



## The Right to Education as a Component of Citizenship Right

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### ABSTRACT

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#### Authors

Sara Rostami (\*1)

Soudabeh Rostami (2)

(1) Assistant Professor, Department of Law, Payame Noor University, Tehran, Iran. (Corresponding Author)

(2) M.A in Islamic Jurisprudence and Law.

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#### Corresponding Author's Info

Tell: +982637309977

Email: [Mpj.rostami@yahoo.com](mailto:Mpj.rostami@yahoo.com)

ORCID: 0000-0003-0672-3616

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#### Background

Education is not only one the most important instrumental examples for the realization of other examples of human rights but is also the premise and what guarantees the execution of other examples of human rights. The right of education was at first accepted in the universal declaration of human rights as a general and flexible principle lacking certain legal and binding commitments. Die to the basic differences in legal-political system of governments, the expansion and progression of this right was left to national and regional legal systems.

#### Materials and Methods

This research method is descriptive-analytical one.

#### Ethical Considerations

In all steps of writing this research, while observing the authenticity of the texts, honesty and fidelity have been observed.

#### Findings

In the framework of the right to empowerment, education is the most important mechanism by which individuals can acquire opportunity for full participation in societies. Education plays an important role in empowerment of vulnerable strata, propagation human rights and democracy, providing the necessary fields for sustainable development and etc. as a result, education is considered to be one of the best intellectual and financial assets that a government can do in order to develop, improve, prosperity and welfare of society.

#### Conclusion

Evolutionary of the right to education and implementation and guarantee it within the framework of citizenship rights, its relevance to the development and fortification of the rule of law concept and its constituent elements, plays a pivotal role in the process of educating citizens on the basis of democracy and establishment of a legal - political system.

#### Key words

Right to Education, Citizenship, State, Law.

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## **INTRODUCTION**

Education is one of the most important instances of human rights and also an important tool for the realization of other instances of human rights. In the framework of the right to empowerment, education is a mechanism by using which individuals can gain the tools necessary for full participation in society [1]. Education plays an important role in the empowerment of vulnerable groups like women and children, promotion of Human rights and democracy, protection of environment, providing the necessary grounds for sustainable development and etc. Therefore, education is one of the best materials and moral investments which a state can do in for development, progress and the welfare of the citizens [2].

One of main goals in the process of education is preparing individuals for participating in society and social life [3]. This is not news to teachers and tutors. Schools and educational institutions with their own attitudes and discourses practically have a lot of influence on the progress and growth of individuals [4] tutors and other education experts like administrators of schools and educational institutions put to work different goals and ideas in the process of education [5]. They are constantly under the influence of different discourses namely political, religious and Philosophical attitudes related to education. These attitudes gradually move cultural, political and religious borders. One the important attitudes which has a lot of influence on education are attitudes related to "subjects and issues desirable for human progress" [6].

In the late 90s a doctrine under the name "democratic citizenship" was proposed on the level of the EU and the institution of American governments. In this doctrine, development and progression (whether political, social, legal etc.) cannot happen in a society unless citizens play an active role in enforcing democracy. What is meant by an active role is participating and demanding in the administration of all aspects of society [7]. Political participation and demanding requires knowledge and awareness. It is here that educational programs become highly important. In fact these plans must take place in order to empower the right to choose political destiny. In the present inquiry we are looking for answers to the question that with the entry of the doctrine of Democratic citizenship into the legal-political literature of International relations, what changes has the right to education and the commitment of governments to executing and enforcing it has gone through.

## **MATERIALS AND METHODS**

This is a theoretical research and its method is descriptive-analytical one.

## **DISCUSSION**

### **A. The Concept of Citizenship and the Importance of Education**

In the legal literature, the concept of citizenship rights is next to the concept of human rights. Governments are required to heed the norms of citizenship rights in their interactions with their citizens on one hand, and the norms of human rights in their interactions with all people (citizen or non-citizen alike). What is meant by

