

EQUAL AND INCLUSIVE EDUCATION AS A PREVAILING CHALLENGE TO THE RIGHT TO EDUCATION

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Abstract: The role of education is indisputable in our culture. From the moment we are born we are constantly learning new information and skills. Education has such an importance that we recognize it as a part of human rights. Nobody disputes that children have the right to education. The second article of the universal declaration of human rights declares that rights should create conditions for equality. Therefore education should be equal for all children. Nevertheless, is this the reality in all cases? In Slovakia for example, (but also in many other countries in the world) we have plenty of problems with inclusive education. Sociologist Zuzana Kusá argues that in Slovakia there is a trend to separate the children which are deemed "normal" from the disadvantaged and to create special classes for the latter group. The right to education should involve inclusion and should create cooperative conditions for the learning of children. Slovakia is one of the countries that do not provide a cohesive inclusion of all children. Therefore, we shall examine the current state of the right to education and analyze how we could improve its deficiencies. We will use the concept of affirmative action (positive discrimination) as presented by Michael Sandel in the title "Justice. What's the right thing to do?" The second concept that we will examine is the concept of equality of opportunity, as presented by John Rawls and others. We will investigate how these two concepts might help us with an improvement of the right to education and how they could fix some of the prevailing issues for example faced in Slovakia's educational system.

Keywords: equal – inclusive - education – human right.

1. Introduction

The right to education is arguably essential for our civilization. We are born without knowledge, and we acquire it through learning. The process of learning is continuous, but it is most impactful when we are young. When we are young, we learn facts and information very quickly. The most important factor of all is that through education we shape our personality and beliefs. We are becoming our future selves. Education has such significance that we recognize it as a human right.

2. What is the right to education?

Universal Declaration of Human Rights states: "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" (Universal Declaration of Human Rights, n.d.). The article 26 declares that everyone has a right to education and that education should be available at all levels to everyone. The second part of the article 26 explicitly supports inclusive education as it calls for values such as tolerance, friendship or understanding (Universal Declaration of Human Rights, n.d.). We should consider this as a significant aspect that encourages inclusive education. We should teach children such values as tolerance and understanding because they will be able to cooperate and function together more effectively. The society is heterogeneous therefore this kind of education should be required for everyone. Website of Icelandic Human Rights Center declares that by providing education we spread the very concept of human rights and we help people to enjoy many economic, social and cultural rights (The right to education and culture, n.d.). This passage supports the view that education is one of the most fundamental aspects of our lives. We need to design the best learning environment for the children because of the impact it has on their lives. There is a short article on the webpage of OECD called "What are the Social Benefits of Education" and that states that "In the past few decades, research has supported this conventional wisdom, revealing that education not only enables individuals to perform better in the labour market, but also helps to improve their overall health, promote active citizenship and contain violence." (What Are the Social Benefits of Education?, 2013) This OECD study supports what was already partly described by the Icelandic Human Rights Center that the role of education is undeniable.

In a book *Education, Equality and Human Rights* (2006) edited by professor Mike Cole (research professor in Education and Equality at Bishop Grosseteste College in the UK) there is a chapter written by Richard Rieser who is a disabled teacher and writes about inclusion. He argues that "educational barriers consist of inadequate and inappropriate staffing levels, training or material resources" (Rieser, 2006, p. 158), he adds that there is another type of barrier and those are emotional barriers. These barriers "are to do with low self-esteem, lack of empowerment and the denial of the chance to develop worthwhile reciprocal relationships." (Rieser, 2006, p. 158) As we can see, there are many obstacles that inclusive education may face. When we develop an educational system we need to be prepared to discuss and solve various problems and difficulties, such as mentioned by Rieser. The multidimensional character of education is undeniable. Rieser also defines how he understands the inclusion in the school system. This definition is rather crucial because it helps us to understand a possible way how to solve these various problems. He describes it as follows: "Inclusion is not a static state like

integration. It is a continuing process involving a major change in school ethos and is about building a school community that accepts and values difference." (Rieser, 2006, p. 168) This analysis shows that inclusion is a process that requires a sustained period of time. Inclusion needs preparation and thoughtful planning if we want to include the disabled children in the ordinary schools. Rieser also suggests throughout the article that the mentality of the parents towards having their kids share a school with disadvantaged children needs to change (Rieser, 2006). This approach by parents is unethical because it discriminates against the children with a disability or other social impairments. Rieser even mentions the problem of identification of the disabled children. He argues that when we use language, we can use the disability or impairment to identify the child (Rieser, 2006). This approach can be very degrading to an adult let alone to a child.

