuitable learning environment, educational activities in the region are vulnerable to threats and attacks. Additionally, there is a high level of corruption and certain "politics" in the Nigerian Army's operations as contributing factors to the security risks facing educational projects in the area.

These children may carry the psychological and physical traumas of the insurgency, in addition, to other forms of child abuse, and neglect used as weapons of war, which dehumanizes men, women, and children that they may have experienced. According to some respondents, despite efforts by the government, faith-based organizations, and other non-governmental organizations (NGOs) to meet these IDPs' basic needs, yet, they are not enough, without access to education for the children.

In conclusion, this study identified some major causes of internally displaced persons in Nigeria; the overall analysis showed that the most vulnerable groups are children, next to them are women, and the least vulnerable are the men, that most internally displaced children have little or no access to education and identified that some of the major reasons why these children are uneducated are the non-availability of schools, long distance of the available school, security issues and health-related challenges. Responses from camp directors have also shown that education is not readily available to internally displaced children because there is limited or no

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<sup>1183</sup>UNICEF, 'The State of the World's Children 2016: A fair chance for every child' (2015) <[https://www.unicef.org/media/50076/file/UNICEF\\_SOWC\\_2016-ENG.pdf](https://www.unicef.org/media/50076/file/UNICEF_SOWC_2016-ENG.pdf).

availability of educational facilities for these children within the camp; the following, slightly most significant reason is the unavailability of funds for education. Responses from children in the informal IDP camps showed that most of them do not attend schools compared to children in the formal IDP settlement, and this can be majorly attributed to the issues of not having schools present in the informal camps, which makes it difficult for those children to access education. When children have little or no access to education, it increases illiteracy in and circle of poverty.

Some of the measures to be taken are the provision of availability and easy access to education for internally displaced children as this would reduce the level of illiteracy in the camp, provision of adequate food, shelter, adequate health and recreational facilities and other necessities of life for safety and well-being of the internally displaced persons. These measures are some of the ways the government can help make life in the internally displaced camps better and safer for its inhabitants and give value to the quality of democracy.

## CHAPTER FIVE

### 5.1 Conclusion

The appraisal of the social and educational rights of Internally Displaced Persons (IDP) in Nigeria, their relationship to other rights, and the quality of democracy in the country has contributed to the need for the displaced children to have access to education, and other social rights, such as adequate food, for them to have a healthy living environment with suitable housing accommodation, access to good health facilities, and the protection of vulnerable children.

It argued that parents, guardians, the government, and other stakeholders have various roles in ensuring that all children, including the displaced, attend school. It created awareness of the right to education for those unaware of Free, Compulsory, and Universal Basic Education; it examined the laws on IDPs and educational laws in Nigeria and made adequate recommendations. It contributes to the scholarly works in articles and journals to bring to the attention of those concerned the causes and consequences of internal displacement on the people and how bad it is on the vulnerable children who need to be protected. It advocates for the protection of the IDP in general and urges the government and stakeholders to mainstream the education and social needs of internally displaced children in their budgets and developmental agenda. This is to enable the displaced children to have a good quality of life that would positively impact their lives and future and the quality of democracy in Nigeria.

These displaced persons include a category of vulnerable and helpless children between the ages of five to seventeen years who have been neglected educationally and socially. This is without recourse to whether they attend school, are provided with good, adequate food, have a healthy living environment with suitable housing accommodation, have access to good health facilities when the need arises and raise a voice for themselves to urge the government to mainstream the education and social needs of the internally displaced children in their budgets and developmental agenda to enable them to have a good quality of life that would positively impact on the quality of democracy in Nigeria. This is the gap this study has come to fill.

It has created awareness for the vulnerable children and their parents who are unaware of the rights to Free, Compulsory and Universal Basic Education in Nigeria. It contributed to the

scholarly advocacy to make education available, affordable, and accessible to vulnerable children and to provide an effective enforcement mechanism of such rights. The study showed that lack of knowledge affects the quality of life of the displaced children as it further revealed that the right to education is the starting point for the enjoyment of other human rights and the much value it adds to the quality of democracy. It further adds a reservoir of knowledge for references by other researchers in a related academic field.

Chapter one provided the background information introducing the topic, the aim, importance, method, and overview of the research.

The literature review of the thesis is analyzed in Chapter Two, and the works of other scholars on the IDPs were examined generally. Here, it is observed that quite a large number of scholars and authors have dwelled majorly on the plight of the IDPs generally and made slight mention of the displaced children's education without really taking an in-depth appraisal of the vulnerable children's right to education, their social needs and the consequences of the inability of displaced children to access education and the impact it would have on the quality of democracy in any nation.

