

## SCHOOL ABDUCTIONS AND SCHOOL SAFETY IN NIGERIA – REFLECTIONS ON APPLICABLE LEGAL INSTRUMENTS

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*The insecurity situation in Nigeria is currently at a dangerous juncture, following the upsurge in attacks on schools by armed bandits, leading to the abduction of scores of school children. This development has put the country in the eye of the storm, generating debates about issues of school safety, a matter that has also been a concern of the global human rights community. This concern and the political outrage against children being ensnared in situations of insecurity led to the 2015 Safe Schools Declaration (SSD). While Nigeria is a party to the SSD, it also has obligations under International Human Rights Law (IHRL) instruments and relevant International Humanitarian Law (IHL) guidelines regulating the conduct of parties to armed conflicts, in the context of attacks on educational facilities. The articles examine the problem of school abductions and school safety in the context applicable legal instruments in Nigeria. It examines relevant international and regional human rights instruments related to matters of school safety and the extent of Nigeria's obligation in this regard. In particular, it concentrates on key rights such as right to life, dignity and education which have all been directly affected by the spates of abductions, towards determining how Nigeria has responded to its obligations in this wise and aspects requiring cogent attention. It makes recommendations which can help stem the tide.*

**Key Words – Schools, Abductions, Children, Obligation, Rights, Law and Nigeria.**

### Introduction

As Nigeria was returning from months of forced school closure due to the COVID-19 pandemic,<sup>2</sup> a bizarre dimension emerged with respect to the country's insecurity woes. A wave of violence with the imprint of a full-blown war began to sweep through classrooms in the

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<sup>2</sup> The COVID-19 Pandemic broke out in the early part of 2020 and for months wreaked havoc across the globe accounting to about 6.39 million deaths.

northwest geopolitical region of the country.<sup>3</sup> Within months several schools, mostly in the northwest region of the country had been brutally hit and overrun by AK-47 wielding armed bandits, where hundreds of schoolchildren were taken captive, bundled into the thick forest, only to be released after millions of naira in ransom has been paid. Life in the region has become perilous, impacting socio-economic development with the educational system living in fear of being abducted or killed and resources which ought to go into development being moved to combat insecurity.<sup>4</sup> By reason of this crisis, about 30.6 million people inhabiting the six northwest states of Kaduna, Katsina, Kebbi, Niger, Sokoto, and Zamfara have had their security seriously threatened,<sup>5</sup> while 35 out of the 92 local governments in the affected states have become high security risk, displacing scores of persons and adding to the problem of out of school children in region.<sup>6</sup> In a seeming circle of violence, some of the abductions happened back-to-back, suggestive of the fact that the bandits may have discovered a new way to grow their criminal enterprise and that the government may have in fact lost the initiative.

These spate of school abductions is facilitated by the general state of insecurity in the country, which has impacted on school security. With a country already ranked third in terms of kidnapping in the world,<sup>7</sup> school abduction is best described as ‘adding salt to injury’ for the people who have had to suffer greatly in the hands of daring criminal actors. Insecurity is a threat to learning, given the ripple effect of conflict on schools in communities so concerned.<sup>8</sup> School abduction put the government in a bad light, given the constitutional obligation to ensure the safety of human lives and property as enshrined in Section 14 (2) (b) which states that, “*the security and welfare of the people shall be the primary purpose of government*”.<sup>9</sup> Also, it exposes the government’s shoddiness with respect to its obligation on school safety as provided under relevant international law rules. Directly implicated are the government’s

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<sup>3</sup> While Nigeria is made up of six geopolitical zones namely, the south-west, south-east, south-south, north-central, north-east and north-west, much of the violence with respect to school abductions were targeted at schools in the north-west. This is mostly due to the fact that this is the region most impacted by the rising spate of armed banditry in the country.

<sup>4</sup> Obinna Ukaeje, “Forest Governance and Rural Banditry in Nigeria’s Northwest Region: Interrogating the Implication for National Security” (2021) 11 (2) *University of Nigeria Journal of Political Economy*, 315.

<sup>5</sup> Musharafa O. Rosenje and Oluwatobi P. Adeniyi, “The Impact of Banditry on Nigeria’s Security in the Fourth Republic: An Evaluation of Nigeria’s Northwest” (2021) 2 (1) *Zamfara Journal of Politics and Development*, 16.

<sup>6</sup> Nsikak M. Udosen and Uko Uwak, “Armed Banditry and Border Monitoring: Challenges for Nigeria’s Security, Peace and Sustainable Development” (2021) 5 (1) *European Journal of Political Science Studies*, 47.

<sup>7</sup> E.I. Obarisiagbon and A.A. Aderinto, ‘Kidnapping and the Challenges Confronting the Administration of Criminal Justice in Selected States in Nigeria’ (2018) 11 *African Journal of Criminology and Justice Studies*, 4.

<sup>8</sup> Adamu D. Garba, et al, “Effects of Insecurity on Tertiary Education in North-East Nigeria and Way Forward” (2022) 2 *Spanish Journal of Society and Sustainability*, 11

<sup>9</sup> Constitution of the Federal Republic of Nigeria, 1999 [hereinafter ‘1999 Constitution’].

obligation under the 2015 Safe School Declaration, as well as relevant regional and international human rights instruments. In addition, school abduction is a violation of the rights of the child, who has become an instrument in the hands of enemies of the state. Not only is it a violation of key rights such as the child's right to life and dignity, it is also a violation of the right to education, one right which underpins the child's ability to contribute valuably to the society later in life.

Accordingly, the Article examines the problem of school abductions in Nigeria within the framework of existing domestic, regional and international human rights law, with the aim of identifying key rights that have been violated, how these body of laws apply and the legal and policy responses that can be deployed. To carry out this examination, the article will present an overview of the spate of school abductions in recent times. It will then analyse the legal regime dealing with school safety in Nigeria, with specific focus on legal instruments such as the 2015 Safe School Declaration, and relevant aspects of regional and International Human Rights Law IHRL instruments such as the Universal Declaration Human Rights UDHR,<sup>10</sup> the International Covenant on Civil and Political Rights (ICCPR),<sup>11</sup> the UN Convention on Rights of the Child (UNCRC),<sup>12</sup> the International Covenant on Economic, Social and Cultural Rights (ICESCR),<sup>13</sup> the African Charter on Human and Peoples' Rights (ACHPR),<sup>14</sup> and the African Charter on the Rights and Welfare of the Child (ACRWC).<sup>15</sup> The article canvasses additional strategies including aggressive advocacy, adequate funding to schools, socio-cultural reorientation and increased security awareness. Not only will this lessen the burden of the federal government, it will at the same time, provide for a more robust response to the crisis and engender a massive turnaround in the state of security in the country. The goal of this article is to prepare the ground for possible constitutional and policy reforms that may be undertaken in the future.

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<sup>10</sup> Universal Declaration of Human Rights, G.A. Res. 217A, at 71, U.N. GOAR, 3d Sess., 1<sup>st</sup> plen. mtg., U.N. Doc A/810 (Dec. 12, 1948) [*hereinafter 'UDHR'*].

<sup>11</sup> International Covenant on Civil and Political Rights, *opened for signature* Dec. 19, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, at 52, U.N. Doc. A/6316, 999 U.N.T.S. 85 (*entered into force* Mar. 23, 1976) [*hereinafter 'ICCPR'*].

<sup>12</sup> UN Convention on the Rights of the Child, *opened for signature* Nov. 20, 1989, 1577 UNTS. 3 (*entered into force* Sept. 2, 1990) [*hereinafter 'UNCRC'*].

<sup>13</sup> International Covenant on Economic, Social and Cultural Rights, *opened for signature* Dec. 16, 1966, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, at 49, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 3 (*entered into force* Jan. 3, 1976) [*hereinafter 'ICESCR'*].

<sup>14</sup> African Charter on Human and Peoples' Rights, June 27 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982) (*entered into force* 21 October 1986) [*hereinafter 'ACHPR'*].

<sup>15</sup> The African Charter on the Rights and Welfare of the Child was adopted at the 26<sup>th</sup> Ordinary Session of the Assembly of Heads of State and Government (OAU Assembly) on 11 July 1990 in Addis Ababa, Ethiopia. It entered into force on 29 November 1990.

