



# RIGHT TO BASIC EDUCATION IN NIGERIA IN THE LIGHT OF NATIONAL LAWS AND POLICIES: EMPHASIS ON BAUCHI STATE

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## ABSTRACT

There is no fear of contradiction in stating that education is a fundamental tool for holistic development of man. Education from basic, secondary to tertiary level is a factor that needs not be relegated to the background in the scheme of legal and socio-economic development of a country. In Nigeria however, right to education is not considered as a front burner issue, and to that extent, there is no legal guarantee given to the right to basic education for the

## INTRODUCTION

One of the fundamental needs for total development of man and a nation is unarguably a good education. Nigeria as a nation realizing the transformational effect of education had carried out several legal and policy reforms to fix education in a position to yield expected utilitarian value of moulding citizens for national development and integration. So far policies on education are not translating into legal guarantee for the right of a Nigerian child to basic education. This paper would therefore look at some national and state laws on education including policies in a bid to explain their proprietary or otherwise with respect to guarantee, promotion and enjoyment of right to basic education which is one of the most abused rights in Nigeria.

### Objectives of the Paper

This paper explains right to basic education in the light of national and state laws; with particular focus on Bauchi State. The paper seeks to look at the constitution and other laws and ascertain whether they translate to legal guarantee leading to development, protection, promotion and enjoyment of right to basic education for the Nigerian child.

### Methodology

This paper adopts qualitative research methodology and doctrinal approach. The qualitative research method affords



*Nigerian child. Indeed, the Constitution, several laws and policies exist in Nigeria, but their provisions do not translate to legal guarantee for right to basic education for the child. The implication of this is that little or nothing in finances may be committed to development of education and one cannot have grounds in law to enforce the right to enjoyment of basic education. Moreso, since the right is rendered justiciable within the framework of the Constitution. There is no gain saying therefore that huge illiteracy exists in Nigeria even at the level of people yearning for basic education. In the absence of legal guarantee translating into enjoyment of right to basic education, a huge number of children are illiterates, uneducated and undeveloped in minds, and exist with hundred percent proneness to commission of social vices in forms of banditry, kidnapping, stealing and raping, including murderous crimes. This paper therefore looks at right to basic education under the extant laws and policies in Nigeria, using qualitative research methodology and doctrinal approach to explain its sub-topics. Based on the methodology adopted, the paper uses data from legal texts, journals and internet space to buttress its view points and make recommendations geared toward the development, enforcement and enjoyment of right to basic education in Nigeria.*

**Keyword:** Right, Basic Education, Laws, Policies, Bauchi, Nigeria.

the paper the use of words in various forms in the development of its main themes and sub-themes. The doctrinal approach enables the paper to make analysis of doctrines, principles and provisions of laws considered within the scope of the paper. Generally, the paper draws from the primary materials constitutional and stating sources for the explanation of its key concerns. Journal and internet materials, being secondary materials also help in the development of the paper.

### **Basic Education**

It is stipulated under the 2014 National Policy on Education that basic education covers early child care and development education, (creches, day care), pre-primary education, primary and junior secondary education.<sup>1</sup> Basic education is provided therefore to children between 0-15 years.<sup>2</sup> Under section 15(1) of the Compulsory, Free Universal Basic Education Act, 2004 basic education means “early childhood care and education and nine years of formal schooling”. The section also states that universal basic education means “early childhood care and education, the nine years of formal schooling, adult literacy and

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<sup>1</sup> Future Learn, Nigeria. Explore: Education in Nigeria. <http://www.futurelearn.com>info>. Accessed on 6th December 2021.

<sup>2</sup> Ibid.



non-formal education skills acquisition programme and the education of special groups such as nomads and migrants, girl-child and women, almajiri, street children and disabled groups.” Basic education as coded under the Act cited above, can be seen as the most fundamental, formal and compulsory education meant to be acquired by a child to ensure his early childhood development as a foundation for modern civilized living. A person without basic education or any formal education at any level at all, may just be a mere rustic, stark illiterate, unskilled and without pre-requisite competence for significant contribution for modern living.