The evolutions of internal displacement of persons, human rights, the development, and the legal sources of child rights are examined. Education under the human rights context, as well as the meaning of a child's right to education, has been explained. It asserts that education is a crucial contributing factor to the development and quality of life children live,

It is revealed in this chapter that there is a link between the right to education, the enjoyment of other rights and its impact on the quality of democracy in a country. The inadequacy of the Constitution and other laws are further analyzed here; it is argued that the Constitution should be amended to enable the justiciability of the child's rights to education, just like every other right listed in Chapter IV of the 1999 Constitution.

The meaning and the effects of violation of child's rights are detailed in this study, and it further revealed that when children are not in school, there are possibilities of violation of their rights due to their vulnerability arising from their displacement, as they roam about without engaging in meaningful activities when they are supposed to be in school learning.



It is shown in this study that, in a society where there are a more significant number of out-of-school children, they have a higher chance of maltreatment, getting involved in a conflict, being stuck in a hazardous setting, and becoming victims of child labour and early marriage and this no doubt will negatively affect the quality of democracy of any country. The responsibility of raising and training children in Nigerian society rests on the parents and caregivers, foster parents, and guardians. The Child's Right Act provided that in every action concerning a child, whether undertaken by an individual, public, or private body, institutions or service, court of law, or administrative or Legislative authority, the best interest of the child shall be the primary consideration.

Therefore lack of access to quality education by the displaced children would lead to major consequences on the children when they are grown, such as lack of employment, exploitation will be on the increase, which would lead to a cycle of poverty, a large number of people with less education struggle in life, they are less healthy due to exploitation and not being able to meet up financially to pay their bills, and they have lower incomes than those with more education due to limitation of not been educated and some of them may get involved in illegal activities such as social vices. The IDPs may also suffer a lack of representatives in government; they could be disenfranchised during elections and campaign for the solicitation of votes if they lack voices to speak for them; hence IDP children should be included in the scheme of things. The problem of internal displacement of persons in Nigeria has been described in this chapter as frightful, while the predicament of the internally displaced persons is a huge problem, though it is not a recent phenomenon which calls for urgent solutions. Recently In 2022, Nigeria floods affected many parts of the country; the flood displaced over 1.4 million people, 612 people killed, properties were damaged, and over 200,000 homes were destroyed.

Chapter three consists of the legal and institutional framework of the internally displaced persons in Nigeria. At the international level, it examined the Geneva Conventions 1949, their Additional Protocols, the United Nations Guiding Principles on Internal Displacement 1998 and other relevant treaties, while at the regional/sub-regional level, it examined.

the African Charter on Human and Peoples' Rights, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Otherwise Known as the

Kampala Convention) and the Internal Displacement Monitoring Centre on Children's Right to Education were examined.

While at the national level, it examined the position of the 1999 Constitution, the Child's Rights Act 2003, and other legislations relevant to education in Nigeria.

There are enforcement mechanisms put in place for the protection of the child's rights in Nigeria, and it is observed that despite all the mechanisms put in place, the child's right is not well protected as the mechanisms are forced with lots of challenges and loopholes. The legal status of the right to education in Nigeria is appraised in this chapter with references to the

Constitution, the Child's Rights Act 2003, the National Policy on Education Comprising, Free Universal Basic Education Act 2004 at the national level, and Conventions and committees as the international instruments on education and Charters at the Regional levels. The roles and decisions of the courts on the issues of a child's right to education and some scholarly articles written by academics were further examined.

Chapter four of this study contains the analyses of the results of discussions and questionnaires used in the causes of the interviews conducted in some of the internally displaced person camps of this study's locations in Nigeria. This chapter consists of the research design, location results, the general situation in some of the IDPs camp, the general situation in the IDP camps, the nature of education accessible to the displaced children, the health facilities available, the nature of security of the IDPs and their living environment, the nature of abuses that may have occurred as a result of the displacement and perception of some members of the general public on the IDPs and the problems of the vulnerable children access to education. Chapter five summarizes the studies, recommendations, and conclusion.

The appraisal of the social and educational rights of the internally displaced children in Nigeria: their relationship to other rights, and the quality of democracy, have identified the causes of internal displacement, the plight of the Internally Displaced Persons (IDPs) and lack of accurate statistics of the number of displaced persons in Nigeria. It further identified the unhealthy living environment, sufferings of the vulnerable children, the lack of social amenities such as lack of good health facilities, lack of adequate food, lack of good portable water, lack of schools in the IDP camps, issues of insecurity challenges, violation of the child's right to education as provided

in the international, regional, and national laws, the prevention of the children from the enjoyment of other rights. The vulnerable children are exposed to different forms of visible and non-visible exploitations and different forms of child abuse while some of the children get involved in the prevalence of social vices within the camp and its environment; the challenges faced by the children in trying to access education outside the IDPs camp settlement and the lack of cooperation from the host communities because of pressure on their already overstretched educational facilities.

