



Education Perspectives of Human Rights Based Approach to Development: Action Points for Duty Bearers and Rights' Holders

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Abstract. Although human rights based approach (HRBA) to development was adopted almost two decades ago by the signatory nations of the UN, it has become evident that many member nations are still struggling to accept the underlining concept of accountability, especially in the context of education. Whereas the approach is intended to be a fundamental policy change from the needs based approaches to a more methodological and analytical one capable of serving the development and learning needs of all children, the practice of education as far as cursory observations and research evidence can show, would suggest that human rights based approach is not within the immediate focus in the educational scheme of things in some nations. This paper discusses human rights based approach (HRBA) to development in educational perspectives with a view to highlighting the action points for its effective implementation in Nigeria. Drawing theoretical support from the Jean Jacques Rousseau's Social Contract Theory and *O'Dwyer and Unerman's* Downward Accountability Theory, it discusses HRBA from the development principles and perspectives to show the thread that connects education to development. It underlines the priority of HRBA in Education for All (EFA) and identifies some action points for effective implementation of the human rights based approach to education in Nigeria. The paper rounds off with a conclusion and some recommendations based on the points emanating from the paper.

Keywords: Human Rights Based Approach, Rights Holders, Duty Holders, Accountability

1. Introduction

In theory, the United Nations' Human Rights Based Approach (HRBA) suggests a fundamental global policy and programmatic shift from needs-based approaches which have been undermined by the often insensitive stand of duty holders; however, the reality of problems confronting the implementation of Rights-Based approach to education in some of West African countries, seems to suggest that the UN recommended approach is making far less impact than envisaged, especially in some parts of Sub-Saharan Africa where there is an escalation of issues of child abuse, declining school standards, social and educational inequity, school absence, school dropout syndrome and attendant social vices, to mention but a few.

The concern here is that with the relatively low awareness and inadequate knowledge on the part of the rights holders and the duty holders, the principles of Human Rights Based Approach cannot be effectively applied education in our educational programming and planning processes. This paper seeks to draw attention to the perspectives of Human Rights Based Approach with a view to identifying a few action points for its effective implementation in Nigeria. The paper is discussed under the following sub-themes:

- The Background
- Literature Review
- Theoretical Perspectives
- The Problem
- Implementing Human Rights Based Approach: Action Points
- Conclusion
- Recommendations

1.1 The Background

Since the Universal Declaration of Human Rights was adopted in 1948, several international and regional treaties and soft laws including, declarations and frameworks for action have recognised education as a fundamental human right of a child. At the World Summit for Children held in 1990, inspired by the Jomtien Declaration, a commitment was made “to increase significantly educational opportunities for over 100 million children and nearly 1 billion adults, two thirds of them girls and women who at present have no access to basic education and literacy.” Articles 28 and 29 of the Convention on the Rights of the Child (CRC) declare the right of every child to education and the development of the child’s personality, talents and mental and physical abilities to their fullest potential (Apanpa, 2002). The Jomtien Declaration and Framework for Action gave international presence, attention and approval to early childhood care and development, and to “initial education” more than ever before. At Jomtien, expectations were raised in relation to the well-being of young children; enrolments; conditions favouring improvement in ECCD programmes; and shifts in the type and quality of programme being provided (*World declaration on education for all*, 1990).

Further, as part of its Programme for Reform launched in 1997, the United Nations (UN) advocated that all entities of its system mainstream human rights into their activities and programmes. This paved the way for an inter-agency process of negotiation the outcome of which was the adoption of a United Nations’ Statement of Common Understanding accepted by the UN Development Group. The UN Statement of Common Understanding on human rights based approach (HRBA) presents a conceptual, analytical and methodological framework for identifying, planning, designing and monitoring development activities based on international human rights standards (UNDP, 2003). Essentially, rights-based approach tries to integrate the norms, standards and principles of the international human rights system into the plans, strategies, policies and the processes of development programming (UNDP, 2003). This methodological framework aims at creating greater awareness among governments and other relevant institutions of their obligations to fulfil, respect and protect human rights and to support and empower individuals and communities to claim their rights.

