

Educational Status in Bangladesh: Whether Right or Not?

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Abstract

Education has been described as right in Article 26 of Universal Declaration of Human Rights (UDHR) while education is still known to all as one of the basic needs (food, cloth, shelter, education, Medicare and recreation). Right, on the other hand, is legally protected interest, that is, enforceable in the court of law. It is generally speaking that education is not opportunity rather than right. But the article is making an attempt to find out whether 'Education' is, in fact, right or not particularly in case of Bangladesh. It is specially mentioned that "Education" has been provided in the 3rd part "The Fundamental Principles of State Policy" in the constitution of Bangladesh but not in the chapter of 'Fundamental Rights'. As education is not enshrined in the part of 'Fundamental Rights' in Bangladesh Constitution, education cannot be claimed as of right like human rights. Attempt will be made to recognize 'Education' as right so that both the government and individual may sue against with each other in the event of humiliating mutual interest in point of education. In consequence, proper education will take its proper shape and illiteracy will be removed from Bangladesh and elsewhere in the globe. And in fine, education will be able to take legal form resulting that all segment of people will be bound to be really educated. Education referring to in Sustainable Development Goals (SDGs) (goal No, 4) must be given the status of fundamental right so as to earn cent percent literacy rate in line with Vision 2021. So education should be given legal status so as to guarantee education for all being enforceable in the court of law.

1.0 Introduction

1.1 Statement of the problem

"Knowledge is virtue" said by Socrates while uttered by Plato that "virtue is knowledge and education is the main thing to acquire virtue". Greek renowned philosopher Plato described education as "The great one thing" while the greatest and last prophet Hazrat Muhammad (Sm) put the emphasis on education by saying "It is obligation for every Muslim man and woman to acquire knowledge" and "Visit to far China in search of knowledge in need". It is to be noted that the provision of education is laid down in Article 17 and 26 of Bangladesh constitution and Article 26 of UDHR respectively. But in Bangladesh Constitution education is enshrined in the fundamental principles of state policy whereas education has been prescribed as of right in the Universal Declaration of Human Rights.

Education is building block on which amelioration, civilization, progress and farsightedness entirely depend on. It needs telling that a man without backbone cannot

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1. Deputy Commissioner, Naogaon

stand likewise a nation without education cannot forge ahead. Education, a lifelong process, is the key to literacy and the basis for all progress for individuals, communities and countries. For the success of democracy the citizens should be fairly well educated. Just as freedom is the birthright, so is education. The people of Bangladesh, in most cases, fail to realize their demand and rights only because of proper education. The provision of education should be shifted to Fundamental Rights from Fundamental Principles of State Policy by formulating law. Education should be claimed as of reciprocal rights under the condition that both the government and the people could register case against one another for the interest of education.

Education is not a privilege but a basic human need like food, cloth, shelter and the like is the thing upon which national progress largely depends. Education cannot be claimed as of right because it is not enforceable in the court of law. As education is not legally protected interest and not enforceable in the court of law, it cannot be claimed as of right although the Article 26 of UDHR says that education is right. None, anywhere in the world, can go to the court for ensuring education and, on the other hand, the State cannot compel any citizen to prosecute education against his will.

1.2 Objectives of the study

- (i) To review the present status of education in respect of right in the context of Bangladesh; and
- (ii) To assess whether education is right or not.

1.3 Terminology

1.3.1 Education

‘Educate’ means to bring up and instruct, to teach, to train.² Education etymologically has come out from the two linguistic assertions. E.ex and ducere due. These E.ex and ducere due’ words denote ‘pack the information in and draw the talents out’. This basic conception correlates the reality of information and talents.

Some opines that ‘Education’ has come out from the Latin word ‘Educare’ which means “to bring up or to nourish”. Some others opine that “Education” has come out from Latin word “Educare” which means “To draw out or to lead out” Again others opine that ‘Education’ has originated from Latin word ‘Education’ which means “Teaching”.

In the opinion of the writer, “Education is an art or a process or a concept, which stimulates to know anything, positive or negative, but intention must be positive and pragmatic, resulting well or bad or both.” The definition gives following salient features.

- i) It is art or a process or a concept,
- ii) It stimulates to know anything,

2. *Samsad English-Bengali Dictionary*, 5th Edition, (August, 1981), p. 338

- iii) Its aims and objectives must be positive and pragmatic,
- iv) The thing to be learned may be positive or negative, and
- v) Result may be good or bad or both.