### **Age Distribution for Basic Education.**

- (i) Early child care and development education -0-4 years
- (ii) Pre-primary education -5 years olds
- (iii) Primary education — 6-12 years
- (iv) Junior secondary education — 12-15 years<sup>3</sup>

From the meaning of universal basic education under section 15 (i) of the Compulsory, Free Universal Basic Education Act, 2004 stated above, basic education is meant to cut across age groups of persons between 0-15 years and include persons involved in adult literacy who are above 15 years of age.

### **Objectives of Basic Education**

In Nigeria the policy thrust is not just on basic education, but on compulsory, free universal basic education which is made to fulfill the following objectives:

- i. Development of the entire citizenry of Nigerian State, a strong consciousness for education and a strong commitment to its vigorous promotions.
- ii. Provision of free, universal basic education for every Nigerian child of school going age.
- iii. Reducing drastically the incidence of drop-out from the formal school improved relevance, quality and efficient education).
- iv. Catering for the learning needs of young persons who for one reason or the other, have had to attempt their schooling through appropriate forms of complementary approaches to the provision of basic education.
- v. Ensuring the acquisition of the appropriate levels of literacy, numeracy, manipulative, communicative and life skills as well as the ethical, moral and civil values needed for laying a solid foundation for a life-long learning.<sup>4</sup>

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<sup>3</sup> Ibid.

<sup>4</sup> James, N.A., Universal Basic Education: The Panacea to National Building. <http://www.globalacademicgroup.com>...See also the Federal Government White Paper on UBE issued by the Federal Ministry of Education cited by Ezeano, L.A. in Extent of Achievement of Universal Basic



As can be gleaned from the lofty objectives of Universal Basic Education Programme in Nigeria, it can be asserted that the programme seeks to install a foundation for a good all round life-long education for the Nigerian child.

### **Basic Education Curriculum**

The curriculum for basic education in Nigeria focuses on teaching and learning of basic sciences and technology, Arithmetic, English Language, Literature in English, Craft, one Nigeria Language (chosen from the list of Hausa, Yoruba and Igbo Languages) and Civic Education including National Values for a life-long education.

### **National Laws for Regulation of Right to Basic Education**

National laws are pieces of legislation enacted by the National Assembly for regulation of right to basic education in Nigeria. Some of the national laws will be considered as follows:

#### **(i) Constitution of the Federal Republic of Nigeria, 1999.**

The Constitution of Federal Republic of Nigeria, 1999 as amended is the supreme law within the hierarchy of legal regime in Nigeria. Text of the Constitution covers right to basic education. The lofty provisions in the Constitution regarding right to basic education in Nigeria under section 18 (i) (ii) (iii) (a)-(c) thereof are reproduced as follows:

- (i) Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels.
- (ii) Government shall promote science and technology
- (iii) Government shall strive to eradicate illiteracy; and to this end Government shall as and when practicable provide:
  - (a) free, compulsory and universal primary education
  - (b) free university education; and
  - (c) free adult literacy programme.

Provisions of section 18 of the Constitution cited extensively above makes a brilliant idea with respect to actualization of right to basic education for all. Yet, they are not couched in terms of enforceable rights at the disposal of the citizens of Nigeria. Right to basic education as informed by section 18 of the Constitution of Nigeria is therefore non-justifiable right in all ramifications of the Constitution. The right at best is recognized as a mere “fundamental objective and directive principle of state policy” under Chapter Two of the Constitution. As can be seen, right to basic education is bound up in principle or policy under Chapter Two of the Constitution, and as such it has no legal status of an

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Education Objectives for Sustainable Academic Development in Enugu State. <http://www.researchgate.net?3263>. Accessed on 6th December, 2021.



enforceable right before the court in Nigeria. In fact, section 6 (6) (c) of the Constitution of Nigeria ousts the jurisdiction of the Court in any matter involving enforcement of right to basic education. Section 6(6) (c) of the Constitution provides as follows: The judicial powers vested in accordance with the foregoing provisions of this section-

*shall not, except as otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution.*

