

**RIGHT TO EDUCATION IN HIGHER EDUCATION: A GLOBAL CHALLENGE****Chala Wata DERESO**[chalawda@gmail.com](mailto:chalawda@gmail.com)*Bule Hora University, Ethiopia***P. RATHNASWAMY**[drprswamy@gmail.com](mailto:drprswamy@gmail.com)*Bule Hora University, Ethiopia***Marilena-Oana NEDELEA**[marilena.nedelea@usm.ro](mailto:marilena.nedelea@usm.ro)*Stefan cel Mare University of Suceava, Romania***Abstract**

*Right to education is the agent of human development, and development of the humanity. Learning is the beginning of rational living. Discriminations and restrictions to the right to education deny knowledge and skills to children, and adults. There are inherent challenges and other issues. Global efforts will supplement national programmes to achieve the right to education. Legal definitions and enforcements defy the true spirit of the right to education as being narrowly interpreted despite aware of the importance. Solutions are inevitable.*

**Keywords:** *Rights, education, implementation, challenges***JEL Classifications:** *A20, A 21, A22, A23, C54***1. RIGHT TO EDUCATION: LEGAL INSTRUMENTS**

Article 26 of the Universal Declaration of Human Rights, 1948, ensures that everyone has a right to education and such right is incorporated in several constitutions of the world nations for human development. It is an ambitious declaration. Education is the most important instrument of human development. Article 2 of the European Convention on Human Rights declares that no person is denied the right to education. It further states that the State respects the right of parents for education and teaching in conformity with their choice of religion and philosophical faiths and beliefs. According to the Council of Europe, the human rights education programme aims to achieve equality in human dignity through education. Education is the source of realization of other human rights and it empowers human to enhance knowledge and skills. Education is the instrument of realizing growth and development in respect of himself and humanity. Human development recognises the essential feature of economic development through science and technology.

Knowledge and skills are transferred from generation to generation as Milton says that learning shoulders the responsibility from man to man. There are several important goals in the Millennium Development Goals of United Nations and Goal 2 pertains to education for development of personality. The Human Rights Education is reaffirmed in the World Conference on Human rights in 1993 and the United Nations Decade for human Rights Education began in 1994 commencing from 1 January 1995 to 31 December 2004 resulting to the development of establishing a World Programme for Human Rights Education in 2004. The Human Rights Council of UNO has initiated the second phase on human rights education for the period from 2010 to 2014. United Nations General Assembly has adopted the UN Declaration on Human Rights education and Training in December 2011 in which Article 7 imposes responsibility on the states for promoting the human rights education and training. It has created the United Nations Commissioner for Human Rights under the authority of the Human Rights Council, UNO. Article 13 of the International Covenant on Economic, Social and Cultural Rights, 1966 recognises the responsibility of states on the right to education. Similar responsibility is entrusted on the states in the Second Summit of the Council of Europe in 1997. The post of the Commissioner for Human Rights became operational in Council of Europe since 1999. The Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education, 2010 proposes the human rights education in formal education and non-formal education.

UNESCO Convention against Discrimination in Education, 1960, is an effective international instrument on the right to education which includes free and compulsory free education, and accessible different forms of secondary education and higher education with a view to strengthening human rights and fundamental freedoms. It becomes an obligation on the States. In the Convention, Article 5 aims that education is for the full development of the human personality. This Convention considers the parental choice of education and freedoms in education and the States need to respect them. The European Court of Human Rights recognises it. This convention is the first international instrument for standards and quality of education. UNESCO's General

Conference in November 2017 has recognised the Education 2030 Agenda. According to Article 102 of the Convention, the convention has to be registered with the Secretariat of UNESCO. The Covenant on Economic, Social and Cultural Rights, 1966 endorses the right to free and compulsory primary education. It invokes the responsibility of the States. Article 28 (1), the Convention on the Rights of the Child 1989, stresses the right to free and compulsory primary education. United States of America remains elusive to the right to free education.

Article 17 of the African Charter on Human and Peoples' Rights ensures the right to education. Article 12 of the Protocol to the African Charter on Human and Peoples' Rights provides the rights of women to have equal access and opportunity in education, and the states implement without discrimination.

