

**THE U.N.'s CONVENTION
ON THE RIGHTS OF THE CHILD
AND "THE RIGHT OF THE CHILD
TO EDUCATION"**

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● **A Questionnaire on "The Right to Education"**

On 20 November 1989, after a lengthy period of gestation, the United Nations approved the text of the Convention on the Rights of the Child.

Shortly thereafter the International Catholic Child Bureau (ICCB), of which our Institute was a founding member in 1941, established a task force for an in-depth study of "The Right of the Child to Education."

One of the first questions posed in the task force was to determine with sufficient clarity the educational policy of the different countries. For that end a questionnaire was addressed to a small but highly select group of national Catholic organizations with particular interest in the field of education. The responses received were numerous and came from 47 different countries, sufficient to give an overview of the entire world, especially since all the continents were represented.

The responses to the questionnaire are very rich, not only for what they say, but also for the opportunity they offer to understand better the local circumstances of each responding nation.

An in-depth study of these responses would be worthwhile, especially comparing the "Rights of the Child", as signed and ratified by various nations, with the actual application of legislation in the field of education. Frequently there is evidence of glaring contradictions, which sometimes can be corrected because, according to the Convention itself, the legislation of each country must be made to agree with the principles enunciated in the UN document. But it will be impossible to rectify other anomalies because they arise out of a philosophy of the rights of the individual, of the child specifically, and of the roles played by the State, by religion and by the cultural milieu, all of which radically impede adherence to the letter of the law.

● **Education in the International Agreement**

The text of the International Agreement has articles which deal with the "right to education." In order to abide by the letter and the spirit of the Agreement, one must have the text of the articles clearly in view.

«**Article 28**

1. *States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:*

a) *make primary education compulsory and available free to all;*

b) *encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free educa-*

tion and offering financial assistance in case of need;

c) *make higher education accessible to all on the basis of capacity by every appropriate means;*

d) *make educational and vocational information and guidance available and accessible to all children;*

e) *take measures to encourage regular attendance at schools and the reduction of drop-out rates.*

2. *States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.*

3. *States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.*

Article 29

1. *States Parties agree that the education of the child shall be 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.*

2. *No part of this article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.»*

● **An Important Omission**

Such is the text which has been subscribed to and ratified by the tremendous majority of nations, although there are some States of particular importance in the family of nations which have not yet done so.

But in the approved text there is a notable omission in relation to the Universal Declaration of Human Rights. Effectively the third clause of article 26 has been dropped. It says: "Parents have the preferred right to choose the kind of education that will be given to their children." And this is quite a symptom of the interpretation that is made of the "right to education." In this sense **The Rights of the Child** falls short of **The Declaration of Human Rights**.

The rights of the child clearly say that nations, in order to put into effect the right to education, have to move progressively and in conditions which guarantee equality of opportunity ... towards the establishment of obligatory and gratuitous universal primary schooling.

● **Universal Free Education**

And this is another point where there is an evident contradiction between the legislation of numerous countries and the text of the Convention, which these same countries ratified without batting the proverbial eyelash.

In many countries this commitment is interpreted in a restrictive way: to establish gratuitous primary education "for all those who choose state-run schools." In this way the text is watered down as is its objective, which is to offer free education to everyone so that everyone can take advantage of such education **without distinction based on social class**. Only in this way can the school be the agent of social transformation by means of the "democratization" of children, the adults of tomorrow who will shape tomorrow's society.

As long as there exists in our educational systems a gratuitous "government" school and a tuition-supported "non-government" school – call it what you will: private, parochial, Church, religious, sectarian, and so forth! – there will be discrimination, and class distinctions between the rich and the poor will be regenerated constantly. Nevertheless, one of the basic purposes of education is to equip every individual with similar training which will allow all to face life with equal opportunities.

It is a fact that one part of society, usually that segment made up of the rich, opposes such equal opportunity because they want their children to benefit from the superior education which they choose, even though it is an expensive choice for them.

But following this principle, they are not only promoting the welfare of their own social class but prejudicing the "poor masses," those who do not enjoy the ability – or better yet the possibility – of choosing a particular kind of education, like that of their wealthy counterparts.

