



**MEETING THE DEMANDS OF ACCESS TO UNIVERSITY
EDUCATION IN NIGERIA: AN ASSESSMENT OF THE
GOVERNMENT'S OBLIGATION**

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Abstract

The concepts of right to education and access have always been considered from the perspective of international instruments providing for such. However, the concepts have not been seriously addressed from the angle of government's political will to fund and monitor the realization of quality and accessible education. This study therefore examined the concepts in terms of the very wide margin between the rate of application for admission by qualified applicants and the relatively small openings, which exist coupled with an environment, which is conducive for research and learning. The study found that given the various universities particularly private universities that were established, such have not met the demands of full development of the human personality and access to universities. The study therefore argued that the Government has to support the private universities so that tuition fee of private universities can reduce and more affordable. Government is expected to fund public universities better to increase facilities including Information communication technology and subsequently increase admission openings. The study adopted doctrinal mode of investigation as it concluded that adequate funding of education and due monitoring of education development were desirable to give more access and right to education in Nigeria.

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1.0 INTRODUCTION

Education covers impartation of knowledge, and it comes either by way of a formal physical contact of the tutor and the students and it may be by the unofficial deployment of the Information Communication Technology (ICT) and infrastructure, which takes the place of physical contact.¹ Education comes under the economic, social and cultural rights, but are recognized under chapter II of the Nigeria's 1999 Constitution as the Fundamental Objectives and Directive Principles of State Policy (DPSP).² Education has three tiers, the primary, secondary and the tertiary level of education.³ This paper focuses on the tertiary education with specific attention on the university education.⁴ There is a very wide margin between the rate of application for admission by qualified applicants and the opening, which exists.⁵ Access to education is considered as an aspect of the right to education and it covers the prospect of gaining admission and the presence of an environment, which is conducive to sustain learning activities.⁶

¹ See Taiwo, E.A. "The Implementation of the Right to Education in South Africa and Nigeria" Unpublished LLD Thesis, Nelson Mandela Metropolitan University, 2011 34. See also Fagbemi, S.A. "The Importance of Information and Communication Technology as Mechanism for Legal Education, Practice and Dispute Resolution in Nigeria" 2016 (4)(1) *Akungba Law Journal* 173.

² Section 18, chapter II of the 1999 Constitution (CFRN 1999), Cap C23, LFN, 2004; Ibe, S. "Implementing Economic, Social and Cultural Rights in Nigeria: Challenges and Opportunities" (2010) 10 *African Human Rights Law Journal* 198.

³ Section 18(3) CFRN. Article 26(1) Universal Declaration of Human Rights (UDHR), 1948. The Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 and its principles apply in Nigeria as a member state of UN.

⁴ Interpretation section of the Education (National Minimum Standards and Establishment of Institutions) Act, 2004.

⁵ Catherine Uchechukwu Osuji and Fanny Chimezie Okata, "Access to University Education in Nigeria Challenges and Way Forward" (2015) 9(1) *International Journal of Research* 46-60, 47. See also Rotimi Lawrence Oyekanmi, "Issues in 2012 Education Ministry Report" (The NEEDs Report) *The Guardian* Thursday 25 July 2013 49.

⁶ Art 1(2) of the UNESCO Convention against Discrimination in Education 1960. Taiwo (n 1 above).



the sector attracted 7.2 per cent of the total budget of N17 trillion.⁵⁹ In 2021, the budget proposal for education, the lowest in ten years, was N742.5 billion out of a total of N13.08 trillion budgeted which represents 5.6 per cent.⁶⁰ These budgetary allocations are a far cry from the 26 per cent education allocation benchmark prescribed by the UNESCO for developing countries.⁶¹

The duty of the Government, which is to make education available to its citizens is not discharged as adequate funds are not allocated.⁶² Of persuasive influence to Nigeria is the South African Court decision in *Soobramoney v the Minister of Health* (Kwazulu-Natal),⁶³ where the Court held that the right to emergency medical treatment had to be interpreted in the context of the availability of health facilities and human resource generally. The low budgetary allocation to education in Nigeria negatively affects carrying capacities in the universities and limits access to education.⁶⁴ It is apposite to state that the access to quality education is a condition towards human development and eventually, the nation's development. The government should therefore reorder its priorities in terms of financial commitment.

Commenting on how to improve the funding of the universities in 2015, Professor Joseph Ajenka,, the then Vice Chancellor of University of Port Harcourt⁶⁵ called for the introduction of payment of tuition fee, because statutory federal allocations is inadequate to embark on meaningful research and the development of infrastructure. In 2023, the government pronounced its inability to provide funds to manage public universities in Nigeria, which has prompted

⁵⁹ UNICEF, “UNICEF Warns of Nigerian Education Crisis as World Celebrates International day of Education Amid COVID-19 Concerns”, UNICEF Press Release. 24 January 2022, <https://www.unicef.org/nigeria/press-releases/unicef-warns-of-nigerian-education-crisis-as-world-celebrates-international-of-education> (accessed 3 November 2024).

⁶⁰ Alfred Olufemi, “Buhari's 2021 Budget Share for Education is Nigeria's Lowest in 10 Years” *P r e m i u m T i m e s* 2 4 O c t o b e r 2 0 2 0 , <https://www.premiumtimesng.com/news/headlines/422829-buhari-s-2021-budget-share-for-education-is-nigeria-s-lowest-in-10-years.html> (Accessed 4 November 2024). See also Ohaegbulem & Chijoke, (n 48).

⁶¹ Ohaegbulem & Chijoke (n 48).

⁶² See Article 26(1) of the UDHR, 1948; See also Section 18(1) of Chapter II CFRN.

⁶³ *Soobramoney v the Minister of Health* (Kwazulu-Natal) 1998 1 SA 765 (CC).

⁶⁴ Temitope Kareem, “The Effect of Low Budgetary Allocation on Education” Edugist, November 11 2024, <https://edugist.org/the-effects-of-low-budgetary-allocation-on-education/> (Accessed 18 January 2025).

⁶⁵ Kelvin Ebiri, “VC of Uniport Hinges Varsities' Survival on Increased Fees” *www.ngrguardiannews* (Accessed 18 January 2025).



