



RIGHT TO EDUCATION IN NIGERIA: MEETING THE NEEDS AND CHALLENGES OF CHILDREN

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Abstract

Right to education is one of the fundamental rights recognized and guaranteed in international, regional and local instruments. Nigeria as a signatory to most of the human rights instrument is expected to ensure the effectiveness of the implementation of the relevant provisions of the conventions that guarantee right to education. The provision of education in Nigeria is a right and should therefore be available and accessible to the Nigerian child as a proof of the protection of the said right. However, the implementation of the child right to education in Nigeria remains a mirage. This paper posits that under Nigerian law, children suffer many prejudices, including seclusion and discrimination in terms of education. It also examines and analyzes the challenges facing the implementation of the child's right to education in Nigeria. It argues that such practices amount to a violation of the Nigerian commitments and obligations under international and regional laws to provide education for all. The paper, amongst others, calls on the Nigerian government to put in place adequate laws and policies advancing the right of children.

Keywords: Education, Child, Nigeria, Right.

Introduction

Children is a particular vulnerable group on account of their tender age. They are generally not in a position to effectively articulate and enforce their rights. Human rights challenges confronting children are many and varied. They include torture, ill-treatment and appalling condition of detention on every continent. Challenges confronting children are as severe as death sentences and the killing of thousands in armed conflicts. Millions of children are forced by poverty to live on the street, while millions more work hazardous jobs or are the victims of child trafficking and prostitution. Discriminating attitudes and practices cause girl children to suffer gender-specific abuse, such as female genital mutilation and other forms of abuse, including rape. According to the United Nations Children's Fund (UNICEF, 2007) estimates 246 million children are engaged in exploitative child labour, 140 million children have never been to school; and 300,000 child soldiers some as young as eight years of age (Reynaert, Bouverne and Vandeveldel 2010).



Given the nature of children and the prejudices they suffer, the UN has attempted to work out the particularities of the application of human rights to children. It adopted the declaration of the rights of the child, 1959 and the Convention on the Rights of the Child (CRC), 1989 to cater for the interests of children (Bekink and Bekink, 2005). Both the declaration and the convention contain provisions on the rights and welfare of children. In addition to recognizing the specific rights of the child such as the right to education, it also contains specific provisions on the rights of children with disabilities.

Education is a catalyst to human and societal development (Dakuku, 2012). Nigeria is a signatory to most of the international treaties and conventions recognizing various rights and must work towards granting and protecting these rights as committed by the relevant instruments (Sossou & Yogih, 2008). Educational right is an integral part of those expectedly rights which need serious attention in the area of enforcement. In the years 1973, the Nigerian government convened a seminar of experts to develop guideline for the educational goals and objectives of the country consequent upon which a policy document was produced known as the National Policy on Education. This document sets among other things, the philosophy and goals of education in Nigeria and guidelines for the accomplishment of the said educational goal (NPE, 2004). But the document as elegantly composed by the experts has not been given the expected attention in terms of implementation.

This article attempts to examine the right of children in Nigeria with a particular focus on equal educational opportunities for all. It also analyses the existing national and international human rights instruments on the rights of the child with the aim of determining whether these instruments adequately guarantee the rights of children in terms of education. It also paved the way for the overview of some challenges hindering the recognition and protection of the rights of children to education. If it should find those instruments inadequate, the paper will suggest ways in which the rights of the children may be effectively guaranteed.

Child and Childhood

Mosbys medical dictionary (2009) defines a child as a person of either sex between the time of birth and adolescence. Wesley (1993) made clarifications on different categories of a child. A very young child under the age of about 18 months is a baby or (more formally) an infant. A child who has just learned to walk is a toddler. A child up to the age of 9 or 10 is sometimes a little girl or little boy; and a boy or a girl can be used about anyone up to the age of about 20. However, someone aged between 13 and 19 may prefer to be called a teenager, a young woman or young man.