citizenship rights is the set of norms that regulate the relation between the government and its citizens. In simpler terms, humans due to having a citizenship relation with a certain government, enjoy certain rights and duties which are called citizenship rights [8] the Modern identity of individuals is expressed in the framework of political education and the concept of citizenship [9]. In the recent years the concept of citizenship was expanded and deepened. What is meant by the expansion of this concept is that currently citizenship other than the government is also related to international and regional institutions (like citizenship of EU, world citizenship, etc.) [10] Also what is meant by the deepening of this concept is that in addition political aspects, socio cultural resources (one of the most important instances of which is the process of education and its results) are also related to citizenship. In simpler terms, at the core of citizenship and the relation between the individual and the state, socio cultural resources are created for the state [11]. Because the concept is in fact the manner of humans' coexistence and what they have in common. Of course, in such a broad view of this matter (i.e. understanding the manner in which humans coexist and what they have in common) itself brings things closer and leads to more exploration in the personal identity and life of individuals [12]. This exploration and getting closer to the personal identity and life of individuals is an important issue which is related to citizenship rights and entering it is up to the government [13].

Since most societies right now are either directly or indirectly under the influence of the neoliberal approach (i.e. privatization in order to turn everything into commodity) the interference of the government is against the rule and exceptional [14]. The Philosophy behind neo-liberalism is that the market should be allowed to regulate the government and its relations. If the market fails to reach its moral goals, the process of education is an important agency to fill the gap [15]. In simpler terms the process of education is of high importance and status. The importance of this process goes so far that even in the neoliberal approach at the core of which the moral and human lines are to a large extent displaced, it is an important agency which should not turn into a commodity or an agency related to the market [16].

## **B. The Right to Education**

The first document that recognized the right to education as a general principle was the universal declaration of human rights dated the 10th of December 1948. This declaration has noted the right to education under the Article 26. Due to the first paragraph of this Article, everyone has a right to education. Also, regarding this right, distinction between elementary/primary education, professional education and higher education is necessary [17]. Primary and elementary education must be mandatory and free everywhere. The goal of this education is in fact rooting out illiteracy (i.e. incapability to read, write and do basic calculations). But related to professional education, it is up to governments to make it as public as possible and expand and develop it [18]. Also related to higher education

(academic) governments have to provide the possibility of entering higher education institutions and distribute this possibility equally for all people. The second paragraph of Article 26 states the general framework and direction of the process of education in a very general a flexible way. Based on this regulation, the process of education must be directed towards respect to human rights and freedoms, respecting other opinions and different perspectives and friendship between all nations and different ethnic, racial and cultural groups [19].

The first thing that must be noted is that the commitments which are the subject of Article 26 of the universal declaration of human rights, is in fact very broad and avoids accounting certain and particular duties for governments [20] the cause of which was the political atmosphere surrounding international relations in the 40s. Back then, the Second World War had just ended and a new order was established between the members of the members and players of international community through new agreements (such as the human rights charter) in which violating international agreements or refraining from their execution was considered as obscene. Therefore, governments had fewer tendencies to accept particular and detailed international agreements [21].

The second thing that must be noted is that before the ratification of the universal declaration of human rights, the right to education (and generally many instances of human rights) were not accepted in international documents as a general principle

so that by the passing of time the possibility for changes and modifications, and accounting particular legal commitments would be provided. Therefore, the content of the declaration related to the right to education was an important starting point [22].

The third important note is the non-binding status of the declaration in the 40s. Of course, we must not forget that after the passing of a few decades, in the view of many legal scholars and writers of international law, the contents of the declaration have become customary principles. In other words, currently regarding the approach of governments and nongovernmental agents the content of the universal declaration of human rights has commonly become universal customary principles [23].

Thereafter the universal declaration of human rights received the acceptance of the international community, in the 60s attempts were made to strengthen and composition the content of the declaration. After many ups and downs, these attempts came to fruition in 1966 and the contents of the universal declaration of human rights was ratified by governments in the form of two important international covenants, the international covenant on civil and political rights and the international covenant on economic, social and cultural rights [24]. These covenants unlike the declaration are binding documents. The right to education was also particularly noted in the Article 13 of the international covenant on economic, social and cultural rights.

