

The Principle of Equality in Education: Exploring the Legal Aspects of the Right to Inclusive and Equitable Quality Education for Achieving the Development of a Democratic Citizenship

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ABSTRACT

The study explores the legal framework for protecting the right to education, through the prism of the principle of equality, which defines its full content as “right to inclusive and equitable quality education”. It highlights the importance of sustainable development, democracy, and the rule of law as higher goals which inclusive and equitable quality education serves. We argue that states not only must provide the full content of education to achieve educational objectives but also must ensure that the right to democratic citizenship as both an individual right and objective of a quality education requires equal access to education as well. The study fills a gap in literature by demonstrating that ensuring a triptych of Equity, Diversity, and Inclusion (EDI) in education is not just a declarative requirement for sustainable development but an imperative state obligation for action and the construction of educational programs that ensure inclusive and equitable quality education. It also aligns the full content of education with the UN’s Agenda 2030 for Sustainable Development Goals (SDGs), particularly the SDG4. The study concludes with recommendations for immediate implementation.

Keywords: EDI, education for democratic citizenship, right to education, sustainable development goals.

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1. INTRODUCTION

The unhindered and effective exercise of human rights presupposes equal possibilities of access to the exercise of each right by their body, which ensures the observance of the principle of equality. In this context, the social state must serve distributive justice, to ensure substantial or proportional equality in access to goods and opportunities with the aim of rectifying social inequalities (Dworkin, 2002, p. 286). This is because the principle of equality is not understood as numerical but substantive or proportional in the sense of equal treatment of similar and dissimilar cases.

For a different treatment not to constitute discrimination, it should have an objective and reasonable justification, that means it is pursuing a legitimate aim and/or the relationship between the means used and the

objective pursued is proportional.¹ In the nexus of Rawls’ (2001, pp. 42–43) “justice as fairness” principle, social and economic inequalities have to meet the following two conditions. First, they should be linked to positions and offices that are accessible to everyone under the principle of fair equality of opportunity; second, they must be predominately beneficial to the most disadvantaged members of society (“the difference principle”).

Therefore, under the principle of effective protection of human rights² as a guarantee of the principle of equality and as interpreted in the light of the democratic principle of the “rule of law”, states have

¹ This is in line with the European Court of Human Rights’ case law: ECtHR, *Vallianatos and others v. Greece*, nos. 29381/09 and 32684/09, 07 November 2013, §76, *Burden v. the United Kingdom*, no.13378/05, 29 April 2008, §60, *Schalk & Kopf v. Austria*, no.30141/04, 24 June 2010, §96.

² For further analysis of this principle, readers should refer to Greer (2006).

The present study interpretively approaches the existing legal framework for the protection of the right to education through the principle of equality, highlighting the full content of this right, i.e., as inclusive and equitable quality education, which constitutes a goal of sustainable development for the protection of democracy and the rule of law. Through a critical approach to binding legal texts protecting the right to education, the article establishes the states' legal obligations to provide this full content of education, to implement the educational goals that are part of its content. The right to democratic citizenship, therefore, both as an individual right and objective of a quality education, presupposes, first and foremost, equal access to education, which constitutes an autonomous but interrelated right, inherent in the broader right of education. Extant literature mainly examines the phenomena that affect the different aspects of equality in education, the effectiveness of the principles of Equity, Diversity and Inclusion (EDI) in education, and the undeniable importance of pedagogy in citizenship education, without basing this imperative need on the full legal content of the right to education and the emerging state obligations. This study fills this gap in the literature and demonstrates that ensuring a triptych of EDI in education is not simply of a declarative nature for sustainable development or a factor in the effectiveness of educational institutions, but an imperative obligation for action and the construction of educational programs that ensure inclusive and equitable quality education. At the same time, it demonstrates the correspondence of this right's full content with the UN's Agenda 2030 for Sustainable Development Goals (SDGs), especially the SDG4, diagnosing that the application and implementation of the full content of education is a factor of sustainability and political stability. To this end, the study concludes with tangible recommendations for immediate implementation.

