



**EDUCATIONAL THEORY
AND PRACTICE
ACROSS DISCIPLINES**
(PROJECTING BEYOND THE 21ST CENTURY)

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Enhancing the Quality of Education in Nigeria through a Human Rights-Based Approach

9

Akinbola B. R.

Abstract

This article articulated an overview of the concept of human rights and its linkages to education. It examines the definition, attributes and classifications of human rights, arguing that, a human right based approach to education is imperative for Nigeria in keeping up with global minimum standards and currency in a globalised world. It outlines the framework of laws on education at the international, regional (African) and national (Nigerian) levels. It notes that the right to education in Nigeria is in Chapter II of the Constitution of the Federal Republic of Nigeria (CFRN) 1999 titled: Fundamental Objectives and Directive Principles of State Policy in sections 16 and 17, meaning that the obligation of the government is at the level of objective policy of the state which may not ordinarily be enforced in the same way as the rights in sections 33-46 of the CFRN 1999, for which individuals may sue the government for violation. Since human rights laws define government obligations and mandates in educational provisions and influence national education strategies, the article examines the necessary elements and advantages of a right-based approach to education. It concludes by recommending that it is necessary for Nigeria to integrate and fully implement the rights based education approach at all levels of education in the country to make education holistic.

Introduction

Human rights criteria should, but often do not form part of national education policy decisions. Such decisions, especially where international human rights law clearly specifies

government obligations as ensuring free and compulsory education for all children or eliminating discrimination in and through education are hardly featured in legislations that regulate education. Education has been formally recognised as a human right since the adoption of the Universal Declaration of Human Rights in 1948. Human rights are those rights that belong to a person just for being a human being and no more. They are not earned by conduct or any other criteria other than being human. Human rights are rights inherent in all human beings, irrespective of their nationality, place of residence, sex, or ethnic origin, colour, religion, language, or any other status. All people are equally entitled to their human rights without discrimination.

These rights are all interrelated, interdependent and indivisible. Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law places obligations upon governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups, since human rights are defined as government obligations because they do not materialize spontaneously through the interplay of market forces or charity.

To implement rights-based education requires two things: firstly, knowledge of the global human rights standards that should inform educational strategies, and secondly, the development of necessary skills to adapt these standards to national conditions (Tomasevski 2004, 57). This article focuses majorly on the first part, which is to create knowledge of the global human rights, standards that should inform education strategies and particularly, to advocate that a human right based approach should be integrated into education. This can be by fully adopting and implementing human right into all

strata of education in Nigeria, being the international minimum standards. The article has been divided into seven sections. It also exhaustively examines the term "human right" as a concept and then outlines the legal framework that establishes the status of education as a right at the international, regional (African) and the national (Nigerian) levels.

General Overview of the Concept of Human Rights

Human rights have their foundation in the rule of law, and therefore human rights mainstreaming entails the need to understand and apply universal human rights norms. Marie-Bénédicte (2010, 2) has stated that different people hold different concepts of human rights.

This proposition might initially appear somewhat at odds with the commonly heard assertion that human rights are both universal and obvious (in the sense that, they are derived from reason), which may suggest that human rights are unambiguous and uncontroversial. However, there is in practice a lack of agreement on what human rights are. Based on an analysis of the human rights academic literature four schools of thought on human rights [are identified]. It proposes that, "natural scholars" conceive of human rights as given; "deliberative scholars" as agreed upon; "protest scholars" as fought for; and "discourse scholars" as talked about. It further proposes that these four schools act as ideal-types, which arranged around two axes, potentially cover the whole conceptual field of human rights.

