

## Legal Education and Human Rights in a Global Age

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**Abstract** *The development of the concept of justice is connected with the development of theories of law, jurisprudence and politics. But, in the beginning was the philosophy of the existence of man, the philosophy was the survival of the fittest. Then, no other right seemed to belong to man except that of the defence of his life. The Greek period and the emergence of civil society paved way for legal era. Various instruments of history brought nations under one umbrella, hence myriad of world conferences on education have followed since the 50s, such that education has in the contemporary times become the most crucial asset of every society. On its part, the Universal Declaration of Human Rights of 1948 stipulated the right of every citizen of the world to education. A day like this, in 1990, a world conference on Education For All (EFA) was held in Jomtiem, Thailand. Contemporary societies acknowledge education as the key to acquiring the desired potentials necessary for individual well-being and national development. Legal education mould character and serves as a veritable tool for social regulation. This paper dwells on the education based on law which encompasses the rights of citizens protected by law.*

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### Introduction

Nations, the world over, have come to the realization that education is the bedrock upon which human, and of course, national development rests. The level of advancement attained in Science and Technology today is attributable to education. Legal education rests on law which has no water-tight compartment with human rights. It trains an individual on what constitute the rights or natural entitlements of human beings as members of the society which in turn protects the rights. Legal education equips a learner with the knowledge of the rule of law, his rights or claims from the state, his duties to the state as well as those to his fellow citizens. In the state of nature, there appeared to be no right appurtenant to man except that of self-preservation. Then, man was wolf to man. In the course of evolution of civilization, society became more ordered as powerful monarchs emerged with their laws, each claiming kindred to one god or the other, thereby mystifying themselves and ruling mainly through fear and domination. Among others, Moses (Exodus 19:21) climbed Mount Sinai to obtain his. According to Maine (1916) these marked the beginning of the spontaneous development of law. These laws and others like them, though inadequate, catered for the rights of the ordinary man. It was not until the Greek period that serious attention began to be paid to law, justice, politics and economics which marked the evolution of human rights.

Though frustrated, certain fundamental rights belonged to man in the state of nature, which, he, at the emergence of civil society, took to his new gained status and they remained protected by natural law. The power of government was conceded only on trust by the people to the rulers and any infringement by the government of the fundamental natural rights of the people, put an end to the trust and the people were entitled to resume their authority. For instance, it was the realization of the withdrawal of the trust by the people vested in the government that led to the various revolutions of history which in turn gave rise to various Bills of Rights like the Magna Carta in England (1215), the Bills of Rights in the U.S Constitution (1791) and the Declaration of Rights of man in France (1789).

Human beings have the inclination to live in groups, hence societies exist. One living alone would require only habits which arise out of individual limited supply of physical and mental energy. But people live in societies, and modern societies are industrialized and complex. The habits of individuals, families, groups, communities often metamorphose into norms, unlike in the state of nature where anarchy reigned and might was right. The emergence of civil societies gave rise to norms, rules, precepts, regulations, statutes,

declarations that functioned to regulate deviant behaviours and enforce punitive measures against prohibited acts.

### Definition of Concepts

**Legal Education:** According to Webster's New Encyclopedic Dictionary, the word "legal" means: of or relating to law or lawyers; deriving authority or founded on law. It says "education" is the action or process of educating or being educated; while saying that to 'educate' is to provide schooling for, to develop mentally and morally, especially by formal instructions. Legal education can, therefore, be defined as the mental and moral development of an individual through formal instructions based on law.

**Human Rights:** Of right, Oputa (1989) says, a legal right is thus the capacity residing in one man of controlling, with the assent and assistance of the state, the action of others. In the case of *Afolayan Vs Ogunride & Ors*, the Court held that a right is an interest recognized and protected by the law.

The same dictionary defines "human" as consisting of human beings; having human form or attributes. It also says "right" is something to which one has a just claim or which one may properly claim as due. Ige (1994) says human rights are rights inherent in our nature, this implies that human rights are basic, in-born or inseparable qualities or characteristics in us as human beings – human rights are basic for mankind's increasing demand for a life in quest of respect and protection. Black's Law Dictionary sees human rights as the freedoms, immunities, and benefits that, according to modern values (especially at international level), all human beings should be able to claim as a matter of right in the society in which they live. Human rights therefore consist of those claims inherent in and inalienable from human nature, without which man is devoid of his essence, and therefore remain the foundation of man's freedom, peace and justice. It must be pointed out here that because rights inhere in human beings, a person entitled to a right is a "person inherent". The person who recognizes and respects the right of another (person inherent) is a "person incidence".

