

Leveraging technology to deliver basic education to children in conflict areas of Northern Nigeria

*Perekeme Mutu**

Post-Doctoral Fellow with UNESCO; Post-Doctoral Fellow, Department of Private Law; University of Pretoria, South Africa

<http://orcid.org/0000-0003-1175-218X>

Summary: *Studies have shown that children residing in countries affected by armed conflict are more likely not to attend school as compared to other children. This is the fate of millions of children in Northern Nigeria, where the attacks on educational facilities by Boko Haram terrorists and the general insecurity in the region have resulted in the closing down of thousands of schools in the region by the government at various levels, without viable alternative methods of enabling access to education for the affected children. This serves as the foundation for the question addressed in this article, namely, whether the general insecurity in the region absolved the government of its obligation to ensure access to basic education for children in the region. Through the interrogation of various international, regional and domestic legal instruments and jurisprudence, the article argues that the insecurity in the northern region does not absolve the government of its obligation to provide the enablement for children to access basic education in the region. As a way of recommendation, the article explores the possibility of the government leveraging technology as a method of enabling access to basic education to children in the affected areas.*

* BA (Hons) LLB (UNISA) MPhil PhD (Pretoria); perekeme.mutu@gmail.com

Key words: *right to basic education; armed conflict; leveraging technology; Northern Nigeria; Boko Haram*

1 Introduction

The significance of education in both human and societal development no longer is in doubt. Education is viewed as an enabling right that builds the capacity of individuals.¹ The right to education is indispensable for the realisation of other human rights, such as, but not limited to, the rights to freedom of expression, association, access to health care and work.² On this basis Tomasevski argued that the denial of the right to education leads to compounded denials of other human rights and the perpetuation of poverty.³ However, armed conflict has been identified as one of the factors that interrupt access to education for millions of children. This is evident in a 2011 Education For All (EFA) Monitoring Report, which revealed that an estimated 28 million children were denied access to education by armed conflicts around the world.⁴ According to the Global Education Monitoring Report 2022 of the United Nations Educational, Scientific and Cultural Organisation (UNESCO), Nigeria has an estimated 19,7 million out-of-school children.⁵ While various factors, such as religious and cultural practices and socio-economic conditions, have contributed to the high number of out-of-school children, the general insecurity caused by the activities of the Boko Haram terrorist group and armed bandits has exacerbated the situation, particularly in the country's northern region.⁶

-
- 1 Art 29 United Nations Convention on the Rights of the Child 1990. Also see United Nations Committee on the Rights of the Child 'Days of general discussion on the right of the child to education in emergency situations' 2008 49 Session 19 September.
 - 2 General Comment 13 of the UN Committee on Economic, Social and Cultural Rights 1999 para 1. Also see the Maastricht Guidelines on violations of economic, social and cultural rights 1997.
 - 3 K Tomasevski Annual report of the Special Rapporteur on the Right to Education 2000 E/CN.4/2001/52 para 9-4. Also see K Tomasevski *Education denied: Cost and remedies* (2003) 32.
 - 4 Education For All 'The hidden crises: Armed conflict and education' 2011 Education For All Monitoring Report, <https://en.unesco.org/gem-report/report/2011/hidden-crisis-armed-conflict-and-education> (accessed 24 March 2022). Also see United Nations International Children's Emergency Fund 'Education under fire: How conflict in the Middle East is depriving children of their schooling' 2015, https://childhub.org/sites/default/files/library/attachments/education_under_fire.pdf (accessed 12 March 2022).
 - 5 UNESCO Global Education Monitoring Report 'New estimation confirms out of-school population is growing in sub-Saharan Africa' (2022) ED/GEMR/MRT/2022/PP/48 6.
 - 6 MMN Ndanusa, QK Abayomi & Y Harada 'Examining the fragments and causes of increasing out-of-school children in Nigeria' (2021) 13 *Journal of African Development* 66; UNESCO (n 5) 6.

The impact of armed conflict has been extensively researched from different perspectives, including economic impact,⁷ mental and psychological impact⁸ and physical and social impacts.⁹ This article contributes to this broader debate by examining the impact of arm conflict from a children's rights approach specifically on children's rights to basic education. The article further interrogates how the government can deploy technology to provide access to basic education for children in the affected areas.

The ongoing security situation in the northern part of Nigeria has led to the closure of thousands of public schools by the government in the region without viable alternative methods of enabling access to education for the affected children.¹⁰ Consequently, millions of children in the region are without access to basic education. The question this article hopes to address is whether the security situation in Northern Nigeria absolves the government of its obligation to protect, promote, and fulfil every child's right to basic education in the region. How can the government fulfil its obligation amidst the security challenges? Can technological intervention be relied upon to guarantee access to basic education for children in the affected areas? Drawing from international, regional, and domestic legal instruments and jurisprudence, I make the case that even amidst the security challenge in the region, the government is obligated to protect, promote and fulfil the right to basic education of children in the conflict affected areas of Northern Nigeria. As a way of recommendation, the article explores how the government can deploy technological intervention to fulfil its obligation by delivering basic education to the affected children in the region.

The article is divided into three main parts. The first part examines the security situation in the northern region of Nigeria and its impact on the right to basic education of the children in the region.

7 P Serneels & M Verpoorten 'The impact of armed conflict on economic performance: Evidence from Rwanda' (2012) Discussion paper 6737. This paper explores the economic consequences of the civil war in Rwanda. Also see H Lopez & Q Wodon 'The economic impact of armed conflict in Rwanda' (2005) 14 *Journal of African Economies* 586.

8 T Miller et al 'Emotional and behavioural problems and trauma exposure of school-age Palestinian children in Gaza: Some preliminary findings' (2007) 15 *Medicine, Conflict and Survival* 368.

9 As above. Also see F Kumar 'Social and economic consequences of violent armed conflict: Evidence from displaced camps in Jammu and Kashmir, India' in EA Nyam & F Idoko (eds) *Examining the social and economic impacts of conflict-induced migration* (2019) 12; L Ammons 'Consequences of war on African countries' social and economic development' (1996) 39 *African Studies Review* 67.

10 ON Jacob & AG Ndubusi 'The effect of incessant closure of school on school administration in Northern Nigeria' (2021) 1 *International Journal of Innovative Analyses and Emerging Technology* 99.