With regards to the field of education, for Rawls, equality of opportunity bears for a state the positive obligation to provide an educational system that aims at the redistribution and reallocation of resources as a precondition for addressing the gross inequalities between the advantaged

Educational reforms aiming at a fair distribution of educational resources, may be supported using a “veil of ignorance”, which according to Rawls (1971) ensure an unbiased stance in any educational reform. In this framework, new national policies can be reconsidered, and new

⁴ See, ECtHR, *E. and Others v. the United Kingdom* no.33218/96, 26 November 2002 §88.

experimental methodologies can be applied to enable the various stakeholders, such as executive power, teachers, parents, and others, to give preferences free from bias and self-interest ensuring a social consensus. Therefore, eliminating discrimination in education and assuring equal access, at all levels of education and vocational training (for the vulnerable), should be a state's primary priority, satisfying the principle of equality and the deriving principle of non-discrimination, as well as Rawls' "principle of equal liberty" and "difference principle." Moreover, as will be analysed further on, this is a state obligation derived directly from the inherent content of the "right to education."

3. THE FULL CONTENT OF THE "RIGHT TO EDUCATION": UNDERSTANDING ACCESSIBLE, INCLUSIVE AND QUALITY EDUCATION

Most international legal instruments recognise the "right to education" in a twofold way. Firstly, they enshrine the "right to *access* to education" and, secondly, they recognise the "right for a *substantial* education". Such educational provision should have clear *objectives*, i.e., promoting the full development of human personality within a climate of respect for human rights and fundamental freedoms, as well as the encouragement of active participation for all individuals in a free society where various groups can coexist in an equitable and peaceful manner (Michopoulou, 2023). For example, the UN Convention on the Rights of the Child (UNCRC),⁵ which is the first legally binding text safeguarding children's rights, provides a double guarantee of the right to education in separate provisions. In article 28, the Convention recognises the right to education, based on equal opportunities, setting appropriate conditions for State Parties to ensure **access** to such education for every child. Furthermore, article 29 provides for the right to **substantial and quality** education by explicitly stating the educational aims to be achieved, according to which States Parties undertake to provide children with an education directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
 - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
 - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
 - (e) The development of respect for the natural environment."
- [art.29(1) UNCRC]

As derived from this article, corresponding to the aims of education, the right to **substantial and quality** education includes interrelated rights, i.e., "the right to a full development of the child's personality", "the right for human rights education" and "for democratic citizenship education" which obtain *autonomous* status (Michopoulou, 2023). These autonomous rights which constitute the "right to education" are interrelated as they presuppose each other so that their full content can be realised. The "development of a child's personality" should aim at the preparation of the child for responsible life in a free society which cannot be realised without the development of respect for human rights and fundamental freedoms. Consequently, the achievement of these essential educational goals implements the content of education in a way that ensures the development of the child's personality in a climate of respect for human rights to prepare the child "*for a responsible life in a free society*" [art.29(1)(d) UNCRC] and to play a useful role in a free democratic society.

Similarly, in the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁶, States recognise "the right of everyone to education" and agree that "... *education shall be directed to the full development of the human personality and the sense of its dignity and shall strengthen the respect for human rights and fundamental freedoms (...)* that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace" [art. 13(1) ICESCR]. In art. 13 (2) of ICESCR is undertaken by States Parties to adopt all appropriate and necessary measures for the purpose of achieving the full realisation of those rights.

Furthermore, in the protective legal framework of Council of Europe, the First Additional Protocol to the European Convention of Human Rights (ECHR) enshrines the right of access to education [art.2(1)], which in conjunction with article 14 of the ECHR that establishes the principle of non-discrimination, derives a corresponding state obligation to provide education of the same quality without racial, social, ethnic, religious and political criteria.

