

# Human Rights and Quality Education in Nigerian Primary Schools

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**Abstract** - *The main principal aim of this paper is to examine the fundamental child rights and quality of education in Nigeria Education which has proved to be greatest investment for economic, social, political and cultural development. Consequently, "The Nigerian 1999 Constitution and the National Policy on Education emphasizes the significance of child rights and the quality of education". In most societies, rules and norms are established to regulate the behaviour of the citizens. These norms and rules are documented to form the mosaic of good behaviour. The paper begins with the concept, background of child right and the right to and access education. Paper also examines challenges, cases of violations of child rights, sample application for leave and enforcement procedure. Finally, strategies for assuring child rights and quality education are examined.*

**Keywords:** *Human Rights, Quality Education, Discrimination, Primary Schools*

## INTRODUCTION

Right is not easy to define and there is no single definition of this concept that is universally accepted, especially, as used by jurists. To some, rights is seen as "a kind of claim", or interest or benefit recognized by law", or being prophecies or expectations" or essentially powers" or essentially protected choices or trumps over arguments that something is in the public interest of a community. Awoyemi (2005) viewed rights as those needs which are inherent (inborn) to the nature. Other authorities (Amoah, 2006; Bluwery 2002; Bharat, 2002) conceptualized rights as "opportunity created by law for the individual to act or to enjoy certain benefits from the state, or the right that every man, woman and child has by birthright to live a dignified life that is free of poverty, illiteracy, cultural and political repression". The array of concepts is to show that right is straightforward and uncontroversial. Amoah and Greenbaum 2005; Bharat 2002 view that child rights are not the preserve

of any group of persons: rather, they are to be given and enjoy by every individual irrespective of his or her colour, race, religion, gender, creed or nationality. Therefore, Child rights are inalienable freedoms bestowed on human beings by the creator of the universe which must be protected by the state. Rights are universal, inter dependence and indivisible.

## Background of Child Rights

Child right is dated back to "The Geneva declaration of the Rights of the Child, adopted by the League of Nations in 1924". The unprecedented violation of child right immediately after the Second World War led to the global awareness, recognition and protection of individual human rights. The initial effort to manage and defend the child rights of all race and origin has the "Universal Declaration of Child Rights (UDHR)" passed in 1948 by the United Nations. In 1957, the British Government Commission propounded law for the protection of Minorities. Subsequently, since the adoption of the UDHR, a significant number of international legal instruments have been put in place to protect and promote child rights. These include, according to UNDP (2001) "The International Covenant on Civil and Political Rights; The International Covenant on Economic, Social and Cultural Rights (ICESCR); General Assembly Resolution 22005 (xxi) of 16<sup>th</sup> Dec., 1966; The Covenant on the Elimination of all forms of Discrimination Against Women (CEDAW); Convention Against Torture and other Cruel, Inhuman of Degrating Treatment or Punishment (1987); and General Assembly Resolution 22005 (xxi) of 16 Dec., 1966" (GDRC 1924; Michael 2007; UNDP 2001).

Globally, countries ensure the protection of human rights by making laws to guarantee them. In Nigeria, ethnic tensions during the pre-independent era, the Colonial Government enacted the protection of Minorities into the country. The provisions were subsequently included in the 1960 Constitution and retained in successive versions. In keeping with the "Universal Declaration of Child Rights", the people's

right was enshrined in the Nigeria 1999 Constitution. The Chapter IV of the 1999 Constitution deals with this fundamental rights. These rights are contained in Section 33-445. The Section 46 of the Constitution "entrenches special jurisdiction of High Court and Legal Aid" Federal Republic of Nigeria (1999). These rights in Chapter 4 (33-45) reveals; "right to life, right to dignity of human person, right to personal liberty, right to fair hearing, right to private and family life, right to freedom of thought, conscience and religion, right to freedom of expression and the press, right to peaceful assembly and association, right to freedom of movement, right to freedom from discrimination, right to acquire and own immovable property anywhere in Nigeria, compulsory acquisition of property, restriction on and derogation from fundamental rights" Federal Republic of Nigeria (1999).

These provisions applicable to every "individuals" or "persons", protect both Nigeria citizens and aliens and could give rise to causes of action against the state, government agencies or private individuals.

Appiah (2005) gives characteristics of child rights as fundamental, universal, inalienable and indivisible. Furthermore, they categorize human rights as cultural, religious. economic, civil, social and political rights.

Lewis and Ige (1999) also classified rights as:-

### **Social Rights**

It is the right to education, environmental right and right to the uppermost achievable standards of physically and mental condition.

