

A Review of Rights-Based Approach for Children

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Abstract

This review aims at critically analyzing the conceptual underpinnings, principles, and practical implications of a rights-based approach to education to children. The paper will investigate both core, express, and implied principles of participation, non-discrimination, accountability, dignity, and developing capabilities by utilizing the international human rights instruments: the Convention on the Rights of the Child (CRC), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR). Further embracing a wider scope of access to schools, the research centers the child agency, empowerment and inclusion in the education systems. It also examines the issue of implementation, the educator role, the comparative views on student-centred learning, and the chosen international examples. The review holds that a rights-based approach is able to offer not just a pedagogical orientation but a normative and institutional rubric that is able to promote equitable and context-sensitive reforms in education.



1 Introduction

Education is considered one of the basic human rights and a very essential instrument to the growth of society as well as the country. The last few decades reforms and international policies have mainly aimed at raising the number of school enrolment; this however has not guaranteed the children a meaningful learning experience. In most countries, high populations of students at primary school levels finish without learning fundamental literacy, numeracy, and life skills, indicating a dismal disparity between education and the actual need to entitle children to quality education.

Much global attention has been directed toward increasing school enrolment. However, less attention has been given to what happens once children are admitted and the quality of education that is offered to them. Thus, although children attend school, many receive an education of such low quality that they are not equipped with the necessary skills and knowledge. National test scores in many countries such as Brazil, Pakistan, Philippines, Bangladesh, Ghana and Zambia all testify to this fact. These indicate that most students finishing primary school perform significantly below their country's minimum achievement benchmarks, with outcomes in certain instances being only slightly superior to those of children who have not finished schooling [1].

In India, children constitute 39% of the population [2]. According to the Census of 2011, in India, 472 million of the total population of 1.2 billion are under 18 years of age. Unfortunately, 27.5% of children belong to disadvantaged and marginalized communities [3], making them prone to many deprivations that threaten their right to development, survival, meaningful participation, and protection. If children constitute 39% of our present population, they surely are 100% of our future. Thus, we need an education system that ensures their fullest

possible development within their best interests, under the shadow of their rights, and one that caters to their due differences.

This review aims to examine the conceptual foundations and educational relevance of the rights-based approach for children.

2 Theoretical basics of the rights-based approach

Kofi Annan, the Secretary-General of UN said, Rights-Based Approach, is the measure of human rights implication of any planned action such as legislations, policies and/or programming in any area and in any level. Amartya Sen goes on to say that this implies an accolade of a rights-based model as a lawful approach to guiding the formulation of research and presentations of services in a specific field [4].

The idea of children to have rights is groundbreaking since it transforms the power relationship between children, adults and government. It changes the perception about children as the property of their parents or as the objects that needed guidance and protection [5]. The CRC Committee on the Rights of the Child recognizes that the right of a child (to participate, to speak, to have opinions considered) is a new social construct which presupposes the changes in institutional, cultural, and social systems.

Kids are defenseless and in need of protection. In their absence, welfare rights will not help them to attain autonomy. The acknowledgment of the autonomy of a child would imply thinking of a child as a person with rights. When formulating a standpoint that focuses on the rights of children, we should recognize the fact that a child has a value and the ability to make choices. Children are known as becoming meaning that their rights to life, protection, and provision are geared towards survival, development, and education, and health. Considering it as a being, it provides them with a

voice and recognizes the dangers of silencing their voices [6].

The rights in this case are universal to human family, and they include political, social, civil, cultural, and economic rights. They do not depend on race, gender, competence, or class. These rights are non-separable. According to Michael Freeman, rights work well when all people have them. Rights are noteworthy in the sense that they recognize the respect where the right bearers are entitled to be treated with dignity [7].

The concept of international children right has become one of the most influential social movements of the 20th century. It has been argued that the rights of children have become maybe the super program in a societal set up that makes sense of the adult/child relations [8]. Although the literature on the definition of a rights-based approach is diverse, the central theme is that the inclusion of rights in solving the problem under consideration is needful. This is commonly known as human rights in the global framework which creates a pathway of children to participate in the determination of their interests, which is termed as the Best Interests of the Child [9].

This practice integrates human rights in the paradigm, planning, execution, and analyzing of programs and policies in the social, economic and political realms. In 1997, the UN Secretary-General invited all of the UN agencies to mainstream human rights in their policies and programmes. This approach was extended by Mary Robinson, who was a UN High Commissioner. In 2003, a number of UN agencies sanctioned what is referred to as the Stanford Common Understanding, which advocates the necessity of a common knowledge of the rights-based approach [10].

In order to improve we need to acknowledge the ethical wellbeing of children. They are supposed to be regarded as people who deserve equal treatment and the respect of their autonomy both in the present and in the future. This is also aware of the fact that children, especially the young ones require care, nurture, and protection. Differently put, children possess other rights that are unique to them not required by adults [11]. A rights-based approach subordinates the concept of human rights to the principles of dignity, equality, and non-discrimination in decision-making and actions.

