

**III Meeting of the Mixed Network of Parliamentarians and Civil Society for the Human
Right to Education in Latin America and the Caribbean**

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Latin American Campaign for the Right to Education (CLADE)

**High Level Panel
on
The Right to Education: Regional and Global Panorama**

Presentation
by
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Education and learning have assumed key importance today and centrality of education in people's lives is being increasingly. Education which benefits in multiple ways both the individual and the society is a foundation of human and social development. Education is also a human right, essential for the exercise of all other human rights. It is of key importance in national and international development agenda and in public policy dialogue.

However, some current developments and trends in education call for reflections on future of education as they seem to compromise the noble cause of education and the framework of the right to education as an internationally recognized right¹ Such a concern is all the more pertinent in the context of engagement by the international community for the implementation of the Goal 4 on Education – SDG4 - of the 2030 Sustainable Development Agenda. While proclaiming the Agenda at the United Nations Summit in September 2015, the Heads of the State/Government envisaged “a world of universal respect for human rights.”² They reaffirmed their “commitment to international law” and stated that the Agenda is to be implemented “in a manner that is consistent with the rights and obligations of states under international law.”³ The 2030 Sustainable Development Agenda thus recognizes the obligations of States under international law and under human rights international conventions. It embodies a human-rights based approach in which the right to education assumes key importance.

Such a human rights-based approach also underpinned by the Incheon Declaration, adopted at the World Education Forum (May 2015)⁴ which underlines the importance of education as a fundamental human right, as a main driver of development and as public good.

In addressing multiple challenges to the realization of the right to education, we must take a holistic perspective, viewing education from early childhood to tertiary level as an integral system, without compartmentalization. Early childhood education is the very first building block and deserves attention commensurate with its importance in shaping the future of a child with its lasting impact. Education is also a ‘continuum’ as a learning process lifelong.

In that perspective, I would like to highlight briefly some issues in global context with emphasis on norms and principles of the right to education as well as global commitments to building an inclusive education system, embodied in the SDG4 and ‘leaving no one behind’ as the main objective of the SDG4.

First, growing inequities and marginalization in education

The right to education is a universal right which admits of no discrimination or exclusion. Yet, the universality of the right to education is crippled by growing disparities and inequities in education, undermining educational opportunities in tandem with growing social inequalities. Mitigating inequities and bringing about an inclusive system of education is also essential for the implementation of the SDG4: to “ensure inclusive and equitable quality

¹ Established under various international human rights conventions, notably, UNESCO Convention against Discrimination in Education, the International Covenant on Economic, Social and Cultural Rights, the Convention on All Forms of Discrimination against Women and the Convention on Rights of the Child, the right to education lays down obligations for State to respect, fulfill and safeguard it.

² Transforming our world: the 2030 Agenda for Sustainable Development, A/ RES. 70/1. 25 September 2015 para. 8.

³ Ibid. para. 18.

⁴ <http://unesdoc.unesco.org/images/0024/002456/245656E.pdf>

education and promote lifelong learning opportunities for all.” Similarly, the Incheon Declaration expresses the commitment by the Ministers of Education from all over the world to “ensure the provision of 12 years of free, publicly funded, equitable quality primary and secondary education.”

A radically transformed approach to education system is needed in an endeavour to make it an equalizing force so that education becomes instrumental in promoting development, social justice and equity. It is incumbent upon governments to expand opportunities for good quality public education for all in line with principle of equality of opportunity in education which is common to almost all United Nations human rights conventions. National level action needs to be intensified with equitable approaches in education and promotional measures in order to meet the permanent challenge of bringing about equality of opportunity in education, both *in law and in fact*.

In such endeavours, eradication of poverty as the very first goal of the 2030 Sustainable Development Agenda is of foremost importance. More than two billion people are victims of extreme poverty today, accounting for around 36 percent of the population in emerging and developing countries.⁵ Poverty is an affront to human rights. It is a major obstacle to exercise and enjoyment of the right to education. It makes a mockery of the stipulations in the Universal Declaration of Human Rights that “all human beings are born free and equal in dignity and rights.” Equity driven promotional measures in support of the children who are victims of poverty provide invaluable leverage for imparting education as a fundamental right.

Prevailing inequities and marginalization in education cannot be overcome, unless radical measures are taken for up scaling public education budgets and expanding opportunities for good quality public education, indispensable for creating an inclusive education system which is *leitmotiv* of the SDG4.

