

Chinuru Chituru Achinewhu

The Future of the African Child: Protecting the Right to Education of Internally Displaced Children in Nigeria

Abstract

The right of the child to education, regardless of social or environmental factors, is indispensable to the development of both the child and the society. In Africa, this right vis-à-vis the future of the child has incessantly been impeached by internal crisis and armed conflicts which often lead to the displacement of children from their homes, and away from formal educational opportunities. This paper examines the impact of internal crisis and armed conflicts on access to the right to education of internally displaced children (IDCs) in Nigeria and the effectiveness of Nigeria's legal regime in protecting these rights. It identifies structural conditions as the principal challenge truncating the right of IDCs to education. Using the best interest principle, non-discrimination rule, and the right to participate as its theoretical foundation, the paper posits that the protection of the right of uprooted children to education serves the overall future interest of both IDCs and the country. It argues that the failure of government to protect these rights through the emplacement of a robust legal regime to address the identified challenges amounts to an infringement of IDCs right to education and their right to a better future, particularly under international law. The research considers the position of Nigerian law and international human right instruments – Nigerian Constitution, Nigeria's Child Rights Act, UN Convention on the Rights of the Child, Universal Declaration of Human Rights – as the legal foundation of its argument. It recommends the emplacement of a structured legal regime to address the challenges.

Keywords: internally displaced children, right of the child to education, robust legal regime

Introduction

Internally displaced persons are individuals or groups of persons who are forced to evacuate or leave their homes, as a consequence of or to escape the impacts of armed conflict, circumstances of widespread violence, human rights violations or natural disasters and who live within their own country (UN Commission on Human Rights, 1998). Forced displacement is a worldwide problem but the largest in the world is its prevalence in the African continent. Africa estimates approximately 17.8 million displaced people as of December 2018. This number is around 40 percent of the total worldwide (Nextier SPD, 2019). Nigeria typically has around 2.2 million internally displaced persons residing nationwide in crowded internally displaced persons (IDP) camps. According to Internal Displacement Monitoring Centre (IDMC), Nigeria's causes of displacement are attributable to Northeast rebellion, outbreak of inter-communal clashes, extreme flooding among others. One of Africa's most extreme regional conflicts is the humanitarian crisis in Borno, Adamawa and Yobe states in the Northeast of Nigeria, which has spread into the Lake Chad region.

Internal displacement encounters are detrimental to everyone afflicted and especially so to children because they encounter different risks. Children are uprooted and subjected to threats at a stage in their lives when security and stability are needed most. Furthermore, several internally displaced children lack access to education and this robs them of the opportunity to learn, decreases their capacity for growth as well as provide them with the essential tool for psychosocial security.

Countries are primarily responsible for managing internal displacement, and it should be encouraged, assisted and regulated. The international community also has a part to play in fostering and strengthening efforts to ensure security and aid for IDPs when national governments are unable or otherwise reluctant to fulfill their obligations.

Armed conflict may be defined as any coordinated conflict employing the use of arms, aggression or coercion, either within or beyond national borders, and whether involving State or non-governmental actors (Kadir et al., 2018). Armed conflicts cause great destruction and have devastating effects on a country, such as deaths, population displacement and the loss of public infrastructure. Schools are often attacked in many armed conflicts, and children are very often targeted on the route into or out of school. The combat troops also use schools and educational institutions as sites for battling and recruiting children. The consequence of which is abuse of children, poor school attendance, high dropout rates, poorer educational achievement, and inadequate schooling standards. This work draws attention to the specific challenges and threats faced by internally displaced children in armed conflict in relation to access to education, and to the obligations of governments and other agencies to provide the education they need and to which they are entitled.

The impact of internal crisis and armed conflicts on access to the right to education

Internally displaced people face major challenges in exercising their right to education, ranging from limitations on infrastructure, capability and funding to severe violence, economic instability and inequality. Girls are sometimes required to stay home and take care of their siblings, thus putting pressure on them to stay off of school. There are also the obstacles of early and forced marriages which forces the girls to leave school. Boys are also always forced to work instead of going to school to support their family and usually face the possibility of forced recruitment.