## A Brief Overview

Since the 2014 Chibok girls' abduction, there have been over a thousand schoolchildren abductions in Nigeria.<sup>16</sup> Most often, the attacks are directed at underage schoolchildren who are already rendered vulnerable by the critical deficit in security infrastructure and government negligence.<sup>17</sup> Though, these attacks have been attributed to activities of criminal bandits, that have in recent times ravaged the northern part of the country, however some of attacks are trademark acts of the Boko Haram insurgent group.<sup>18</sup> This point is relevant in determining any solution as to this problem, given the importance of understanding increasingly dynamic nature of the group's operational tactics. The group is likely to continue to target schools given the bad publicity it gives government and the opportunity of making money through payment of ransom.<sup>19</sup> Between 2013 and 2017, the Global Coalition to Protect Education from Attack, has reported over 1000 attacks on schools or posing collateral damage to them, in armed conflict zones such as Democratic Republic of Congo, Israel/Palestine, Nigeria and Yemen.<sup>20</sup>

Armed bandits that had hitherto been known for varied criminalities such as abductions from villages and farmlands as well as cattle rustling, have suddenly turned their attention to schools in the northern part of Nigeria abducting schoolchildren on a large scale. *Amnesty International* reports that, 'between December 2020 and March 2021, there have been at least 5 reported cases of abductions in northern Nigeria'.<sup>21</sup> In these cases of abductions about 600 students had been abducted so far.<sup>22</sup> In December 2020, hundreds of pupils went missing after gunmen attacked the Government Science Secondary School in Kankara in the north-western state of

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<sup>16</sup> CODE, "The Debilitating Effect of Insecurity & Child Abductions" *Connected Development (CODE)* (May 28, 2021) <https://www.connecteddevelopment.org/the-debilitating-effect-of-insecurity-child-abductions/> accessed 24/06/2021.

<sup>17</sup> *Ibid.*

<sup>18</sup> Phillip Obaji, "Boko Haram Won't Stop Targeting Schools" *Foreign Policy* (Mar. 23, 2021) <https://foreignpolicy.com/2021/03/23/boko-haram-nigeria-kidnapping-school-children/> accessed 24/06/2021.

<sup>19</sup> *Ibid.*

<sup>20</sup> Natalie Weizmann, 'When War Comes to School' *Just Security* (May 29, 2019) <https://www.justsecurity.org/64344/when-war-comes-to-school/> accessed 24/06/2021.

<sup>21</sup> "Nigeria: Seven Years Since Chibok, The Government Fails to Protect Children" *Amnesty International* <https://www.amnesty.org/en/latest/news/2021/04/nigeria-seven-years-since-chibok-the-government-fails-to-protect-children/> accessed 23/06/2021.

<sup>22</sup> Adedeji Adeniran and Marco Castradori, "Student Kidnapping Threaten Collapse of Nigerian Education System" *BROOKINGS* (Apr. 19, 2021) <https://www.brookings.edu/blog/education-plus-development/2021/04/19/student-kidnapping-threaten-collapse-of-nigerian-education-system/> accessed 23/06/2021; Nnamdi Obasi, "How to Halt Nigeria School Kidnapping Crisis" *World Politics Review* (Apr. 2, 2021) <https://www.worldpoliticsreview.com/articles/29539/how-to-halt-the-nigeria-kidnapping-crisis> accessed 23/06/2021.

Katsina.<sup>23</sup> According to the Police, the gunmen rushed into the school at about 9.40 pm shooting into the air and rounding up students.<sup>24</sup> The Nigerian Military discovered the bandits base somewhere around Zango-Paula forest leading to an exchange of gunfire.<sup>25</sup> Interestingly, President Buhari was in his home town in Katsina State, some 125 miles from Kankara, at the time of the attack.<sup>26</sup> The state had become notorious for the activities of armed bandits who attack the local populace kidnapping people for ransom.<sup>27</sup> In response to the Kankara abducted, *Save the Children* through its Acting Country Director Save the Children in Nigeria, Shannon Ward noted that ‘We are deeply concerned about the safety and wellbeing of the children who have been abducted by suspected gunmen in Katsina northwest Nigeria. Hundreds of students appear to remain missing. Schools should be a place of safety and learning, but it has turned into a nightmare for these boys and their families’.<sup>28</sup>

February 2021 was the most devastating period for schoolchildren in the region, with twin attacks in quick succession, one in Kagara Niger-state in north-central Nigeria and the other in Jangebe Zamfara-state in the north-western region. Reacting to the Kagara abduction, UNICEF Special Representative in Nigeria Peter Hawkins noted in a statement that;

*UNICEF condemns in the strongest possible terms any attack on School and call for the immediate and unconditional release of any children who may be missing, and their safe return to their families. UNICEF is deeply concerned about these reported acts of violence. Attack on Schools is a violation of children’s rights. Children should feel safe at home and at school at all times – and parents should*

<sup>23</sup> Emmanuel Akinwotu, “Hundreds of Pupils Missing After Gunmen Attacked Nigerian School” *The Guardian* (Dec. 13, 2020) <https://www.theguardian.com/world/2020/dec/13/nigerian-police-hundreds-pupils-missing-gunned-attack-secondary-school> accessed 23/06/2021.

<sup>24</sup> Isabella Kwai, “Hundreds of Students Feared Missing After Attack at Nigerian School” *The New York Times* (Dec. 13, 2020) <https://www.nytimes.com/2020/12/13/world/africa/nigeria-school-attack.html> accessed 23/06/2021.

<sup>25</sup> Morgan Winsor and James Bwala, “Hundreds of Students Missing After Nigerian Boarding School Attack” *ABC News* (Dec. 14, 2020) <https://abcnews.go.com/International/hundreds-students-missing-nigerian-boarding-school-attack/story?id=74717703> accessed 23/06/2021.

<sup>26</sup> *Ibid.*

<sup>27</sup> Reuters, “Hundreds of High School Students Kidnapped in Nigeria, Gang in Firefight with Military” *NBC News* (Dec. 13 2020) <https://www.nbcnews.com/news/world/hundreds-high-school-students-kidnapped-nigeria-gang-firefight-military-n1251027> accessed 23/06/2021.

<sup>28</sup> “School into Nightmare after attack in Nigeria, Statement from Save the Children” *Save The Children (STC)* (Dec. 14, 2020) <https://www.savethechildren.org/us/about-us/media-and-news/2020-press-releases/school-attack-in-nigeria-school-statement> accessed 23/05/2021.

*not need worry for the safety of their children when they send them off to school in the morning.*<sup>29</sup>

On February 26, 2021, about nine days after the abduction in Niger-state, Armed Bandits again attacked another school, this time the Government Girls Secondary School in Jangebe area of Zamfara state and kidnapped about 317 girls.<sup>30</sup> More than 300 girls were abducted from Jangebe also.<sup>31</sup> With the rising cases of abductions and kidnappings in neighbouring states, many schools in the Federal Capital Territory (FCT) Abuja, closed down due to fear of abduction.<sup>32</sup>

As would be expected, the abductions were followed by a flurry of condemnations. The UN Secretary-General, Antonio Guterres, in a statement by his spokesperson regarding the abduction at Government Secondary School in Kankara, condemned the attack, noting that “*attacks on schools and other educational facilities constitute a grave violation of human rights. He urges the Nigerian authorities to bring those responsible for this act to justice*”.<sup>33</sup> In a similar fashion, Peter Hawkins, UNICEF Special Representative, while condemning the attack on a school in Zamfara, in which about 300 girls were abducted said, “*we are angered and saddened by yet another brutal attack on school children in Nigeria*”.<sup>34</sup> He further noted that “*this is a gross violation of children’s rights and a horrific experience for children to go through – one which could have long lasting effect on mental health and wellbeing*”.<sup>35</sup> Reacting to the abduction of student from the Federal School of Forestry and Mechanisation in Kaduna state, the UN Secretary-General through his spokesperson Stephane Dujarric, again noted that, “*Schools must remain safe space for children to learn without fear of violence or kidnapping*

<sup>29</sup> ‘Statement by UNICEF Nigeria Representative Peter Hawkins on the Attack on Government Science College, Kagara, Niger State’ UNICEF (Feb. 17, 2021) <https://www.unicef.org/nigeria/press-releases/statement-unicef-nigeria-representative-peter-hawkins-attack-government-science>, accessed 23/06/2021.

<sup>30</sup> John Campbell, “Mass Kidnapping in Nigeria Captures International Attention Council on Foreign Relations (CFR)” (Mar. 3, 2021) <https://www.cfr.org/blog/mass-kidnapping-nigeria-captures-international-attention-again> accessed 23/06/2021; Aniete Ewang, “More Schoolchildren Abducted in Nigeria” Human Rights Watch (June 16 2021) <https://www.hrw.org/news/2021/02/17/more-schoolchildren-abducted-nigeria> accessed 23/06/2021.

<sup>31</sup> BBC, “Nigeria’s Zamfara School Abduction: More Than 300 Nigerian Girls Missing” BBC News (Feb. 26, 2021) <https://www.bbc.com/news/world-africa-56188727> accessed 26/06/2021.

<sup>32</sup> Samson Adenekan, “Abuja Schools Tighten Security as Bandits influx Heightens Fear” Premium Times (May 7, 2021) <https://www.premiumtimesng.com/news/top-news/460126-abuja-schools-tighten-security-as-news-of-bandits-influx-heightens-fear.html> accessed 23/06/2021.

<sup>33</sup> UN, “UN Chief Calls for Immediate Release of Abducted Children in Nigeria” UN News (Dec. 14, 2020) <https://news.un.org/en/story/2020/12/1079942> accessed 23/06/2021.

<sup>34</sup> UN, “Condemnation over new attack on Nigeria School, more than 300 girls missing” UN News (Feb. 26, 2021) <https://news.un.org/en/story/2021/02/1085822> accessed 23/06/2021.