Thompson (2001) defined, “Education is the influence of the environment of the behavior with a view to producing a permanent change in this habit of behavior of thought or attitude.”

Education is development and utilization of one’s energy, talent, national ideology, art and culture. Education, in fact, can help:

- i) To develop anyone in all respects,
- ii) To teach how to utilize anything concerned,
- iii) To become energetic in every sphere of life,
- iv) To be talented at all moments,
- v) To earn national ideology and
- vi) To make aware about art and culture.³

But contextually mentioned that mere accumulation of knowledge is not sufficient. Education should aim at all round development, that is, it should aim at mental, physical, moral and spiritual development. The aim of education is very much noble and constructive. Its aim is to make a man fully prepared to be useful to himself and to the society.⁴

It is education which can aware a man mentally and legally and eventually he is able to resist all evil aspects. So education should be given legal status in the “Education Policy 2010” in Bangladesh so as to guarantee education for all being enforceable in the court of law.

1.3.2. Right

Right means a claim advanced by individual or group of individuals enforceable in the court of law. Right is an interest, which is enforceable in the court of law. The Latin word of right is ‘Rectus’ which means Just. Right is called ‘Jus’ in Latin language. Just, Justice and Justify have been derived from the very word “Right”.

The writer (2017) in his research book “Research Work” referred to the following Jurisprudents who told about ‘Right’.⁵

Ihering says, “A right is a legally protected interest.”

3. Dr. Md. Aminur Rahaman, 2007, Human Rights for Backward Section of Citizens with Special Reference to Education: A Study of Dhaka City Slum Dwellers. Dhaka. Merit Fair Prokashon. P. 39

4. Shushil Roy, “Meaning of Education”. The Theory of Education and Philosophy of Education. (Kolkata: Soma Book Agency, 1999-2001)

5. Dr. Md. Aminur Rahaman, 2017, Research Work, News Corner Publishing, Bogra, p. 21

Allen has defined “A right is the legally guaranteed power to realize an interest.”

In the language of Salmond, “A right is an interesting recognized and protected by a rule of right.”

According to Holland, “A right generally a man’s capacity of influencing the acts of another by means not of his strength, but of the force of recognized society.”⁶

As a matter of fact, right and interest is interlinked connected. Right is generally recognized and protected by two ways, namely, moral right and legal right. Moral right is influenced and controlled by sense of conscience while legal right is guaranteed by the constitution and protected by the state. There are some characteristics of legal rights. These are:

- i) Subject of right
- ii) The subject of the duty
- iii) An Act or Omission
- iv) Thing
- v) Title

More specifically, salient features of ‘right’ are:

- (1) Existence of interest
- (2) Morally or legally protected and
- (3) Enforceable in the Court of Law.

When certain human right are written down in a constitution and are protected by constitutional guarantee then those rights are called Fundamental Rights. Thus, ‘Right’ can be defined as— “right is an interest preserved by law and claimed legally by individual or group of individuals”. It can be easily speculated that education is not right, as it is not enforceable in the court of law. There is no document prevailing in Bangladesh, even in the “National Education Policy 2010”, where education has been provided as of right but compulsory education for all has been promulgated having no legal status. Still education is treated as one of basic human needs.

1.4 Methodology

To attain the objectives a few methods have been adopted. Here, historical and empirical study have been introduced for tracing out the legal status of education in Bangladesh. Secondary Sources have been used to collect necessary data and information. These have been gathered through related books and documents etc. Descriptive and logical analysis have been done for the purpose.

6. “ibid”

1.5 Significance of the study

Many researchers have done their research regarding education in various ways but there is no discussion as to the legal status of education, that is, whether education is right or not. The main objective of the study is to make aware of the people that education should be given the states of right, because it is still regarded as basic need.

The work would be of interest for the policy planners and the professionals of the country. Public and private organizations, NGOs, research institutes, teachers, students and researchers are expected to find useful output, i.e., the analysis, discussions findings and suggestions of the study. It must be useful for the government also. In this context it should be mentioned that the study will be able to make a new policy to make laws which may be considered as determinants to human security.

1.6 Scope of the study

The study aimed to provide a description and documentary analysis with an attempt to criticize the present state of education in Bangladesh. The study has attempted to suggest the measures which will be able to assess whether education is right or not. As the behavioral attitude varies from country to country the absolute flawless findings, as the scientific research shows, are not possible to explore or discover. The study has focused on the relation between education and rights. More specifically, whether the education is right or not in the case of Bangladesh.

