

LEGAL AND INSTITUTIONAL CHALLENGES TO THE REALIZATION OF THE CHILD'S RIGHT TO EDUCATION IN NIGERIA

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Abstract

Education remains the cornerstone of human development and a vital instrument for the realization of other human rights. However, the protection of the child's right to education in Nigeria faces persistent obstacles despite its recognition under international, regional and national legal frameworks. That the enactment of the child right of 2003 and the Universal Basic Education Act of 2004 to enhance the right of the Nigerian child to education has not yet yielded the desired results. Furthermore, the inclusion of the child's right to basic education in Chapter II of the Constitution of Nigeria, 1999 (as amended) is not only cosmetic but ineffectual. Although the rights contained in Chapter II of the 1999 constitution particularly the rights of education are regarded as fundamental rights, their non justiciability unlike the rights contained in Chapter IV of the constitution, makes a mockery of the right of the Nigeria child to education. This paper examines the legal foundations of the child's right to education and analyses the multifaceted challenges impeding its full realization, including poverty, insecurity, cultural barriers, gender inequality and weak institutional enforcement. Employing a doctrinal research methodology, it draws upon statutes, judicial decisions and scholarly commentary to assess Nigeria's compliance with global standards. The paper concludes by offering pragmatic recommendations for legal and policy reforms to strengthen the protection and enforcement of the child's right to compulsory quality education.

Keywords: Child, Education, Human Rights, Enforcement, Protection, Challenges.

1. Introduction

Education is universally acknowledged as a fundamental human right and a catalyst for the advancement of individuals and societies alike. The right to education is intrinsic to human dignity and essential for the exercise of other human rights, particularly in the case of children whose development and future prospects depend largely on the quality and accessibility of education they receive. In Nigeria, as in many developing nations, the protection of the child's right to education has become a subject of urgent concern, given the persistent challenges that continue to undermine effective implementation of legal guarantees.¹ The United Nations Universal Declaration of Human Rights (UDHR) 1948 declares that "everyone has the right to education", emphasizing that elementary education shall be free and compulsory.² This foundational declaration paved the way for subsequent international treaties such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966 and the

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¹ A. Alen, *General Principles of the Convention on the Rights of the Child* (Antwerp: Intersentia, 2006) 45.

² Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A (III), art 26.

Convention on the Rights of the Child (CRC) 1989, both of which enjoin State Parties to recognize and ensure the right of every child to education.³ At the regional level, the African Charter on the Rights and Welfare of the Child (ACRWC) 1990 further reinforces this commitment by requiring member states to take measures that promote free and compulsory basic education.⁴ Nigeria has domesticated these international obligations through various legal and policy frameworks. Chief among them is the Child's Rights Act (CRA) 2003, which provides that every child has a right to free, compulsory and universal basic education and that the government shall provide such education.⁵ This right is further echoed in Section 18 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), which enjoins the State to direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels.⁶ The Universal Basic Education Act 2004 operationalizes this constitutional directive by making basic education both free and compulsory.⁷ Despite these comprehensive legal provisions, the realization of the child's right to education in Nigeria remains far from satisfactory. Millions of Nigerian children are out of school due to poverty, insecurity, socio-cultural biases and inadequate government funding.⁸ According to UNICEF, Nigeria currently accounts for one of the highest numbers of out-of-school children in the world, a situation that undermines the country's developmental aspirations and human rights commitments.⁹ The challenges are multifaceted and deeply entrenched. In many rural areas, educational infrastructure is dilapidated or non-existent, teachers are under qualified and school attendance is low, particularly among girls.¹⁰ In northern Nigeria, insurgency and terrorism have further aggravated the situation, with attacks on schools and abductions of students instilling fear in families and discouraging school enrolment.¹¹ Moreover, systemic corruption and policy inconsistency continue to hamper the effective implementation of educational programmes.¹² Cultural and religious beliefs also play a significant role in perpetuating gender-based disparities in access to education. In some communities, early marriage and child labour take precedence over schooling, effectively denying children especially girls the opportunity to pursue education.¹³ Similarly, children with disabilities often face exclusion due to inadequate facilities and a lack of inclusive educational policies.¹⁴ This paper therefore seeks to critically analyze the challenges impeding the protection of the child's right to education in Nigeria. It adopts a doctrinal legal research methodology, drawing on constitutional provisions, statutes, judicial

³ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3, art 13; Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, art 28.

⁴ African Charter on the Rights and Welfare of the Child (adopted 11 July 1990, entered into force 29 November 1999) OAU Doc CAB/LEG/24.9/49, art 11.

⁵ Section 15(1), Child's Rights Act 2003.

⁶ Section 18(1), Constitution of the Federal Republic of Nigeria 1999 (as amended).

⁷ Section 2, Universal Basic Education Act 2004.

⁸ T. Ogunyemi, 'Education and Human Rights in Nigeria' (2019) 5 *Nigerian Journal of Human Rights* 78, 81.

⁹ UNICEF, *Situation Analysis of Out-of-School Children in Nigeria* (UNICEF Nigeria, 2022) 3.

¹⁰ F. A. Ajayi, *Education and Development in Nigeria* (Lagos: University Press, 2018) 122.

¹¹ M. Yahaya, 'Terrorism and the Right to Education in Northern Nigeria' (2020) 14 *African Human Rights Law Journal* 214, 219.

¹² B. I. Ojo, 'Accountability and the Nigerian Education Sector' (2021) 7 *Journal of African Studies and Governance* 99, 104.

¹³ O. E. Eze, *Cultural Barriers to Girl-Child Education in Nigeria* (Enugu: Fourth Dimension Publishers, 2020) 65.

¹⁴ N. A. Adewale, 'Inclusive Education and the Rights of Children with Disabilities in Nigeria' (2019) 3 *Nigerian Law Review* 88, 93.

decisions and academic writings to assess the adequacy of existing frameworks and their implementation. The study also undertakes a comparative analysis with other jurisdictions such as South Africa and Kenya to identify lessons that may be applicable to Nigeria's context. The overarching aim is to advance the discourse on the child's right to education by identifying the gaps between law and practice and proposing effective strategies for reform. The protection of this right is not merely a legal obligation but a moral and developmental imperative, as the future of the nation depends on an educated and empowered generation of children. Ultimately, this paper argues that for Nigeria to fulfill its constitutional and international commitments, there must be a concerted effort to overcome the structural, economic and cultural barriers that hinder children's access to quality education.

