

# UNEQUAL ACCESS: ONE OF THE MOST EVIDENT FORM OF DISCRIMINATION AGAINST GIRL-CHILD'S RIGHT TO FREE PRIMARY EDUCATION IN NIGERIA

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## **Abstract**

*The situation of girls in Nigeria missing out on education calls for serious attention by the government. There are 10.5m children out of school in Nigeria, of the 10.5 million out-of-school children, the majority of them are girls. Realising that in 21<sup>st</sup> century children especially girls in Nigeria still encounter formidable constraints in their efforts to enrol in and attend primary school, calls for an urgent need to analyse the constraints that keep large numbers of girls out of school. There are several international conventions and global initiatives calling for all nations to provide education for all, especially girls who comprise the majority of children not attending school. Free and compulsory primary education should be each girl's birth right which she is entitled to claim. The good news is that gender equality has become a central priority for international agencies and organisations. Nigerian government also has the responsibility to eliminate all barriers which the girl-child may face accessing it. Numerous benefits accrue to individuals and societies from educating girls. Educating a girl changes her destiny, as well as those of her future children, and ensures that she can contribute to the economic life of her nation.*

**Key words:** *Girl-child, Gender inequality, Education, Non-discrimination*

## **Introduction**

Education is the key tool for developing productive citizens, tomorrow's leaders, and global understanding. Globally more than 264 million children and adolescents do not have the opportunity to enter or complete school of which girls comprise the majority (UNICEF, 2017). Girls in sub Saharan Africa, comprising the greatest number of out-of-school children and are significantly disadvantaged when they are denied the right to prepare for their futures in an increasingly global and competitive environment. This deprivation flows to these girls' future children, their communities, their nations, and ultimately impacts the stability and peace of the global community. Kofi Annan, former Secretary General of the United Nations in a press release compared educating girls to a long-term investment that yields an exceptionally high rate of return the benefits from which accrue to the whole society (Annan, 2000). At another forum, he affirmed that there is “no tool for development more effective than the education of girls” (Annan, 2004). Educating girls improves not only the economic status,

but also the political status of women and enables greater female participation in the political process and high-level decision-making. There is no other policy which is as likely to raise economic productivity, lower infant and maternal mortality as education policy. When educated female children mature, they tend to postpone marriage and have fewer children. Additionally, educated women are more likely to send their children to school. Children whose mothers have no education are more than twice as likely to be out of school as children whose mothers have some education. Thus, educating a woman has enormous ripple effects as girls become mothers and play a significant role in promoting the education, health, and welfare of their children. According to an African proverb; “if you educate a man, you educate an individual. If you educate a woman, you educate a family, a village, and a nation” Without any doubt, there are substantial personal and societal benefits in educating girls, sadly there are yet formidable barriers standing in the way of many young girls' right to an education in Nigeria.

Educating a girl changes her destiny, as well as those of her future children, and ensures that she can contribute to the economic life of her community. Investing in the education of an adolescent girl will impart the world, positively. If she stays in school, remains healthy, and gains real skills, she will marry later, have fewer and healthier children, and earn an income which she will put back into her family. But she will follow the path laid down by poverty if she does not attend school and enters marriage. As a girl mother and an uneducated citizen, she definitely will miss out on the opportunity to reach her full human potential. Every year 12million girls are married before their 18th birthday. Globally 1 in 5 girls becomes a mother before they are 18 (UNICEF.org).

### **Barriers to Educating Girls in Nigeria**

Poverty stands as a great barrier to education for millions of children, especially girls. When poverty limits families' resources, parents tend to choose to educate their boys, rather than their girls. Parents may view such a decision as a wiser investment to educate their son who may support them in old age rather than a daughter who will leave the family upon marriage.