### **Civil Rights**

Right to life

- a. Right to free will of thinking, principles, belief and appearance.
- b. Right to necessary measures of protection (without discrimination)

### **Economic Rights**

Right to freely dispose of natural wealth and resources

- a. Right to open selection of profession
- b. Right to the same pay for equivalent work done
- c. Right joining and forming unions
- d. Right to community safety
- e. Right to proper and satisfactory standard of livelihood and income

### **Political Rights**

Rights to be involved in political issue

- a. Right of all citizens to partake in public affairs
- b. Right to take part in an election
- c. Right to have equality access to public services

- d. Right to fairness and equal security from the law of the country

### **Cultural Rights**

Rights to take part in one's cultural norms and belief. It includes

- a. Right to partake in cultural life
- b. Right to take pleasure in technical discoveries
- c. Right to liberty of scientific discoveries
- d. Right to enjoy the benefit of one's research and creative activities

Child Right Watch (2004) identified the main theories of Human Right as state of natural theory, social contract theories, intuitionist theories' and duty based theory. Therefore, human right education is view as the process of developing in the individuals the right attitudes of building the universal background of child rights through the imparting of knowledge and skills. Amoah (2006) also identify "human rights education as conscious effort, both through specific content as well as process to develop in people an awareness of their responsibilities, to sensitize them to the rights of others and earnings responsible action".

### **The Right To, In and Through Education**

The principal outcome of human rights movement is the gradual changing focus of the child as a subject of law. The implication is that human beings are now increasingly seeing themselves as bearers of rights and the legal protection of rights covers five elements:

- To have rights,
- To know your rights,
- To be able to exercise your rights,
- To advocate your rights.
- To concern Rights to Convention

Among these five interrelated elements, it seems clear that to know your rights is a key one. One could argue that human rights conventions rely on education and communication. Education is acknowledged to be crucial for all children, and in many countries, children do use significant part of their time at school. The education we mean here is not the one restricted to schooling, but the one that enables the continuous improvement of human capabilities as an individual and as a member of the public.

By ratifying the Convention of the Rights of Child (CRC), three important interrelated responsibilities are imposed on the educational system of the State. These are "The right TO education; The right IN education, and The right THROUGH education". Mensa & Agu, 2002; Amoah, 2006; Awoyemi 2005 also identify

these three key tasks as the imperatives of children's right and education.

### **The Right to Education**

The individual right to education has long been recognized as the universal fundamental right in various region of the world legal instruments. At the international level, for example most of the human right to education was listed in all the major texts adopted through the United Nations: "The Universal Declaration of Human Right of 10 December 1948; The International Covenant on Economic, Social and Cultural Rights (ICESCR); and The Convention of the Rights of child (CRC)" Wallace, (1997). According to UNDP (2001); UNESCO (2003)". Articles 26, 13, and 28/29/30 of the "Universal Declaration of Child Rights, ICESCR and CRC" respectively stipulate that: (i) education shall be free, at least in the basic and fundamental level. (ii) Education shall be developed to the full understanding of the child personality and intensifying the respect for individual rights and freedoms.

At the regional level; Article 12 of the "American Declaration of the Rights and Duties of Man (1948); Article 2 of the first additional Protocol of the European Convention for the Protection of Child Rights and Fundamental Freedoms (1952); and Article 17.1 of the African Charter on Child and People's Rights (1981)" say that no human shall be deprived of the right and willingness to education.

The right to education is enshrined in many other national legislation. For example, Article 25, (1) of the Constitution of the Republic of Nigeria (1982) states that: "All persons shall have the right to equal educational opportunities and facilities and with a view to achieving the full realization of that right (a) basic education shall be free, compulsory and available to all (b) secondary education in its different form shall be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education (c) higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular, by the progressive introduction of free education" (Federal Republic of Nigeria, 1999:27). Furthermore, Sections 6(2) and 8(1) of Children's Act (1998) on rights state that: (i) "every child has the right to life, dignity, respect, leisure, liberty, health, education and shelter from his parents; (ii) no person shall deprive a child access to education, immunization, adequate diet, clothing, shelter,

medical attention or any other thing required for his development" respectively.