The accessibility and standard of the education services vary considerably from one circumstance of displacement to another. For instance, some camps are better equipped and trained than others to support schooling for the displaced children (IDMC, 2020). Internal displacement puts tremendous strain on already poor education infrastructure and many educational structures in Northeastern Nigeria where most of the armed conflicts take place, were known to be very poor prior to the crisis. As of 2015, 23 out of 42 displacement camps across 6 states in Nigeria had no formal or informal educational facilities (Ezike et al., 2016). An educational needs study conducted in Northeastern Nigeria at the beginning of 2019 reported that 28 percent of the 260 school sites located in the area were destroyed by bombs or bullets, 32 percent had been robbed, 29 percent were near sites where terrorist groups or the military had their base and 20 percent were intentionally set ablaze (UNHCR, 2018).

Challenges of managing internally displaced people

It has been observed that IDPs are just about invisible to the government in informal settlements but accessible to NGOs and entities who are scarcely able to satisfy their requirements. One of the major reasons why informal IDPs are ignored is the inefficient model of collecting data on IDPs in their various separated settlements. This may be blamed on their scattered existence and lack of adequate institutional structures for obtaining reliable information and data. Therefore, it is rather difficult to implement sufficient planning, procurement, and implementation of social services.

Limited access to funding is yet another huge challenge for displacement management. The Nigerian government's lack of funding has impeded the management of IDPs and the funds are only limited to IDPs in formal camps (Lennard, 2016). The Nigerian government can improve the education and general wellbeing of IDPs by allocating sufficient funds to them during budgeting thereby prioritizing the IDPs. Donors should increase financial assistance to provide resources for education, as well as the procurement of learning aids and primary school materials. More equipped teachers should be engaged to educate the children in a language that they comprehend.

International treaties and humanitarian laws on the right to education

International human rights law, comprising of both treaty and domestic law, establishes certain rights on States to acknowledge, safeguard and uphold the human rights of all citizens without discrimination.

The Universal Declaration of Human Rights has identified education to be a fundamental human right for every person (Article 26, UDHR, 1948). The UN General Assembly and the UN Commission on Human Rights, the Guiding Principles define the rights of internally displaced people and the obligations of States and other humanitarian bodies towards them. Principle 23 affirms the right to education as well as emphasizes equal participation for girls. The Guiding Principles have been translated into more than 40 languages, which are widely used around the world, to particularly protect the rights of internally displaced people. Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966) provide for the right to education in its entirety. The Convention on the Rights of the Child (CRC) recognizes children's right to education and states that in order to steadily achieve this right and on the premise of true equality, countries are encouraged to provide mandatory and free primary education to all, increase the availability of various forms of secondary education, provide financial aid where necessary and take appropriate steps to ensure good and consistent attendance at schools to minimize rates of student drop out (Article 28, 1989). This provision is similar to Article 11 of the African Charter on the Rights and Welfare of the Child (ACRWC) (1990). The African Women's Protocol allows countries to eradicate all types of discrimination in the access to education as well as encourage the participation and retention of girls in school (Article 12, African Women's Protocol, 1990).

In cases of armed conflict, the right to education provided under these international treaties is reaffirmed because States have a duty to uphold, defend and

enforce its citizen's rights regardless of the situation (Isokpan & Durojaye, 2016). Also, The CRC expects Nations to abide by the international regulations applicable to children in armed conflicts (Article 38(1), CRC). The Fourth Geneva Convention (GCIV) mandates countries in armed conflict to provide access to education for orphaned children under the age of fifteen (Article 24(1), GCIV, 1949). The United Nations Guiding Principles on Internal Displacement (1998) mandate armed conflict affected countries to ensure the availability of free and compulsory education for internally displaced children with due regard for their language and ethnic heritage (Principle 23(3) of the Guiding Principles).

By Nigeria's ratification of some of these international conventions, it has a duty to protect the right of children to education from third-party intrusion. In the same vein, Nigeria is saddled with the task of gradually realizing the right to education for all. It can be accomplished by promoting regular attendance at classes, reducing dropout rates and continuous improvement of teaching materials.

The principle of best interest

Legislation, whether national or international requires that all child-related (including internally displaced children) actions shall be driven by the principle of best interests of the child. The best interest of the child should be of primary consideration (Article 3(1), Convention on the Rights of the Child, 1989). Internally displaced children are by far the most endangered and therefore the best interests of the child should be stressed when considering the protection and welfare of these children. United Nations Refugee Agency (UNHCR) has established guidelines on best interests of a child in collaboration with United Nations Children's Fund (UNICEF), the UN Committee on the Rights of the Child and several NGO partners. UNHCR's best interest determination (BID) provides comprehensive procedural safeguards to encourage appropriate, non-discriminatory child inclusion, promote the participation of decision-makers with specific areas of expertise and incorporate all relevant factors when evaluating best options.