Government policies consist of a range of issues which broadly encompass political, economic, social, cultural, scientific and other areas in which government chooses to intervene (Motala & Pampallis, 2001, 14). The orthodoxy is increasingly moving, however, towards the deliberative school of thought, which conceives of human rights as political values that liberal

societies *choose* to adopt. Deliberative scholars tend to reject the natural elements on which the traditional orthodoxy bases human rights. For them, human rights come into existence through societal agreement. Deliberative scholars would like to see human rights become universal, but they also recognise that this will require time. In addition, they understand that, this will happen only when and if everybody around the globe becomes convinced that human rights are the best possible legal and political standards that can rule society and therefore, should be adopted. This school invariably stresses the limits of human rights, which are regarded as fit to govern exclusively the polity and not being relevant to the whole of moral and social human life. Deliberative scholars often hold constitutional law as one of the prime ways to express the human rights values that have been agreed upon (Marie-Bénédicte, 2010, 3).

Another school of thought that defines human rights is the discourse school. Discourse scholars fear the imperialism of human rights imposition and stress the limitations of an ethic based on individualistic human rights. Nonetheless, some accept that the human rights discourse, as the prominent political ethical discourse of our time, occasionally yields positive results. They, however, do not believe in human rights and often wish superior projects of emancipation could be imagined and put into practice. It is difficult to agree totally with any of the reasoning or to dismiss any of them in absolute terms. Each opinion on what constitutes human rights possesses elements that characterise human rights, whether from a structural or historical point of view.

International human rights law places obligations upon governments to act in certain ways, or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups. These rights are inherent in mankind just by reason of being human beings and no more. These rights possess the following components:

Universality and Inalienability

The principle of universality of human rights is the cornerstone of international human rights' law. This principle, as first emphasised in the Universal Declaration on Human Rights in 1948, has been reiterated in numerous international human rights' conventions, declarations, and resolutions. Donnelly puts it thus:

If this argument is even close to correct, we ought to find a widespread active endorsement of internationally recognised human rights. Such endorsement is evident in international human rights' law, giving rise to what I will call international legal universality. The foundational international legal instrument is the Universal Declaration of Human Rights. The 1993 World Human Rights Conference, in the first operative paragraph of the Vienna Declaration and Programme of Action, asserted that, "the universal nature of these rights and freedoms are beyond question." Virtually all states accept the authority of the Universal Declaration of Human Rights. For the purposes of international relations, human right today means, roughly, the rights in the Universal Declaration. Those rights have been further elaborated in a series of widely ratified treaties. As of 6 December 2006, the six core international human rights treaties (on civil and political rights, economic, social, and cultural rights, racial discrimination, women, torture, and children) had an average of 168 parties, which represent a truly impressive 86 percent ratification rate (Donnelly, 2007).

The 1993 Vienna World Conference on Human Rights for instance, noted that, it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems. All States have ratified at least one, and 80% of States have ratified four or more, of the core human rights' treaties, reflecting consent of States which creates legal obligations for them and giving

concrete expression to universality. Human rights are inalienable, which means they should not be taken away, except in specific situations and according to due process. For example, the right to liberty may be restricted if a person is found guilty of a crime by a court of law. However, there is the debate whether international human rights are truly universal. The universality of human rights' norms is disputed by a number of governments, which often invoke cultural diversity or cultural relativism.

Interdependence and Indivisibility

All human rights are indivisible, whether they are civil and political rights, such as the right to life, equality before the law and freedom of expression; economic, social and cultural rights, such as the rights to work, social security and education, or collective rights, such as the rights to development and self-determination, are indivisible, interrelated and interdependent. The improvement of one right facilitates advancement of the others, just as the deprivation of a right adversely affects the others. Nickel James described the concepts as follows:

Indivisibility is strong interdependence or indispensable by directional support. If two items are mutually indispensable, then they are bi directionally indivisible. You cannot destroy either without destroying both. The heart and the liver are bi directionally indivisible; one cannot function without the other. Weak bidirectional supporting relations, however, do not create indivisibility. A person's two hands are mutually supportive but not indivisible, because one can function without the other. Mixed-strength supporting relations create indivisibility in one direction but not the other. One can sacrifice a hand to save a heart, but not a heart to save a hand (Nickel, 2008, 990).

