

CHILDREN'S RIGHTS-BASED APPROACH IN EDUCATION: EXPERIENCES FROM SCATTERED INITIATIVES

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ABSTRACT

In the society, the culture of which gives high value on hierarchy and emphasis on the children's obligation, raising the issue of children's rights may be considered as impolite by the standard of the culture. Teachers having such a cultural background may show some resistance to the implementation of the Convention in their schools. This paper deals with an alternative of implementing the UN Convention of the Rights of the Child by using the children's rights-based approach in education. The study showed that teachers in public schools tend to be more conservative than in private schools.

Keywords: *children's rights-based approach, Convention of the Rights of the Child, classroom level*

Introduction

When the Convention on the Rights of the Child (CRC) was adopted by the UN General Assembly in 1989, it accentuated the concerns of the other earlier global treaties—the Universal Declaration of Human Rights (1948), the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education (1960), the International Covenant on Economic, Social and Cultural Rights (1966), and the Convention on the Elimination of All Forms of Discrimination against Women (1981)—in signifying education as human right. The Convention demanded the countries ratifying it accomplish three levels of obligations, namely: to fulfill, to respect, and to protect the right to education. To fulfill the right to education refers to ensuring that education is available for all children; to respect the right to education means avoiding any action that would serve to prevent children accessing education; and to protect the right to education means taking the necessary measures to remove the barriers to education posed by individuals or communities.

UNICEF in fact does not explicitly define human rights-based approach, let alone child rights-based approach, to education. The elaboration of the conceptual framework, however, suggests that human right-based approach to education refers to that which

ensures the right of access to education, the right to quality education, and respect for human rights in education (UNICEF, 2007: 27). By human rights are meant the basic rights and freedoms that all people are entitled to enjoy disregarding race, religion, nationality, gender, culture, sexuality, or any other identification by which they may be discriminated; while child rights refer to those specifically designed for children, including provision (survival and development), protection, and participation, especially in decision-making that affect them.

The United Nations Convention on the Rights of the Child (1989) reinforces the right to education through the four core principles: nondiscrimination; the best interests of the child; the right to life, survival and development; and the right of children to express their views in accordance with their age and maturity.

In order to ensure that the governments of the UN member countries fulfill, respect, and protect the right to education, UNESCO (Tomasevski, 2004) had set up a manual of the implementation of the rights-based education under the A-4 Scheme, namely: Availability, Accessibility, Acceptability, and Adaptability. Availability is the obligation of the government to ensure the free and compulsory education for all children of certain age range in the country and the obligation to respect parental freedom to

choose education for their children, considering the principle of the best interests of the child. Accessibility refers to the obligation to eradicate any discrimination such as race, color, sex, language, religion, origin, economic status, birth, social status, minority or indigenous status, and disability more than just a formal prohibition of discrimination and guarantee that everybody gets the equal enjoyment of all human rights. Acceptability refers to the obligation to set minimum standards for education, including the medium of instruction, contents and methods of teaching, and to ensure their observance in all educational institutions. Acceptability also refers to the obligation to improve the quality of education by ensuring that the entire education system conforms to all human rights. Adaptability refers to the obligation to design and implement education for children excluded from formal schooling system.

The Indonesian Government Commitment

Indonesia ratified the Convention on the Right of the Child (CRC) through the Presidential Decree Number 36/1990, 25 August 1990. To justify its commitment to Indonesia passed the Law Number 23/2002 about Child Protection (**UUPA**) in 2002. To ensure the **availability** of free and compulsory education, the Indonesian government implemented the nine-year compulsory education based on Law Number 2/1989, updated by Law Number 20/2003 on the National Education. The Indonesian government has been making efforts to realize the child rights for education by encouraging the universal secondary education known as the Twelve-year compulsory education through the Presidential Regulation Number 47/2008 on Compulsory Education. Although the government has been allocating more money on education, it has not been able to cover free education for all children, as many have to pay the educational fees to go to private schools organized by different non-government organizations.

The Law Number 20/2003 on the National Education also ensures the **accessibility** of education in that the Indonesian national system of education guarantees the service, facility, and qualified education for all citizens without any discrimination (Article 11) on the basis of either race, color, sex, language, religion, origin, economic status, birth, social status,

minority or indigenous status, or disability. The law also addresses the accessibility of education for children with special needs in special education (Article 32). Through the Regulation of the Ministry of National Education Number 70/2009 on the Inclusive Education and the Letter of the Directorate General of Primary and Secondary Education Number 380/C.C6/MN/2003, the government has been encouraging the implementation of inclusive education for children with special needs.

In order to ensure the **acceptability** of education, the Indonesian government has been attempting to improve the quality of education. The Government Regulation Number 19/2005 on the National Standard of Education represents the endeavor for acceptable education by standardizing the elements contributing to the quality of education to meet some minimum requirements related to contents, teaching-learning process, output competence, teaching and administrative staff, physical resources, management, budgeting, and evaluation in the implementation of education.

To some extent, Article 5, Chapter IV, the Law Number 20/2003 has accommodated the rights of child with special needs and different abilities (diffable) to education categorized as the special education and special service education in order to ensure the **adaptability** of education. Special education refers to the type of schools designed for children excluded from the ordinary schools because of their physical, emotional, mental, or social differences. Special service education refers to the type of school designed for children in remote or isolated places, undergoing natural disaster, suffering from social calamity, or poverty. However, the government has not been able to cover all, especially the displaced and deprived children, due to the limited resources.

