

RIGHT TO EDUCATION IN HIGHER EDUCATION

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Abstract

Right to education assumes an important role of enhancing the competence and capacities of humanity for growth and development through learning and training. It is the golden rule of equal opportunity to learn through free and compulsory primary and secondary education paving way for higher education. There is unequal preference in the private and public institutions in higher education as the affirmative action is not complete in respect of state responsibilities. Higher the implementation of the right to education ensures higher success or otherwise.

Keywords: *Rights, education, implementation, challenges, affirmative action*

JEL Classifications: *A20, A 21, A22, A23, C54*

I. INTRODUCTION

Right to education is recognised as a part of international human rights and it has been translated to states. It began with the United Nations Charter 1948. Until the Second World War, there has been no universal thinking and perception on human rights. The consequential impact is the glory of realization of human rights. It is the learning in suffering during peace. The colonialism has crippled human identity at the door of exploitation and slavery. Nations of colonial power and authority whispered at large to have realized the misery of death and destruction. War is the invention of peace and humanity when colonial powers cannot prevent the loss of life and suffering. Poor nations which do not have power to discover it, slowly emerge to become the parties to realize it after independence.

Humanity has prevailed and the right to education is the victory of joy and celebration of peace and freedom. President John F. Kennedy introduced the affirmative action in his Executive Order 10925 prohibiting discrimination in employment and President Lyndon B. Johnson expanded it in his subsequent Executive Order 11246. President Nixon implemented it in his Philadelphia Plan to address social and economic inequalities. President Reagan termed it as reverse discrimination which precluded down to India in the Right to Equality. The affirmative action survives despite several restriction of Court in the Regents of the University of California v. Bakke 1978, Adarand v. Prena 1995, Gratz v. Bollinger 2003, Grutter v. Bollinger 2003, and Fisher v. University of Texas at Austin 2013 (James A. Beckman, 2014). Nothing succeeds without pain and suffering.

II. INTERPRETATION

The legal interpretation of the right to education is principally applied universally but with variance. It is devoid of reforms. There is a common conclave of offering opportunities to enter and exit the corridor of education that is available in schools without considering the needs and aspiration of children (Michael Heise, Goals 2000, 1994). Economic factors of the family of children do influence greatly in the adaptation to education in schools and there is inequality. The children under the Right to Education face economic vulnerability and the standards of education are not effectively perceived and practiced. The right to education is less concerned to the educational reforms and there are several stakeholders who participate in this process except students (Michael A. Rebel & Robert L. Highes, Schools, communities, and the Courts, 1996). There is implicit perception on the violation of human rights law (Cornelius Riorden, 1997).

III.INDUCTION

India is one of the 139 nations who have enacted a separate law, the Right to Education Act, 2009. It proclaims that it is a fundamental right for every child for free and compulsory education up to 14 years in India as provided in Article 21 (A) Constitution of India. In UK, it is not an absolute right (R. v School Administration for Hounslow London Borough Council, 2002). The right to education pertains to education system and that does not compel the government to make subsidise it(Article 2).

The right to education is considered carrying double edged weapon of distortion and disengagement of capacity limitation. The affirmative action of reposing preference in the school entry to all is not construed by 70% positively in the poll survey of Washington post and ABC News during June 5-9, 2013 and contrarily in another poll survey of The New York Times and CBS News it was found 53 % supporting it (James A. Beckman, 2014). The right to education is endorsed in European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950; the Charter of the Organisation of American States, Article 47; the American convention on Human Rights, 1969; the Banjul (African) Charter of Human Rights and Rights of Peoples, 1982; and the Convention on the Rights of the Child, 1989.

IV.DISTORTION AND DISCRIMINATION

It is found that the norms and standards, as specified in the Right to Education Act 2009 such as classrooms, separate toilets for girls and boys, drinking water facility, prohibition of all kinds of discrimination and others, are found wanting (OXFAM, India 2018). The right to education includes free and compulsory free education; it offers access to higher education equally; it introduces minimum standards and quality of education; there is a provision for training to teaching staff; it guarantees freedom of choice; and it is devoid of discrimination (UNESCO, 2021).

The provision of physical and mental harassment is seldom effective unless additional efforts are initiated. There is a provision of 25% reservation in admission under the right to education in private schools and it is to be achieved without screening procedures for admission of children. Such provisions are often concocted and violated. The incentive of higher admission fees in private schools acts detrimental to the right to education.

Infrastructure and other benefits associated with higher admission fees in private schools are visibly lacking in public schools. It causes a strong dissenting effect in the outcome of quality education that reflects in higher education. The growth of a human being is the endorsement of support and care by parents, society and institutions. The education is found within the legal dimension making the responsibility of the state resulting into regulations and rules in the pursuit of governance.