As can be observed from section 6 (6) (c) of the Constitution cited above, judicial powers vested in courts are not exercisable when it comes to enforcement of right to basic education in Nigeria; and therefore the right is rendered non-justiciable. Impliedly, the non-justiciability to right to education was upheld by the Court in Archbishop Olubunmi Okogie v. A.G. Lagos State.<sup>5</sup> In that case, the Court held in line with section 6 (6) (c) of the Constitution of Nigeria that no Court has powers to enforce provisions of Chapter 2 of the Constitution which contains among others, right to education as a directive principle of state policy. The judicial attitude toward Okogie's Case did not raise any hope towards enforcement of right to education. Thus, what is guaranteed and enforceable in Nigeria is the right to life under section 33 of the Constitution. The question is: what is right to life without right to basic education? The Constitution of Nigeria fails to recognize the natural nexus between right to life and right to basic education, and guaranteed the former and rendered the later, unguaranteed and unjusticiable. Right to basic education is a life transforming condition and supposed to be enforced and enjoyed together with right to life.

**(ii) African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, 2004**

This Act has been ratified and enacted into law by the National Assembly in Nigeria under section 12 of the Constitution. Thus, the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, 2004 is by virtue of section 315 (1) (a) (4) (b) of the Constitution of Nigeria, 1999 an existing law. In *Ogugu v. State*,<sup>6</sup> the Court held that the African Charter on Human and Peoples' Rights is enforceable in the same manner with domestic laws and Constitution. Commendably, the Act recognizes and guarantees the right to basic education as it provides under Article 11 follows:

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<sup>5</sup> ECW/CCJ/JUD/07/10 [https://www.chr.up.ac.za/images/researchunits/bhr/files/extractive\\_industries\\_database/nigeria/national\\_case\\_law/SERAP%20v%20Nigeria.pdf](https://www.chr.up.ac.za/images/researchunits/bhr/files/extractive_industries_database/nigeria/national_case_law/SERAP%20v%20Nigeria.pdf)

<sup>6</sup> (1994) 9 NWLR, Pt 366, P. 1



*Every child shall have the right to an education and prescribes measures that states must undertake as part of their efforts to achieve the full realisation of this right, including regarding school discipline and pregnant girls.*

Article 11 of the Act cited above, recognizes right to basic education as a justiciable right, but the problem is still the Constitution of Nigeria under which the Act operates. Recall that the Constitution of Nigeria recognizes the right as a mere directive principle of state policy and renders it as a non-justiciable right. Recently, the issue of justiciability or otherwise of the right to basic education has been raised before the ECOWAS Court in Registered Trustees of the Socio-economic and Accountability Project (SERAP), Nigeria v. Universal Basic Education Commission.<sup>7</sup> The Court accordingly rejected the argument by Nigeria that the right to education is mere directive policy of government and not a legal entitlement of the citizens. The Court in its wisdom held that right to education is justiciable and enforcement under the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, 2004. The ECOWAS Court's judgment cited above though reasonable, is not binding on Nigeria because the Country has subjected the integrity of the African Charter under which the ECOWAS Court delivered the judgment to the supremacy of its Constitution.

Recall again that the Nigerian Constitution which exists as a supreme law, well above the Africa Charter has rendered the right to basic education, non-justiciable and therefore, unenforceable. However, the ECOWAS Court's decision cited above, may not be authoritative, but it is sufficiently persuasive to point to a direction in which Governments of Nigeria should follow to take specific legislative actions to make right to education enforceable in the same manner as fundamental right listed under Chapter 4 of the Constitution. This was the position in A.G. Ondo State v. A.G. Federation & 35 others,<sup>8</sup> where it was held that: the rights in Chapter Two of the Constitution of Nigeria (which include right to education) are enforceable in instances where the government has enacted statutes meant for their actualization. This decision raises some ray of hope towards recognition and enforcement of right to education.