### **The Right IN Education**

The right IN education evokes a whole lot of human principles. The key issue here is how adults should interact with children in school. It has been argued that children do not and should not lose their rights as person because they are in school (Cottrijse 2000). There are very few precedents in other treaties relating directly to this right IN education, although other human rights instruments have formulated provisions preventing undignified and ruthless treatment. Article 7 of the "International Convention on Civil and Political Rights", which states that no human shall be subjected to suffering and torture or to brutal inhuman treatment or penalty, captures some aspects of the principles, especially the principle of protection from abuse and exploitation. The CRC principle provides basic interaction between practitioners, such as teachers, legislature of the state, and their child clients. The principles includes: (i) principle of regarding children as person; (ii) principle of respecting the views of children; (iii) principle of children first; (iv) principle of protection from abuse; (v) principle of non-discriminations.

### **Children as Persons**

A major aspect of the philosophy behind the CRC, is that children too are persons. As Child beings, they have the same inherent value as grown-ups. The Conventions makes it clear that the way we interact with children should be protected through value for the dignity of children as members of the human community. This is a clear recognition of children as subject of rights.

### **Respecting the views of children**

The Convention recognizes that rights are not just provided for but must include the participation of those who are connected. Children as right holders, do have an active responsibility to play during the enjoyment of their rights and in helping to define how they are to be fulfilled. Article 12.2 stipules that " to execute the right of free will of opinion and to liberty of expression, the child shall be provided the chance to be heard in any legal and governmental proceedings disturbing the child. It recognizes that children's opinions are important and their voices must be heard in discussions concerning them.

### **Children First**

The Convention agreed that children are at liberty to "special care and assistance" including "standard of livelihood enough for the child's physical, mental, and spiritual and social development"(Article 27, section 1). Implication for the right IN education is that teachers and school managers should put children first, when locating the resources available in the school (in term of time, books, space, food) no matter how small or large those resources are.

### **Protection from Abuse and Exploitation**

The convention stipulates that the state and its origin, such as the school "bear special duty to refrain from subjecting children to harm". Article 3 (Section 3) states that "the state is obligated to establish and enforced standards of care". Consequently, the state must make sure that "school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention" (Article 28, section 2). Children should also be protected from exploitation in our daily dealings with them. The Convention requires teachers and other significant adults to guard children from financial (Article 32), sexual (Article 34), and all forms of mistreatment damaging to any aspect of the child's welfare (Article 36). Furthermore, the Convention requites that whatever, there is harm to children, that "all appropriate measures to promote physical and psychological recovery and social re-integration of the victims are taken" (Article 39).

### **Non Discrimination**

Another general principal of the Convention is that all children should enjoy their rights, and that no child should suffer discrimination. Article 2 states: "State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's, race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status". The message is about equality of rights. Girls ought to be given the equal opportunities as boys. Children with disabilities must be given the same opportunity to live a decent lives like others. Key issue for education is that irrespective of the differences, children can learn and should be taught to experience learning.

### **The Right THROUGH Education**

The right THROUGH education is generally referred to as "Human Rights Education (HRE)".

HRE/Children's Rights Education (CRE) is recognized as a universal basic right in various global, regional and national legal instrument. The main argument here is that familiarity by all and sundry with human rights is the best shield against violations. Consequently, the importance of HRE has been recognized in diverse human rights instruments. "The Universal Declaration of Child Rights (1948)" clearly indicates that education have to aim at encouraging respect for human rights, the preamble of the declaration stated "that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms" Universal Declaration of Child Rights (1948). Furthermore, Article 26(2) of the Declaration says "Education shall be directed to the full development of the Child personality and to the strengthening of respect for Child rights and fundamental freedoms".

The UN Convention on the Rights of the Child (1989) reconfirms this right THROUGH education by its Article 29 (1, b, d and e); 17: 42 and 44 (6). Article 29 formulates the principal objective of education; Article 42, oblige States parties to ensure CRC is widely known to adults and children by proper and active mean. Article 44 (6) need States Parties to ensure their periodical information is widely accessible to the public in their individual countries. Turning back again to Article 29, agree with the observation of Hodgkin and Newell, that "it reflects a consensus of world opinion about the fundamental purposes of education, which are to develop children's full potential, to prepare children for a responsible life in a free society and to enshrine the values of respect for all others and the natural environment" (Hodgkin and Newell, 1998: 391-392).

The right THROUGH education principle is well elaborated in the regional instrument, such as those of Africa, Europe and America. The "African Charter on Child and Peoples' Rights (1981) in Article 25" states "States Parties shall have the duty to promote and ensure through teaching, education and publication, the respect for the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations, and duties are understood". Within the European region, proposal 85(7) on education about human rights in schools, urges the members states to give firm encouragement to promotion and teaching on human right, asks the members states to describe their recommendation to the awareness of everybody concerned in education. Also, Article 13 (2) of the

"Additional Protocol to the American Convention on Child Rights in the area of Economic, Social and Cultural Rights (1988)" says that, education must be focused towards the full development of the child dignity and personality, ought to strengthen value for child rights, justice, fundamental free will, peace and ideological pluralism.