The second part of the article explores the question of whether the conflict situation absolves the government of its obligation toward the right to basic education for children in the affected region. To respond to these questions, the article explores various legal instruments protecting the right to basic education and the obligation it imposes on the government to provide access to basic education for the children in the region. The article discusses the effort of the government in ensuring that children in the region have access to basic education amidst the security challenge. In this regard, the article examines the Safe School Initiative introduced by the government in partnership with other stakeholders to ensure a safe learning environment for the children in the region. As a way of recommendation to the government, the last part of the article explores how technology can be deployed to deliver basic education to children in the comfort and security of their homes. In this regard, the article identifies three types of technology-supported interventions to deliver education services in a conflict environment. These are (i) mobile phone-based delivery of educational content; (ii) internet-enabled computer lab supporting education; and (iii) interactive radio instruction (IRI) to deliver primary education. The article examines the application of these three technological interventions in the context of their applicability and suitability in the conflict-affected areas in Northern Nigeria. Deducing from the evaluation of the three approaches, the article recommends the IRI approach as the most suitable and applicable approach for the government to deliver basic education to children in the conflict-affected areas. This recommendation is made based on the low infrastructural requirement and the simplicity of the implementation of such approach.

2 Security situation in Northern Nigeria

Since 2009 the northern part of Nigeria has been affected by security challenges. A terror organisation known as Boko Haram¹¹ has launched major attacks against the people of the region and

11 The group's official name as contained in its manifesto is Jama'atu Ahlis Sunna Lidda'awatawaj-jahad, which translates to 'Association of Sunnis for the propagation of Islam and Jihad'. Ideologically, Boko Haram opposes not only Western education but also Western culture, and aims to establish Shar'ia law throughout Nigeria. For more on this, see SA Ekanem, JA Dada & BJE Ejue 'Boko Haram and amnesty: A philo-legal appraisal' (2012) 2 *International Journal of Humanities and Social Science* 2231; GU Ntamu & OE Ekpenyong 'Boko Haram: Threat to Nigerian national security' (2014) 10 *European Scientific Journal* 244; T Johnson 'Backgrounder: Boko Haram' (2011) Council on Foreign Relations, New York 31.

government institutions.¹² The conflict started as retaliation for the extra-judicial killing of the group leader, Mohamed Yusuf, by the Nigerian government.¹³ The group launched its first attack in January 2010 in Borno state, resulting in the death of four people.¹⁴ Since then it has intensified its attacks in various parts of the northern region. In 2011 the group bombed the police force headquarters in Abuja.¹⁵ In 2012 the group sent a suicide bomber to bomb the United Nations (UN) headquarters in Abuja, resulting in the death of 21 people with several more injured.¹⁶ On 20 January 2012 the group attacked the city of Kano, with more than 185 people killed.¹⁷ From 3 to 7 January 2015 the sect carried out a raid in 16 villages in Northern Nigeria, which later came to be termed the 'Baga Massacre'.¹⁸ An estimated 2 000 people were killed and several villages destroyed.¹⁹

Educational facilities and learners have not been spared in these attacks. In 2014 more than 276 girls were kidnapped from a boarding school in the town of Chibok in the region.²⁰ In 2017, 100 of the Chibok girls were released by the kidnappers.²¹ At the time of writing this article, several of these girls were still in captivity. While Boko Haram started the attacks and kidnapping of learners in schools, other criminal elements, such as armed bandits, have taken advantage of the situation to perpetuate further kidnapping of learners, thereby increasing the general insecurity in the region. In 2018, 110 school girls were abducted from Dapchi in Yobe state for ransom.²² On 27 February 2021 bandits attacked the Government

-
- 12 I Mantziko 'Boko Haram attacks in Nigeria and neighbouring countries: A chronology of attack (2014) 8 *Perspective on Terrorism* 63.
- 13 J Campbell 'Boko Haram origin, challenges and responses (2014) Norwegian Peacebuilding Resource Centre, Policy Brief. Also see O Badejogbin 'Boko Haram: An enquiry into the social-political context of Nigeria's counter-terrorism response' (2013) 17 *Law, Democracy and Development* 226.
- 14 Campbell (n 13).
- 15 A Walker 'What is Boko Haram' (2011) Special Report, <https://www.usip.org/sites/default/files/SR308.pdf> (accessed 10 March 2022).
- 16 United Nations 'United Nations unveils full list of staff killed in recent deadly attack in Abuja, Nigeria' (2011), <https://news.un.org/en/story/2011/09/386582-un-unveils-full-list-staff-killed-recent-deadly-attack-abuja-nigeria> (accessed 10 March 2022).
- 17 J Adibe 'What do we really know about Boko Haram?' in I Mantzikos (ed) *Boko Haram: Anatomy of a crisis* (2013) 10.
- 18 S Muscati 'Anatomy of a Boko Haram massacre' (2015), <https://www.hrw.org/news/2015/06/10/anatomy-boko-haram-massacre> (accessed 10 March 2022).
- 19 Muscati (n 18) 10. Also see H Umar & M Faul 'Boko Haram says responsible for massacre that left up to 2 000 dead' (2018), <https://www.haaretz.com/boko-haram-says-responsible-for-baga-massacre-1.5363210> (accessed 10 March 2022).
- 20 A Vereje & CM Kwaja 'An epidemic of kidnapping: Interpreting school abductions and insecurity in Nigeria (2021) 20 *African Studies Quarterly* 88.
- 21 Vereje and Kwaja (n 20) 88.
- 22 N Orjinmo 'Nigeria's school abductions: Why children are being targeted' (2021), <https://www.bbc.com/news/world-africa-56212645> (accessed 26 May 2021).

Girl's Secondary School in Jangebe, Zamfara state, and kidnapped approximately 300 learners from the school.²³ The girls were released on 1 March 2021.²⁴ Whether ransom was paid in all these kidnappings before the girls were released remains speculation.