The abovementioned legal documents which impose binding obligations on States Parties, recognising the children's rights that should be respected and protected, set a minimum standard of their protection by States Parties, identifying the common values that respect fundamental principles. These international standards included affirm states' obligation to provide an accessible education that not only strengthens the respect for human rights and fundamental freedoms, in a climate of diversity, pluralism, tolerance and equity, but also empowers the active exercise and defense of these rights and freedoms in a democratic society (Michopoulou, 2023). As such, the design of the educational programmes that guarantee access to quality education satisfying at the same time these educational

⁵ Adopted and opened for signature, ratification and accession by General Assembly Resolution 44/25 of 20 November 1989, entry into force 2 September 1990, in accordance with article 49, accessible from: <https://www.ohchr.org/sites/default/files/crc.pdf>.

⁶ ICESCR adopted and opened for signature, ratification and accession by UN General Assembly's Resolution 2200A (XXI) of 16 December 1966, and entry into force on 3 January 1976, accessible from: <https://www.ohchr.org/sites/default/files/cescr.pdf>.

standards constitutes an implementation of states' positive obligations.

Furthermore, the importance of ensuring “inclusive and equitable quality education” for all is verified in the UN's 2030 Agenda for Sustainable Development⁷ as it has been included in SDG4 which sets clear targets for its achievement. According to SDG4 (United Nations, 2015, p.17) this substantial and quality education can be ensured, indicatively, by providing (a) equal access to affordable and quality education, including technical, vocational and tertiary (Target 4.3), (b) equal access to all levels of education for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations while eliminating gender disparities (Target 4.5), and (c) the necessary skills and knowledge “... to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity” (Target 4.7). Hence, education obtains a crucial role for the promotion of democracy and the rule of law as essential elements of sustainable development. Consequently, as confirmed from this approach, this higher goal/purpose that inclusive and equitable quality education serves, can only be achieved if the educational policy and the programmes it adopts, will be set to pursue these Targets that incorporate in various educational aspects the equality principle, including equal access, gender equality, and cultural diversity.

In addition, the importance of the right to education and the essential role of education in the struggle against phenomena of discrimination or distinction of any kind⁸ is recognised by the UN's Human Rights Council. Its Resolution 57/10 adopted on 9 October 2024 launched the fifth phase of the World Programme on Human Rights Education for the period 2025–2029 with view to the alignment with the 2030 Agenda for Sustainable Development and specifically with target 4.7 of SDG4, considering the synergies between the various concepts and educational techniques mentioned within the document.⁹

Similarly, the necessity for an inclusive and equitable quality education is verified in the “*Charter on Education for Democratic Citizenship and Human Rights Education*” (the Charter).¹⁰ In the sense of the Charter, education becomes catalyst to the end of promoting core values of the Council of Europe—democracy, human rights and rule of law, as well as of promoting social cohesion, underlining the value of diversity and equality as essential elements of “Education for Democratic Citizenship” (EDC).¹¹ The objectives of such an education, i.e., EDC, may be feasible by developing knowledge, attitudes and personal and social skills, increasing of appreciation and understanding of the differences between

faith and ethnic groups, encouraging dialogue and promoting non-violence in the resolution of problems and disputes, against socio-political instability, such as racism, intolerance, xenophobia, discrimination and violence; particularly the types which can tarnish schools, namely bullying and harassment -whether physical, psychological or, increasingly commonly, through the internet (“cyber-bullying”); phenomena that impede the development of democratic citizenship. Thus, in all areas of education, member states should be guided by such objectives of fair opportunity of EDC, diversity and equality, when framing their policies, legislation and practice, and should promote educational approaches and teaching methods which facilitate the empowerment of exercising and defending democratic rights and responsibilities, aiming at learning to live together in a democratic and multicultural society.

