
RIGHT TO EDUCATION: PROBLEMS AND PRACTICES

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Abstract: There is a long list of human rights among which some can be categorized as fundamental in the true sense as they are natural. All human beings are endowed with the rights by virtue of being human beings. The paper shows how the right to education and some other rights are the consequence of civilization and progress. The right to education is crucial; it is the pivotal point around which other rights revolve. The issue of human rights begins and ends with education, creating a vicious circle. The paper brings out the significance of the right to education, problems related to it and analyses Article 26 in detail.

Key words: Article 26, fundamental rights, privileges, rights and obligations.

Introduction: All human beings are created by God. That is the first, fundamental truth. Just as all other creatures are created by God, human beings are one of them. All creatures on earth live and avail of the resources provided by nature in their own right. Nobody teaches them to do it; they do not have the intelligence to understand that they are enjoying some rights. They live a natural instinctive life and their instinct tells them what they deserve and what they can have. Human beings are the selected creation of God, who endowed them with intelligence, with the ability to think and to express themselves through language. Human beings are certainly at an advantage in every way. We have come a far way from the time we lived as savages and we are proudly believe that we are civilized and cultured. As the most superior creatures on earth, we ought to know what our basic rights are, more precisely and comprehensively than other creatures do. The tragedy is that in spite of our dazzling intellectual abilities, we have to be made aware from time to time that we are human beings and we have to be taught what it means to be human. Just as we use the system of education to spread expert knowledge, we have to depend upon the system of education to spell human rights for children so that they understand while they are young and grow up as human beings. However, this is not possible unless every human being has access to education. The bottom line is that education plays an extremely important role in the civilized and cultured, progressing, digital technological world, the global village as we call it today, and the world of human beings. Among other basic human rights endowed by God and nature, the right to education is an additional mandatory right that cannot be ignored by human beings who are part of the modern world. This paper emphasizes the importance of education as a fundamental right, pointing out how it is different from other basic human rights and tries to analyze some of the difficulties and problems that can prevent human beings from enjoying this right. To quote from the Human Rights Law, "Now, Therefore The General

Assembly Proclaims This Universal Declaration Of Human Rights as a common standard of achievement for all peoples and all nations, to the end 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 and by 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." this quote highlights the role of education in the implementation of Human Rights law.

Background: There was tremendous loss of life during the world wars. People die like insects. The world ruled by human beings saw much bloodshed and human loss. There was loss of lives, money and infrastructure. Progress was affected. Life was made miserable. Human beings witnessed something that was inhuman. It made the human race feel guilty in a way, proving the last trace of humanity existing in the race. Born out of the atrocities and enormous loss of life during World War II, the United Nations Universal Declaration of Human Rights was signed in 1948 to provide a common understanding of what everyone's rights are. It forms the basis for a world built on freedom, justice and peace.

While some dictionaries define the word right as "a privilege," when used in the context of "human rights," we are talking about something more basic. Every person is entitled to certain fundamental rights, simply by the fact of being human. These are called "human rights" rather than a privilege. They are "rights" because they are things you are allowed to be, to do or to have. These rights are there for your protection against people who might want to harm or hurt you. They are also there to help us get along with each other and live in peace. Many people know something about their rights. Generally they know they have the right to food and a safe place to stay. They know they have a right to be paid for the work they do. But there are many other rights.

Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. When we claim to be civilized and cultured, we are expected to behave in a particular way. However, disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind. It has led to chaos and commotion. It can result in violence and anarchy. Hence, human beings all over the world need to follow and respect human rights. The principle of universality of human rights is the cornerstone of international human rights law. This principle, as first emphasized in the Universal Declaration on Human Rights in 1948, has been reiterated in numerous international human rights conventions, declarations, and resolutions. The 1993 Vienna World Conference on Human Rights, for example, noted that it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems.

Human rights which can be categorized as natural and very basic are rights to life, liberty, food, equality, freedom from slavery, freedom of speech, freedom of migration and settling at any place on the earth, right to marriage etc. all these rights are fundamental in the sense, they are enjoyed by human beings just because they are human beings. On the other hand, right to follow religion of one's choice, right to be protected by law, discrimination on the basis of caste, creed, gender etc. are different category of human rights which come at a later stage of development and progress. Right to education belongs to this second category; it will be agreed that right to food and rest is not the same as right to education.

If education is the route to understanding and digesting all other human rights, this must be taken seriously by every state and nation, which is being done, no doubt. At least, an attempt is made universally for promoting education at every level. At the same time, it can be said that much more is expected from the system of education than what it has achieved till date. A number of problems exist, on account of which we find the media abounding with instances of violence, cruelty, torture, lack of basic amenities, communal riots and so on, which reflect barbarous behaviour not at all in accordance with the human rights. An attempt is made here to throw some light on the problems with the system of education. Samoff J. Says in his essay that "the idea that universal access to education was in humanity's common interest was embedded in the 1948 Universal Declaration of Human Rights—"everyone has the right to education"—but let us concentrate on the recent period. Meeting again in 2000, this time

in Dakar, the world's governments, the funding and technical assistance agencies, and major nongovernmental organizations noted that the 1990 objectives had not been achieved and proceeded to reaffirm the commitment to education of good quality for all."