In March 2021 around 30 students were kidnapped from a Forestry Mechanisation School in Kaduna state.²⁵ On 16 March 2021 gunmen on motor cycles stormed a primary school in Kaduna and abducted three teachers.²⁶ Some of these kidnappings have also led to the death of learners.²⁷ In June 2021, 94 learners were kidnapped in Birnin Yauri in Kebbi, and three of them died in the process.²⁸ The incessant kidnappings not only have an impact on access to education for millions of children, but they also serve as a catalyst or reason to discourage families from sending their children to schools, thereby not only impacting the desire of children to acquire education, but also violating their right to education as enshrined in various legal instruments. However, an argument could be made that parents are not prevented from relocating their children to safer schools, and as such the issue of conflict preventing children from accessing schools should not be a problem. While this is a valid argument, cost implications have to be factored into this arrangement, in that the parents may not be able to afford this. Such cost implications may include providing accommodation to the children or child, as the case may be, that is, if the location of the school is different and a distance from where the parents reside. Feeding costs will also have to be considered. Also, at the level of basic education, most of these children are still young and may not be able to care for themselves. Consequently, parents who cannot afford such costs and are not willing to risk the safety of their children will be discouraged from sending their children to school. Hence, the focus of this article on technology to deliver basic education to affected children in their homes by the government.

23 J Campbell 'Mass kidnapping in Nigeria captures International attention – Again' (2021), <https://www.cfr.org/blog/mass-kidnapping-nigeria-captures-international-attention-again> (accessed 26 May 2021).

24 As above.

25 J Diaz '30 students missing in northwest Nigeria in country's latest school kidnapping' (2021), <https://www.npr.org/2021/03/12/976348734/30-students-kidnapped-in-northwest-nigeria-in-countrys-latest-school-kidnapping> (accessed 26 May 2021).

26 C Claire 'Mass kidnapping for ransom attacks continue in Nigeria' (2021), Mass Kidnap for Ransom Attacks Continue in Nigeria (asisonline.org) (accessed 5 May 2021).

27 A Hazzd & G Mohammed 'Gunmen kill student, kidnap 42 in attacks on Nigeria school' (2021) *Reuters*, <https://www.reuters.com/article/us-nigeria-security-kidnapping-idUSKBN2AH14Y> (accessed 21 June 2021).

28 SABC News 'Three students dead after Nigeria school kidnapping, says principal' (2021), <https://www.sabcnews.com/three-students-dead-after-nigeria-school-kidnapping-say-principal/> (accessed 21 June 2021).

3 Right to education and the obligation on the Nigerian state

3.1 The general provision protecting the right to basic education

Several international human rights instruments recognise the right to education. The first is the Universal Declaration of Human Rights (Universal Declaration) adopted in 1948.²⁹ Article 26(1) of the Universal Declaration states that '[e]veryone has the right to education. Education shall be free, at least in the elementary and fundamental stages'.³⁰ Although the Universal Declaration is not a legally-binding instrument, it created the framework or foundation for the development of other legally-binding instruments.³¹ According to Onuora-Oguno, although the Universal Declaration did not use the term 'basic education', it uses concepts such as fundamental and elementary education, which can be regarded as denoting basic education.³² In essence, the Universal Declaration not only provided for the protection of the right to basic education, but also espouses the purpose of education which, among other objectives, is to be directed towards the full development of the personality, strengthening, and respect for human rights, as well as the promotion of tolerance among nations.³³

Given the significance of education for all, in 1960 UNESCO adopted the Convention against Discrimination in Education (CDE).³⁴ Article 4(a) of CDE provides that state parties to the Convention must undertake to make primary education free and compulsory and to ensure that secondary education in its different forms is generally available and accessible to all. The CDE prohibits all forms of discrimination based on race, colour, sex, language, religion, political or other opinions, nationality, social origin, economic circumstances or birth.³⁵ The CDE seeks to promote equality in the provision of education. Consequently, the government is under an obligation to create the enabling environment for every child, including those in

²⁹ Art 26(1) Universal Declaration.

³⁰ As above.

³¹ K Beiter *The protection of the right to education by international law* (2006) 94. Also see L Arendse 'The obligation to provide free basic education in South Africa: An international law perspective' (2011) 14 *Potchefstroom Electronic Law Journal* 99.

³² AC Onuora-Oguno *Development and the right to education in Africa* (2019) 29.

³³ Art 26(2) Universal Declaration.

³⁴ Art 4(a) Convention against Discrimination in Education 1960.

³⁵ Art 1 Convention against Discrimination in Education.

the conflict-affected areas in the northern region, to have access to basic education.

Article 26 of the Universal Declaration and article 4(a) of CDE were later reaffirmed and further developed by articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which was adopted in 1966. Article 13(2)(a) of ICESCR urges state parties to make primary education compulsory and available at no cost to all, and provides that secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education.³⁶ The protection accorded by ICESCR to the right to education is so significant that there can be no meaningful discussion of the right to education from an international law perspective without reference to the provisions of ICESCR. On this basis Beiter asserts that articles 13 and 14 of ICESCR arguably represent the most important codification of the right to education in international law.³⁷

In addition to the general legal instruments protecting the right to basic education, specific international legal instruments protect the rights to basic education of specific vulnerable groups in society. The Convention on the Rights of the Child (CRC) is one of these instruments. CRC was adopted in 1989 and provides for the realisation of the child's right to education.³⁸ At the regional level, the African Charter on Human and Peoples' Rights (African Charter) also provides for education rights.³⁹ Article 17 of the African Charter stipulates that 'every individual shall have the right to education'. The African Charter on the Rights and Welfare of the Child (African Children's Charter) guarantees the right to basic education. Article 11(1) of the Children's Charter provides that '[e]very child shall have the right to an education'.⁴⁰ Article 11(3)(a) provides that basic education should be made free and compulsory,⁴¹ while articles 11(3)(b) and (c) obligate state parties to make secondary and higher education progressively accessible for free.⁴²

36 Art 13(2)(a) ICESCR.

37 K Beiter *The protection of the right to education by international law* (2006) 86.

38 Art 28(1)(a) of CRC provides that state parties must make primary education compulsory and free for everyone.

39 Art 17 of the African Charter stipulates that 'every individual shall have the right to education'.

40 Art 11(1) African Children's Charter.

41 Article 11(1)(a) African Children's Charter.

42 Arts 11(1)(b)-(c) African Children's Charter.

A unique aspect of the African Children's Charter is the use of the concept 'basic education'. Every other legal instrument examined so far has used concepts such as 'fundamental education', 'elementary education' and 'primary education'. The Children's Charter seems to be the first international legal instrument to use the term 'basic education'. Although the reason for the use of the concept of basic education in the African Children's Charter was not explained, one cannot rule out the influence of the 1990 World Declaration on Education for All (EFA Declaration). The concept of basic education was first introduced into the education discussion or lexicon in this Declaration.⁴³ Both the EFA Declaration and the adoption of the African Children's Charter took place in 1990, with the Children's Charter being adopted a few months after the EFA Declaration. The significance of the emphasis on basic education, as opposed to primary education, is the shift towards the substance of education that will enable individuals to perform certain basic functions in society, and also to contribute meaningfully to society. The purpose of such basic education is well enunciated in article 1 of the EFA Declaration.⁴⁴ The commitment to meet these basic learning needs has influenced member states to redesign their education systems and curricula to reflect these basic learning needs. For example, in Nigeria, basic education goes beyond primary education, which is six years of primary schooling and includes three years of junior secondary education, a total of nine years of schooling.