Although the United Nations frequently employs the term indivisibility in relation to human rights, it is yet to define the term in any detail, regardless of indivisibility being a stranger to everyday English (Whelan, 2010, 76). It has also not explained whether indivisible is unique in meaning to interdependent and interrelated, which is used alongside indivisible in the Vienna Declaration. Accordingly, there is little consensus among commentators. Some use the word indivisible interchangeably with interdependent and interrelated, and classify the three terms as logically distinct only from the other prominent adjective in the Vienna Declaration, universal (Ferraz, Aug.3, 2008, 8). Others claim that, the three terms are mutually exclusive (Eide, 2007, 11). For instance, Nickel suggests that more rights are interdependent than indivisible, and that, the latter has stronger meaning. Moreover, the broader significance of indivisibility is disputed. Some theorists propose that it is merely rhetorical (Wilde, 1998, 138) or that it is purely an indication that both of the grand categories of rights are valid (Qazilbash, 1998, 614) or that, its purpose is simply to protect minimum human rights standards (Robinson, 1993, 632). According to another school of thought, indivisibility has more fundamental meaning, expressing a need for the full realisation of rights, and thereby the full realisation of what it is to be human.

Equality and Non-Discrimination

Non-discrimination is a cross-cutting principle in international human rights' law. The principle is present in all the major human rights' treaties and provides the central theme of some of international human rights conventions such as the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and more recently, the Convention on the Rights of Persons with Disabilities.

The principle applies to everyone in relation to all human rights and freedoms and it prohibits discrimination on the basis of a list of non-exhaustive categories such as sex, race, colour and so on. The principle of non-discrimination is complemented by the principle of equality, as stated in Article 1 of the Universal Declaration of Human Rights: "All human beings are born free and equal in dignity and rights."

The Sub-commission on the Prevention of Discrimination and Protection of Human Rights was created by the United Nations specifically to deal with questions of discrimination. Early in its first session, the Sub-commission did not attempt to agree upon a legal definition but merely indicated the considerations which should be taken into account in framing the proposed "Prevention of discrimination". It was described as the prevention of any action which denies to individuals or groups of people, the equality of treatment which they may wish. The Sub-commission held that differential treatment of such groups or of individuals was justified when it was exercised in the interests of their contentment and the welfare of the community as a whole.

The International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR) neither define the term "discrimination" nor indicate what constitutes discrimination. However, Convention on the Elimination of Racial Discrimination (CERD) Article 1 defines racial discrimination as "any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life". United Nations' Convention on the Rights of Persons with Disabilities (UNCRPD) 2006, (Article 2) defines discrimination on the basis of disability as follow:

any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes: all forms of discrimination, including denial of reasonable accommodation.

In the Convention on the Elimination of Discrimination Against Women (CEDAW) (Article 1), also defines discrimination against women as follow:

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Although these conventions deal only with cases of discrimination on specific grounds, they provide a basis for inference that the term discrimination may be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as; race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on equal footing, of all rights and freedoms. (The Human Rights Committee General Comment No. 18.)

Based on the definitions of discrimination provided in the above-mentioned conventions, it is apparent that, a universal 'composite concept of discrimination' can contain the following elements: Stipulation of a difference in treatment;

and having a certain effect; which is based on a certain prohibited ground.

Linkage between human rights and education: Government human rights obligations are based on the premise that education is a publicly good and institutionalised schooling, a public service because, education has a multiplier effect. Where the right to education is effectively guaranteed, it enhances the enjoyment of all other rights and freedoms, while when the right to education is denied, it precludes the enjoyment of many, if not all, other human rights. There is therefore, an inseparable link between human rights and education that makes education a pre-requisite to the full enjoyment of all other human rights. At the same time, government must recognise and discharge its obligation with the understanding that education is a right of its citizens and they have the power to demand it from government, especially the fulfillment of its obligations to them in education on the other part.

Legal Framework on the Status of Education as a Right

In modern times, the right to education is widely recognised on both international and national levels as a fundamental right upon which the exercise of several other rights is dependent. A number of civil, political, economic, social and cultural rights are dependent on the right to education. For example, the right to vote, to freedom of expression and to participate in cultural life are intrinsically linked to the right to education. These rights can only be meaningfully exercised once a certain minimum level of education has been achieved. (Bekink & Bekink, 2005, 126).