Some international instruments,⁷ regional instruments,⁸ and even the Constitution of the Federal Republic of Nigeria 1999⁹ condemn inadequate access to education. The state then has the obligation to determine the level of access and the degree of right to education that can be immediately realized based on available resources.¹⁰ The Government has thus taken many steps towards upgrading access to the universities. One of the steps is the licensing of individuals and corporate bodies to establish and direct educational institutions on the standards set by the State.¹¹ The set standard is desirable so that education can be able to meet the full development of the human personality.¹² There is a prescribed ratio of teaching staff to a number of students;¹³ this is a set standard to address the challenge of access to education. The teaching staff has to be adequate and must meet qualification mark of a Doctor of Philosophy Degree (PhD) in an area of specialisation.¹⁴

The level of access to education has to do with the strength of the teaching infrastructure which in turn determines the results of accreditation of academic programmes.¹⁵ Accreditation reports sometimes result in having to increase or to reduce the number of students' intake or in an outright cancellation of academic programme. Accreditation programme exercise also ensures that the prescribed ratio of teaching staff to a number of students is met.¹⁶

⁷ Article 26(1) UDHR,(n 2 above),Article 13(2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966 came to be by the General Assembly Resolution 2200 (xxi), 21 UN GAOR Supp (No 16 at 49).

⁸ Article 17(1) of the African Charter on Human and Peoples Rights. The Charter was ratified and domesticated vide the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act in accordance with sec 12 of the 1999 Constitution. See also *Fawehinmi v Abacha* (2000) 6 NWLR Part 660, 228 has equally held that the Charter is part of the Nigerian Law.

⁹ Section 18(1) CFRN (n 2).

¹⁰ Article 22 UDHR (n 2).

¹¹ *Article 13(4) of ICESCR 1966.*

¹² UDHR 1948.

¹³ U.S Udoh and A.I Atanda, "Staff Students Ratio and Education Quality of Undergraduates Programme in the University of Ibadan" (2020) 13(2) *African Journal of Educational Research and Development (AJERD)* 40-62 See also OECD, Students Per Teaching Staff" <https://www.oecd.org/en//data/indicators/students-per-teaching-staff.html> (Accessed 20 January 2025).A See also Adedipe, N.O., "Strains and Stresses in the Nigerian University System: Sustainable Quality Assurance Prospects by Private Universities," being the third convocation lecture of Al Hakimah University, 12 <https://alhikimah.edu.ng/wp-content/uploads/2013/11/strains-and-stresses-nigerian-university-system-sustainable-quality-assurance-prospects-private-universities>(accessed 05 November 2024).

¹⁴ *Ibid.*

¹⁵ Comfort R Etor et al, "Access and Resource Allocation to Education in Nigeria" (2020) 13 (3) *International Education Studies* 79-89, 84. See also Isa Abdulsalami, "Provost Laments Non-Accreditation of Courses 38 Years After School's Establishment" *The Guardian* Thursday 3 April 2014 48.

¹⁶ Adedipe (n 13 above).



The paper considers the effect of inadequate infrastructure on access to university education,¹⁷ the inadequate academic staff,¹⁸ and unconducive environment of learning under the conventional education. It considers whether the use of the internet and the ICT infrastructure for aspect of scholarship such as learning, teaching and conducting research to communication of ideas,¹⁹ and its user friendliness may take the place of physical contact education, creating more access to university education in Nigeria. The paper is divided into five sections with the first having given the necessary background. Section two provides on access to education. Section three examines access to education under a formal and conventional education system. Section four investigates access to education under the ICT and section five provides on conclusion and recommendations.

2.0 ACCESS TO EDUCATION

Education in a narrow sense refers to a formal or professional instruction imparted within a national, provincial or local education system, whether private or public.²⁰ The term “education” covers “all types and levels of formal education, including access to education, the standard and quality of education, and the conditions under which it is given.”²¹ “Access” implies ensuring that those who are entitled to education are admitted.²² Access to education is provided for under the right to education because the former is a condition precedent to the enjoyment of the latter.²³ The UDHR in its provision on the right to education alludes to the essentiality of the element of access as it provides that

¹⁷ Section 1(2)(C) of the University of Ibadan(UI) Act, Cap U6, Laws of the Federation of Nigeria, 2004.

¹⁸ C U Ukozor et al, “Higher Education in Nigeria : Problems and Solutions” (2022)3(6) Central Asian Journal of Social Sciences and History 243-252, 245.

¹⁹ Fagbemi, (n 1 above) 173.

²⁰ Douglas Hodgson, *The Human Right to Education* 4. See also Taiwo, (n 1 above), 34.

²¹ Art 1(2) of the UNESCO Convention against Discrimination in Education 1960. Taiwo (*Ibid*)

²² Comfort Etor et al.(n 15) 79-89.

²³ Right to education is contained in international and regional instruments like Article 11 of the *African Charter on the Rights and Welfare of the Child* (1990) (ACRWC); and the *Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa* (2003) (*African Women's Protocol*). Isokpan, A.J. and Durojaye, E, “Impact of the Boko Haram Insurgency on the Child's Right to Education in Nigeria” ((2016)(19) *Potchefstroom Electronic Law Journal* 3. Nigeria ratified and domesticated the African Charter vide the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act. Cap A9, Laws of the Federation of Nigeria, 2004, the Act domesticates the Charter in accordance with sec 12 of the 1999 Constitution. *Fawehinmi v Abacha* (2000) 6 NWLR Part 660, 228 held that the Charter is part of Nigerian Law.



education at the elementary stage shall be free and be made compulsory for everyone. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.²⁴ The obligation of a state extends to the primary, secondary and higher levels of education.²⁵ The difference between higher education and other levels of education is that while primary and secondary schools are concerned with the transmission of knowledge, higher education, on the other hand, is concerned with the generation and transmission of knowledge.²⁶

Another distinct feature of tertiary education is the production of a high-level work force, raised to contribute to the social and economic development of Nigeria.²⁷ On the part of the student, university education affords an opportunity of having enhanced qualifications for job entry with a view of attaining a better standard of living.²⁸ Access to education in this paper is then used as a preliminary step to enjoy the right to education, while the focus on the tier of education is the higher education and in particular, the university education. Education at the tertiary stage covers the post-secondary section of the national education system such as universities, polytechnics, colleges of technology, colleges of education, advanced teachers colleges, professional institutions and such other institutions recognized under Education Interpretation Act.²⁹

Article 2(2) ICCPR mandates each State to take the necessary steps including the adoption of laws or other measures as may be necessary to give effect to the right to education.³⁰ Towards meeting the demand of access to education, the Government has the duty to offer university education, which is affordable to every qualified Nigerian, regardless of one's economic status. The paper however focuses on the quality of tertiary education and in particular university education, which should be available to Nigerians under the right to education. In meeting the demands of the right to education, the state is expected to set its minimum standards for all levels of education. Individuals and private bodies

²⁴ Article 26(1) UDHR 1948.