At the domestic level, the right to education in Nigeria is not constitutionally justiciable.⁴⁵ However, as noted by Akinbola, the enactment of the Universal Basic Education Act 2004 (UBE Act 2004)⁴⁶

43 K Tomasevski 'Preliminary report of the Special Rapporteur on the Right to Education' (1999), http://repository.un.org/bitstream/handle/11176/223172/E_CN.4_1999_49-EN (accessed 8 March 2022).

44 Art 1 of the World Declaration on Education for All, Jomtien, Thailand 1990, provides: 'Every person – child, youth and adult – shall be able to benefit from educational opportunities designed to meet their basic learning needs. These needs comprise both essential learning tools (such as literacy, oral expression, numeracy, and problem solving) and the basic learning content (such as knowledge, skills, values, and attitudes) required by human beings to be able to survive, to develop their full capacities, to live and work in dignity, to participate fully in development, to improve the quality of their lives, to make informed decisions, and to continue learning. The scope of basic learning needs and how they should be met varies with individual countries and cultures, and inevitably, changes with the passage of time.'

45 *Federal Republic of Nigeria & Another v Registered Trustees of the Social Economic Rights Action Project (SERAC)* (ECOWAS 2009) Suit ECW/CCJ/0808, 27 October 2009. In this case the Nigerian government represented by Universal Basic Education Commission (UBEC) argued that education in the Nigerian Constitution is a mere directive principle of state policy and does not confer legal rights on anyone.

46 Sec 2(T) of the Universal Basic Education Act 2004 confers on every child in Nigeria the right to free and compulsory basic education.

and the Child Right Act 2003⁴⁷ has elevated the status of the right to basic education to a justiciable right in Nigeria.⁴⁸ Both Acts not only guarantee the right to free and compulsory basic education of every child in Nigeria, but also confer a legal obligation on the government at all levels to ensure the provision of free and compulsory basic education to every child in Nigeria. In addition, in *Republic of Nigeria and Another v Registered Trustees of the Social Economic Rights Action Project (SERAP)*, which was heard by the Economic Community of West African States (ECOWAS) regional court, it was confirmed that the right to basic education confers a legal entitlement on every child in Nigeria.⁴⁹ In the case of *Legal Defence and Assistance Project (LEDAP) GTE and Ltd v Federal Ministry of Education & Another* the Federal High Court in Abuja observed that every child in Nigeria has the right to basic education, on the basis of the UBE Act 2004 and section 18 of the Nigerian Constitution.⁵⁰ This overview of the international, regional and domestic legal instruments protecting the right to education illustrates that the right to basic education is adequately protected.

Having established that the right to education, specifically basic education, confers a legal entitlement on every child in Nigeria and confers the corresponding obligation on the state to provide such education; the question is whether this obligation is applicable in conflict situations.

3.2 Protection of the right to education in conflict situations

As demonstrated by the preceding discussion, the right to education is adequately protected at the international, regional and national levels. However, the question arises as to whether the state is under an obligation to provide access to basic education for children in conflict areas. This part addresses this question. Education, as a human right, should be guaranteed and protected for all individuals at all times. However, in conflict situations, states are often faced with the challenge of protecting the right to education. Article 2(1) of ICESCR requires states to achieve the right to education by making

47 Sec 15(1) of the Child Rights Act 2003 provides that every child has the right to free, compulsory and universal basic education and it shall be the duty of the government in Nigeria to provide such education.

48 BR Akinbola 'The right to inclusive education in Nigeria: Meeting the needs and challenges of children with disabilities' (2010) 10 *African Human Rights Journal* 467. Also see of EL Taiwo & A Govindjee 'The implementation of the right to education in South Africa and Nigeria' (2012) 33 *Obiter* 119.

49 *Nigeria v SERAC* (n 45).

50 *Legal Defence and Assistance Project (LEDAP) GTE and Ltd v Federal Ministry of Education & Another* (FIIC/ABJ/CS/987/15) (2017) NGIIC 2.

effective use of available resources.⁵¹ However, insecurity and armed conflicts may limit the availability of such resources, thereby limiting the state's ability to fully realise the right to education. That being said, human rights apply in all contexts; people do not lose their human rights as a result of conflict.⁵²

In other words, even in a conflict situation, children have the right to education which should be respected, protected and fulfilled by the state. The protection of the right to education in a conflict situation is regulated by the Geneva Convention of 1949 (Geneva Convention) and its two Protocols. Article 24 of the Geneva Convention requires states to ensure that children under the age of 15 years who are orphaned or separated from their families as a result of conflict are not abandoned.⁵³ It espouses that the religion and educational interests of these children are facilitated in all circumstances.⁵⁴ This can be interpreted to mean that regardless of the security situation in Northern Nigeria, the government is under an obligation to protect the right to basic education of children in Nigeria. Article 94 of the Geneva Convention provides that the detaining power shall encourage intellectual, educational and recreational pursuits.⁵⁵ It ensures that suitable premises are provided for the education of children.⁵⁶ The Convention emphasises that children should be allowed to attend schools either within the place of internment or outside.⁵⁷

The protection of the right to education in a conflict situation is not limited to the Geneva Conventions of 1949 and its additional protocols. The protection of the right to education in a conflict situation can be deduced from the provisions of other international instruments. For instance, the Committee on Economic, Social and Cultural Rights (ESCR Committee) in its General Comment 3 identifies the minimum core content of the right to education which must be realised immediately and at all times.⁵⁸ The minimum core content of the right to education in this context is basic education, which imposes a minimum core obligation on the state to provide basic education. Failure by states to meet these minimum core obligations will be in

51 Art 2(1) ICESCR.

52 Global Coalition to Protect Education from Attack (GCPEA) 'Lessons in War 2015: Military use of schools and universities during armed conflict (2015), https://www.scholarsatrisk.org/wp-content/uploads/2016/05/Lessons_in_War_2015.pdf (accessed 10 April 2022).