To better understand the right to education we explored several unsolved points and issues that are still present within this topic. We described the right to education and shown that everyone has the right to education, that it should be equal and promote tolerance and understanding. Education also allows us to have other kinds of rights, such as economic or social. Richard Rieser in his piece wrote that there are various kinds of barriers when it comes to the inclusion of children in the schools. He described educational and emotional barriers, and we even looked at the language discrimination against disabled. Rieser argued that we often use very harsh and insulting language to describe people with health or mental disadvantage. The same applies to children even in the school environment. Many countries still battle with similar issues when it comes to a right to education. Slovakia is one of those countries that have problems with inclusion in the education. Therefore in the next part, we will try to demonstrate some concrete examples and problems that the school system is facing when it comes to equality and inclusion.

3. Right to education in the context of Slovakia

In this section, we will try to analyze the situation in Slovakia. We will see how infringed the right to education can be in reality. In Slovakia, there are plenty of studies and articles that point out to this violation of the right to education. That is why it is crucial to identify these difficulties in reality and to see what changes we might adopt to improve the situation.

For the last couple of years, there have been numerous newspaper articles about mistreatment of disabled children in the Slovak educational system. For example, a Slovak newspaper called *Denník N* posted an article (*Elu s Downovým syndrómom nechceli zobrat' do školy, zastal sa jej Najvyšší súd*) where they described a case of a little girl being refused by the elementary school because she had Down Syndrome. The parents of the girl sued the school and won. The Supreme Court decided that school needs to take in the child and give the

inclusion a chance (Dugovič, 2015). This is merely one of the examples that prove how much struggle there is with inclusive and equal education in Slovakia. Education must be equal and accessible to all otherwise we violate the human right to education of the disabled children. Parents often want to place a disadvantaged child in a normal school but are often denied, and their only option is a school for children with special needs. Parents view these schools as segregation of their children with special needs from the rest of the society.

Eva Krčahová and Soňa Šestáková created a study about modern education in Slovakia named "Integration of students with special educational needs in the conventional schools" (Integrácia žiakov so špeciálnymi výchovno-vzdelávacími potrebami v bežnej škole). Here they argue that most teachers in Slovakia are not adequately prepared and educated to work with the disabled children (Krčahová, and Šestáková, 2012). This seems to be one of the most significant problems with the inclusion of the disabled children. Therefore we should also focus on the improvement of the qualification of the teachers. Throughout their study, they often point out that there is an increase in the number of the disabled students and therefore we should pay closer attention to this issue (Krčahová and Šestáková, 2012). Other studies also point out to the similar conclusion. Sociologist Zuzana Kusá in book *School is not for everyone* (Škola nie je pre všetkých) (2016) writes that the situation in Slovakia is quite complicated and problematic. She argues that there are not only technical problems that exclude the children from education but also that the parents and the teachers often prevent this inclusion. Under such conditions, equal and inclusive education becomes almost impossible to achieve in a school (Kusá, 2016). These findings are pointing to a serious ethical problem in our society. The core of this ethical dilemma is that we claim to promote equality in education but in reality, we are far from proving this allegation. We are excluding the disabled children or those that are stigmatized by poverty or poor social background. Kusá adds that by including the disadvantaged children in a school, we promote values that support human dignity and tolerance (Kusá, 2016). This is a very important feature for the future of the educational process. We must support the development of values and teach children how to live and act in a mixed group. By doing so, we will provide them with a better experience so they can manage future difficulties in their lives. We also create a more cohesive society where people with different background can work together. We can conclude that such an approach is more ethically correct than our current one.

In this part of the article, we have just demonstrated that the right to education is quite essential for our society and western culture. Nobody denies that education should be equal and accessible to all. Some countries still struggle with the equality and inclusion. Slovakia can be considered to be one of those countries. Just as we have demonstrated, we learned that the problem with the right to education is considerably complicated and multidimensional. There are plenty of factors, such as the attitude of parents or school, the laws and regulations itself, that can be problematic. Often the teachers do not have sufficient training and education to work with the disabled children. Parents are often prejudiced and do not want their children to go to

class with children from a poor social background or with disabled children. This view leads to the separation of children. In such a diverse society, we need to learn how to cooperate together and so we need to start with the children.