## **2. RIGHT TO EDUCATION: SOCIAL ENGINEERING**

The term adult illiteracy is associated with the inability to read and write above 15 years and old. The highest illiteracy rates are 34.7 % , 27.1 % , 20.6% , 6.3 % , 4.2 5, and 1.5 % in Sub-Saharan Africa, South Asia, Arab states, Latin America and the Pacific , and Europe and Central Asia respectively in 2019 (Statista, 2021).It confirms that the right to education is not uniformly successful in all the regions. However, there is growth in the global literacy rate. The literacy rate of males and females are 90% and 83 % respectively in 2019 (Statista, 2021a). The Gender parity index, which indicates the literacy rate in the ration of females to males aged 15 to 24, has increased to 0.98 % in 2019 from 0.95 % in 2009 (Statista, 2021b). Among the top 13 Universities of the world, the reputation index is 100 for Harvard University while the 13<sup>th</sup> Tsinghua University of china has 23.6. The top three Universities are from USA. Among 13 Universities, 9 universities are from USA and 2 universities are from UK while 1 university each from Japan and China (Statista, 2021c).

## **3. STATE FUNDING AND PRIVATIZATION OF EDUCATION**

Article 13 (2) (a) of International Covenant on Economic, Social and Cultural Rights, 1966 suggests free primary education and Article 13 (2), (b), and (d) recommends free education or affordable secondary and higher education. As early in 1920, there was a movement for compulsory public education in United States and prohibiting private education. According to 14<sup>th</sup> Amendment to the constitution of United States of America, the right to education is not a fundamental right but it is recognised in the equal protection clause and thus, there is equal access to schooling. Public schools in USA allow free education to both citizens and non-citizens. There is a cost difference between public funded schools and private schools. The average cost of public college appears to be \$20,770 in state while in non-profit schools the average cost is more than \$ 45000 in 2017-2018. Hence, the private schooling is highly expensive and it discourages the right to education. The Washington Supreme Court held that funding charter schools as common schools is unlawful. Most of the third world nations promote state funding for public schools but recently the private schools are flourishing for various reasons. This trend is not encouraging the right to education.

## **4. CHALLENGES**

Educational reforms do not meet the expectations and aspirations of the youth. There are disconnections among them in the areas of personal communication, emotional needs, shared loyalties and religious affiliations. It is feared that the ends of the right to education appear to fail. There are different approaches on the rights of child and the right to education and these approaches need to be reconciled for better results. The students are placed to dislike themselves and their own culture (Bram A. Hamovitch, 1996). In USA, there is a failure to inculcate a shared set of values and national character (Carl F. Kaestle, 1984). More complex parental and community interests have not addressed adequately the right to education. In fact, the US law and human rights on the right to education demands reformulation of the right to education.

The right to education suffers from effective implementation. The right to education does not imply implementation and it demand additional efforts. The Supreme Court of America has declared that the right to education does not become a fundamental right (San Antonio Independent School District vs. Rodrigues, 1973). At the best there are constitutional principles as it is very difficult to establish violation of the right to education. The complete of denial of opportunities is difficult to establish. The Court generally restrains from the exclusion of children in the public school activities. It is the most important of State and local government for providing education in awakening the cultural values and preparing him for professional training (Brown vs. Board of Education, 1954).

Most of the African countries spend 20 % of their national budgets attaching higher priorities on education but the allocated funds are inadequate to achieve the right to education as their national incomes are less. Burkina Faso spends more than 25 % of national income but it has largest populations without schooling. Ethiopia, Kenya, Ghana and Tanzania have the combination of domestic and higher external donations to

achieve universal primary education. Nigeria is one of the largest economies but it has low outlay on education. Sub-Saharan countries suffer extremely providing universal primary education.

Higher education involves huge investments. Ethiopia has largest number of funded universities to provide accessible higher education.

There are more than 11000 attacks on 22000 students and educators in 93 countries. Heavily attacked on higher education nations include Ethiopia, India, Pakistan, Palestine, Sudan, and Turkey. In India, there were more than 1000 incidents of attack on higher education and more than 1300 students were arrested between 2018 and 2019. There were more than 500 incidents of attack on higher education in Ethiopia. Congo suffered from more than 1000 attacks on higher education and military use of schools. In Yemen, there were more than 1000 attacks on higher education and students and staff. In Syria, 40 % of the schools were attacked between 2013 and 2019. United Nations had verified them too. Maximum attacks on teachers, students, and other education personnel numbering to 8300 in Afghanistan, Cameroon, Palestine, and the Philippines. In 34 countries, there were the Military use of schools and universities. There were 17 countries which recruited girls and boys less than 18 years as fighters, spies or intelligence sources. It was reported that armed forces, law enforcement, or non-state armed groups indulged in sexual assault at schools or universities in 17 countries (Education Under Attack, 2020). The Education under attack was prevalent in third world countries particularly in Africa, Asia and Latin American nations mostly even though it is equally found less in other nations.