53 Art 24 of the Geneva Conventions Relative to the Protection of Civilian Persons in Time of War of 12 August 1949.

54 Geneva Conventions (n 53).

55 Art 94 Geneva Conventions (n 53).

56 Geneva Conventions (n 53).

57 As above.

58 ESCR Committee General Comment 3.

breach of their treaty obligations. The Maastricht Guidelines provide further interpretation of the minimum core obligation imposed on states. The Maastricht Guidelines provide that the minimum core obligation, in this case the provision of basic education, applies regardless of the availability of resources or any other factors and difficulties.⁵⁹ In this context, this may be interpreted to mean that the government is obligated to provide basic education even in a conflict situation. The Committee on the Rights of the Child on its day of general discussion on the right of the child to education in emergencies outlined the obligation of state parties to ensure access to education for children in conflict situations. According to the Committee, state parties to the Convention must prioritise education as an emergency measure, which must be understood as a 'essential protection' mechanism that must be included as part of the humanitarian response from the start of the emergencies in order to allow for the continuation of children's education and the development of their future capacities.⁶⁰ This again points to the fact that the security situation in the northern region of Nigeria does not absolve the government of its obligation of ensuring access to basic education to the children affected by the conflict in the region. The government is obligated to put in place measures to ensure the continuation of children's education in the region even amid the security challenges.

At the regional level, Bakare has observed that the provision of article 9(2)(b) of the African Union (AU) Convention for the Protection and Assistance of Internally Displaced Persons in Africa (2009) are provisions that may be interpreted to accommodate the protection of the right to education in a conflict situation. This provision provides that internally-displaced persons must be provided with adequate humanitarian support, which should include food, shelter, water, medical care, education and other necessary services. It must also be noted that the African Charter does not allow for derogation of any of its rights, even during a conflict situation. This view was explicitly expressed by the African Commission on Human and Peoples' Rights (African Commission) in the case of *Commission Nationale des Droits de l'Homme et des Libertés v Chad*. In this case the Commission provides as follows:⁶¹

59 Maastricht Guidelines on Violation of Economic, Social and Cultural Rights paras 9-10.

60 Committee on the Rights of the Child Day of General Discussion on the Right of the Child to Education in Emergency Situations 49th session 15 September-3 October 2008.

61 (2000) AHRLR 66 (ACHPR 1994) para 21.

The African Charter, unlike other human rights instruments, does not allow for state parties to derogate from their treaty obligations during emergency situations. Thus, even a situation of civil war cannot be used as an excuse by the state for violating or permitting violations of rights in the African Charter.

The consequence of this is that the obligations imposed by article 17 of the African Charter, which guarantees the right to education, cannot be derogated from in an armed conflict situation. The Nigerian state's obligation to ensure that children in the northern region have access to basic education does not cease even in the face of the ongoing security challenges in the region.

At the domestic level, section 14(2)(b) of the Nigerian Constitution provides that 'the security and welfare of the people shall be the primary purpose of government'.⁶² The combined reading of section 14(2)(b) of the Constitution with the UBE Act 2004 and the CRA 2003, which guarantee the right to basic education of children, simply means that it is the primary responsibility of the government to provide security and enabling environment for every child in Nigeria to receive basic education. States are also obligated to give effect to their international obligations through their respective domestic laws. Nigeria as a party to several of these international treaties has made an effort to give effect to some of these international laws. For example, as a dualist state,⁶³ Nigeria has domesticated the African Charter.⁶⁴ This means that the provisions of the Charter are now part of the domestic laws of Nigeria.⁶⁵ This position was confirmed by the Appeal Court of Nigeria in the case between *IGP v ANPP*, where the Court explicitly stated that the African Charter was part of Nigerian law, and must be upheld by the courts.⁶⁶ This can be interpreted to mean that article 17 of the African Charter, which provides for the right to education, cannot be derogated from by the state, even in the face of the ongoing conflict in the northern part of Nigeria.

Having established that the ongoing security situation in the northern region of Nigeria does not absolve the government of

62 Sec 14(2)(b) Constitution of the Federal Republic of Nigeria 1999.

63 Nigeria operates a dualist system. Sec 12(1) of the Constitution of the Federal Republic of Nigeria provides that no treaties can be applied domestically unless they have been incorporated through domestic legislation.

64 African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act.

65 E Egede 'Bringing human rights home: An examination of the domestication of human rights treaties in Nigeria (2007) 51 *Journal of African Law* 260. Also see M Adigun 'The implementation of the African Charter on Human and Peoples' Rights and the Convention on the Rights of the Child in Nigeria: The creation of irresponsible parents and dutiful children (2019) 51 *Journal of Legal Pluralism and Unofficial Law* 320.

66 *IGP v ANPP & Others* Appeal CA/A/193/M/05.

its obligation of ensuring access to basic education for children in the region, the question arises as to what the government has done to ensure that even in the face of the ongoing security situation or challenge in the region, the right to basic education of children is protected. What are the alternative means available for the government to ensure that the right to basic education of children in the region is fulfilled? How can the government leverage technology to deliver education to learners near their homes? How can government deliver the type of education a child from a rich home received during the COVID-19 pandemic, where such a child sits in the comfort of his or her father's house to receive an education? The next part responds to these questions.

4 Government's efforts to ensure access to education in the conflict situation in Northern Nigeria

In addition to the military effort to ensure that the conflict in the northern region of Nigeria is addressed and that children have access to education, the government also introduced the 'Safe School Initiative' programme in the region.