It was also discovered that during the COVID-19 pandemic lockdown, life at the IDP camps was more difficult as this affected and interrupted their livelihood in the camp and host communities. They lacked the facilities to observe the COVID-19 pandemic measures such as physical and social distancing, lack of running water for regular washing of hands, use of face masks, lack of enough space to carry out the physical distance and lack of hand sanitisers they would have regularly used to prevent the spread of the COVID-19. They lived in overcrowded camps and poor shelters, thereby exposing themselves to health issues and risks; there was no access to a good quality healthcare facility, and they also lacked access to adequate information.

Although past studies have indicated that living has been challenging in the IDP camps, this study demonstrated that the COVID-19 pandemic made life a lot harder for internally displaced persons. Even after the post-COVID-19 impact, there has been little to no change in the conditions surrounding the IDP camps. The overcrowding in these camps persists, along with the lack of access to safe drinking water, decent healthcare, education, and a constant rise in the degree of insecurity. Moreover, the Nigerian economy is dwindling, making life more difficult for the populace overall. You can only imagine, the struggles faced by people living in the IDP camps as the infrastructure and basic social facilities in the IDP camps are still lacking. The government must step in and assist in improving the low standard of living that exists in the IDP camps in Nigeria because the country's high cost of standard of living and rising degree of insecurity make life in the camps more challenging even after the pandemic.

The laws and national policy on internal displacement are inadequate; it has not sufficiently provided for the response, protection, and provisions of care for the IDPs. The features of the right to education in Nigeria have not been met due to the inadequacy of educational laws and

policies in Nigeria to assure the provision, promotion, and protection of children's right to education.

This is due to the insufficiency of educational laws and policies in Nigeria to ensure the provision, promotion, and protection of children's right to education, the aspects of the right to education in Nigeria have not been satisfied. As a result, constitutional revisions to incorporate the right to education in the bill of rights under Chapter IV of the Constitution, as well as a comprehensive review of educational laws and practices, are required. Nationally, the government should establish a functioning structure for the successful implementation of education programs, as well as a well-organized, effective, and easy enforcement method for existing regulations. Lastly, there should be checks and balances in the management of educational legal policy, improved accountability, and no corruption.

Internal displacement is a major problem in Nigeria and has been described in these studies as frightful and very worrisome, calling for international attention, intervention and help to break the scourge of displacement.

Hence it is imperative to bring the government's attention to the causes of internal displacement and the all-around suffering of the displaced, other problems ranging from inadequate lifesaving assistance, protection-related crises, and the lack of a clear national policy on the IDPs in Nigeria.

The categories of persons who suffer more when displacement occurs are women and children, but it is worst on the children as they become vulnerable to all manner of attacks and deprivations and are exposed to different forms of child abuse, as shown in these studies. Section 1 of the Child's Right Act 2003 states that the best interests of the child must be the priority in every action involving a child, whether conducted by an individual, a private or public entity, an organization or service, a court of law, or a governmental or lawmaking authority. Failure to consider the child's best interests in all situations, as provided by these laws, is a lapse on the part of the government and stakeholders. Arising from this provision, it is essential that the government and all stakeholders should wake up to their responsibility because these vulnerable children were displaced due to no fault of their own.

Section 15 of the CRA provides for the right to compulsory and universal basic education for every child in Nigeria, and it further provides that it is the duty of the Nigerian government to ensure such education for all children; the displaced children are part5 of these children. This study has created awareness of such rights among most of the people generally and the children in the IDP camps who were not aware of the rights provided for them by the CRA.

Education is essential in the development and improvement in the quality of democracy of any nation, and as a result, the government should mainstream into the nation's policy and budgets to include the care and protection of the IDPs in general and provide schools in the IDPs camp for the displaced children.

The social and educational rights of the internally displaced children should be enforced by the relevant authority and stakeholders, including parents, guidance, and the government, by ensuring that these children are in school learning during school hours and not to be seen as shop attendants; street and market hawkers while others not visible to us are being used in homes as domestic house helps.

The study further pushed the boundaries of knowledge for the protection of internally displaced persons in general and vulnerable children in particular by advocating for the provision of their social and educational rights, that education should be made accessible to them, and other social needs to add to good quality of life they should live.

Lack of education affects the quality of life of internally displaced children. The right to education is the starting point for the enjoyment of other human rights; this shows how important education is to the children's quality of life, the protection of human rights, and the value it adds to the quality of democracy in a country.

When displacement occurs, the persons still have access to a wide range of economic, social, cultural, civil, and political rights, including the right to minimal humanitarian aid (such as food, medicine, and shelter), the right to be safe from physical harm, the right to education, the freedom of movement, and the right to a permanent place of residence. It is the duty of the government to ensure that these rights are not violated.

Other researchers in the fields of academics would refer to this work in the cause of their research as I have, in addition, contributed and expanded my field of study.