In Sub-Saharan countries, more than 72 million children remain without primary education in Africa and 50% of them are in Sub-Saharan Africa. More than 11 million children are in Nigeria without schooling. The quality of education is very poor in Sub-Saharan Africa as 130 million children of primary schools in Sub-Saharan do not have basic literary and numerical skills (UNICEF, 2016; Bold et al., 2017; Adeniran et al., 2020).

Where there is a problem to the right to education, the remedy is available. India needs to reply to the complaint against discrimination to the disabled child in the school admission while has promptly responded to use Tibetan language in schools. Israel has allowed only 8 for the construction of schools against 100 schools requested. Romanian government promoted multilingual and multicultural education programme in Romania, Babes-Bolyai University. The violence against mentally disabled children and adults in USA and to the complaint USA responded positively (UN General Assembly, 2011).

## 5. CONCLUSION

There must be additional investments for implementing the right to education. International donors must come forward with international financial institutions to enhance infrastructure and imparting quality education. There shall be the prioritisation of construction of schools in selecting the investment in which there is no school. Investment constraints shall not limit the efforts of making no fees in primary schools. This strategy has yielded positive results. Another option is the encouragement of privatisation of school and higher education. The private institutions are claimed to improve the quality of education but it has created disparity among the educational institutions. The rich students are admitted and the poor students are deprived of education. In USA, the funding of schools is discouraged in the Court decisions as it is not justified in transferring tax money to education. Thus, the Uganda model of public – private partnership in education proves successful. There is another option of promoting non-profit education institutions to rationalise fees. Kenya has experienced the better performance from the private school education comparing public schools (Zuilkowski et al., 2020). Nairobi finds that the low-cost private school is not effective. Thus, the right to education needs a strategic solution in choosing the public schools, or private schools or public -private partnership schools or non-profit schools. In order to prevent attack on education, the States must support free and peaceful education. There shall be more vigilant and active monitoring agencies to prevent attack on education.

## REFERENCES

1. Council of Europe (2021). Manual for Human Rights Education with young people, Council of Europe 2021
2. UNESCO (1960). Convention against Discrimination in Education 1960
3. Roger J.R. Levesque (1997). The Right to education in the United states: Beyond the limits of the Lore and Lure of Law, *Annual Survey of International & Comparative Law*, Volume 4, Issue 1, article 10 1997
4. Bram A. Hamovitch (1996). Socialization without Voice: an Ideology of Hope for At-risk Students, 98 *Teachers College Record* 286, 302-303 (1996).
5. Carl F. Kaestle (1984). Moral education and Common Schools in America: A Historian's View, 13 *Journal of Moral Education*, 101, 107-8 (1984).
6. San Antonio Independent School District vs. Rodriguez (1973). Supreme Court 411 U.S. 1(1973).
7. Brown vs. Board of Education (1954). Supreme Court of America, 347 US 483, 493 (1954).
8. Education Under Attack (2020). Report: Global Coalition to Education from Attack, 2020
9. UNICEF (2016). Report: The State of the World's Children, 2016
10. Bold, T., Filmer, D., Martin, G., Molina, E., Stacy, B., Rockmore, C., Svensson, J., and Wane, W (2017) Enrollment without Learning: Teacher Effort, Knowledge, and Skill in Primary Schools in Africa. *Journal of Economic Perspectives*, 31 (4), 185-204

11. Adeniran A., Ishaku J., Akanni L. (2020). 'Is Nigeria Experiencing a Learning Crisis: Evidence from Curriculum matched Learning Assessment', *Centre for the Study of the Economics of Africa*, Working Paper
12. Statista (2021a). Global youth literacy rate 2009-2019, by gender March 30, 2021
13. Statista (2021b). Global youth literacy rate gender parity index 2009-2019, March 30, 2021
14. Statista (2021c). World university rankings by reputation score, by Times Higher Education 2020, March 30, 2021
15. UN General Assembly (2011). Report of the Special Rapporteur on the right to education, Human Rights Council, UN General Assembly 2011