### **(iii) Child Right Act, 2003**

This Act recognizes and enshrines certain rights of the child. Section 15 of the Act significantly makes provisions that "every child shall be afforded the right to free, compulsory and universal basic education. The Act makes it a duty for government to provide such education. Section 20 of the Act further enjoins guardians, institutions,

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<sup>7</sup> ECW/CCI/JUD/07/10 <https://www.chr.up.ac.za/images/researchunits/bhr/files/extractiveindustriesdatabase/nigeria/nationalcase-law/SERAP%20v%20Nigeria.pdf>. Accessed on 6th on December, 2021

<sup>8</sup> (2002) 9 NWLR, pt. 722 p. 222



parents and authorities responsible for care, maintenance and education ... of a child to provide necessary care, maintenance and education for the child to ensure his welfare. As observed, this Act is obeyed in the breach, given the overwhelming number of children roaming the streets in Nigeria without basic education.

**(iv) Compulsory, Free Universal Basic Education Act, 2004**

This Act is also made to regulate basic education in Nigeria. Section 2 (1) (2) of the Act acknowledges the existence of right to basic education as it provides as follows:

*2-(1) Every Government in Nigeria shall provide free, compulsory and universal basic education for every child of primary and junior secondary, school age.*

*(2) Every parent shall ensure that his child or ward attends and completes his -(a) primary school education; and (b) junior secondary school education, by endeavouring to send the child to primary and junior secondary schools.*

*(3) The stake-holders in education in a Local Government Area, shall ensure that every parent or person who has the care and custody of a child performs the duty imposed on him under section 2(2) of this Act.*

As can be clearly observed, the above provisions cited of the Act appear to recognize right to basic education, yet it provides no guarantee for enforcement of right against stake holders such as governments, parents or any person who has custody of a child entitled to the right. Interestingly, section 2 (4) of the Act imposes a fine of N2,000 or imprisonment for a term of one month or both against any parent who fails to perform the duty of enhancing a child to get basic education in Nigeria.<sup>9</sup> The section exonerates governments at all levels from criminal liability with respect to non-performance of duty to enhance the enjoyment of right to basic education. To the governments, the right is a non-justiciable and unenforceable right within the context of the constitution. It is to be stated that governments at all levels have a duty to ensure the enjoyment of right to education to the Nigerian child. This position was affirmed in *Legal Defence and Assistance Project (LEDAP) v. Federal Ministry of Education & another*<sup>10</sup> where the Federal High Court held as follows:

*Having been guided by the pronouncements of the Supreme Court in the case of A.G. Ondo State v. A.G. Federation, I hold that with the enactment by the National Assembly of*

<sup>9</sup> There is no known prosecution and conviction of parents for non performance of duty to send children to get basic education in schools. This partly accounts for why there is an overwhelming number of street children without basic education in Nigeria and Bauchi State in particular.

<sup>10</sup> Unreported Suit No. FHC/ABJ/CS/978/15



*the Compulsory, Free Universal Basic Education Act, 2004, the right to compulsory universal education and free junior secondary education for all qualified Nigerian citizens is enforceable right in Nigeria.*

This decision raises hope for enforcement and enjoyment of right to education. The decision is said to be on appeal.<sup>11</sup> Thus, whether the decision will be affirmed by the Court of Appeal cannot be ascertained here. The point about the decision is that it is not certain whether the decision can be the law for enforcement of right to education under the Constitution of Nigeria which has rendered the rights non justiciable. The decision may be inconsistent with the Constitution by virtue of the combined effect the non justiciability clause and inconsistency rule in sections 6 (6) (c) and 1 (3) of the Constitution, and therefore may become null and void.<sup>12</sup> The Legal Defence and Assistance Project's (LEDAP) case cited above, is however an isolated case which demonstrates a rare liberal attitude of a Nigerian Court towards interpretation of right to education.

The judicial attitude in Nigeria is technical and precarious compared to what is obtainable in the Indian jurisdiction. For instance, in *Mohim Jain v. State of Katamaka*<sup>13</sup> and *UPSE Board v. Harri Shanker*,<sup>14</sup> the Indian Court held that right to education is essential to the fulfillment of right to life; that right to education is an inherent component of right to life. These decisions, as may be observed were made based on the inextricable and complementary nature of rights to life and education. It is therefore stated that jurisprudential thought be expanded in the juridical enforcement process in Nigeria to recognize right to education in order to give meaning to life.