### Sources of Law

Law emanated from societal norms, values and customs (Customary Law). As societies developed, they became reformed into legislations, statutes which are the laws made by the regular law-making institutions established by democratically elected representatives, or a body of persons that rule a state. Decrees and Edicts are laws made by government of military regimes. Ordinances are also laws. In Nigeria, Ordinances, according to Akpederin (2008) are laws passed by the Nigerian Central Legislature before October 1 1954, when the Nigerian (Constitution) Order in-Council (1954) introduced a federal constitution into Nigeria. Acts are enactments made by a democratically elected national assembly. In Nigeria, English law is also a source of law, this was due to British colonization of Nigeria. Such laws are called Received English Law and it includes: the Statute of general application in force in England on January 1, 1900, the Doctrine of Equity, and the Common law.

Another source of law is Bye laws which are laws made by either local councils, which derive authority from the enabling instrument. Those made by Ministries, parastatals, and public corporation delegated to make such laws (for their internal governance as well as for their external dealings) are also called bye laws. Enabling instrument is the basic law (Constitution) of a nation which is the principal law of the land, for example, in Nigeria, any law made by whichever authority which is inconsistent with the provisions of the Constitution is, to the extent of its inconsistency, void.

## Sources of Human Rights

There were various instruments of history that brought about Bills, Constitutions and Declarations. After the World War II, nations, came together under the umbrella of the United Nations; the main purpose being to affirm faith in fundamental human rights, in the dignity of and worth of the human person, in the equal rights of men and women and of nations – large and small. The purpose was concretized by various international Instruments such as the Universal Declaration of Human Rights (UDHR) 1948, International Convention on Civil and Political Rights (ICCPR – 1966) and its Protocol of 1976, International Convention on Economics, Social and Cultural Rights (ICESCR – 1966) and its Protocol of 1976. These three Instruments are collectively known as International Bills of Rights, and of course, are all United Nations instruments.

Again, at regional level, under the aegis of the United Nations, there were set up, machineries for the protection of Human Rights, namely European Convention of Human Rights, International Convention of Human Rights, African Charter on Human and People's Rights, etc. Thus, Human Rights law is sourced from written principles ordained and adopted by the international community rather than from any theory of law.

## Classification of Law

Law may be classified according to subjects or techniques. For our purpose, the later is preferred. They include: Constitutional Law, Criminal Law, Tort, Law of Contract, Labour law, Commercial Law, Environmental Law, Law of Evidence, Land Law, Company Law, Conflicts of Laws, Family Law, Administrative Law, International Law and Jurisprudence, etc. These are grouped under Adjectival Law – they, in their different spheres, stipulate dos and don'ts which citizens ought to observe.

Another aspect of legal education, in Nigeria for example, is the Bar Part II which is the exclusive preserve of lawyers for professional legal practice. They consist of (in Nigeria) Legal Drafting and Conveyancing, Company Law and Practice, Law of Evidence, Criminal Procedure Law, Civil Procedure Law, and Professional Ethics and Allied Matters. Law graduates, after obtaining the L.LB Honours from the university, proceed to Law School for these courses, and at a successful completion obtain the Barrister at Law (B.L) certificate. The subjects are also referred to as Procedural law because they teach procedures for legal practice in court.

## Classification of Human Rights

Human rights can be categorized into:

- i) First Generation Rights
- ii) Second Generations Rights
- iii) Third Generation Rights

First Generation Rights are, for example, Right to life, Right to self-determination, Freedom from torture, and inhuman treatment, Freedom from slavery and forced labour, Freedom of movement and choice of residence, Right to privacy, Right to participate in one's national government, etc.

**Second Generation Rights:** They are also called Economic, Social and Cultural Rights. They include: right to work, right to just conditions of work, right to education, right to social security, right to own property, right to participate in cultural life and to enjoy the benefit of scientific progress etc. Anumba (2001) maintains that rights here evolved later in International Human Rights, they seek to protect peoples' physical, material, social and economic well-being, they are claims rather than freedoms and require the intervention and involvement of government for their meaningful achievement. According to Eze (1984) they philosophically emerged from Marxism (the world countries of former Eastern bloc, and also from Roman Catholic Encyclicals. In Nigeria, Second Generation Rights fall under the Fundamental Objectives and Directive

Principles of State Policy, and are not justiciable, that is, no one can maintain action on them against the government and succeed.