Arguments based on local custom, culture and religion are also often used to prevent many children especially girls from receiving primary education in different parts of the country, which has led to several girls, particularly from the Northern parts of the country, being prevented from receiving primary education (Fafunwa, 1970). The State has an obligation under human rights law to protect children from third parties who might prevent them from receiving education. Another cultural norm which exists in many cultures is that educating girls is seen as less valuable, or not expected, and these girls may instead work,

providing domestic services. Discrimination in girls' access to education persists in many part of the country, owing to customary attitudes, early marriages and pregnancies, and lack of adequate and physically and otherwise accessible toilets for girls at school. Equality of access to and attainment of educational qualifications is necessary if more women are to become agents of change in the country. Literacy of women is an important key to improving health, nutrition and education in the family and to empowering women to participate in decision-making in society (Mahmud & Amin 2007). Investing in formal education and training for girls, with its exceptionally high social and economic return, has been attested to be one of the best means of achieving viable development and economic growth that is both sustained and sustainable (Beijing Platform for Action 1995).

Some consider educating girls a waste, believing marriage and child-rearing should be the limit of girls' ambitions. These cultural expectations weigh heavily on girls who by their mid-teens feel pressure that they should already be having children, rather than reading books in a classroom. Girls are more often expected to stay home and help with the chores. Often, girls remain at home to help their mothers care for younger siblings, elderly relatives, or family members. Worse, it can obliterate choice if the girls are taught that their destiny is to be submissive wives and mothers. It is also believed that the husband is the breadwinner and her education is an optional extra because it is not meant to make her economically independent. There is need for the girls to be shown educated female role models to look up to and make them to fully understanding the benefits of staying in school and postponing marriage.

Internal conflict as a result of Boko Haram insurgency is also a barrier. In the affected areas children are uprooted from their base, they lose more than a roof over their heads and girls are affected most. They are kidnapped from their schools, turn to sex slaves, their education terminated and without education they risk losing their futures.

### **International Mandates to Educate all Children, especially Girls**

#### *International Human Rights Laws/Conventions*

The United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR), which established that "[e]veryone has a right to education" (Art 26 UDHR) and called for elementary education to be compulsory and made available for free. Though this is non-binding, it has served as a foundation for subsequent international agreements and initiatives aiming to ensure the right to education for all. Following the Universal Declaration in 1966, the United Nations, adopted two binding conventions, one of which, the International Covenant on Economic, Social, and Cultural Rights (ICESCR),

affirms that “primary education shall be compulsory and available free for all - right of everyone to education” (Art 13 ICESCR). Additionally, the covenant affirms that primary education should be compulsory and free and that secondary and higher education should be available and accessible on the basis of capacity. The Committee recognised the Covenant's reference to "international assistance and cooperation" (Art 2.1 ICESCR) and in article 23, noting that "[w]here a State party is clearly lacking in the financial resources and/or expertise required to 'work out and adopt' a detailed plan, in other words, the international community has a clear obligation to assist. Thus, all parties to the Covenant must make and fulfill a detailed and timely plan for providing compulsory primary education, regardless of financial struggles.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) affirms the universal right to education and asserts that women should have an equal opportunity for an education of equal quality as that accorded to men (CEDAW, 1979) CEDAW calls for the reduction of female student drop-out rates and the organisation of programmes for girls and women who have left school prematurely. Thus, CEDAW brought to light the concerning issue that an alarming number of girls and women are denied their rights to education.

The Convention on the Rights of the Child (CRC 1989), which is currently the most widely ratified human rights convention, recognises "the right of the child to education" including free and compulsory primary education.(Art28 CRC) Similarly, the CRC takes special note of the needs of developing countries in calling for international cooperation(Art 28 CRC). The CRC provides for a Committee on the Rights of the Child to monitor the progress made by States parties in achieving the realisation of the obligations of the convention. (Art 43 CRC) The CRC requires the State party reports to be made public knowledge and encourages the use of competent bodies, beyond governmental agents, to submit reports and provide advice and technical assistance relevant to implementation.