4. Affirmative action (positive discrimination) and the Rawlsian equality of opportunity

In this section, we will look at how these two concepts can help us with the issue of inclusive education. Both of these theories are quite complex and try to answer many concerns present in our society. In the first part, we will examine the concept of affirmative action (positive discrimination). Michael Sandel, who is an American political philosopher, in his book *Justice. What's the right thing to do?* (2009) investigates the concept of affirmative action (positive discrimination). This analysis will serve as a basis for our own argument. Secondly, we analyze the concept of equality of opportunity as presented by American moral and political philosopher John Rawls. For this purpose, we will also use the text by Eva Feder Kittay Love's *Labor* where she analyzes the Rawlsian concept of justice and equality of opportunity.

Michael Sandel introduces in his book the concept of affirmative action (often called positive discrimination; in the Czech translation of the book *pozitivní diskriminace*). He does not propose a definite definition of this notion because he mainly analyzes certain issues with ethnicity and race. Hence we must use the definition given by the Stanford Encyclopedia of Philosophy. Affirmative Action means "positive steps taken to increase the representation of women and minorities in areas of employment, education, and culture from which they have been historically excluded." (Affirmative Action, 2018) Sandel analyzes an affirmative action primarily on the cases of race and ethnicity, but the factors he examines can be implemented in our instance as well. The one argument which is quite essential for us is the compensation for past wrongs. When we look back at the history, we see why this might be important. Sandel argues that "minority students should be given preference to make up for a history of discrimination that has placed them at an unfair disadvantage" (Sandel, 2009, p. 170). Sandel's explanation for the compensation for past wrongs is also applicable to our case. When we look at some of the arguments we presented, we can see how similar these two problems are. Disabled children often face exclusion. Exclusion from education is one of the most notable obstacles. Proper education should be equally available to everyone, and that is one of the reasons why we consider it a human right. Unfortunately, as we have seen, the reality is often different.

Sandel suggests meaningful criticism of this approach that may prove useful to investigate in our topic. Sandel claims that "whether the compensatory case for affirmative action can answer this objection depends on the difficult concept of collective responsibility: Can we ever

have a moral responsibility to redress wrongs committed by a previous generation?" (Sandel, 2009, p. 170). This remarks given by Sandel helps to better understand the complexity of affirmative action (positive discrimination). In our case, the history of the wrongs committed against the inclusion of disabled children is still persistent in our age. Slovakia is one of those countries that violate the right to education when it comes to the inclusion of disabled children. We have seen that the equality of education is also not always upheld. Disabled and disadvantaged children are often placed in different schools and separated from the rest. It is a hard task to decide whether the argument for compensating for past wrongs is correct one. We know that historically the exclusion of the disabled and disadvantaged was an enormous issue. When it comes to the right to education, it is still a problem in many countries (our example of Slovakia).

Another reason for affirmative action is, according to Sandel, promotion of diversity. He argues that "the diversity rationale is an argument in the name of the common good – the common good of the school itself and also of the wider society" (Sandel, 2009, p. 171). Sandel adds that "racially mixed student body is desirable because it enables students to learn more from one another" (Sandel, 2009, p. 171). His argumentation is primarily concerned with racial and ethnical discrimination. For our purpose, it is still applicable. Promotion of diversity is also beneficial for the children with disability. In this type of school children can help each other and support students who have problems with assimilation. Often parents are afraid that child with health or mental issues will create problems in the class. This environment, according to them, will result in a decrease of results of the children. This might be a problem if there are too many students and the teacher does not have additional support. The additional teacher or assistant teacher might improve the situation and enable students to participate and develop adequately. Diversity is a common thing if we take into account that society itself is highly distinct. Each nation in the world has disabled citizens. Therefore, it is not a good idea to separate the disabled children. By advancing the diversity in the schools, we grant our children the ability to cooperate in the diverse environment. The biggest problem is that if this forced promotion of diversity will persist. Diversity is a worthy goal, but if the majority of the population is not convinced about it, then we might encounter several difficulties. Many critics view affirmative action as dictating and forcing citizens to follow others agenda. Therefore using this method without public consent or approval may cause future difficulties.