International legal framework: At the international level, the status of education was first formally recognised as a human right since the adoption of the Universal Declaration of Human Rights in 1948. Thereafter, it has since been affirmed in

numerous other global human rights treaties, including the United Nations Educational, Scientific and Cultural Organization (UNESCO); Convention against Discrimination in Education (1960); the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (1981). The right was also affirmed in the Child's Rights Convention (CRC) (1989) and more recently, in the Convention on the Rights of Persons with Disabilities (CRPD) (2006). These treaties establish an entitlement to free, compulsory primary education for all children; an obligation to develop secondary education, supported by measures to render it accessible to all children, as well as equitable access to higher education; and a responsibility to provide basic education for individuals who have not completed primary education. Furthermore, they affirmed that, the aim of education is to promote personal development, strengthen respect for human rights and freedoms, enable individuals to participate effectively in a free society, and promote understanding, friendship and tolerance.

As laudable as the treaties and conventions are at the global level today, ratification is an important first step that each country must take and some still have to take a further step of domesticating the laws through their legislature before they become effective within their jurisdictions. Katarina has noted that *"... it is encouraging that, the great majority of the world's nations have become signatories to many of these treaties; indeed, the Convention on the Rights of the Child has been ratified by all, but two countries"* (Tomaševski, 2004, iii).

These treaties have been accepted by the majority of countries in the world, and thus reflect global commitment in this area. However, since international human rights' law is not directly applied in many countries, the ways that these treaties are put into practice at national levels and the different

approaches used, as well as stages reached, in applying rights-based education around the world vary.

Regional legal framework: At the regional levels, this article will limit itself to the African continent. The African Charter on Human and Peoples' Rights (ACHPR) (1981) and the African Charter on the Rights and Welfare of the Child (ACRWC) (1990) have guaranteed the rights of the African child to education as a human right, just as the rights of children in other regions like the European Union is guaranteed.

National Legal Framework: Nationally, in Nigeria, the right to education is provided for in the Constitution of the Federal Republic of Nigeria (CFRN) (1999) as well as in several other national legal instruments. The constitutional jurisprudence on the right to education in Nigeria is still evolving. The Constitution of the Federal Republic of Nigeria (CFRN), 1999 is the supreme law of the land and it binds everybody including the State. Any law, policy or conduct which is inconsistent with the Constitution is invalid. Section 1(1) of the Constitution provides thus: *"This Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria."* It states in sub section 3 that; *"if any other law is in consistency with the provisions of this Constitution, this Constitution shall prevail and that other law shall to the extent of the inconsistency be void."*

In terms of rights, the CFRN 1999 recognises two sets of "rights" namely; the fundamental human rights and fundamental objectives and directive principles of state's policy. The constitution of the Federal Republic of Nigeria (CFRN) 1999 sections 13-24 deal with objective's policy, while sections 33-46 contain the fundamental rights. There is significant difference between the two set of rights as provided for in the Nigerian Constitution. While fundamental rights are inviolable, fundamental objectives and directive principles are not. The

rights provided for in Chapter II of the Constitution in the form of fundamental objectives and directive principles include: the rights to suitable and adequate shelter, suitable and adequate food, reasonable minimum living wage, old age care and pension, unemployment and sick benefits and welfare of the disabled, Sections 16 and 17 specifically provide for education, under the objective principles of state policy. This implies that, while education is a right in Nigeria, the obligation of the government is at the level of objective policy of state and may not be enforced in the same way as the rights in sections 33-46 of the CFRN 1999, for which individuals may sue the government for violation.