### *Regional Instruments*

The African Charter on Human and Peoples' Rights (ACHRP) asserts fundamental human rights "taking into consideration the virtues of [African] historical tradition and the value of African civilization"(Preamble ACHPR 1981). This charter asserts that “[e]very individual shall have the right to education” (Art 27(2 ACHPR). The African Union also adopted the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in

Africa (Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2000). The protocol aims to eliminate all discrimination against women and obligates the right to education and training for women and girls (preamble & art.12 of the protocol). Additionally, the African Charter on the Rights and Welfare of the Child (ACRWC 1990) asserts that "every child shall have the right to education (Art 11 ACRWC). It can be seen that most international and regional human rights instruments mandate the right to education for girl-child.

### *Global Education Strategy*

#### Millennium Development Goals (MDGs)

At the turn of the millennium, global strategies converged around for the goal of eliminating gender disparities in basic education by the year 2005. This commitment has been reinforced through its adoption as one of the Millennium Development Goals. In 2000, the United Nations established eight Millennium Development Goals (MDGs) with specific target outcomes concerning poverty, education, equality, health and the environment to be achieved by the year 2015. The Goal 2 articulated aims to achieve universal primary education for all children, measured by the number of boys and girls who complete primary schooling. Goal 3 goal is to promote gender equality and empower women, specifically targeting gender disparity in primary and secondary education. Unfortunately, none of these goals were fully realised.

#### Dakar Framework for Action 2000

World leaders in education gathered for the World Education Forum in Dakar, Senegal, and adopted the Dakar Framework for Action titled "Education for All: Meeting Our Collective Commitments. This agreement reaffirmed the vision of the World Declaration on Education for All, namely that "all children, young people and adults have the human right to benefit from an education that will meet their basic learning needs. The participants agreed that "education is a fundamental human right" and "the key to sustainable development and peace and stability within and among countries." (para 6 Dakar Framework). The Dakar Framework focuses on gender equality, aiming to ensure girls' full and equal access to and achievement in basic education of good quality (para 7 Dakar Framework).

### United Nations Girls' Education Initiative (UNGEI)

Noting that girls still comprise the majority of out-of-school children, the leaders at the World Education Forum created the United Nations Girls' Education Initiative (UNGEI) to facilitate the coordination of girls' education strategies and interventions at the country level. It serves as a platform for girls' education and is committed to accelerating action on girls' education to realise a world where all girls and boys are empowered through qualitative education to understand their full potential and contribute to transforming societies to where gender equality becomes a reality.

### Sustainable Development Goals (SDGs)

UN General Assembly in 2015 set 17 global goals for the year 2030. The SDGs were developed to succeed the MDG which ended in 2015. Gender equality and education are at the forefront of SDG advocate campaigns. Goal 4 aims to ensure that all girls and boys complete free primary and secondary schooling by 2030 and to eliminate gender and wealth disparity. Gender equality and the empowerment of women and girls are the direct objectives of Goal 5 and they also play a key role in the achievement of many other goals as well as supporting the overall success of the SDGs.

### **Rights based Education and Gender Equality**

Due to the prominence of the right to education in the international law on human rights, there is the need to employ rights based approach (RBA) to interrogate state's obligation in the fulfilment of the right to free primary education in relation to girl-child and education. RBA based approach and equity have been both framed and strengthened by a number of international declarations, including the CRC (Article 29 (1) CRC), (CRC General Comment No1 (2001). RBA is based on legal obligations that the State must fulfil (Cornwall & Nyamu-Musebi, 2004)

Accessibility under RBA refers to education being a possibility to all children and it is a very crucial element of the right to education. It examines right to education from human- rights based approach. The availability of education does not necessarily make it accessible to all. Accessibility has three overlapping dimensions: non-discrimination, physical accessibility and economic accessibility. Education must be accessible to previously excluded and unreached children (Art 2 ICESCR). In addition, education provided by the State should be of the same quality for all groups in society; girls and boys should be given the