Consequently, below are the recommendations to be considered on the issues of the IDPs to ameliorate their plights in general and the vulnerable children in consideration of the child's best interests, which must be the priority in every action involving a child.

## **5.2 Recommendations**

1. As soon as displacement occurs, the agency in charge of such emergency response should deploy staff in their department of statistics and records to such zones or areas to document the number of persons displaced. Such documentation would be a continuous exercise by the government with the provision of an established designation registration center within reach of the IDPs where they can put down their information for proper documentation.
2. Government should be committed to provisions of education by ensuring that politicians keep to their electioneering campaign promises when they are in power and advocate for the IDP's well-being when they are out of power.
3. There should be an increase in budgeting allocation to educational projects. The existing ongoing project should be executed and completed before awarding new projects to avoid abandonment of school projects.
4. Integrating new educational projects such as technology into teaching and learning and have a time frame for completion and execution of embarked educational projects and upgrading existing projects.
5. Democracy (devoid of corruption and god fatherism) should be well-practiced, as this will guarantee the respect of human dignity, other human rights will be protected, and the rule of law will be promoted. With strict adherence to the rule of law, there will be an enjoyment of other human rights spelt out in the 1999 Constitution. In order to achieve these, all stakeholders, such as the court, national human rights commission, legal aids scheme, reformatory schools and remand homes, have to be proactive in their

responsibility for the promotion, enforcement and protection of these fundamental rights of its citizens.

6. There is a crucial difference between the constitutional provisions on education and other fundamental rights the fundamental rights have legal rights granted by the constitution, whereas the provisions in Chapter II of the Constitution where education is listed do not have such legal rights. Therefore, there is a need for the amendment of the Constitution in other for education law to have such backing.
7. One of the purposes of enacting the Child Rights Act (CRA) of 2003 was to positively affect the child's right to education and check the incidence of child abuse, but sadly, the Child Rights Act has not been effectively enforced by our legal system. The lapses in our legal system are evident and noticeable by the number of out-school children daily; hawking in markets, streets, and roads on both local and highways is frightening. The government should do something by amending the laws and implementing an effective enforcement mechanism.
8. Children's welfare and protection should be placed on the exclusive list, that is, the list of problems on which the Nigerian government establishes consistent laws, to properly safeguard displaced children in Nigeria. This would make child protection rules uniform and apply across the country. It is also important to make children's rights a constitutional issue under the Nigerian constitution's fundamental human rights clause.<sup>1184</sup>
9. Child Abuse should be prohibited. One of the steps to achieve this is to provide schools and make them accessible to displaced children.
10. If schools cannot be established for the displaced children in the camp, IDP children should have efficient access to state-run schools (regardless of whether they have birth certificates), with the appropriate government organizations supervising that all IDP children have access to proper schooling. Government agencies should assist in the development of educational programs that meet national educational requirements.

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<sup>1184</sup> The constitution of the Federal Republic of Nigeria 1999. The exclusive legislative list grants the federal government exclusive legislative authority over 68 things, but it also gives the federal government jurisdiction over the remaining items. The Constitution confirms this: enactments of the National Assembly take precedence over any legislation adopted by the House of Assembly of a State if there is an inconsistency.

11. The National Human Right Commission should be well funded to enable it to set up offices, particularly in the areas where its services are more required.
12. To help solve the insecurity issues and make the country free and safe for everyone to live in, the government should ask for or seek aid from other nations.
13. The Kampala Convention is an avenue to restate some of the essentials of International Humanitarian Law; there is a need for more awareness to be created on humanitarian principles, and it is to be communicated to the humanitarian community in the right way, with the government understanding and create awareness of the humanitarian principles without creating misunderstandings.
14. There should be a specific legal framework comprehensively addressing the issues of internally displaced persons, as the failure of a comprehensive response system is a significant gap that must be filled.
15. It is germane for the Nigerian government to make conscious efforts to provide a residential institution or home that would provide care and guardianship for children whose parents are dead or unable to look after themselves and where they will be able to undergo education and skill acquisition where required.
16. Already existing agencies and organizations for the care and welfare of the abused child should be empowered by the government to assist the victims of child abuse, where they would undergo counselling and follow-up until they regain their psychosocial balance.
17. Children who have been completely withdrawn from school or have not had access to education of any form should be provided with the opportunities to attend schools and have an education.
18. The laws should be amended to include mobile picks of children being used as street, market hawkers, selling and shop attendants. To achieve this, the enforcement agents will be parading the markets places unannounced, streets, shops, and isolated and open farms settlements. This should be carried out in a similar way they go about local government area and urban areas revenue drives.