4.1 Safe Schools Initiative

The Safe Schools Initiative was introduced in 2014, against the backdrop of the kidnapping of over 200 school girls from Chibok Town by Boko Haram insurgents; the destruction of more than 910 schools; and the closure of over 1 500 schools between 2009 and 2015, which left approximately 600 000 children of school-going age without access to learning in the northern region of the country.⁶⁷ In May 2014 the Nigerian government, the UN Special Envoy for Global Education, Gordon Brown, and a coalition of Nigerian business leaders jointly launched the Safe Schools Initiative.⁶⁸ The Initiative seeks to improve the protection and safety of students, family members and teachers. It focuses on the following:⁶⁹

-
- 67 German Cooperation 'Supporting the Nigerian safe schools initiative: Promoting safe and uninterrupted access to education for schools children' (2016) *Internationale Zusammenarbeit* (GIZ).
- 68 Global Coalition to Protect Education from Attack (GCPEA) 'Report: The Safe School Initiative' (2014), <https://protectingeducation.org/news/report-the-safe-schools-initiative/> (accessed 25 February 2022).
- 69 As above. Also see CV Gever 'Questioning the Safe School Initiative and making a case for a safe school model: The media as the nucleus' (2016) 6 *Sokoto Journal of the Social Sciences* 2.

- (1) rehabilitating the security infrastructure at schools and the establishment of community-orientated security concepts;
- (2) transferring students from high-risk areas to safe schools and providing complementary trauma counseling; and
- (3) providing education for internally-displaced persons in camps and communities.

The initiative was co-funded by the Federal Government of Nigeria; Nigerian business leaders; the German Federal Ministry for Economic Cooperation and Development; the Norwegian government; the African Development Bank; the United States Agency for International Development; and the United Kingdom Department for International Development.⁷⁰

4.2 Evaluating the impact of the Safe Schools Initiative

While the initiative was loudly applauded, the impact of the initiative in terms of protecting and ensuring access to basic education for children in the region has been minimal. In terms of the positive impact of the initiative, more than 2 400 students have been transferred and given admission to government schools in safer parts of the country, where they have been given comprehensive support.⁷¹ The Safe Schools Initiative has also helped to protect the students against further trauma and allowed them to receive access to education. However, in the overall scheme of things, the initiative has not prevented attacks on schools and the kidnapping of learners. If anything, since the introduction of the initiative, more schools have come under attack, more learners have been kidnapped, and more schools have been closed down by the government.⁷² The reason for the failure of this policy to achieve its overall objective has been largely attributed to the lack of effective implementation of the policy.⁷³ The government has been accused of abandoning the Safe Schools Initiative. In the wake of the recent increase in attacks and kidnapping of learners, the Nigerian National Assembly (Parliament) had set up a committee to investigate the reasons for the abandonment of the initiative.⁷⁴ Parliament urged the federal

70 German Cooperation 'Supporting the Nigerian Safe Schools Initiative: Promoting safe and uninterrupted access to education for school children' (2016) *Internationale Zusammenarbeit* (GIZ).

71 I Lawal 'Unending attacks on schoolchildren despite Safe School Initiative' *The Guardian* 24 December 2020, <https://guardian.ng/features/education/unending-attacks-on-schoolchildren-despite-safe-school-initiative/> (accessed 25 February 2022).

72 As above.

73 S Aborisade 'Nigeria's Safe School Initiative designed to fail – Lawal' *Punch* 1 October 2021, <https://punchng.com/nigerias-safe-school-initiative-designed-to/> (accessed 25 February 2021).

74 As above.

government to collaborate with state governments to restore, revive and revalidate the Safe Schools Initiative and to deploy special security personnel to schools in Nigeria.⁷⁵ Given the failure of the Safe Schools Initiative, how can access to basic education amid the ongoing security challenges be realised in the region? What role can technology play to ensure access to the basic education of children in the region?

5 Mobilising technology to guarantee the right to basic education of children in the conflict area of Northern Nigeria

The COVID-19 pandemic has caused the greatest disruption in global education systems in history where schools were shut down, affecting nearly 1,6 billion students in over 190 countries across all continents.⁷⁶ To ensure the continuity of education, distance learning solution through technological intervention was introduced. While COVID-19 has had a huge negative impact on access to education, it has also created the opportunity for the incorporation of systems of flexible distance learning by exploring opportunities to further invest in technological innovations.⁷⁷

E-learning is viewed as the deployment of electronic media to deliver education and monitor learners' performance.⁷⁸ It is an innovative approach for delivering a well-designed and interactive learning environment to anyone, at any place, by using the internet and digital technologies.⁷⁹ It is the convergence of the internet and learning. The application and process of e-learning include computer-based learning; web-based learning; visual classrooms; and digital collaboration where content is delivered through the internet, audio or videotapes, satellite television and CD-ROM.⁸⁰

75 L Baiyewu 'Reps probe Jonathan's N2bn Safe School Initiative' *Punch* 7 May 2021. <https://guardian.ng/features/education/unending-attacks-on-schoolchildren-despite-safe-school-initiative/> (accessed 25 February 2022).

76 United Nations Sustainable Development Group (UNESDG) 'Policy brief: Education during COVID-19 and beyond (2020)', https://unsdg.un.org/sites/default/files/2020-08/sg_policy_brief_covid-19_and_education_august_2020.pdf (accessed 27 February 2022). Also see A Schleicher 'The impact of COVID-19 on education insights from education at a glance 2020' (2020), <https://www.oecd.org/education/the-impact-of-covid-19-on-education-insights-education-at-a-glance-2020.pdf> (accessed 27 February 2022).

77 Schleicher (n 76).

78 N Hedge & L Hayward 'Redefining roles: University e-learning contributing to life-long learning in a networked world' (2004) 1 *E-Learning* 129. Also see TO Ajadi, O Salawu & FA Adeoye 'E-learning and distance education in Nigeria' (2008) 7 *Turkish Online Journal of Educational Technology* 61.

79 Ajadi et al (n 78) 1.

80 As above.

Leveraging the power of technology to deliver education allows learners living in remote areas access to education. The benefit of leveraging technology for the delivery of education in the context of the security challenge in the northern region is substantial. Such a learning approach has the potential to prevent learners from congregating in one location, where they become easy targets for kidnapping by bandits and Boko Haram terrorists, as has been the unfortunate practice in recent years. The use of technology to deliver education to students will allow them to obtain basic education in the comfort and security of their own homes, thereby reducing the security risks they face at conventional schools.