Right to Education: Article 26 of the Human Rights Commission says,

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

The Article consists of three sub-points. The first one clearly says that everyone has a right to education. It is simple and straightforward. One MUST have a right to education. The problem is not with the statement. The problem is that thousands of human beings in the world even today are not aware of this right that they are given by their fellow-beings. In order to understand education as a human right it is first necessary to know what is meant by education and why it is essential to take education. On account of ignorance about the meaning and significance of education, this right is rendered meaningless. It has no relevance in the life of those thousands whose awareness does not go beyond their biological needs, those who wander the streets in search of food, worried every moment about their next meal, those underprivileged masses who do not have a safe and secure shelter. Obsessed by the demands of these natural human urges, they have little time to spare for high and mighty phrases like education. It will take a long time for the illiterate to come into the mainstream of global inhabitants who are dreaming of migrating to Mars and who have access to the world at their fingertips.

The first sub-point continues to say that education must be free.... this is where the clause should ideally stop. Perhaps, realizing the impracticality of the statement, the words "At least at the elementary and fundamental stages" were added. In spite of the safe addition, the statement does not hold true in the real sense universally. Almost all countries provide free

education at the elementary level; why then is there an option of tuition fees? Merely making education free legally does not suffice. If it does not satisfy the needs of children, if it lacks quality, people who can afford it, choose to send children to private schools that charge any amount of fees and donations for providing elementary education. A major part of the national budget is dedicated to education, yet, education imparted free of cost has many problems. The entire system is faulty and inappropriate. The details would result in a doctoral thesis and is beyond the scope of this paper. Education is not universally free and qualitative.

The next important word in the clause is 'compulsory'. Education must be made compulsory, as it is done in the developed and developing countries. Going back to the first part of the clause, the word 'compulsory' is empty without awareness of the value of education. It is on the part of every human being to avail of this facility. Regarding technical, professional and higher education, the same problems can be extended, in addition to the fact that quality education is not universally affordable. Expensive education becomes a privilege. The moment something becomes a privilege, it ceases to be a right.

The second clause focuses on the comprehensive and holistic nature of ideal education. All good education caters to holistic personality development. The next part is the crux of the issue. Education should be directed towards strengthening the respect for human rights and fundamental freedoms. This underlines the fact that human rights take for granted some degree of education. How can one respect what one is not aware of? In order to become aware of human rights, education is the only means. This makes it a vicious circle.

The clause continues to mention a very crucial factor related to human rights. Human rights include right to equality, brotherhood and indiscriminate. This implies qualities like tolerance, friendship and understanding. Development of these qualities is the responsibility of education. It is a very heavy yoke on the shoulders of the system of education. A number of other human rights cannot be fulfilled unless there is education. Once again, the importance of education in relation to human rights is observed. Everyone wants to lead a peaceful life. This can only be made a reality with the help of education.

The third clause is necessary. It is logical and convincing. Although every individual has a right to education, education begins at an early age when children are too small to understand issues related to human rights and unable to take decisions about their life. Initially, it is parents who must decide what kind of education they should give their children.

Parents must understand what options are available. Even before that, parents must be aware of the need and importance of education. Children who are deprived of elementary education are the victims of the ignorance of their parents. Once again, it becomes a vicious circle.

Conclusion: The paper brings to light how all human rights are interconnected and depend upon one another. Fulfilment of one depends upon another. Of all other human rights, education is crucial. Most of the other articles revolve around universal compulsory and quality education. When human rights are not well known by people, abuses such as discrimination, intolerance, injustice, oppression and slavery can arise. Education introduces human beings to their rights, thus maintaining peace, law and order in the world.

Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible. Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups. All States have ratified at least one, and 80% of States have ratified four or more, of the core human rights treaties, reflecting consent of States which creates legal obligations for them and giving concrete expression to universality. Some fundamental human rights norms enjoy universal protection by customary international law across all boundaries and civilizations. Human rights cannot be taken away, except in certain situations. For example, one will be imprisoned in spite of the right to freedom if he is proved guilty and is a criminal.

Human rights entail both rights and obligations. If right to education is a right, it is the obligation of parents to admit their children to school. States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights. Providing educational facilities is the responsibility of the State. At the individual level, while we are

entitled our human rights, we should also respect the human rights of others. Problems exist because, as we escape the need to agree on a moral foundation for them), and the legal system created to express them may not be up to some of the larger tasks that

Buchanan says, "human rights as they are practiced at present are largely a legal phenomenon (which means proponents of human rights might expect the system to fulfil."

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