

was reaffirmed by 164 governments in Dakar, Senegal at the World Education Forum where six goals were adopted to be met by 2015.¹⁷⁸

Among the goals, of particular interest to children are expanding and improving comprehensive early childhood care and education, especially for vulnerable and disadvantaged children and ensuring that all children, particularly girls, children in difficult circumstances and those belonging to ethnic minorities have access to free, quality and compulsory education. Other goals are, eliminating gender disparities in primary and secondary education with a focus on ensuring girls' full and equal access to quality basic education; improving every aspect of the quality of education and ensuring their excellence so that recognised and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skills.¹⁷⁹

Commitment towards ensuring the reality of the right to education is also reflected in the UN Millennium Development Goals (MDGs) established at the Millennium Summit of the UN in 2000 following the adoption of the UN Millennium Declaration. Through the declaration, all UN member States and international organisations made a commitment to help achieve the MDGs by 2015. The achievement of universal primary education is the second goal among the eight MDGs. The target of this goal is to ensure that children universally, including both boys and girls will be able to complete a full course of primary education by 2015.¹⁸⁰ MDG third goal also has the target of eliminating gender disparity in primary and secondary education by 2005 and in all levels of education by 2015.¹⁸¹

Although the MDG deadline of 2015 has not met with full achievement, significant progress has been made. Primary school net enrolment in the developing world rose from 83 percent in 1990 to 91 percent in 2015.¹⁸² Also, there has been nearly 50 percent decrease in the number of out-of-school children of primary school age globally from 100 million in 2000 to

¹⁷⁸ UNESCO 'Education for All Movement' (2015) available at <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/education-for-all/> (accessed 26 November 2015).

¹⁷⁹ UNESCO 'Education for All Goals' available at <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/education-for-all/efa-goals/> (26 November 2015).

¹⁸⁰ United Nations 'Goal 2: Achieve universal primary education' (2015) available at <http://www.un.org/millenniumgoals/education.shtml> (accessed 26 November 2015).

¹⁸¹ United Nations 'MDG 3: Promote gender equality and empower women' (2015) available at <http://www.un.org/millenniumgoals/gender.shtml> (accessed 26 November 2015).

¹⁸² United Nations Millennium Development Goals Report 2015 available at [http://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20\(July%2011\).pdf](http://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20(July%2011).pdf) (accessed 15 February 2016) 25 (hereafter MDG Report 2015).

about 57 million in 2015.¹⁸³ In Sub-Saharan Africa, primary school net enrolment has increased from 8 percent in the period between 1990 and 2000 to 20 percent in the period between 2000 and 2015.¹⁸⁴

However, the target of MDG second goal of achieving universal basic education is still a challenge in the developing countries as a result of poverty, disability, inadequate school facilities, and disparity in access to education for the rich and the poor, and for children in urban and rural areas.¹⁸⁵ A survey conducted in 63 developing countries between 2008 and 2012 revealed that children in the poorest households were four times more likely to be out of school as those in the wealthiest households.¹⁸⁶ That same study showed that the average number of out-of-school children was twice as high as the rate in urban areas.¹⁸⁷ In India 33 percent of children aged six to 13 with disabilities are out of school.¹⁸⁸

Inequality in access to education is also a major hindrance in achieving the MDG second goal. The children most likely to drop out of school are girls from poor households living in rural areas¹⁸⁹ due to son preference and early marriage.¹⁹⁰ Sub-Saharan Africa and Western Asia have the largest gender gaps in primary enrolment.¹⁹¹ Another major problem currently affecting education is armed conflict. Due to the impact of armed conflict on access to education, in North Africa and Southern Asia, the number of out of school children increased from 30 percent in 1990 to 36 percent in 2012.¹⁹²

The EFA goals have not seen full achievement in many countries. The EFA 2015 report¹⁹³ documented increases in school enrolment, abolition of school fees that helped attract

¹⁸³ MDG Report 2015 25.

¹⁸⁴ MDG Report 2015 25.

¹⁸⁵ MDG Monitor 'Goal 2: Achieve universal primary education' (2015) available at <http://www.mdgmonitor.org/mdg-2-achieve-universal-primary-education/> (accessed 26 November 2015) (hereafter MDG Monitor :Goal 2 (2015)).

¹⁸⁶ MDG Monitor: Goal 2 (2015).

¹⁸⁷ MDG Monitor: Goal 2 (2015).

¹⁸⁸ MDG Monitor: Goal 2 (2015).

¹⁸⁹ United Nations 'Goal 2: Achieve universal primary education' Fact Sheet 25 September 2008 available at <http://www.un.org/millenniumgoals/2008highlevel/pdf/newsroom/Goal%202%20FINAL.pdf> (accessed 26 November 2015).

¹⁹⁰ Otoo-Oyortey N & Pobi S 'Early marriage and poverty: Exploring the links and key policy issues' (2003)11(2) *Gender and Development* 44.

¹⁹¹ United Nations 'MDG 3: Promote gender equality and empower women' Fact Sheet (2008) available at <http://www.un.org/millenniumgoals/2008highlevel/pdf/newsroom/Goal%203%20FINAL.pdf> (accessed 26 November 2015).

¹⁹² MDG Monitor: Goal 2 (2015).

¹⁹³ UNESCO 'Education For All 2000-2015: Achievements and challenges' (2015) available at <http://unesdoc.unesco.org/images/0023/002322/232205e.pdf> (accessed 15 February 2016) (hereafter UNESCO EFA (2015)).

students, declining disparities in education access but noted rural urban gap in access to education as well as a large out-of-school population.¹⁹⁴ It was noted that though school entry and enrolment was made a priority, efforts to address the issues of quality, age-appropriate entry and schooling costs did not match need. This led to significant problems with dropout, progression and completion levels.¹⁹⁵ Although achieving education for all is one of the biggest challenges of the present, any country looking for lasting economic development must put in place strategies to raise the literacy level of its citizens.¹⁹⁶

2.6 Child education in Nigeria

The CFRN 1999 does not guarantee a right to education, but draws attention of government to it in Chapter II as a Fundamental Objective and Directive Principle of State Policy. Section 18 provides that government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels. The government is equally urged to strive to eradicate illiteracy and where practicable, provide free, compulsory and universal primary education and also free secondary, university and adult literacy education.¹⁹⁷ The CRA 2003 in section 15 guarantees the child's right to free, compulsory and universal basic education which the government has a duty to provide.

The education system is modelled as prescribed by the National Policy on Education (NPE) document of 1977 (last revised in 2013) which serves as a national guideline for effective administration, management and implementation of education at all tiers of government. The policy document is a statement of intention, expectations, goals, prescriptions, standards and requirements for quality education delivery in Nigeria.¹⁹⁸ It addresses the issues of imbalance in the provision of education in different parts of the country with regard to access, quality of resources and girls' education. Under this policy, Nigerian education is structured into;

1. Early Child Care and Development Education (ECCDE) for ages zero to four years
2. Basic education for ages 5-15 years, encompassing pre-primary one year, six years of primary school and three years of junior secondary school.
3. Post basic education for three years in senior secondary school and technical colleges

¹⁹⁴ UNESCO EFA (2015) 77.

¹⁹⁵ UNESCO EFA (2015) 78.

¹⁹⁶ Aderinoye RA, Ojokheta KO & Olojede AA 'Integrating mobile learning into nomadic education programmes in Nigeria: Issues and perspectives' (2007) 8(2) *International Review of Research in Open and Distance Learning* 2.

¹⁹⁷ Section 18(3) CFRN 1999.

¹⁹⁸ Federal Republic of Nigeria *National Policy on Education* 6 ed (2013) (hereafter National Policy on Education (2013)).

4. Tertiary education provided in colleges of education, monotechnics, polytechnics and universities.

Basic education which largely caters for children has been considered very important as it serves as the foundation upon which higher educational pursuit is built, hence made the center piece of educational policies by successive governments in Nigeria.¹⁹⁹ Under the NPE, basic education is given to children aged 0-15 encompassing ECCDE situated in day care and crèches fully in the hands of the private sector and social development services. There is also the one-year pre-primary school given to five year olds prior to their entering primary school. The government is expected to provide the one year pre-primary schooling, six years of primary and three years of junior secondary school.²⁰⁰ Primary education is given to children aged 6-12 years and the objectives are; to inculcate permanent literacy, numeracy and the ability to communicate effectively; lay a sound basis for scientific, critical and reflective thinking; promote patriotism, fairness, understanding and national unity; instil social, moral norms and values in the child; develop in the child the ability to adapt to a changing environment and provide an opportunity for the development of life manipulative skills that will enable the child function effectively in the society within the limits of the child's capacity.²⁰¹ In pursuance of these objectives, primary education must be compulsory, free, universal and qualitative.²⁰² Senior secondary school, which lasts for three years, caters for adolescents aged between 15 and 18 years.²⁰³

2.7 Universal Basic Education

A commendable strategy in fulfilment of the objectives of basic education in the NPE is the Universal Basic Education (UBE) scheme put in place basically to enhance the success of the first nine years of schooling. This initiative is aimed at eradicating illiteracy, ignorance and poverty. It also aims to facilitate national development, political consciousness, and national integration and enhance economic development.²⁰⁴ The UBE programme is the strategy adopted by Nigeria to meet the EFA agenda and the MDGs.²⁰⁵ The scope of UBE scheme

¹⁹⁹ Labo-Popoola SO, Bello AA & Atanda FA (2009) 252.

²⁰⁰ National Policy on Education (2013) 4.

²⁰¹ National Policy on Education (2013) 7.

²⁰² National Policy on Education (2013) 7.

²⁰³ Imam H 'Educational policy in Nigeria from the colonial era to the post-independence period (2012) 1 *Italian Journal of Sociology of Education* 197.

²⁰⁴ Gabriel A 'Achieving Universal Basic Education in Nigeria since 1999: Women as partners' (2012) 2(5) *International Journal of Learning and Development* 215.

²⁰⁵ Universal Basic Education Commission available at <http://ubeonline.com/> (accessed 26 November 2015) Olorunyomi BR 'Millenium Development Goals and the universal primary education in Nigeria (a case study of

covers formal basic education, nomadic education, literacy and non-formal education. The formal basic education covers the first nine years of schooling, nomadic education is offered to school age children of pastoral farmers while literacy and non-formal education is given to out-of-school children and illiterate adults.²⁰⁶

In 2004 the Compulsory, Free Universal Basic Education Act (UBE Act) was enacted to address comprehensively the issues of access, equality, equity, inclusiveness, affordability and quality of basic education. Basic education, according to section 15 of the Act encompasses early childhood care and education and nine years of formal schooling comprising compulsory primary and junior secondary education. The UBE involves six years of primary school education and three years of junior secondary school education, making up nine years of uninterrupted schooling, and transition from one class to another determined through continuous assessments.²⁰⁷

The UBE Act provides for the establishment of the Universal Basic Education Commission to coordinate the implementation of the programme in the states through the State Universal Basic Education Board (SUBEB) and the Local Government Education Authorities.²⁰⁸ Section 2 of the Act provides that every government in Nigeria shall ‘provide free, compulsory and universal basic education for every child of primary and junior secondary age.’ Every parent also has a duty to ensure that his child or ward²⁰⁹ attends and completes his primary school education and junior secondary education by endeavouring to send the child to primary and junior secondary school.²¹⁰ The local government is obliged to ensure that every parent fulfils this duty²¹¹ and a penalty is attached for contravention.²¹² The Act expressly makes the services provided by public primary and junior secondary school free of charge.²¹³

Ibadan North Local Government Area, Oyo state)’ (2014) 3 *International Journal of Asian and African Studies*, Duze CO ‘Educational policies/programmes’ effects on attrition rates in primary schools in Nigeria’ (2012) 4(2) *International Journal of Education Administration and Policy Studies* 42.

²⁰⁶ Ajayi IA ‘Achieving Universal Basic Education (UBE) in Nigeria: Strategies for improved funding and cost effectiveness’ (2007) 2(3) *The Social Sciences* 343 (hereafter Ajayi IA (2007)).

²⁰⁷ Anaduaka US & Okafor CF ‘The Universal Basic Education (UBE) programme in Nigeria: Problems and prospects’ (2013) 2(3) *Basic Research Journal of Education Research and Review* 44.

²⁰⁸ Section 7 UBE Act.

²⁰⁹ ‘child or ward’ is defined by section 15 as a ‘person of primary and junior secondary school age which is between the ages of 6 years and 16 years whether disabled or not’.

²¹⁰ Section 2(2) UBE Act.

²¹¹ Section 2(3) UBE Act.

²¹² Section 2(4) UBE Act.

²¹³ Section 4 UBE Act.

2.8 The situation of children and access to education in Nigeria

Nigeria has been unable to secure an effective child's right protection system despite the domestication of the CRC and ACRWC as the CRA 2003. The protection gaps are evident in education, high rate of child marriage, female genital mutilation and other harmful cultural practices, child abuse and neglect, lack of appropriate and accessible healthcare services, especially in rural areas, child labour,²¹⁴ absence of a child friendly justice system and recently the children affected by the Boko Haram insurgency.