The right to participation is pivotal to the fundamental right of the child, however, it needs effective measures to become a realization and is necessary for the protection and performance of all other rights. Participation of children is particularly important for the right to education, as education develops innovation, inventiveness and informed decision-making.

The mechanism of acknowledging and pronouncing the human rights of children was introduced first by the United Nations in an organized manner with the implementation of the Geneva Declaration of the Rights of the Child in 1924. The move was followed by the UN Declaration of the Rights of the Child in 1959. The 1924 Geneva Declaration greatly expressed concerns regarding children's rights which were seriously abused during the First World War. It stressed the material needs of children and asserted that children must have the necessary measures for their proper development. Which included food for the starving, treatment for the ill, reasonable care for the disabled, housing, and physical as well as emotional assistance for the orphans? Article 7 of the UN Declaration of the Rights of the Child (1959) also represents the concept of the best interests of the child, which implies that the best interests of the child are the core principle of those accountable for their education and guidance.

The Nigerian government needs to implement the principle of the best interest of the child to internally displaced children in the state. It needs to provide adequate information to internally displaced children on their legal rights, educational and career opportunities, and the potential implications of different alternatives, in order for them to make informed decisions. Also, during displacement, provision should be created for family unity. Doing so would encourage families to live in the same camps where children can receive psychological support and the best possible security that their parents can give.

The position of Nigerian law on the right to education

The 1999 Nigerian Constitution (as amended) identifies the right to education by stating the basic aims and guidelines of state policy, and by specifying that the government shall channel its legislation towards securing fair and sufficient access to education at all levels (Section 18, Constitution of the Federal Republic of Nigeria, 1999). The rights provided herein, however, are unenforceable as they are simply means to direct government policies.

The Universal Basic Education Act 2004 provides that all Nigerian governments shall provide free, mandatory and universal basic education to children (Section 2, UBEA, 2004). The right to education as contained in the African Charter on Human and People's Right (African Charter) was declared binding on all Nigerians by the ECOWAS trial court. The Nigerian government has passed the Child Rights Act (CRA) in 2003. The Act adopts the principles of the UN Convention of the Rights of the Child (UNCRC), and seeks to improve the well-being of children. Under the Act, where a child is internally displaced, he is deemed to be in need. It is therefore the duty of the state governments to safeguard and promote the wellbeing and the education of such children by providing them with relevant services to cater to their needs (Olusegun & Ogunfolu, 2019). Sadly, the Act is yet to be enforced at the state level and only eight northern states have passed the Child Rights Act into law (Amnesty International, 2015). The Criminal Code Act restricts unauthorized demolition of public or private property, particularly school buildings (Section 443, CCA, 1990). There has been no evidence of convictions for alleged perpetrators of violence on schools under the aforementioned statutory provisions.

From the forgoing, it can be deduced that the current Nigerian laws are not adequate with regards to protecting the right to education of internally displaced children; therefore, Nigeria needs to improve its laws by creating efficient and enforceable laws. Using the 1998 UN Guiding Principles on Internal Displacement as a guideline, the CRA (2003) should be revised to provide appropriate protection and access to education for internally displaced children.

Conclusion: Some recommendations

In conclusion, the following recommendations can be outlined:

- Reviewing national legislation, policies or strategies applicable to IDPs to ascertain that they protect the rights of internally displaced people and implement any required changes to address legal and administrative barriers.
- Nigeria and its humanitarian and international partners seriously need to assure that children and youth who are internally displaced and refugees are

included in school reform programs, and that better data are obtained to track their situation.

- Collecting and monitoring properly defined data evaluating the situation of IDPs and upholding their rights, by defining the unique threats faced by internally displaced people including those with special challenges, and periodically updating such data.
- Mapping directed measures that aim to prevent armed conflicts leading to displacement is absolutely essential. Advance warning strategies should be implemented which will limit the armed conflict.
- Improving national governmental capacity to tackle internal displacement, by assigning a national organizational fulcrum for resolving internal displacement, with a peculiar office solely devoted to confronting the issue of internal displacement, and guaranteeing the training of all appropriate government authorities on the Guiding Principles on Internal Displacement.

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African Charter on the Rights and Welfare of the Child 1990

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Chinuru Chituru Achinewhu, Lecturer, Rivers State University, Nigeria