The rights-based approach also implies the modification of the existing systems to encompass the children perspectives and different types of expressions. According to Koskenniemi, mainstreaming children rights is capable of transformation in the way children are viewed and treated by all the members of the society [12]. In addition, children should be researched in a proper manner. They should be appreciated by them and their participation in the research should be voluntary, and their informal consent should be taken. This paradigm shift compels the kids activists to be rights-based in their endeavors so that the needs of kids in education, health, nutrition, housing, and development are addressed to enable children have a voice and the state and international community answer to their failure [13].

3 Principles of rights-based approach

In its guidelines, UNICEF (1998) tried to locate the principles that should guide a rights-based approach as the key guiding principles. Due to this development, several scholars have attempted to establish the boundaries of what is arguably a rights-based approach. A rights-based approach, as delivered by Darrow and Tornas (2005), comprised the following, i.e. accountability, empowerment,

participation, indivisibility and interdependence of rights, rule of law, and due deference [13].

The elements of the rights-based approach that involve children have a taxonomy developed by John Tobin, as shown below [3]:

3.1 Fundamental tenets of rights-based approach.

One of the main principles of the rights-based approach is embedding rights standards in all decision-making processes, the existing principles within the approach are based on this principle. The commonly used understanding of human rights internationally is that the most important human rights approach is the one that is provided by the international treaties on human rights. This strategy is explained because these treaties summarize common values that are necessary in order to achieve a dignified human life. Children by default are subject to the rights stipulated in the international human rights agreements since they are human beings. The approach to children based on human rights is guided by such documents as the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of Persons with Disabilities (CRPD) and the International Covenant on Civil and Political Rights (ICCPR), and each of them includes particular provisions about children.

3.2 Express principles of rights-based approach

At the international level, the express principles include features like universality, accountability, indivisibility, interdependence, participation, non-discrimination, and cooperation. These are divided into two categories:

3.2.1 General express principles

These are derived from the ICESCR and ICCPR.

Accountability: It is one of the crucial elements of the rights-based approach. The concept of accountability is essential, and it is built by the fact

that the consideration of human rights creates a duty on the state. It is then the responsibility of the state to defend and to make certain that the rights are respected. It also makes parents/guardians third party to be responsible. Article 27 (2) stipulates that the parents or legal guardians should make sure that a child has the living condition required in terms of his/her development within their financial means and capabilities. CRC article 18 (1) indicates that the main responsibility of parents or legal guardians is to up-bring and develop the child. The CRC acknowledges the responsibility of parents, states and the international community as important towards the realization of the rights of children.

Non-discrimination and Equality: Non-discrimination, as well as equality and protection under the law without prejudice, is a highly significant and universal principle on the basis of which human right protection is built [14]. Article 2 (2) of the CRC requires state parties to make sure that the child is not discriminated against on basis of the status, expressed opinions, or beliefs of their parents.

Participation: The principle of participation is also altered in the case of children and can be identified in Article 12 of the CRC. The involvement is said to be at the depths of any elaboration of the rights of children [14]. In effect, it implies that participation is a fundamental value embedded in the nature of children rights that is based on its central consideration.

3.2.2 The principle of evolving capacity.

The evolving capacity principle acknowledges that the capacity to exercise rights will grow with the age, maturity and experience of children. Instead of setting strict age limitations, this principle is able to urge educators and policymakers to determine the competence of children to make decisions in a contextual manner. In a learning context, changing ability dictates age sensitive participation where

younger children are allowed to contribute by using creative and informal means whilst older students are allowed to use structured means of decision making including student councils and policy consultations. This principle makes participation meaningful as opposed to being symbolic.

3.3 Implicit principles of rights-based approach.

There are 3 key principles discussed in this section:

Universal Dignity: Universal dignity is another important factor of human rights international approach that is supported by Article 1 of the Universal Declaration of Human Rights. This remains reinforced in the preamble of the CRC which goes on further to affirm that, all human beings are born free and equal in rights and dignity. Universal dignity highlights the necessity of determining and addressing individual needs of children [10].

Indivisibility and Interdependence: This principle is based on the Vienna Declaration Program of Action (1993) that indicates the need of one right to be fulfilled by the fulfillment of others. In the case of children, this implies that civil and political rights are interrelated with social, economic, and cultural rights [14].

Cultural Sensitivity: The CRC emphasizes on the importance of observing cultural values to ensure a child grows balanced. The necessity to respect the cultural difference is an inherent part of the approach based on the rights, which is justified by the Article 30 of the CRC, stating that a child is entitled to practice and enjoy their own culture [15].

The following principles are also mentioned by UNICEF: indivisibility, inter-relatedness and interdependence, non-discrimination and equality, empowerment, participation, universality and inalienability [16].

3.4 Contributions of the CRC

CRC has played a significant role in changing the perception of children and childhood wherein the view has changed to a charity-based look to a rights-based view. Children have rights throughout their lives by their very humanness and should receive respect and dignity and how they are treated must be equal [17].