19. The law enforcement agents in charge of the enforcement of child's rights should be equipped to go out daily to pick up children found selling, hawking, attending to shops and other forms of visible child abuse to pick them from street while their parents, guardians or whomever the child is in their care will be prosecuted for the offences they are charged with as it relates to social and educational abuse of the right of the child.
20. Information and counseling centers should be established to serve as counseling centers for traumatized children and other individuals in IDP camps; this is also an indirect way of reaching out to internally displaced children and their families. The government should implement training provisions for social workers such as teachers, and local and civil organizations in child rights protection case management. Child-friendly procedures, an interview approach should be implemented to detect cases of trafficking, child abuse or violence, exploitation, sexual abuse, and any other areas where displaced children may require assistance, and government should ensure that all displaced children, regardless of their situation, have access to, and receive free, good-quality education.
21. There is a need for cooperation, and sincerity between local, state, and federal governments, the Nigerian Army, the Nigeria Police Force, and the regional, national and state legislatures are necessary to address the issue of security.
22. Skills Acquisition
- Suppose the government provides basic compulsory education, which ends after junior secondary school, for IDP children (also known as basic 9), the children's curiosity in guiding their parts to learn a skill would be the driving force behind acquiring this level of schooling. In our local parlance, "handwork" refers to occupations like barbering, tailoring, carpentry, mechanics, shoemaking, electrical work, and other artisanal skills. For some displaced children who lack the resources to pursue higher education, learning these manual skills may be a more productive activity. Instead of leaving them to become more vulnerable in society, the talents they learn will make them helpful to themselves and the community. Once established, they may have a prosperous future, offering services to the community, hiring workers, raising their own families, and taking care of themselves, thereby enhancing quality of democracy' in countries' social, political, and economic development.

To encourage these children who are not able to acquire formal education, skill acquisition centers should be built where they can learn and pick up valuable talents. Schools should not be made to seem like a life-or-death situation or a divine mandate. Teaching young children, the skills they are interested in will have a good impact on their development in a variety of ways. A child can enroll in an academy if interested in acting as a career. Children interested in becoming makeup artists or hair weavers may enroll in a posh salon, while those interested in schooling would appreciate doing that. As they mature, they will understand how they may positively impact the nation's social, political, religious, and economic development.

The IDP children should be aware that education is crucial for their well-being and the exercise of other social rights. When students are in school, there should be a curriculum on the proper actions and methods to lead better, more successful lives as they grow older. For individuals who are interested in learning new talents, education can help them become more creative in whatever field they decide to pursue.

Education is the process of acquiring the knowledge, abilities, attitudes, and values necessary to contribute to society. If students' aptitudes are considered when guiding them and the government, guardians, NGOs, and all other parties involved in the care of the IDPs, especially the IDPs' children, all of whom have responsibilities and expectations, then nothing one does to meet up with life's expectations, and schooling as one of its agents, cannot be a scam. They would be able to contribute to a nation's social, political, and economic progress by consistently placing the needs of the children first.

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## APPENDIX

### Appendix A

#### QUESTIONNAIRE REGARDING THE SOCIAL AND EDUCATIONAL RIGHTS OF INTERNALLY DISPLACED CHILDREN

12/09/22, 2:43 PM

Questionnaire regarding the social and educational rights, of the internally displaced children and the quality of democracy in Nigeria

##### Questionnaire regarding the social and educational rights, of the internally displaced children and the quality of democracy in Nigeria

Dear Respondents,  
I am a Law student collecting data for my dissertation regarding "access to education by the internally displaced children in some selected informal IDP camps in Nigeria" being carried out in partial fulfillment of a doctoral degree.  
I kindly request that you attend to this questionnaire. The questionnaire will take less than 10 minutes to complete. Please, kindly respond based on your knowledge and/or practical experience.  
I assure you that all answers will remain and be treated in a confidential manner and will be used for the purpose of this study only. Your information such as your name or email address will not be collected.  
Answering this questionnaire will hopefully contribute towards improvement of the lives of vulnerable internally displaced persons. Thank you.

\* Required

##### Demographic

1. 1. What gender are you? \*

Mark only one oval.

- ☐ Female  
☐ Male  
☐ Prefer not to say  
☐ Other: \_\_\_\_\_

2. 2. Please select your age bracket \*

Mark only one oval.

- ☐ 18 - 30 years  
☐ 31- 44 years  
☐ 45 - 60 years  
☐ Above 60 years

3. 3. What region in the world are you currently? \*

Mark only one oval.

- ☐ Africa  
☐ Antarctica  
☐ Asia  
☐ Australia  
☐ Europe  
☐ North America  
☐ South America

4. 4. What country do you live in? \*

\_\_\_\_\_

## 5. What is the highest educational qualification you have attained? \*

Mark only one oval.

- ☐ Primary education  
☐ Secondary education  
☐ Bachelor's degree  
☐ Master's degree  
☐ PhD  
☐ No answer  
☐ Other: \_\_\_\_\_

## 6. What is your occupation? \*

Mark only one oval.