Children's Rights and Education

In their relation to education, the children's rights addressed in the Convention can be distinguished into: Rights to Education, Rights in Education, and Rights through Education (UNICEF, 2012: 16-19). Children's rights to education refer to the rights to access to primary and secondary education. Rights to education are specifically addressed in Article 28 (for ordinary children) and Article 23 (for children with disabilities) of the Convention.

Children's rights to education include the right (of ordinary children) to access primary and secondary education based on equal opportunity, the right that school discipline is administered in a manner consistent with the children's human dignity (as stated in Article 28), the right (of disabled children) to have access to education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a conducive manner to the children's achieving the fullest possible social integration and individual development, including their cultural and spiritual development.

Children's rights in education refer to the rights that they are supposed to enjoy or exercise in the system. Children's rights in education are specifically addressed in Articles 2, 3, 12, 13, 14, 15, 19 and 31. Children's rights in education include the right to have protection against any discrimination on the basis of race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status (Article 2), the right to get specific consideration and priority when the school is deciding the best interest of the children (Article 3), the right to participate in decision-making processes affecting them (Article 12), the right to express themselves either in print, art, or other media (Article 13), right to exercise their freedom of thought, conscience, and religion (Article 14), right to freedom of association and assembly (Article 15), the right to get protection from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse (Article 19), and the right to rest and leisure, to engage in play and recreational activities appropriate to their age and to participate freely in cultural life and the arts (Article 31).

Children's rights through education refer to the rights through which the children may develop towards their fullest potentials. Children's rights through education are specifically addressed in Article 29 and Article 42. Children's rights through education include the right to develop the personality, talents and mental and physical abilities to their fullest potential (Article 29), the right to develop respect for human rights and fundamental freedoms (Article 29), the right to develop respect for their parents, their own cultural identity, language and values, for the national values of the country in which they are living,

the country from which they may originate, and for civilizations different from their own (Article 29), the right to prepare themselves for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin (Article 29), the right to develop respect for natural environment, and the right to learn the Convention by appropriate and active means.

Children's Rights in Practice

Some schools claim that they have implemented the children's rights. However, the implementation of children's rights in schools is different from one another. Some schools implement the children's right at the classroom level, others at the school level.

1. Classroom Level

The children's rights at the classroom level refer to those rights as members of the class. The children of a certain class or grade may enjoy and exercise different rights from their fellow pupils in accordance with their age/maturity and the background characteristics of the school. The children's rights at the classroom level may include the children's rights to equal and non-discriminative treatments and services, the right to conducive and child-friendly learning environment, the right to participate in setting the classroom, arranging the seats, choosing the color of the walls, determining the reading corner, and arranging the room decoration.

Of the above children's rights to participation, many teachers were reluctant to involve the students in determining the color of walls and determining the reading corner, and the resistance against the children's participation among teachers from public schools was higher than those from the private ones (Thoyibi, 2013).

2. School Level

The children's rights at the school level refer to those rights that the children share as the school members. The children's rights at the school level are more varied than those at the classroom level. They may include the right to provision (survival and development),

protection, and participation. Among other children's rights at the school level that belong to the provision are the rights to safe and healthy food/drink, the right of access to meet their stationary needs from the school cooperative, the right of access to first aids, the right of access to the school library or reading corner to support the learning process, the right to play sport game, the right to clean and healthy environment, the right to guidance and counseling to help them deal with their problems in learning, behaving, and social relation, the right to protection from any threats, violence, abuse, and bullying, the right to safety from natural disaster, the right to write what happens in the class to the principal, the right to express views and aspiration through the school media, the right to participation in evaluating the teacher's performance in class, and the right (through student council) to participate in the decision making processes affecting them.

Most teachers gave positive responses to the children's rights to provision and protection, but many gave negative response to the children's right to participation, especially the right to participation in decision-making processes (Thoyibi, 2013). In terms of gender, male teachers are more reluctant to be evaluated by the students and teachers of science are more resistant to the student's evaluation of teacher's performance than teachers of humanities (Thoyibi, 2013; Thoyibi, et al., 2014).

3. Inter-School Level

The government has initiated the National Children's Forum (Forum Anak Nasional) as a bridge of communication between the government and the children to fulfill the children's right to participation. The forum is supposed to exist and develop at all levels of the government administration from village, through district and province to national level. The children's forum serves as a means of value education and nation character building. Since

the forum was established only recently, it is interesting to find out whether it will develop into an interschool student organization making it possible for the present intra-school student organization (OSIS) to collaborate and form a new structure with more powerful authority to voice the children's interest. The website of the National Children's Forum, however, does not give sufficient information dealing with the children's rights, especially to participation, that they exercise in the forum.

Conclusion

The child rights-based approach to education is one of the many approaches in implementing the United Nations Convention on the Rights of the Child. The seemingly clear and simple articles of the Convention of the Rights of the Child are in fact complex and problematic when they are put into practice. Some teachers are reluctant or even resistant to recognize some of the children's rights, especially the right to participation in decision-making processes and school management.

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