**Distinction between First and Second Generation Rights:** First Generation Rights impose restrictions on the exercise of state powers, Second Generation Rights tend to extend the scope of state activities. Again, the former can collectively be grouped under "Rights of man" – those which a man has as a member of the human race; the later are the "Rights of citizens" – those individuals have as members of a particular civil society.

**Third Generation Rights:** These, also known as Solidarity Rights, are the latest in evolution. They hinge on the philosophy that human rights can inure or belong to a group rather than to purely individual inclination.

However, close observation of the rights, as classified, reveals their inter-relationship with and inter-dependence on each other.

### Distinction Between Human Rights and Fundamental Rights

Fundamental, otherwise known as basic, rights are the integral but domesticated part of human rights. They are referred to as fundamental rights because they are guaranteed by the fundamental law of the land – the Constitution, and are justiciable within the domestic jurisdiction.

Human rights, conversely, embrace a much wider area and operate at international realm. As a concept, it encompasses much more than the domestically guaranteed fundamental rights. It comprises both the fundamental rights guaranteed by the Constitution domestically enforceable, as well as the internationally guaranteed rights recognized and enforceable by International Law. Both are also internally enforceable where a country has adopted the international norms and its principles as its municipal laws.

### Who Should Receive Legal education?

The Universal Declaration of Human Rights (UDHR) of 1948, among other things, stipulates the rights of all citizens of the world to education. According to Olakanmi(2010), the Universal Declaration of Human Right was adopted and proclaimed by the General Assembly of the United Nations on 10th December 1984, "as a common standard of achievement for all peoples and all nation, to the end that every individual and every organ of so9ciety, keeping this declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of member states themselves and among the peoples of territories under their jurisdiction".

Legal education is essential for all. It is, however, a veritable asset for young persons in particular. The Bible admonition: "Train a child the way he should go, and when he is old, he will not depart from it" is relevant in the circumstance. Multitudes of crimes and other offences are committed by young persons. Some of such commissions and omissions are often carried out of ignorance which excuse the law does not tolerate, some in a mistaken believe that there will be an escape root, or even if caught, they will attract sympathy and be freed. Law as a method or an instrument of social control should be included in the curriculum of Secondary Schools from the middle level which is made up of young persons who are the vulnerable group in the contravention of laws. The fear of apprehension for breaking the law, and the attendant punitive measures deter many a youth from being involved in deviant behaviours and prohibited acts. The multiplier effect of peace to the whole world, of the impartation of the knowledge to the youths in a formal education setting, and to adults through the mass media (radio and television), to be precise, cannot be over-emphasized.

It is often said that young men may die, but old men must die. Imparting legal education in the old is not a waste either; they can equally impart same to their children. Having learnt a lot from life experiences, and experience being the best teacher, old people do not necessarily indulge in crimes, sharp practices,

contraventions or breaches of the law. Their knowledge of legal education is, by necessary implication, not for character formation, but rather for capacity building and order in the society.

### The Curriculum of Legal Education for All

A plethora of law courses have earlier been enumerated. Only those who desire to be lawyers study all. This paper suggest that the legal education that will legally awaken the learner's sub-consciousness, expose him to the implications of deviant behaviours and or getting involved in prohibited acts should be included in the curriculum of Secondary Schools, from the middle level, e.g in Nigeria, Senior Secondary I – III. The rudiments of such courses that affect peoples' daily transactions and activities and relationship with each other are recommended. They include: Constitutional Law, Law of Contract, Criminal Law, Tort and Business Law.

**Constitutional Law:** Akpederin (2008) defines Constitutional Law as the basic law of the land. The rudiments of Constitutional Law should be included in the curricula of legal education to enable the learners, especially the youths, appreciate the tenets of the rule of law and imbibe the spirit of patriotism and good citizenship.