4. EQUITY, DIVERSITY, AND INCLUSION (EDI) FOR EDUCATION FOR DEMOCRATIC CITIZENSHIP (EDC)

In the context of organisational culture, EDI are essential principles that create a foundation for a fairer society in which individuals are recognised for their differences and are given equal opportunities to succeed. By recognising and tackling institutional biases and obstacles, effective EDI leadership ensures that all decisions made at all levels of the organisation are equitable and inclusive. That leads to optimal decision-making, enhanced creativity and innovation, and increased organisational effectiveness (Seijts & Milani, 2022). Whereas “equity” focusses on fairness and justice in the distribution of resources and opportunities, “diversity” extends this potential by placing a value on a variety of distinguishing factors, including race, ethnicity, gender, socioeconomic status, and so on (Smith, 2024). “Inclusion”, which emphasises the importance of creating environments in which everyone feel valued, respected, and supported, was later incorporated to the notion of EDI (Nguyen *et al.*, 2024). Accordingly, EDI leadership in educational institutions guarantees that policies and procedures are established for the purpose of giving all students, regardless of their backgrounds, equal opportunities. This fosters an environment where students can gain from diverse viewpoints, improving their educational experience, encouraging critical thinking, and equipping them for a globalised world (Zhao *et al.*, 2024). In this sense, EDI is not a standalone program or an organised set of practices but rather becomes a fundamental component of an institution's operations and culture which reinforces the educational objectives for guaranteeing an “inclusive and equitable quality education” for everyone.

Such quality education, which ensures unrestricted access for everyone irrespective of their own personal characteristics, is fundamentally based on the core values of democracy, human rights and the rule of law. It can empower free thinking, accountable and active citizens; hence, leading to the built up of “democratic citizenship” upon which, in turn, sustainable and solid democratic systems can be founded. According to Hebert (1997), citizenship education needs schools that may initiate “student-citizens” in educational institution as a prodemocratic setting for the construction of a common

⁷ Readers should consult UN General Assembly's Resolution A/RES/70/01, accessible from: <https://docs.un.org/en/A/res/70/1>.

⁸ This includes aspects such as race, colour, sex, language, religion or belief, disability, age, political or other opinion, national or social origin, property, birth or other status.

⁹ Accessible from: <https://documents.un.org/doc/undoc/gen/g24/189/97/pdf/g2418997.pdf>.

¹⁰ Committee of Ministers' Recommendation CM/Rec(2010)7 of Council of Europe, accessible from: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cf01f.

¹¹ These objectives of Education for Democratic Citizenship are analytically set in Section II of the “Charter” (Appendix to Recommendation CM/Rec (2010)7).

citizenship in a pluralistic society. To this end, the realisation of inclusive and equitable quality education needs educational reforms in school programmes. Such reforms should predominately focus on enhancing pupils' understanding of the essence and core principles of human rights and appreciate their importance when applied in real life practical problems and/or facing ethical dilemmas. Such an educational approach can cultivate democratic citizenship through the empowerment and active participation of students, educational staff and various stakeholders, including parents. Indeed, a "competent system" based on reciprocal relationships between various stakeholders, such as individuals, teams, institutions, and the wider socio-political context, and which supports individuals "... to realize their capability to develop responsible and responsive practices that respond to the needs of children and families in ever-changing societal contexts" (Urban *et al.*, 2011, pp. 15–17) is prerequisite for the implementation of democracy.

5. SYNTHESIS AND CONCLUSION

As emerged from the previous analysis, the triptych of EDI in education in fact echoes the pragmatic content of the right of education ensuring "inclusive and equitable quality education" for all as a factor of democratic sustainability based on the development of democratic citizenship. The **equality** principle and its deriving facets, equal opportunity and non-discrimination, presupposes the effective exercise of human rights. In the field of education "effective exercise" means **substantial and quality education** which, as explained, develops children's personality, promoting respect for human rights, in an environment of diversity, tolerance, respect, pluralism and equity, and empowering them to play an active role in democratic life—is **accessible to all**, regardless of students' social, ethnic, or other status.

This upper goal that, in reality, materialises the full content of the right to education, is not just a matter of state's will or policy, but rather bears on states positive obligations for taking concrete measures demanding state's intervention in a "redistributive" way i.e., by providing the necessary means for least-advantaged and vulnerable persons, ensuring decisions made at every level of the institution are fair and inclusive, cultivate democratic citizenship for the elimination of truancy, discrimination and violence.