1. Historical Development of Educational Rights in Nigeria

Historically, education in Nigeria evolved from traditional systems of informal learning before colonialism, where children were taught moral values, craftsmanship, and community duties through observation and participation.¹⁵ The introduction of Western education during the colonial period shifted the focus toward literacy, religious instruction, and clerical skills, laying the foundation for modern schooling systems. However, this early system was largely elitist, urban-centered, and discriminatory, leaving many indigenous children excluded from formal education.¹⁶ Post-independence Nigeria recognised education as a vital tool for national development. The 1977 **National Policy on Education**, which has undergone several revisions, declared education to be the “instrument par excellence for effecting national development.”¹⁷ This policy articulated the government's intention to provide free and compulsory education at the primary level and equitable access at other levels. Yet, despite these pronouncements, implementation lagged due to insufficient political will, poor funding, and infrastructural deficits.¹⁸ The constitutional recognition of education came with the **1979 Constitution**, which introduced the concept of Fundamental Objectives and Directive Principles of State Policy under Chapter II.¹⁹ These objectives, retained in the **1999 Constitution**, underscore the government's responsibility to ensure equal and adequate educational opportunities at all levels.²⁰ However, the non-justiciability of these provisions under Section 6(6) (c) weakened their enforceability, transforming education into a policy aspiration rather than a guaranteed right.²¹ It was not until the enactment of the **Child's Rights Act 2003** and the **Universal Basic Education Act 2004** that education began to assume the status of a justiciable right for children in Nigeria. These statutes domesticated the provisions of international conventions and imposed explicit duties on the state and parents to ensure that every child enjoys free and compulsory basic education.²²

2. Defining the Child and the Right to Education

¹⁵ A Akinola, *Traditional Education in Pre-Colonial Nigeria* (Lagos: Macmillan, 2017) 14.

¹⁶ J F Adeyemi, ‘Colonialism and Educational Inequality in Nigeria’ (2018) 5 *African Journal of History and Culture* 102, 107.

¹⁷ Federal Republic of Nigeria, *National Policy on Education* (Revised 2014) para 1.

¹⁸ T Akinbote, ‘Policy Implementation and the Decline of Educational Standards in Nigeria’ (2020) 9 *Journal of Educational Management* 64, 69.

¹⁹ Ch. II Constitution of the Federal Republic of Nigeria 1979.

²⁰ S. 18(1) Constitution of the Federal Republic of Nigeria 1999 (as amended).

²¹ S. 6(6)(c) Ibid.

²² S. 2(1) Child's Rights Act 2003, s 15(1); Universal Basic Education Act 2004.

The **Child's Rights Act 2003** defines a child as “a person who has not attained the age of eighteen years.”²³ This definition aligns with the **Convention on the Rights of the Child** and the **African Charter on the Rights and Welfare of the Child**, thereby ensuring consistency between domestic and international frameworks.²⁴ The right to education, as provided under Section 15 of the Child Right Act, guarantees every child access to free, compulsory, and universal basic education.²⁵ The term “right to education” encompasses both the **entitlement** of every child to access education and the **obligation** of the state to provide it. It is a two-sided legal concept that confers duties on multiple actors: the state, parents, and society.²⁶ According to Tomasevski²⁷, education must satisfy the four interrelated criteria of **availability, accessibility, acceptability, and adaptability** collectively known as the “4-A framework.” This means that schools and teachers must be available in sufficient quantity, education must be physically and economically accessible to all children, its content must be acceptable in quality and relevance, and it must be adaptable to the diverse needs of learners.²⁸ In Nigeria, this multidimensional understanding of educational rights has influenced policy and judicial interpretations. Courts and scholars alike now acknowledge that the right to education extends beyond mere physical attendance in school to include quality learning, safe environments, and non-discrimination.²⁹ The concept of the child's right to education in Nigeria is rooted in the recognition that education is both a developmental necessity and a legal entitlement. It represents a bridge between human capital development and human rights realization. The Nigerian legal system, influenced by international standards, views the child's right to education as an inalienable component of the broader right to life and dignity.³⁰ Education, in this sense, is not merely a privilege granted by the state, but a constitutional, statutory, and moral obligation that demands concrete implementation measures. Although the right to education is not expressly listed among the Fundamental Human Rights in Chapter IV of the Constitution, it is intricately linked with other protected rights such as the right to life, dignity, and non-discrimination.³¹ The **Supreme Court of India** in *Unnikrishnan v State of Andhra Pradesh*³² held that the right to education is implicit in the right to life and human dignity, a reasoning that has influenced human rights jurisprudence globally. Nigerian legal scholars argue that a similar interpretation could be advanced under **Section 33** (right to life) and **Section 34** (right to dignity of human person) of the Nigerian Constitution.³³

Furthermore, the **ECOWAS Court of Justice** in *SERAP v Federal Republic of Nigeria* affirmed that the right to education is justiciable under international law and that Nigeria's failure to

²³ S 277 Child's Rights Act 2003.

²⁴ Art. 2 Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, art 1; African Charter on the Rights and Welfare of the Child (adopted 11 July 1990, entered into force 29 November 1999) OAU Doc CAB/LEG/24.9/49.

²⁵ S 15(1) Child's Rights Act 2003.

²⁶ P Alston and R Goodman, *International Human Rights* (Oxford University Press 2013) 324.

²⁷ K Tomasevski, *Human Rights Obligations in Education: The 4-A Scheme* (UNESCO, 2001) 9.

²⁸ *ibid*

²⁹ N E Onwe, ‘Judicial Protection of the Right to Education in Nigeria’ (2021) 8 *Nigerian Journal of Legal Studies* 77, 84.

³⁰ C Okeke, *Education and Human Rights in Africa* (Ibadan: Spectrum Books, 2019) 27.

³¹ Ss. 33, 34, 42 Constitution of the Federal Republic of Nigeria 1999 (as amended).

³² (1993) 1 SCC 645 (Supreme Court of India)

³³ O I Eje, *Human Rights and Constitutional Development in Nigeria* (Enugu: CIDJAP Press, 2020) 112.

adequately fund its public education sector constitutes a violation of its legal obligations.³⁴ This decision underscores that education, though non-justiciable domestically, carries binding international weight.³⁵ The **Child's Rights Act** strengthens this position by imposing enforceable duties on parents and guardians to ensure that their children attend and complete basic education.³⁶ Section 15(7) of the Act criminalizes the failure of a parent or guardian to enroll a child of school age, indicating a shift from voluntary compliance to mandatory responsibility.³⁷ The right to education is multi-dimensional in nature, comprising **rights to access, rights to quality, and rights to outcomes**.³⁸ Access guarantees entry into the educational system, quality ensures effective learning through appropriate curricula and trained teachers, while outcomes ensure that education equips children with skills necessary for life and citizenship.³⁹ The Nigerian framework tends to emphasize access while neglecting quality and outcomes, leading to poor learning achievements and high dropout rates.⁴⁰ In essence, the child's right to education in Nigeria transcends statutory declaration; it embodies the state's broader commitment to human development and equality. Yet, as subsequent sections will show, the fulfillment of this right is hindered by structural, cultural, and administrative barriers that persist despite the existence of robust legal frameworks.