Children are also affected by discrimination as a result of living on the streets, being orphaned, disabled or born out of wedlock.²¹⁵ Poverty and hunger have increased the number of street children exposed to exploitative labour²¹⁶ and trafficking, illnesses, malnourishment, accidents and drug abuse.²¹⁷ In Northern Nigeria, many of the street children are Almajiris. They are young children (boys) who leave their homes to receive Koranic education, but rather than learn, they are sent to the streets by their teachers to beg or carry out menial jobs to survive.²¹⁸ A survey conducted on 340 Almajiris in Northeast Nigeria revealed that 66.2 percent of the boys were involved in the use of drugs such as stimulants, volatile solvents, cigarettes and cannabis.²¹⁹

The rate of early and child marriage is still very high, especially in the North.²²⁰ This was a reason for the delay in the passing of the Child's Right Bill as the predominantly Muslim states, objected to the provision setting 18 years as the minimum age for marriage. They claimed that it was incompatible with Islamic precepts where girls were given in marriage at a much younger age.²²¹

²¹⁴ Edmonds EV & Pavenik N 'Child labour in the global economy' (2005) *Journal of Economic Perspectives* 209.

²¹⁵ Alemika EEO, Chukwuma I, Lafratta D *et al* (2005) 7.

²¹⁶ Aderinto AA 'Social correlates and coping measures of street-children: A comparative study of street and non-street children in south-western Nigeria' (2000) 24(9) *Child Abuse and Neglect* 1200.

²¹⁷ Ali-Akpajiak SCA & Pyke T *Measuring Poverty in Nigeria* (2003) 55.

²¹⁸ Yusha'u MA, Tsafe AK, Babangida SI *et al* 'Problems and prospects of integrated almajiri education in Nigeria' (2013) *Scientific Journal of Pure and Applied Sciences* 125.

²¹⁹ Abdulmalik J, Omigbodun O, Beida O *et al* 'Psychoactive substance use among children in informal religious schools (Almajiris) in northern Nigeria (2009) 12(6) *Mental Health, Religion and Culture* 532.

²²⁰ Ijaiya H 'Human rights: Gender discrimination against female children in Nigeria' (2006) 1 *University of Illorin Law Journal* 92.

²²¹ Toyo N 'Revisiting equality as a right: The minimum age for marriage in the Nigerian Child's Rights Act, 2003' (2006) 27(7) *Third World Quarterly* 1301.

The CRA 2003 has not made a huge significance in the lives of Nigerian children because of the unwillingness of some states to adopt it as they claim diversity of cultures and religion as the reason.²²² Considering that a protected right activates the obligation of the duty bearer,²²³ no court can punish the violation of children's right in states that have not adopted the CRA 2003 especially with respect to provisions that are peculiar to the Act. There is a severe lack of financial and human resources allocated to the promotion and protection of children's rights as well as a weak social protection system due to poor enforcement and inadequate documentation of the extent of violation of children's rights.²²⁴ More so, not much effort has been made to educate children about their rights as a study revealed children's limited awareness of their rights.²²⁵

Though the UBE scheme is a laudable strategy for providing free basic education, it however has many challenges, the greatest of which is funding. The funds allocated to education are not sufficient to ensure effective implementation of the scheme. In Nigeria, education funding involves the federal, state and local governments appropriating funds for capital and recurrent expenditure from the budgetary allocations for the educational sector in each particular fiscal year.²²⁶ Despite the UN recommendation that 26 per cent of the total budget be devoted to education,²²⁷ only 10 per cent of the 2015 budget was allocated for education.²²⁸ More so, just a fraction of the budget was spent in developing the sector. Out of over 483 billion naira budgeted for education in 2015, the 71 billion budgeted for UBE had 67 billion for recurrent and 4 billion for capital expenditure.²²⁹ The increased military spending due to the Boko Haram insurgency has also affected the spending on other sectors including education.²³⁰

²²² Akinwumi OS 'Legal impediments on the practical implementation of the Child's Rights Act 2003' (2009) 37 *International Journal of Legal Information* 391.

²²³ Donnelly J *Universal Human Rights in Theory and Practice* (2013) 9.

²²⁴ Nicola J, Pressler-Marshall E, Cooke N *et al* 'Promoting synergies between child protection and social protection in Nigeria' (2012) UNICEF Nigeria/UNFPA/Overseas Development Institute 18.

²²⁵ Ejieh MUC & Akinola OB 'Children's rights and participation in schools: Exploring the awareness level and views of Nigerian primary school children' (2009) 8(1) *Elementary Education Online* 180.

²²⁶ Oseni M 'Adequacy of budgetary allocations to educational institutions in Nigeria' (2012) 3(1) *Pakistan Journal of Business and Economic Review* 144.

²²⁷ International Organisation for Migration 'Needs assessment in the Nigerian education sector' (2014) available at https://publications.iom.int/system/files/pdf/needs_assessment_nigerianeducsector.pdf (accessed 18 February 2016) 27.

²²⁸ Federal Republic of Nigeria Appropriation Act 2015 (hereafter Appropriation Act 2015).

²²⁹ Appropriation Act 2015.

²³⁰ Adebisi MA & Oladele O 'Public education expenditure and defence spending in Nigeria: An empirical investigation' (2005) University of Lagos, Nigeria available at http://iaddsenegal.org/sites/default/files/documentheque/3_Public%20education%20Expenditure%20and%20defence%20spending.....pdf (accessed 3 February 2016) 5.

Another problem is corruption resulting in mismanagement and embezzlement of funds reserved for the development of the education sector.²³¹

There is equally the absence of proper planning with regard to teaching staff requirements, infrastructure requirements, and materials for teaching and learning.²³² Consequently, most public primary and secondary schools are heavily populated with an inadequate teacher pupil ratio, overcrowded classes, inadequate teaching and learning materials which makes the school environment unsuitable for teaching and learning.²³³

Another problem with the UBE scheme is as regards its accessibility which is an essential feature of basic education as contemplated in CESCRC General Comment 13. 'Universal' in the context of UBE, means the availability of basic education to the whole people irrespective of tribe, ethnic group, race, culture, sex or class.²³⁴ The placing of a ceiling on enrolment rates in various states with differential levels of literacy being the reason is seen as a ploy by the federal government to reintroduce the quota system into the Nigerian educational system.²³⁵ This undermines universality contemplated in the UBE scheme and falls short of the accessibility requirement of education. These problems are the result of inappropriate projections in relation the estimated population of children that will be enrolled in school, the number of qualified teachers that will be needed, the required infrastructure and learning facilities and the cost implication of these.²³⁶

Due to the problems highlighted and the growing loss of confidence in public schools²³⁷ privately owned schools have sprung up with better academic quality, infrastructure, adequate teaching and learning aids and stable calendars.²³⁸ In the search for quality education for their children, a study revealed that many parents preferred the private schools to public schools as it was believed the schools offered better quality of education.²³⁹ This

²³¹ Arong FE & Ogbadu MA 'Major causes of declining quality of education in Nigeria from an administrative perspective: A case study of Dekina Local Government Area' (2010) 6(3) *Canadian Social Science* 195.

²³² Adeyemi TO 'Teacher preparation and availability for achieving basic education in Ondo state, Nigeria' (2007) 2(2) *Humanities and Social Sciences Journal* 159.

²³³ Ajayi IA (2007) 343.

²³⁴ Aluede ROA (2006) 99.

²³⁵ Aluede ROA (2006) 99.

²³⁶ Aluede ROA (2006) 100.

²³⁷ Ehigiamusoe UK 'Private sector participation in secondary education in Nigeria: Implications for national development' (2012) 1(3) *International Journal of Development and Sustainability*.

²³⁸ Saidu A, Amali IOO, Oniye MI *et al* 'Challenges and prospects of privatization of education in Nigeria: Focus on secondary education (2013) 9(1) *African Journal of Historical Sciences in Education* 34-42 (hereafter Saidu A, Amali IOO, Oniye MI *et al* (2013).

²³⁹ Adebayo FA 'Parents' preference for private secondary school in Nigeria' (2009) 1(1) *International Journal of Educational Sciences* 1-6.

creates a class structure between children in access to education,²⁴⁰ thus making nonsense of the universal context of UBE.²⁴¹ Sadly too, some of these private schools do not meet proper education standards as they lack qualified teachers, teaching and learning aids and in some cases occupy private homes, shacks or uncompleted buildings with little or no space for sporting, library, convenience or other facilities necessary for learning.²⁴² As a result of these shortcomings, the ability of the school to offer a balanced curriculum as required by the education system is limited.²⁴³ There is need for laws and policy measures to guide the issuance of licenses to private schools in order to ensure that they meet the standard set by the NPE.

A major indicator of Nigeria's failure to meet the EFA and MDGs is the high level of out-of-school children (OOSC). An estimated 42 per cent of children of primary school age, amounting to about 10.5 million are out of school.²⁴⁴ Among the factors responsible are poverty, distance, rural and urban as well as gender disparities in access to education. The Nigerian Demographic and Health Survey 2013 (NDHS)²⁴⁵ revealed that attendance is higher among wealthy households than poorer households at both the primary and secondary levels.²⁴⁶

Child education in the Northern region still suffers a serious setback as it has the highest rate of OOSC.²⁴⁷ The NDHS survey also revealed that the North East has the lowest attendance rate at the primary and secondary levels (44 per cent and 29 per cent, respectively), while the South East has the highest (81 per cent and 70 per cent, respectively).²⁴⁸ This trend is due to poverty and a preference for Islamic education,²⁴⁹ which has resulted in the exploitative Almajiri system. Almajiris are sent to the streets to beg for alms or perform cheap labour at the expense of more time spent in school.²⁵⁰ The Almajiri street children are seen as a

²⁴⁰ Saidu A, Amali IOO, Oniye MI *et al* (2013) 40.

²⁴¹ Aluede ROA (2006) 100.

²⁴² Agi UK 'The challenges and prospects of managing private school system in Rivers state' 2013 7(1) *African Research Review* 346 (hereafter Agi UK (2013)).

²⁴³ Agi UK (2013) 346.

²⁴⁴ *Accelerating Progress to 2015: Nigeria* (2013) 3.

²⁴⁵ National Population Commission and ICF International Nigeria Demographic and Health Survey 2013 (2014) (hereafter NDHS 2013).

²⁴⁶ NDHS 2013 26.

²⁴⁷ *'Accelerating Progress to 2015: Nigeria'* (2013) 4.

²⁴⁸ NDHS 2013 26.

²⁴⁹ Fabunmi M 'Historical analysis of educational policy in Nigeria: Implication for educational planning and policy' (2005) 4(2) *International Journal of African and African American Studies* 1 (hereafter Fabunmi M (2005)).

²⁵⁰ Usman LM 'Assessing the Universal Basic Education primary and koranic schools' synergy for Almajiri street boys in Nigeria' (2008) 22(1) *International Journal of Education Management* 64.

under the convention or protocol are to be accorded privileged treatment or special protection.²⁷¹

3.2.2 Education

With regard to education, article 24 (1) of GCIV 1949 requires parties to conflict to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, have access to education.²⁷² In the case of occupied territories, article 50 of GCIV 1949 requires the occupying power with the co-operation of the national and local authorities, to facilitate the proper working of all institutions devoted to the care and education of children. In the case of internees, article 94 of the GCIV 1949 provides that children and young people must be allowed to attend schools either within the place of internment or outside. In addition, the API provides in article 78(2) that an evacuation must take account of the need for continuity in a child's education. Article 26 of the GCIV 1949 requires each party to a conflict to facilitate the reunion of families dispersed and encourage the work of organisations engaged in doing so provided they are acceptable and conform to security regulations.

As a result of displacement, children leave the place where they are able to have access to school to a place where they have no provision for education. Hence, the UN Guiding Principle on Internal Displacement²⁷³ in principle 23 requires concerned authorities to ensure that internally displaced children receive free and compulsory education which should respect their cultural identity, language and religion. Special efforts must be taken to ensure girls' participation.²⁷⁴

Also, the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)²⁷⁵ requires State Parties to provide internally displaced persons which includes children, to the fullest extent practicable and without delay, adequate humanitarian assistance which includes food, water, shelter, medical care and other health services, sanitation, education and other necessary social services and in appropriate cases extend such assistance to host communities.²⁷⁶ The convention requires States to also

²⁷¹ Article 70 API.

²⁷² A similar provision for education is made in Article 4(3) of AP2.

²⁷³ UN Guiding Principles on Internal Displacement 22 July 1998 ADM 1.1, PRL 12.1, PR00/98/109.

²⁷⁴ Principle 23(3).

²⁷⁵ Adopted by the Special Summit of the African Union held in Kampala, Uganda on 22 October 2009 and entered into force on 6 December 2012.

²⁷⁶ Article 9(2)(b) Kampala Convention.

provide special protection for and assistance to internally displaced persons with special needs.²⁷⁷

3.2.3 Participation in hostilities

With regard to participation in hostilities, the Additional Protocols of 1977 are the first instruments to cover such situations. Article 77(2) requires parties to conflict to take all feasible measures to ensure that children who have not attained the age of 15 years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces.²⁷⁸ Article 77(2) further provides that in recruiting among those persons who have attained the age of 15 years but who have not attained the age of 18 years, priority must be given to those who are oldest. However, if in exceptional cases, children who have not attained the age of 15 years take a direct part in hostilities and fall into the power of an adverse party, they shall continue to benefit from the special protection, whether or not they are prisoners of war.²⁷⁹

The Rome Statute of the International Criminal Court²⁸⁰ considers as a war crime the conscription and enlisting of children under the age of 15 years into the national armed forces or using them to participate in hostilities.²⁸¹ Also, directed attacks against the civilian population,²⁸² places of worship, education, hospitals,²⁸³ wilful killing,²⁸⁴ enforced disappearance,²⁸⁵ torture or inhuman treatment,²⁸⁶ sexual assault,²⁸⁷ impeding relief supplies²⁸⁸ are considered war crimes under the Rome Statute.

3.2.4 Protection under the CRC and ACRWC

In the CRC, article 38 requires States to respect the rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child²⁸⁹ and take all feasible

²⁷⁸ Article 4 (3)(c) AP1.