However, the courts by interpreting the sections in the non-justice-able part of the CFRN 1999 in conjunction with provisions of international laws to which Nigeria is a party, have been able to decide in favour of persons complaining of violations of rights in the objective policy sections. Other laws will only be mentioned. The Child's Rights Act (CRA) (2003); the Education Act (EA) (2004) and the Compulsory, Free and Universal Basic Education Act (UBE) (2004), which created the Universal Basic Education Commission (UBEC) as its implementation agency; all form part of Nigeria's legal structure for ensuring the right to education for its citizens.

National Policy: At the level of national policy, Nigeria has a National Policy on Education which was first put in place in 1977 and has undergone several revisions until there is one now dated 2004. Legislation is said to follow policy and therefore this policy has helped to direct the course of the various legislations that govern the right to education in Nigeria.

The right to education has long been recognised as encompassing, not only access to educational provision, but also the obligation to eliminate, discrimination at all levels of the educational system, to set minimum standards and to

improve quality. In addition, education is necessary for the fulfillment of any other civil, political, economic or social right.

Problems and Challenges facing Education in Nigeria

There are numerous problems that are challenging Nigeria's educational sector and impacting negatively on the quality of education and consequently, the quality of graduates that are turned out from each level of the educational sector. Some of these problems and challenges that will now be highlighted range from government policy and level of implementation, curriculum, physical structures, availability and quality of teachers, level of commitment to work of the teachers, conduciveness of the teaching and learning environment, political stability of the country, security of lives and properties and more . It is observed that access to education in Nigeria is constrained by many factors which are categorised into school related, health related, socio-economic and cultural related issues. (Afonja, 1996, 66).

School related factors include non-availability of schools, distance or location of schools from homes, high cost, inadequacies of physical facilities and inability of the curriculum to meet basic learning needs of education (Nwonwu, 2008, 138-139). Inability to benefit from basic education is also as a result of socio-economic constraints. Due to the family background of the child, he or she may be forced to be engaged in income generating activities for the family. Absence from school during farming seasons to help parents on the farm or during market days is prevalent in several part of the country (Afonja, 66-67). The challenges of the Nigerian educational system are enormous and this is acknowledged by government and other role-players in education (Idoko, 2009, 26). Unless the problems are addressed, they are capable of impacting negatively on the success rate of the Nigerian government is obligation to provide adequate and quality education as a right

to its citizens. For Nigeria to provide the right to education as a human right, there are some basic elements of a right-based approach to education which must be present. The next part of this article addresses them.

Necessary Contents and Elements of a Rights-Based Approach to Education

Governmental obligations to make education human rights based have been described under four headings as follow: *available, accessible, acceptable* and *adaptable* (Tomaševski, 2004, i).

Availability education means ensuring free and compulsory education for all children. Key requirements for this are for governments to respect parental freedom of choice under international human rights law. That primary education is to be free and compulsory as affirmed by all of the key international treaties, including the Universal Declaration of Human Rights and the Convention on the Rights of the Child. Katarina has observed that the core principle underpinning this assertion is that there is a close correlation between low levels of education and poverty, both individual and societal. However, in recognition of that for some countries constrained by a lack of funds, it is just not viable to insist on immediate and widespread free primary schools, these treaties allow for a progressive realisation of governments' commitments.

Also, there is a need for governments to strike a balance with parental freedom of choice as to how they wish their child to be educated in ensuring that free and compulsory education of good quality is available to all children. This right of the parents allows for the provision of both public- and privately-funded schools, which according to Katarina, also involves governments to address other issues, including whether to provide for home-based education, the role of religious schools, and upholding indigenous rights, which

especially, concerns language of instruction (Tomaševski, 2004, i-iv).

Adaptability: essentially, availability hinges on the fact that, education should respond and adapt to the best interests of each child. According to Katarina, another result of infusing education with a human rights perspective is that, school systems must necessarily adapt to the various needs of individual students, rather than expect children to fit in with a prescribed syllabus or manage with whatever facilities are in place. For governments and parents alike, this often involves, for example, choosing between private or public educational systems, deciding whether to allow children to be educated at home, and the sensitive issue of whether to encourage the establishment of religious schools, or else to promote all-inclusive educational policies. Then there is the question of standardization.