3. Legal Framework for the Protection of the Child's Right to Education

The protection of the child's right to education is grounded in a robust framework of international, regional and national legal instruments, all of which collectively emphasize education as both a human right and a means for human development. These frameworks impose obligations on states to make education accessible, available, acceptable and adaptable to the needs of children.⁴¹ Nigeria, as a signatory to many of these instruments, bears both moral and legal responsibility to ensure that every child enjoys equal educational opportunities.

i. International Legal Framework

- a. **Universal Declaration of Human Right:** The recognition of education as a human right originated in the **Universal Declaration of Human Rights (UDHR) 1948**, which states unequivocally in Article 26 that "everyone has the right to education" and that "elementary education shall be free and compulsory."⁴² The UDHR further highlights that education should promote understanding, tolerance and friendship among all nations, thereby linking it with broader objectives of peace and human dignity. Although the Declaration itself is not legally binding, it established a universal moral and normative foundation upon which subsequent treaties were built.⁴³ The **International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966** provides the most comprehensive binding framework for the right to education. Article 13 of the Covenant obliges States Parties to recognize the right of everyone to education and to ensure that primary education is compulsory and available

³⁴ (2010) ECW/CCJ/APP/08/09, ECOWAS Court of Justice, Judgment of 27 October 2010, para 38.

³⁵ Ibid.

³⁶ S. 15(6) Child Rights Act 2003.

³⁷ S. 15(7) Child Rights Act 2003

³⁸ M J King, *Education as a Human Right in International Law* (Oxford University Press 2017) 54.

³⁹ Ibid.

⁴⁰ B I Ojo, 'Quality Education and Human Rights in Nigeria' (2022) 10 *Nigerian Journal of Public Law* 121, 124.

⁴¹ K Tomasevski, *Human Rights Obligations in Education: The 4-A Scheme* (UNESCO, 2001) 9.

⁴² Article. 26 Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A (III).

⁴³ P Alston and R Goodman, *International Human Rights* (Oxford University Press 2013) 320.

free to all.⁴⁴ The Covenant also mandates that secondary and higher education be made accessible to all, particularly by the progressive introduction of free education.⁴⁵ Importantly, Article 2(1) of the ICESCR requires States Parties, including Nigeria, to take steps both individually and through international assistance to realize these rights to the maximum of their available resources.⁴⁶ As a legal development, the human rights that were phrased in broad and general terms in the UN Charter got spelt out in detailed and specific terms in the Universal Declaration of Human Rights 1948. The Commission on Human Rights, established by the UN Charter was presented with the maiden task of drafting an international bill of rights.⁴⁷ The Bill, upon presentation to the General Assembly, was confronted with stark criticism for expressing the predominance of Western culture. However, the draft of the Universal Declaration of Human Rights was on December 10, 1948 unanimously approved by the General Assembly of the United Nations Organization (UNO).⁴⁸ The Declaration embodies two categories of rights to wit: the traditional civil and political rights otherwise referred to as the first generation rights, and the economic, social and cultural rights referred to as the second generation rights. The first category, acknowledges the equality of all persons in dignity and in rights. It includes the right to life, liberty and security of persons; freedom from slavery, servitude and slave trade in all its manifestation; freedom from torture or cruel, inhuman or degrading treatment or punishment; freedom from arbitrary arrest, detention or exile, right to fair and public hearing by an independent and impartial tribunal; right to recognition; freedom from discrimination; right to presumption of innocence and freedom from criminal liability under retrospective legislation; right to privacy and to found a family; freedom of movement and residence; right to asylum and nationality; freedom of thought, conscience and religion; peaceful assembly and association; participation in governance and legal access to the public service; and right to vote in periodic election⁴⁹. In the second category, the Declaration provides for the right to work under security; right to work under just and favourable conditions; rest and leisure; right to adequate standard of living; right to education; participation in the cultural life of the community; enjoyment of the arts and sharing in scientific advancement and its benefits⁵⁰ and entitled to a social and international order propitious to the enjoyment of the forgoing rights and freedom.

b. The International Covenant on Economic, Social and Cultural Rights – The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a cognate of the International Covenant on Civil and Political Rights having been unanimously adopted in 1966 by a UN General Assembly Resolution.⁵¹ It also entered into force on January 3, 1976. The task of monitoring compliance by the state parties with their legal obligation incurred under the ICESCR is entrusted in the United Nations Economic and Social Council,

⁴⁴, Article. 13(1) International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3

⁴⁵ Article 13(2) Ibid.

⁴⁶ Article 2(1) Ibid.

⁴⁷ Universal Declaration of Human Rights 1948.

⁴⁸ Articles 1-20 of the Universal Declaration of Human Rights 1948.

⁴⁹ Universal Declaration of Human Rights, Article 23.

⁵⁰ Ibid, Articles 24 and 27.

⁵¹ UN General Assembly Res. 2000A (XXI) of 16 December 1966.

However, this task has since 1985 been carried out by the committee on Economic, Social and Cultural Rights which is, in strict terms, not a treaty organ.⁵² The International Covenant on Economic, Social, Cultural Rights, and the International Covenant on Civil and Political Rights were initially elaborated by the UN Commission on Human Rights and were contained in one document but later separated to pave way for two not applicable covenants that were to be adopted simultaneously. The reason for separating them was the economic, social and Cultural Rights assumed a complex nature which demands particularly careful drafting and special implementation mechanism adopted to the specific nature of the rights, States also had differing levels of development. As such, ICESCR was to be designed to provide for the progressive implementation by different states.⁵³ The International Covenant on Economic, social and Cultural Rights guarantees a number of rights as: the right to work and to livelihood⁵⁴, the right to enjoy just and favourable condition of work, including fair remuneration for work of equal value without distinction of any kind, the right to form and join trade unions of one's choice,⁵⁵ the right to social security and insurance,⁵⁶ the right to protection and assistance to the family; marriage, maternity protection and assistance to the family, protection and assistance to the children and young person⁵⁷, Rights to an adequate standard of living and adequate food, clothing and housing to continuous improvement on living condition⁵⁸, the right to the highest attainable standard of physical and mental health.⁵⁹ The right to education⁶⁰, the undertaking by state to develop detail plans of action where compulsory primary education is not yet secured⁶¹, the right to participate in the cultural life, to enjoy the benefits of scientific progress and to benefit from the protection of the moral and material interest resulting from any scientific, literary or artistic production.

- c. **The Convention on the Rights of the Child 1989: The Convention on the Rights of the Child 1989** specifically addresses the rights of children, providing a child-centered articulation of the right to education. Article 28 of the CRC enjoins States Parties to make primary education compulsory and available free to all, while encouraging the development of different forms of secondary education and measures to reduce school drop-out rates.⁶² Article 29 goes further to outline the aims of education, emphasizing the development of the child's personality, talents and mental and physical abilities to their fullest potential.⁶³ The CRC thus broadens the understanding of education beyond mere literacy and schooling to include holistic human development. Complementing the CRC, the **Convention against**

⁵² Alston, P., The International Covenant on Economic, Social and Cultural Rights, Manual on Human Rights Reporting Pp. 57-129.

⁵³ See generally, Human Rights in the Administration of Justice, a Publication of Human Rights Library, University of Minnesota, Chapter 2, available at <http://humanncihts:lawmanash.eduau/monitoring/admchap2html>. (25/06/2016).

⁵⁴ International Covenant on Economic, social and Cultural Rights (ICESCR), Articles 6.