²⁵ Section 18(3) CFRN 1999. Article 26(1) UDHR 1948 to the effect that States shall attend positively to the realisation of the right to education at the various levels of education.

²⁶ Taiwo (n 1) 180.

²⁷ The Polytechnic Ibadan, Information Handbook for HND Students 2011/2012 Session (Adesesan Graphic Press Ltd, Nigeria) 5.

²⁸ See Andreas Schleicher in Yojana Sharma, "A Focus On Skills Increasingly Links Higher Education With Employment" www.universityworldnews.com/article.php?story=20130103154436919 (accessed 18 January 2025).

²⁹ Education Act (n 4).

³⁰ See also *Article 2(1) ICESCR (n 7)*.



also enjoy the right to establish and direct educational institutions, provided that they meet the minimum standards laid down by the State.³¹ The minimum standards also cover teaching infrastructure,³² staffing and a general environment conducive to learning.

2.1. Access Challenge in Nigerian University Education

Carrying capacity is one of the major challenges on access to university education in Nigeria. Carrying capacity is the highest number of students that can be accommodated or admitted into an institution based on the human and resource materials available.³³ Thus, a university should only admit students based on the facilities, staff and other resources available. The National Universities Commission(NUC) initiated this mechanism to control the number of students admitted into universities to ensure quality education is delivered.³⁴ In 2019/2020, due to limited carrying capacity, the access gap of those admitted and those seeking admission into Nigeria tertiary institutions was 510,957 admitted out of 1,157,977 applicants seeking admission into the institutions.³⁵ Thus, only 44.12% of the total applicants were admitted during that academic session. At a recent hearing organised by the Senate Committee on Tertiary Institutions in 2024, the Executive Secretary of the National Universities Commission(NUC) points out that there are 275 public and private universities in Nigeria while students seeking admission yearly are over two million. He states further that only 500,000 to 700,000 applicants are admitted while about 1.3 million are not.³⁶ Thus, about 65 percent of applicants are not admitted into tertiary institutions. This does not meet the aspiration of youths yearning for tertiary education. Access to university education by qualified applicants is violated, as they have to abandon their quest when the universities are not accessible. The Executive Secretary of NUC notes further that there is a need to enhance capacity building to support establishment of additional universities.³⁷

³¹ Article 13(4) of ICESCR, (n 7).

³² Section 1(2)(c) of the University of Ibadan Act mandates the university to provide facilities for the pursuit of learning and acquisition of liberal education essential for teaching and impartation of knowledge, (n 18).

³³ O.M Madu and O. Adebisi, "School Enrolment Growth and Carrying Capacity of Universities in Imo State Nigeria, (2021) 5(6) *International Journal of Recent Innovations in Academic Research*,23-32,23.

³⁴ Ibid.

³⁵ VO Ebuara et al, "Managing School Carrying Capacity for Effective Teaching and Learning in Public Universities in Nigeria" 2020 60(3) *European Journal of Social Sciences*, 177 <https://www.europeanjournalofsocialsciences.com/> accessed 28 December 2024.

³⁶ Iyabo Lawal, "Higher Education: More Varsityes or Better Quality" *The Guardian*, 31 December 2024 <https://guardian.ng/feature/education/> (accessed 2 January 2025).

³⁷ Ibid.



2.2. Attempts by Government of Nigeria to Upgrade Access to the Universities

Given a wide margin that exists between the carrying capacity and the number of qualified applicants, the Federal Government of Nigeria resorts to establishing new universities over the years. In 2021, Nigeria had a total of 198 universities. Of these, Federal universities were 45 while State universities were 54 and private universities were 99.³⁸ By 2022, the number of universities Nigeria had risen to 219. Out of this figure, 49 were Federal universities while State Universities were 59. Private universities were 111.³⁹ In December 25, 2023, Nigeria had a total of 244 universities. 52 being Federal, 59 State and 133 Private universities.⁴⁰ By February 2024, the total number of universities increased to 263, with private universities being 147, State universities being 63 while Federal universities had increased to 53.⁴¹ More universities have been established since then.

To confront the access to university challenges, the Government came up with many other policies on admission to universities. Over the years, Government has through the Joint Admissions and Matriculation Board pegged the minimum cut-off mark for admission into universities. Between 2014 and 2016, it was 180 for universities and 150 for polytechnics. In 2019 and 2020, it was 160 and 120 respectively.⁴² From 2022 up to date, the minimum cut-off mark for admission into Universities has been 140 and 100 for Polytechnics and Colleges of Education.⁴³ This development assists in increasing the number of applicants who can be admitted. However, it has rightly observed that the reduction of cut-off marks with a view of expanding access can compromise the quality and

³⁸ National Universities Commission (NUC) Bulletin, Vol 16 No.38, 18 October, 2021, <https://www.nuc.edu.ng/wp.content/uploads/2021/10/18th-Oct 21-MB.pdf> (Accessed 11 January 2025).

³⁹ National Universities Commission (NUC) Bulletin, Vol 17 No.32 pg 17-18, 12 September, 2022, <https://www.nuc.edu.ng/wp.content/uploads/2021/10/18th-Oct 21-MB.pdf> (Accessed 11 January 2025).