Accessibility: In terms of access to education, the Dakar Framework for Action emphasises the elimination of all forms of discrimination, and prioritises excluded, vulnerable, marginalised and/or disadvantaged children. Recent years have seen an increase in the kinds of discrimination outlawed by international treaties, with groups such as children with disabilities and ethnic minorities gaining closer attention. Elimination of discrimination as mandated by international human rights law is a priority under accessibility. However, discrimination is a moving target: in addition to old forms of prejudice needing greater scrutiny, such as non-citizens being denied or offered low-grade education, new issues continue to arise. For example, HIV/AIDS has emerged as a new area where special efforts must be introduced to protect sufferers from being excluded from the same level of education as the rest of their community (Tomaševski, 2004, p. iv).

Specific measures for combating discrimination are articulated in a number of international conventions, (which have been

mentioned in an earlier part of this article), and range from financial matters, such as defining budgetary allocations for education departments, to regulating educational content. For example, curricula and text books, which according to Tomaševski, (2004), have often in the past perpetuated gender and cultural stereotypes.

In terms of access related problems in Nigeria, there are deep issues of physical access, quality access and economic access. Provision of uniform access to quality basic education, presenting a big challenge to the sector in view of economic, cultural, urban-rural dichotomy, public-private schools and other disparities across the country (Taiwo, 2011, 137).

Acceptability: Building on efforts to achieve greater and more equitable access to education, the Dakar Framework for Action also highlights the need for ensuring the quality and relevance of children's learning experiences as soon as possible. International human rights treaties and legislation stop short of defining the specific content of national educational curricula. Instead, they outline the functions and goals that should orient educational systems, and include guidelines for developing indicators to assess progress towards quality education for all.

The obligation for developing indicators of quality and enforcing standards falls on the governments, with assistance available from regional and international bodies and NGOs. Acceptable standards of education are essential for achieving equality of access and elimination of discrimination in schools, as well as for establishing an environment within which every child can be offered the chance to develop to his or her own full potential.

To this end, a school syllabus and the infrastructure, to really allow for every child's greatest development, must identify at the earliest opportunity, any potential barrier. Close attention must therefore be given from the intake stage for revising the kinds of data gathered for recording statistics on child's

enrolment, and for aligning the intake with the input stage, in other words, ensuring that, the syllabus, curriculum and language of instruction, among other issues, are in harmony with the needs and abilities of the students.

Achieving an acceptable level of quality education also demands that attention be paid to the opportunities school-leavers can expect to enjoy when finishing education and entering the job market. One important aspect of this involves a close participation between education and the labour sectors, which is another example of how education must develop a balanced, mutual relationship with all other areas of society to maximize its effectiveness.

In addition, working for acceptability in education relates to a series of important provisions contained in international treaties that take in the following areas: teachers' rights, who in many countries are among the lowest-paid members of society, and whose labour rights are routinely ignored or denied; medium of instruction, which often involves striking a delicate balance between enabling a child to learn in his or her mother tongue and upholding a state's right, affirmed by international law, to determine her own national language(s) and language(s) of instruction; educational contents; and school discipline.

Furthermore, there are three elements of human rights which have been identified as necessary for a right-based education to take place, namely: access, quality and respect. UNICEF/UNESCO, (2007, p.4) contends that, human rights related to education cannot be realised unless and until all the three are addressed. They are as follows:

The right of access to education – the right of every child to education on the basis of equality of opportunity and without discrimination on any ground. To achieve this goal, education must be available for, accessible to and inclusive of all children.

The right to quality education – the right of every child to a quality education that enables him or her to fulfill his or her potential, realise opportunities for employment and develop life skills. To achieve this goal, education needs to be child-centred, relevant and embrace a broad curriculum, and be appropriately resourced and monitored.

The right to respect within the learning environment – the right of every child to respect for her or his inherent dignity and to have her or his universal human rights respected within the education system. To achieve this goal, education must be provided in a way that is consistent with human rights, including equal respect for every child, opportunities for meaningful participation, freedom from all forms of violence, and respect for language, culture and religion.