**Law of Contract:** Sagay (2000) says a contract is an agreement which the law will enforce or recognize as affecting the legal rights and duties of the parties. A contract, is a promise or a set of promises the law will recognize and enforce. The inclusion of the Law of Contract in Secondary School curriculum is vital; human wants are insatiable, and virtually all spheres of human activities involve contract. Global economies have become monetized too, and this pose challenges to people who must buy and sell, act on behalf of others (Agency), buy or sell on credit, and sometimes pay part (hire purchase), engage in the business of carriage of goods, banking transactions, etc. The Law of Contract teaches that breaking a promise is a breach of contract/agreement and it places an obligation on the promisor to pay compensation for the loss caused by his breach. Such education will inculcate self-discipline in the learners, and most importantly empower and prepare them for life out of school.

**Law of Torts:** A tort may be a crime or a civil wrong, or both simultaneously. A tort may be a civil wrong involving a breach of duty (fixed by law) owed to every person, which breach attracts a liability redressible by an action for damages. On the other hand, a tort, when a crime, attracts punishment by means of imprisonment or fines if the tort-feasor is found guilty as charged. The knowledge that a tort may be a crime, a civil wrong, or both, and in the circumstance, the offender is subjected to both the civil and criminal remedies which are not alternatives, would virtually deter offenders. That is to say that a wrongdoer may concurrently be punished by imprisonment or fine, and also be compelled, in a civil action for tort, to pay damages to the injured by means of compensation.

**Business Law:** This is the Law regulating business transactions between parties. Already, it is in the curriculum of Business Education students in universities and Colleges of Education in Nigeria. The purpose is to prepare them for life out of school. Business Law teaches the rudiments of contracts, Hire Purchase, Sale of goods, Law of Agency, Law of Partnership, etc.

**Criminal Law:** This aspect of law is interested in offences against the state or public interest. Molan (2001) defines criminal law as a litany of prohibitions and duties: behaviours the state considers to be unacceptable, or actions that the state demands. A crime has two aspects: 'actus reus' (the prohibited act) and 'mens rea' (the evil intention); the presence or proof of both would convicts an offender, and render him liable to imprisonment. Its education is therefore necessary for the control of prohibited acts which will culminate into peace and order in the society.

**Human Right:** The education of human rights will instill in the learner the knowledge of his claims from the state, his duties to the state as well as to his fellow citizens. In the case of **RANSOME KUTI vs ATTORNEY-GENERAL OF NIGERIA**, KAYODE ESO described human right as:

a right which stands above the ordinary laws of the land and which in fact is antecedent to the political society itself. It is a primary condition to a civilized existence, and what has been done by our Constitution since independence is to have these rights enshrined in the Constitution so that the right could be "immutable" to the extent of the non-immutability of the Constitution itself.

The education of Human Rights instills in the learner the consciousness of the duties attached to the rights, that is to say that the rights are not free from duties to the person inherent, they have obligations tied to them, and the freedoms, restrictions as well. In summary, such education will inculcate in the learners the knowledge that one's right to swing one's arms ends where the other's right to defend his nose begins.

## Recommendation

It is the recommendation of this paper that nations, who have not already done so, should introduce legal education which includes human rights in their school systems at Senior Secondary School level. The target population suggested is, not only much vulnerable to the commission of crimes, but are also the fathers and leaders of tomorrow. Emphatically, in the Millennium Development Goals being pursued by nations of the world, legal education is a sine quo non, if the goals are to be achieved. The teaching and learning of the law, for example, as provided by the 1999 Constitution of the Federal Republic of Nigeria, Section 33(1) that "Every person has a right to life, and no one shall be deprived intentionally of his life" should not be likened to a favour to the person inherent because of the exceptions (duties and obligations tied to the right) that the same sacred life can still be intentionally deprived a person in the execution of a sentence of a Court in respect of a criminal offence of which the person has been found guilty, is a right step in the right direction.

## Conclusion

Ignorant of the law and its attendant evils have thrown the whole world into chaos. There have been hue and cry by individuals, communities and governments, the world over, on the escalation of crime wave and the monster has defied control mechanisms. The clamour as well as the breaches and contraventions are both internal and across borders. In recent times, millions of youths the world over, have lost their lives in detentions, prisons, at trying to escape from apprehension. The major offences across borders are drug-trafficking, armed robbery, kidnapping, prostitution abroad, terrorist attacks, suicide-bombing, human trafficking, etc. Due to the illegality of the transactions, the dealers undertake high risks. Only legal education can bring to the fore the implications and consequences of indulging in prohibited act, and thereby reduce, to the barest minimum, the rate of the commissions and omissions of the acts; quantum loss of human and material resources by nations will, in the circumstance, only be seen in the sands of history.

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