²⁷⁹ Article 77(3) AP1 and Article 4 (3)(d) AP2.

²⁸⁰ Adopted on 17 July 1998 and entered into force on 1 July 2002.

²⁸¹ Article 8 (2) (b) (xxvi) Rome Statute.

²⁸² Article 8 (2) (b) (i) Rome Statute.

²⁸³ Article 8 (2) (b) (ix) Rome Statute.

²⁸⁴ Article 8 (2) (a) (i) Rome Statute.

²⁸⁵ Article 7(2)(i) Rome Statute.

²⁸⁶ Article 8 (2) (a)(ii) Rome Statute.

²⁸⁷ Article 8 (2) (b)(xxii) Rome Statute.

²⁸⁸ Article 8 (2) (b)(xxv) Rome Statute.

²⁸⁹ Article 38(1) CRC.

measures to ensure protection and care of children who are affected by armed conflict.²⁹⁰ In line with the Additional Protocols, the CRC also prohibits the participation of children less than 15 in hostilities or being recruited into the armed forces²⁹¹ and priority for the oldest during recruitment of children above 15 but below 18.²⁹² Article 39 further provides for the physical and psychological recovery and social reintegration of children affected by armed conflict in an environment which fosters the health, self-respect and dignity of the child.

Article 22 of the ACRWC makes similar provision as article 38 of the CRC requiring that children must be protected from abuse and participation in hostilities.²⁹³ While the CRC requires States to take feasible measures to ensure that a child under 15 does not take direct part in hostilities, the ACRWC places the limit on every child (persons under 18). The instruments also require States to protect the civilian population in armed conflict and take all feasible measures to ensure protection and care of children who are affected which includes the displaced, abandoned, and orphaned or children who do not have access to health care or education. The ACRWC takes a step further by extending the application of article 22 to situations of internal armed conflicts, tension and strife. This, according to Van Bueren, shows that the drafters were sufficiently far sighted to recognize that it is the best interest of the child which ought to predominate in international law and not the form of conflict.²⁹⁴

The 15-year age limit undermines the provisions protecting the rights of children outlined in the Geneva Conventions and the Additional Protocols. The CRC follows this despite its definition of a child as a person below the age of 18. To cure the lapse in the CRC, the CRC Optional Protocol on the Involvement of Children in Armed Conflict²⁹⁵ provides in article 1 that State Parties must ensure that members of their armed forces who have not attained the age of 18 do not take direct part in hostilities. It also prohibits the compulsory recruitment of persons under the age of 18.²⁹⁶ In recognition of the fact that under the CRC, persons under the age of 18 are entitled to special protection, the protocol urges State Parties to raise the age for voluntary recruitment of persons into their national armed forces.²⁹⁷ The Optional

²⁹⁰ Article 38(4) CRC.

²⁹¹ Article 38(2) CRC.

²⁹² Article 38(3) of the CRC.

²⁹³ Ang F A *Commentary on the United Nations Convention on the Rights of the Child (Article 38 Children in Armed Conflict)* (2005) 26.

²⁹⁴ Van Bueren G *The International Law on the Rights of the Child* (1998) 332 (hereafter Van Bueren G (1998)).

²⁹⁵ Adopted by the UN General Assembly Resolution A/RES/54/263 of 25 May 2000, entered into force on 12 February 2002.

²⁹⁶ Article 2 of the Optional Protocol.

²⁹⁷ Article 3 of the Optional Protocol.

Protocol in addition prohibits non state armed groups under any circumstances from recruiting or using children under the age of 15 in armed conflict.

Section 34 of the CRA 2003 prohibits the recruitment of children into the armed forces of Nigeria and obliges the government and relevant agencies to ensure that no child is involved in military activities or hostilities.

3.3 Violation of children's rights in armed conflict

Armed conflict violates most of the child's rights as a result of the deprivations it engenders. Some of these conflicts last for so long as to rob the child of the necessary foundations that support his or her physical, moral, emotional, cognitive and social development. Leila Zerrougui, the SRSG-CAAC in her report²⁹⁸ noted that the extreme violence which was a prevalent feature of conflicts in 2014 and continued into 2015 saw a dramatic rise in grave violations against children who were disproportionately affected and were direct targets of acts of violence.²⁹⁹ These violations are reportedly in large scale in countries affected by major crisis such as the Central African Republic, Iraq, Israel, Nigeria, and South Sudan, the Syrian Arab Republic as well as protracted conflicts in Afghanistan, Democratic Republic of Congo and Somalia.³⁰⁰ This motivated the declaration of 2014 by UNICEF as a devastating year for children.³⁰¹

The report presented to the General Assembly of the United Nations in 1996 by Graca Machel, former Minister of Education of the Republic of Mozambique, provided the first detailed assessment of the several ways in which children's rights were violated in situations of armed conflict, hence emphasising the need for the international community to seek ways to better protect children during armed conflicts.³⁰² The six grave violations against children during armed conflict noted by Graca Machel includes

1. The recruitment and use of children;
2. Killing and maiming of children;

²⁹⁸ SRSG-CAAC Report (2015).

²⁹⁹ SGRG-CAAC Report (2015) para 3.

³⁰⁰ Annual Report of the Secretary General 'Children and armed conflict' A/69/926-S/2015/409 5 June 2015 para 5 (hereafter Annual Report of the Secretary General (2015)).

³⁰¹ UNICEF '2014: A devastating year for children' (2014).

³⁰² United Nations 'Impact of Armed Conflict on Children' Report of the Expert of the Secretary General, Graca Machel submitted pursuant to General Assembly Resolution 48/157 August 1996 A/51/306 (hereafter Machel G (1996)).

3. Sexual violence against children;
4. Attacks against schools and hospitals;
5. Abduction of children and
6. Denial of humanitarian aid.

Graca Machel in her report revealed the pitiable situation of children affected by armed conflict in which they are not mere bystanders but targets.³⁰³ The statistics according to her were horrifying, but more worrisome is the fact that

‘more and more of the world is being sucked into a desolate moral vacuum. This is a space devoid of the most basic human values; a space in which children are slaughtered, raped, and maimed; a space in which children are exploited as soldiers; a space in which children are starved and exposed to extreme brutality. Such unregulated terror and violence speak of deliberate victimization. There are few further depths to which humanity can sink’.³⁰⁴

The SRSR-CAAC has equally identified these violations based on their reprehensible nature and the impact on the lives and wellbeing of children which makes them suitable for monitoring.³⁰⁵ These violations are contrary to international law encompassing international humanitarian law, international human rights law, as well as international criminal law which must be respected during armed conflicts. Special protection must be given to children’s rights during conflicts as they have no means of protecting themselves against abuses.³⁰⁶

3.4 Impact of armed conflict on education

One of the grave violations against children in armed conflict is the attacks on schools. These attacks are against students, teachers and other education personnel. They include killing, abduction, kidnapping, forced recruitment that denies access to education, illegal detention, torture and sexual violence against school children and teachers. It also includes damage of

³⁰³ Machel G (1996) para 1.

³⁰⁴ Machel G (1996) para 3.

³⁰⁵ Office of the Special Representative of the Secretary General for Children and Armed Conflict Working Paper No. 1 ‘Six grave violations against children during armed conflict: The legal foundation’ (2013) 9 (hereafter OSRSG-CAAC Working Paper No 1(2013)).

³⁰⁶ OSRSG-CAAC Working Paper No 1(2013) 9.

educational buildings and other facilities, occupation of buildings for military purposes, violent attacks on educational process such as attacks on convoys carrying examination papers, and prevention of repair, rehabilitation or reconstruction of schools already attacked.³⁰⁷

Under international humanitarian law, schools³⁰⁸ are protected civilian objects and therefore benefit from humanitarian principles of distinction and proportionality. During armed conflict, there are targeted attacks at schools and beyond that, the general state of insecurity could force schools to close down. This has the effect of depriving millions of children their right to education in order to realize their potential.³⁰⁹ Condemning the grave violations against children, the United Nations Security Council (UNSC) in Resolution 1988 (2011)³¹⁰, 2143 (2014)³¹¹ and 2225 (2015),³¹² urges parties involved in armed conflict to refrain from actions that impede children's access to education.³¹³ The UNSC also in resolution 2225 of 2015 encourages member States to take concrete measures to deter the attack and use of schools by armed forces and armed groups.³¹⁴

The attacks on schools during armed conflict can hinder the development of the education system in several ways. Jones and Naylor have noted several ways in which armed conflict can affect education.³¹⁵ Amongst them are

1. School closure due to targeted attacks.
2. Collateral damage and military use of school buildings.
3. Death and injury to teachers and students.
4. Fear of sending children to school and teachers' fear of attending due to threats and targeted attacks can also affect education.

³⁰⁷ O'Mally B *Education under Attack* (2010) 59-60.

³⁰⁸ Article 18 GCIV 1949.

³⁰⁹ SGRG-CAAC Report (2015) para 18.

³¹⁰ UNSC Resolution 1998 was adopted by the council at its 6581st meeting on 12 July 2011 (S/RES/1998(2011)) (hereafter Resolution 1998(2011)).

³¹¹ UNSC Resolution 2143 was adopted by the council at its 7129th meeting on 7 March 2014(S/RES/2143(2014)) (hereafter Resolution 2143(2014)).

³¹² UNSC Resolution 2225 was adopted by the council at its 7466th meeting on 18 June 2015 (R/RES/2225(2015)) (hereafter Resolution 2225 (2015)).

³¹³ Resolution 1998(2011) para 4, Resolution 2143(2014) para 17, Resolution 2225 (2015) para 1.

³¹³ Machel G (1996) para 199.

³¹⁴ Resolution 2225 (2015) para 7.

³¹⁵ Jones A & Naylor R (2014).

5. General insecurity reducing freedom of movement.
6. Recruitment of teachers and students by armed forces (State and non-state).
7. Forced population displacement interrupting education.
8. Public health impacts of conflict which reduce access and learning.
9. Reduced educational expenditure due to an overall reduction in resources and shifting priorities reduces public capacity to deliver education.³¹⁶

These disruptions have the effect of lowering access to education, the quality of education as well as the quality of the learning experience.³¹⁷ These are the same factors bedeviling basic and secondary education in Nigeria due to the Boko Haram insurgency ravaging the North Eastern part of the country. In contravention of the GCIV 1949 which prohibits attacks on protected persons, the Boko Haram insurgents opposed to secular education have launched several targeted attacks on schools in North Eastern Nigeria, which has left many children and teachers dead. Schools have shut down as the general climate of insecurity prevents children, teachers and other education personnel from attending school. Even where educational opportunities exist, parents worried about the safety of their children may be reluctant to send them to school.³¹⁸ In 2014, conflict in the Democratic Republic of Congo threw over 31 000 children out of school owing to the attacks on 22 schools, of which 12 were used for military purposes.³¹⁹

O'Mally has also noted longer term impacts of armed conflict on education as a result of persistent attacks over a number of years and the use of force to prevent the recovery from such attacks. Such long term effects include

1. Reduced enrolment and permanent drop-out of students which hinders attempts to achieve the EFA and MDGs agenda.
2. Destruction of infrastructure and disruption of attempts to rebuild them could lead to shortage of infrastructure which impacts negatively on the learning conditions and children's access to education.

³¹⁶ Jones A & Naylor R (2014) 4.

³¹⁷ O'Mally B (2011) 2.

³¹⁸ Machel G (1996) para 199.

³¹⁹ Annual Report of the Secretary General (2015) para 63.

3. Withdrawal of educational personnel leading to a shortage of teachers.
4. The general impact of armed conflict on the government's resources reduces the government capacity to manage or deliver education.
5. Reduction in the quality of educational provision.³²⁰

As a result of the immense threat to education, conflict affected areas have some of the world's worst indicators for education as millions of children are deprived of their only chance of schooling that could transform their lives.³²¹ Armed conflict also poses a problem for States in the implementation of the EFA and MDGs with regard to universal primary education.³²² Her Majesty, Queen Rania Al Abdullah of Jordan in her special contribution to the EFA report noted that with conflict children out of school, the EFA and MDG targets become impossible to reach, hence focus must be directed to giving children education as it prevents conflict before it occurs and rebuilds countries after it ends.³²³

The exposure of children to the traumatic events such as loss of loved ones, displacement, lack of food, and interruption of school associated with armed conflict has detrimental consequences for their mental health and psychological well-being.³²⁴ Children are affected by Post Traumatic Stress Disorders (PTSD) such as irritability, insomnia, sleeping disorders, fear, aggression, confusion and inability to concentrate³²⁵ which greatly affects their ability to have a loving relationship with family and friends and perform well in school. In a study conducted on 796 children living in the occupied West Bank and Gaza, an area affected by armed conflict, they were found to have behavioural and psychological problems such as depression, fears, disobedience, fighting, sleep disturbances, nightmares and low self-esteem.³²⁶ It was discovered that children in Sri Lanka provinces who suffered traumatising experiences in armed conflict suffered from PTSD and both memory tests and school grades

³²⁰ O'Mally B (2011) 5-6.

³²¹ Education for All Global Monitoring Report (2011) 'The hidden crisis: Armed conflict and education' UNESCO 125 (hereafter EFA Report (2011)).

³²² UNESCO 'The quantitative impact of conflict on education' A think piece prepared for the Education for All Global Monitoring Report 2011 (2010) (2011/ED/EFA/MRT/P1/50) UNESCO Institute for Statistics 4.

³²³ EFA Report (2011) 125.

³²⁴ Barenbaum J, Ruchkin V & Schwab-Stone M (2004).

³²⁵ Thabet AAM, Abed Y & Vostanis P 'Cosmorbidity of PSTD and depression among refugee children during war conflict' (2004) 45(3) *Journal of Child Psychology and Psychiatry* 533-34.