Sandel in his description of affirmative action offers one more reason for promotion of diversity. He claims that "the diversity argument maintains that equipping disadvantaged minorities to assume positions of leadership in key public and professional roles" (Sandel, 2009, p. 171). Our argument for the advancement of the right to education can also benefit from this. We can, for example, appoint more people with disabilities in key positions. These people can undoubtedly understand the problems that children with disabilities face in a school system. We can assume that correction of these issues laid down in this paper will grow because the depth and origin of these problems will be understood more appropriately. Unfortunately, as

we have explained before, we cannot rely solely on pushing disabled people to positions of power (key areas in the public sphere). If the public is not inclined to these changes, we might face several problems with the support necessary to succeed in changing the current system of education.

Affirmative action offers fascinating solutions towards our dilemma with the right to education. We can adopt positive measures to enhance the representation of specific groups in essential public positions. This approach could improve circumstances in plenty of issues that many disadvantaged groups face in society. Our primary concern is inclusion and equality in the educational system. Children should adequately participate in the educational system. Society sometimes tends to treat disabled children as undesirable and tries to separate them in the educational system. By appointing more minorities in the key positions (in our case the disabled people), we could improve their position in society. The position of disabled children in a school system would also improve because there would be more focus on issues such as inequality or separation of children.

5. The right to education and equality of opportunity

Equality of opportunity is an interesting concept that can also give new insight into the issues we are investigating. John Rawls in his theories discusses plenty of significant problems that persist in our century. Equality of opportunity (or as Rawls calls it: fair equality of opportunity) is an interesting concept that can also give new insight into the issues we are investigating. The first thing we need to do is to define the second principle of justice. Rawls in *A Theory of Justice* (1971) describes it as "social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all" (Rawls, 1999, p. 53). In his later work *Justice as Fairness A Restatement* (2001) (edited by Erin Kelly) he describes the second principle more thoroughly and addresses the fair equality of opportunity or as we have simply put it, equality of opportunity. He argues that "social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity" (Rawls, 2001, p. 42). Rawls explains this thought even more and states that "to this end, fair equality of opportunity is said to require not merely that public offices and social positions to be open in the formal sense, but that all should have a fair chance to attain them" (Rawls, 2001, p. 43). This statement is very significant when we take into account that equality in education faces so many difficulties. To have a fair chance to get into education despite having health or mental disadvantage should be crucial.

Rawls adds a comment towards education and states that "society must also establish, among other things, equal opportunities of education, for all regardless of family income"

(Rawls, 2001, p. 44). Rawls believes that education is important and therefore worthy of being equally accessible. Rawls accepts that income should not play a particular role in getting an education. Our thesis deals with the right to education, more specifically equal and inclusive right to education. We have described the prevailing problems that plenty of countries still face when it comes to equality and inclusion in education. What is crucial for our analysis is that Rawls argues that all should have a fair chance to attain public offices and social positions. This statement is also applicable in our thesis towards the disabled children and their ability to enter regular schools. Children with disability (mental or health) should always have an option to enter regular schools because of equality in an educational system. If a system is to be equal to all, we must create a system that allows full participation even to those who are disadvantaged most. Rawls's conception offers an attractive approach towards equality. Our brief examination showed that if we promote equality, we cannot suppress someone's opportunity to get an education. That view would also violate his basic human right to education. But there are also critics of Rawls and his theory. They often argue that Rawls's conception is an idealization and does not necessarily reflect the reality because it excludes certain groups of people.

Eva Feder Kittay, an American philosopher, argues against some deficiencies that Rawls's conception of justice has. She claims in her book *Love's Labor* (1999) that "for all of its comprehensiveness and power Rawls's theory, like those that have come before it, fails to attend to the fact of human dependency and the consequences of this dependency on social organization" (Kittay, 1999, p. 76). She adds to this comment that "dependency strongly affects our status as equal citizens (that is, as persons who, as equals, share the benefits and burdens of social cooperation), and because it affects all of us at one time or another" (Kittay, 1999, p. 77). Kittay discusses something quite interesting when we reflect on Rawls's conception. According to Kittay, in Rawls's conception, we forget about those who are dependent on others to live and survive. Kittay claims that all of us at some point will be dependent on someone else. This information is a crucial factor to consider when analyzing Rawls's conception of equality of opportunity. She also criticizes Rawls's conception as an idealization. Kittay claims that this results in the ignoring of several factors such as human dependency (Kittay, 1999). In the context of inclusive and equal education, we discover that dependency is a crucial factor. Disabled children are heavily dependent on the help from their parents and the aid from the state. The state cannot ignore the issues that disabled children encounter while trying to attend regular schools. Kittay in her arguments demonstrates that Rawls's conception has some particular problems. She claims that idealization is an issue of this particular theory. The theory appears to be too general for Kittay to address such particular problems of disadvantaged groups as a dependency. Kittay seems to think that we need a stronger and more complex analysis of such groups because of the complex character of their difficulties. This approach could enable us to implement true equality of opportunities in reality. Therefore even Rawls's theory needs some adjustments to be able to solve problems of equality.