<sup>35</sup> *Ibid.*

*or any other attacks on them*".<sup>36</sup> At a more fundamental level, the UN General Assembly has proclaimed September 9 as the International Day to protect Education from attack.<sup>37</sup> This proclamation was made against international condemnation of schools in armed conflict and use of schools for military purposes.<sup>38</sup> It is however relevant to cases of school abductions, as they are acts indicative of the use of violence in attacks against schools.

Though the government has since responded to these attacks by calling on the people to be more vigilant in order to end attacks and subsequent abductions,<sup>39</sup> their occurrence speak to one thing – the ineffective response to school abductions by the Nigerian government and the clear and present danger this hold for the protection of children's rights in the country. It has also raised fresh concerns about the safety of schools in the country and the developing problem of school abductions.<sup>40</sup> This is because these spates of abductions represent the biggest existential threat to the future of education in Nigeria.<sup>41</sup> According to the Financial Times, a combination of youth unemployment, population growth, underfunding of the security forces, and access to small arms and light weapons has turned banditry into a fast moving business in the north of Nigeria and the country's most serious threat.<sup>42</sup> Schools are now a major target for Bandits looking to kidnap students for ransom.<sup>43</sup> For instance, goal 4 of the 2015 Sustainable Development Goals SDGs, is achieving inclusive and equitable quality education by 2030.<sup>44</sup> Mass abductions by the Boko Haram insurgent group is certainly a huge impediment to achieving this goal.<sup>45</sup> In its report 'Education under Attack 2020', the Global Coalition to

<sup>36</sup> UN, "UN Chief Calls for Unconditional Release of Abducted Students in Nigeria" UN News (Mar. 12, 2021) <https://news.un.org/en/story/2021/03/1087292> accessed 23/06/2021.

<sup>37</sup> UN, "General Assembly Proclaims 9 September International Day to Protect Education from Attack, Adopting Resolution in Silence Procedure" *United Nations (UN)* <https://www.un.org/press/en/2020/ga12246.doc.htm> accessed 17/03/2022

<sup>38</sup> UN, "General Assembly Proclaims 9 September International Day to Protect Education from Attack, Adopting Resolution in Silence Procedure" *United Nations (UN)* <https://www.un.org/press/en/2020/ga12246.doc.htm> accessed 17/03/2022.

<sup>39</sup> Friday Olokor, Adelani Adepegba and Godwin Isenyo, "Be Vigilant, We Can't Secure All Schools, Federal Government Tells Parents, Others" *The Punch* (Mar. 16, 2021) <https://punchng.com/be-vigilant-we-cant-secure-all-schools-federal-government-tells-parents-others/> accessed 23/06/2021.

<sup>40</sup> Deepak Gupta, "Inequality and Abduction: The Economics of Student Kidnapping in Nigeria" *Brown Political Review* (April 4 2021) <https://brownpoliticalreview.org/2021/04/inequality-abduction-the-economics-of-student-kidnapping-in-nigeria/> accessed 23/06/2021.

<sup>41</sup> Dakuku Peterside, "Schools Kidnapping and its Implications for Posterity by Dakuku Peterside" *Premium Times* (June 21 2021) <https://www.premiumtimesng.com/opinion/469027-school-kidnapping-and-its-implications-for-posterity-by-dakuku-peterside.html> accessed 23/06/2021.

<sup>42</sup> Neil Munshi, "Why the kidnapping industry is thriving in Nigeria" *Financial Times* (April 26 2021) <https://www.ft.com/content/d8d9bf8f-0aa2-405f-b3f7-2a3e7e7b297c> accessed 23/06/2021.

<sup>43</sup> Michael O. Edeh, 'Kidnapping: The New Threat to Education in Nigeria' *Vanguard* (March 1 2021) <https://www.vanguardngr.com/2021/03/kidnapping-the-new-threat-to-education-in-nigeria/> accessed 23/06/2021.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

Protect Education from Attack GCPEA 2020 estimates that over 11,000 attacks happened on students and teachers as well as education facilities between 2015 and 2019, in which about 22,000 teachers, students and academics were injured, harmed or killed.<sup>46</sup> Where these attacks are not urgently addressed, education in the northern part of the country where about 40 percent children did not even attend school before now, is likely to be totally grounded.<sup>47</sup> All actions taken to respond to this problem has been hindered by the insecurity situation and weakness on the part of the government to deal with problem.<sup>48</sup> Nigeria has about 10.5 million children out of school, who are mostly in the northern part of the country.<sup>49</sup> In a region where issues such child marriage and extreme undervaluing of girl education among families has greatly impacted on the girl-child, 60percent of this number are girls.<sup>50</sup> These attacks simply worsen already terrible situation in this region.

How exactly is problem to be dealt with, especially using the instrumentality of the law. Available legal solutions can be distilled from the two levels of state obligation i.e., the international and domestic legal system. Ultimately, whether obligation under international law or flowing from the domestic space, enforcement still rest on the response of political actors at the domestic level. An examination of the two levels of legal obligation is however useful to put in context, where more attention should direct. The next section considers this.

### **Legal Framework Applicable to School Abduction and School Safety**

Affording international legal protection to educational institutions is generally an uncharted territory.<sup>51</sup> As a developing field of scholarship, the available work is far and few. Much of the opinions are to be found in relevant IHRL treaties, resolutions, declarations, etc. Therefore, a number of applicable international law instruments are worthy of examination.

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<sup>46</sup> GCPEA News, “Widespread Attacks on Education Worldwide – More Than 11,000 Attacks in Past 5 Years” *Global Coalition to Protect Education from Attacks* (July 8 2020) <https://protectingeducation.org/news/widespread-attacks-on-education-worldwide-more-than-11000-attacks-in-past-5-years/> accessed 28/07/2021; Eva Obodo, et al, “Measuring the Impact of Visual Multimedia on Awareness, Alertness and Behavioural Intention Towards Kidnapping Prevention Measures Among Young Secondary School Students in Nigeria” (2021) *Journal of Asian and African Studies*, 2.

<sup>47</sup> Obaji, above at note 18.

<sup>48</sup> *Ibid.*

<sup>49</sup> Uyo Yenwong-Fai, “An Attack on Nigeria’s Schoolgirls is an Attack on Education” *Institute for Security Studies* (Apr. 5 2018) <https://issafrica.org/iss-today/an-attack-on-nigerias-schoolgirls-is-an-attack-on-education> accessed 24/06/2021.

<sup>50</sup> *Ibid.*

<sup>51</sup> Stefan Talmon, “Endorsement of Safe Schools Declaration” *German Practice in International Law (GPIL)* (June 5 2018) <https://gpil.jura.uni-bonn.de/2018/06/endorsement-safe-schools-declaration/> accessed 24/06/2021.

### ***International Human Rights Law***

School abductions impacts series of protected rights of the child; rights to which the government hold a broad range of obligations. This section will examine the related human rights framework that underpins governments obligation in this regard and the current understanding guiding compliance with these obligations. The right of the child to school safety is a derivate of general International Human Rights Law (IHRL) dealing with general children's rights. The importance of analysing IHRL provisions relevant to the problem of school abductions cannot be overemphasised. Essentially, IHRL establishes a relationship between the government and the governed, in a framework of obligation and rights, a framework in which the State has obligations to protect a series of rights, with the right to life being a primary right.<sup>52</sup> This is based on the settled rules of international law which is a state-centric and normative system.<sup>53</sup> While the governed are entitled certain rights which they can enforce in a court of law upon breach, the government has an obligation to ensure these rights are respected, protected and fulfilled. The government's obligation strictly vertical and must be complied with for the benefit of the right holder.<sup>54</sup> With respect to the problem of school abductions in Nigeria *viz a viz* the government's obligation, a number of these rights have been directly impacted i.e., the right to life of the child, the right to dignity, as well as the right to education. While the first two are civil and political rights, the third is a social and economic right.

The right to life is a foundation right in international law covered by all IHRL treaties. The Universal Declaration of Human Rights (UDHR)<sup>55</sup> is the principal instrument in this regard, especially given that it's the foundation of contemporary development of IHRL treaties.<sup>56</sup> Though a non-binding Declaration, the UDHR is generally accepted as Customary International Law (CIL), imposing obligations on sovereign states.<sup>57</sup> General protection for the right to life starts with Article 3 of the UDHR which provides that, “*everyone has a right to*

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<sup>52</sup> William Abresch, “A Human Rights Law of Internal Armed Conflicts: The European Court of Human Rights in Chechnya” (2005) 16 *European Journal of International Law*, 743.

<sup>53</sup> Rein Mullerson, “Right to Survival as Right to Life of Humanity” (2020) 19 *Denver Journal of International Law and Policy*, 47.

<sup>54</sup> Lottie Lane, “Mitigating Humanitarian Crisis During Non-International Armed Conflicts – The Role of Human Rights and Ceasefire Agreements” (2016) 1 *Journal of International Humanitarian Action*, 3.

<sup>55</sup> UDHR, 1948.