⁴⁰ National Universities Commission (NUC) Bulletin, Vol 18 No.50 pg 20-22, 25 December, 2023, <https://www.nuc.edu.ng/wp.content/uploads/2024/01/25th-December-2023-compressed..pdf> (Accessed 11 January 2025).

⁴¹ National Universities Commission (NUC) Bulletin, Vol 19 No.09 pg 23-25, 26 February, 2024 <https://www.nuc.edu.ng/wp.content/uploads/2024/02/26th-February 2024-compressed..pdf> (Accessed 11 January 2025).

⁴² Adekunle Dada, "List of JAMB Cut-Off Marks for Universities, Polytechnics in the Last 10 Years. June 30 2023, <https://www.legit.ng/education/1541789> (Accessed 11 January 2025).

⁴³ Ibid. See also National Universities Commission, "Jamb Pegs Cut Off Mark at 140 for Varsities, 100 for Polytechnics, Others, <https://www.nuc.edu.ng/jamb-pegs-cut-off-mark-at-140-for-varsities-100-for-polytechnics-others> (Accessed 11 January 2025).



standard of education in Nigeria.⁴⁴ This would make the desired development elusive. Therefore, access should be increased by expanding and improving facilities in tertiary institutions to accommodate the increasing number of applicants.⁴⁵

2.2.1. Increased Government Funding

Access and the right to education come under socio-economic rights (SERs) and the State is expected to commit certain fraction of its resources towards the enforcement. This is so as the efficacy of socio-economic rights is contingent upon available resources.⁴⁶ SERs are thus regarded as *programmatically* as they may not be realised immediately. States have to take steps, individually and through international collaboration, assistance and co-operation, legislative measures and other appropriate means subject to its maximum available resources⁴⁷ Socio-economic rights require the state to undertake positive action, which is contingent on its budgetary provisions. As such, ICESCR prescribes rights enforcement to the maximum of states' available resources. The UNESCO however prescribes allocation of not less than 26 percent of total budget for education.⁴⁸ The International Covenant on Economic, Social and Cultural Rights (ICESCR) as such concedes to States the discretion to enforce SERs at the right standard and timing.⁴⁹ The State has the power to determine the level of access and the degree of right to education that can be immediately realised given the resources available to it,⁵⁰ and in terms of alternative economic demands.⁵¹

⁴⁴ Henry Tyohemba, “Varsities, Others Face Criticisms Over 2024 Minimum Jamb Cut- Off Score”, Leadership Newspaper, <https://leadership.ng/varsities-others-face-criticisms-over-2024-minimum-jamb-cut-off-score/> (Accessed 11 January 2025).

⁴⁵ Ebuara, V. O et al, “Managing School Carrying Capacity for Effective Teaching and Learning in Public Universities in Nigeria” 2020 60(3) European Journal of Social Sciences, 177 <https://www.europeanjournalofsocialsciences.com/accessed> 28 December 2024.

⁴⁶ See Article 22 UDHR.

⁴⁷ Article 2(1) of ICESCR (n 7 above).

⁴⁸ Article 2(1) of ICESCR; Article 22 UDHR (n 3); See Emmanuel Uchenna Ohaegbulem and Samuel Chimunaya Chijoke, “On Nigeria's Budgetary Allocations to the Educational Sector(1960-2023) in View of UNESCO's Benchmarks” (2023) 11(4) *International Journal of Mathematics and Statistics Studies* 32-74, 42, <https://doi.org/10.37745/ijmss.13/vol11n1119>, and <https://ejournals.org> (Accessed 4 November 2024).

⁴⁹ Article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) See also Stanley Ibe (n 2) 197-198.

⁵⁰ Article 22 UDHR, (n 3).

⁵¹ Orago, N.W. “Limitation of Socio-Economic Rights in the 2010 Kenyan Constitution: A Proposal for the Adoption of a Proportionality Approach in the Judicial Adjudication of Socio-Economic Rights Disputes” (2013)16(5) *Potchefstroom Electronic Law Journal* 185. See also Tsegaye Regassa, “Making Legal Sense of Human Rights: The Judicial Role in Protecting Human Rights in Ethiopia” (2009) 3(2) *Mizan Law Review* 313.



The determination of level of access and right to education is thus a political decision to which the law courts, as non-political institution are not encouraged to determine.⁵² Nigeria's Court of Appeal in *Archbishop Anthony Okogie and Others v The Attorney-General of Lagos State*⁵³ considered the legality of private primary education in Lagos State. The Court per Mamman Nasir held that no court has “jurisdiction to pronounce any decision as to whether any organ of government has acted or is acting in conformity with the Fundamental Objectives and Directive Principles. With the determination of level of access and right to education categorised as a political decision, successive governments in Nigeria find it expedient to allocate far less than the minimum 26 percent budgetary allocation to education.⁵⁴

Consequently, inadequate and limited funding is the biggest bane of the university system in Nigeria.⁵⁵ This establishes the link between the financial commitments of the Government to education and access to higher education. The inadequate funding of education comes on account of the low budgetary allocations to education.⁵⁶ In 2024, N2.18 trillion was allocated to education, which represents 7.85 per cent of the total budget proposal of N27.5 trillion.⁵⁷ Nigeria's 2023 budget proposal for education was N1.79 trillion, representing 8.8 per cent of the N20.5 trillion of the total national budget proposed.⁵⁸ In 2022,

⁵² This forms the basis on which the right to education under the Directive Principles of State Policy is not a subject of judicial determination. See section 6(6)(c) and Chapter II of CFRN 1999.

⁵³ Since *Okogie v Attorney General of Lagos State* was decided, legal actions have not succeeded in holding the Government up to its minimum responsibility. (1981) 2 NCLR 350. See also Ibe (n 2) 201.

⁵⁴ *Ibid.*

⁵⁵ Peters, A, “Building Human Capital for Sustainable Development: Role of the University,” paper delivered at the University of Ibadan, 2013 Registry Discourse, Thursday 26 September 2013 26; Saint *et al* 'Higher education in Nigeria: A status report' (2003) *Higher Education Policy* 20; Michael Oseni, “Adequacy of Budgetary Allocation to Educational Institutions in Nigeria' (2012)3(1) *Pakistan Journal of Business and Economic Review* 153.