2.0 Existing picture of education: We may agree that Children are being overloaded with textbooks, coaching materials, examinations and competition for good grades, and becoming victims of question leakage, while they were supposed to prevail in the playground.

In the field of education, a lot has been achieved and a lot more needs to be done. There has taken place a large scale expansion of education and health facilities; as of now almost 100% of children in the age group of 04 to fourteen are covered by primary education and there has also taken place a sizable expansion of scientific & technical education and training. It is to be noted that technical education rate would be more than 20% in 2021 as laid down in Vision 2021. Now, Bangladesh is able to ensure quality education as provided is SDGs.

We must thank Hon'ble Prime Minister Sheikh Hasina for building digital Bangladesh and being awarded a huge number of international and United Nations (UN) prizes.

It is ray of hope that the present Govt. has taken up Vision 2021 and may be mentioned that almost 100% enrollment in the primary level has been ensured. Technical Education has been going ahead, female students are doing well in

education. 72.5% education rate has been earned. We also committed to ensure quality education prescribed in SDGs.

3.0 Education and various documents

3.1 The provision of education is laid down in article 17 and 26 of the Constitution of Bangladesh and UDHR respectively. But in our constitution education is enshrined in the Fundamental Principles of State Policy whereas education has been claimed as of right in the UDHR.

3.1.1 Article 17 of Bangladesh Constitution

The state shall adopt effective measures for the purpose of–

- (a) Establishing a uniform, mass-oriented and universal system of education and extending free and compulsory education to all children to such stage as may be determined by law;
- (b) Relating education to the needs of society and producing properly trained and motivated citizens to serve those needs;
- (c) Removing illiteracy within such time as may be determined by law.

3.1.2 Article 26 of Universal Declaration of Human Rights (UDHR)

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.

3.2 Article 13 of International Covenant on Economic Social and Cultural Rights (ICESCR)

In addition, provision of education is also enshrined in the Article 13 of ICESCR describing primary, secondary higher and fundamental education and their genre. At the same time the state concerned has been advised to recognize and to direct for the materialization of states for the purpose.

3.3 Education in Malaysia

Malaysia acknowledged that knowledge is the key determinant of the destiny and survival of the nation in “The Education Act 1996” which enacted to provide for education and for matters connected therewith. Education in Malaysia is an ongoing effort towards further developing the potential of individuals in a holistic and integrated manner so as to produce individuals who are intellectually, spiritually, emotionally and physically balanced and harmonious, based on a firm belief in and devotion to God, such an effort is designed to produce Malaysian citizens who are knowledgeable and competent, who possess high moral standards and who are responsible and capable of achieving a high level of personal well-being as well as being able to contribute to the betterment of the family, the society and the nation at large. It is said that Education in Malaysia, although one of the basic needs, is amounting to the right which is legally protected interest.

3.4 Education in India

Education in India is provided by the public sector as well as the private sector, with control and funding coming from three levels: central, state and local. Under various articles of the Indian Constitution, free and compulsory education is provided as a fundamental right to children between the ages of 6 and 14.

Article 45 of the Constitution of India originally stated: “The State shall endeavor to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.”

Article 45 was proposed to be substituted by the article which read: “Provision for early childhood care and education to children below the age of six years: The State shall endeavor to provide early childhood care and education for all children until they complete the age of sixteen years.”⁷

Article 46 of the Constitution of India holds that: “The State shall promote, with special care, the education and economic interests of the weaker sections of the people, and in particular of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of social exploitation’.”

Now, it is clearly understood that India has adopted and claimed education as of right. But, although we have National Education Policy 2010, we cannot claim education as of right because Education has still been laid down in the Chapter of “Fundamental Principle of the State Policy” of the Bangladesh Constitution which is not judicially enforceable in the court of law.

7. The bill was passed unanimously in the Lok Sabha, the lower house of the Indian parliament, on 28 November 2001. It was later passed by the upper house—the Rajya Sabha—on 14 May 2002. After being signed by the President of India the Indian constitution was amended formally for the eighty sixth time and the bill came into effect. Since then those between the ages of 6–14 have a fundamental right to education.

3.5 Education in South Korea

The Constitutional Law of the Republic of Korea (Article 31) declares: All citizens have an equal right to receive an education corresponding to their abilities.

- All citizens who have children to support are responsible at least for their elementary education and other education as provided by law.
- Compulsory education is free of charge.
- Independence, professionalism, and political impartiality of education and the autonomy of institutions of higher learning are guaranteed under the conditions as prescribed by law.
- The state promotes lifelong education.