⁵⁵ Ibid, Article 7.

⁵⁶ Ibid, Article 8.

⁵⁷ Ibid, Article 9.

⁵⁸ Ibid, Article 10.

⁵⁹ Ibid, Article 11.

⁶⁰ Ibid, Article 12.

⁶¹ Ibid, Article 13.

⁶² Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, Article 28(1) (a).

⁶³ Ibid, Article 29(1)(a)–(d).

Discrimination in Education adopted by UNESCO in 1960, prohibits discrimination based on race, sex, religion or any other ground in educational access and quality.⁶⁴ This underscores that education must not only be provided but also be inclusive and equitable. In the same vein, the **Convention on the Elimination of All Forms of Discrimination against Women 1979** reaffirms the right of women and girls to equal access to education and compels States Parties to eliminate gender-based barriers in schooling.⁶⁵ Collectively, these international instruments establish education as an enforceable right and impose duties on States to respect, protect and fulfill it.⁶⁶ In the Nigerian context, their significance lies in their incorporation into domestic law and their influence on policy formation, judicial reasoning and legislative enactments.

4. Regional Legal Framework

i. African Charter on Human and Peoples' Rights 1981

At the regional level, Africa has also demonstrated a strong commitment to promoting children's educational rights through several treaties and charters. The **African Charter on Human and Peoples' 1981**, in Article 17, provides that every individual shall have the right to education, thereby recognizing education as both an individual entitlement and a collective societal necessity.⁶⁷ However, the ACHPR's provisions are general in nature and do not specifically focus on children. The Nigerian State by way of bilateral co-operation has entered into treaties with other nations of the world on areas of common interest including human rights promotion. Under section 12 of the constitution of the Federal Republic of Nigeria, no treaty between Nigeria and other State shall have the force of law in Nigeria unless it is domesticated. It is in the light of this that the African Charter on Human and Peoples' Rights was domesticated vide Chapter 10, Laws of the Federation of Nigeria, 1990 (now Chapter A9 Laws of the of the Federation of Nigeria, 2004). Therefore, the African Charter on Human and People's Rights (Ratification and Enforcement) Act is a Nigerian municipal enactment. Suffice it to say that in Nigeria, the African Charter is not purely a matter of public international law regulating states that are signatories. It is an understanding between member's state that are signatories .It is an understanding between some African states concerned to protect and improve the human rights and dignity of their citizens and other citizens within the territorial jurisdiction of the countries, to the commitment of which that understanding has translated into a legal obligation by adopting the charter as a domestic law. The Charter gives citizens of member states rights and obligation that are to be enforced by Courts of member states, if they must have any effect. It is however, interesting to note that the non-justiciability of Chapter II of the 1999 Constitution has no effect on the socio-economic and cultural rights under the African Charter. In *Attorney General of Ondo State v Attorney General of the Federation*,⁶⁸ the Supreme Court observed:

Court cannot enforce any of the provisions of Chapter II of the constitution until the National Assembly has enacted specific laws for their enforcement, as

⁶⁴ Convention against Discrimination in Education (adopted 14 December 1960, entered into force 22 May 1962) 429 UNTS 93, Article 1.

⁶⁵ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, Article 10.

⁶⁶ M Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary* (2nd edn, NP Engel 2005) 612.

⁶⁷ Article 17 African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217.

⁶⁸ 42(2000) 9 NWLR (Pt. 772), P. 222

has been done in respect of section 15(5) of the 1999 constitution by the enactment of the corrupt practices and other related offences Act 2000.

ii. African Charter on the Rights and Welfare of the Child 1990

To fill this gap, the **African Charter on the Rights and Welfare of the Child 1990** was adopted. Article 11 of the ACRWC comprehensively provides for the right of the child to education and outlines the duties of member states to take all appropriate measures to ensure that education is directed toward the promotion and development of the child's personality, talents and mental and physical abilities to their fullest potential.⁶⁹ The ACRWC further obligates states to make primary education free and compulsory, encourage the development of secondary and higher education, and take steps to reduce school drop-out rates.⁷⁰ The **Agenda 2063 of the African Union**, which seeks to achieve inclusive growth and sustainable development across Africa, also prioritizes education, particularly in its aspiration to “build well-educated citizens and a skills revolution underpinned by science, technology and innovation.” The **African Youth Charter (2006)** complements these efforts by recognizing education as a right and responsibility of every youth and by urging states to promote literacy and vocational training.⁷¹ The **ECOWAS Protocol on Education and Training 2003** further enhances regional cooperation among West African states, including Nigeria, by promoting exchange of educational resources, harmonization of curricula and joint development programmes.⁷² These regional frameworks underscore the collective responsibility of African nations to ensure that every child is provided with quality education as a pathway to development and integration.

5. Domestic Legal Framework

i. The Nigerian Constitution

Domestically, Nigeria has incorporated many of its international obligations into its legal system. The **1999 Constitution of the Federal Republic of Nigeria (as amended)** is the supreme law of the land and provides the foundational basis for the right to education. Section 18 of Chapter II (Fundamental Objectives and Directive Principles of State Policy) states that “government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels.”⁷³ However, because Chapter II is non-justiciable under Section 6(6)(c) of the Constitution, these provisions are aspirational rather than enforceable in court.⁷⁴ The rights under Chapter II which are political, economic, social, cultural, educational and environmental rights embrace the right to work, right to just condition of work, right to an adequate standard of living, right to organize, form and join trade unions, right to collective bargaining, right to equal pay for work, right to security, right to property, right to education and right to participate in cultural life and enjoy the benefit of scientific progress. Section 18 of the Constitution provides for education opportunities for all levels, but in practice, it is not realizable as it false and relief to the Nigerian Citizens. The essence of relief that these provisions in Chapter II of the Constitution are thought to have provided is obliterated by the Constitution itself, which unequivocally provides in section 6 (6)(C) that the Judicial Powers vested in the courts:

⁶⁹ Article 11(1) African Charter on the Rights and Welfare of the Child (adopted 11 July 1990, entered into force 29 November 1999) OAU Doc CAB/LEG/24.9/49.

⁷⁰ Ibid, Article 11(3).

⁷¹ African Union, *Agenda 2063: The Africa We Want* (African Union Commission 2015) Aspiration 1.

⁷² African Youth Charter (adopted 2 July 2006, entered into force 8 August 2009) art 13.

⁷³ ECOWAS Protocol on Education and Training (adopted 2003), article 2.

⁷⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 18(1).