Thus, the educational system should have as a priority the cultivation of democratic citizenship and for this reason need to be redesigned and reevaluated. Democracy is founded on participation which is based on the idea that reality is not objective, since in a society, culture is constantly evolving and within such environment of shared values, the relevance of everyone's opinion emerged in dialogue (Cagliari *et al.*, 2004). So, a democratic educational system should encompass the introduction of methods that enable students' participation in an equitable way, in an environment of diversity, inclusion, pluralism, tolerance, and respect for human rights and democratic principles. Such principles are also considered as "pedagogical objectives for activist citizenship education" based on dialectic and participatory development, which includes student's

participation in a free and equal discourse open to everyone using equally divided power, fostering the development of critical thinking, problem-solving and cross-cultural skills, and aims at a more just and humane world (Hebert, 1997).

Consequently, the introduction of pedagogic practices and activities in school's curricula, that promote cooperation through team assignments, dialogue through case studies or play roles, decision-making skills through training on contemporary ethical dilemmas, participation in philanthropic, social or environmental actions, that introduce reforms in examination procedure, for example through presentations or debates on a social issue, or through the connection of the historical knowledge with the current evolutions, and that implement human rights education in practical social issues bringing in touch students with some basic legal implications of social behaviours, etc., can be considered as falling within the spirit of Freinet's (1990) cooperative learning pedagogies for social change. Furthermore, financing exchange programmes and enhancing student mobility between countries, as well as promoting life-long education and giving incentives for educator's retraining, can be considered as deriving from the right to inclusive and equitable education.

In addition, education systems should ensure that schools and educational institutions adhere to the development and promotion of these principles that an inclusive and equitable quality education pursues. On the one hand, the evaluation of teachers through transparent procedures and the implementation of disciplinary procedures in cases of serious negligence; while, on the other hand, the establishment of educational bodies that support teacher's role (such as psychological support committees for students), free legal support for schools' administrative work (that usually is offered only for the institutions of tertiary education) and remedial teaching for integrating students who come from a different background (immigrants, children from less privileged social groups, etc.) as positive measures that aim at the fulfillment of states' obligations for an inclusive and equitable quality education.

Apart from the educational methods and system, equality in education includes equal access to it, as explained above; and accessible education means infrastructure availability. School buildings should ensure access for students no matter what their place of living, origin, health, social or other status. In this sense, leaving minors to walk over an hour per day to reach school facilities or even providing buildings without allocating teachers or without providing materials, breaches the state's obligations as derived from the abovementioned legal framework and violates the right to education. Equal access presupposes institutions, at the minimum, of primary and secondary education, which are accessible to every student. In this way, school truancy which plagues the most vulnerable children specially in the least developed countries,¹² may be eliminated. In

¹² According to UNICEF (2019), the average gross enrolment rates for low-income countries in pre-primary education is only 32%, as compared to an average 86% for the high-income countries. In addition, UNICEF/ILO (2021) has reported that over one third of children in child labour drop out of school, while 27.7% are children between 5 to 11 years old and 35% between 12 to 14 years old, alarming that a very large percentage of vulnerable children stop receiving even the compulsory education.

addition, the availability of alternatives, i.e., vocational or technical education, for those with respective inclinations that should be developed, or for those that have not succeeded in entry examinations to an upper level of education, should be included in educational policy as well.

In conclusion, accessible education offering equal opportunities in an environment of equity, diversity and inclusion, safeguards the effectiveness and sustainability of the educational provision, while fulfilling the educational objectives in service of the promotion of democracy and the rule of law as essential elements of sustainable development. In the current turbulent era, where the need for sustainable democracies is more pronounced than ever, any investment in the effective exercise of an inclusive and equitable quality education will compensate.

CONFLICT OF INTEREST

The author declares that they do not have any conflict of interest.

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