Fundamental matters pertaining to the educational system—including schools and lifelong education, administration, finance, and the status of teachers—are determined by law.

The Education Law, promulgated in 1949, stipulates a school system on the 6-3-3-4 plan with extra years offered for kindergarten and graduate work (including medicine and dentistry) and other variations in the case of special schools.⁸

We may say that South Korea has enacted law relating to education having legal status, whereas Bangladesh has not enacted any law relating to education as yet but for “Education for All”, “Compulsory Education”, “National Education Policy” and the like. Education in Bangladesh is still looked upon as one of the basic human needs without having judicial enforcement.

3.6 Education in Western World

Education in the western world was considered primarily the responsibility of parents and the church. Despite education being regarded as a pre-existing and

8. The MOE is in charge of all education—general as well as professional or technical. However, the Ministries of Finance and Economy (MOFE), Science and Technology (MOST), and Labor (MOL) all participate in formulating and implementing policies related to education and professional training. For example, the MOFE allocates government funds for education, setting economic and social development as its priority. MOST's priority is science and technology, in accordance with the government's determination to make Korea an advanced nation in basic research and technology. MOL, with reducing unemployment its priority, engages in vocational training.

The Education Law promulgated in 1949 adopted the motto Hong'ik in'gan ("to benefit humanity")—attributed to Korea's legendary founder Tan'gun—as the guiding principle of Korean education. The prevailing contemporary philosophy, however, is a strong sense of egalitarianism.

natural right, it did not find a specific mention in the classical civil liberties instruments such as the English Bill of Rights (1689) and the American Declaration of Independence (1776) and the French Declaration of the Rights of Man (1789).

3.7 The versailles treaty of 1919

The Versailles Treaty of 1919 was the first instance of international recognition of right to education to the Polish minorities. Later in 1924, Declaration of Geneva under the auspicious of League of Nations implicitly recognized children's right to education and later in 1959 formed the Declaration of the Rights of Child. By 1988, some fifty-two countries had made an explicit mention of Right to Education in their Constitution.

3.8 As early as in 1948, adopted by the United Nations, the Universal Declaration of Human Rights in its Articles 26(I) had stated, "Everyone has the right to education, which has to be free at least at elementary and fundamental stages." United Nations Educational, Scientific and Cultural Organization (UNESCO) in the Convention against Discrimination in Education emphasized the equality issue in education on December 14, 1960.

It is to be mentioned that Education is universally recognized as a central component of human capital. The role of education as a contributor to economic growth and its impact on population control, life expectancy, infant mortality, improving nutritional status and strengthening civil institutions is well recognized.

4.0 Is education really right?

We have so far made out the concept of education and right. Right is legally protected interest and enforceable in the court of law. Many men in their speeches want to uphold that education is not privilege but right. Very few people in the fast changing complex world admit that education is not right but one of basic needs. Now we are trying to find out whether education is right or not.

Firstly, Education is still treated as human basic need, which is not amounting to right although Article 26 of UDHR prescribes education as human rights. When certain human right are written down in a constitution and are protected by constitutional guarantee then those rights are called Fundamental Rights.

Secondly, In Bangladesh constitution, education has been provided in the chapter of Fundamental Principles of State Policy but not in the chapter of Fundamental Rights. So education cannot be claimed as of right rather than human basic needs. Because principles set out in the 2nd part of Bangladesh Constitution are not judicially enforceable.

Thirdly, Education is not enforceable in the court of law as is done in case of right when it is violated.

Fourthly, 'Education for All' 'Compulsory Education' and the like have been passed in Bangladesh. Even in USA, Compulsory Attendance Provision in Educational Institutions is in vogue. But education could not take legal form as yet in the sense that government as well as individual cannot go to the court for ensuring education as of right.

Fifthly, More than 25% people of Bangladesh are uneducated. Reluctantly or intentionally, they did not take or earn education but state could not bring them in the preview of education, as the process is not legally protected. Although Bangladesh Government (Hon'ble PM Sheikh Hasina) has undertaken Vision 2021 with a view to ensuring can't present enrollment in primary education.

Sixthly, Article 26 of UDHR is treated as right but it is undoubtedly a declaration. As far as I know, no state, except very few in the world, has given education as legal status. Truly speaking, by dint of education many countries after the World War 2 (WWII) have gone to the peak of development and civilization.

Seventhly, as the state has no legal power to press upon the mass people to be educated, the state cannot compel the people for ensuring education.