With regard to the Article 13 of the covenant, we must make a distinction between the content of the first and the second paragraph. According to the content of the first paragraph the goal of the process of education is the full development of human character and dignity, strengthening the sense of respect towards human rights and freedoms, preparing people playing an active role in society and also providing the necessary conditions for friendship and tolerance between all people [25]. The framework of the first paragraph of the Article 13 is still like the declaration of human rights unbinding and flexible. So, in a way in this paragraph the general approach and vision of the process of education is designed. But in the second paragraph precise and particular commitments for governments are considered [26]. According to the content of the second paragraph of the Article 13 of the covenant, governments must provide primary education for everyone for free and also different frameworks of secondary education, among them vocational education must be accessible to all by the right means. But considering that higher education is quite costly for governments, it should be gradually provided for all [27]. It is noteworthy that governments must especially provide primary education for those who lack this education and or have not completed it. Also, the commitment of governments is not only to the people's right to education, they also should develop the network of educational institutions and must constantly improve the working conditions and benefits and income of teachers and educators [28].

After the international covenant on economic social and cultural rights, the right to education was never wholly considered in later international documents. In fact, this right has mostly been considered as one of some specific and limited aspects in in international documents and treaties relating to specific issues. Through certain aspects in international documents related to special topics. In this area we can point to the UNESCO convention against discrimination in education dated 1960, the content of Articles 5 and 7 of the international convention on the elimination of all forms of racial discrimination dated 1965, Article 10 of the convention on the elimination of all forms of discrimination against women dated 1967, Articles 17, 28, 29 and 30 of the convention on the rights of the child dated 1989, Articles 12, 30, 43 and 45 of the international convention on the protection of the rights of all migrant workers and members of their families and world declaration on education for all dated 1990.

In global international documents the right to education didn't have more development and expansion. In reports and interpretations that the committee on economic, social and cultural rights has published related to the international covenant on economic social and cultural rights considering the many differences in sociopolitical structures and systems of government the development of the right to education is on the shoulders of regional and internal legal systems [29]. So, in the following we must turn to regional international documents related to the right to education.

The American declaration of the rights and duties of a man was signed a few months before the universal declaration of human rights in the ninth international conference of American states dated 1948 in Bogota. In Article 12 of this declaration the right to education was recognized for everyone based on freedom, morality and togetherness. The goal of this education in this declaration is to achieve a good and rational life, promote welfare state and turning into a useful member of the society. In this declaration the right to education must be provided and guaranteed for all free of charge. Of course, in The American declaration the universality of primary education is not mandatory [30]. The American convention on human rights which was ratified in 1969 about the right to education did declare more than what was declared in American declaration but in the 1988 the additional protocol to the American convention on human rights in the area of economic, social and cultural rights “aka. Protocol of san Salvador” Was signed and after 11 years in 1999 it was enforced [31]. In this protocol under the Article 13 the right to education is thoroughly discussed.

After the acknowledgement of the right to education for all in the Article 13, in the following, the framework and attitudes in the process of education is noted by the second paragraph of the Article. According to the content of the second paragraph the process of education must move towards the full development of human character and its dignity, respect for human rights and basic freedoms and also the strengthening of justice

and peace. [32] Also, the goals of the process of education include: empowerment of people for active participation in a democratic and pluralist society for reaching a reasonable and appropriate life, tolerance and acceptance and friendship between all nations and racial ethnic of religious groups for keeping the peace [33].

According to the content of the third paragraph of the Article 13 for the full fulfillment of everyone from the right to education governments are committed to: A) Primary education must be mandatory and free access able by everyone; B) Secondary education in its different forms, especially vocational education must be accessible in proper ways for everyone; C) Higher education based on individual talents and proper ways especially educational funding must be provided for free for everyone; D) For the handicap no matter mental or physical special educational programs must designed so that these people can get the necessary education. Finally, the paragraph four of Article 13, the right to education recognizes for the parents to choose the form of their child's education, under the condition that it's not contradictory to the principles and goals of the process of education which are declared in the clause 13 [33].

The legal political system of the EU is another regional international system that has paid attention to the right to education. Under the clause 2 of the first additional protocol to the European convention on human rights it is ruled that no one can be deprived of the right to education. In fact, the way of recognizing education in the European countries is different than other countries. Almost in all other