same quality of education. The fundamental principles established in the UNESCO Convention against Discrimination in Education is aimed at ensuring that education becomes truly inclusive by effectively reaching the unreached especially the poor, marginalized, the girl-child, the vulnerable groups, and rural population who are usually denied of equal access to education(Art 1 UNESCO Convention against Discrimination in Education 1960). Discrimination in education is a violation of rights and is proscribed by UNESCO. The Dakar Framework for Action also emphasises the elimination of all forms of discrimination and prioritises the excluded, vulnerable and marginalised children (Dakar Framework for Action 2000). The principles of equality and non-discrimination are embedded throughout the human rights framework and prescribe that all rights must be ‘exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’(Art2 UDHR, Art 2(2) ICESCR, Art 3 ACRWC, Article 1(1)UNESCO Convention against Discrimination in Education,1960). The prohibition against discrimination enshrined in Article 2(2) of the ICESCR is subject to neither progressive realisation nor the availability of resources; it applies fully and immediately to all aspects of education. Of particular concern was vis-à-vis the girl child, children with disabilities, street children and children of minority groups. Non-discrimination applies to all aspects of education including access to education, particular segments of the population should not be passed over.

Van Bueren(1994) has noted that the right to education on the basis of equal opportunity is so fundamental to the child’s right to education that the drafters of the CRC made all other aspects of the right to education dependent upon it. Article 28(1) places a duty on State Parties to recognise the right of the child to education with a view to achieving the right progressively ‘on the basis of equal opportunity’. Verheyde (2006) has also pointed out that the principle of equality implies that special attention should be given to specific groups which are particularly vulnerable to discrimination in education and which consequently require special policies. In Nigeria, even though the Constitution incorporates a provision of non-discrimination (Section42 (2) Constitution of Nigeria1990), the Committee of the CRC, in its combined third and fourth reports’ concluding observations on Nigeria (Committee on the Rights of the Child Concluding observation: *Nigeria* 2010), raised concerns that *de facto* discrimination against children was still prevalent in Nigeria and is widely tolerated in the State party. Of particular concern was vis-à-vis the girl child, children with disabilities, street children and children of minority groups. The Committee requested the State party to provide more information in its next periodic report on measures taken to give practical effect to the principle of non-discrimination in relation to these groups.

State Parties are supposed to implement immediate measures both to prevent discrimination arising and to eliminate discrimination where it has already occurred. The measures are clearly set out: repeal any statutory, administrative instruction or practice which involves discrimination (Art 3(a) & (b) UNESCO Convention Against Discrimination in Education) This includes prohibiting any form of assistance provided by public authorities to educational institutions which restrict or express preference solely on the ground that pupils belong to a particular group, and granting equal access to education to all children

Tomasevski (2006) explained succinctly that international human rights law lays down criterion whereby girls should have equal rights in education and their equal rights should be promoted through education. The step in meeting this requirement consist of overcoming their exclusion from education. The global priority for girls' education has made large indents in their exclusion promising to bring it to an end. Integrating girls in mainstream schools without altering the curricula and textbooks perpetuates the stereotypes that impede gender inequality. School textbooks tend to portray women at home while men are making history. Textbooks have revealed that girls doing domestic chores are very common. Girls and boys see gender inequality in their homes and communities everyday in textbooks and in the media. The male-centric curricula in many African schools promote gender stereotypes and a philosophy that education and the future possibilities available through education are not for girls. There is need to change attitudes toward this as girls need to be set free. The purpose of human rights is to challenge and change this discriminatory heritage.

### **Conclusion**

Governments at all levels need to take the lead because parental investment in their daughter's education may be negatively influenced by custom and poverty. The importance of making education free and compulsory is pertinent because male child usually take preference over female when the family has to pay fees to educate their children. The high cost of education and the diminishing role of State schools may therefore result in the practice of discrimination against females as well breaches of the principle of equal educational opportunities for both sexes. The global attention and call for universal free primary education uncovers many of the barriers to education and gives impetus in ensuring that all children, regardless of race, colour, gender, ethnicity, status or origin enjoy the right to education. If education is truly to be a fundamental human right available to every child, then all lawyers, and professionals in other legal related organisations, government, parents, religious and community leaders must all

play important role in ensuring this right for the children of the world especially the girl-child.

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