According to article 2 of children and young person's Act (CYPA) enacted in eastern, western and northern regions of Nigeria, "a child means a person who is under the age of



fourteen, while young person means a person who has attained the age of fourteen and is under the age of seventeen years” (Jacomy and Stevens 2004). In the UN convention on the rights of the child, a child is every human being below the age of eighteen years. Similarly, the Nigerian Child Rights Act (2003), passed into law in the National House of Assembly, defines a child as a person who has not attained the age of eighteen years. The general conception of a child then seems to limit it below 18 years of age.

According to UNICEF (2007), childhood means much more than just the space between birth and the attainment of adulthood; it refers to “the state and condition of a child’s life: to the quality of those years”. It then follows that a child who has been kidnapped for example, by a paramilitary group and compelled to bear arms or forced into slavery cannot have a childhood, nor can a child put to hard labour in a garment factory in the capital city, far from family and home (village). Similarly, children living in abject poverty without adequate food, access to education, safe water, sanitation facilities and shelter are also deprived of childhood.

The definition of childhood is based on human rights and it is reflected in the convention on the rights of the child. Children are neither the possession of parents nor of the state, nor are they mere people-in-the-maturity; they have equal status as members of the human family. In other words, children have needs similar to those of adults and thus, have similar rights like any other human being. Children however, rely on adults for their nurture and guidance and they need to grow towards independence. Such nurture is ideally found in the children’s families, but when primary care-givers cannot provide children’s needs, society is expected to fill the gap.

Children’s Right to Education in the International Human Right Instrument

The right to education has been given recognition in a number of both international and national human rights instruments. At the international level, the right to education was first given recognition in a series of treaties concluded after World War I under the auspices of the League of Nations. However, with the formation of the United Nation, a good number of instrument protecting the right to education have further been adopted. These instruments include the Universal Declaration of Human Rights (Universal Declaration), 1948; the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966; the International Covenant on Civil and Political Rights (ICCPR) 1966; the UNESCO convention against discrimination 1960; the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1966; the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979; the Convention on the Right of the Child (CRC), 1989; the International Labour Organization Convention (ILO), 1989; the World Declaration on Education for All – meeting basic needs, 1990; the African Charter on the Rights and Welfare of the Child, 1990 (African Charter) and the African Charter on Human and Peoples Rights, 1981 (Pais and Bissel, 2006).



This universal declaration for instance, provides for the right to education, emphasizing that education must be free, at least at the elementary and fundamental stages. In terms of this provision, everyone has the right to education. Elementary and fundamental education must be free and compulsory. While elementary education refers to formal schooling for children of primary school age, fundamental education means education which is offered outside the regular primary education system for children, youth and adults who did not have the opportunity to undergo or complete primary education (Eekelaar, 1994).

In the same vein, Convention on the Right of the Child (CRC) also contains a comprehensive set of legally enforceable commitments concerning the rights of the child to education (Child Development Department, 1995). CRC reaffirms the right of every child to free and compulsory primary schooling and states further that higher level of education must be made accessible to all on the basis of capacity and without discrimination of any kind.

Instruments at the African Regional Level

The right to education is also recognized in regional human rights instruments. Article 17(1) of the African Charter for instance, states that every individual has a right to education. Similarly, article II of the African child's charter provides for every child's right to education (Oloyede, 2001). The children's charter set out the purposes and the duties of state parties with regards to achieving the full realization of the child's right to education. It states that education of the child shall be directed towards the promotion and development of the child's personality, talents, mental and physical abilities to their potentials. (Awoyemide & Nohr, 2005). It is submitted that Nigeria, having ratified ICESCR and the African charter has obligations under international human rights law to provide education for its citizens.

To strengthen the effective implementation of the right to education as provided for in the various African regional instruments, the African Union (AU) has put in place mechanisms for monitoring the rights of the child in the region. These monitoring mechanisms include the African Commission on Human and People's Rights (African Commission), the African committee of experts on the rights and welfare of the child and its African court on human and people's rights (Onyango & Lynch 2006). It is notable that all 53 member states of the AU including Nigeria are parties to the African charter.