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 as 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 provisions of Chapter II are said to be non-justiciable as they constitute mere ideas towards which the states are expected to aim.⁷⁵ The regrettable import of these provisions can be discerned from the lucid lamentation of a renowned judge, Akinola Aguda:

I feel much concerned to think that the Directive Principles are to be regarded as mere ideas, the arrival of which the citizens can only pray and hope for, but in respect of which he cannot ask for assistance whatsoever from the courts. If this were so then, wherein lies the expectation and the hope of a bright future for the teeming millions of our people who manage merely to survive at near starvation levels.⁷⁶

The non-enforceability of the rights to education of the Nigerian Child among other rights in the Constitution, defeats the very essence of the said provision.

ii. Child's Rights Act

To strengthen the enforceability of educational rights, the **Child's Rights Act 2003** was enacted to domesticate the CRC and ACRWC. Section 15(1) of the CRA provides that every child has the right to free, compulsory and universal basic education, while Section 15(2) imposes an obligation on the government and parents to ensure that such education is provided and received.⁷⁷ The CRA thus bridges the gap between constitutional aspirations and enforceable obligations, although its implementation remains uneven across states, as not all have adopted the Act.⁷⁸ The Act⁷⁹ places emphasis on the interest of the Child as a primary consideration in all actions affecting the Child, particularly in relation to his survival, health, education, family life protection from Child Labour, social exploitation, marriage and trafficking.⁸⁰ The Child Rights Act is the principal enactment which guarantees the rights of children in Nigeria.⁸¹ The Child Rights Act makes⁸² it mandatory that free and compulsory Primary education be provided by the government for every Nigerian Child. The Act also provides that secondary and higher education are available to the Child.⁸³ In promoting the right of the Nigerian Child to education, the government is enjoined to encourage access to vocational guidance in order to reduce the rate of out of school dropout.⁸⁴ Furthermore, in administering the provisions of the Act⁸⁵ requires that the discipline in school is pivotal but must be carried out in such a way that it does not infringe

⁷⁵ Chapter II of the 1999 Constitution of the Federal Republic of Nigeria. See Okojie and Ors v A.G Lagos State (1981) NCLR 218.

⁷⁶ Jemibewon D.M, *The Military Law and Society: Reflection of a General* (Ibadan: Spectrum Books Ltd., 1998), p.109.

⁷⁷ *ibid* s 6(6)(c).

⁷⁸ Child's Rights Act 2003, s 15(1)–(2).

⁷⁹ J.M Elegido, *Jurisprudence*, Ibadan Spectrum Books Limited, 2010, page 155

⁸⁰ Child Rights Act 2003, s. 1.

⁸¹ *Ibid*, part 1.

⁸² *Ibid*, s. 15(I) .

⁸³ *Ibid*.

⁸⁴ *Ibid*, ss.50 and 51.

⁸⁵ Child Rights Act 2003.

on the right to human dignity of a child.⁸⁶ In this wise, the Human Rights Commission has in line with its core mandate of promoting and protecting human rights has beamed its searchlight of extending human rights protection of the Citizens to the Nigerian Child by ensuring that all Children are enrolled in school, The Commission has engaged in the sensitization of Parents, Guardians and Civil Society Organizations to enforce the right to education of the Nigerian Child.

iii. Universal Basic Education Act

The **Universal Basic Education Act 2004** provides the institutional and administrative framework for the actualization of free and compulsory basic education in Nigeria.⁸⁷ It mandates every government in Nigeria to provide free, compulsory and universal basic education for every child of primary and junior secondary school age, and penalizes parents who fail to comply.⁸⁸ The Act established the **Universal Basic Education Commission**, which oversees the coordination and monitoring of basic education programmes across the country.⁸⁹ The Act⁹⁰ places an obligation on the Nigerian Government to provide free, compulsory and basic universal education to every Nigerian Child⁹¹ by the Act⁹², entitlement to basic and universal education for a child of school age is guaranteed. The Act⁹³ further thrust on the shoulders of parents and guardians the duty to ensure that their children or wards attend and complete both their Primary and Junior Secondary School education. The objective of the Act⁹⁴, is established a strong foundation for learning, self-reliance and sustainable national development. The passage of the Act⁹⁵, has led to increased enrolment in schools. The coming into force of the Act⁹⁶, has also led to improved access to education, increased infrastructure including standard classrooms and furniture as well as reduction of illiteracy among children and vulnerable groups. The Act established the Universal Basic Education Commission to co-ordinate the effective implementation of the Act⁹⁷ by disbursing the Federal Government Intervention Funds to states and other stakeholders in the implementation of the Universal Basic Education Programme. The attainment of some of the lofty provisions of the Act⁹⁸ through the commission gave birth to the State Universal Primary Education Board of the different States of Nigeria and the Local Government Educational Authority saddled with the responsibility in education at the basic level.⁹⁹ However inspite of the positive intendment of the Act¹⁰⁰, its effective implementation has been bugged down by a variety of factors including inadequate and unstable funding, corruption, poor infrastructure, lack of qualified teaching personnel, inadequate supervision of staff, poverty

⁸⁶ Ibid, s. 3.

⁸⁷ A O Adeola, 'Implementation Challenges of the Child's Rights Act in Nigeria' (2020) 6 *African Journal of Legal Studies* 45, 49.

⁸⁸ Universal Basic Education Act 2004, s 2(1).

⁸⁹ ibid s 2(2)–(3) of the Universal Basic Education Act 2004

⁹⁰ Ibid, s. 2(i).

⁹¹ Ibid, s. 2(iii).

⁹² Ibid, s. 2(ii).

⁹³ Ibid, s. 2.

⁹⁴ Ibid, s. I.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ Ibid, s. 12.

⁹⁹ Ibid, s. 13.

¹⁰⁰ Ibid, s. 1.

and cultural barriers. It is contended that if the highlighted challenges are adequately addressed the purport of the Act¹⁰¹ will undoubtedly enthrone quality education for the Nigerian Child.

iv. The Education (National Minimum Standards and establishment of Institutions Act)

The **Compulsory, Free Universal Basic Education Act** and the CRA are further complemented by the **Education (National Minimum Standards and Establishment of Institutions) Act 1985**, which empowers the Federal Government to lay down minimum standards for all levels of education.¹⁰² This ensures that the quality of education provided across institutions meets national expectations. Judicial interpretation has also reinforced the importance of education as a right in Nigeria. In *SERAP v Federal Republic of Nigeria*, the ECOWAS Court of Justice held that the right to education is a fundamental right under international law and that Nigeria has a legal obligation to provide free and quality education to its citizens.¹⁰³ The Court further ruled that failure to provide adequate funding for public education constitutes a breach of Nigeria's international obligations.¹⁰⁴ Although decisions of the ECOWAS Court are not always fully enforced domestically, they carry persuasive authority and reaffirm Nigeria's accountability to its international commitments. Moreover, state-level legislation such as the **Lagos State Child's Rights Law 2007** and similar enactments across other states provide for free and compulsory education within their jurisdictions, thereby localizing national and international norms.¹⁰⁵ These laws, when effectively implemented, demonstrate the federal structure of Nigeria's commitment to education as a shared responsibility among all tiers of government. The domestic legal framework thus creates a multi-layered system of protection for the child's right to education, integrating international obligations, regional commitments and national policies. Yet, despite this elaborate structure, significant challenges persist in implementation, enforcement and monitoring—issues that will be addressed in subsequent sections. The gap between legal recognition and practical realization remains the greatest impediment to achieving universal education for all Nigerian children.¹⁰⁶

6. Interplay between Statutory, Customary and Judicial Perspectives

Nigeria's plural legal system comprising statutory, customary, and religious laws, creates unique complexities in implementing children's educational rights. In many traditional societies, education was historically informal and community-based, focusing on moral and vocational training rather than Western literacy.¹⁰⁷ While these indigenous systems had their merits, they did not always prioritize formal schooling, especially for girls.¹⁰⁸ Cultural norms that perpetuate early marriage, child labour, and gender-based discrimination continue to hinder the practical enforcement of educational rights, particularly in northern Nigeria. The **Sharia and customary**

¹⁰¹ Ibid, s. 12.

