



RESEARCH

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LETTER OF TRANSMITAL

To

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Subject: Analytical Study on the Right to Education in Bangladesh

Sir, I beg most respectfully to state that, I am a student of LL.B (Hons) program, ID. NO. 151-26-786 of Daffodil International University, hereby by presenting an Analytical Study of the Right to Education in Bangladesh in the partial fulfillment of the LL.B (Hons) program.

May I therefore hope that you would kindly accept my dissertation and and oblige hereby.

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DECLARATION

I am Jannatun Nasrin hereby, declare that the work, present in this research is the outcome of the research, performed by me under supervision of Md. Safiullah Senior lecturer, Department of Law, Daffodil International University. I also declare that this thesis or no part thereof has been or is being submitted elsewhere for the award of any degree or diploma.

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Date: 4 December 2018

ABSTRACT

The right to education is the most significant issue in the present day. Most of the country declared this right as an elemental right nowadays by the various laws treaty and convention. We have already know that everyone shall have the right to education from birth until death. The state shall be bound to declare this right as an elemental one by the legislation. No person can be deprived by the right to education as a basic right. This research focused this right at national and also abroad level and valid framework and impacts of international instruments upon the national legislation of India and Bangladesh. This research also focused on the comparative relation of the right to education between India and Bangladesh. It's focused that whether the right to education can be declared as an elemental in Bangladesh and India and whether the Constitution of Bangladesh and India are obliged to provide free and compulsory primary education.

ABBREVIATION

MDGs: Millennium Development Goals

SDGs: Sustainable Development Goals

ADI: American Declaration of Independence

UNESCO: United Nations Educational, Scientific and Cultural Organization

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CHAPTER-1

INTRODUCTORY

1.1 INDUCTION

Right to education is the most and famous issue at the present days. In every country support this right by the law, treaty, convention and their legislation. To days many children can no go to the school from the age of 5 to 8. So the countries are declare this right like an elemental for every children. And this is the high time to declare this issue as an elemental one to ensure their basic right. Most of the children cannot go to the school by dint of poverty. Especially woman children cannot go to the school because their parents find to manage husband to marriage their daughters. Bangladesh and India has the biggest problem to ensure the elemental and basic right of the people.

1.2 THE STATEMENT TO THE PROBLEM

The main problem is to ensure this right is poverty. The parents are not capable to send their children at the proper age. Besides the parents are thinking to their children that how to earn money. The 160 countries that ratified the treaty and reaffirmed this commitment and pledged to make secondary and higher education accessible to all and progressively free. The new ground by identifying children as the bearers of rights and establishing the Committee on the Rights of the Child to monitor. The right to non-discrimination in the enjoyment of education rights is also protected under international law. Both the UDHR¹ and the ICESCR guaranteed the right to education regardless of one's race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status', while the protection of the rights on the basis of these characteristics and additionally mentions 'ethnic origin' and 'disability'. These values are also entrenched in UNESCO'S (1960) Convention against Discrimination in Education, which prohibits discrimination in all facets of education and bans group-based segregation in schools.

1.3 RESEARCH QUESTIONS

¹ Universal Declaration of Human Rights (UDHR) ,1948 art 2

1. Whether the Constitution of Bangladesh imposes any obligation to provide free and compulsory primary education?
2. Do our child have the right to education?
3. Why do we need the Right to Education Law in Bangladesh?
4. Whether the right to education can be declared as a fundamental right?

1.4 RESEARCH METHODOLOGY:

Research may be qualitative and quantitative. “**Comparative Approach**” each legal system has its own history and its own fundamental principles and procedure and its own forms publication for legal sources. The law of a foreign country are developed becoming relevant in national courts proceedings including international transactions. Comparative method is very useful to understand this transnational legal system. This approach as a study of legal systems by comparison with each other has assumed wider significant due to ongoing globalization process. Also this research can throw doubts on the usefulness of strongly entrenched views and may suggest a suitable solution to legal problems.

1.5 OBJECTIVES OF THE STUDY:

Comparative method is very useful to understand this transnational legal system. This approach as a study of legal systems by comparison with each other has assumed wider significant due to ongoing globalization process. The law of a foreign country are developed becoming relevant in national courts proceedings including international transactions.

1.6 RESEARCH METHODOLOGY:

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CHAPTER- 2

WHETHER THIS RIGHT CAN BE DECLARED LIKE AN ELEMENTAL RIGHT UNDER THE CONSTITUTION ON BANGLADESH AND INDIA

2.1 THIS RIGHT CAN BE DECLARED LIKE AN ELEMENTAL FOR PROPER IMPLEMENTATION ON EDUCATION IN BANGLADESH

When certain human rights are codified in a constitution and are protected by constitutional guarantees they are called fundamental rights. Fundamental right gives the recognition of some basic human rights that is to be ensured by the government of any state. The Constitution of Bangladesh placed the right to education as a fundamental principle of state policy which has no binding force. If the right to education is violated, the citizen of Bangladesh cannot get proper remedy from the court due to its non-binding nature. Moreover when the right to education is given priority as a fundamental right, it will be very easy to access in education and the literacy rate of the country will be improved. No one shall be deprived from the light of education if the right to education works like a fundamental rights of a human being. Despite a poor economic background, the government of Bangladesh should take proper necessary steps to declare the education as a fundamental right for the highest development of the country.