The exercise began in 18th century (Jost Delbruck, 1992). India has struggled to achieve it historically and it has taken several revolutionary changes. Ethiopia has been successful. Global recognition has evolved the United Nations General Assembly in 1948 declares that the education is international responsibility. The UNESCO Convention against Discrimination in Education, 1960 initiated international protection against discrimination in education. The Convention on the Elimination of all Forms of Racial Discrimination 1966 has added further international protection in education without discrimination. The UN Covenant on Economic, Social and Cultural Rights 1966, after amendment, expands the state responsibilities of states of education to enable persons to participate in free society with dignity. In furtherance of it, the state has to ensure the rights of parents to participate in shaping education of their children in private and public schools (Article 13, Para 1, 1966).

V. EXCLUSION, LOW INCLUSION

Africa faces a serious challenge in the right to education. Sub-Saharan Africa fails miserably in the right to education as 60 % of children aged 15 to 17 are excluded. There are 20% of the African children aged between 6 and 11 who are excluded from schools. Similarly 60 % of the children of Africa aged between 15 and 17 are not enrolled in Africa. Unfortunately, 36 % of girls and 32 % of boys remain excluded from the right to education in Africa. In South Africa there is the drop out of 40 % children before completing 12 grades (World Bank and UNESCO, 2020).

In Western Africa, despite of progress in inclusion of children in schools, there are exclusion of 27 % of primary school-age children, 37 % of lower- secondary school-age children, and 56 % of upper-secondary school-age children. In Eastern Africa, there are exclusions of 34% of children from schools while 2 out of 5 are excluded from schools in Sub-Saharan Africa (African Union, 2021).

The African Charter on Human and People's Rights, 1981 provides the right to education under Articles 17 and 25, and prohibits discrimination under Article 2. The African Commission held that the closure of universities and schools has violated Article 17 (Free Legal Assistance Group and Others v. Zaire, 1995). The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) held that Article 11 of the

African Charter on the Rights and Welfare of the Child, 1990 is wider than the Article 17 of the African Charter on Human and People's Rights, 1981. The resolution of privatization of education and health is recognised on the right to education (The African Commission on Human and Peoples' Rights, 2019).

VI. BEST AND WORST

There are 54 countries in Africa. The right to education has played a key role in promoting education system in Africa of which Seychelles, South Africa, Mauritius, Tunisia, Kenya, Algeria, Ghana, Egypt, Namibia, and Libya have established the best education system in the world out of 140 nations in 2022, while there are 38 African countries which have achieved the best education system on skills development. According to World Population Review, Equatorial Guinea has achieved the literacy rates of 95.30%. The next best literacy rates of 94.30 % are achieved in South Africa.

Seychelles has the best education system in Africa and it is ranked at 43rd position in the top 50 world nations. It is above Ukraine, Hungary, Russia, and UAE as it spends 11.72 % of total expenditure for education (UNESCO, 2016). Here the education is free and compulsory up to the age of 16, and 98.9 % of the population age between 15 and 24 are literate. According to UN data Mauritius is ranked third in Africa with 74th position in the global education system. The literacy rates of Libya are 91 %. Botswana has achieved 88.50 % literacy rates and it is ranked 7th in Africa. There is free education and it is not compulsory in Botswana.

There are ten worst education systems in Africa. Niger has one of the worst education systems in the world with 28.7 % literacy rates as on 2005. Poverty is the main cause of the worst education system. Burkina Faso suffers from low literacy rates of 25.3 % in 2008 and low quality of education. The schools do not have facilities like textbooks, tables, chairs, books and so on. Mali is no exception to the worst education system with the literacy rates ranging from 27 to 46.4 %. Ethiopia is yet to gain good education system and the literacy rates are 49.1 %. Recently, it is improved to 90% enrolment of children in primary schools. The literacy rates of Angola are 71.1 % in 2015.

VII. CONCLUSION

A high outlay on education budget does not ensure high quality education as in the case of Thailand which spends 20 % of the national budget, amounting to \$ 24 billion , the quality is not in pace with it. The reasons include 80 % of the budget which are spent on subsidies and administrative expenses. It demands restructuring of financial resources on education (Chaiyuth Punyasavatsut, 2015). The OECD (Organisation of Economic Cooperation and Development) has released the ranking list of 76 nations of Asia and the rich nations of Singapore, Hong Kong, South Korea, Japan and Taiwan are in the ranks of 1 to 4. Vietnam has achieved 12th rank in the list. Thailand is in the 47th rank while Malaysia and Indonesia are at the ranks of 52 and 69 respectively. Thailand education system is very poor. USA the richest economy has the worst education system as the education is expensive and it is not accessible to all. Malaysia suffers from poor education infrastructure. Indonesia is struggling with the obsolete curriculums.

The UK universities have chosen to collaborate with the Chinese universities. The Chinese universities are in the higher global ranking. Chinese universities are better than the universities of the BRICS and Emerging economies in the university rankings in 2017. Four universities of China are in the top 50 universities. EU universities sign agreements with Chinese universities and UK students prefer to study in China. Indian universities are lacking behind China and there are seven Indian universities in the top 400 world rankings. In the recent judgement of the Madras High Court, the vice-chancellors are appointed not on academic merits but for cash varying from US \$ 140,000 to US \$ 421,000 (Mukhtar Ahmad, 2019). Corrupt practices eat away the benefit of the Right to education in higher education.

VIII. REFERENCE

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