### **Policies on Basic Education**

#### **(i) Universal Primary Education Policy**

Thus, the first National Policy on Education in Nigeria was made in 1977 after the country's political independence from British Colonialism. The 1977 National Policy on Education as first indigenous policy was couched to offer "a blue print that took into cognizance the hopes and aspiration of Nigerian citizens"<sup>15</sup> in the educational sub-sector.

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11 Akingbehin, E.O. "The Justiciability of Right to Free Basic Education Conundrum in Nigeria, South Africa and India: from Obstacle to Miracle". *Acta Universitatis Danubius* (2001) vol. 17 No. 1, p. 78

12 Section 1(3) of the Constitution of Nigeria 1999 provides that any law which includes judicial precedents which are inconsistent with the provisions of the Constitution shall become null and void to the extent of the inconsistency.

13 (1992) AIR SC 1964

14 (1999) AIR SC 65

15 Imam, H. *Educational Policy in Nigeria from the Colonial Era to the Post Independent Period*. (2012) *Italian Journal of Sociology of Education*. P.

190. <http://www.ijsepadovauniversitypress.it>...Accessed 6th December, 2021.



Indeed, the policy was made to address the problems of educational relevance to the needs and aspiration of Nigerians; and promote Nigeria's unity and integration.<sup>16</sup> Central financing and control of education were made the responsibilities of the Federal Government of Nigeria under the 1977 policy on education.<sup>17</sup> The policy introduced the 6-3-3-4 system of education from the influence it gained from the American system of Education.<sup>18</sup> The policy introduced Universal Primary Education (UPE) which was free but not compulsory. The Universal Primary Education (UPE) ended in 1981 with the Federal Government transferring financing of primary education to States and Local Governments.

(ii) Universal Basic Education Policy

In 1999, the Federal Government of Nigeria introduced another National Policy on Education called Universal Basic Education (UBE). The policy earmarks six years for primary education and three years for junior secondary education and three years for senior secondary education. It raises the entry qualification into the teaching profession from Teacher Grade II Certificate to National Certificate of Education (NCE). The aim of the policy at a general level is to prescribe compulsory universal basic education to widen educational opportunities and eradicate illiteracy among Nigerians. Above all, it also aims at sustaining the right of citizens to basic education in the country. So far these aims are not appreciably fulfilled due to a number of problems which span from lack of constitutional recognition of right of a child to basic education, poor financing of education, poor educational facilities and unqualified personnel etc.

### **Regulatory Bodies for Implementation of Basic Education**

(i) Universal Basic Education Commission

Section 7 of the Compulsory, Free Universal Basic Education Act, 2004 establishes the Universal Basic Education Commission (UBEC) for the regulation and implementation of basic education policies and programmes in Nigeria. The Commission is established to perform the following functions under section 9 of the Act:

- (a) formulate the policy guidelines for the successful operation of the universal basic education programme in the Federation;
- (b) receive block grant from the Federal Government and allocate to the States and Local Governments and other relevant agencies implementing the Universal Basic Education in accordance with an approved formula as may be laid down by the Board of the Commission and approved by the Federal Executive Council; Provided that the Commission shall not disburse such grant until it is satisfied that

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<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> Imam, H. citing Nwagwu, I.O. Ibid.



the earlier disbursements have been applied in accordance with the provisions of this Act;