Second, safeguarding the right to education from forces of privatization

Disparities and inequities in education are exacerbated by mushrooming privatization which is making in-roads in education at all levels, especially in developing countries. A range of entities such as individual proprietors or profit-seeking corporate houses are spreading their business, providing education, especially higher education. ‘Edu-business’ has become the new buzz word and governments seem to be abdicating their *core responsibility* as regards the right to education. Unabashed privation is scuttling the right to education. Economic situation, social status and capacity to pay fees etc. are determinant factors as regards access to private educational establishments owned by individual proprietors or enterprises. This flies into face of prohibited grounds of discrimination in international human rights conventions. The Convention against Discrimination in Education, adopted by UNESCO in 1960, prohibits discrimination based, *inter alia*, on religion, political or other opinion, national or social origin, economic condition or birth, as such discrimination has the purpose or effect of nullifying or impairing equality of treatment in education. The Convention on the Rights of the Child adds ‘property’ among prohibited grounds of discrimination.

⁵ Poverty in developed world on the rise, <http://www.dw.com/en/poverty-in-developed-world-on-the-rise/a-19267116>

Education as a public function of States is being eroded on account of unbridled privatization, driven by business interest. Such a trend calls for serious reflections as this weakens the fabric of the right to education and undermines its norms and principles laid down in international human rights conventions. Moreover, privatization is inherently in contradiction with the SDG4 as well as the Incheon Declaration. It runs counter to the commitment by governments to under the SDG4 to create ‘inclusive education’, as private providers cater to the well-to-do, and breed a culture of social segregation. This aggravates inequities and marginalization in education, of which children from poor households are especially victims. By definition, privatization is detrimental to education as a public good, and sacrifices social interest in education for the sake of private profit. We must especially be concerned with the hidden corruption by private providers in education which remains unscathed due to lack of financial regulations, of scrutiny of their operations and of control mechanisms.

In face of these developments, enhanced engagement of governments to education is indispensable to save education system from becoming subservient to market forces. It is of paramount importance to safeguard the right to education from forces of privatization, preserve education as a public good as well as social interest in education. We must always bear in mind that the right to education is an inalienable right of every child – boys and girls alike. It is not a privilege of the rich and well-to-do: it is a core obligation of States, and a moral imperative. State is both guarantor and regulator of education which is a fundamental human right and a public cause. A comprehensive and sound regulatory framework with sanctions is necessary for ensuring that ‘edu-business’ has no place in a country’s education system.⁶

Third, multi-stakeholders and public-private partnerships: fostering social responsibility and public interest in education

Today, one can witness euphoria for public-private partnerships and involvement of multi-stakeholders in education. The need and importance of preserving education as a public good and public interest in education should be kept in forefront in arrangements bringing on board multi-stakeholders and provision of education through public-private partnerships. Such arrangements do not change the nature of the right to education or the State obligations. They should, in all situations, be underpinned by social responsibility in education, where public interest remains predominant. This should be overriding consideration with respect to the United Nations Initiative for Global Partnerships which stipulates that “partnerships are voluntary and collaborative relationships between various parties, both public and non-public, in which all participants agree to work together to achieve a common purpose (...).”⁷

As such, while reflecting over the global context of education, advocacy for public policy in a bid to ensure that multi-stakeholders and all public-private partnerships are harnessed to

⁶ For more details, see the Reports by United Special Rapporteur on the Right to Education on (i) “State responsibility for regulating private providers of education and preserving education as a public good”, submitted to the United National General Assembly in 2014 (A/69/402) as well as on “Regulating private providers in education and safeguarding education as a public good”, submitted to the Human Rights Council in 2015 (A/HRC/29/30).

⁷ The Resolution adopted by General Assembly: Towards global partnerships: a principle-based approach to enhanced cooperation between the United Nations and all relevant partners (A/RES/68/234, 7 February 2014).

broader public interest is important. As proposed by the OECD Recommendation of the Council on Principles for Public Governance of Public-Private Partnerships (2012),⁸ regulating public-private partnerships in education requires “strong public institutions” and a “sound regulatory framework.”

Broader public interest also relates to quality concerns in education, with uniform national norms and standards for both public and private education.