³²⁶ Baker AM 'The psychological impact of the intifada on Palestinian children in the occupied territory West Bank and Gaza: An exploratory study' (1990) 60(4) *American Journal of Orthopsychiatry* 502.

demonstrated significant impairment of cognitive development.³²⁷ It has also been shown that children of school age in Rwanda exposed to the 1994 genocide experience had a drop in educational achievement.³²⁸

The environment has an influence on development, on learning and other aspects of behaviour. Thus, any society characterized by any form of violence will not be conducive for any social interaction in the form of teaching and learning.³²⁹ The attacks can also affect students' performance in school as insecurity constitutes a negative reinforcement due to the obvious fact that teaching and learning cannot successfully occur in an environment of fear.³³⁰ The condition of the people in the North Eastern Nigeria as a result of Boko Haram insurgency is synonymous with misery and fear. The conflict has been traumatic for children as they are forced to flee from their homes under threat, witness killings of schoolmates or living as displaced persons or refugees.³³¹ An attack against teachers and sometimes in full view of their pupils is capable of exposing children to severe trauma.

War not only destroys lives and schools, it also diverts resources from education to military spending.³³² As much as defence spending provides security which sustains a stable business environment, negatively it gulps resources that could be put to more productive use.³³³ The economic implications of managing the Boko Haram insurgency have been heavy on the Nigerian government,³³⁴ and the huge spending on security has a ripple effect on the funding of other sectors. Despite the importance of education in human capital development, excessive defence spending has led to poor funding of the educational sector in Nigeria.³³⁵ Even the lean resources available for its improvement are being channelled to rebuilding the schools destroyed by the insurgents.

³²⁷ Elbert T, Schauer M, Schauer E *et al* 'Trauma-related impairment in children- A survey of Sri Lankan provinces affected by armed conflict' (2009) 33 *Child Abuse and Neglect* 238.

³²⁸ Akresh R & De Walque D 'Armed conflict and schooling: Evidence from the 1994 Rwandan genocide' (2008) World Bank Policy Research Working Paper available at <http://ssrn.com/abstract=1149109> (accessed 10 February 2015).

³²⁹ Joda FM & Abdulrasheed O 'Effects of insurgency on girls education in North Eastern Nigeria' (2015) 3(1) *European Journal of Education and Development Psychology* 48 (hereafter Joda FM & Abdulrasheed O (2015).

³³⁰ Umar B & Manabete SS 'Peace and security: Challenges to education and communal existence in Nigeria' in Dichaba M & Nwaozuzu D *Rethinking Teaching and Learning in the 21st Century* (2015) 207-8.

³³¹ Yule W, Stuvland R, Baingana FK *et al* (2003) 218.

³³² EFA Report (2011) 146.

³³³ Edame GE & Nwankwo C 'The interaction between defence spending, debt service obligation and economic growth in Nigeria' (2013)4 (13) *Research Journal of Finance and Accounting* 62.

³³⁴ Bamidele O 'Beyond the shadows of terrorism: Boko Haram crisis in North-Eastern Nigeria' 2015 *Conflict Studies Quarterly* 52.

³³⁵ Olofin OP 'Defence spending and poverty reduction in Nigeria' (2012) 2(6) *American Journal of Economics* 122.

3.5 Conclusion

Children have become more vulnerable due to the changing tactics of warfare resulting in targeted attacks on children and the institutions that protect them such as family, schools and hospitals. Children suffer several human rights violations including the rights to education. State parties have the primary duty to protect children and ensure that even in armed conflict, their right to life, food, family life, health and other survival needs as well as education is secured. The care and protection of children affected by armed conflict require all stakeholders to develop sensitive programs that protect all the rights of children living in conflict areas. The changing context of armed conflict with its increased risk for children, cries out for a different approach to the issues confronting children in these situations.

Addressing the long term impact of armed conflict on education requires a variety of approaches including building the capacity of the education ministry to rebuild education through reconstruction of damaged facilities; rapid interim teacher training; mobilisation of community support for education; joint approaches with security, economic and education ministries to ensure stability of the education system and better monitoring of the long term impacts in order to improve responses to them. However, in many areas where there are persistent attacks, these responses cannot be made precisely because schools and the education system are still being attacked. An instance is where continuing attacks deter contractors from rebuilding schools or teachers from returning to work.³³⁶ For this reason, action to deter or avert attacks must be addressed as a matter of priority.

The next chapter looks into the situation of Nigerian children affected by the Boko Haram insurgency. The chapter particularly looks at how the attacks by the insurgents on schools and school children have affected their access to education in the North Eastern part of Nigeria.

³³⁶ O'Mally B (2011) 3.

CHAPTER FOUR

4 EFFECT OF THE BOKO HARAM INSURGENCY ON THE CHILD'S RIGHT TO EDUCATION IN NIGERIA

4.1 Introduction

The right to education guaranteed under the ICESCR, CRC, ACRWC as well as other international instruments is not suspended in situations of armed conflict. Concerned about the consequences of brutal armed conflicts for education, Vernor Munoz, former Special Rapporteur on the Right to Education noted in his report that 'security in schools', meaning not only physical, psychological and emotional safety, but also an uninterrupted education in conditions conducive to knowledge acquisition and character development, form part of the right to education.³³⁷ Hence, States have the obligation to respect, protect and fulfil the right to education whether or not an emergency situation exists.³³⁸ This chapter looks into the impact of the Boko Haram insurgency on basic education in North-eastern Nigeria. It considers the impact on school attendance, education facilities as well as the educational challenges of internally displaced children.

The incessant attacks made by the Boko Haram insurgents have disrupted academic activities and greatly affected school attendance. Teachers and other education personnel have also not been spared the wrath as some have lost their lives during the attacks and others fled out of fear. It has been reported that at least 198 teachers were killed by the insurgents between 2012 and 2014.³³⁹ The already inadequate facilities have further been depleted as a result of the attacks which have affected school buildings, furniture and school records. Also, the funds which should have been used for education improvement are being spent on security and in rebuilding the damaged schools. The negative psychological effect of the insurgency on students and teachers has affected education greatly as teaching and learning cannot effectively take place in a state of insecurity. This problem is aptly captured in the following words:

³³⁷ Report of the Special Rapporteur on the Right to Education 'Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development: Right to education in emergency situations' A/HRC/8/10 20 May 2008 para 21 (hereafter Report of the Special Rapporteur on the Right to Education (2008)).

³³⁸ Report of the Special Rapporteur on the Right to Education (2008) para 37.

³³⁹ Annual Report of the Secretary General (2015) para 235.

‘Perhaps more than any time in history, school children, teachers and schools are on the front line of violence. Classrooms are destroyed not just because they are caught in the crossfire, but because they are targeted by combatants.... And resources that could be used to finance productive investment in education are wasted on unproductive military expenditure.’³⁴⁰

4.2 Effect on school attendance

According to Oladunjoye and Omemu, attendance at school is dependent on the readiness of the child, encouragement from parents, provision of school materials, distance to school and very importantly, the security of the child.³⁴¹ The present state of insecurity in the North Eastern region of Nigeria has greatly affected children’s school attendance, and this has a direct effect on the progress and completion levels. As a result of the incessant attacks on schools, school children and teachers, UNICEF reports that over one million children have been forced out of school.³⁴² Teachers have also been forced to stay away from school.³⁴³ Some schools were forced to shut down and the deserted school buildings were converted into shelters for the internally displaced persons.³⁴⁴ Children who are supposed to populate the schools have either sought refuge along with their families in neighbouring countries or internally displaced as over 1.4 million children have been forced to flee the region.³⁴⁵

Out of fear, children are forced to stay out of school as attacks by insurgents have led to the death of many children. In July 2013, the insurgents invaded a government owned boarding school in Mamudo village in Yobe state and killed 42 students and teachers and also burnt down the school.³⁴⁶ On 25th February 2014, the insurgents invaded Federal Government College, Buni Yadi, Yobe state and gruesomely murdered about 59 students and burnt several

³⁴⁰ EFA Report (2011) 124-25.

³⁴¹ Oladunjoye P & Omemu F (2013) 5.

³⁴² ‘Nigeria conflict forces more than one million children out of school’ UNICEF 22 December 2015 available at http://www.unicef.org/media/media_86621.html (accessed 1 February 2016).

³⁴³ Atsua TG & Abdullahi U ‘Impact of Boko Haram insurgency on principals, teachers and students in senior secondary schools in Borno state, Nigeria’ (2015) 33(1) *Knowledge Review* 4.

³⁴⁴ ‘IDP Protection Strategy 2015’ Protection Sector Working Group Nigeria available at https://www.humanitarianresponse.info/en/system/files/documents/files/idp_protection_strategy_march_2015_1.pdf (accessed 1 February 2016) 8.

³⁴⁵ UNICEF Press Centre (2015).

³⁴⁶ Agba G, Otuchikere C, Odemwingie E *et al* ‘Nigeria: Boko haram attack on Yobe school, “You’ll burn in hell”, Jonathan tells sect’ All Africa 8 July, 2013. Available at <http://allafrica.com/stories/201307080649.html> (accessed 1 February 2016).

buildings in the school.³⁴⁷ In November 2014, a suicide bomber entered a secondary school, killed about 47 school pupils and injured many others while at their morning assembly by disguising as a member of the school.³⁴⁸ Also in April 2014, over 200 Chibok girls were abducted from their school dormitory and till date they have not been found except for some that are reported to have escaped.³⁴⁹ The Chibok girls' abduction represented the largest single incident of abduction attributable to the Boko Haram.³⁵⁰

The North Eastern Nigeria being ravaged by insurgents has ordinarily recorded a low literacy level as it has the highest number of OOSC.³⁵¹ The 2013 NDHS showed that the North East had the lowest rate of school attendance compared with the South Eastern region which had the highest. Yobe state in particular was the lowest among all the states in Nigeria in terms of school attendance for both male and female in primary and secondary school with just 12 per cent attendance³⁵² compared to Imo state in the South East with 75 per cent.³⁵³ A recent study conducted in some schools in Damaturu, the capital city of Yobe state revealed that the insecurity in the region has further caused a reduction in school attendance.³⁵⁴ Borno state has had the most devastating experience since the Boko Haram insurgency with a huge negative impact on basic education. Despite the ordinarily low primary and secondary school attendance level in the state (35 and 28 per cent respectively),³⁵⁵ a recent study revealed that the insurgency has affected basic education as school attendance has drastically reduced owing to attacks on schools which has left many children hurt in the process, the abduction of over 200 Chibok girls, and also as children and many teachers have narrowly escaped death during the attacks on their communities.³⁵⁶

Female education in the North East though ranking least prior to the insurgency, has been worsened as a result of attacks on schools and kidnap of female students with some being

³⁴⁷ 'The Buni Yadi students massacre in Yobe state' The Sun 2 March 2014 available at www.sunnewsonline.com/new/buni-yadi-students-massacre-yobe/ (accessed 5 February 2016).

³⁴⁸ 'Nigerian school blast kills dozens', The Guardian (Nigeria) Monday 10 November 2014, available at <http://www.theguardian.com/world/2014/nov/10/nigeria-school-bomb-blast> (accessed 2 February 2016).

³⁴⁹ Oke RO & Labeodan HA 'Boko Haram insurgency, the Chibok Girls' abduction and the implication for the girl child in Nigeria' in Ross RE & Amenga-Etego R (eds) *Unravelling and Reweaving the Sacred Canon in Africana Womanhood* (2015) 100-2.

³⁵⁰ Annual Report of the Secretary General (2015) para 236

³⁵¹ Fabunmi M (2005)1.

³⁵² NDHS 2013 26-7.

³⁵³ NDHS 2013 26-8.

³⁵⁴ Abdullahi U & Terhemba GA 'Effects of insecurity on primary school attendance in Damaturu metropolis Yobe state, Nigeria' (2014) 5(1) *Journal of Research in Education and Society* 35.

³⁵⁵ NDHS 2013 26-7.

³⁵⁶ Abdulrasheed O, Onuselogu A & Obioma UG (2015) 490-94.

turned into suicide bombers.³⁵⁷ This state of insecurity has forced parents to keep their daughters away from school.³⁵⁸ It has been shown that due to the insurgency, and particularly the abduction of the Chibok girls, the female students were afraid of being kidnapped and this caused them to stay away from school.³⁵⁹

The study carried out by Oladunjoye and Omemu showed that school attendance is mostly affected in rural areas as they are usually neglected unlike the urban areas where the schools enjoy a measure of protection from security forces.³⁶⁰ The constant attacks by the sect undermines the effort of government in improving education in the Northern region and no right thinking parent would want to send their wards to school for fear of being victims of the attacks.³⁶¹ Some parents rather send the children to neighbouring states that are peaceful but the masses in the Northeast counted among the poorest cannot afford that luxury.³⁶² In situations such as these, the children may never return to school or complete their education even when the insurgency is over, thus diminishing their contribution to their society.³⁶³

4.3 Educational facilities

Availability which stands as one of the essential features of education requires that all necessary infrastructures and learning facilities must be in place.³⁶⁴ The physical condition of a school has a direct positive or negative effect on a teacher's morale, effectiveness and on the general learning environment.³⁶⁵ Inadequacy of educational facilities is a threat to the right to education. Nigerian schools are ordinarily ill equipped and not conducive for learning,³⁶⁶ and the destruction of the available school facilities by the insurgents leaves basic education in a dire situation. Access to basic education in the North Eastern states has been

³⁵⁷ Sanni OB 'Effects of insecurity and challenges of female's education in Nigeria' (2015) 18(3) *African Journal for the Psychological Study of Social Issues* 51.