documents it is said that everyone has a right to education. In interpretation, this kind of phrasing means that the right to education was not acknowledged before and it is through this document that this right is acknowledged. But in the first additional protocol to the European Convention on Human Rights it is said that the right to education of no one is to be taken from anyone. In interpretation, this sort of phrasing was acknowledged before consideration. In the 2<sup>nd</sup> paragraph of the protocol the subject of impossibility of taking away a person's right to education is mentioned regardless of the possibility of violating, breach or retraction of this right [34]. It must be noted that there is a difference between the title "violating or breaching a legal norm" and retraction of a legal norm". Breaching means the government that has breached the norm does not recognize any excuse or does not justify his behaviors by a safe guard or safe harbor recognized by the government. But what's meant by retraction of a legal norm is that the responsible government refers to an accountable element recognized by the government or an excuse [35]. In law the international obligation or responsibility of governments, principally except the *jus cogens*, other obligations of the government are not unbreachable [36]. Since in the first additional protocol the absolute impossibility of deprivation of the right to education is declared therefore we can argue that these aforementioned arguments in the legal literature of the EU is acknowledged as basic and enforcing right the subject of which can never under any circumstances be deprived or suspended. In simple terms the status of right to education in the EU laws is promoted to the

level of enforcing obligations. This issue shows the great importance of the right to education in the legal and political system of Europe [37].

Parallel to the promotion of the right to education in EU, the goals of education were also expanded. This expansion was created in the light of doctrines like the accountable rule and welfare state etc [38]. Under the framework of these doctrines the institution of government must move towards creating welfare for the people and this movement is only possible through the cooperation of all people in all aspects. The cooperation of people is only possible when the required education regarding civil rights, political cooperation, the principle of the right to choose the faith, the importance of democracy, the principle of tolerance and acceptance, the principle of respect towards a society and etc are provided [39]. Therefore, it is necessary that the citizens have a constant and active participation in enforcing their rule. This issue constitutes the bases of the doctrine of Democratic Citizenship. Democratic citizenship being put forward the right to education became deeply related to the concept of democracy its basic doctrine of tolerance and acceptance. After the doctrine of Democratic citizenship was put forward the role of the process of education in the establishment of a democracy was highly considered in different legal-political systems of the EU (binding and nonbinding).

## CONCLUSION

The right to education as a human right is highly related to other instances of human rights. The reason for this is the governing of

postmodernism on the international relations of the subjects of law. The defining attribute of this area is the expansion and complication of the relations of the subjects of law by the entry of different factors.

The right to education was at first considered as a general principle in the universal declaration of human rights. The aforementioned principle other than being in a nonbinding form lacked certain commitments for governments. Therefore, the importance of the expansion of the aforementioned right (normatively and structurally) was felt. Governments in the international community have very different legal-political social systems. This diversity is a big obstacle on the way of providing a single algorithm for guaranteeing the execution of the right to education. Therefore, in the field of International law the principle of the right to education manifested as a binding principle or *jus cogens* through international covenant on economic, social and cultural rights which included certain obligations for governments. Later, the expansion and strengthening of the right to education was left to regional and national legal systems.

Considering the lack of the concrete legal-political systems in other parts of the world, other governments especially the government of Iran, in their confrontation with their general duty of expanding the right to education, do not feel foreign pressure and therefore by examining its attitudes and methods in isolation we cannot gain a legal or even practical algorithm which is certain and successful with regard to the right to education and its process. It seems that Governments outside the legal-

political system of EU can use the successful approach of the EU with regard to the expansion of the right to education and its relation to democracy in the framework of the doctrine of democratic citizenship and with modifying the aforementioned algorithm according to the basis of national legal system, provide a special and national algorithm. The basic problem in this process is the concept of the rule of law and its constituting elements. Traditionally the elements of the rule of law are more or less are sporadically present in all democratic legal-political systems but the issue remains that the aforementioned concept and its elements in addition to existing in the framework of national legal-political systems exist as concrete rules and laws, must also be formally and specially emphasized upon in all educational processes of the citizens on Different levels. Basically, if the concept of the rule of law and its elements are wholly enforced and guaranteed in all respects, the result of it would be transparency and legal certainty in the relations of the subjects of law. These two elements also play a basic and important role in fighting corruption and in establishing a democracy in the literal sense of the word because the existence of these two elements is in fact the premise of creating a self-committed legal political system the most basic and efficient executive guarantee of which should be the force of the public opinions and demands of the people.

### **ETHICAL CONSIDERATION**

In all steps of writing this Research, while observing the authenticity of the texts, honesty and fidelity have been observed.

## **AUTHOR CONTRIBUTIONS**

Planning and writing of the manuscript was done by corresponding author and second author helped in revising the manuscript.

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## **CONFLICT OF INTEREST**

No conflict of interest was reported.

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