As part of efforts to give clarifications to the notion of rights as it applies to education at all levels, UNICEF and UNESCO developed the EFA (2007) rights-based approach to education framework: *A Human Rights-Based Approach to Education*. The

vision of the HRBA is presented under the following major themes:

- Human rights and education
- A rights-based conceptual framework for education
- State obligations and government responsibilities
- The role of other duty bearers

Under each theme, the UNESCO’s document identifies a range of focus areas and included detailed framework of strategies and actions necessary to translate human rights into legislation, policies, and programmes for the achievement of EFA goals. This document is intended to serve as an essential resource for the United Nations and bilateral agencies, governments, ministries, civil society organizations, etc., in the development of education policies and programmes (UNICEF/UNESCO, 2007). Those obligations derive from the right to education; they are so categorised as to make education available, accessible, acceptable and adaptable (UNESCO, 2007). The principles that inform a human rights-based approach include the following:

Universality and inalienability: Human rights are both universal and inalienable, the entitlement of all people everywhere in the world. They cannot be voluntarily given up by an individual, nor can be taken away by others.

Indivisibility: Human rights are indivisible, regardless of whether they are civil, cultural, economic, social or political. They all have equal status as rights; no one right is more important than the other.

Interdependence and interrelatedness: The realization of one right is dependent, wholly or in part, on the realization of others. For example, realization of the right to education may depend on realization of the right to health.

Equality and non-discrimination: As human beings, all individuals are equal and by virtue of the inherent dignity of each person, all are entitled to their rights without discrimination of any kind.

Participation and inclusion: Every person and all peoples are entitled to freely, actively and meaningfully participate in, contribute to, and enjoy civil, economic, social, cultural and political development, through which human rights and fundamental freedom can be enjoyed.

Empowerment: Empowerment refers to the process by which people’s capabilities to demand and use their human rights grow. People are empowered in this regard to claim their rights and not simply wait for policies, legislation or the provision of services.

Accountability and respect for the rule of law: A rights-based approach seeks to raise accountability levels by identifying ‘rights holders’ and corresponding ‘duty bearers’ in the development process. It also seeks to enhance the capacities of those duty bearers to meet both positive obligations to protect, promote and fulfil human rights, as well as negative obligations to abstain from rights violations.

As noted by UNDP (2003), there is no single, universally agreed approach among the UN agencies on the core elements of a human rights-based approach. Nevertheless, the Statement of Common Understanding agrees that:

All development cooperation programmes, policies and technical assistance should advance the realisation of human rights as declared in international human rights instruments.

Human rights standards and principles derived from these instruments should guide all activities in all development sectors and in all phases of the programming process.

The development activities should contribute to the building of capacities of ‘duty-bearers’ to meet their human rights obligations and to the strengthening of the capacities of ‘rights-holders’ to claim their rights (UNDP, 2003).

2. A Human Rights Based Approach: Education Perspectives

Toward achieving the ideals of Education for All (EFA), a vision originally expressed at the 1990 World Conference held at Jomtien, Thailand, the World Education Forum at Dakar in 2000 reaffirmed the importance of ECCE in reaching basic education goals, as did the UN Special Session on Children in 2002. At the Dakar World Education Forum (2000) Dakar Framework for Action identified specific Education for All (EFA) goals as follows:

- Expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children by providing free and compulsory education for all;
- Promoting learning and life skills for young people and adults;
- Increasing adult literacy by 50 percent, especially women;
- Achieving gender parity by 2005; and
- Improving all aspects of the quality of education, and ensuring excellence for all, so that recognized and measurable learning outcomes are achieved, especially in literacy, numeracy and essential life skills.

Situating human rights based approach within education context, UNESCO Bangkok in 2004 (in UNESCO, 2007), proposed that the right to education involves four key actors: the government (and its institutions) as a provider of public education and duty bearer; the child as the holder of the right to education, whose duty is to comply with compulsory requirements; and the parents as manager of this child’s education, whose duty is to keep the child’s best interests as guiding principle; and the teachers, as both rights-holders and duty-bearers. The individual has a right to challenge the state and, as ‘rights-holders,’ children, parents and teachers are entitled to demand that the state meets its obligations to respect, protect and fulfill the rights related to education.