These three elements (i.e. access to education, quality education, and respect within the learning environment) each have their distinct roles in ensuring a right-based approach to education, but it is notable that they are not mutually exclusive as no single one of them will yield the best result without the others. In other words, access to education without quality will not produce a good outcome; neither can a qualitative education be achieved in an environment that lacks respect for the rights of all stakeholders in it. Teachers and learners must mutually respect each other and so must government respect the rights of both of them. The best result will only be obtained from education that is accessible both in terms of contents and the physical environment, is qualitative and takes place in an environment that respects not the rights of everyone. The right-based approach to education operates upon established principles of human rights, some of which have been extensively examined earlier, but will be highlighted in addition to others, in the next part of this article as follows:

- i. The principles that inform and sustain a rights-based approach to education: Certain principles of human

rights have been associated with a rights-based approach to human rights-based education and they are basically as earlier discussed under the overview of human rights as a concept. They are, however, briefly highlighted here as identified by UNICEF/UNESCO (2007, pp. 10-11)

- ii. **Universality and inalienability:** Human rights are universal and inalienable, the entitlement of people everywhere in the world. An individual cannot voluntarily give them up. Nor can others take them away. As stated in article 1 of the Universal Declaration of Human Rights, "All human beings are born free and equal in dignity and rights."
- iii. **Indivisibility:** Human rights are indivisible. Whether civil, cultural, economic, political or social, they are all inherent to the dignity of every person. Consequently, they all have equal status as rights and cannot be ranked in a hierarchy.
- iv. **Interdependence and interrelatedness:** The realisation of one right often depends, wholly or in part, on the realisation of others. For example, realisation of the right to health may depend on realisation of the right to information.
- v. **Equality and non-discrimination:** All individuals are equal as human beings, and by virtue of the inherent dignity of each person, are entitled to their rights without discrimination of any kind. A rights-based approach requires a particular focus on addressing discrimination and inequality. Safeguards need to be included in development instruments to protect the rights and well-being of marginalised groups. As far as possible, data need to be disaggregated, for example, by sex, religion, ethnicity, language and disability – in order to give visibility to potentially vulnerable populations.

Furthermore, all development decisions, policies and initiatives, while seeking to empower local participants and are also expressly required to guard against reinforcing power imbalances or contributing to the creation of new ones.

- vi. Participation and inclusion: Every person and all peoples are entitled to active, free and meaningful participation in, contribution to and enjoyment of civil, economic, social, cultural and political development, through which human rights and fundamental freedoms can be enjoyed.
- vii. Empowerment: Empowerment is the process by which people's capabilities to demand and use their human rights grow. They are empowered to claim (UNICEF/ UNESCO (2007, p.11) their rights rather than simply wait for policies, legislation or the provision of services. Initiatives should be focused on building the capacities of individuals and communities to hold those responsible to account. The goal is to give people the power and capabilities to change their own lives, improve their own communities and influence their own destinies.
- viii. Accountability and respect for the rule of law: A rights-based approach seeks to raise levels of accountability in the development process by identifying 'rights holders' and corresponding 'duty bearers' and to enhance the capacities of those duty bearers to meet their obligations. These include; both positive obligations to protect, promote and fulfill human rights, as well as negative obligations to abstain from rights' violations. In addition to governments, a wide range of other actors should also carry responsibilities for the realisation of human rights, including individuals, local organisations and authorities, the private sector, the media, donors, development partners and international institutions. The

international community also carries obligations to provide effective cooperation in response to the shortages of resources and capacities in developing countries. A rights-based approach requires the development of laws, administrative procedures, and practices and mechanisms to ensure the fulfillment of entitlements, as well as opportunities to address denials and violations. It also calls for the translation of universal standards into locally determined benchmarks for measuring progress and enhancing accountability.