Legality of Child's Education in Nigeria

The following provisions provide the legal rights for a child to have access to education under the Nigerian law; Section 15 of the Nigerian Child Act 2003 provides that a child has the rights to free compulsory and universal basic education and the parents should ensure that their children attend primary and junior secondary school as stated in the Act. It further states that any



parents who fail to send their children to school would be reprimanded for the first conviction while the amount of ₦2000 or one month imprisonment would be imposed for a second conviction. The amount of ₦5000 or two months imprisonment or both is prescribed as punishment for subsequent convictions (FGN, 2003). The strategy to be educated is to pursue knowledge anywhere and anytime. So parents should be prepared to educate their children as educating them is a way of preparing them for their future responsibilities and also giving them power to get their rights in a legal way.

For the importance of education, subsections 1-7 of the Federal Republic of Nigeria Child's Right Act 2003 provide for the child's right to free and compulsory and universal primary, secondary and university education. Similarly, section 15, subsection 5 also make provision for pregnant children before completing their education to be given another chance to complete their education while section 15 subsection 4 spells out that a child should be sent to an appropriate trade after completion of primary school provided that the child is not capable of continuing his/her education (FGN, 2005).

In fact, with the enactment of the child's rights act in 2003, the right to education was raised from a non-justifiable entitlement to a new legal imperative. The Child's Rights Act and the Universal Basic Education Act (2000) have brought into Nigerian socio-economic rights jurisprudence a new dispensation which equates the right to education in the country with international standards. This recognition thus, paved the way for the recognition of children, as bearers of a right which may be enforced against parents, other individuals and the state.

Challenges of Children Right to Education in Nigeria

One of the major problems facing the provision of education in Nigeria is the inadequacy of the educational law in the country, particularly as education is not recognized as a right in the Nigerian law. This inadequacy did not give the judiciary the opportunity to protect the people's educational right through the courts pronouncement. Education is neither recognized, guaranteed nor protected as a right under the Nigerian constitution. The non-inclusion of education as a right under chapter IV constitutes a serious challenge for the educational right (Ajay & Tonimiro, 2014). This gives the general believe that since it is not within the items contained in the bill of rights, it is not a right, hence no claim could be brought regarding it. The contradictory provision of this constitution under section 13 and 6 [6][c] is a very serious legal challenge confronting the provision of education generally and primary and secondary education in particular. Section 15 is to the effect that all government organs, all authorities and persons in their executive, legislative and judiciary 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 not as a right like other items in the chapter but as a fundamental objectives and directives of state policy.



This noticeable conflict between the provision of section 15 and section 6(6)(c) which excludes the jurisdiction of the courts on issues bothering on contravention of chapter II by the government, is to the effect that the duty imposed on all organs of government, authorities and persons in section 13 is limited to the extent that the provisions are not enforceable by the judiciary and the executive arms may not comply with the provisions in chapter II unless specific law have been enacted by the legislative arm for the enforcement of same (Olumodeyi, 2008). The legal/judicial challenges facing education has made it practically impossible for the citizens to challenge the government when it fails to give effect to its required obligations contained in chapter II of the constitution. This is due to either the fact that people are ignorant of the governments duty or those who are not ignorant are handicapped by the constitutional limitations.

The law is clear as to what is expected of the government in the provision of free basic education. However, there is always a problem as earlier stated, that there is no legal or judicial remedy if the government fails to fulfill these obligations as the government can neither be challenged nor compelled by any authority including the court of law to fulfill same (Mensah, 2007). It suffices to say that the law on education in Nigeria is inadequate, because, if chapter II of the constitution cannot be enforced, how much more can other laws be enforced. For instance, if the UBE, CRA and other laws say government at all levels must provide free basic education and the constitution says if the government fail to provide same, it goes to no issue. This simply means that there is a conflict between the provision of the constitution and other laws and definitely the constitution prevails, as the mother of all laws and on the principle of supremacy of the constitution (Siddigi and Patrionos, 2001).