An educational system congruent with the norms of social and distributive justice should tend to the provision for all children of schools of good – even excellent – quality, gratuitous for all without distinction.

Such a system would lead to schools open to all and equal in terms of quality, schools that would therefore allow the choice, not between "good" and "bad" schools but among schools all of which are good.

● Two Pitfalls to be Avoided

But here we meet with two pitfalls of a socio-political nature.

– **The first** is our surprise that the State "pays for" or subsidizes the education of the rich. All well and good, so they say, this concern for those who cannot choose a particular school.... But if the State had to underwrite universal education, that would be unjust.

No, quite the contrary, it would be the only way of providing equal opportunity to all citizens on their journey towards the future.

– **The second pitfall** is that the State, when it does accept responsibility for bearing the cost of the education of all its citizens, runs the risk of making itself the Lord and Master of the entire educational system. That is to say, it has the tendency to "governmentalize" education, making it the concern solely of the State.

There is a vast difference between underwriting the cost of education for all children and being the sole organizing body for education, and confusion of the two roles leads to abuses.

The State is perfectly capable of shouldering the responsibility of financing education without being at the same time the "owner" of the schools and the employer of thousands or of hundreds of thousands of educators – who are turned into mere functionaries – nor of being the sole party determining curricula, programs of study, and so forth.

Why can the State not support social groups so that they themselves may establish educational centers, among which parents can choose according to their own taste? Gratuity is assumed, for that would ensure the subsidization of universal education.

Such a system of financing education allows for great

diversity, such as aid given directly to the family or to the educational center, or tuition tax credits, and so on. The role of the State, made very simple, would be to fix the cost of such education for each student, to distribute subsidies settled upon, and to establish and control the levels of training, which can be quite varied and excellent without necessarily being the same for all.

A system so conceived gives no cause to make more costly either the price of education itself or the educational budgets of the nation. And given the generally low level of efficiency offered by public services nowadays, it is probable that expenses would be lessened; and very greatly lessened, if one considers that the educational Goliaths which some nations now maintain would be cut down to size in great measure.

● Socio-Political Impediments to Such Developments

To encourage such "democratization" of education is of no interest to many nations.

Some are disinterested because they do not dedicate sufficient funds to education, in spite of having sufficient monies for other, superfluous expenses. Others are disinterested because really they live in extreme poverty. And yet others because they give little importance to education. The result is always the same: a good proportion of children cannot expect to find a desk. In such a case it is unthinkable that the case for the subsidization of education for all and without discrimination be proposed.

In other societies the reason is rooted in the separation of classes, which is a difficult barrier to surmount. It is a problem of societal character very difficult to change.

In many instances, the root cause is political ideology: the school is one of the bases for the maintenance of power and for the control of society. Consequently, the school is the exclusive domain of the State.... In these countries the school is gratuitous for all, yes, but one can choose only the school provided by the State, almost always necessarily secularistic, run on the single educational model, which is established by the State. And the citizen, upon leaving the school system, has been converted into a submissive servant of the political system, though he or she may not realize that such is the case.

Perhaps these reflections may help in understanding a bit better the reasons why, after lengthy discussions in search of common ground, it has been decided to omit from "The Rights of the Child" the right to choose the education which one desires.

There is a quite profound political reason and it is connected to universal gratuitous education, in the hands of the State.

But that is not the only motivation, for there is also the problem of cultures, and of religions.

In countries where immigration is very intense, as in some European nations, what governmental official dares to guarantee the education of the child, when his parents want to choose a kind of education that is inspired by the religion of origin (Islam, for example) or by culture (Turkish, Hindu, Latin American, and so on, also by way of example)?

One should not be surprised, therefore, that in view of these new social phenomena characteristic of this day and age, those who hammered out the International Agreement on the Rights of the Child have agreed upon the suppression of "the right to choose an education" so as to safeguard the consensus reached in the rest of the document.

Children of the world, the United Nations recognizes your right to education, although for many of you this is an impossible dream. But it has not recognized your right to be educated as your parents, or as you yourselves, wish to be educated.

Do not lose heart! Something must be left for future accomplishment. ●