³⁵⁸ UNICEF 'Insecurity threatens gains in girls education' June 15 2014 available at http://www.unicef.org/nigeria/media_8480.html (accessed 19 February 2015).

³⁵⁹ Joda FM & Abdulrasheed O (2015) 48.

³⁶⁰ Oladunjoye P & Omemu F (2013) 7.

³⁶¹ Ohiwerei FO 'Effects of Boko Haram insurgency/terrorism on business education in Nigerian universities' (2014) 3(9) *Scholarly Journal of Education* 165.

³⁶² Khan A & Hamidu I 'Boko Haram and turmoil in Northern Nigeria' (2015)19(1) *Jadavpur Journal of International Relations* 29.

³⁶³ O'Mally B (2011) 13.

³⁶⁴ General Comment 13 para 6(a).

³⁶⁵ Owoeye JS & Yara PO 'School facilities and academic achievement of secondary school agricultural science in Ekiti state, Nigeria' (2011) 7(7) *Asian Social Science* 64.

³⁶⁶ Nwangwu CC 'The environment of crisis in the Nigerian education system' (1997) 33(1) *Comparative Education* 91.

greatly affected by the targeted attacks on school facilities by Boko Haram.³⁶⁷ According to UNICEF over 300 schools were destroyed and 314 children killed between 2012 and 2014.³⁶⁸

In Borno, which is the worst hit of all the states, the Executive Chairman of the Borno State Universal Basic Education Board (SUBEB) Shettima Bukarkullima stated that over 512 schools which translate into over 1000 classrooms have been destroyed over the years.³⁶⁹ In such a situation, not only the building, but also teaching materials and also children's school records are destroyed.³⁷⁰ The effort of governments of affected states in rebuilding the damaged schools is being frustrated as the insurgents have destroyed some schools repeatedly.³⁷¹

4.4 Educational challenges of internally displaced persons (IDPS)

One of the gravest consequences of the Boko Haram insurgency is the large population that has been displaced. The International Organisation for Migration set up a Displacement Tracking Matrix in July 2014 to support the government in collecting and disseminating data on IDPs. As of December 2015, the total IDPs in Nigeria were 2,151,979 individuals identified in Adamawa, Bauchi, Benue, Borno, Gombe, Taraba, Yobe, Nasarawa, Plateau, Kaduna, Kano, Zamfara and Abuja.³⁷² The report also states that 84 per cent were displaced by the insurgency while others are victims of communal clashes in the Northern region. The majority of the IDPs were identified in Borno (64 per cent), followed by Adamawa (6.32 per cent) and Yobe (6.1 per cent). Of the IDPs, 92 per cent live in host communities while eight per cent live in the camps.³⁷³ Children constitute 55.7 per cent of the IDP population and more than half of them are five years old or younger.³⁷⁴

Considering that many IDPs are sheltered in schools and humanitarian assistance is limited to life saving interventions, displaced children are generally unable to pursue their education.³⁷⁵

³⁶⁷ World Report 2014: Nigeria.

³⁶⁸ UNICEF Child Alert 'Missing childhoods' (2015) 5.

³⁶⁹ Anumba E 'Boko Haram Kills 350 teachers and destroys 512 schools' The Sun 9 December 2015 available at <http://sunnewsonline.com/new/boko-haram-kills-350-teachers-destroys-512-schools/> (accessed 1 February 2016).

³⁷⁰ Amnesty International (2013).

³⁷¹ Amnesty International (2013) 12.

³⁷² IOM and NEMA Displacement Tracking Matrix (DTM) Round VII Report December 2015 available at https://nigeria.iom.int/sites/default/files/dtm/01_IOM%20DTM%20Nigeria_Round%20VII%20Report_20151223.pdf (accessed 18 February 2016) 1 (hereafter DTM Report (2015)).

³⁷³ DTM Report (2015) 4.

³⁷⁴ DTM Report (2015) 2.

³⁷⁵ Internal Displacement Monitoring Centre (IDMC) 'Nigeria: Multiple displacement crisis overshadowed by Boko Haram' (2014) available at

The occupation of the schools by the IDPs and security forces have damaged and destroyed some infrastructure and denied children access to the occupied schools. An increase in IDPs in Adamawa during the school holidays in September 2014 led to the use of schools as shelters, preventing classes from resuming at the start of the academic year.³⁷⁶ Considering that education planning does not take account of situations of population increase due to displacement, children are refused attendance at host community schools that do not have the facilities or staff to take on more students. In cases where they are accepted, the overstretched resources have reduced the quality of education.³⁷⁷ Due to fear of attack or abduction, some parents refuse to allow their children go to school and they tend to prioritize basic needs such as food and shelter over education.³⁷⁸ Such lack of preoccupation could result in juvenile delinquency, drug addiction, prostitution and continued destitution.

4.5 Conclusion

Nigeria has been ranked third among 162 countries in the 2015 Global Terrorism Index³⁷⁹ and also third among 50 countries for the worst terrorist attacks in 2014.³⁸⁰ The Boko Haram insurgency stands today as a major threat confronting Nigeria and nearly stretching its security apparatus to their limits.³⁸¹ The disintegration of the education system as a result of the general state of insecurity which has led to an exodus of teachers and students could be a long lasting legacy of Boko Haram that sets the North Eastern Nigeria back a generation. There is a need for the government to take decisive and targeted steps in handling the humanitarian needs of those affected by the insurgency in a child sensitive manner with particular attention to the provision of educational opportunities.

The next chapter details the protection gaps in addressing the impact of the Boko Haram insurgency as it reviews what has been done to address the issue at the national level as well as how well the Nigerian government and the relevant agencies have tried to complement the efforts at the international level.

<http://www.internaldisplacement.org/assets/library/Africa/Nigeria/pdf/201412-af-nigeria-overview-en.pdf> (accessed 20 February 2016) 13 (hereafter IDMC (2014)).

³⁷⁶ IDMC (2014) 13.

³⁷⁷ IDMC (2014) 13.

³⁷⁸ IDMC (2014) 13.

³⁷⁹ 'Global Terrorism Index 2015' Institute for Economics and Peace available at <http://www.premiumtimesng.com/regional/north-east/194074-boko-haram-nigeria-human-rights-commission-laments-number-of-out-of-school-children.html> (accessed 6 February 2016) Annex A (hereafter Global Terrorism Index 2015).

³⁸⁰ Global Terrorism Index 2015 Annex B.

³⁸¹ Agbiboa D 'Nigerian State responses to insurgency' in Lyons T & Lahai JI, (eds) *African Frontiers: Insurgency, Governance and Peacebuilding in Postcolonial States* (2015) 90.

CHAPTER FIVE

5 NIGERIAN GOVERNMENT'S RESPONSE TO THE BOKO HARAM INSURGENCY

5.1 Introduction

The protection of children from the effects of armed conflict is seen as a legal and moral commitment, as well as a question of international peace and security.³⁸² Under international law, national governments bear primary responsibility to respect, protect and promote the rights of children within their jurisdiction as well as bringing perpetrators of grave violations against children to justice.³⁸³ The role of the UN and the international community is that of support and one situation where that is greatly required is in the protection of children against grave violations of their rights in countries affected by armed conflict. This chapter looks at the international response to the plight of children affected by armed conflict. It also considers how the Nigerian government in line with its international obligations has responded to the educational needs of children affected by the Boko Haram insurgency.

5.2 International responses to grave violations against children

The international community has taken crucial steps to end impunity and grave violations against children during armed conflict. Various international instruments are in place to secure the protection of children in situations of armed conflict as discussed in chapter three of this study. The unique success of the CRC heightens the burden to ensure appropriate monitoring of implementation of its provisions³⁸⁴ and the report of Graca Machel in 1996 initiated a purposive agenda for the protection of children in armed conflict. The UNSC has overtime used its capacity to apply pressure through sanctions to ensure compliance with international standards for the protection of children affected by armed conflict.³⁸⁵

The UNSC resolutions on children in armed conflict provide the UN with tools to effectively address grave violations against children. The Council has established a strong normative framework to end and prevent grave violations against children through UNSC Resolutions

³⁸² OSRSG-CAAC Working Paper No 1(2013) 9.

³⁸³ Office of the Special Representative of the Secretary General for Children and Armed Conflict Working Paper No. 3 'Children and justice during and in the aftermath of armed conflict' (2011) 9.

³⁸⁴ Verhellen E 'Monitoring children's rights' in Verhellen E *Monitoring Children's Rights* (1996) 7.

³⁸⁵ Office of the Special Representative of the Secretary General for Children and Armed Conflict 'Monitoring and Reporting Mechanism Guidelines' March 2012 3 (hereafter MRM Guidelines).

1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012), and 2143 (2014). The Secretary-General is authorised in resolution 1379 (2001)³⁸⁶ to include State and non-state parties to conflict responsible for the recruitment and use of children in the annexes to his annual report on children and armed conflict.³⁸⁷ Killing and maiming of children and sexual violence against children was added in resolution 1882 (2009)³⁸⁸ while recurrent attacks on schools and hospitals were added in resolution 1998 (2011).³⁸⁹ During the March 2015 Open Debate on Children and Armed Conflict, council members and member States urged the council to designate abductions as a new criteria for listing of parties in order to enhance the effectiveness of child protection by the international community as well as hold perpetrators to account.³⁹⁰

With resolution 1612 (2005),³⁹¹ the UNSC empowered the Secretary General to establish an enhanced and systemized method of gathering data on violations against children.³⁹² This led to the establishment of the Monitoring and Reporting Mechanism (MRM) with the mandate of gathering accurate, timely, objective and reliable information on the six grave violations against children in armed conflict by State and non-state actors.³⁹³ The UNSC also in its resolution 1998 (2011) requires all parties listed in the Secretary General's annual report to develop concrete time-bound action plans to halt and prevent violations.³⁹⁴ MRM is established in countries in situations where parties to conflict have been listed³⁹⁵ and terminated when the parties are delisted after the UN verifies that the violations for which the parties were listed have ended and action plans to end the violations have been finalized.³⁹⁶ The 2014 Annual Report of the Secretary General lists 59 parties of which 51 are non-state armed groups and 31 have been in the annexes for at least 5 consecutive reports making them continuing violators.³⁹⁷

³⁸⁶ Adopted by the UNSC at its 4423rd meeting on 20 November 2001 S/RES/1379 (2001) (hereafter Resolution 1379(2001)).

³⁸⁷ Resolution 1379 (2001) para 16.

³⁸⁸ Adopted by the UNSC at its 6176th meeting on 4 August 2009 (S/RES/1882 (2009) para 3.

³⁸⁹ Adopted by the UNSC at its 6581st meeting on 11 July 2011 (S/RES/1998 (2011) para 3 (hereafter Resolution 1998(2011)).

³⁹⁰ Report of UNSC 7414th meeting held on 25 March 2015 (S/PV/7414).

³⁹¹ Adopted by the UNSC at its 5235th meeting on 26 July 2005 S/RES/1612 (2005) (hereafter Resolution 1612 (2005)).

³⁹² Resolution 1612 (2005) para 3.

³⁹³ MRM Guidelines 4.

³⁹⁴ Resolution 1998 (2011) para 6(c).

³⁹⁵ MRM Guidelines 5.

³⁹⁶ MRM Guidelines 18.

³⁹⁷ Annual Report of the Secretary General 'Children and armed conflict' A/68/878-S2014/339 15 May 2014 (2014) Annex I and II (hereafter Annual Report of the Secretary General (2014)).

In July 2014, Boko Haram was listed for two grave violations against children - killing and maiming of children and attacks on schools and hospitals.³⁹⁸ The listing of Boko Haram triggers a country-specific Monitoring and Reporting Mechanism (MRM) on grave violations against children in Nigeria.³⁹⁹ In December 2014, UN formally established a country task force on children affected by armed conflict to monitor and report on violations against children in Nigeria.⁴⁰⁰ The verification of incidents has been challenging due to the lack of easy access to affected areas.⁴⁰¹

The creation of the Security Council Working Group on Children and Armed Conflict,⁴⁰² and the Country Task Force on Monitoring and Reporting⁴⁰³ are geared towards the effective implementation of the MRM. As the UN lead agency for children, UNICEF has a special responsibility for the effective implementation of the MRM in ensuring timely and adequate response to the needs of affected children.⁴⁰⁴ The Office of the SRSG-CAAC has focused a lot of attention on the “Children, Not Soldiers” campaign which has recorded huge success.⁴⁰⁵ The SRSG-CAAC also increased focus on the attacks on schools and hospitals. It has helped to further raise the profile of these violations, but it has not resulted in action plans by parties involved.

The listing otherwise called “naming and shaming” of parties to conflicts who commit grave violations against children has recorded successes as some parties already listed have signed action plans with the UN to end and prevent violations against children.⁴⁰⁶ Twenty-three action plans have been adopted by 22 parties. Of the action plans, 22 are to stop child recruitment while the other is about killing and maiming signed by the Transitional Federal Government of Somalia on 6 August 2012.⁴⁰⁷ The Chadian National Army was delisted following the full implementation of the action plan to end the recruitment and use of

³⁹⁸ Annual Report of the Secretary General (2014) Annex II

³⁹⁹ Watchlist on Children and Armed Conflict ‘Who will care for us?’ (2014)

⁴⁰⁰ Annual Report of the Secretary General (2015) para 231.

⁴⁰¹ Annual Report of the Secretary General (2015) para 231.

⁴⁰² Established by UNSC in its Resolution 1612(2005) para 8.

⁴⁰³ This is the organisational structure for the implementation of the MRM at the country level.

⁴⁰⁴ MRM Guidelines 8.