⁵⁶ *Ibid.*

⁵⁷ Nigerian Institute of Social and Economic Research, “Analysis of Approved 2024 Federal Government Budget,” <https://niser.gov.ng/v2/wp-content/upload/2024/02/2024-Federal-Budget-Analysis.pdf> (Accessed 18 January 2025).

⁵⁸ Qosim Suleiman, “2023 Budget: Buhari. Proposes More Money for Education, But Allocation Still Below UNESCO Recommendation”, *Premium Times* 11 November 2022, <https://www.premiumtimesng.com/news/564746-2023-budget-buhari-proposes-more-money-for-education-but-allocation-still-below-unesco-recommendation> (accessed 5 November 2024).



Federal Universities to increase tuition fees.⁶⁶ This introduction of payment of affordable tuition fee may as such complement government's funding to enhance carrying capacity, and better-quality-teaching and learning in the universities. However, tuition fees should not be such that will take education out of the reach of average Nigerian.

2.2.2. Establishment of Private Universities

Towards the realisation of increase in access to university education, the government issues operational licenses to private individuals and bodies to establish private universities.⁶⁷ Individuals and bodies that establish educational institutions thus direct them in line with the minimum standards, which the State lays down.⁶⁸ The private universities in Nigeria are thus established to collaborate with the Government in making university education available and accessible.⁶⁹

The Federal Government of Nigeria under President Olusegun Obasanjo issued operation licences to three private universities in 1999. The universities include Igbinedion University, Babcock University and Madonna University⁷⁰ and by February 2024, the number had risen to 147.⁷¹ Private universities have paved the way for several who would have been denied university education to have access to it.⁷² The emergence of private universities is thus a remarkable achievement.

The establishment of private universities notwithstanding, university enrolment has not increased commensurably.⁷³ Tuition fees in the private universities vary from one institution to another but they are generally high because there is no

⁶⁶ Kingsley Edinoh et al, "Implications of Fees Hike in Tertiary Institutions in Nigeria" (2023) 2(7) *Best Journal of Innovation in Science., Research and Development*, <https://www.researchgate.net/publication/372769845> (accessed 6 November 2024).

⁶⁷ Section 19A of the *Education (National Minimum Standards and Establishment of Institutional) Act of 1993*.

⁶⁸ Article 13(4) ICESCR

⁶⁹ Adedipe (n 13 above).

⁷⁰ Adedipe (n 13 above).

⁷¹ National Universities Commission (NUC) Bulletin, Vol 19 No.09 pg 23-25, 26 February, 2024 https://www.nuc.edu.ng/wp-content/uploads/2024/02/26th-February_2024-compressed..pdf (Accessed 11 January 2025).

⁷² Michael Paul Pilani et al, "Private Universities in Nigeria :Their Emergence, Proliferation, Significance and Funding" (2023) 12(11) *International Journal of Innovative Research and Development*, 34-40.

⁷³ Adelowo Adebumiti, "Why Private Varsities are Yet to Bridge Admission Gap", *The Guardian* 21 April 2022, <https://guardian.ng/features/why-private-varsities-are-yet-to-bridge-admission-gap> (accessed 3 November 2024). See also Francis O. Egbokhare, "Rescuing the Education Sector in Nigeria : The Role of Private Universities" Dominion University Matriculation Lecture 21 February 2023, <https://www.dominionuniversity.edu.ng/wp-content/uploads/2023/03/> (Accessed 19 January 2025).



subvention from Government.⁷⁴ School fees for some courses in Private universities are over N5 million per session.⁷⁵ Given the outrageous tuition fee, the prospect of the private universities enhancing the right of access to university education remains a myth.

Until 2023, public universities were cheap and affordable, and consequently absorb candidates in excess of their carrying capacities. However, due to the recent pronouncement by the Federal government of its inability to provide funds to manage public universities in Nigeria, many Federal Universities have increased their tuition fees.⁷⁶

3.0 Formal and Conventional Education

Access and the right to education is enjoyed in relation to the type of education which is put in place by a State. The conventional education or formal education requires physical access to education, prescription of a standard and quality of education, and is keen on the conditions under which education is given.⁷⁷ This is based on the assumption that if education shall accomplish the full development of the human personality, it has to meet a set standard.⁷⁸ The state makes education available, accessible, acceptable and adaptable,⁷⁹ under the right to education, and provides the learning environment through which the students can receive empowerment.

3.1. Features of the Conventional Education System

Access is created under the conventional education when a conducive physical environment for learning and interaction is put in place. Interaction at the traditional or conventional classroom setting is through the “chalk and board” or the “face-to-face” learning process.⁸⁰ Under this environment, the lecturer leads and students learn from the lectures in the classroom.⁸¹ The students can easily share their opinion with the lecturer and the lecturer can identify the strength and weaknesses of students.⁸² Communication between the lectures and students is

⁷⁴ Pilani et al (n 72) 34-40.

⁷⁵ Legit, “Top 15 Best Private Universities in Nigeria 2024-2025 and their Fees” <https://www.legit.ng/1090423>(Accessed 19 January 2025).

⁷⁶ Edinoh et al (n 66) 415-426.

⁷⁷ Art 1(2) of the UNESCO Convention against Discrimination in Education 1960.

⁷⁸ UDHR (n 3 above).

⁷⁹ Section 18(1) of Chapter II of 1999 Constitution Cap C23, LFN, 2004; article 13(2) CESC (n 5 above).

⁸⁰ Meghana Vyas, “Traditional Learning Students Insights” (2022) 13(7) Journal of Pharmaceutical Negative Results, DOI:10.47750/pnr.2022.13.S07.502, <https://www.researchgate.net/publication/373603187> (Accessed 19 January 2025).

⁸¹ Ibid.

⁸² Wasal Khan et al, “Traditional and Online Learning : Student Perception Survey” 4th International Multidisciplinary Conference of Global Prosperity through Research and Development Held at Sarhad University of Science and IT Peshawar, Pakistan <https://www.researchgate.net/publication/328723209> (Accessed 19 January 2025).



also continuous and this can go a long way to motivate students to excel in their studies.⁸³ It is observed that the learning environment most times, is not conducive because of cult activities, kidnapping, sexual harassment, students' unrest and industrial actions.⁸⁴ The criminal acts most times lead to extension of academic calendar and violate the right of access of prospective students. The State has the obligation to put in place a serene academic atmosphere, which is able to sustain a thorough academic exercise.