- ☐ Civil Servant  
☐ Legal practitioner  
☐ Self employed  
☐ Educational Administrator ( e.g. Commissioner, Director General, Inspector, Primary and Secondary School Teachers e.t.c.)  
☐ Non-governmental organisation (NGO) or Civil Society (CS)  
☐ Internally Displaced Persons (IDPs) Camp co-ordinator or other support staff  
☐ Other: \_\_\_\_\_

## 7. Have you heard of the word Internally Displaced Persons (IDPs)? \*

Mark only one oval.

- ☐ Yes  
☐ No  
☐ Maybe  
☐ Other: \_\_\_\_\_

## 8. If Yes, what do you understand by the term "Internally Displaced Persons (IDPs)"? \*

Check all that apply.

- ☐ People driven away from their homes but still within their country  
☐ People driven away from their homes and have left their country  
☐ People who willingly leave their homes for personal reasons  
☐ Not applicable  
☐ Other: \_\_\_\_\_

## 9. What do you think is/are cause(s) of their displacement? \*

Check all that apply.

- ☐ Security reasons  
☐ Medical reasons  
☐ Economic reasons  
☐ Other: \_\_\_\_\_

10. 10. Who are the categories of people you find in the IDPs camp? (Please tick all that applies) \*

*Check all that apply.*

- ☐ Men  
☐ Women  
☐ Children  
☐ Toddlers  
☐ Other: \_\_\_\_\_

11. 11. Whose situation among the categories of the people are most vulnerable. (Please tick all that applies) \*

*Check all that apply.*

- ☐ Men  
☐ Women  
☐ Children  
☐ Toddlers  
☐ Other: \_\_\_\_\_

12. 12. Have you visited/do you know of the activities in an IDP camp? \*

*Mark only one oval.*

- ☐ Yes  
☐ No

13. 13. If Yes, are educational facilities provided for the internally displaced children in this/these camp(s)? \*

*Mark only one oval.*

- ☐ Yes  
☐ No  
☐ Maybe  
☐ Not applicable

12/09/22, 2:43 PM

Questionnaire regarding the social and educational rights, of the internally displaced children and the quality of democracy in Nigeria

14. Tick any option that best suits the reasons why internally displaced children are unable to access education in the internally displaced persons camps (Strongly disagree, Disagree, Neutral, Agree, Strongly Agree) \*

Mark only one oval per row.

	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
Non availability of schools	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Long distance of schools from Homes/IDPs camp	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Inadequacies of physical Facilities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Security issues (fear of being attacked by the Boko haram or other Insurgency groups)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Health related issues or situation of some vulnerable children	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ill health keeps the children away from access education temporarily or permanently in some cases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Due to family background of the children	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

15. Do you think that lack of access to education by the internally displaced children in the IDPs camp will have an effect on the quality of democracy in Nigeria?

Mark only one oval.

☐ Yes

☐ No

☐ Maybe

12/09/22, 2:43 PM

Questionnaire regarding the social and educational rights, of the internally displaced children and the quality of democracy in Nigeria

16. If Yes, what impact do you think the lack of access to education by the internally displaced children in the IDPs camp have on the quality of democracy in Nigeria? \*

Mark only one oval.

☐ Affects human resources development of the nation

☐ Leads to cycle of poverty

☐ Lack of enjoyment of other human rights

☐ Lack of interdependent and identity

☐ There will be lack of understanding of social justice

☐ Crime will increase in the society

☐ Not applicable

17. Please pick any option that best suits the questions below (Strongly disagree, Disagree, Neutral, Agree, Strongly Agree) \*

Mark only one oval per row.

	Strongly Disagree	Disagree	Neutral	Agree	Strongly agree
Children who lack education have trouble getting ahead in life, have worse health and are poorer than the well-educated.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Poor health, lack of a voice, shorter lifespan, unemployment, exploitation and gender inequality are all effects of lack of access to education	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Poor housing conditions since it increase the risk of poverty. Poor people may not be able to afford rent in a nice neighborhood and may live in bad neighborhoods which may lead to low quality of life and insecurity for these people.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Higher levels of education are associated with a wide range of positive outcomes - including better health and wellbeing, higher social trust, greater political interest, lower political cynicism, and less hostile attitudes towards immigrants	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Access to education is the IDPs' main	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



12/20/22, 2:43 PM

Questionnaire regarding the social and educational rights, of the internally displaced children and the quality of democracy in Nigeria

displaced  
children is  
constrained by  
health related  
issues among  
the children

Social  
economic  
constrained is  
a factor why  
internally  
displaced  
children are  
unable to  
access  
education in  
the IDPs camp

☐ ☐ ☐ ☐ ☐

Non availability  
of schools in  
the camp is a  
major factor  
why the  
internally  
displaced  
children are  
unable to  
access  
education

☐ ☐ ☐ ☐ ☐

A large number  
of the children  
stay away from  
school in order  
to engage in  
the child work  
of bus  
conductor at  
part time or full  
time or to go  
and the farm to  
earn income to  
support their  
family at home

☐ ☐ ☐ ☐ ☐

18. 18. What is your view concerning the general welfare of the internally displaced persons in the IDPs camp (Tick all that applies) \*

Check all that apply.