Apart from the legal and judicial based challenge hindering the provision of education to children in Nigeria, there are other challenges and these include:

- a. **Political Challenge:** This centre's on lack of political will from the political class to making education available and accessible to the Nigerian children. Promises of making education free, available and accessible is normally the ultimate in the campaign manifesto of all the political parties while seeking political offices. Unfortunately, none of the parties that come to power have given effect to or fulfilled the campaign promise of prioritizing education as contained in their manifesto.
- b. **Corruption:** Corruption had been institutionalized within the government functionaries and the education administrators in particular. This is because the meager allocation allotted to education in the budget does not usually get to the point where it should be utilized and this greatly precludes the effective implementation of the already existing policies particularly the Universal Basic Education Policy and the National Policy on Education generally.



c. **Socio-cultural and Religious Challenges:** Socio-cultural and religious factors are other major clog in the wheel of the development of education in Nigeria. It has been observed that in some parts of the country, especially the eastern part, the majority of the tribe there, do not believe so much in the education of their male child. They believe that a male child should engage in entrepreneurship activities and make money for the family. Also, the socio-cultural practice of the people of the northern part of the country is another, where there is misunderstanding and misapplication of some religious doctrines resulting in the notion that, western education is a prohibition to a Muslim. Meanwhile, Islamic education was deeply rooted in the people as at that time, hence the people resisted the introduction of western education in the north.

d. **Security Challenge:** It should be noted that the uneducated persons are definitely narrow minded and illiterate persons are prone to violence due to their uncivil mind. This has manifested in Nigeria and the country has been managing various security challenges. This had adversely impacted on education, instances are the drastic drop in the school children attendance, destruction of the available physical infrastructure. This is evident by series of terrorist acts of bombing of schools and killing of innocent school children. As a result of this challenge and heinous act of terrorism, parents find it unsafe to send their children to school in the country particularly in the volatile areas.

e. **Financial Challenge:** Financing education is a major problem within the political challenges. This is because in Nigeria, the education sector has a very low margin of allocation in the government budget and this has been a recurrent thing. Nigerian governments do not place much emphasis on the premium on education sector. It is noteworthy that such percentage may not be adequate enough to cater for education; because education has been seen as the foundation of other sectors that any government strives upon. But despite this fact, it has been observed that no government tenure in Nigeria has earmarked through its budget, reasonable percentage that can cater for the education sector, despite unending demand by the shareholders, pressure groups and NGOs (Schaefer, 2006).

Conclusion

Presently in Nigeria, child's education in Nigeria still remains in the realm of theory and far from practice. Child's education in Nigeria is still grappling with problems of policy implementation, an environment that is not conducive for practice and a lackadaisical attitude of the people and government.

International and regional instruments on human right and local enactments made provisions of primary and secondary education a priority. It was discovered that education is not recognized as fundamental human right in Nigeria as the same is not contained in the constitution. Consequently, it is discovered through the above that the features of right to



education have not been fulfilled in Nigeria, because, the law and policy framework on right to education in Nigeria is not adequate enough to ensure the protection of the child's right to education.

Recommendations

Based on the analysis above, the following recommendations are made;

- 1) There should be constitutional amendment for the inclusion of right to education in the bill of right under chapter IV.
- 2) There should be general review of the national policy on education and machineries should be put in place for proper implementation of the policy and enforcement of the existing law.
- 3) Different punishments from all Nigerian legal system should be implemented on the corrupt leader, officials, staff and others in order to curb and control corruption.
- 4) A special directorate of child education should be created in federal, state and local government. Ministries of education should be charged with the responsibilities of planning, strategizing, implementation and monitoring child's education activities in schools.
- 5) Special committee at community level should be set up, in collaboration with local government to brainstorm ideas to establishing priorities, assigning responsibilities for action and reviewing progress towards defined goal.
- 6) The teaching of child rights should be included in the school curriculum to further enhance the popularity.

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