5.0 Findings

By analyzing and explaining the above-mentioned aspects we can arrive in conclusion that education is not amounting to right, let alone fundamental right in the context of Bangladesh.

In Article 15 of Bangladesh constitution, it is said that the state shall take fundamental responsibilities to ensure the provision of the basic necessities of life including food, cloth, shelter, education and medical care. Earlier mentioned that education has been prescribed in the Fundamental Principles of State Policy in Bangladesh constitution. In the constitution, Article 8(2) says... "The principles set out in the Part shall be fundamental to the governance of Bangladesh, shall be applied by the State in the making of laws, shall be a guide to the interpretation of the Constitution and of the other laws of Bangladesh, and shall form the basis of the work of the State and of its citizens, but shall not be judicially enforceable.

Although education has been described as universal but not judicially enforceable and in case of Bangladesh the above analyses show that education cannot be claimed as of right. From the study, it is obvious that education is not right at all in Bangladesh. It is one of the basic needs and this is why cent percent education rate in Bangladesh is impossible unless and until we shall not be able to give education as legal status.

6.0 Suggestions

It is undeniable that the proper, progressive, classless and secular education system can make people conscious to preserve the rights guaranteed by the constitution. But

education is not right or fundamental right in case of Bangladesh as education has been provided in the constitution in the form of Fundamental Principles. So following specific suggestions, however, are putting forward for the concern authority.

1. “Law of Compulsory Attendance to Educational Institutions” should be promulgated to ensure 100% attendance in the institutions. It is to be noted that, “Education Policy 2010” in Bangladesh did not make any provision relating to “Law of Compulsory Attendance to Educational Institutions” by which we can claim the education as of right (legally protected interest) suing any case against with each other/one another for ensuring the educational right. A lot of budget allocation for education should be created to implement Vision 2021.
2. Education could be regarded as fundamental right and should be enforceable in the court of law. Both the government and individual should be given right to file case against with each other in the event of humiliating mutual interest in point of education.

7.0 Conclusion

Nowadays education is worldwide considered as the only mean of alleviation of poverty and human resource development. A true educated person should be self-reliant with regard to his personal needs. Education can help a man to be well-mannered, thoughtful, creative, kind, respectful, sympathetic and cooperative. A human being by dint of education transcends all limitation rested on him and becomes the most dignified creation of God. Education can help one feel anguish at the distress and sufferings of a fellow human being and an urge to try to alleviate the sufferings of other human beings. An educated man respects life, rights, privilege, likes and dislikes of others as he expects the same from others.

In order to protect human rights in Bangladesh education must be free and compulsory in the sense that they will be able to fathom the importance of education and ultimately be vocal to press home their demanding rights guaranteed by the constitution. And he or she will further go for higher education and be able to be conscious to acquire own rights without the help of others.

In case of necessity, “Law of Compulsory Attendance in the Educational Institutions” may be promulgated in the country and in connection with that budget allocation for education should be enlarged. The provision of education can be shifted to Fundamental Rights from Fundamental Principles State Policy by formulating law and strongly suggested that education be claimed as of reciprocal rights.

In fact, lofty assurance and rhetoric utterance can never solve the problem. In order to make “Formal Education” complete, significant, felicitous and effective, a national education policy is a pressing need in any country. Contextually mentioned that although there is “Education Policy 2010” in Bangladesh, it is not

implemented and come in to being effectively and duly as yet. For example, “Law of Compulsory Attendance to Educational Institutions” is not yet enacted to ensure 100% attendance in the institutions. Bangladesh along with other states in the world should take effective steps to recognize education as of right or fundamental right.

References

- Ali, Dr. Azhar, et al. (1992). Principle of Education. Dhaka: Ahsania Mission.
- Humphrey, J.P. (1984). Human Rights and the United Nations: A Great Adventure. New York.
- International Human Rights Instruments of the United Nations: 1948-1982, London: Mansell Publishing Limited, 1983
- Rahaman, Dr. Md. Aminur (2007). Human Rights for Backward Section of Citizens with Special Reference to Education: A Study of Dhaka City Slum Dwellers. Dhaka. Merit Fair Prokashon.
- Roy, Shushil. (2001). Theory of Education and Philosophy of Education. Kolkata, Soma Book Agency.
- The Constitution of the People’s Republic of Bangladesh, 1972.
- The Constitution of the People’s Republic of Bangladesh (as modified up to January 1975), 1975.
- The International Bill of Human Rights, New York: UN, 1993