⁴⁰⁵ Leila Zerrougui ‘A year of progress for “Children, Not Soldiers” 6 March 2015 available at www.childrenandarmedconflict.un.org/children-not-soldiers-one-year-anniversary/ (accessed 8 February 2016).

⁴⁰⁶ ‘Expanding the UN’s children and armed conflict agenda’ Watchlist on Children and Armed Conflict Briefing Note May 2015 available at www.watchlist.org/wordpress/wp-content/uploads/Watchlist_AbuDuctions_Policy_Brief-LR.pdf (accessed 8 February 2016).

⁴⁰⁷ Security Council Cross Cutting Report ‘Children and armed conflict’ June 2015 available at www.securitycouncilreport.org (accessed 8 February 2015) 11 (Cross Cutting Report (2015)).

children signed with the UN in 2011.⁴⁰⁸ The UN has also provided support to the government of Chad in training, age assessment mechanisms and birth registration. Chad's speedy implementation of an action plan in order to participate in the peacekeeping mission in Mali demonstrates the essence of political will combined with incentives in motivating a government to take concrete steps to halt child's rights violation.⁴⁰⁹ With the delisting of parties in Cote d' Ivoire since 2009, the protection of children has continued to improve.⁴¹⁰ A party was also delisted in Uganda in 2009 and also one in Sri Lanka in 2012.⁴¹¹

The fight against impunity for war crimes against children has been strengthened by the work of the International Criminal Court (ICC). On 10 July 2012, the Congolese warlord Lubanga Dyilo was found guilty and sentenced to 14 years of imprisonment and this was confirmed by the Appeal Chamber on 1 December 2014.⁴¹² This conviction, according to Amnesty International shows that the ICC can bring the world's worst offenders to justice for genocide, crimes against humanity and war crimes.⁴¹³

5.3 Nigerian government's response to Boko Haram insurgency

The Nigerian government has taken a soft-handed approach involving an attempt to engage the Boko Haram members in political negotiations as was done with the Niger Delta Militants. In April 2013, former President Goodluck Jonathan established a 26 member Amnesty Committee on Dialogue and Peaceful Resolution of Security Challenges in the North with the mandate to within three months convince the Boko Haram sect to surrender its arms in exchange for a state pardon and social integration.⁴¹⁴ The sect however claimed it had done no wrong deserving pardon, rather insisting on its violent campaigns to establish an Islamic State in Nigeria.⁴¹⁵ This attempt, according to Nwankpa was ill advised as the

⁴⁰⁸ Annual Report of the Secretary General (2015) para 52.

⁴⁰⁹ Cross Cutting Report (2015) 3.

⁴¹⁰ Annual Report of the Secretary General (2015) para 57.

⁴¹¹ Cross Cutting Report (2015) 16.

⁴¹² *The Prosecutor v. Thomas Lubanga Dyilo* ICC-01/04-01/06.

⁴¹³ 'Landmark ICC verdict over the use of child soldiers' Amnesty International 14 March 2012 available at www.amnesty.org/en/latest/news/2012/03/landmark-icc-verdict-over-use-child-soldiers/ (accessed 5 February 2016).

⁴¹⁴ Agbiboa D 'Resistance to Boko Haram: Civilian Joint Task Forces in North-Eastern Nigeria' 2015 *Conflict Studies Quarterly* 11 (hereafter Agbiboa D (2015)).

⁴¹⁵ Agbiboa D 'The ongoing campaign of terror in Nigeria: Boko Haram versus the State' (2013) 2(3) *Stability: International Journal of Security and Development* 1-18.

religious motivation of the sect is different from the secular demands of the Niger Delta militants.⁴¹⁶

The Boko Haram launched several brutal attacks after its refusal⁴¹⁷ which led the government to a hard approach by declaring a state of emergency on 14th May 2013 in Borno, Adamawa and Yobe, as an attempt to restore order and reclaim the territories under Boko Haram control.⁴¹⁸ The government established a Joint Task Force (JTF) and deployed 8000 soldiers to the region which happened to be the largest military deployment since the Nigerian civil war.⁴¹⁹ In 2015, the troop succeeded in reclaiming most of the areas under Boko Haram control. The Nigerian army supported by the Nigerian Air Force has launched attacks against Sambisa forest which is considered a major stronghold of the sect, rescuing captives, arresting insurgents and destroying their weapons.⁴²⁰

Amnesty International has however documented a series of human rights violations against Nigerians by the JTF mandated to protect them.⁴²¹ They are reported to have carried out extra-legal killings, intimidation of residents, arbitrary arrests and searches, and burning of houses and shops belonging to civilians. Also, rather than conducting intelligence-driven operations, the JTF simply condoned off areas and carried out house to house searches and at times shooting young men in their homes.⁴²² In a fire fight between the JTF and the Boko Haram in Baga, a village on Lake Chad near the Nigerian border with Cameroon, almost 185 people were killed and others injured.⁴²³

⁴¹⁶ Nwankpa M 'The politics of amnesty in Nigeria: A comparative analysis of the Boko Haram and the Niger Delta insurgencies' (2014) 5(1) *Journal of Terrorism Research* 74.

⁴¹⁷ 'Analysis: Nigerians on the run as military combat Boko Haram' IRIN 22 May 2013 available at www.irinnews.org/report/98076/analysis-nigerians-on-the-run-as-military-combat-boko-haram (accessed 4 February 2016).

⁴¹⁸ Owete F 'Mixed reactions trail declaration of state of emergency in Borno, Yobe and Adamawa' Premium Times 14 May 2013 available at <http://www.premiumtimesng.com/news/134285-mixed-reactions-trail-declaration-of-state-of-emergency-in-borno-yobe-adamawa.html> (accessed 5 February 2016).

⁴¹⁹ Agbiboa D 'Peace at daggers drawn? Boko Haram and the state of emergency in Nigeria' (2014) 37 *Studies in Conflict and Terrorism* 60.

⁴²⁰ 'Sambisa forest battle: 3 soldiers killed as Nigerian Army commences attack on Boko Haram' Premium Times 6 December 2015 available at <http://www.premiumtimesng.com/news/headlines/194654-sambisa-forest-battle-3-soldiers-killed-as-nigerian-army-commences-attack-on-boko-haram.html> (accessed 6 February 2016).

⁴²¹ Amnesty International 'Stars on their shoulders, blood on their hands: War crimes committed by the Nigerian military' June 2015 available at www.amnestyusa.org/sites/default/files/report.compressed.pdf (accessed 11 February 2015).

⁴²² Anyadike O 'Analysis: Carrot or stick? – Nigerians divided over Boko Haram' IRIN 16 July 2012 available at www.irinnews.org/report/95874/analysis-carrot-or-stick-nigerians-divided-over-boko-haram (accessed 4 February 2016).

⁴²³ '185 killed in Borno town, Baga, as soldiers, Boko Haram fight' Premium Times 22 April 2013 available at <http://www.premiumtimesng.com/news/130680-185-killed-in-borno-town-baga-as-soldiers-boko-haram-fight.html> (accessed 5 February 2016).

In reaction to the perceived failure of the Nigerian military to protect civilians against Boko Haram, the local youths (yan gora) of the affected communities in Borno state, armed with rudimentary weapons such as sticks, machetes, daggers, bows and arrows, have mobilized themselves against Boko Haram elements in their communities.⁴²⁴ The group serves to complement the counter terrorism efforts of the JTF.⁴²⁵ The group officially recognised as Civilian Joint Task Force (CJTF), due to numerical strength and local knowledge, has successfully tracked down some insurgents in their communities who they either kill or hand over to security operatives.⁴²⁶ They work with the Nigerian soldiers providing local intelligence and man some checkpoints in Maiduguri.⁴²⁷

Since 2013, the CJTF has recorded success against Boko Haram. In March 2014, the CJTF killed 207 Boko Haram insurgents who invaded a military barracks in Maiduguri, Borno state capital.⁴²⁸ They have also helped to prevent attacks in Maiduguri and push the insurgents out into more rural areas.⁴²⁹ In December 2015, thousands of Muslims celebrating Maulud escaped death as members of the CJTF intercepted five food flasks containing bombs being carried by suspected Boko Haram members to a popular mosque in Maiduguri.⁴³⁰ Despite this success, they have also fallen as casualties to Boko Haram. In June 2015, a suicide bomber killed three CJTF and injured several others at a checkpoint in Maiduguri.⁴³¹ Hundreds of CJTF members were killed while trying to prevent bomb strapped insurgents from detonating their bombs in large crowds.⁴³²

⁴²⁴ Agbiboa D (2015) 13.

⁴²⁵ Agbiboa D (2015) 13.

⁴²⁶ Agbiboa D (2015) 14.

⁴²⁷ Ogene A 'Nigerian vigilantes aim to rout Boko Haram' Aljazeera 31 May 2014 available at www.aljazeera.com/indepth/features/2014/05/nigerian-vigilantes-aim-rout-boko-haram-2014526123758444854.html (accessed 4 February 2015).

⁴²⁸ '207 Boko Haram militants killed in Maiduguri attack, says Civilian –JTF' Premium Times 14 March 2014 available at www.premiumtimesng.com/news/156763-207-boko-haram-militants-killed-maiduguri-attack-says-civilian-jtf.html (accessed 4 February 2015).

⁴²⁹ 'Maiduguri attack: Shettima hails soldiers, Civilian-JTF' Information Nigeria 2 February 2015 available at www.informationng.com/2015/02/maiduguri-attack-shettima-hails-soldiers-civilian-jtf.html (accessed 4 February 2016).

⁴³⁰ Audu O 'Thousands escape death in Maiduguri as Civilian-JTF intercept bombs concealed in food flasks' Premium Times 24 December 2015 available at <http://www.premiumtimesng.com/news/headlines/195700-thousands-escape-death-in-maiduguri-as-civilian-jtf-intercept-bombs-concealed-in-food-flasks.html> (accessed 6 February 2016).

⁴³¹ 'Male suicide bomber kills 3 civilian JTF members near Maiduguri' Sahara reporters 13 June 2015 available at www.saharareporters.com/2015/06/13/male-suicide-bomber-kills-3-civilian-jtf-members-near-maiduguri (accessed 4 February 2015).

⁴³² Otuchikere C '603 Civilian JTF killed by Boko Haram' All Africa 30 June 2015 available at www.allafrica.com/stories/201506300050.html (accessed 4 February 2016).

Due to the insurgency, the government's defence spending has increased drastically compared to what it was before the insurgency started. It is however debatable whether the increased funding for defence will be helpful in the fight against the insurgency considering the corruption in the Nigerian armed forces as well as the human rights abuses by Nigerian soldiers who are assigned to provide protection for the affected people. Recently in Nigeria, some high profile politicians and top military officers were arrested and currently facing trial over the two billion dollar (\$2 billion) arms contract deal which was allocated for the procurement of arms in the fight against the insurgency. This sum was allegedly misappropriated by the office of the National Security Adviser, Colonel Sambo Dasuki who oversaw the fight against Boko Haram during President Goodluck Jonathan's administration.⁴³³

5.4 How child sensitive has the response been?

5.4.1 Counter-insurgency operations

It is the right and duty of a State facing insurgency to take counter insurgency measures to ensure public security.⁴³⁴ The UN General Assembly in Resolution 60/288 requires such measures to comply with the provisions of international human rights and humanitarian law.⁴³⁵ The insurgency as well as government's counter-insurgency operation has claimed hundreds of civilians including children. The JTF, rather than calm the situation in the states has even heightened the fear of the inhabitants. Children have been killed, orphaned and displaced by the activities of the JTF. The result of failure on the part of the military to protect the citizens led to the CJTF that serves as an avenue for the violation of children's rights.

The Nigerian government appears to have failed in its obligation to ensure that children do not participate in hostilities as required by the CRC, ACRWC and section 34 of the CRA 2003. The CJTF, largely teenagers without basic education, some who have lost their parents and siblings to the insurgency, are on a revenge mission.⁴³⁶ According to UNICEF and the

⁴³³ 'Dasuki's arms deal scandal and blood of the innocent' Vanguard 9 December 2015 available at <http://www.vanguardngr.com/2015/12/dasukis-arms-deal-scandal-and-blood-of-the-innocent/> (accessed 11 March 2016).

⁴³⁴ Odomovo AS 'Insurgency, counter-insurgency and human rights violations in Nigeria' (2014) 3 *Age of Human Rights Journal* 50-51.

⁴³⁵ Resolution 60/288 'The United Nations Global Counter-Terrorism Strategy' Adopted by the General Assembly on 8 September 2006 (A/RES/60/288) Annex IV para 2.

⁴³⁶ Agbiboa D (2015) 13.

Protection Sector Working Group, children are joining the ranks of the CJTF in increasing numbers and being used in the fight against insurgency.⁴³⁷ Watchlist noted that the CJTF forcefully recruits young men and boys as young as 13 years old.⁴³⁸ Lack of education and preoccupation is the reason some of these youths are involved in the fight against the insurgents. Considering that there is no formal process of drafting in members of the group, it is feared that the youths could become new militias if not properly regulated and their activities could incite the Boko Haram into more attacks,⁴³⁹ It is however disheartening that the government of Borno state gives monthly allowance to an unorganised group in the guise of fighting the insurgency.⁴⁴⁰ The work of counter-insurgency should be carried out by military operatives who are adequately trained and paid for such operations and not civilians.

5.4.2 Humanitarian needs

According to the UN Guiding Principles on Internal Displacement,⁴⁴¹ and the UN Resolution 46/182 of 1991,⁴⁴² the State has the primary role in protection and provision of humanitarian assistance to IDPs within its territory. The fact that IDPs remain within the borders of their country means that it is their own government that bears primary responsibility for protecting and assisting them.⁴⁴³ The support rendered by UNICEF and other international bodies cannot override that responsibility.