3.1.1. Adequate Staffing

Access is created under the conventional university system and its physical teaching environment with a prescribed ratio of teaching staff to a number of students.⁸⁵ To sustain academic standard in the university system, staff strength is expected to be in the right number and suitable academic cadre.⁸⁶ The education policy in Nigeria as such prescribes that all teaching staff in the universities must hold the Doctor of Philosophy Degree (PhD) in relevant area of specialisation. Adedipe submits that 43 percent of lecturers possess PhD degree⁸⁷ The National Universities Commission then submits that not less than 60 percent of the teaching staff however holds the prescribed degree and are thus qualified to teach.⁸⁸

The paper observes that in most cases in Nigerian universities, there is undue delay in the academic processes leading to the award of the PhD degree and the drop-out rate is equally very high. This development has to be investigated and recommendations in that regard will eventually affect access to university education positively. Majority of the universities rely heavily on part-time and visiting lecturers, they have under qualified academics and have no effective staff development programmes.⁸⁹ The brain-drain syndrome has compounded the inadequate human capital. Brain drain is the widespread migration of academic staff from the universities in the country to overseas universities or equivalent institutions where services are rewarded better.⁹⁰ The paper observes

⁸³ Ibid.

⁸⁴ See Mohammed Abubakar , “VCs Seek Secure Varsities, Ban Frivolities” *The Guardian* Tuesday 16 October 2012 19.

⁸⁵ Adedipe (n 13 above).

⁸⁶ Paul Emeka Okeke “Effect of Adequate Academic Staff -Mix on Staff Job Performance in South-Eastern Nigeria Universities” (2023) 3(2) *KIU Journal of Education* (KJED) 31-40,

⁸⁷ Adedipe (n 13 above); N.J Ogunode et al, “Problems facing Academic Staff of Nigerian Universities and the Way Forward” (2022) 4(1) *International Journal of Integrated Education* 230-241,233.

⁸⁸ See Adedipe (n 13 above)

⁸⁹ Oyekanmi (n 5) 49.

⁹⁰ Dapo Asaju, “Transformative Economy and the Japa Syndrome in Nigeria” Convocation Lecture delivered at the 2023 Convocation of Redeemer's University, Ede, on 6th September 2023.



that the state of staffing in the universities does not support admission of more students to the universities. Inadequate staffing reduces the carrying capacity and diminishes access. Given the deteriorating situation as above, students' enrolment has to align with staff strength and the state of infrastructure in order to attain quality education.

In the area of staff strength, the TETFUND's Intervention, which is a staff development programme was conceived and the focus of the programme include increasing the production of academic staff. This is desired to build capacity to accommodate the increasing students' application for university admission.⁹¹ It is however pertinent to state that reasonable number of the best products of the university secure more lucrative, non-teaching jobs in the private sector and are thus not available to join the teaching more students.

To meet the challenge of inadequate staffing, the Government increased the retirement age of academics from 65 to 70 years for those in the professorial cadre.⁹² This measure was adopted to enhance the capability of Nigerian Universities to meet a hundred percent attainment of the PhD degree. Craver however observes that the productivity of most academic at this age bracket may not be guaranteed because of health challenges, low or no motivation for research.⁹³ The above measures are thus inadequate to match the geometrical progression in application for admission to the universities.

3.1.2. Provision of Infrastructure and Facilities

The conventional university system operates in a physical environment, which requires adequate infrastructure and facilities to realise the teaching and research objects of the university. Section 1(2) of the University of Ibadan Act mandates the University thus:⁹⁴

- a. To provide such facilities for the pursuit of learning and acquisition of liberal education as are appropriate for a university of the highest standing.
- b. To make the facilities available on proper terms to such persons as are equipped to benefit from them.

⁹¹ Lawrence Oyekanmi, 'Report Exposes Rot in Public Varsities, Proposes 189 Recommendations' *The Guardian* (Thursday 15 November 2012) 47.

⁹² Adedipe (n 13 above)

⁹³ Productivity of most academic at this age bracket may not be guaranteed on account of health challenges, low or no motivation for research. See for instance, Charles B. Craver, "Implications of the Elimination of Mandatory Retirement for Professors' (1989-1990)(16) *Journal of College and University Law* 344 345.

⁹⁴ UIAct (n 17 above).



As such, every university has the mandate to provide learning equipment and infrastructure for learning.⁹⁵ Most universities have however failed in this regard and this limits the number of students that may be admitted to such universities. One of the requisite facilities is the provision of accommodation for members of a university.⁹⁶ The provision of accommodation within the campus saves precious time and costs that students and staff spend on transport system, thus increasing time that may be committed into academic activities. Universities even provide internal security for lives and properties of occupants of such accommodation. Sometimes in July 2024, a 300-level student of Adekunle Ajasin University, Akungba Akoko (AAUA) in Ondo State was shot dead by gun men in an off campus private hostel.⁹⁷ A female student of Aliko Dangote University was also found dead in her off campus apartment.⁹⁸ Further, on the need to provide decent accommodation, the students of the University of Lagos engaged in a protest over the epileptic power supply, lack of water to bath and increase in the price of drinking water.⁹⁹ Where the learning environment is not conducive as above, there is disruption in the academic calendar and access to quality education by prospective students is not realised.

One of the consequences of inadequate infrastructure is the loss of programme accreditation. The regulatory body ensures that academic institutions meet the set standard and defaulters are sanctioned as appropriate.¹⁰⁰ As a result, 17 academic programmes of the Plateau State University were not accredited for more than ten years of its establishment.¹⁰¹ In a similar vein, the National Board for Technical Education (NBTE) withheld accreditation of courses of the College of Health Technology Pankshin from 1976 for more than four decades.¹⁰²

⁹⁵ See also Section 1(3)(b) of University of Lagos (Unilag) Act, Cap U9, LFN, 2004.