- ☐ High rate of mortality than the general population
- ☐ High risk of physical assault attacks by insurgence and other dangerous groups
- ☐ Sexual assault, rapes
- ☐ Prevalence of teenage pregnancy
- ☐ No adequate shelter, food, no good cloth
- ☐ Unprotected sex among young boys and girls
- ☐ Sexually transmitted diseases
- ☐ Lack of good and adequate health services
- ☐ Lack of access to adequate education by the children
- ☐ There is so much hunger and diseases ravaging the IDPs camps
- ☐ Children are used as house maids, shop attendants, as child labourers

19. 19. What measures do you think should be put in place to reduce the problems of the internally displaced persons? \*

Check all that apply.

- ☐ The government of Nigeria should put an end to insurgency, unknown gunmen, banditry and kidnapping
- ☐ Government should provide adequate security in the country
- ☐ The government should protect lives and property of its citizens, it is their responsibility
- ☐ Put an end to the spate of kidnapping and killing
- ☐ The citizens are no longer safe, they sleep with one eye opened, the Nigerian government should do something as this act of insurgency and kidnapping is having grave consequence on the quality of democracy in Nigeria
- ☐ Government should overhaul its security system
- ☐ Other: \_\_\_\_\_

20. 20. How can the most vulnerable among the IDPs be protected from various forms of violence and human rights abuses? \*

Check all that apply.

- ☐ The IDPs should be resettled and returned to safety,
- ☐ Provide adequate shelter, food, and other basic necessity of life for the IDPs
- ☐ Provide adequate health facilities, provision of recreational facilities, for the
- ☐ Provide adequate education and educational facilities
- ☐ Making education accessible affordable and available to the displaced children,
- ☐ Protect the IDPs against harassment and other forms of human rights violation and abuses
- ☐ Other: \_\_\_\_\_

21. 21. Would you say that the government of Nigeria is doing enough to make education accessible and affordable for the internally displaced children (Tick all that applies) \*

Check all that apply.

- ☐ The government is doing enough to care for the IDPs
- ☐ A larger number of the IDPs are in a sorry state
- ☐ There is so much hunger in the camp
- ☐ The government has been able to provide adequate food on a daily basis
- ☐ The displaced children have been left inadequately provided for
- ☐ No good homes, no adequate or good accommodation
- ☐ The availability of educational facility is very poor
- ☐ There are no adequate educational structures
- ☐ There are no sufficient trained teaching personnel
- ☐ Education is not adequately accessible, available or affordable
- ☐ Other: \_\_\_\_\_

22. What is your opinion about the provision of health facilities in the IDPs camp generally in the era of COVID-19 Pandemic? (Tick all that applies)

Mark only one oval per row.

	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
Life in the camp is more difficult than the causes that lead to their displacement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
IDPs Camp are usually overcrowded by people of different age group	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There is serious hunger in the camp leading to malnutrition and other diseases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
No enough accommodation to adhere to COVID-19 WHO guidelines	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
No good health facilities to meet up with the population in the camp	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are different type of diseases ravaging quite a large number of the camp, the aged, toddlers, children women and men	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In my opinion the government is not doing and has not done enough for the provisions of health facilities for the IDPs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are no provisions to observe the World Health Organisation health guide lines such as social distance, regular wearing of face masks, washing of hands and use of hands sanitizers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

23. 23. Are you an Internally Displaced Persons camp coordinator, supervisors and the other supportive persons or staff? \*

Mark only one oval.

- ☐ Yes  
☐ No

Questions for Internally Displaced Persons camp coordinator, supervisors and the other supportive persons or staff

24. 24. Are educational facilities provided for the internally displaced children in this/your camp? \*

Check all that apply.

- ☐ Yes  
☐ No

25. 25. What type of educational facilities are provided? \*

\_\_\_\_\_

26. 26. What type of infrastructure and personnel available in school? (Please click all that applies) \*

Check all that apply.

- ☐ Block of class rooms  
☐ Classrooms  
☐ Books  
☐ Teaching aids  
☐ Funding (Not Salaries)  
☐ Desks  
☐ Recreational facilities  
☐ Other: \_\_\_\_\_

27. 27. The main problems inhibiting children in acquiring a basic education in the internally displaced children's camp are: \*

Mark only one oval.