Within the context of a human rights based approach, all children should enjoy a safe and nurturing childhood in which they can develop and grow to their full potential free from violence, neglect and exploitation (Ige, 2017; Thomas, 2019). It is concerned with providing appropriate responses to a broad spectrum of learning needs in formal and non-formal educational settings. Children should have the right to adequate health care, to learn and to play in formal and non-formal settings. The HRBA approach envisions that education holistic, inclusive, encompassing access to quality education based on human rights values and principles. Adequate provisions would be made for pedagogy, infrastructure, teaching cadre, materials, equipment and environment, geared to harnessing each individual’s talents and potentials so they can improve their lives and transform societies.

3. Literature Review

Evidence from extant literature seems to suggest that over the last two decades, human rights-based approach (HRBA) has become increasingly evident in the activities of most international development agencies, even though some of these organisations struggle to accept accountability for their negative impact on the fulfilment of rights globally (Nyamu-Musembi & Cornwall, 2002; Russel, 2009). The vagaries of its definition and application in different contexts notwithstanding, human rights-based approaches are mostly based on such core principles as: universality and inalienability; indivisibility and interdependence, equality and non-discrimination; participation and inclusion; and, accountability (Theis, 2004; UNICEF 2007; Russell, 2009). According to UNICEF (2007), the universality and inalienability of human rights implies that each person has rights that can neither be voluntarily given

up nor taken away. UNICEF explains indivisibility as equal status of all rights while interdependence denotes the connectedness of all rights: the realization, or otherwise, of one right depends wholly or partially on the realization of another. These principles which emphasise equality and inter-connectedness clearly establish the communal and shared nature of rights (Russel, 2009).

The principle of accountability, according to Mokiber (2001) as cited by Russell (2009), requires specific performance measures: a duty holder owing performance, a rights holder owed performance and mechanisms for redress. Participation, as a HRBA principle, has the unique role of being both a right and a core principle which underpins the process by which other rights are fulfilled. This is provided for by Article 27 of the Universal Declaration of Human Rights (UDHR) and Article 25 of the International Covenant on Civil and Political Rights which both entitle citizens to participate in public affairs and decision-making processes (UNHCR, 1996 as cited in Russell, 2009).

A rights-based framework upholds these principles and enables people to change the way they see themselves in relation to government and the formal power structure; it redefines “problems” as “violations” which should neither be inevitable nor tolerable (Oxfam America 2001, as cited by Russel, 2009). Within the HRBA framework, rights holders are entitled to seek redress when violations occur and duty-holders are required to explain why violations happen and also act to prevent recurrence. *Rights holders* in this context are those who can make claims on others or institutions for the ‘fulfilment’ of their rights while *duty holders* or *duty bearers* are those with a duty to respect (or refrain from actively depriving), duty to protect (and not allow third parties to deprive others of their rights), and the duty to fulfil (or create systems and infrastructure to guarantee rights).

The rights-based approach holds a greater potential of helping to build sustainable structures and capacities required to support equitable human development. This, perhaps, justifies the HRBA’s emphasis on the development of the capacities of duty-holders and rights holders, as well as local ownership of development processes, use of community resources, capacity building and sustainability (Theis, 2004). It is also in line with the United Nations (UN) Articles 6, 18 and 21 provisions in the Convention on the Rights of the Child (1989) that mandates the signatory states to provide Early Childhood Development (ECD) services for children (UNCRC,

1989). All these provisions clearly emphasise that each individual child has a right to be able to develop his or her potentiality to the full (Shreshta, 2006).

Nevertheless, despite the articulation of HRBA principles, the literature is replete with evidence that suggest the practice of education in some parts of Africa does not conform to a human rights based approach education. A study by Wardle (2007) and another by UNICEF (2016) found that issues of child abuse, social exclusion, educational and social inequity, school absence, school drop-out syndrome and attendant social vices, among others are commonplace experiences in our society. UNICEF (2016) report indicated that six (6) out of ten (10) children in Nigeria experience emotional, physical or sexual abuse before the age of eighteen. Both UNICEF and UNESCO reported that 10.5 million children are out of school and 30% who attend, drop out even before they complete primary school (UNESCO, 2016; UNICEF, 2016).