⁹⁶ Inemesit Akpan-Nsoh “FG Plans to Make Hostel Accommodation Compulsory in Varsities” *The Guardian* Monday 2 November 2015 5.

⁹⁷ Oluwaseyi Shaba, “Gunmen Kill 300 Level Ondo Varsity Student” 23 July 2024 Punch, <https://punchng.com> (Accessed 19 January 2025).

⁹⁸ Uthman Salami, “Female Kano Varsity Student Found Dead in her Apartment” May 2 2024, Punch, <https://punchng.com> (Accessed 19 January 2025).

⁹⁹ “UNILAG Students Protest Against 'Epileptic' Power Supply” April 7 2016, *The Nation Newspaper* <https://thenationonline.net/unilag-students-protest-against-epileptic-power-supply/> (Accessed 19 January 2025).

¹⁰⁰ Isa Abdulsalami “Provost Laments Non-Accreditation of Courses 38 Years After School's Establishment” *The Guardian* Thursday 3 April 2014 48.

¹⁰¹ Agabus Pwanagba, “NUC Accredits 17 Academic Programmes in Plateau State University after 10 Years of Establishment” *Daily Post* 21 March 2016 <https://dailypost.ng/2016/03/21> (Accessed 6 November 2024).

¹⁰² The College was refused accreditation because it was operating on its temporary site. Isa Abdulsalami, (n 100)



It is therefore obvious that access to education is hindered where there is inadequate teaching infrastructure and the accreditation body either reduces the number of student intake or outrightly cancels such programme.

Lack of modern equipment violates students' access to quality education as they are denied the opportunity of putting to practice the theories they learnt in the university.¹⁰³ This makes the students ill equipped and unprepared for the labour market.¹⁰⁴ This leads to poor academic performances of students such that some are expelled for their inability to meet the minimum academic requirements.¹⁰⁵ Access to education and the opportunity to retain ones studentship is violated where a student loses his studentship on account of inadequate infrastructure, which he has no control over. Inadequate infrastructure robs students of the desired skills, and denies the development of the person and dignity which education should confer on students.¹⁰⁶

4.0 The ICT and Access to Education

The various efforts of the Government to improve the features of the conventional education have not yielded good result and access challenge to university education remains. The Information and Communication Technology (ICT) and its features under the e-learning education is capable of increasing access to more quality education. The Information and Communication Technology (ICT) is a set of activities facilitated by electronic means for the purpose of processing, transmitting and displaying information.¹⁰⁷ Given the fact that inadequate infrastructure limit access to university education,¹⁰⁸ under the conventional education system, with the use of the ICT, physical access to infrastructure is not essential.¹⁰⁹

¹⁰³ Saxone Akhaine, "Rectors Pledge Improved Academic Training with New Equipment" *The Guardian* Thursday 15 December 2011 47.

¹⁰⁴ Ibid.

¹⁰⁵ Victor Olugbenga Ayoko et.al, "Inadequacy of Infrastructural Facilities in Public Universities in Nigeria: Causes, Effects and Solutions" (2023) 6(3) *International Journal on Integrated Education* 36-48. While access remain inadequate, the few that manage to make university admission endure on account of inadequate infrastructure for learning and as such risk being expelled for inability to cope academically, .See also Ujunwa Atueyi, "Concerns over freshmen's inability to cope with studies" *The Guardian* 17 March 2016 41.

¹⁰⁶ See also *Article 13(1) ICESCR (n 7)*.

¹⁰⁷ UNESCO, Information and Communications Technologies.

¹⁰⁸ See also Section 1(3)(b) of University of Lagos (Unilag) Act, Cap U9, LFN, 2004.

¹⁰⁹ Stella Timotheou et al, "Impacts of Digital Technologies on Education and Factors Influencing Schools Digital Capacity and Transformation: A Literature Review" (2023) 28 *Education and Information Technologies* 6695-6726 . See NOUN <http://the.nationonlineng.net/nounvc-strikes-will-soon-go-extinct/> (Accessed 20 January 2025).



The open and distance learning, which adopts the ICT as the desired infrastructure is thus considered as a viable alternative to the conventional university education. Learning is a social experience where interaction and collaboration is crucial. As such, alternative learning process of the conventional university is found with the application of the ICT, and thus dispensing with the “face-to-face” interaction.¹¹⁰ The features of the ICT under the E-learning as they link with the carrying capacities and quality of education are thus very commendable.

4.1. Technology and the Creation of More Access

When technology is adopted, it creates a valuable learning approach with a feature of flexibility.¹¹¹ The characteristics of mobile technologies such as spontaneity, informality, context, portability, ubiquity, pervasion, and personality are supportive learning devices to learn a topic, anytime and from anywhere.¹¹² The user friendliness of the ICT infrastructure is such that it does not mandate the physical presence of the lecturer and the students in the university campus. The student has no physical lecture attendance to make nor needs to visit the structural library. In the conventional university, 75 percent lecture attendance is essential to be eligible to write an examination. With the ICT and distance learning however, interaction with human and material resources is done mainly via the internet.¹¹³ In the event that the required features of the conventional education system are not realised adequately, emphasis on learning without physical contact is a viable alternative.

Thus, some advanced countries have realised it is a futile effort seeking to have adequate universities to reach all qualified applicants.¹¹⁴ Tenebe affirms the benefits of the ICT in the learning process as he argues that a lecture room in the conventional university, which takes between 200 and 400 students takes one million students at once, when ICT infrastructure is deployed.¹¹⁵ The NOUN is a

¹¹⁰ See Jo-Anne Murray *et al.*, “Use and Perceptions of Second Life by Distance Learners: A Comparison With Other Communication Media” (2015) (30)(1)*International Journal of E-Learning and Distance Education* 2.

¹¹¹ Fawzi Fayez Ishtaiwa, *et al.*, “Faculty Members' Perceptions of the Integration, Affordances, and Challenges of Mobile Learning” (2015)(30)(2) *International Journal of E-Learning and Distance Education* 1. NOUNiLearn is a platform to realize better access to excellent quality education. The platform provides online class discussions organised by NOUN facilitators thereby creating a virtual classroom environment. See <http://www.nou.edu.ng/ilearn.htm> (Accessed January 2025).