Fourth, responding to quality imperatives

Meeting quality imperatives in education goes hand in hand with universalizing access to education. The right to education is a matter of *entitlement* in terms of universal access. It is also a matter of *empowerment* in terms of imparting though education knowledge, values, competencies and skills. Both these key dimensions of the right to education are inextricably linked together. Quality of education is degrading on account of numerous factors, notably deficiencies of a legally binding framework of quality norms and standards along with a sound system of quality evaluation and learning assessment mechanisms, inadequate attention paid to teaching profession etc. Dismal quality of education and poor learning achievements are a symbol of weak education system and have serious consequences for a country’s future as education is a foundation of human development.

We must ensure that quality standards in education with teachers as its kingpin remain uppermost in approaches to developing education systems of tomorrow. Governments must ensure that teachers are well qualified, supported through professional development opportunities, and are motivated and professionally committed. The emergence of contractual teaching, emanating from forces of privatization which saps teaching profession must be pushed back. The teaching profession should be made more attractive with enhanced social esteem and professional recognition so that teachers can look forward to it as a career. Capability of teachers for imparting human values as the essential objective of education is a core element of teacher training and pedagogic approaches.

Fifth, giving primacy to humanistic mission of education rather than materialistic pursuits

Fostering values education and humanistic mission of education has become critically important today. This is because value-based education is being crippled by materialistic pursuits in education which are becoming predominant. Engendered by a sprawling corporate culture, this trend vitiates humanistic mission of education. Schools as places of dissemination of knowledge, morals, and values and the Universities as seat of learning for the pursuit of ideals of humanity are being drawn into stronghold of materialistic values by forces of privatization. With the spread of corporate culture, Universities are being bereft of humanism and Faculties of Humanities are losing esteem for not being ‘productive’. A crisis of value makes the children seem to be lured with materialistic pursuits, Education system is being depleted of its core function of inculcating basic human values and ethics. This is detrimental to “the full development of human personality” as essential objective of education, enshrined

⁸ Recommendation of the Council on Principles for Public Governance of Public-Private Partnerships, OECD, May 2012.

in the Universal Declaration of Human Rights (1948) and in other international human rights conventions.

Preserving humanistic mission of education is one of biggest moral challenges today. As stipulated in the World Declaration on Higher Education for the Twenty-First Century (1998), radical changes are needed in higher education so that our society, which is currently undergoing a profound “crisis of values”, can transcend mere economic considerations and incorporate “deeper dimensions of morality and spirituality” ... “inspired by love for humanity and guided by wisdom.”⁹ A key role devolves upon Universities in redeeming the noble cause of education. It is incumbent upon public authorities to ensure that the system of education is edified upon humanistic mission of education with strong emphasis on a school and university system geared towards that end.

Besides, preserving and valorising the richness of cultural diversity in line with SDG4 deserves enhanced emphasis. The principle of ‘the defence of cultural diversity’ as an ‘ethical imperative’ enshrined in UNESCO’s Universal Declaration on Cultural Diversity (2001)¹⁰ adds value to the implementation of the SDG4 with emphasis on multicultural and multilingual education so necessary in today’s world.

Finally, fostering the use of informational and communications technologies and digital devices while preventing their deleterious effect

Values education and cultural diversity are also affected by the digital revolution which is taking place at a dazzling rate. There is huge interest in digital devices as they provide vast opportunities for new forms of connections and collaboration and can multiply learning pathways and diversify learning approaches for the provision of education. Their implications for education system and society of today and tomorrow call for careful analysis. ICTs and digital devices are a mere tool, subservient to public interest. They should not be allowed to become an alternative path to higher education, undermining campus-based, face-to-face teaching and learning.

The ‘digital tsunami’ is so powerful that legal and policy responses are not able to keep pace with it. Challenging tasks relate to preventing disparities in access to digital technologies and overcoming ‘digital divide’.¹¹ Moreover, it is necessary to devise oversight mechanisms to control multiplicity of learning sites and modes which exist for delivering education and training in a ‘virtual learning environment’, awarding fake degrees by way of internet-based education, training and learning, and web portals. The question is: how to unleash the full potential of ICTs for education¹² while preventing their deleterious effect? This is critically

⁹ World Declaration on Higher Education for the Twenty-First Century: Vision and Action, adopted at UNESCO in 1998. Articles 1 and 2 (d).

¹⁰ Available at: http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CLT/pdf/5_Cultural_Diversity_EN.pdf

¹¹ See International Telecommunication Union, www.itu.int/en/ITU-D/Statistics/Documents/facts/ICTFactsFigures2015.pdf.