From the literature review, it is clear that the United Nations’ Human Rights Based Approach as a fundamental global policy and programmatic shift from needs-based approaches is more comprehensive in paper than evident in practice, especially in the light of the reality of problems undermining its effective implementation in some of the signatory nations.

4. Theoretical Perspectives

Some interesting perspectives of Human Rights Based Approach (HRBA) can be seen from a number of relevant theories among which are the Social Contract Theory and Downward accountability Theory. Let us begin with the Social Contract Theory, one of the protagonists of which is Jean-Jacques Rousseau (1762). The Social Contract Theory essentially addresses the questions relating to the origin of society and the legitimacy of the authority of the state over the individual. *According to The essential Rousseau: The social contract, Discourse on the origin of inequality, Discourse on the arts and sciences, The creed of a Savoyard priest, published in 1974*, the social contract approach essentially holds that law and political order are not natural; instead, they are human creations. By inference, therefore, both the social contract and the political order it creates, are purely the means to an end which benefit all the individuals involved. The social contract can be legitimate only where and to the extent that all individuals fulfill their part of the agreement. Social Contract Theory posits that individuals have consented to surrender some of their

freedoms and submit to the authority of the ruler (or to the decision of a majority), either explicitly or tacitly, in exchange for protection of their remaining rights (Rousseau, 1974). National constitutions which provide rules explaining and protecting individual rights are typical examples of social contracts. Ideally, these individual rights are inherent, not granted by authority. Human rights are recognized by all people as universal and fundamental.

Another theoretical perspective relevant to our discourse on human rights based approach to development is the Downward Accountability Theory. Made popular by *O'Dwyer and Unerman in 2010*, Downward Accountability Theory states what the human rights are, who deserves the rights and what actors are responsible for ensuring that these rights are secured. Generally, in development there is a focus on the responsibility of actors; therefore, the downward accountability theory creates a power dynamic in aid of development (*O'Dwyer and Unerman, 2010*). Drawing support from the downward accountability theory, development organizations mostly focus on downward accountability to ensure the intended beneficiaries are being allowed their rights.

While the Social contract theory focuses on the fact that there is indeed a contractual relationship between the principal actors, the downward accountability theory points to the need to investigate the extent to which the elements involved in this contract are fulfilling their roles. From the two theoretical perspectives, the individual is empowered with rights to challenge the state, and as 'rights-holders,' children, parents and teachers are entitled to demand that the state meets its obligations to respect, protect and fulfill the rights related to education.

The relevance of both theories in this context study is inherent in the standpoint of the Human Rights Based Approach to Education, which expects that the individual is empowered with rights to challenge the state, and as 'rights-holders, the three principal actors in the right based approach, namely the children, parents and teachers are entitled to demand that the state; the fourth principal actor meets its obligations to respect, protect and fulfill the rights related to education.

5. The Problem

Clearly, the landmark legal and political commitments to human rights based approach, as well as the supporting theoretical perspectives, all recognize that children are born with the right to have

their learning needs met and their holistic development fostered. It would be expected that these commitments would gravitate member nations to take positive actions towards ensuring full implementation of its ideals across all levels, starting with the early childhood level.

Sadly, these rights are still far from the reality for many children in several nations across the globe (UNICEF, 2007; Ige, 2017). cursory observations suggest that the practice of education in some parts of Africa does not align with a human rights based approach education (Thomas, 2019). Available research shows that issues of child abuse, social exclusion, educational and social inequity, school absence, school drop-out syndrome and attendant social vices, among others are commonplace experiences in our society (Wardle, 2007; UNICEF 2016; Thomas, 2019).

By now, it would be expected that all signatory states have been applying a rights-based approach to education in their programming and planning processes. It is therefore a matter of serious concern that despite the challenges confronting the implementation of rights-based approach to education in some parts of the world, there appears to be little or no evidence of recognition of the accountability issues and the implications it holds rights holders, duty bearers, and the progress of the society.