2.2 THIS RIGHT CAN BE DECLARED LIKE AN ELEMENTAL FOR PROPER IMPLEMENTATION ON EDUCATION IN INDIA

The right to non-discrimination in the enjoyment of education rights is also protected under international law. Both the UDHR² and the ICESCR³ guaranteed the right to education regardless of one's race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status', while the protection of the rights on the basis of these characteristics and additionally mentions 'ethnic origin' and 'disability'⁴These values are also entrenched in UNESCO'S (1960) Convention against Discrimination in Education, which prohibits discrimination in all facets of education and bans group-based segregation in schools. Multiple international agreements that protect the equal rights of specific groups also recognize the right to education. In addition to educational guarantees contained in international rights

² Universal Declaration of Human Rights (UDHR) ,1948 art 2

³ Ibid (n12) art 2

⁴ Ibid n(13) art 2

instruments, the global community declared universalizing education to be a priority for action with the adoption of the Education for All (EFA) targets and the Millennium Development Goals (MDGs). The EFA targets called for improving access, quality and equity throughout the educational life course (UNESCO, 2010a) and the MDGs designated the achievement of universal primary education and gender equity at all levels of education as priorities for the year 2015 (UN General Assembly, 2000). The analysis focuses on education rights that are protected in international rights instruments and that reduce direct barriers to educational access by designating a minimum length of compulsory education, making education free, and prohibiting discrimination in schooling.

2.3 RIGHT TO EDUCATION IS THE PRECURSOR OF THE DEVELOPMENT AND ENSURING THE RIGHT TO LIFE

According to the Annual Report, 2016 of the World Bank, 68 percent of the village people of the country are leaving below the poverty line and many of their children are engaged in hazardous works. It is high time for the government of Bangladesh to declare the education as a fundamental rights that can reduce the number of dropout Children and can give the recognition of an educated nations. Now without an education, a citizen is both economically and politically vulnerable.

CHAPTER-3

RECOGNITION OF THE RIGHT TO EDUCATION INTERNATIONALLY

UN members, guarantees the right to education and specifies that schooling should be free and compulsory at the primary level. The 160 countries that ratified the treaty and reaffirmed this commitment and pledged to make secondary and higher education accessible to all and progressively free. The new ground by identifying children as the bearers of rights and establishing the Committee on the Rights of the Child to monitor. The right to non-discrimination in the enjoyment of education rights is also protected under international law. Both the UDHR and the ICESCR guaranteed the right to education regardless of one's race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status', while the protection of the rights on the basis of these characteristics and additionally mentions 'ethnic origin' and 'disability'. These values are also entrenched in UNESCO'S (1960) Convention against Discrimination in Education, which prohibits discrimination in all facets of education and bans group-based segregation in schools. Multiple international agreements that protect the equal rights of specific groups also recognize the right to education. In addition to educational guarantees contained in international rights instruments, the global community declared universalizing education to be a priority for action with the adoption of the Education for All (EFA) targets and the Millennium Development Goals (MDGs). The EFA targets called for improving access, quality and equity throughout the educational life course (UNESCO, 2010a) and the MDGs designated the achievement of universal primary education and gender equity at all levels of education as priorities for the year 2015 (UN General Assembly, 2000). The analysis focuses on education rights that are protected in international rights instruments and that reduce direct barriers to educational access by designating a minimum length of compulsory education, making education free, and prohibiting discrimination in schooling.

CHAPTER-4

THE CONSTITUTION OF BANGLADESH DOES NOT IMPOSE ANY OBLIGATION TO SUPPLY FREE AND ELEMENTAL EDUCATION

The constitution of Bangladesh states that the directive principles cannot be enforced by and through judicial process to compel the state to carry them out, if state 'cannot' implement the principle. The principles set out in this 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. The Supreme Court of Bangladesh states that the Fundamental Principle of State Policy which has been laid down Part II of the constitution is not any law. The Fundamental Principles of State Policy act as guide to the interpretation of the laws of Bangladesh. There is no binding force in case of implementation of fundamental Principle of state policy. Though the directive principles are not enforceable by any court, the principle therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the state to apply these principle in making laws. It is a protected article in our constitution and the legislature cannot amend this article without referendum this alone shows that the executive cannot flout the directive principles. The endeavor of the Government must be to realize these whittle them down.

CHAPTER-5

WHETHER THE CONSTITUTION OF THE BANGLADESH AND INDIA IMPOSE ANY OBLIGATION TO PROVIDE FREE AND COMPULSORY EDUCATION

5.1 THE CONSTITUTION OF THE RAMBOLAND OBLIGES TO PROVIDE FREE COMPULSORY PRIMARY EDUCATION

The fundamental responsibility of the Bangladesh is to provide the basic necessities including the education. For producing properly trained and motivated citizens the state adopt effective measure to extend the free and primary education to all. Many Children drop school and start working in various sectors by dint of poverty. Despite of getting free compulsory education, the government wants to take fund from the salary of the parents of such children who engaged the project named ‘Good Life Scheme’. Article 183 of the General Education Law to be unconstitutional, to the extent that it could be construed to authorize the charging of fees for primary education in state schools. The Court reasoned that the Constitution and General Education Law could not be interpreted to authorize the government to charge fees at all academic levels, as this would be clearly and unequivocally contrary to international human rights treaties ratified by Colombia.

2.2 THE REPORT PUBLISHED BY THE BANGLADESSH BUREAU OF STATISTICS (BBS) IS QUESTIONABLE

The Bangladesh Bureau of Statistics claimed that the Adult literacy rate of Bangladesh increased from 30.2% in 1983 to 71.5% in 2014 growing at an average rate of 20.05%. Their yearly report of 2014 showed that the adult literacy rate in the country rose to a 12 year high of 72.3 percent in 2016. According to RBS if a person can write a simple letter, she/he will be considered literate. The view of RBS is totally contradictory with the globally accepted definition given by UNESCO. Literacy basically incorporates three things. So the report which has been published is questionable.