At national level, it is observed that many governments and educational institutions have been able to create the environment that will ensure that the right THROUGH education happens. For example, HRE, as a course of study (separate or mainstreamed) has not been fully introduced into the school curricula. There is a educational paradox here: on the one hand, the global and highest level of the national policy of HRE legitimization; on other hand, there is low acceptance and implementation on a regular basis in the educational curricula. It is clear that usually in educational institutions, new curricular or innovations struggle to achieve recognition and acceptance. In most of the cases, well thought out and systematic HRE policies, especially on the local level, are lacking.

School curricular are but one way to disseminate the principles of human rights, as we already noted, education goes beyond school curricula. But our focus is on schools now. We will like to argue here, that is not enough to instruct and teach children right in terms of facts and dates of a particular human right treaties. We need to develop respect for human rights and to act accordingly. Very important in the pedagogy of human rights is the hidden curriculum which is the unspoken message that we transmit or receive in the way we communicate and act towards one another. Here we tough on the right IN education indicating the inter-dependency of all the three tracks-right (TO, In AND THROUGH) education.

### **Challenges to Child Rights on Quality Education**

In spite of the numerous interventions being undertaken to ensure Child rights and quality education certain challenges still persist. They include, among other;

- Inadequate classroom facilities to contain the increasing enrolment;
- Negative work attitudes of some teachers;
- Poor linkage between programmes offered and demands of the job market;
- Poor salaries of teacher and low social recognition of the teaching profession;
- Ineffective teaching and assessment of learning experiences;

- Poverty among some parents which makes it impossible to educate their children;
- High learner – teacher ratio which tends to affect affective teaching and learning; and.
- Height cost of education particularly at the secondary and tertiary levels, Aggarwal (1995).

Mensah (2001) stated five indicators as challenges of quality education. They are:

- Ratio of pupil to teacher in primary education
- Percentage of trained teachers for primary school
- Payments on salary of employees within primary school as a proportion of overall primary education costs.
- The rate of survival to the final stage of primary education system.
- The rate of literacy level between the age of 15-24.

### **Cases of Child Rights Violations in Nigeria**

Cases of human right violations in Nigeria are:

- extrajudicial killings;
- use of extreme strength by security forces;
- arbitrary detention;
- long-drawn-out pretrial detention;
- rape;
- torture;
- kidnapping of innocent citizens;
- inhuman or degrading treatment of personal;
- human trafficking for the purpose of prostitution and enforced work;
- child maltreatment and child labour
- sexual exploitation;
- female genital mutilation(FGm);
- discrimination based on gender, background, belief and country;
- infringement of privacy rights abridgment of the right of general public to change a regime;
- torturing and killing of children accused of witchcraft and
- abduction (Kuteyi 2005; HRR 2011; Toyo 2006)

### **Sample Application for Leave/Oral Arguments**

An applicant or lawyer seeking a favourable consideration of a case before a judge must show very clearly that a violation of rights has occurred, is occurring or threatening to occur. In seeking to prove either of this circumstance(s), the applicant or his lawyer needs to argue convincingly to a judge in other to justify the making of the order sought. A sample application for leave based on the facts provided below is stated hereunder according to the Federal high Court, Ilorin, Nigeria:

**IN THE FEDERAL HIGH COURT – NIGERIA**

**Suit No**  
**File/Between**

.....Applicant

**And**

..... Respondents

**Order**

Upon this motion on notice dated and filed on ..... day of ....., praying for the following reliefs:-

- Declaration that the arrest of the applicant on the ..... day of ..... and ..... day of ..... by officers and men under the command of the Respondents is illegal, unconstitutional and against the rules of natural justice and is therefore null and void.
- Declaration that the detention of the Applicant on ..... Day of ..... and ..... At various locations under the control of the Respondents by officers and men under the command of the Respondents is illegal, unconstitutional and against the rules of natural justice and is therefore null and void.
- Declaration that the arrest and detention of the Applicant by officers and men under the command of the Respondents for offence(s) that were not disclosed to the Applicant and without trial is illegal, unconstitutional and therefore null and void.
- # ..... Naira Damages for the unlawful and unconstitutional arrest of the applicant.
- #..... Naira Damages for the unlawful; and unconstitutional detention of the applicant
- Injunction restraining the Respondents, their officers and men from further tampering with the constitutional rights of the Applicant to his personal liberty and freedom of movement.