Advantages of a Right-Based Approach to Education

There are a number of added advantages that are inherent in a right-based approach to education which the need-based approach does not offer, or does not offer as much. The advantages are economic, social, political and much more. At least six advantages according to (UNICEF/UNESCO, 2007), include the following facts:

- i. A rights-based approach can promote social cohesion, integration and stability. Human rights promote democracy and social progress. Whereas a poor quality of education resulting from access to schools which do not offer qualitative education can contribute to disaffection, a rights based approach to education, which emphasises quality, can encourage the development of school environments in which children know their views are valued. It includes a focus on respect for families and the values of the society in which they are living. It can also promote understanding of other cultures and peoples, contributing to intercultural dialogue and respect for the richness of cultural and linguistic diversity, and the right to participate in cultural life, which can serve to strengthen social cohesion.
- ii. Builds respect for peace and non-violent conflict resolution: A rights-based approach to education builds

- respect for peace and non-violent conflict resolution since a rights-based approach to education is founded on principles of peace and non-violent conflict resolution. In achieving this goal, schools and communities must create learning environments that eliminate all forms of physical, sexual or humiliating punishment by teachers and challenge all forms of bullying and aggression among students. In other words, they must promote and build a culture of non-violent conflict resolution. The lessons children learn from school-based experiences in this regard can have far reaching consequences for the wider society.
- iii. It contributes to positive social transformation: It is a rights-based approach to education that embodies human rights education and empowers children and other stakeholders as well as represents a major building block in efforts to achieve social transformation towards rights-respecting societies and social justice.
- iv. It is more cost-effective and sustainable. Treating children with dignity and respect—and building inclusive, participatory and accountable educational systems that respond directly to the expressed concerns of all stakeholders which will serve to improve educational outcomes. In too many schools, the failure to adapt to the needs of children, particularly working children, results in high levels of dropout and repeated grades. Children themselves cite violence and abuse, discriminatory attitudes, an irrelevant curriculum and poor teaching quality as major contributory factors in the inability to learn effectively and subsequent dropouts (Save the Children, 2005, pp.16-17). In addition, health issues can diminish the ability of a child to commence and continue schooling, and for all children, especially girls, an inclusive education can reduce the risk of HIV

infection (Department for International Development et al., 2003, pp. 18, 20). Thus, a rights-based approach is therefore, not only cost-effective and economically beneficial, but also more sustainable. (UNICEF/UNESCO, 2007, 13)

- v. It produces better outcomes for economic development: A rights-based approach to education can be entirely consistent with the broader agenda of governments to produce an economically viable workforce. Measures to promote universal access to education and overcome discrimination against girls, children with disabilities, working children, children in rural communities, and minority and indigenous children will serve to widen the economic base of the society, thus strengthening a country's economic capability (UNICEF/UNESCO, 2007, p.13).
- vi. It builds capacity: By focusing on capacity-building and empowerment, a rights-based approach to education harnesses and develops the capacities of governments to fulfill their obligations and of individuals to claim their rights and entitlements.

The benefits of a rights-based approach to education are important and would justify any additional cost of education, although increase in cost may not even occur at all, as human rights' principles can be built into education without any substantial financial cost. A right-based approach is to be preferred to the needs based education which is need driven and gives little regard to the human rights of stakeholders in education. In these days of globalisation, it is easier for learners to make comparison between their kind of education and those that are obtained elsewhere and decide whether what they have is good enough or not. It is equally easier for teachers to learn best practices from around the world and therefore improve their services. Digitally driven education supports a

human rights recognising and respecting education and has the potential to lead to better quality output in terms of better graduates from all levels of education.

Conclusion

National education strategies are factors of many considerations which often omit human rights, criteria that should, but often do not form part of such decisions. Education is important for the enjoyment of other human rights, hence the need for human rights mainstreaming in education. This article has articulated a general overview of the concept of human rights and their linkage to education. This is because government human rights obligations are based on the premise that education is a public good, school as a public service, while as education has a multiplier effect of making other human rights accessible. Therefore, the article examined human right as a concept, the legal framework on education as a right, and discussed some problems and challenges facing education in Nigeria including school related, health related, socio-economic and cultural related issues.

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