- ☐ Lack of funding  
☐ General administration  
☐ Distant location of available facilities  
☐ Inadequate infrastructures  
☐ Children's poor attitude to school  
☐ Lack of adequate provision of schools in the camp  
☐ Schools are not available  
☐ School blocks are made of makeshift not habitable  
☐ Schools are well provided  
☐ Other: \_\_\_\_\_

28. 28. Is there any instances of improper sexual activities in the camp: e.g. looking at private part, touching any part of the body amorously and sexual intercourse? \*

Mark only one oval.

- ☐ Yes  
☐ No  
☐ Prefer not to say  
☐ Other: \_\_\_\_\_

29. 29. Are there alternative ways of training for the internally displaced children, such as skill acquisition centre and other artisans jobs? \*

Check all that apply.

- ☐ Yes  
☐ No  
☐ Other: \_\_\_\_\_

30. 30. Are you aware a component of children's right to education is free primary/secondary school education? \*

Check all that apply.

- ☐ Yes  
☐ No

31. Please pick any option that best suits the questions below (Strongly Disagree, Disagree, Neutral, Agree, Strongly Agree)

Mark only one oval per row.

	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
There are measures put in place for the protection of the child against all forms of child abuse, child labour, child sexual abuse, religious discrimination and intimidations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are adequate educational programmes designed for the disadvantages children in the IDPs camp	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There are special social based programmes to support the enjoyment of the rights of the internally displaced children in IDPs camp	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Non provision of the social welfare has made lives of the children in IDPs more improvised and difficult	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Not making education available, affordable, adequate and accessible, in the IDPs camp facilitates many IDPs children to be more idle	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Having education helps the children generally and the internally displaced	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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Questionnaire regarding the social and educational rights, of the internally displaced children and the quality of democracy in Nigeria

access all of  
their other  
rights,  
improves the  
chances of  
their life to  
help in  
tackling  
poverty

Educating the  
internally  
displaced  
children will  
improve the  
quality of  
democracy in  
Nigeria

☐ ☐ ☐ ☐ ☐

Not making  
education  
available,  
affordable,  
adequate and  
accessible, in  
the IDPs  
camp for the  
internally  
displaced  
children in the  
IDPs camp is  
a violation of  
the children's  
right to  
education

☐ ☐ ☐ ☐ ☐

Attacks on  
school's  
infrastructure,  
teachers,  
students,  
occupation of  
schools by the  
insurgence,  
police,  
military,  
harassment  
and threats  
against  
teachers,  
parents,  
students and  
the  
recruitment of  
children from  
schools to  
become  
soldiers is a  
violation of  
the children's  
right to  
education

☐ ☐ ☐ ☐ ☐

## Appendix B

### QUESTIONNAIRE ADMINISTERED TO CHILDREN RESIDING IN INTERNALLY DISPLACED PERSONS CAMP IN NIGERIA

Questionnaire to be administered on the children between the ages of 5-17 years in some selected  
Internally Displaced Persons (IDP) Camp in Nigeria

1. Please select your age bracket: (a) 5 - 9 years; (b) 10-13 years; (c) 14-17 years
2. Do you attend school? (a) Yes (a) No
3. If your answer to No. 2 above is YES; where is the school you are attending located?  
(a) Inside the IDP camp (b) Outside the IDP camp
4. Is the school a private school or is a government school?
5. If your answer to No. 2 above is NO; Why are you not in school  
(a) There is no school in the IDP camp or close by I can easily walk to  
(b) I don't have school materials like uniform, books and basic school needs
6. What level of school are you?  
(a) Primary (b) Secondary (c) I am not in school
7. What class are you?  
(a) Primary: 3, 4, 5, and 6 (b) JSS 1, 2, and 3 (c) SS 1, 2, and 3
8. How many times do you go to school in a week?  
(a) 2 times; (b) 3 times; (c) 4 times; (d) 5 times; (e) No I don't go to school at all
9. Would you have loved to go to school if schools and materials are provided?  
(a) Yes (b) No
10. What have you learnt from the school you are attending?  
(a) Reading only, (b) Writing only (c) Reading and writing, (c) I cannot read nor write
11. How many years have you been in this camp?  
(a) ----- years (b) ----- months
12. Do you know that going to school to acquire education can give you a career?  
(a) Yes (b) No
13. Do you know that if you go to school to acquire education it would make you a better person in life?  
(a) Yes (b) No
14. Before you came to this camp, were you attending school? (a) Yes (b) No
15. Did you notice any academic improvement since you came to this camp?  
(a) Before I came to this camp I could read and write because I was attending school  
(b) Before I came to this camp I could not read and write because I was not attending school  
(c) I learnt how to read and write in this camp because of the school I am attending  
(d) Before I came to this camp till date I don't know how to read or write because I don't attend school
16. What would you like to study to become in future if schools are provided for you?  
.....
17. Tick the most important what you would like the government, the NGOs and private individuals to provide in this camp to make the place a better place for you all to live in.  
(a) Provide food, Shelter, education, (b) hospital, cloths, and (c) electricity, water and vehicles.