While the deployment of technology will assist the government to fulfil its obligation towards the right to basic education in the security-challenged region of Northern Nigeria, the realities are more complex. A major challenge to such an initiative is the issue of infrastructure. For this initiative to be successful, it will require massive investment from the government in digital learning. This will include a stable power supply; access to the internet; laptops; computers; and adequate training for the teachers to use these innovative educational platforms. Unfortunately, the lack of such infrastructure in the region will make such digital learning difficult. That said, a study sponsored by the United States Agency for International Development (USAID) has identified various technology-supported interventions to deliver education services that promote equal access to education for children in conflict-affected environments.⁸¹ The study identifies three types of technology-supported intervention to deliver education services in a conflict environment. These are:

- (1) mobile phone-based delivery of educational content for improving student learners, aimed at both teachers and students;
- (2) internet-enabled computer lab supporting K-12 education and youth employment-focused training; and
- (3) interactive radio instruction (IRI) in primary education.

The study reveals that the decision to adopt any of these technological interventions to deliver education services is dependent on the context and the advantages and disadvantages of each of these technological interventions.⁸² Consideration will have to be given to available infrastructure, to determine the choice of the option to adopt which best suits the delivery of the educational needs of learners in the conflict-affected areas of Northern Nigeria.

81 USAID 'Using technology to deliver educational services to children and youth in environment affected by crisis and/or conflict' (2013) United States Agencies for International Development of the United States 3.

82 As above.

In the year 2000 UNESCO piloted a project to enhance girls' literacy skills through the use of mobile phones in Pakistan.⁸³ Pakistan as a country cannot be described as affected by crisis or conflict. However, security challenges to learners are compromised in some pockets of the country.⁸⁴ In addition to the security challenges, certain prevailing traditional practices in parts of the country have prevented some parents from sending their children, particularly the girl child, to school regularly. This has resulted in extremely low literacy rates.⁸⁵ To ensure access to education for the girl child, UNESCO piloted a project that distributed mobile phones to a group of 250 semi-literate girls located in three districts between rural and semi-urban areas.⁸⁶ School work was sent to these learners via text messages, in which they were encouraged to copy it into their work books. The girls were also encouraged to create and send messages on learning challenges they might encounter. The research report reveals that over the four months, in which the programme was piloted, the 'girls' literacy skills improved by a weighted average of 67 per cent'.⁸⁷ The phone-based approach enables the learners to learn outside of schools as self-directed learners in a small but significant way.⁸⁸

The infrastructure required for the phone-based approach is a simple phone (non-Android) that can receive and send text messages and a pre-paid SIM card. Given that Nigeria has over 90 per cent cell phone network coverage, including the conflict-affected areas,⁸⁹ the phone-based approach would have been a suitable technological intervention to deliver basic education services for children in the conflict-affected areas. The mobile phone-based approach as shown in the Pakistan case study will ensure that children who have been prevented from going to school as a result of the security challenge in Northern Nigeria have access to basic education from the comfort and security of their parents' homes.

However, the cellphone-based approach has its drawbacks in the conflict-torn region of Northern Nigeria. The terrorists did not spare cell phone network infrastructures from their attacks. Furthermore,

83 I Miyazawa 'Literacy promotion through mobile phones' (2000) 13th UNESCO-Applied International Conference and World Bank-Keris High Level Seminar on ICT in Education; Project Brief paper, <https://silo.tips/download/literacy-promotion-through-mobile-phones> (accessed 27 February 2022).

84 Miyazawa (n 83) 37.

85 USAID (n 81).

86 Miyazawa (n 83) 37.

87 As above.

88 As above.

89 P Gilbert 'Nigerian internet and mobile penetration grows' (2021), https://www.connectingafrica.com/author.asp?section_id=761&doc_id=767400 (accessed 3 June 2022).

in order to disrupt the coordinated activities of the terrorist groups in the affected areas, the government had to instruct network providers to temporarily shut down network operations in the affected areas at some point.⁹⁰ Given such challenges in the region, the cell phone-based approach will not be a reliable approach for such learning activities in the conflict-affected areas.

The second technological intervention for the delivery of education in conflict environments identified by the USAID-sponsored research is the interactive radio instruction (IRI) approach.⁹¹ The IRI is considered an instructional methodology that combines an audio component, which is delivered by an audio teacher through a radio, audio cassette or MP3 player, with learning activities carried out by students. The IRI programme has been adopted as a technological intervention to deliver education services for children in several conflict-affected areas, which include Somalia and South Sudan.⁹² In 2005 the programme was introduced in Somalia to ensure that even amidst the conflict, children have some sort of basic education.⁹³ Teachers used radio to receive and broadcast programmes daily, three hours per day, and five days per week. Digital players were also provided to teachers and learners to deliver basic skills that covered life skills, health, conflict prevention and mediation.

The programme continued until 2011 and achieved a remarkable result. The IRI audio programme provided 330 000 children in Grades 1 to 5 access to basic education.⁹⁴ According to the implementation agency, the programme assisted in providing stability to fragile communities by providing consistent education service, engaging families and communities, and teaching knowledge and skills that both children and adults require to move communities out of conflict and poverty.⁹⁵ The low infrastructure requirement of the IRI approach also made it a perfect fit for the conflict-affected region of Northern Nigeria. As demonstrated in the case of Somalia, the application of IRI provided 33 000 children in conflict-affected areas with basic education and reduced the impact of the conflict on the

90 A Adepetun et al 'Zamfara residents lament indefinite telecoms shutdown amid rise in bandits' activities' *The Guardian* 28 September 2021, <https://guardian.ng/news/zamfara-residents-lament-indefinite-telecoms-shutdown-amid-rise-in-bandits-activities/> (accessed 3 June 2022).

91 USAID (n 81).

92 As above (n 91).

93 As above.

94 USAID 'Final Report of the Somalia Interactive Radio Instruction Programme' (2012), https://pdf.usaid.gov/pdf_docs/pdact951.pdf (accessed 4 March 2022). Also see Education Development Centre (EDC) 'The Somalia interactive radio instruction programme', <https://www.edc.org/sites/default/files/EDC-Education-Fragility-Series-Somalia-SIRIP.pdf> (accessed 4 March 2022).

95 Education Development Centre (n 94).

children. I therefore recommend that the government, as part of its obligation towards fulfilling the right to basic education, provides the IRI approach in the conflict-affected areas of Northern Nigeria, to enable the children to have access to basic education.