Nigeria has received support internationally to take care of the increasing needs of those affected by the insurgency. Following the repeated attacks on schools and the abduction of over 200 Chibok girls in 2014, the Safe Schools Initiative was launched by the UN Special Envoy for Global Education and former UK Prime Minister, Gordon Brown at the World

⁴³⁷ UNICEF Child Alert 'Missing childhoods' (2015) 6, 'IDP Protection Strategy' (2015) Protection Sector Working Group Nigeria available at https://www.humanitarianresponse.info/en/system/files/documents/files/idp_protection_strategy_march_2015_1.pdf (accessed 13 February 2015) 8 (hereafter IDP Protection Strategy (2015)).

⁴³⁸ Watchlist on Children and Armed Conflict 'Who will care for us?' (2014) 29.

⁴³⁹ 'Civilian vigilante groups increase dangers in northeastern Nigeria' IRIN 12 December 2013 available at www.irinnews.org/fr/report/99320/civilian-vigilante-groups-increase-dangers-in-northeastern-nigeria (accessed 4 February 2016).

⁴⁴⁰ 'Shettima meets civilian JTF, unfolds welfare package for members' Information Nigeria 30 December 2015 available at www.informationnigeria.com,2015/12/shettima-meets-civilian-jtf-%2%80%8eunfolds-welfare-package-for-members.html (accessed 4 February 2015).

⁴⁴¹ Principle 25, see also Rerries E & Winthrop R 'Education and displacement: Assessing conditions for refugees and internally displaced persons affected by conflict' Background paper prepared for the Education for All Global Monitoring Report 2011 (2010) UNESCO 2011/ED/EFA/MRT/PI/38.

⁴⁴² Adopted by the UN General assembly at its 78 meeting on 19 December 1991 (A/RES/46/182) para 4.

⁴⁴³ Ladan M 'Strategies for adopting the national policy on IDPs and domesticating in Nigeria the African Union Convention for the Protection and Assistance of IDPs in Africa' Being a paper presented at the National Summit on IDPs in Nigeria on 19-20 August 2015 4 (hereafter Ladan M (2015)).

Economic Forum in Nigeria with an initial donation of \$10 million. The initiative is to strengthen the #BringBackOurGirls campaign and to ensure that all schools in Nigeria are safe from attacks in the future.⁴⁴⁴ It seeks to build community security groups to promote safe zones for education, consisting of teachers, parents, police, community leaders and young people themselves. The long term goal is to develop school security plans and rapid response system to help repair or rebuild and ensure destroyed educational materials are replaced.⁴⁴⁵ The initiative has so far received funding from the Nigerian government, foreign governments and international donor agencies.

In addition to health, nutrition and other survival needs as well as psychosocial services,⁴⁴⁶ UNICEF has contributed its own quota to the provision of education to IDP children across the North Eastern region.⁴⁴⁷ Through partnership with the government, it has supported the training of teachers. In Yobe, UNICEF delivered tents at a primary school to serve as temporary learning spaces for the education of IDP children. Also, school-in-a-box kits, 50 000 school bags and other school supplies were distributed to the Ministry of Education in Borno, Yobe and Adamawa states. In Dalori camp in Borno state, the state Coordination Committee supported by UNICEF, enrolled 4 737 children in the neighbouring Dalori Estate primary/junior secondary school. UNICEF provided pedagogical material to Borno SUBEB for the children enrolled and also transport to and from school due to parent's security concerns. It also established 2 in-camp temporary learning spaces in UNICEF tents for children aged between three and five years.⁴⁴⁸ As of 1 October 2015, 6 300 children have been able to undertake schooling in a more conducive environment through UNICEF

⁴⁴⁴ A World at School 'Safe schools initiative launched after kidnappings in Nigeria' 7 May 2014 available at <http://www.aworldatschool.org/news/entry/safe-schools-initiative-launched-in-nigeria> (accessed 19 February 2016).

⁴⁴⁵ Office of the UN Special Envoy for Global Education 'Safe School Initiative Launched' Press Release 7 May 2014 available at <http://educationenvoy.org/press-release-safe-schools-initiative-launched-at-world-economic-forum/> (accessed 19 February 2016).

⁴⁴⁶ UNICEF Child Alert 'Missing childhoods' (2015) 9.

⁴⁴⁷ UNICEF 'Nigerian Humanitarian Situation Report' 1 June 2015 available at www.unicef.org/appeals/files/UNICEF_Nigeria_Sitrep_North_East_1_June_2015.pdf (accessed 11 February 2015) (hereafter UNICEF 'Nigerian Humanitarian Situation Report' June (2015)).

⁴⁴⁸ UNICEF 'Nigerian Humanitarian Situation Report' June (2015).

schooling support programmes.⁴⁴⁹ Also, it's Back to School campaign in Borno and Yobe has led to the enrolment of 170 432 children previously out of school.⁴⁵⁰

The support rendered by these bodies is only limited to some camps reaching just a fraction of the IDPs. The major burden lies with the Nigerian government. However, the government has not been able to meet the humanitarian needs of the IDPs probably because their needs outweigh its current capacity to address them and also the limited understanding of the rights of IDPs.⁴⁵¹ National efforts to respond to displacement and mitigate its long-term effects on IDPs and host communities tend to be fragmented, uncoordinated and inadequate and most assistance IDPs receive is provided by host communities.⁴⁵²

Most of the IDPS live in host communities with little access to humanitarian support, putting additional strain on the already stretched health, education and social services.⁴⁵³ Hence, the IDP camps are witnessing an increasing influx of IDPs who cannot sustain themselves and communities are less able to absorb the large crowds. The camps are struggling to accommodate the increasing number of displaced people under unhealthy living conditions. Due to the hunger, so many children are malnourished as no adequate provision is made for their feeding.⁴⁵⁴

Families displaced as a result of conflict represent an example of war affected population in which the context of child development becomes dramatically altered by war.⁴⁵⁵ IDPs have been identified as a special category of concern as they are among the most vulnerable to human rights abuses.⁴⁵⁶ The ratification of the Kampala Convention places an obligation on the Nigerian government in responding to the Boko Haram insurgency, to ensure children's access to education.⁴⁵⁷ Though regular school structures may not be achievable in the short term, concrete efforts must be made to ensure that children do not miss out of education as a result of being displaced. Unfortunately, Nigeria ratified the Kampala Convention in April

⁴⁴⁹ UNICEF 'Nigerian Humanitarian Situation Report' 1 October 2015 available at http://www.unicef.org/appeals/files/UNICEF_Nigeria_Humanitarian_Report_1_Oct_2015.pdf (accessed 20 February 2016).

⁴⁵⁰ UNICEF 'Nigerian Humanitarian Situation Report' 1 November 2015 available at http://www.unicef.org/appeals/files/UNICEF_Nigeria_Humanitarian_SitRep_1_Nov_2015.pdf (accessed 20 February 2016).

⁴⁵¹ IDP Protection Strategy (2015) 6.

⁴⁵² IDMC (2015).

⁴⁵³ UNICEF Child Alert 'Missing childhoods' (2015) 2

⁴⁵⁴ UNICEF Child Alert 'Missing childhoods' (2015) 9.

⁴⁵⁵ Bentancourt TS & Kahn KT (2008) 323.

⁴⁵⁶ Mooney E 'The concept of internal displacement and the case for internally displaced persons as a category of concern' (2005) 24(3) *Refugee Survey Quarterly* 15.

⁴⁵⁷ Article 9(2)(b) Kampala Convention.

2012 and submitted a draft policy on IDPs⁴⁵⁸ domesticating its provisions to the Federal Executive Council. Till date, the policy is yet to be adopted.⁴⁵⁹

Education of victims is virtually non-existent in some camps. Out of 78 IDP camps, 33 do not have access to education. In the other 45 camps having access to education, 35 have an education facility on the camp while the other 29 have educational facilities situated outside the camps.⁴⁶⁰ In an IDP camp in Taraba state of Nigeria, despite having lived there for almost two years, children were found roaming about without any form of education programme.⁴⁶¹ In one of the IDP camps in Sangere, Yola state, the schools for IDP children is run by 58 parents who are equally displaced despite not receiving any form of assistance from the government except Non-Governmental Organisations and kind hearted individuals.⁴⁶²

The federal government has failed to make good efforts targeted at rebuilding the damaged schools in the areas that are safe enough for habitation. Reintegration efforts are almost non-existent as a result of focus on short-term humanitarian responses. Hence, few resources have been dedicated to the pursuit of durable solutions for IDPs for their return, local integration or sustainable settlement elsewhere in the country.⁴⁶³

The problem of corruption which is endemic in Nigeria has equally reared its ugly head in addition to the burden of the IDPs. The level of exploitation has reached staggering heights as people have begun to profit off the situation of the IDPs. Funds for their care are redirected and their numbers are sometimes exaggerated in order for the operators to get more funds.⁴⁶⁴

The government in Borno state which is the worst hit has taken steps to address the sufferings of victims of the insurgency. The government in 2015 created the Ministry of Reconstruction, Rehabilitation and Resettlement with the mandate of rebuilding and resettling the over 500

⁴⁵⁸ Federal Republic of Nigeria 'National Policy on Internally Displaced Persons (IDPs) in Nigeria' 2012 available at <http://infopointmigration.org.ng/wp-content/uploads/NATIONAL-IDP-POLICY.pdf> (accessed 15 March 2016).

⁴⁵⁹ Ladan M (2015) 11.

⁴⁶⁰ DTM Report (2015) 9.

⁴⁶¹ Oyewobi A 'NHRC decries neglect of 4000 IDPs in Taraba' Premium Times 17 January 2016 available at <http://www.premiumtimesng.com/regional/north-east/196920-nhrc-decries-neglect-of-4000-idps-in-taraba.html> (accessed 5 February 2016).

⁴⁶² Ajayi A 'Boko Haram: Nigerian Human Rights Commission laments number of out-of-school children' Premium Times 29 November 2015 available at <http://www.premiumtimesng.com/regional/north-east/194074-boko-haram-nigeria-human-rights-commission-laments-number-of-out-of-school-children.html> (accessed 6 February 2016).

⁴⁶³ IDMC (2014) 14.

⁴⁶⁴ Ogundamisi K 'Exploitation of internally displaced persons in Nigeria' Premium Times 12 July 2015 available at www.premiumtimesng.com/exploitation-of-internally-displaced-persons-in-nigeria-by-kayode-ogundamisi/ (accessed 20 February 2016).

000 IDPs and other victims of the insurgency in Borno state.⁴⁶⁵ The ministry will be in charge of reconstructing destroyed public buildings such as schools and hospitals so that the IDPs can return to their communities and schools reopened for resumption. This is a significant step in the post insurgency plan of Borno state.

5.5 Conclusion

The inclusion of the children and armed conflict as part of the agenda of the Security Council is a vital step in the protection of children from grave violation of their rights. The success of the naming and shaming has seen an improvement in the situation of children affected by armed conflict in those States that have signed action plans and taken steps towards its implementation. Though a very significant change has not been achieved when compared with the magnitude of the problem, there is cause to be hopeful that with the strength of the campaign being made, there will be a significant improvement in a few years.

The Nigerian government has not been impressive in its response to the humanitarian needs of children affected by the insurgency. Despite the importance of education to national development, no significant attention has been paid to ensuring the provision of education to children affected by the insurgency. The attention has rather been on short term humanitarian responses. The failure to adopt the draft policy on IDPs shows how much insensitive the government is to the plight of children deprived of education and an adequate standard of living as a result of the insurgency.

The final chapter will draw conclusions from the entire study and make necessary recommendations.

⁴⁶⁵ Njadvara M 'Borno creates ministry to rebuild, rehabilitate communities destroyed by insurgents' The Guardian 19 September 2015 available at <http://www.ngrguardiannews.com/2015/09/borne-creates-ministry-to-rebuild-rehabilitate-communities-destroyed-by-insurgents/> (accessed 6 February 2015).

CHAPTER SIX

6 CONCLUSION AND RECOMMENDATIONS

6.1 Conclusion

The protection of the rights of children affected by armed conflict has been a burning international, regional as well as a national issue. Children have overtime suffered severe and worsening human rights violations as a result of being caught in situations of armed conflict. Furthermore, several commitments have been made to secure adequate care and protection for children in armed conflict as well as to prevent the grave violations of their rights. Considering the above, this study focused on the effect of the Boko Haram insurgency in Nigeria with special emphasis on its impact on the child's right to education. The study also considered how effective the steps of the Nigerian government are in securing children's right to education affected by the insurgency in line with its obligations under international and regional legal framework. Despite the focus on education, the Boko Haram insurgency has had a negative impact on children's right to life, health care, adequate standard of living, parental care, and other rights guaranteed for Nigerian children.

Chapter two of the study set out the legal framework for the protection of children's rights in Nigeria with emphasis on the right to education. The EFA and MDG goals have facilitated international commitment to education. Nigeria's commitment to achieving these goals is through the UBE scheme which is a laudable initiative in achieving basic education. However, the scheme was shown to have several shortcomings such as lack of adequate learning facilities and shortage of qualified personnel. The lapses in the provision of education have led to high level of OOSCs as well as the disparity in level of education in the Southern and Northern region with the North Eastern region being rated least in school attendance in the whole of the country. Also, there is the rural and urban as well as gender disparities in access to education as a result of inadequate infrastructural development and the gender discrimination against girls in accessing education especially in the Northern region.