<sup>56</sup> Hurst Hannum, “The Status of the Universal Declaration of Human Rights in National and International Law”(1996) 95 *Georgia Journal International and Comparative Law*, 287.

<sup>57</sup> *Ibid*, 289, 322.

*life, liberty and the security of person*".<sup>58</sup> This language of the UDHR is reinforced by the ICCPR in Article 6 which states that, "*every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life*".<sup>59</sup> Whereas the ICCPR permits derogation from state's obligation with respect to certain rights, "*in times of public emergency which threatens the life of the nation and the existence of which is officially proclaimed*",<sup>60</sup> the right to life is an absolute to which derogation is forbidden.<sup>61</sup> In line with the provisions of the UDHR and the ICCPR, Nigeria has an obligation to protect the lives of these children who, out of no fault of their own, have had their lives truncated.

This right also protected under relevant regional human rights treaties. While Article 4 of the ACHPR states that, "*human beings are inviolable. Every human being shall be entitled for respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right*",<sup>62</sup> the European Convention on Human Rights ECHR<sup>63</sup> in Article 2 provides that, "*everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law*".<sup>64</sup> Following in their stead, Article 4 of the American Convention on Human rights ACHR<sup>65</sup> states that, "*every person has a right to have his life respected. This right shall be protected by law, and in general, from the moment of conception. Non one shall be arbitrarily deprived of his life*".<sup>66</sup>

Given that the focus of this article is children, an important document to consider with regards to its calibration of the child's right to life is the UN Convention on Rights of the Child (UNCRC).<sup>67</sup> Opened for signature January 26, 1990 and entered into force September 2, 1990, the UNCRC is the most universally ratified human rights treaty,<sup>68</sup> with the United States (US)

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<sup>58</sup> UDHR 1948.

<sup>59</sup> ICCPR 1966.

<sup>60</sup> Article 4 (1) ICCPR 1966.

<sup>61</sup> Article 4 (2) of the ICCPR states that, "*No derogations from articles 6, 7, 8 (paragraph 1 and 2) 11, 15, 16 and 18, may be made under this provision*".

<sup>62</sup> Article 4 (1) ACHPR 1981.

<sup>63</sup> European Convention on Human Rights, (ECHR) as amended by Protocol No. 15 (CETS. No. 213), (entered into force 1 August 2021) and Protocol No. 14 (CETS No. 194) (entered into force 1 June 2010) [Hereinafter the ECHR].

<sup>64</sup> Article 2 (1) ECHR.

<sup>65</sup> American Convention on Human Rights, *opened for signature* 22 Nov. 1969, OAS 36, 1144 UNTS 123 (entered into force 18 July 1978) [Hereinafter the ACHR 1969].

<sup>66</sup> Article 4 (1) ACHR 1969.

<sup>67</sup> UNCRC, 1989

<sup>68</sup> Eran Sthoeger, "International Child Abduction & Children's Right: Two Means to the Same End" (2011) 32 *Michigan Journal International Law*, 519.

being the only yet to ratify it.<sup>69</sup> Generally, it contains three classes of children's rights i.e., protection rights (Article 3); participation rights (Article 12); and provision right (Article 24).<sup>70</sup> While the concept of children's rights emerged around the 19<sup>th</sup> and 20<sup>th</sup>,<sup>71</sup> the development of the UNCRC heralded a global transformation in the prohibition of violence against the child.<sup>72</sup> A major strength of the UNCRC is in the fact that it is an aspirational document exemplified in its idealized notion of the rights of children.<sup>73</sup> Aside this, it equally has a legally binding mandate given that state parties have an obligation to submit reports on their compliance every five years.<sup>74</sup> The UNCRC is one document that's influence has helped shaped discussion around school safety. From the preamble to the UNCRC, the Convention accords recognition to the child's right to special care and assistance as well as the enjoyment of the rights enjoyed by other human beings.<sup>75</sup> This is critical to school safety, as children spend a sizeable time of the day at school where care and assistance is a major need. An additional import of the fine lines of the preamble, is that given the tender years of children, the protection of their right to life must be taken as requiring extra-care and protection. This is based on the fact that a child can hardly protect himself/herself in the event of danger, whether at home or at school.

Prior to the UNCRC, general awareness on the prevalence and impact of violence on children, beyond the fact that there is need to protect them, was rather limited.<sup>76</sup> However, following the UNCRC, protection of children from all forms of violence has become a fundamental right.<sup>77</sup> It is a strict rule whose red line mustn't be crossed. It inspired a shift from the notion of children as mere victims of violence, to a right-based approach dictating respect and protection for their dignity as right bearers.<sup>78</sup> It defines violence broadly as connoting all forms of harm including

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<sup>69</sup> June Simon, Anne Luetzow and Jon R. Conte, "Thirty Years of the Convention on the Rights of The Child Developments in Child Sexual Abuse and Exploitation" (2020) 110 *Child Abuse and Neglect*, 1.

<sup>70</sup> Hanita Cosher and Asher B. Arieh, "Children's Participation: A New Role for Children in the Field of Child Maltreatment" (2020) 110 *Child Abuse and Neglect*, 1.

<sup>71</sup> *Ibid*, 2.

<sup>72</sup> Joan E. Durrant, Ashley S. Tufescu and Tracey O. Afifi, "Recognising the Child's Right to Protection from Physical Violence: An Update on Progress and Call for Action" (2020) 110 *Child Abuse and Neglect*, 1.

<sup>73</sup> Donald C. Bross and Richard D. Krugman, "Health and Public Health Approach to Ending Child Abuse and Neglect" (2020) 110 *Child Abuse and Neglect*, 1; James Garbarino, Amy Governale and Danielle Nesi, "Vulnerable Children: Protection and Social Integration of Child Soldiers and Youth Members of Gangs" (2020) 110 *Child Abuse and Neglect*, 1.

<sup>74</sup> Garbarino, Governale and Nesi, above at note 72.

<sup>75</sup> Preamble to the UNCRC, 1989.

<sup>76</sup> Gerison Lansdown, "Strengthening Child Agency to Prevent and Overcome Maltreatment" (2020) 110 *Child Abuse and Neglect*, 2.

<sup>77</sup> Claudia Cappa and Nicole Petrowski, "Thirty Years after the Adoption of the Convention on the Rights of the Child: Progress and Challenges on Building Statistical Evidence on Violence Against Children" (2020) 110 *Child Abuse and Neglect*, 1.

<sup>78</sup> Lansdown, above at note 75.

neglect, sexual exploitation, mental violence, etc.<sup>79</sup> Affording protection in this respect, the UNCRC contains a number of provisions that prohibits violence against the Child.<sup>80</sup> These provisions are relevant as they intersect the right to life. Some of these are Article 3, 6, 19, 34, 36, 37, 38, and 39 of the UNCRC.<sup>81</sup>

The UNCRC holds a strict position about the protection of the life of the child. Alongside the right to non-discrimination, best interest of the child, and the right to be heard, the right to life and optimum development makes up four general principles recognised by the Committee on the Right of the Child.<sup>82</sup> While the general protection of this right in the UDHR, ICCPR and other regional applies to children as human beings, given their tender years and limited capacity to protect themselves in times of danger, the threshold for their protection is higher. As members of a specialised group, the UNCRC codifies protection of this right in Article 6 which states that, “*state parties recognise that every child has the inherent right to life. State parties shall ensure to the maximum extent possible the survival and development of the child*”.<sup>83</sup> Fundamentally, at the core of this provision is the obligation of state parties to ensure that the life of every child in their domain is protected. The implication is that state parties are to comply with this obligation in the light of threat from their own agents, as well as third parties e.g., Non-State Armed Groups (NSAGs) who have recently become a menace to the protection of children’s rights. Also, as against what obtains in other human rights treaties, state parties’ obligation with respect to this right doesn’t permit any limitation clause on arbitrary deprivation of life.<sup>84</sup> Inherent in this right is the idea that the life of the child must be of a particular quality.<sup>85</sup>

Furthermore Article 19 of the UNCRC provides that –

*State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or*

<sup>79</sup> Ziba Vaghri and Maureen Samms-Vaughan, “Accountability on Protection of Children Against Violence: Monitoring and Measurement” (2020) 110 *Child Abuse and Neglect*, 2.

<sup>80</sup> Garbarino, Governale and Nesi, above at note 79 at 3.

<sup>81</sup> UNCRC 1989.

<sup>82</sup> Gerison Lansdown, et al, ‘Introduction’ in *Monitoring State Compliance of the UN Convention on the Right of the Child: An Analysis of Attributes* (Ziba Vaghri, Zean Zermatten, Gerison Lansdown & Roberta Ruggiero (eds.) (Springer, 2022), 1 – 435 at 10.

<sup>83</sup> UNCRC 1989.