¹² Qingdao Declaration adopted at the International Conference on Information and Communications Technologies and Post-2015 Education, held in Qingdao, China, See <http://unesdoc.unesco.org/images/0023/002333/233352E.pdf>. See also UNESCO, Leveraging Information and Communication Technologies to Achieve the Post-2015 Education Goal: Report of the International Conference on ICT and Post-2015 Education (2015), p. 5.

important as the misuse of technology can lead to cyberbullying, criminal activity and even to terrorism. Education and social policy should give special consideration to the need to ward off risks of undermining human values in education consequent upon the use of digital technologies including serious risks for children that the Internet may lead to, as pointed out by the United Nations Committee on the Rights of the Child.¹³

Nicholas Carr provides profound insights into the deleterious impact of the Internet on our mind and spirit, and sheds light on how this scuttles humanist values in education: “How sad it would be, particularly when it comes to the nurturing of our children’s minds, if we were to accept without question the idea that ‘human elements’ are outmoded and dispensable (...) Meditative thinking, the very essence of our humanity, might become a victim of this”.¹⁴

Besides, it is an important task of public policies to regulate fraudulent practices and find ways of preventing unqualified or fraudulent providers from issuing worthless qualifications through the Internet when online or distance education providers operate with no control. A regulatory framework is thus critically important in setting out responsibilities and accountability requirements.¹⁵

Key Role of the Parliamentarians as custodian of education laws and education policies

I have long supported the vital role that Parliamentarians play in the field of the right to education. This is also reflected in my Reports to the Human Rights Council. Thus, pursuant to the recommendations I made in my Report on the Justiciability of the Right to Education, the Resolution 23/4 on the Right to Education, adopted by the Human Rights Council in June 2013, “stresses the importance of the contribution of (...) parliamentarians to the realization of the right to education, including through cooperation with the Special Rapporteur on the right to education.” I may also mention that my Report (2013) to the United Nations General Assembly on Post 2015 Development Agenda attaches as well importance to building on the experience of mechanisms such as the Committee of the Parliamentarians and the role that the Parliamentarians have in the context of the post-2015 education agenda, including advocacy for developing and implementing laws and for the fulfilment of commitments of the Government to the realization of the right to education.

As the custodians of national legislation and its effective implementation, the Parliamentarians have a unique role and responsibility in ensuring that State obligations under international and regional instruments for the right to education are incorporated into national legal system and are respected and fulfilled. They can ensure that the right to education as a fundamental human right is not compromised or scuttled by forces spearheading commercialization of education. As public figures, they can raise public debate on issues of critical importance in an endeavour to overcome challenges being faced for upholding the

¹³ CRC/C/GC/13, para 31

¹⁴ Nicholas Carr, *The Shallows: What the Internet Is Doing to Our Brains* (W.W. Norton and Co., New York and London, 2010), p. 87.

¹⁵ See <http://campaignforeducation.org/en/news/global/view/623-representatives-from-91-countries-come-together-for-the-fifth-gce-world-assembly>.

right to education and take up the cause of necessary public policy responses for ensuring that governments abide by their political commitments and moral responsibility and that international obligations of States for the right to education are fully respected. They can also promote a human-rights based approach, embodied in SDG4 as well as the Incheon Declaration. This is of key importance as the human rights standards provide a normative framework that grounds development work within a universal set of values and also serve as an important tool for ensuring that development is pursued in an equitable, just and sustainable manner. The advocacy and actions by the civil society and the Parliamentarians is highly important for bringing upfront the cause of public education of good quality as a high national priority. In this, ensuring that maximum public resources are devoted to education is a key concern in a country's development agenda.

Before concluding my presentation, I would like once again to congratulate the organizers of this III Meeting of the Mixed Network of Parliamentarians and Civil Society for the Human Right to Education in Latin America and the Caribbean and say that the leadership role of the Parliamentarians is invaluable for the realization of the right to education and for the implementation of the SDG4. In this, special consideration needs to be given to developing national laws, policies and strategies, bearing in mind major challenges such as those I have dwelt upon. In transforming education system so as to respond to the needs of twenty-first century, we must keep in forefront the norms and principles of the right to education as well as the concept of education as a public good. Promoting human development and social well-being should be the overriding consideration. Our actions must be guided by the principle of social justice and equity, which are at the core of global mission of the United Nations. I look forward with great interest to the continued collaboration with the CLADE and the GCE and to working with the Parliamentarians in devising a legal framework, policies and strategies for the education system in the Latin American and Caribbean region and fostering the noble cause of education.

Thank you for your kind attention.