¹⁰² Education (National Minimum Standards and Establishment of Institutions) Act 1985, s 1.

¹⁰³ *SERAP v Federal Republic of Nigeria* (2010) ECW/CCJ/APP/08/09, ECOWAS Court of Justice, Judgment of 27 October 2010.

¹⁰⁴ Ibid para 38.

¹⁰⁵ Lagos State Child's Rights Law 2007, s 14.

¹⁰⁶ B I Ojo, 'Bridging the Implementation Gap in Nigerian Education Law' (2021) 7 *Journal of African Studies and Governance* 121, 127.

¹⁰⁷ E O Adekoya, *Indigenous Education in Africa: Continuity and Change* (Ibadan: University Press, 2018) 31.

¹⁰⁸ I A Danladi, 'Gender Inequality and the Right to Education in Northern Nigeria' (2020) 4 *Journal of African Socio-Legal Studies* 89, 91.

practices often place family obligations and marriage above schooling, creating a conflict between statutory provisions and traditional expectations.¹⁰⁹ In *Lagos State v Umaru*¹¹⁰, the court emphasized that where customary practices conflict with statutory provisions on child protection, the latter shall prevail, reaffirming the supremacy of statutory rights.¹¹¹ The CRA, being a federal enactment, is not automatically binding in all Nigerian states due to the country's federal structure. Each state must domesticate it before it can have legal effect within its territory. As of 2024, not all states have done so, leaving significant gaps in the nationwide enforcement of educational rights.¹¹² This fragmented implementation undermines uniform protection and allows disparities between states in educational access and quality. The Nigerian judiciary has, in recent years, begun to acknowledge the implicit justiciability of the right to education. In *SERAP v Federal Republic of Nigeria*¹¹³, the ECOWAS Court clarified that the state's failure to allocate sufficient funds to education violates both the ICESCR and the African Charter, both of which Nigeria has ratified and domesticated.¹¹⁴ The Court's decision served as a wake-up call for Nigerian policymakers to view education not as a privilege but as a constitutional and moral imperative. Similarly, Nigerian courts have invoked the **African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1983**, which domesticates the Charter and thereby makes its provisions enforceable. Since Article 17 of the Charter recognizes the right to education, this incorporation technically renders it justiciable under Nigerian law.¹¹⁵ From a policy standpoint, the **National Policy on Education** and the **Sustainable Development Goals** remain central to government efforts. Goal 4 of the SDGs aims to "ensure inclusive and equitable quality education and promote lifelong learning opportunities for all."¹¹⁶ Nigeria's **Education for All (EFA)** initiative and **Universal Basic Education Programme** reflect these commitments but face challenges of inadequate funding, poor monitoring, and weak enforcement.¹¹⁷

7. Institutional and Socio-Economic Challenges Affecting the Protection of the Child's Right to Education in Nigeria

The protection of the child's right to education in Nigeria is undermined by a combination of institutional weaknesses and socio-economic realities that hinder the effective implementation of educational laws and policies. Although Nigeria's legal framework- comprising the Constitution, the Child's Rights Act, and the Universal Basic Education Act -expressly guarantees the right to free and compulsory education, the realization of this right is constrained by systemic failures, inadequate funding, poor governance, and deep-seated poverty.¹¹⁸

a. Weak Enforcement Mechanisms

One of the foremost institutional challenges is **weak enforcement mechanisms**. The right to education, though enshrined in the Constitution, falls within the *Directive Principles of State*

¹⁰⁹ S M Yusuf, *Religion, Culture and Education in Nigeria* (Kaduna: Ahmadu Bello University Press, 2019) 56.

¹¹⁰ (2014) 6 NWLR (Pt 1401) 147 (CA).

¹¹¹ A O Adeola, 'Implementation Challenges of the Child's Rights Act in Nigeria' (2020) 6 *African Journal of Legal Studies* 45, 48.

¹¹² UNICEF Nigeria, *Status of Child Rights Act Implementation across States* (UNICEF Report, 2023) 4.

¹¹³ (2010) ECW/CCJ/APP/08/09, para 38.

¹¹⁴ S 1 African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act 1983.

¹¹⁵ Art 17 African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217.

¹¹⁶ United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development* (UNGA Res 70/1, 2015) Goal 4

¹¹⁷ Federal Ministry of Education, *Education Sector Analysis Report* (Abuja, 2021) 7.

¹¹⁸ Child's Rights Act 2003, s.15(1)

Policy under Chapter II, which is non-justiciable. Consequently, individuals cannot directly approach the courts to enforce this right, unless linked to another enforceable right under Chapter IV. This constitutional limitation has rendered the right to education largely aspirational rather than enforceable. Judicial attempts to bridge this gap have been cautious; courts have often avoided direct pronouncements on socio-economic rights for fear of overstepping constitutional boundaries.¹¹⁹

b. Policy Inconsistency and Inadequate Coordination

Another institutional challenge lies in **policy inconsistency and inadequate coordination** between federal, state, and local governments. The Universal Basic Education (UBE) programme, for example, is designed to provide free and compulsory education for all children, yet disparities in implementation persist due to lack of synergy among the tiers of government. In several states, UBE funds are mismanaged, and infrastructure projects are either abandoned or poorly executed. Such inconsistencies have led to uneven access to education across regions, especially in rural and conflict-prone areas.¹²⁰

c. Funding inadequacy

Funding inadequacy remains perhaps the most critical obstacle. Nigeria's budgetary allocation to education has consistently fallen below the UNESCO-recommended benchmark of 15–20% of national expenditure. In some years, education has received less than 7% of the national budget. This chronic underfunding affects every aspect of the educational system—from teachers' salaries and training to infrastructural development and provision of learning materials. The result is overcrowded classrooms, dilapidated buildings, and an overall decline in the quality of education provided to children.¹²¹

d. Teaching Workforce Crisis

The **teaching workforce crisis** compounds the situation. Many public schools suffer from a shortage of qualified teachers, while existing staff often face delayed or irregular payment of salaries, leading to strikes and disruptions in academic calendars. Furthermore, teacher training institutions are themselves underfunded, producing graduates who lack modern pedagogical skills and motivation. This institutional decay contributes to the poor learning outcomes observed in national assessments.¹²²

e. Poverty

Socio-economic challenges are equally debilitating. **Poverty** is one of the strongest determinants of whether a child attends or remains in school. For many families, especially in rural communities, the opportunity cost of sending children to school—such as the loss of potential labour income—is too high. Consequently, many children are forced into street trading, hawking, or other forms of child labour to support family livelihoods. Poverty-driven school dropout rates are particularly pronounced in the northern regions of Nigeria, where household income levels are low and educational infrastructure scarce.¹²³

f. Insecurity

Another major challenge is **insecurity**, particularly in northern Nigeria, where insurgent groups such as Boko Haram have explicitly targeted education, especially Western-style learning, labelling it as contrary to their ideological beliefs. Attacks on schools, including the abduction of

¹¹⁹ Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 18(1)

¹²⁰ Universal Basic Education Act 2004.