In addition, chapter three set out the legal framework protecting the child's right to education in armed conflict. The changing context of armed conflict which has resulted in grave violations against children has equally affected their right to education. The reason is that those institutions protecting children such as family, school, and health institutions are potential targets in situations of armed conflict. One of the grave violations is the attacks on

schools resulting in abduction and killing of students and teachers, destruction of school facilities and the general state of insecurity leading to closure of schools. Armed conflict has dire implications for the child's access to education as it causes a disruption of school attendance, drop in enrolment, progress as well as completion rates.

Furthermore, chapter four looked at how the Boko Haram insurgency has affected children's access to education. It was shown that the Boko Haram sect has made targeted attacks on schools, school children, teachers as well as education facilities. Children and teachers have been killed and injured during these attacks and learning facilities and school records destroyed in the process. As a result, they have been forced to stay out of school due to fear of being casualties. These attacks and the general state of insecurity has had a negative impact on school attendance in the North Eastern states most affected by the insurgency, leading to an increase in the OOSC burden in the country. The displacement of people, of which children constitute more than half has equally been a problem as children in such IDP camps are forced to leave places where they have access to education to places where such access is a luxury.

Again, chapter five showed the protection gaps in the care of children affected by the insurgency. A number of steps taken at the international level to help the situation of children affected by armed conflict around the world as well as Nigeria were highlighted. The measures such as naming and shaming of parties committing grave violations against children in armed conflict has led to the signing of action plans to stop such violations. Reference was also made to the contributions of the SRSR-CAAC as well as the ICC in protecting children against grave violations of their rights. Also documented is the provision of humanitarian aid by the UNICEF and also the UN Special Envoy on Global Education (the Safe Schools Initiative).

Chapter five also noted that on the part of the Nigerian government, not much has been done to complement the efforts at the international level. Human rights abuses have been committed by the JTF during its counter-insurgency operations. Children are being employed in the fight against the insurgency as they are recruited into the unorganised CJTF. Also, corruption is a challenge in the fight against the insurgency as military officers and other influential politicians are facing trial for misappropriation of funds allocated to the fight against the Boko Haram insurgency. There are also reports of individuals benefitting from the plight of the IDPs. The most obvious victims of the insurgency, which are the IDPs, are still a

sorry sight as access to education was shown to be completely non-existent in most camps. No concrete strategies are in place to see to the rebuilding of damaged schools or the reintegration of displaced populations as the government has overtime placed much emphasis on short term humanitarian responses.

Despite being a member of the CRC and ACRWC as well as the enactment of the CRA 2003, better life for a majority of Nigerian children is still far-fetched. Being a party to these instruments places an obligation on the Nigerian government to ensure the protection and care of children affected by the insurgency. The large number of children deprived of an adequate standard of living owing to poverty, children subjected to abuse and exploitation, street children as well as the high OOSC burden, shows the failure of the Nigerian government to secure the rights of children.

It is submitted that armed conflict greatly impacts negatively on the child's right to education as the targeted attacks on schools, school children, teachers and school facilities can cause a drop in school enrolment and attendance as well as longer term effects on the standard of education provided. Also, the Boko Haram insurgency in Nigeria is a vivid example of the impact of armed conflict on education as children and teachers have been forced out of school due to attacks against school children, teachers and school facilities, abductions, occupation of school buildings and the general state of insecurity.

The protection of children affected by armed conflict is the primary duty of States, but the Nigerian government's response has not been impressive in this regard. Despite its ratification of the Kampala Convention, the present situation of the children affected by the insurgency shows that the government has failed to secure an adequate protection. A large number of Nigerian children are still out of school as the government has failed to make concrete effort to rebuild damaged schools and meet the educational needs of IDP children. The various human rights abuse by the JTF in the process of restoring the much needed peace and security is worrisome. The lack of expertise in child protection in emergencies among government actors is hindering the response. Concrete steps addressing the protection gaps affecting children need to be taken. There is need for the adoption of the draft policy on IDPs as the absence of a law and policy framework that clearly defines the roles and responsibilities hampers the coordination of humanitarian and development efforts to mitigate the effects of displacement on children.

6.2 Recommendations

The ultimate step to putting smiles on the faces of children affected by conflict is an end to it. The present situation in North Eastern Nigeria as a result of the Boko Haram insurgency calls for urgent intervention. Thus, the Nigerian government needs to take proactive steps to nip the insurgency in the bud so that peace can return to the region. The use of the military in fighting the insurgency is commendable, but the government needs to pursue a more comprehensive strategy that addresses the economic and social roots of the crisis. Measures should address the high poverty and unemployment in the North and also steps should be taken to get the Almajiri boys off the streets because these groups are a potential weapon in the hands of the insurgents. The government should expose and bring to justice Boko Haram activists, funders as well as those who are benefitting from the conflict. The Nigerian immigration service needs to be effectively equipped to guard especially the Nigeria-Chad and Nigeria-Cameroon borders to prevent the influx of illegal aliens that support the insurgent group.

Considering that security cannot be promoted at the expense of human rights, the counter insurgency operations should uphold the rule of law and abide by international human rights standards. The military must ensure it conducts its operations more professionally in order to minimize collateral casualties, damage to livelihoods and human rights violations and eventually win the support of citizens in the fights against Boko Haram.

Considering the importance of children in the future of a nation, there is need for states in Nigeria to enact the CRA 2003 as state laws in order to ensure an effective child's right protection in all the states of the federation. Also, adequate awareness must be created in respect of the rights of children as this will engender an improved child care and support from parents, school authorities and other stakeholders as well as enable children to become aware of their rights. Furthermore, there is a need for improvement in child protection mechanisms to check child abuse and economic and sexual exploitation, trafficking and street children. One of such is the provision of appropriate alternative care arrangements to cater for children deprived of family care.

Owing to the importance of education in the overall human capital development of any State, and the obligation upon the Nigerian government as a party to the CRC and ACRWC, there is a need for a stronger protection of the child's right to education. Having the child's right to

education contained in the CRA 2003, while the Nigerian Constitution makes the right to education a directive principle of state policy which is specifically stated to be non-justiciable, renders the provision of the CRA 2003 of no meaningful effect. There is a need for a constitutional protection of the right of the child to basic education so that it becomes a justiciable right.

The government needs to provide quality education for children in line with the essential features as stipulated by the CESCR. It is not in doubt that the Nigerian education system, especially basic education is in dire need of improvement. Thus, the provision of adequate infrastructure and learning facilities in schools in both urban and rural areas is necessary. Concrete efforts must be made to ensure a reduction in the OOSC burden and considering its uneven spread, measures to address it should be flexible enough and take into account the disparity between the North and the South, the rural and urban areas as well as the gender disparity. Also, proper assessment must be made before the issuance of licenses to private school operators and proper monitoring and inspection must be done after such issuance.

Education is a basic right and its availability in emergencies can provide life-saving information, protect children from trafficking, recruitment by armed groups and psychosocial trauma.⁴⁶⁶ In the long term, it can promote peace and post-conflict reconstruction and help young people develop skills and qualifications to live a meaningful life after the conflict ends.⁴⁶⁷ Vernor Munoz, former Special Rapporteur on the Right to Education stated also that:

‘Education mitigates the psychosocial impact of conflict and disasters by giving a sense of normality, stability, structure and hope during time of crisis, and provides essential building blocks for social reconstruction and future economic stability.’⁴⁶⁸

The Special Rapporteur noted that States have the duty to respect, protect and fulfil the right to education as the right is available to all irrespective of legal status, whether refugee, child soldier or internally displaced person.⁴⁶⁹ He noted that the humanitarian emphasis on food, health and shelter ought to be extended to the people’s overall welfare which includes

⁴⁶⁶ Coursen-Neff Z ‘Attacks on education: Monitoring and reporting for prevention, early warning, rapid response and accountability’ in UNESCO *Protecting Education from Attack* (2010)111 (hereafter Coursen-Neff Z (2010)).

⁴⁶⁷ Coursen-Neff Z (2010) 111.

⁴⁶⁸ Report of the Special Rapporteur on the Right to Education (2008) para 34.

⁴⁶⁹ Report of the Special Rapporteur on the Right to Education (2008) para 37.

education.⁴⁷⁰ Education can help children recover from the post traumatic effects of armed conflict. A study evaluated a school-based psychosocial intervention in conflict affected Nepal and it showed moderate reductions on general psychological difficulties.⁴⁷¹

The Nigerian government should direct efforts at rebuilding the schools destroyed by the insurgents. The rebuilding of the schools in areas still under attacks is not recommended as they might be razed to the ground again by the insurgents leading to wastage of already lean resources. Besides, school activities will not resume if the insurgency persists despite the reconstruction of the schools. Rather the government should seek efforts pending the return of peace to the region, to provide basic education to the affected children in the IDP camps and host communities through building temporary school structures, recruitment of teachers, providing teaching and learning materials or through other alternative methods such as broadcasting lessons over the radio or establishing classes in safe community spaces. The steps in ensuring that children return to school despite the insurgency will help to curtail the influx of children into Islamic schools which could cause a rise in the number of Almajiri street children in the Northern region.

More so, children should be encouraged to return to school with the provision of scholarships and other incentives as motivation when the insurgency is over. This motivation could be achieved by the establishment of a school structure that is child friendly such as the provision of adequate facilities for play, recreation and feeding while at school. There should be provision of security personnel in these schools and also an internal school security system so as to reassure teachers and the children of their safety. Again, considering that children in very protracted displacement situations can grow up without education, in the case of children who are in IDP camps, adopting the national policy on IDPs will go a long way in helping Nigeria to discharge her treaty obligations towards IDPs.

In addition, the government should provide all necessary support to children and teachers who were forced to flee the region towards their rehabilitation and resettlement⁴⁷² and this should include the education of children in the principles of peace. According to Van Bueren:

⁴⁷⁰ Report of the Special Rapporteur on the Right to Education (2008) para 31.

⁴⁷¹ Jordans MJD, Komproe IH, Tol WA *et al* 'Evaluation of a classroom-based psychosocial intervention in conflict-affected Nepal: A cluster randomized controlled trial' (2010) 51(7) *Journal of Child Psychology and Psychiatry* 8.

⁴⁷² Article 39 of the CRC.

‘Educating children in the principles of peace and human rights is an attempt to break the circle and prevent future armed conflicts.... In areas where conflicts prevail, the very act of bringing together children from divided communities to discuss peace can sometimes serve as a bridge for adults.... It empowers children who have been victimised by war to assume leadership roles in initiating grass root communal healing.’⁴⁷³

Displacement is a consequence of war which leaves children separated from loved ones. In this situation, they face hunger, sickness, death and other human rights violations.⁴⁷⁴ The government in line with its obligations under the CRC⁴⁷⁵ and ACRWC⁴⁷⁶ should put measures in place to assist children to trace their parents and reunite families who have been separated by the conflict. The government also needs to end the activities of the CJTF especially the recruitment of children into their ranks. Steps must be taken to ensure that such children withdrawn from CJTF reintegrate into their communities and get enrolled in school. The Boko Haram insurgents need to uphold their obligations under international law by stopping attacks on schools and returning abducted children to child protection actors for reunion with their families. Where reunion is not feasible, appropriate alternative care should be given as a child deprived of parental care, and efforts should be made to ensure that such children return to school.

Finally, in the CRC, the world has a unique instrument that represents a substantial common ground on what the standard of childhood should be and the duties governments owe to children. The single most important resolve that the world could make would be to transform universal ratification of this Convention into universal reality. According to Graca Machel, children are both our reason to struggle to eliminate the worst aspects of warfare, and our best hope of succeeding at it.⁴⁷⁷ Considering the grave violations against children in armed conflict, it is important for countries that are free from conflict to take a clue from others and try by all means possible to prevent the emergence of conflict. According to Kofi Annan:

⁴⁷³ Van Bueren G (1998) 346.

⁴⁷⁴ Albertyn R, Bickler SW, Van As AB *et al* ‘The effects of war on children in Africa’ (2003) 19(4) *Paediatric Surgery International* 228.

⁴⁷⁵ Article 9 and 10 CRC.

⁴⁷⁶ Article 23 and 25(2) (b) ACRWC.

⁴⁷⁷ Machel G (1996) para 6.

‘Perhaps the most pitiable lesson of the past decade has been that the prevention of violent conflict is far better and more cost-effective than cure. The challenge is to apply that lesson so that prevention exists not just at the rhetorical level but also practically.... On the other hand, the costs of *not* preventing violence are enormous. The human cost of war include not only the visible and immediate – death, injury, destruction, displacement – but also the distant and indirect repercussion for families, communities, local and international institutions and economies, and neighbouring countries.’⁴⁷⁸



⁴⁷⁸ Annan KA *Prevention of Armed Conflict: Report of the Secretary General* (2002) United Nations New York para 1.

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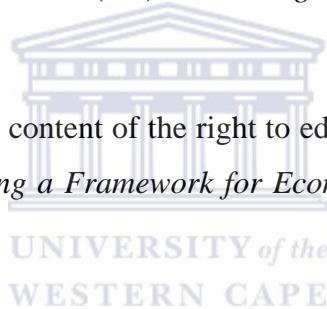
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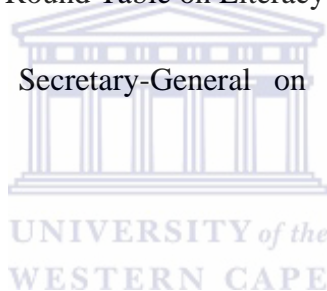
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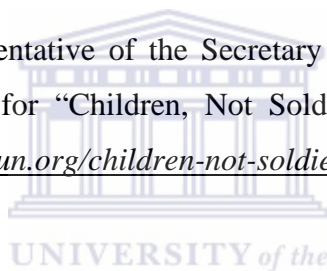
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