<sup>84</sup> Ziba Vaghri, ‘Article 6: The Right to Life, Survival and Development’, in *Monitoring State Compliance of the UN Convention on the Right of the Child: An Analysis of Attributes* (Ziba Vaghri, Zean Zermatten, Gerison Lansdown & Roberta Ruggiero (eds.) (Springer, 2022), 1 – 435 at 35

<sup>85</sup> *Ibid.*

*exploitation, including sexual abuse, while in the care of parent (s), legal guardian (s), or any other person who has the care of the child.*<sup>86</sup>

This provision commands respect for the dignity and personal integrity of children as right bearing individuals.<sup>87</sup> The Committee on Right of the Child has noted that an interpretation of the best interest of the child provided in Article 3 in context of Article 19 is best seen in a framework preventing all forms of violence.<sup>88</sup> Also, the Child's right to life as well as survival and development encompasses the objectives set out in Article 19.<sup>89</sup> Development in this wise is given the broadest meaning possible i.e., that it goes beyond just protection of the child from violence and exploitation, but extending measures aimed at ensuring the physical, mental, moral, spiritual and social development of the child.<sup>90</sup> In addition, Article 19, a further provision of the UNCRC which touches directly on the cases of school children abduction is Article 35 which provides for the Child's right to be protected from abduction, sale or exploitation. Reinforcing the aims of Article 35 is Article 36 which protects the child from all forms of exploitation and Article 37 which prohibits acts of torture, inhuman and degrading treatment or punishment. Domestically, the Nigerian Constitution categorises the right to life with other fundamental rights.<sup>91</sup> In this respect, section 33 provides that, “*every person has a right to life and no one shall be deprived intentionally of his life, save in the execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria*”.<sup>92</sup>

In addition to the above, the condition of most of the schools where these abductions take place, is horrifying to say the least. While many lack adequate fencing, they are also left without security, while the children learn under very inhuman state. Moreso, after abduction, many of these children upon being taken into the thick forest, are subjected to all manner of debased treatments. while the government continues to vacillate on their rescue. This is a violation of their right to dignity of the human person as enshrined in relevant international law instruments. The opening statement of the UDHR upholds this fact noting that, “*recognition of the inherent*

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<sup>86</sup> Article 19 (1), UNCRC 1989.

<sup>87</sup> Christian Whelan, “Article 19: The Right to Protection from all Forms of Violence”, in *Monitoring State Compliance of the UN Convention on the Right of the Child: An Analysis of Attributes* (Ziba Vaghri, Zean Zermatten, Gerison Lansdown & Roberta Ruggiero (eds.) (Springer, 2022), 1 – 435 at 294.

<sup>88</sup> *Ibid* at 295

<sup>89</sup> *Ibid* at 296.

<sup>90</sup> *Ibid*.

<sup>91</sup> Elijah A. Taiwo, “Enforcement of Fundamental Rights and the Standing Rules under the Nigerian Constitution: A Need for a More Liberal Provision” (2009) 9 *African Human Rights Law Journal*, 547.

<sup>92</sup> 1999 Constitution.

*dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world*”.<sup>93</sup> Furthermore, the spate of school abduction impacts the children’s right to education. Education has been recognised as a legally binding right, that must be accorded respect by states that are parties to international and regional treaties.<sup>94</sup> With regards to this right, state parties are obliged to take reasonable steps to towards a full realisation of this right immediately the treaty obligation commences, or within a reasonable time.<sup>95</sup> Such obligation equally extends to times of insecurity, to which states are under an obligation to realise the minimum core obligation associated with this right.<sup>96</sup> The minimum core obligation, a creation of the UN Committee on Economic, Social and Cultural Rights (ESCR Committee) is a model designed for assessing whether measures by a state party fulfils the minimum requirements in a rights.<sup>97</sup> The model itself has however become a source of controversy as regards how to define the scope of the minimum core obligation.<sup>98</sup>

The right to education is covered by Article 26 of the UDHR as well as Article 13 of International Covenant on Social Economic and Cultural Rights (ICESCR).<sup>99</sup> An important aspect of Article 13 of the ICESCR states that “*...education shall be directed to the full development of the human personality and the sense of dignity and shall strengthen the respect for human rights and fundamental freedoms*”.<sup>100</sup> Relatedly, the UNCRC also states in Article 28 that “*state parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular – take measures to encourage regular attendance at schools and the reduction of dropout rates*”.<sup>101</sup> Interlinking the right to education is the government’s obligation to ensure the Child’s right to

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<sup>93</sup> *Ibid* at 4.

<sup>94</sup> BICCL, “Protecting Education in Insecurity and Armed Conflicts” *An International Law Handbook (British Institute of International and Comparative Law & Education Above All)*, 1 – 20 at 6.

<sup>95</sup> *Ibid*.

<sup>96</sup> *Ibid*.

<sup>97</sup> U.N Economics & Social Council [ECOSOC], Committee on Economics Social and Cultural Rights [CESCR] *General Comment No. 3, The Nature of State Parties Obligation*, 10 UN. Doc. E/1991/23, ANNEX III (Dec. 14 1990) [Hereinafter CESCR, *General Comment No.3*]; Sisay A. Yeshanew, “Approaches to the Justiciability of Economic, Social and Cultural Rights in the Jurisprudence of the African Commission on Human and Peoples’ Rights: Progress and Perspectives” (2011) 11 *African Human Rights Law Journal*, 321.

<sup>98</sup> Writing on the possibility of applying the minimum core obligation model to the right to health in International Human Rights Law, Lui notes how the Constitutional Court of South Africa declined to apply the model in the case of *Minister of Health v. Treatment Action Campaign*, 2002 (5) SA 721 (CC). See generally Edward Lui, “Dutifully Defying Death: Right to Life Saving Emergency Treatment” (2021) 29 (2) *Medical Law Review*, 233 – 251 at 236.

<sup>99</sup> ICESCR, 1966.

<sup>100</sup> Article 13 (1) ICESCR 1966.

<sup>101</sup> Article 28 (1) (e) CRC 1989.

survival and development,. This obligation reflects the international commitment to translate the provision of the 1959 Declaration on the Right of the Child to provide special protection and grow and develop in health.<sup>102</sup> This right must be understood in the context of the child's right to personal development as against socio-economic development.<sup>103</sup> This is seen in Article 29, which elaborately expounds on the aim of this right which is to promote the development of the child to the fullest.<sup>104</sup>

At the regional level, the right to education is secured in Article 17 of the African Charter on Human and Peoples' Rights (ACHPR), which states that "*every individual shall have the right to education*".<sup>105</sup> Also relevant is Article 11 of the ACRWC,<sup>106</sup> in which Article 22 strengthens the right to education by providing for the protection of children in situations of armed conflict. Article 13 and 20 of the African Youth Charter adopted in 2006 and ratified and domesticated by Nigeria in 2009, governs the rights freedoms and duties of young persons on the continent, inclusive the right to education. Also, Article 9 (2) (b) the African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa Kampala Convention 2009, talks about maintaining access to education particularly for displaced persons.<sup>107</sup> Additionally, under the Dakar Framework for Action regarding national education for all (EFA) action plan, states made political pledges to make primary education free and compulsory.<sup>108</sup> It is important to state that the framework under regional systems provides a stronger legal force than that under international law. Recognising this point, Ibe observes that as against what obtains under the ICESCR; state parties to the ACHPR undertake obligations that have immediate effect.<sup>109</sup> Importantly, they are under an obligation to respect, protect and fulfil all the rights contained in the Charter, inclusive of socio-economic rights.<sup>110</sup> The obligation to respect, for instance,

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<sup>102</sup> Vaghri, above at note 83 at 36.

<sup>103</sup> *Ibid* at 37

<sup>104</sup> Gerison Lansdown, Shane R. Jimerson and Reza Shahroozi, "Children's Rights and School Psychology: Children's Right to Participation" (2014) 52 *Journal of School Psychology*, 4.

<sup>105</sup> Article 17 (1), ACHPR 1981.

<sup>106</sup> ACRWC 1990.

<sup>107</sup> African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa, Kampala Convention 2009 [*Hereinafter 'The Kampala Convention'*].

<sup>108</sup> VHS, "The Dakar Framework for Action" DVV International <https://www.dvv-international.de/en/adult-education-and-development/editions/aed-552000/dakar-education-for-all/education-for-all-ndash-meeting-our-collective-commitments> accessed 24/06/2021. See also Serges A. D. Kamga, "Realising the Right to Primary Education in Cameroon" (2011) 11 *African Human Rights Law Journal*, 172.

<sup>109</sup> Stanley Ibe, "Implementing Economic, Social and Cultural Rights in Nigeria: Challenges and Opportunities" (2010) 10 *African Human Rights Law Journal*, 199.