**AND AFTER READING** the Affidavit in support of the Motion sworn to by .....name ....., gender..., religion....., citizen....., address..... and filed at this Court Registry.

**AND AFTER HEARING** Barrister (name) Esquire of Counsel for the Applicant move in terms of the Motion and Respondents absent and not represented.

And the court having granted the reliefs sought in the following terms.

**IT IS HEREBY ORDERED AS FOLLOWS:-**

- That the arrest and detention of the Applicant by agents and servants of the Respondents on ..... month..... Year and day..... month..... Year was a violation of the Applicant's fundamental rights guaranteed by the Nigerian Constitution.
- That the detention of the Applicant on the day, month, year at various location under the control of the Respondents by officers and men under the command of the respondents is illegal, unconstitutional and against the rules of natural justice and is therefore null and void
- That the arrest and detention of the Applicant by officers and men under the command of the Respondents for offence(s) that were not disclosed to the Applicant and without trial was illegal, unconstitutional and therefore null and void.
- That the Respondents are directed jointly and severally to pay the Applicant general and compensatory damages in the sum of #520,000.00 (Five Hundred and Twenty Thousand Naira.
- That the Respondents, their officers and men are restricted from further tempering with the constitutional right of the Applicant to his personal liberty and freedom of movement.

ISSUED AT .....(Town) under the seal of the Court and the Head of Presiding Judge this day, month, year.

Registrar

Source: Federal High Court, Ilorin, Nigeria

### **Enforcement Procedure**

Enforcement procedure is the procedural avenues to be pursued when a violation of fundamental right has been, is being or is likely to be infringed. Violation of fundamental Child right occurs when any of the right guaranteed him/her under the provision of the constitution is violated. The enforcement procedures are as follows:

- Establishment of violation of Child right
- Ascertain the appropriate forum in which to bring the case. Section 42 of the Fundamental Child Rights made provision to High Court, Federal High Court's jurisdiction.
- Application for leave- the applicant must file an ex-parte motion for leave to apply for enforcement of rights. The application for leave ought to be accompanied by a declaration on:
  - the given name (s) and explanation (s) of the claimant(s)
  - a restatement of the relief(s) sought from the court as well as a more detailed statement of the grounds relief.
- file an affidavit
- Application for Notice of Motion/Originating Summons.
- Provision for Amendments and Additional Affidavits.
- Application to quash proceedings.
- Application for production and release of detained persons.
- Individual right to be heard and
- Order the court that can create and effect any act of disobedience. (Oloyede, 2001)

### **Strategies for Assuring Child Rights and Quality Education**

- Construction of high quality test items.
- Instruments to be used for assessment.
- Conduct of the examinations.
- Security of examination materials
- Proper scoring of students' response
- Processing of result
- Moderation of examination question, marking schemes, continuous assessment scores.
- Adequate feedback system

Other strategies include:

adequate provision of computers to universities, regular payment of university staff and settlement of all disputes to avoid incessant strike actions; adequate funding of the universities by government; provision

of adequate infrastructures to take care of the ever-increasing student population; handling of examination matters by only lecturers of high integrity; fighting against gender stereotype in curriculum; removing all forms of cultural differences affecting teaching and learning and consequently educational assessment; making lecturers' assessment of students form part of the criteria for promotion and certification of students; ensuring that continuous assessment scores are properly moderated by appropriate authorities and using open-book assessment technique to supplement the usual closed assessment technique (Sofoluwe 2005).

### **CONCLUSION**

Human rights are "those reciprocal universally accepted principles and norms that must govern the actions of individuals, communities and institutions if human dignity is to be preserved and justice, progress and peace are to be promoted" (CRW 2004). They represent a frequent standard of accomplishment for all peoples and all countries around the world (Ehinder 1991). Human rights violations occur in our homes, institutions and communities. Many people for example, take for granted the right to education and therefore do not examine the ramifications of this in the exercise of this right (Ogunjuyigbe 2005). Education is a human right but education as has been practiced has not been able to guarantee the security of human rights for all citizens. For example, it is estimated that about 600,000 children do not have access to primary education in the country. At the same time a large number of adults lack the basic education required for operating functionally in the society. So many children are suffering from poverty, abuse, exploitation, and gender inequity. A right approach to education, that is, HRE based on the provisions of international Child rights conventions and treaties. It is also needed in ensuring quality education. Teachers need to be cognizant about the implications of these conventions for their students and need to find ways of informing them about their rights and responsibilities (Bogecho 2004).

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