The third technological intervention to deliver basic education to conflict-affected areas identified by the research is internet-enabled computer labs for education and training. Since 2003 the UN Refugee Agency (UNHCR) and Microsoft along with other partners have collaborated to establish community technology access (CTA) programmes in refugee camps in over 22 countries, located in Africa, East and Central Europe, Asia and the Middle East.⁹⁶ While each country's programme may be different and adapted to suit the local context, the overall aim remained the same, which is to enhance access to education. For example, in Kenya's Dadaab refugee camp, which hosted an estimated 475 000 refugees, mostly children, three CTA labs were established.⁹⁷ Each of these labs was fitted with 20 computers, each connected to the internet, a basic printer and a video projector.⁹⁸ The CTAs provide formal education, basic literacy skills, long-distance learning and vocational education. The report suggests that the programme has been largely successful. It resulted in an improved level of retention in primary and secondary education. It also increases girls' enrolment in science classes.⁹⁹

While the CTA has proven to be a significant technological intervention that enables access to basic education for children in a conflict environment in other climes, its successful application in Northern Nigeria could be challenging for several reasons. Computer labs require reliable electricity to function effectively and, given the unreliable power supply in the country, it will be problematic to successfully implement such a programme. Compared to radio and mobile telephones, computer labs are more expensive to set up and have a higher maintenance cost. Although it is the government's obligation to put measures in place, including setting up computer labs that will ensure access to basic education for children in Northern Nigeria, prevailing financial constraints will make such a programme difficult to realise.

Another reason why computer labs might not be such a good idea in the prevailing security situation in Northern Nigeria is the fact that

96 USAID (n 94).

97 As above. Also see UNHCR 'Kenya: Education', <https://help.unhcr.org/kenya/dadaab/education/> (accessed 4 March 2022).

98 USAID (n 94).

99 As above.

computer labs will require bringing several learners to learn in one computer lab. This will make such learners a soft target for kidnapping for ransom. The idea is to enable the learners to have access to basic education from the comfort and security of their parents' homes and, if that is the case, computer labs are not a viable option under the current circumstances, unless the government has the resources to provide each learner with a computer and internet services to learn from their homes, with adequate training on the use of the computers. Comparatively, even though computers will have been better learning tools for the children, given the prevailing security challenges, the IRI instruction approach will be a better option for the government to consider, as it is affordable, easier to operate for the learners, and will not require the children to congregate in computer labs.

6 Why the Nigerian government should look in the direction of the IRI approach

After considering the advantages and disadvantages of the three technological approaches to delivering basic education to children in the affected areas, the article recommends the IRI approach to be more appropriate and applicable in the Nigerian context. The IRI is recommended in this case for various reasons. Radio receivers are simple in design and inexpensive, especially for people living in rural areas. It is also appropriate because some of these are battery operated, making users less reliant on electricity supply. This is a major advantage, because electricity supply, not only in the conflict-affected areas of Northern Nigeria but in the entire country, remains a major challenge. As such, any recommendation in terms of a suitable technological approach to deliver basic education in the affected areas must consider this challenge. Adopting the IRI learning approach means that the lack of power supply will not affect delivery of basic education to the affected children. It also is a suitable technological intervention to deliver basic education to the affected children as the radio requires very little attention and its signal can reach remote areas.

Moreover, the IRI is an approach that has already been adopted to deliver basic education for children in the northern region during the COVID-19 lockdown.¹⁰⁰ During the lockdown USAID,

¹⁰⁰ G Njoku 'The continued relevance of radio in the digital age' (2022), <https://www.thecable.ng/the-continued-relevance-of-radio-in-the-digital-age> (accessed 24 February 2023). Also see MA Kombol 'Potential uses of community radio in political awareness: A proposal for Nigeria' (2014) 24 *New Media and Mass Communication* 12.

in partnership with the United Nations Children’s Fund (UNICEF), supported several states in the northern region to provide radio learning programmes.¹⁰¹ For example, more than 300 000 learners in Borno state received lessons in four core subject areas, including mathematics and English, through the radio learning programme. A similar programme was introduced by UNICEF and USAID in Sokoto and Bauchi state during the COVID-19 lockdown;¹⁰² 670 lessons were aired over radio and television aimed at learners in Grade 1 to 3.¹⁰³ The lessons were provided in English and the Hausa language, which is one of the languages spoken in Northern Nigeria. The lessons were broadcast for several hours per day, with the expectation to reach a total of 600 000 students.¹⁰⁴

Given that the IRI has already been tested and deployed to deliver basic education for children in the region during the COVID-19 lockdown, it can also be deployed to provide basic education to children affected by the conflict. In this case the government, as the duty bearer of the right to basic education, has to take the initiative to identify these children and to set up such radio learning programmes to guarantee their access to basic education.

7 Conclusion

The article started by raising a pertinent question, namely, whether the security situation in Northern Nigeria absolves the government from its obligation to promote, protect and provide the right to basic education for children in the region. This question was raised in the context of the security situation in the region where thousands of schools have been closed down and millions of children are without access to education. By interrogating various international, regional and domestic legal instruments, the article demonstrated that even in a conflict situation the government is under an obligation to protect and provide basic education for children within its jurisdiction. The closing down of schools as a consequence of the security challenges, without making alternative arrangements for the affected children to have access to basic education, amounts to a violation of their rights to basic education.

101 PE Ephraim ‘The potentials of radio in combating misinformation about COVID-19 in Nigeria’ (2020), <https://www.intechopen.com/chapters/73338> (accessed 25 November 2023).

102 A Fugate ‘Radio lessons in Northern Nigeria support reading during COVID-19 pandemic’, <https://www.creativeassociatesinternational.com/stories/radio-lessons-in-northern-nigeria-support-reading-during-the-covid-19-pandemic/> (accessed 25 February 2023).

103 As above.

104 As above.

As a way of recommendation, the article draws copiously from the research work sponsored by USAID on the use of technology to deliver basic education in conflict-affected countries. Drawing lessons from such research work, the article recommends that government explore technological innovative learning techniques such as the interactive radio instruction approach, which is relatively affordable and requires less complex infrastructure to deliver basic education to the children affected by the conflict in the northern region of Nigeria. A failure by the government to take every necessary measure, including technological measures, to provide education to the millions of children that do not have access to basic education because of the ongoing security challenge, will not only amount to a violation of their obligation towards the right to basic education, but will also mean subjecting millions of children to a bleak and an uncertain future.