<sup>110</sup> *Ibid*.

demands that the state refrain from conduct capable of impeding the enjoying of socio-economic rights.<sup>111</sup>

The importance of education to the child cannot be overestimated. Providing a scope for this right, the UN Committee on Economic Social and Cultural (CESR) adopted a general comment in 1999, which provides for the standards of availability, accessibility, acceptability and adaptability.<sup>112</sup> The International Committee of the Red Cross (ICRC) has equally noted that education “*is a learning process that allows children and adults to acquire skills that allow them to develop socially and professionally*”.<sup>113</sup> Additionally, it notes that education “*allows people to develop their resilience, ability to self-product and to appreciate human values – all of which are lifelong essentials*”.<sup>114</sup> Atanda has also noted that the “*school is a creation of the larger and it is expected to be protected*”.<sup>115</sup>

The international community through the United Nations (UN) aims to deter violations of the right to education both in peace times and in situations of armed conflicts and other forms of violence. The UN Security Council at its 8756<sup>th</sup> meeting of 10<sup>th</sup> September 2020, reaffirmed the fact that attacks on schools represent a violation of the right of children.<sup>116</sup> The international community has also noted that attacks on education and education facilities during an armed conflict situation could be a violation of International Humanitarian Law (IHL). The ICRC has also noted that education constitutes a humanitarian need as it one of the first public service to be impacted by armed conflicts.<sup>117</sup> While the recent abductions of school children in places such as Kankara, Kagara and Jangebe, cannot be said to be happening within the context of a direct armed conflict situation, however the fact that some earlier abductions, such as that of the Chibok and Dapchi girls, all took place as part of the activities of insurgents, in the ongoing Boko Haram insurgency, means that the rules of IHL, which are binding on the Nigerian

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<sup>111</sup> *Ibid.*

<sup>112</sup> Kristin B. Sandvik and Ingunn Ikdahl, “COVID-19: Towards a Digital Fragmentation of the Right to Education” (2021) *Yale Journal of International Law*, <https://www.yjil.yale.edu/covid-19-towards-a-digital-fragmentation-of-the-right-to-education/> accessed 25/07/2022.

<sup>113</sup> ICRC, “Framework for Access to Education” *International Committee of the Red Cross (ICRC)* (July 2017), 1 – 24 at 3.

<sup>114</sup> *Ibid.*

<sup>115</sup> Ademola Atanda, “Security Challenges and Effective Schooling in Nigeria: Need for School Safety Precautions by School Administration” (2013) 13 *Nigerian Journal of Educational Administration and Planning*, 60.

<sup>116</sup> UNSC, ‘Children and Armed Conflict’ *United Nations Security Council 75<sup>th</sup> YEAR*, S/PV. 8756, [https://www.securitycouncilreport.org/atf/cf%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/S\\_PV.8756\\_E.pdf](https://www.securitycouncilreport.org/atf/cf%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/S_PV.8756_E.pdf) accessed 28/07/2021.

<sup>117</sup> ICRC, above at note 112.

government as a party to the conflict, can be activated. Though, IHL does not provide a direct right to education, it however provides a framework that ensures that in situations of armed conflicts, education and learning can progress.<sup>118</sup> Relevant in this regard are IHL rules such as Articles 38, 72, and 125 of Geneva Conventions 3; Article 13, 24, 50, 94, 108 and 142 of Geneva Convention 4; Article 78, Additional Protocol I; Articles 4 (3) (a) Additional Protocol 2; and Rules 38, 40 and 145 of Customary International Humanitarian Law.<sup>119</sup> Moreso, students and educational providers enjoyed protected status as civilians in line with under Common Article 3 as well as certain provisions under AP I.<sup>120</sup>

### ***Safe Schools Declaration***

The Safe Schools Declaration (SSD) is an intergovernmental political commitment by countries, towards protecting students, teachers and schools from attacks during armed conflicts.<sup>121</sup> It aims at the need for education to continue during armed conflicts and implementation of measure to prohibit the military's use of schools for attack.<sup>122</sup> The SSD was developed through consultations with states, championed by Argentina and Norway, in early 2015 in Geneva.<sup>123</sup> It was opened for endorsement at an international conference on Safe Schools, held in Oslo Norway from 28 May to 29 May 2015,<sup>124</sup> and has now been endorsed by 51 sovereign states.<sup>125</sup> On 17 February 2017 UNESCO DG commended the government of Canada and France for endorsing the SSD.<sup>126</sup> At the Third Conference on Safe Schools, parties also reinstated their commitment to reporting attacks on schools and investigate and prosecute such crimes and make return to such schools fast.<sup>127</sup> Nigeria endorsed the Safe Schools

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<sup>118</sup> *Ibid.* at 6.

<sup>119</sup> *Ibid.*

<sup>120</sup> *Ibid.*

<sup>121</sup> EiEWGN, "Safe Schools Declaration in Nigeria; Advocacy Brief" *The Education Emergencies Working Group Nigeria (EiEWGN)* [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/25062018\\_ng\\_a\\_eiewg\\_ss\\_advocacy\\_brief.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/25062018_ng_a_eiewg_ss_advocacy_brief.pdf) accessed 23/06/2021.

<sup>122</sup> *Ibid.*

<sup>123</sup> The Safe Schools Declaration, (June 7 2021) [https://www.regjeringen.no/en/topics/foreign-affairs/development-cooperation/safeschools\\_declaration/id2460245/](https://www.regjeringen.no/en/topics/foreign-affairs/development-cooperation/safeschools_declaration/id2460245/) accessed 23/06/2021.

<sup>124</sup> Press Statement, Education in Emergencies Working Group in Nigeria (Mar. 21 2019) <https://reliefweb.int/sites/reliefweb.int/files/resources/EiEWGN%20SSD%20Ratification%20Memo%20Press%20Release.pdf> accessed 23/06/2021.

<sup>125</sup> UNESCO, "The Safe Schools Declaration is now Endorsed by 51 States" UNESCO <https://en.unesco.org/news/safe-schools-declaration-now-endorsed-51-states> accessed 23/06/2021.

<sup>126</sup> UN, "France and Canada Endorse Safe Schools Declaration" UN – Office of the Secretary- General Envoy on Youths <https://www.un.org/youthenvoy/2017/02/france-canada-endorse-safe-schools-declaration-2/> accessed 23/06/2021.

<sup>127</sup> The Third International Conference on Safe Schools

<http://www.exteriores.gob.es/Portal/es/Documents/version%20ingles/Concept%20Note%20->

Declaration in 2015. According to the UN Special Envoy for Global Education, and former British Prime Minister Gordon Brown, the government had backed its commitment with a sum of \$10million to ensure that children are kept safe in schools.<sup>128</sup> This 10 million is to match the initial 10million donated by Nigerian business leaders, bringing the whole amount to 20million.<sup>129</sup> It was expected that the fund will be used to develop 500 pilot schools in the north, build new classrooms, fence schools, provide armed guards, and later spread the initiative to other parts of the country.<sup>130</sup> Prior to that time, specifically in 2014, a coalition of business leaders in the country, alongside the UN Special Envoy for Special Education and the Global Business Coalition for Education and World at School, had launched the Safe School Initiative at the World Economic Forum on Africa in Nigeria.<sup>131</sup> In a statement marking the first edition of its International Day to Protect Education from Attack, the UN admonished the Nigerian government to make School Safety top priority.<sup>132</sup> Following the Chibok abduction, the Nigerian government in 2015 partnered with the United Nations and other private sector stakeholders, to launched the 30million pounds Safe Schools Initiative SSI, towards improving at schools.<sup>133</sup> Part of its measures was to move students out of schools in high-risk areas to safer places, and provide others with fences of security facilities.<sup>134</sup> However, the initial goal of moving about 2,000 students from the north-east to other parts of the country did not materialise.<sup>135</sup> As with other government's projects, the SSI has been riddled with corruption,<sup>136</sup> with the country's lawmakers calling for probe in to mismanagement of the funds.<sup>137</sup> The Nigerian Senate for instance has mandate its Committee on Education (Basic and

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%20Palma%20Conference%20on%20Safe%20Schools%20-%20For%20Circulation.pdf accessed 24/06/2021.

<sup>128</sup> UN, "Statement by UN Special Envoy for Global Education Gordon Brown - Nigerian Government join Safe School Initiative with \$10million Commitment" *The Office of the Secretary-General Envoy for Global Education* <https://educationenvoy.org/safeschoolsannouncement/> accessed 24/06/2021.

<sup>129</sup> GBCE, "Nigerian Government Commit 10 million to Safe Schools Initiative" *Global Business Coalition for Education (GBCE)* (May 9 2014) <https://gbc-education.org/nigerian-government-commits-10million-to-safe-schools-initiative/> accessed 24/06/2021.

<sup>130</sup> *Ibid.*

<sup>131</sup> Mark Isibor, et al, "7 Years After Launch: States Yet to Get \$30million Safe School Fund" *Leadership* <https://leadership.ng/7-years-after-launch-states-yet-to-get-30m-safe-school-fund/> accessed 24/06/2021.

<sup>132</sup> Omeiza Ajayi, "UN Urges Nigeria to Prioritise School Safety, Learners' Protection" *Vanguard* (Sept. 8 2020) <https://www.vanguardngr.com/2020/09/un-urges-nigeria-to-prioritise-school-safety-learners-protection/> accessed 23/06/2021.

<sup>133</sup> CODE, above at note 16.

<sup>134</sup> Obaji, above at note 18.

<sup>135</sup> *Ibid.*

<sup>136</sup> CODE, above at note 16.