3.5 Rights-based approach implementation.

Rights based methods seek to confront and redefine the status quo in a power relationship [18]. Researchers like Ryan Goodman and Derek Jinks recognize three approaches to affecting a human rights-based approach, namely, coercion, persuasion and acculturation [19]. Of the particular relevance is persuasion, which is the ability to alter the preferences of decision-makers by internalizing values that correspond to the principles of rights-based approach.

According to Amartya Sen, the principle of rights-based approach is centered on the idea that all matters which influence children must be reviewed and discussed in terms of rights [20].

Kennedy (2002) concludes that the future of a rights-based approach is unknown, but a sound conceptual basis and practical strategies in its implementation will likely make it applicable to the child in their best interests. [21].

4 Problems with implementation in a multifaceted environment.

Though the rights-based approach provides an effective normative approach, it has a number of challenges regarding its practical implementation. In countries with low income, the environment of participatory and inclusive education is usually impeded due to the lack of resources. The huge classes, poor teacher training, and limited funding hamper constructive participation of the child in decision making [13].

The interpretation of the rights to the participation of children may be also affected by the cultural rules. Hierarchical adult-child associations may not readily accept the concept of children as independent right-bearing entities in some societies. This gives a conflict between global human rights and local cultural beliefs [22].

Moreover, there is often a difference between the administration of policy and practice in classrooms. Even though national education policies can have formal acknowledgment of child rights, the mechanisms of implementing these policies are weak, as the system of monitoring is weak, and the institutional inertia [21].

The solution to these problems involves context-based approaches, a long-term political commitment, educator capacity development, and community-wide educational programs.

4.1 Critical perspectives

Although it is normative, scholars have expressed concern over the contextual translation of the international human rights norms. It has been claimed that international standards of rights might face opposition when being implemented in different cultural and social environments, especially in cases where local cultures do not match universalist presumptions [22]. Thus, international values and local facts have to be discussed to be implemented effectively.

5 Educator role in rights based education.

The teachers have a central role in ensuring that the principles of rights are translated into the classroom. The teachers are not just agents of transmission, but they are agents of democratic participation. Rights-based education needs pedagogical practices that lead to dialogue, diversity tolerance and student voice [12].

The teacher training programs should incorporate child rights education so that teachers can get knowledge of the principles of non-discrimination, participation and dignity. The learning environment in classrooms must encourage teamwork, restorative disciplinary strategies and inclusive instructional practices. Devoid of educator readiness, rights-based education, otherwise, will be a mere theory but not a reality [16].

6 Rights-based education and student-centered learning a comparative view.

Although rights-based education is similar to student-centered methods of learning, the two do not coincide. Student centered learning is mainly based on a pedagogical approach which emphasizes on engagement of the learners and individualized learning. A rights-based approach, on the other hand, has its basis in legal and normative frameworks which put children in rights-holder positions and the state in duty-bearer positions [3].

Rights-based education is thus not restricted to the pedagogy, but it is also applied to governance, accountability and reforming of institutions. It contains the principles of equality, participation, and dignity, in the wider education policy framework.

7 Global examples of the rights-based approaches.

There are a number of nations that have incorporated the concept of rights in their learning systems. Nordic countries focus on the democratic school cultures that allow institutionalization of the student involvement in the governance structures [3]. Child-friendly school programs which are also funded by UNICEF involve non-discrimination, safety, and participation as core components in some regions of Sub-Saharan Africa [16].

These illustrations indicate that in spite of the contextual variation, rights-based frameworks can be modified in any socio-economic context provided

that they are backed by policy commitment and institutional capacity.

8 Critiques and considerations

Other critics warn that rights-based approaches can excessively legalize childhood or enforced Western systems of norms without being culturally sensitive enough [22]. Other people believe that too much formalization of child participation can place pressure on the old system of social order.

A moderate strategy should thus reconcile between the universal rights standards and the realities on the ground and not dehumanize the child and deny them their agency.

9 Conclusion

Conclusively, this review highlights the revolutionary effect of the rights-based learning in the academic environment. It emphasizes the production of not just a fair and inclusive learning space but developing responsible and empowered individuals too. To adopt a rights-based approach, there should be collective interest and constant discovery to embrace the full potential of the approach in the development of an educational ethos that supports and practices the core principles of quality, fairness, and the dignity of all. A long-term adherence to the principles of rights can play an important role in creation of inclusive, participatory and equitable education systems. The rights-based approach provides a revolutionary framework in terms of making sure that the children are not the only recipients of education but are also active participants in education by instilling dignity, accountability, and participation among institutional structures.

Abbreviations

CEDAW: convention on the elimination of all forms of discrimination against women; CRE: child right education; CRPD: convention on the rights of

persons with disabilities; CRC: convention on the rights of children; ICCPR: international covenant on civil and political rights; ICESCR: international covenant on economic, social and cultural rights; NCPCR: national commission for protection of child rights; UNICEF: united nations international children's emergency fund.

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Conflicts of Interest

The authors declare no conflict of interest.

Author Contributions

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