- (c) prescribe the minimum standards for basic education throughout Nigeria in line with the National Policy on Education and the directive of the National Council on Education and ensure the effective monitoring of the standards;
- (d) enquire into and advise the Federal Government on the funding and orderly development of basic education in Nigeria
- (e) collate and prepare after consultation with the States and Local Governments, and other relevant stakeholders, periodic master plans for a balanced and co-ordinated development of 'basic education in Nigeria including areas of possible intervention in the provision Of adequate basic education facilities which include:
  - (i) proposals to the Minister for equal and adequate basic education opportunity in Nigeria
  - (j) the provision of adequate basic education facilities in Nigeria; and
  - (k) ensure that the Basic National Curricula and Syllabi and other necessary instructional materials are in use in early childhood care and development centres, .primary and junior secondary schools in Nigeria;
- (l) carryout in concert with the States and Local Governments at regular intervals, a personnel audit of teaching and non-teaching staff of all basic education institutions in Nigeria;
- (f) monitor Federal inputs into the implementation of basic education;
- (g) present periodic progress reports on the implementation of the universal basic education to the President through the Minister;
- (h) co-ordinate the implementation of the universal basic education related activities in collaboration with non-governmental and multi-lateral agencies
- (i) liaise with donor agencies and other development partners in matters relating to basic education;
- (j) develop and disseminate curricula and instructional materials for basic education in Nigeria;
- (m) establish a basic education data bank and conduct research on basic education in Nigeria;
- (n) support national capacity building for teachers and managers of basic education in Nigeria;
- (o) carry out mass mobilization and sensitization of the general public and enter in to partnerships with communities and all stake-holders in basic education with the aim of achieving the overall objectives of the Compulsory Free Universal Basic Education in Nigeria;
- (p) carryout such other activities that are relevant and conducive to the discharge of its functions under this Act; and



(q) carryout such other functions as the Minister may, from time to time  
(ii) State Universal Basic Education Board  
Section 12 (1) of the Compulsory, Free Universal Basic Education Act, 2004 also establishes the State Universal Basic Education Board (SUBEB) for regulation and implementation of universal basic education in the states. Bauchi State in accordance with section 12 of the Act has a State Universal Basic Education Board which sees to the implementation of Basic Education Programme.

iii. Local Education Authority

Section 13 (1) of the Compulsory, Free Universal Basic Education Act, 2004 also establishes the Local Education Authority for the implementation of Basic Education Programmes in the Local Government Areas. There are also Local Education Authorities in all the Local Government Areas in Bauchi State which ensure the implementation of the programme.

#### **Funding of Universal Basic Education**

Section 11(1) of the Compulsory, Free Universal Basic Education Act, 2004 provides for sources of funding of the Universal Basic Education to include:

- (a) Federal Government block grant of not less than 2% of its Consolidated Revenue Fund;
- (b) funds or contributions in form of Federal guaranteed credits; and
- (c) local and international donor grants.

For any State to qualify for the Federal government block grant under section 11 (1) of the Act cited above, such State shall contribute not less than 50% of the total cost of project as its commitment in the execution of the project under section 11(2) of the Act. The fund, if successfully secured is disbursed through the State Universal Basic Education Board (SUBEB) to the various states under section 11 (3) of the Act. Incidentally, most states are usually unable to contribute its counterpart fund to attract the release of the Federal Government block grant. This constitutes an impediment to the implementation of the UBE programme in most states.

#### **Realization of Right to Basic Education in Nigeria**

Right to basic education is not expressly guaranteed under the Constitution of Nigeria. However, the right has a natural nexus and interconnectedness with right to life guaranteed under section 33 of the Constitution. The right is an omnibus right which involves a bundle of rights that include right to quality educational instructions; right to quality educational facilities and learning environment; right to qualified teachers; right to freedom from discrimination on grounds of sex, religion and tribe at entry points into



schools and right to security and safety while at schools. The right has been recognized not to be “a privilege but a human right.”<sup>19</sup> Right to education as a human right means:

- (i) The right to education is legally guaranteed for all without any discrimination*
- (ii) States have the obligation to protect, respect, and fulfil the right to education*
- (iii) There are ways to hold states accountable for violations or deprivations of the right to education.*

Regrettably, enforcement and realization of right to basic education is becoming impossible in Nigeria due to the fact that the Constitution of Nigeria has rendered the right unenforceable. To this end, there is no legislative commitment or action to make the right enforceable before the Court at the instance of the right beneficiary. Thus, right to basic education may be a just claim, but it is not supported by law in Nigeria. Hence, it is not a claimable right.