6. Implementing Human Rights Based Approach: Action Points for Duty Holders and Rights' Holders

The challenges are enormous but not insurmountable. Nevertheless, we cannot solve the problems by merely wishing them away. The situation in Nigeria, as in some other parts of the world requires not only a fundamental policy shift but also a strong commitment to a successful implementation of a comprehensive human rights-based approach to education that will adequately meet the developmental and needs of all children, especially those who are vulnerable, and marginalized and excluded across the globe (Ajuwon, 2008; Ige, et al, 2010). The HRBA shift is directional change from needs-based or service-delivery which approaches have over the years failed to substantially achieve the Education for All goals. These previous approaches have been limiting in that they are often undertaken by governments (or authorities) who may sometimes not be sensitive to the needs of the poor and the vulnerable. The thinking here is that an approach that combines human rights, development and activism can be more effective than any single approach. It is believed that a rights-based approach has more

potential both to foster and to facilitate the attainment of the goals of governments, parents and children because it is inclusive and provides a common language for partnership.

A central principle of a rights-based approach focuses on raising the levels of accountability and transparency by identifying the 'rights-holders' and the corresponding 'duty-bearers.' This should contribute to the enhancement of the capacities of 'duty-bearers' to meet their obligations. Principal among the duty bearers are the teachers without which the UN vision of the HRBA may not be realised. Teachers feature prominently amongst the key guardians not only of education but also schooling systems. They are the driving force for educational improvement and development, particularly at a time when the education system faces so many challenges and conflicting pressures. It then goes without saying that there is an impelling need to focus on and effectively increase the level of teachers' awareness and understanding of the rights-based approach to education and its application to education policy and practice. Teachers are the key players in the educational development of any nation.

A genuine collective desire to implement the HRBA in an ever dynamically challenging educational context will demand for constant innovation that is driven only by a professionalism based on critical and effective self-reflection, professional autonomy and respect for the role. Teachers translate policies into actions through their activities. The role of teachers will need to undergo a constant redefinition; therefore, teachers will need effective pre-service training, continuing opportunities for skill upgrading through professional development, increased professional status, and career opportunities, to be able to adequately adjust and adapt to their key roles as duty bearers and rights holders in that regard.

7. Conclusion

A human rights-based approach is a shift from the traditional needs-based approaches in that it tries to integrate the norms, standards and principles of the international human rights system into the plans, strategies, policies and the processes of development programming (UN, 2003). By signing the relevant international conventions and treaties, the state (government) has a legal obligation to provide, promote and protect the right to education. The successful implementation of the HRBA requires a fundamental policy shift and a strong commitment to its effective implementation on the part of the government as duty holders. It also demands a

commitment to the redefinition of the role of teachers through effective pre-service training and continuing opportunities for skill upgrading through professional development. Therefore, it is incumbent upon any signatory nation to resolve to create an enabling environment for the child to thrive and develop to its fullest potential in line with the national goals and aspirations.

8. Recommendations

In the light of the issues emanating from the implementation of Human Rights Based Approach, the following recommendations are offered:

- Arising from the need to enhance the capacities of 'rights holders' to demand their rights and 'duty-bearers' to meet their obligations, concerted efforts are required to foster greater awareness and understanding of the HRBA and to raise the levels of accountability and transparency of the 'rights-holders' and the corresponding 'duty-bearers.'
- Again, the school curricula should be further enriched to helping our children recognise that they are born with the right to have their learning needs met and their holistic development fostered.
- In as much as the HRBA approach envisions that education should be holistic, inclusive, and based on human rights values and principles, efforts should be made by relevant agencies to provide adequate provisions for schools' infrastructure, materials, equipment and environment, geared to harnessing each individual's talents and potentials.
- As proponents of societal growth through the education of young people whose roles are constantly undergoing a redefinition, teachers will need effective pre-service training, continuing opportunities for skill upgrading through professional development, and increased professional status, if they are to adequately adjust and adapt to their key roles as both 'rights holders' and 'duty holders' in the context of human rights based approach to education.

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