6. Conclusion

Education as a human right asserts that everyone is entitled to an education. We explained the benefits of knowledge for the future of a person and argued that it is essential that everyone should be allowed to it. It is essential for our lives because of the social and economic factors. We demonstrated what barriers are preventing disabled children from the educational inclusion. We have investigated two kinds of barriers, educational and emotional. Both of these present a serious issue for students. We have discovered that education has a multidimensional character and there are many obstacles present for the disabled children. For example, the usage of inappropriate language to describe a disabled student may create the environment of exclusion. We argued through disabled teacher Richard Rieser that inclusion is not an easy process. It requires a longer time and systematic preparation. The aim of the school should be a community where we value and accept difference.

After the analysis of the right to education and various other obstacles and challenges, we now begin with the actual example of a country that still struggles with the right to education. We have described several cases and studies that point out that Slovakia has problems with the inclusion of the disabled children. Regular schools often reject disabled children with arguments that they do not have adequate conditions and environment to educate the child. Special schools do not have the same quality of the education as regular schools. We cannot speak of equality in the educational system when we separate the children who do not meet our "requirements for normality". Segregation and exclusion of children lead to inequality. Therefore, we cannot speak of equality in education when we disadvantage one group of children.

In the final part of this article, we examined the conception of affirmative action (positive discrimination) and the Rawlsian equality of opportunity. We argued that affirmative action tries to adopt positive measures to enhance the participation and representation of certain groups in society. This approach has a lot to offer to our examination because it enables us to appoint more disabled people to the positions of power. In these positions, they can improve certain laws and procedures such as our educational system. The results of this practice would be that children would receive an equal education. Schools would be more inclusive and open to diversity among students. Critics often point out that this approach has a lot of issues. It is said that affirmative action forces other to obey different ideologies and ideas. Therefore public opinion can be against such a forceful approach and we should consider that while making any public policy.

The analysis of Rawls's concept of fair equality of opportunity provided us with some more theoretical understanding of this topic of equality. We described what Rawls meant by fair equality of opportunity. He argues that everyone should have a chance to attain public offices or social positions. He states that they are not just formally open to everyone. Everyone should

have a real chance to attain them. This description is crucial for our topic because we want disabled children to attend regular schools. We are attempting to limit their separation in special schools. On the other hand, there are also critics of Rawls's approach. For example, Eva Feder Kittay argued that his concept is idealization and does not hold in reality. She argues that his theory does not take into account the problem of dependency. Those, who are dependent on others to survive, are not taken into consideration in Rawls's conception. We argued that Rawls conception theoretically appears to take disadvantaged people into consideration. Kittay claims the contrary that in reality these people are excluded and not equally treated. She argues her position because apparently dependency deserves an additional analysis. If we do not pay separate attention to such issues as dependency or problems of the disabled people, we cannot resolve the problems of these groups with a simple general conception of equality or justice.

In this article, we have explained how complicated the right to education is. We have shown that disabled people are still disadvantaged when it comes to education. In many countries (in our case Slovakia) they are not equal in an educational system. They are excluded and separated in special schools. Therefore inclusion appears to be another persistent challenge to the right to education. We tried to explain how we can solve these problems and difficulties by using the concept of affirmative action (positive discrimination) or fair equality of opportunity. Both concepts offer something to our problems, but they still require a lot of improvements to stand in reality.

Acknowledgements

This publication was funded by the Scientific Grant Agency of the Ministry of Education, science, research and sport of the Slovak Republic and the Slovak Academy of Sciences: VEGA 1/0132/17 The right to independent living of people with disabilities and their inclusion into society from the perspective of social and political philosophy.

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