<sup>137</sup> Chika Oduah, "Nigerians Ask How Millions of Safe Schools Program Are Being Spent" *Voice of America (VOA)* (Mar.28 2018) <https://www.voanews.com/africa/nigerians-ask-how-millions-safe-schools-program-are-being-spent> accessed 24/06/2021.

Secondary) and Tertiary Institutions and TETFUND, to investigate how the \$20million raised for the initiative were managed over the years.<sup>138</sup>

Under the SSD, Nigeria has obligation to ensure policies and programmes that will safeguard schools from armed attacks and punish such attacks when they happen.<sup>139</sup> This obligation however appears to gone the way of other international obligations left in abeyance, as no meaningful criminal prosecution has trailed the attacks so far. At the side-lines of the 46<sup>th</sup> Session of the UN Human Rights Council meeting in Geneva, Switzerland, about a dozen human rights experts expressed concerns about the fact that not much has been done to assist teenagers traumatised by the recent school attacks.<sup>140</sup> Specifically, they note that with such assistance missing, victims are at increased vulnerability of ‘an increased risk exploitation, trafficking, sexual and gender-based violence and other forms of violence’.<sup>141</sup> The SSD is however a soft law, with an extremely weak obligatory framework. Essentially, it is meant to guide the Nigerian government in the formulation of safe school policies as well as put the necessary pressure on government to follow up on these policies. For instance, with respect to the Safe Schools Initiative launched in 2014, important challenges that have been identified as militating against the implementation include poor funding, political interference, inadequate security and safety measures in schools.<sup>142</sup> With these challenges, the SSD has been unable to live up to expectations. However, the government’s obligation isn’t just limited to IHRL and the SSD, relevant aspects of the domestic legal framework also obligate the government to ensure protection for children in the context of schooling and learning. Determining the extent such obligation and how much the government has complied, is relevant in understanding the existing vacuum and where progress is required.

### ***Domestic Legal Framework***

The right to education imposes both positive and negative obligation on the State.<sup>143</sup> Whilst positive obligation involves ensuring the provision of free and compulsory primary education,

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<sup>138</sup> “Kidnapping: Senate Probes \$20m Safe School Initiative Fund” *Vanguard* (Feb. 23 2021) <https://www.vanguardngr.com/2021/02/kidnapping-senate-probes-20m-safe-school-initiative-fund/> accessed 24/06/2021.

<sup>139</sup> *Ibid.*

<sup>140</sup> UN, ‘Nigeria: Traumatised, Abducted Schoolchildren need Rehabilitation – Independent Rights Experts’ *UN News* (Mar. 3 2021) <https://news.un.org/en/story/2021/03/1086242> accessed 23/06/2021.

<sup>141</sup> *Ibid.*

<sup>142</sup> Ugbor C. Chibuike, et al, “Security Awareness as a Panacea for Effective Management of Safe Schools Initiative and Students Academic Achievement in Unity Schools in Nigeria” (2020) 6 *Journal of Social Sciences Research*, 761.

<sup>143</sup> BICCL, above at note 93.

negative obligations impose a duty on the states to ensure that education is not impeded for whatever reason.<sup>144</sup> This obligation is expected to be implemented through domestic legal, institutional and policy frameworks. At the domestic level, this right is a part of Nigeria's constitutional framework and to that extent, the recent abductions, can be viewed as a violation of the right to education not only under international law, but also domestic law. Though non-justiciable, Section 18 of the Constitution provides that "*government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels*". Additionally, Article 2 of the Universal Basic Education (UBE) Act 2004,<sup>145</sup> states that "*every government in Nigeria shall provide free, compulsory universal basic education for every child of primary and junior secondary school age*".<sup>146</sup> Also, relevant is the Child's Right Act (CRA) 2003,<sup>147</sup> the country's foremost child protection law in the country,<sup>148</sup> and its legislative effort towards domesticating the UNCRC. Section 2 and 15 of the Act covers the right of the Nigerian child to a safe and secure environment.<sup>149</sup> While Section 2 guarantees the child "*...protection and care as is necessary for the wellbeing of the child*", Section 15 obligates the government in Nigeria to provide free compulsory education to every child in the country.<sup>150</sup> Also relevant are sections 16, 27, 28 and 32 of the Act.<sup>151</sup> The key challenge with the implementation of the Act has to do with its spread; while it is operational in the Federal Capital Territory (FCT) Abuja, only 15 other states have domesticated it so far.<sup>152</sup>

At policy level, there is the Implementation Guidelines for National Policy on Violence Free Schools for Children in Nigeria, which was developed by the Federal Ministry of Education in collaboration with the United Nations Children Fund (UNICEF) and the United Nations Educational Scientific and Cultural Organisation (UNESCO) and adopted in March 2019.<sup>153</sup> The Guidelines define 'violence against children', as "*all forms of physical or mental violence, injury and abuse, neglect or negligent treatment, maltreatment or exploitation, including*

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<sup>144</sup> *Ibid.*

<sup>145</sup> Compulsory Free Universal Basic Education 2004, *CAP 113 Laws of the Federation of Nigeria, 2004*.

<sup>146</sup> Article 2 (1), UBE 2004.

<sup>147</sup> CRA 2003

<sup>148</sup> Nevena V. Sahovic and Precious Eriamatoe, "Effectiveness of the Convention on the Rights of the Child in Realisation of the Right to Remedy for Child Victims of Violence in Africa" (2020) 110 *Child Abuse and Neglect*, 4.

<sup>149</sup> *Ibid.*

<sup>150</sup> Article 2 (1) (2) and Article 15 (1) (2) (3) (4) (5) (6) and (7), CRA 2003.

<sup>151</sup> CRA 2003.

<sup>152</sup> "Scoping Study for the Development on the National Policy on Safety and Security in Schools (Nigeria)" Nigeria Education in Emergency Working Group, 1-49 <https://education.gov.ng/wp-content/uploads/2020/05/EiEWGN-NPSSS-Scoping-Study-Final.pdf> accessed 28/07/2021.

<sup>153</sup> *Ibid.*

*sexual abuse against children*".<sup>154</sup> Additionally, it defines 'violence against children in schools', as "*all forms of violence that takes place within school setting and those inflicted on children of school going age; acts of violence on children in schools and school activities; acts of violence on children on their way from home to school; and acts of violence on children on their way from schools back to their homes*".<sup>155</sup>

Every Nigerian child is entitled to the rights analysed above, while the obligations are binding on the government. From the above analysis, it is worth stating that cases of abductions aren't just a violation of the rights of the abducted school children, but more importantly an abandonment of the government's obligations under international law. For instance, talking about the right to life of the abducted schoolchildren in Article 6 and the obligation of the Nigerian government, that a number of these students lost their lives is scandalous and ought to provoke nationwide action. At a much deeper level, even in the cases where lives weren't lost, a case can still be made for violation of the right to life on the basis that, by being abducted, transported under very barbaric conditions, heavily traumatised by their abductors and incarcerated in forests hideouts, the quality of their life has been impacted, so also their right to life. Apparently validating this position, Article 16 states that "*no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence nor unlawful attacks on his or her honour or reputation*".<sup>156</sup> It further adds that "*the child has a right to the protection of the law against such interference or attacks*".

School abduction represents an unlawful interference with the child's privacy and honour. For a child to be kidnapped when he/she should be in school studying and subsequently violated physically (sometimes sexually for the girl-child amongst the abductees) is a violation of the honour of the child. Not only is the personality of the child bruised by that experience, it may remain damaged forever, where proper work is not done to repair the psychology. Such a child may not be able to function effectively as a member of the human society and fulfil life potentials in line with God's purpose for the child.<sup>157</sup> At the end of the day, the quality of life is impacted and such action sometimes drives affected children towards suicidal tendencies, with the result that life is truncated. The overall implication is that Nigeria, as a federation,

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<sup>154</sup> *Ibid.*

<sup>155</sup> *Ibid.*

<sup>156</sup> Article 16 (1) & (2), CRC 1989.

<sup>157</sup> These potentials are seen in the blessing which God commanded on Man at creation. Genesis 1:28, Holy Bible captures this truth stating that, "*And God blessed them, and God said unto them, be fruitful and multiply, and replenish the earth, and subdue it; and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth*".

hasn't done well with respect to complying with its obligation in this respect under domestic and international law.

### **Recommended State Action**

This article has discussed the problem of school abductions in Nigeria, in the context of the legal framework applicable, in addressing it. Clearly, there is need for a broad-based approach to combatting this problem. In this wise, the Article has identified a number of strategies, which could significantly address the problem, though it is worthy of note that these recommendations are themselves reflective of the government's obligation under the SDD and relevant IHRL instruments already discussed above. These recommendations are made using 5 broad headings namely Legal Reform, Advocacy, Funding, Improved Security Awareness and Socio-cultural reorientation.