#### **Implementation of Basic Education in Bauchi State**

In line with Section 12 (1) of the Compulsory, Free Universal Basic Education Act, 2004, Bauchi State has established Bauchi State Universal Basic Education Board (BASUBEB) by law of its State House of Assembly in 2005. The 2005 SUBEB Law repealed Law No. 6 of 1994 that established the State Primary Education Board. BASUBEB is saddled with the functions of seeing to the implementation of basic education in the state. Recently, the United Nations Children Fund (UNICEF) made it clear that under the girls education programme, phase three, the enrollment of girls in school in Bauchi State has increased to 1,130,465 in 2020.<sup>20</sup> This indicates that there is effort made by stakeholders toward implementation of basic education of the girl child in Bauchi State. It has also been reported that ₦1.5 .5 Billion had been released by the State to UBEC as its counterpart fund for the year, 2019 to enable Bauchi State benefit from funding from the Federal Government in the area of basic education.<sup>21</sup> However, girl child education is still bedeviled by a number of problems in the state. These problems include:

- i. Early marriage of the girl child
- ii. Involvement of the girl child in petty trading to augment family income.
- iii. Lack of creation of awareness on the importance of girl child education.

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<sup>19</sup> Das, S./ Action Aid. Understanding Education Right. <https://www.right-to-education.org/page/understanding-education-right>. Accessed on 6th December, 2021.

<sup>20</sup> United Nations Children fund (UNICEF) cited in Awofadeji, S. “Girls’ Enrollment in Bauchi: Hits 1.1m under UNICEF GEP 3” . <https://www.thisdaylive.com/index.php/2021/girls-enrollment-in-bauchi-hits-1-1munder-unicef-gep3-says-icunoamlak/#:>

<sup>21</sup> <https://www.educeleb.com/Bauchi.basic...> Accessed 14 December 2021



- iv. Low circulation of free educational materials like textbooks, uniforms, schools bags etc.
- v. Inadequate class rooms and furniture.
- vi. Inadequate qualified teachers.
- vii. Poor funding of basic education.
- viii. Inadequate security at schools.

It must be stated also that the boy child education also suffer similar problems as cited above in the state. The alarming presence of boys within the age of basic education roaming the streets in the name of “Almarjiris” in Bauchi State justifies this assertion.

### **Impediments to Realization of Right to Basic Education in Nigeria**

Various impediments exist against realization of right to basic education in Nigeria and Bauchi State in particular. Some of these impediments can be stated as follows:

- (i) Problems of nonjusticiability and unenforceability of the right under the Constitution and judicial attitude towards interpretation of the right. Judicial attitude in Nigeria is not liberal enough to inetrprete the right to basic education as enforceable.
- (ii) Problem of low implementation of universal basic education laws made under the constitution.
- (iii) Problem of nebulous policies on basic education which do not translate into a legally claimable rights for the Nigerian child in need of basic education.
- (iv) Poor funding of basic education which leads to low employment of qualified teachers, and low procurement of quality instructional facilities.
- (v) Compromised inspection by education Inspectors

### **Recommendations**

It is hereby recommended as follows:

The Constitution of the Federal Republic of Nigeria, 1999 should be amended to give the status of a legally enforceable right to right to basic education in Nigeria. There should be a whole-hearted and holistic implementation of universal basic education laws and policies in Nigeria. Thus, discriminatory admission policies of pupils for basic education on the basis of tribe should stop. Adequate funding of basic education should be ensured by more budgetary allocation to the education sub-sector. In fact, poor funding has recently caused the school feeding programme at basic education level to fail. Inspectors in the area of basic education should be serious in their work of inspection and monitoring of implementation of basic education in Nigeria. The Court will do well to adopt the rule of inclusivity in the interpretation of existing guaranteed rights, such as right to life to liberally incorporate right to education, since the rights are interconnected;



and since a fuller enjoyment of right to life is purposively expected even under the Constitution to be realized by an educated person.

### **Conclusion**

Right to education is a condition for civilized human existence, without which any man may exist as a savage dwelling in primitivism. It is therefore imperative for a legislative action to be deliberately taken to give the character of justiciability and enforceability to the right to basic education under the Constitution of the Federal Republic of Nigeria, 1999. Courts in Nigeria for the time being, are enjoined to interpret and apply the extant laws liberally in cases involving enforcement of right to education; and perhaps, draw some persuasive inspirations from the decision of the ECOWAS Court herein cited; the decision of which recognized right to education as an enforceable rights.

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