¹²¹ UNESCO, *Global Education Monitoring Report* (2022).

¹²² UNICEF, *Situation of Out-of-School Children in Nigeria* (2023).

¹²³ A. Alen, *General Principles of the Convention on the Rights of the Child* (Antwerp: Intersentia, 2006).

schoolchildren, have created fear among parents and pupils alike. Many schools have been forced to close or relocate, leaving thousands of children without access to formal education. The long-term impact of these disruptions extends beyond academic loss, affecting the psychological well-being and future employability of affected children.¹²⁴

g. Gender Inequality

Gender inequality further exacerbates the problem. Despite national and international efforts to promote girls' education, cultural and religious norms continue to hinder progress. In some conservative communities, girls are often withdrawn from school at puberty or married off early, perpetuating cycles of illiteracy and poverty. Although initiatives such as the *National Policy on Gender in Basic Education* have sought to bridge this gap, implementation remains inconsistent due to entrenched societal attitudes and weak monitoring.¹²⁵

h. Cultural and Religious Practices

In addition, **cultural and religious practices** often conflict with educational goals. The *Almajiri* system in northern Nigeria, for instance, while rooted in Islamic religious training, has evolved into a socio-economic problem where millions of children roam the streets without access to formal education. Government efforts to integrate *Almajiri* schools into the basic education framework have yielded limited success due to resistance from some religious leaders and lack of sustained funding. Institutional corruption also plays a destructive role. Funds allocated for school construction, teacher recruitment, and learning materials are often diverted. This misuse of public resources undermines public confidence and perpetuates infrastructural decay. Transparency International has repeatedly ranked Nigeria low on corruption perception indices, and the education sector is not exempt from such malpractices. Without stringent accountability mechanisms, the dream of equitable education remains elusive.¹²⁶

i. Children with Disabilities

Moreover, **children with disabilities** face compounded challenges due to insufficient inclusive education policies. Schools often lack appropriate facilities, such as ramps, braille materials, or trained special-education teachers. As a result, many disabled children are excluded from mainstream education, contrary to Nigeria's obligations under the *Convention on the Rights of Persons with Disabilities*. The lack of accessible education perpetuates discrimination and deprives these children of opportunities to develop their potential. The **urban-rural divide** also presents a significant structural challenge. While urban centers boast better-funded schools and greater access to qualified teachers, rural areas often struggle with inadequate infrastructure, long distances to school, and poor learning environments. This inequality reinforces socio-economic disparities and hinders the goal of universal education.¹²⁷

8. The Role of Stakeholders in Protecting the Child's Right to Education in Nigeria

The protection of the child's right to education in Nigeria cannot be achieved by government action alone. It requires the collective effort of multiple stakeholders including the legislature, judiciary, executive, parents, communities, non-governmental organizations (NGOs), and

¹²⁴ F. A. Ajayi, *Education and Development in Nigeria* (Lagos: University Press, 2018).

¹²⁵ B. I. Ojo, 'Media, Accountability and the Nigerian Education Sector' (2021) 4 *Journal of African Studies and Governance* 93.

¹²⁶ O. E. Eze, *Cultural Barriers to Girl-Child Education in Nigeria* (Enugu: Fourth Dimension Publishers, 2020) 66.

¹²⁷ Ibid

international development partners. Each stakeholder plays a vital role in ensuring that the right to education is not only legally recognized but also effectively implemented.¹²⁸

i. The Role of Government

The Nigerian government, at the federal, state, and local levels, bears the **primary responsibility** for ensuring access to free and compulsory education.¹²⁹ The federal government, through the **Universal Basic Education Commission (UBEC)**, is expected to monitor state compliance and disburse grants for infrastructure, teacher training, and educational materials. Yet, reports of unutilized or diverted UBE funds persist, highlighting the need for greater transparency in financial management.¹³⁰ Furthermore, state governments are obligated to complement federal initiatives by domesticating the CRA and enforcing attendance laws. The **local government authorities (LGAs)**, being closest to the people, also play a pivotal role in mobilizing communities and ensuring that children within their jurisdictions are enrolled and retained in school.¹³¹

ii. The Role of the Judiciary

The judiciary serves as a crucial **guardian of rights**, ensuring that laws protecting children's education are interpreted and enforced in line with constitutional and international standards. Nigerian courts have, on occasion, expanded the interpretation of fundamental rights to include aspects of socio-economic rights. In *SERAP v. Federal Republic of Nigeria*¹³², the ECOWAS Court of Justice held that the Nigerian government's failure to provide basic education violated the right to education under the African Charter.¹³³ This decision reflects the judiciary's potential to strengthen accountability even when domestic laws are non-justiciable. However, the domestic courts' limited willingness to enforce Chapter II provisions of the Constitution has weakened judicial activism in this area.¹³⁴

iii. The Role of Civil Society Organizations

Civil society groups are indispensable actors in promoting, monitoring, and protecting children's rights to education. Organizations such as the **Socio-Economic Rights and Accountability Project (SERAP)**, **Action Aid Nigeria**, and **Save the Children** have played active roles in litigation, advocacy, and community sensitization.¹³⁵ These groups often fill the gaps left by government in policy monitoring, data collection, and public awareness campaigns. For instance, SERAP's petitioning of the ECOWAS Court in the *Right to Education* case demonstrated how CSOs can use regional and international mechanisms to enforce compliance with educational rights.¹³⁶ Similarly, other NGOs have successfully implemented literacy programmes, girls' education initiatives, and scholarship schemes targeted at disadvantaged communities. Nonetheless, the effectiveness of CSOs is sometimes hindered by limited funding, political interference, and inadequate collaboration with government agencies.

iv. The Role of International and Regional Bodies

¹²⁸ A. Alen, *General Principles of the Convention on the Rights of the Child* (Antwerp: Intersentia, 2006) 38.

¹²⁹ Section 15(1) Child's Rights Act 2003.

¹³⁰ Universal Basic Education Commission (UBEC), *Annual Report on Implementation* (Abuja, 2022).

¹³¹ F. A. Ajayi, *Education and Development in Nigeria* (Lagos: University Press, 2018) 102.

¹³² (2008) ECW/CCJ/APP/08/08.

¹³³ Chapter II Constitution of the Federal Republic of Nigeria 1999 (as amended).

¹³⁴ Socio-Economic Rights and Accountability Project (SERAP), *Right to Education Advocacy Report* (Lagos, 2021).