¹¹² Ishtaiwa, *et al* n 111.

¹¹³ Vincent Tenebe, “Distance Learning Promotes Academic Freedom,” *Punch Newspapers* 28 February 2016.

¹¹⁴ Adrian Hallbeing, “The Top 4 Countries that have Developed E-Learning” E Learning Industry May 12 2021, <https://elearningindustry.com> Accessed 20 January 2025). The United States of America, China, India and South Korea with E-learning have recorded enviable access to learning.

¹¹⁵ Tenebe, (n 113). The NOUN operates an e-library by which all students have access to internet facilities, books, journals, projects, thesis and other educational materials without any complaint on adequacy of space or materials. NOUN, <https://nou.edu.ng/library/> (Accessed 20 January 2025.).



commendable example of the Open and Distance Learning (ODL) institution, which explores the use of the ICT infrastructure and it is positioned to bridge the gap in the application for admission and enrolment.¹¹⁶ It equally operates by making learning easily accessible and affordable.¹¹⁷ The use of internet and ICT bridges the gap between volume of application and enrolment and enhances the quality of university education. It is submitted that the identified features of the ICT aids in making quality university education available to more intending university students.

4.2. Staffing and Physical Infrastructure

The use of the ICT under the E-learning education allows networking, collaboration and interaction among students, facilitators, academic staff and faculty members without the barrier of time and location.¹¹⁸ Technology is applied in changing the concept of distance between learners and their instructors.¹¹⁹ The adoption of technology in distance education supports constructivist environments in which the aim is to meet the needs of the 21st Century learner who wants to stay connected with peers, to receive prompt feedback, and to work in a group setting, rather than in isolation.¹²⁰

This new technology dispenses with the physical learning environment and this reduces the need for excessive staff strength, which requirement is to be met under the conventional university system. There is little emphasis on the need to provide safe and peaceful environment for teaching and impartation of knowledge under the E-learning education just as the interaction of tutors and learners take place vide the internet.¹²¹ The students and professors' engagements now shift from a primarily oral form of communication to a written communication.¹²² Instructors use different means such as recorded lectures, animations, videos, and power point slides.¹²³ Technological platforms such as NOUNi Learn is a platform to realize better access to excellent quality education. The platform provides online class discussions organised by NOUN facilitators thereby creating a virtual classroom environment.¹²⁴ Study tools include the

¹¹⁶ NOUN, <https://nou.edu.ng/historical-background-of-noun> (Accessed 20 January 2025).

¹¹⁷ Ibid.

¹¹⁸ NOUN, <https://nou.edu.ng> (Accessed 20 January 2025).

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² Maha Telmesani, "Faculty's Perceptions of Online Education: A Qualitative Study," <<https://umanitoba.ca/faculties/education/media/Telmesani-10.pdf>>pages 11 & 13 (accessed 18 October 2024).

¹²³ Ibid.

¹²⁴ See NOUNiLearn (n 111).



smart e-book, digitized lecture video, audio materials and other tools to access assignments. “Opon-Imo” which is tablet of knowledge in which each student can preview topics ahead of class and by which each student can assess his academic programme.¹²⁵ It is for the purpose of exploring the enormous benefits of deploying the ICT, particularly in broadening access to quality education that the Government of Nigeria decided to establish an ICT university.¹²⁶ The paper submits that the deployment of the ICT and internet facilities reduces the need for physical contact of the students and teachers. It nonetheless promotes better interactions of students and tutors and this increases access to qualitative university education.

5.0 CONCLUSION AND RECOMMENDATIONS

The very wide margin between the rate of application for university admission by qualified applicants and the openings, which exist draws attention to the obligation of the Government in making education available. The fact that Nigerian Universities have not been able to meet a hundred percent attainment of the PhD degree calls for the Government to investigate the enrolment and conduct of postgraduate programmes. As such, the paper recommends that Government should take steps to identify the challenges causing low turnout of graduates in public universities in the Country with a view of proffering solutions to such.

Access to education is an aspect of the right to education has not been impressive because the prospect of gaining admission and the learning environment have not been impressive. Education should be tailored towards meeting the full development of the human personality, where the right standard is maintained. Given the right education indices, the paper recommends that the Federal Government should discontinue the act of pegging the minimum cut-off mark for admission, just as the act compromises academic standards.

The State's discretion to determine what is the available financial resources to commit to university education has not been pro-public. The fact that successive governments in Nigeria fund education far less than the UNESCO benchmark has been attributed to the fact that children and wards of people in Government and top civil servants subscribe to foreign university education. As such, the paper recommends that policies aiming at discouraging foreign education for this class of people should be conceived and implemented.

¹²⁵ See Osun State Website, “Opon Imo: How Aregbesola Laid the Foundation for Digital Education”, News January 20 2017, <https://www.osunstate.gov.ng/2017/01/opon-imo-how-aregbesola-laid-the-foundation-for-digital-education> (Accessed 21 January 2025).

¹²⁶ Tunde Ogunesan, “FG to Establish ICT University” *Nigerian Tribune* 2 November 2016 30.



Towards the discharge of the obligation of the Government, the Government gave approval for individuals and corporate bodies to establish and direct educational institutions. It is recommended that Government should give financial support to private universities based on the number of students that enroll in such universities. This will reduce the exorbitant tuition, which the private universities charge.

Provision of adequate infrastructure, equipment and staff, would be more result-oriented. In addition, Government should ensure that there is power and water supply to every university it licenses. The universities spend a chunk of revenue in providing the right amenities, all which culminate into exorbitant tuition fees. The rates payable on consumption should be highly subsidized and made affordable. Given the present inadequate provision of infrastructure in the conventional university system with a physical environment, the paper advocates that open and distance learning universities which explore the use of the ICT should be encouraged.

The TET Fund's Intervention and Presidential First Class Scholarship Programme initiative fail to retain the best brains into the academia and Government has to revisit conditions of service and remuneration of teaching staff. These have to compare with what obtain in the private sector and in foreign countries, such that can discourage brain-drain.