#### ***Legal Reforms***

To achieve the goal of safe schools, legal reforms is required in two areas - taking immediate legislative steps towards domesticating the SSD as well as the need to put more pressure on states to domesticate the CRA. This must start with the Federal government, which is the image of the State at the international level and then cascades to other levels of government. Reiterating this point, the UN has called on the government to fast-track effort in this regard.<sup>158</sup> This will require formulating laws and policies that will directly target the menace. Specifically, such law and policy must address critical issues such as funding security architecture in schools, security training programmes for school officials, etc. At the time the SSI was launched in Nigeria, the UN Special Envoy for Global Education noted that at about that time, international experts had drawn up plans towards physically securing schools, community partnerships, a system of early warnings in the event of attack, and other strategies toward keeping schools safe.<sup>159</sup>

For the CRA 2003, amongst other matters, a major challenge impeding the success of the Act is the continued refusal of state governments to adopt the provision at the federating unit level. The country runs a federal system of government, in which legislative powers are distributed

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<sup>158</sup> "School Reopening; Nigeria Should Domesticate Policy on Safe School – UN" *Vanguard* (Sept. 9 2020) <https://www.vanguardngr.com/2020/09/school-reopening-nigeria-should-domesticate-policy-on-safe-school-un/> accessed 24/06/2021.

<sup>159</sup> Gordon Brown, "Update from Nigeria: Launching the Safe Schools Initiative" *HuffPost* (May 27 2014) [https://www.huffpost.com/entry/nigeria-safe-schools\\_b\\_5395253](https://www.huffpost.com/entry/nigeria-safe-schools_b_5395253) accessed 24/06/2021.

amongst the three levels of government i.e., federal, state and local government councils.<sup>160</sup> Matters related to protection of children is contained in the concurrent legislative list, in which the federal and states government have powers to legislative.<sup>161</sup> The consequence is that the CRA 2003 being a federal statute is not applicable in all states of the federation.<sup>162</sup> Rather, each state has a responsibility to further domesticate the Act in their domain. So far, 11 states are yet to domesticate the CRA 2003, something which has impacted on the ability of an important treaty such as the UNCRC to offer protection for children in the country. With regards to school safety, the implication is that it becomes difficult for states yet to domesticate the Act to marshal any coherent school safety approach, whether on their own terms or in collaboration with the government.

### ***Advocacy***

Advocacy is key to achieving school safety, as it helps keep the government, security agencies such as the Military and Police and other law enforcement institutions on their toes. Civil Society Organisation (CSOs) would be required to play a major in this area. On school safety, framework for continued advocacy has emerged at the international, regional and domestic levels.<sup>163</sup> At the international level, the World wide Initiative for Safe Schools and the SSD have assisted in applying pressure on national governments as well as highlight areas for reform.<sup>164</sup>

### ***Socio-Cultural Re-orientation***

Additionally, most of the issues underpinning the different shades of insecurity in the country, whether insurgency, banditry, ethnic violence, etc have its roots in the state of educational paralysis in the northern part of the country. With a political elite that has practically monopolised political power in close to two-third of the country's 60 years post-independence life, it is tragic that the endless struggle and eventual seizing of power of power, either through the barrel of guns or compromised elections, has not translated into meaningful educational opportunities for millions of children of the region. The region warehouses millions of out of school children, with some popularly called *Almajiris* on the streets begging.<sup>165</sup> This out of

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<sup>160</sup> Sahovic and Eriamatoe, above at note 147 at 4.

<sup>161</sup> *Ibid.*

<sup>162</sup> *Ibid.*

<sup>163</sup> Rebekah Paci-Green, et al, 'Comprehensive School Safety Policy: A Global Baseline Survey' (2020) 14 *International Journal of Disaster Risk Reduction*, 7.

<sup>164</sup> *Ibid.*

<sup>165</sup> Adah Ogbe, "The Travails of Women and Girls in Northern Nigeria; A Human Rights Issue" (2020) 11 *Potentia; Journal of International and Public Affairs*, 54.

school children aren't just a burden on the government, but have become a ready pool for criminal non-state actors. The reality is that the all levels of government in the northern part of the country as well as the political elites, must stop playing the Ostrich and face the escalating crisis of millions of uneducated children. There is an urgent need to develop legal and policy framework to deliver formal and western education to these ones. This issue was well captured by Dr. Reuben Abati, former Special Adviser on Media to former President, Dr. Goodluck Jonathan in his piece *Keeping Schools Safe in the North*, published in the Premium Times Newspaper.<sup>166</sup> According to Abati;

*The North is most educationally disadvantaged part of Nigeria. Most of the over 15 million children who are out of school, are from the North. And now, the ones who are in school face the constant threat of abduction. No one should be surprised that some of the students who recently regained their freedom have declared that they would rather not go to school.*<sup>167</sup>

He further added that;

*Keeping the schools safe should indeed be top priority at all levels of government. But is anyone doing so? If terrorist succeed in instilling fear in children who have a whole future ahead of them and drive them away from the classrooms, they would have won a major psychological war, with far-reaching implications for future.*<sup>168</sup>

He then noted that;

*The real revolution that the North needs is greater investment in education and the people. The governors should stop making empty promises and get to work. Otherwise, when another boarding school is attacked and school children are kidnapped in any part of the North, we would remind them of their own criminal negligence.*<sup>169</sup>

### **Funding**

Furthermore, to bring a sufficient dose of education that will stabilise the region, both the Federal and state governments must collaborate in adequately funding education. Generally,

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<sup>166</sup> Reuben Abati, "Keeping Schools Safe in the North" *Premium Times* (Mar. 9 2021) <https://www.premiumtimesng.com/opinion/447738-keeping-schools-safe-in-the-north-by-reuben-abati.html> accessed 24/06/2021.

<sup>167</sup> *Ibid.*

<sup>168</sup> *Ibid.*

<sup>169</sup> *Ibid.*

serial underfunding has been bane of education in Nigeria. For instance, successive government have continued to pay lip service to the UNESCO recommended 26 percent budgetary allocation to education. Rather in 2018 only 7percent of budgetary allocations went to education, while in 2020 it even nosedive to 6.7percent.<sup>170</sup> For there to be progressive development in the education of children in the country, this behaviour of disdaining education must give way to a more nuanced framework of deliberate and systematic funding on an incremental basis. In the light of current insecurity realities, such funding regime shouldn't just focus on supplying educational materials but importantly on ensuring a safe environment for learning. This can be done by providing adequate fencing for all schools as well as security outpost for surveillance purposes. This is one matter that must be at the core of the domestication of the SSD.

### ***Improved Security Awareness***

While the government has the principal obligation to secure lives and property of the citizenry, security is unarguably everyone's business. Security in this wise goes beyond the coercive power of the state, but has to do with the ability of every citizen to spot a suspicious behaviour and promptly alert security institutions. This is the hallmark of security in the advanced world i.e., every being the eyes and ears of the government, something also captured in the notion of 'being your brother's keeper'. Against this backdrop, it is imperative that governments at all levels i.e., federal, state and local government councils, collaborate with school administrators, teachers and parents in ensuring that issues of security awareness as it has to do with school safety are given the priority attention it deserves. While children are indeed right bearers, however given their tender years the capacity to fully exercise these rights are still limited. By and large, they are still dependent on the agency of the adults to push and defend their rights.<sup>171</sup>

On the same score, school administrators must be educated on the need for profiling of all staff, students and parents of pupils. Of course, for this to yield any meaningful result, the Police system must be strengthened with capacity to make the most of assistance coming from members of the public. The government must therefore live up to its responsibility under domestic and international law by further strengthening the internal security and law enforcement infrastructure of the country to apprehend these abductions even before they

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<sup>170</sup> Akindare Okunola, "5 Issues Nigeria Must Address to Ensure Every Child Can Access Quality Education" *Global Citizen* (Sept. 11 2020) <https://www.globalcitizen.org/en/content/5-issues-nigeria-must-address-quality-education/> accessed 24/06/2021.

<sup>171</sup> Margaret Bell, "Promoting Children's Rights Through the Use of Relationships" (2002) 7 *Child and Family Social Work*, 3.

occur. However, while taking this step will go some way in ameliorating the problem, the real solution to the problem is in designing a proper and workable policing structure that will provide for effective and efficient domestic security governance.

### **Conclusion**

This article has examined the problem of school abductions in the context of applicable laws in Nigeria. Clearly, the dual regime of domestic and international law, guarantees the right of the Nigerian child to safety and security, including during the period of learning at school. At the same time, both body of laws imposes far-reaching obligations on the State to protect this right everywhere and at all times. However, notwithstanding this, and though Nigeria was one of the early countries to endorse the 2015 SSD, the whole idea of school safety in the country, has remained more of a faraway tantalising prospect for children and their parents. To sufficiently uphold its obligation under the SSD and relevant IHRL and IHL instruments, the Nigerian government must update its views with respect to children. The popular notion that children's protection is largely that of their parents must give way to international standard practice which view them as right-bearers. The position that these tender ones have a moral and legal right to protection, participation and provision should drive government's response to combatting the wave of attacks by armed bandits. With back-to-back abductions, unnecessary loss of infant lives, millions being paid in ransom, and thousands of children in hundreds of schools located in bandits-infested areas, still wedged between the threat of abduction and the inability of the government to bite, it is clear that there is a need to begin to think out of the box. This article has offered useful suggestion which can help the government going forward.