¹³⁵ Socio-Economic Rights and Accountability Project (SERAP), *Right to Education Advocacy Report* (Lagos, 2021).

¹³⁶ *ibid.*

International and regional organizations play an instrumental role in shaping Nigeria's educational landscape through funding, policy direction, and monitoring. Bodies such as **UNICEF**, **UNESCO**, and the **World Bank** have consistently supported Nigeria in implementing educational reforms, promoting inclusive education, and monitoring compliance with global standards.¹³⁷ The **African Union**, through the **African Charter on the Rights and Welfare of the Child (ACRWC)**, also provides a regional legal framework that reinforces Nigeria's obligations under international law.¹¹

v. The Role of Parents and Communities

Parents and guardians are the **first line of defence** in ensuring that children receive education. Section 15(2) of the Child's Rights Act explicitly imposes a duty on parents to ensure that their children complete basic education.¹³⁸ Yet, in practice, socio-economic pressures often compel parents to withdraw their children from school for child labour or early marriage. Education advocacy programmes must therefore target parents directly, emphasizing the long-term benefits of education to both the child and the community. Community involvement is equally critical. Traditional leaders, religious institutions, and local associations have substantial influence over attitudes toward education, particularly in rural and conservative areas.¹³⁹ When community leaders champion educational initiatives, school enrolment and retention rates tend to improve. Establishing **Community Education Committees** to monitor attendance and performance can further strengthen accountability and promote local ownership of educational projects.

vi. The Role of the Media

The media functions as both a **watchdog and an educator**. By exposing corruption, reporting school conditions, and highlighting cases of child rights violations, the media holds authorities accountable and keeps education on the public agenda.¹⁴⁰ It also serves as a powerful platform for sensitizing the populace about children's educational rights. However, ethical reporting standards must be observed to protect children's dignity and privacy.¹⁴¹

9. Recommendations

To address these institutional and socio-economic challenges, Nigeria must adopt a multidimensional approach that integrates legal, policy, and fiscal reforms. Making the right to education *justiciable* in the Constitution would be a critical first step toward enforceability. Strengthening institutions such as the Universal Basic Education Commission (UBEC) through enhanced transparency, regular audits, and public accountability mechanisms would help ensure that allocated funds reach their intended beneficiaries. Furthermore, increased investment in teacher training, improved working conditions, and incentives for rural postings would improve education quality. Government partnerships with non-governmental organizations and international development agencies could also help address funding gaps and promote innovative solutions such as digital learning platforms and community-based education. Ultimately, the protection of the child's right to education in Nigeria requires more than legal provisions; it demands political will, social commitment, and active citizen participation. Only through a holistic and sustained effort can the barriers of poverty, insecurity, and institutional decay be

¹³⁷ UNICEF, *Situation of Out-of-School Children in Nigeria* (Abuja, 2023).

¹³⁸ UNESCO, *Education Monitoring Report* (Paris, 2022).

¹³⁹ Child's Rights Act 2003, s 15(2).

¹⁴⁰ O. E. Eze, *Cultural Barriers to Girl-Child Education in Nigeria* (Enugu: Fourth Dimension Publishers, 2020) 66.

¹⁴¹ B. I. Ojo, 'Media, Accountability and the Nigerian Education Sector' (2021) 4 *Journal of African Studies and Governance* 93.

dismantled to ensure that every Nigerian child enjoys the full benefits of education. To ensure the effective protection of the child's right to education in Nigeria, there is a pressing need for both **legal and policy reforms** to address the existing institutional and socio-economic barriers. Thus, reform efforts must focus not only on legislative amendments but also on strengthening institutional capacity and promoting sustainable educational practices. One of the most significant legal reforms needed is the **constitutional amendment to make the right to education justiciable**.

The **Universal Basic Education Act 2004** should be reviewed to improve its enforcement structure. Currently, penalties for non-compliance by parents or guardians who fail to send their children to school are rarely implemented.¹⁴² Introducing community-based monitoring systems and empowering local authorities to enforce attendance laws could enhance compliance.

Funding reforms are equally essential. For Nigeria to meet global educational targets, the government must increase its budgetary allocation to the education sector to at least 15% of national expenditure, as recommended by UNESCO.¹⁴³ Beyond increasing allocation, emphasis should be placed on efficient utilization of available funds.

Additionally, government partnerships with the private sector and international development partners can supplement funding and introduce innovation into the educational system. Another critical reform is the **strengthening of teacher education and welfare**. The quality of any educational system depends heavily on the quality of its teachers.¹⁴⁴ Therefore, teacher recruitment and training should be professionalized through standardized qualification frameworks and continuous capacity-building programmes. Incentives such as competitive salaries, housing schemes, and rural posting allowances can attract and retain qualified teachers in underserved areas.

The government should prioritize the protection of schools, particularly in conflict-prone regions, through the implementation of the *Safe Schools Declaration*, an international commitment Nigeria endorsed in 2019.¹⁴⁵

Expanding digital learning platforms, providing affordable internet connectivity, and incorporating ICT training into the curriculum will help bridge the educational divide between urban and rural communities.¹⁴⁶ During crises such as pandemics or conflicts, technology can serve as an alternative means of delivering instruction to ensure continuity in learning. Finally, Nigeria must establish a **comprehensive child protection monitoring system** that consolidates data from education, health, and social welfare sectors.

Only through sustained political will and societal cooperation can Nigeria transform its educational aspirations into tangible realities.

¹⁴² Section 2 Universal Basic Education Act 2004.

¹⁴³ UNESCO, *Global Education Monitoring Report* (2022)

¹⁴⁴ F. A. Ajayi, *Education and Development in Nigeria* (Lagos: University Press, 2018) 133.

¹⁴⁵ Safe Schools Declaration (Oslo, 2015) endorsed by Nigeria in 2019.

¹⁴⁶ World Bank, *Nigeria Digital Economy Diagnostic Report* (Washington DC: World Bank, 2020).

10. Conclusion

The right to education remains one of the most essential human rights, indispensable to the realization of other rights and the overall development of a nation. In Nigeria, despite constitutional guarantees and the domestication of international instruments such as the *Convention on the Rights of the Child* and the *African Charter on the Rights and Welfare of the Child*, the protection of the child's right to education continues to face formidable challenges. The persistence of poverty, gender discrimination, cultural prejudices, insecurity, inadequate funding, and corruption all undermine the full enjoyment of this right. The failure of successive governments to adequately prioritize education in national budgets and to enforce relevant legal provisions, such as those contained in the *Child's Rights Act* and the *Universal Basic Education Act*, further compounds the problem.¹⁴⁷ To secure the future of Nigerian children, there is an urgent need for stronger political will and a holistic approach that integrates legal, policy, and community-based measures. The courts must also play a more active role in giving judicial life to constitutional provisions that guarantee educational rights, ensuring that they are not treated as mere aspirations.¹⁴⁸

¹⁴⁷ *Child's Rights Act* 2003, ss. 1–15

¹⁴⁸ (ECW/CCJ/JUD/07/10).