

The Ethicality of the Right to Education

Exploring the International Demands on the Basic Right to Education

Hanna Haddad

University of California, Berkeley

Political Science 124C

Professor Amy Gurowitz

Adam Lichtenheld

December 19, 2014

3,680 words

For many, attainment of varying degrees of education has served as the gateway to a better, more prosperous life. For many more, the disparity or clear lack of education has left them comparatively disadvantaged. Correlated with success and economic development, one must wonder the true importance of attaining an education—is it a basic human right? Even if it is a basic human right, to what degree are states responsible to provide access to education? What is the minimum quality required? In this paper, I plan on analyzing the conception of education as a human right, delving into potential ethical debates, with the intention of determining the boundaries and limitations of postulating that the right to education is a fundamental human right.

To start, first I will introduce the background and history of education as a human right. There is a clear lack of emphasis on education as a human right from political theorists, despite the right to education having a clear and obvious importance in allowing countries to develop internal infrastructure. After that, I will then detail the importance of education, exploring what makes the attainment of education so valuable and why it should constitute a basic human right. Following the definition of the importance and critical nature of education as a human right, I will explore prominent theories on ethics in international politics, looking to these theories to shed light on appropriate responses and thresholds. These responses and thresholds will be defined with respect to the conception of education as a human right, given the resources and standards of states in the international community. In accepting that education is a fundamental human right, there are two primary ethical debates that arise in implementation. The first debate is one of resources, asking the questions: to what extent is a country obligated to provide education? What is the appropriate amount of resources necessary—what is standard? If a country does not have the appropriate amount of resources, what standard of education are they obligated

to provide? The second debate is one of content, aiming to find to what extent is certain content deemed “good”. What is education obligated to provide?

### **History of Education as a Human Right**

Education was first deemed a human right in the Universal Declaration of Human Rights in 1948. This initial move toward providing the right to education demanded that elementary, or primary, education be mandatory and free for all. It also includes a more liberal expansion of this right, emphasizing that education 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.” (Universal Declaration of Human Rights)

Almost twenty years after the initial declaration in the Universal Declaration of Human Rights emerged the two, now, prominent collections of human rights—the International Covenants on Economic, Social, and Cultural Rights (ICESCR) and Civil and Political Rights (ICCPR). Speaking generally, these two doctrines have a rough division between what are known as positive rights and negative rights. Composing much of the ICESCR, positive rights are rights that demand active establishment and protection, such as the right to education and the right to subsistence. Serving as the contrast, the ICCPR is composed of negative rights—rights that do not demand deliberate action. The most prominent examples of these are the right to free speech and the right to bear arms.

The right to education was further expanded under in the ICESCR. Not only was primary education to be mandatory and free, as established by the Universal Declaration of Human Rights, but also this level education was to be progressively realized over several years, rather than demanded immediately after signage. The action echoes the division in positive and nega-

tive rights between the two human rights doctrines. In dividing the rights into two categories and adding this clause, the UN provided a more realistic and achievable framework for pursuing the satisfaction of the conditions of this right. In addition to this gradual change, secondary education should be “generally available and accessible to all,” while tertiary should be “equally accessible to all on the basis of capacity.” (Kalantry, Getgen, Koh; 270) Both must be progressively realized, and specifically, states must take immediate steps toward this realization.

Adopted in 1979, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), establishes, in the most general sense, protections toward ending gender discrimination. For instance, demanding no distinction between the educational provision between men and women and equal opportunity for scholarships and grants.

Finally, the most recent and perhaps one of the most widely ratified international treaties, the Convention on the Rights of the Child (CRC), includes provisions to guarantee the right to education to children around the world. This treaty has been ratified by all nations, save the USA and Somalia.

As outlined by the treaties, the international consensus in establishing education as a human right is more or less as follows:

1. Primary education must be free and guaranteed for all and progressively realized.
2. Secondary and tertiary education should be generally accessible and progressively realized. It is suggested that access to secondary and tertiary education be made free.
3. Education must be provided equally and free from discrimination.

With a general understanding of the history and context of education as a human right established, we can now analyze the importance and degree to which the right to education should be guaranteed as a human right.

### **Precedent for Education as a Human Right**

Before I discuss the practical implications of the existence and implementation of the right to education, it is important that I take a cognitive step backward to explore foundational questions. First, when we discuss “the right to education” what do we mean? The term “education” is especially ambiguous. Finally, provided that education should be considered a human right lays the important question of the importance or strength of education as a human right—if education is a human right, to what extent should it be guaranteed?

The term education is an incredibly broad term. At some level it can mean either: the formal instruction offered by a government/official body or the act of receiving knowledge, developing a skill, and improving cognitive capacities through the process of learning. The first definition is largely what is considered formal education. The second, however, is the substantially broader, much more fundamental right to education. It is with this second definition that I will argue the right to education is essential. This notably changes the context of the argument—instead of guaranteeing the ability to receive a formal education, we are guaranteeing the ability to learn and develop cognitive abilities, which can be guaranteed beyond the provision of formal education. In making this shift, we are guaranteeing the ability for an individual to learn, to receive information, and to develop their cognitive capacities—we’re promising more than institutional education.

Establishing education as more than institutional provision of education, “the right to education” is transformed to mean “the right to develop cognitive capacities and receive information necessary for survival.” The terms “cognitive capacities” and “survival” are relative. For instance, the development of cognitive capacities and information required looks substantially different from the United States and Africa—the metrics are simply different. It is important to note that “survival” is not limited by boundaries; rather, in a world that is growing increasingly more interconnected through globalization, the interpretation of the word “survival” will vary. It cannot simply be limited to geographic, national, or country boundaries. Essentially, the more connected the world is, the higher quality of an education they are should receive. Anything beyond this can and should be considered exploitation.

With the definition of the right to education established, we can now progress onto the question of the degree of importance that the right to education holds. As is often the case, certain rights are prioritized over others, as achieving all rights in a given doctrine is often difficult and expensive. In order to help maintain a balanced priority system that focused on achieving the rights that are absolutely necessary, Henry Shue (1996) developed a concept called basic rights—rights that are critically important to guarantee due to their foundational role in aiding the achievement of other rights. Basic rights have the following criteria:

1. Everyone has the right to X
2. Other rights are necessary to enjoy X
3. Therefore, everyone has the rights to enjoy other rights by having X (Shue, 31)

In his book, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*, Shue establishes three “basic” rights: the rights to security, subsistence, and liberty. The right to education falls into the basic right of liberty. At a passing glance, Shue dismissed the right to education, saying, “I shall not include the right to publicly support education as basic.” (20) In this, he was correct—the right to a publicly supported education system is not basic. Explicitly, formal education is not basic simply because it fails to be universally necessary for the acquisition of other rights, unlike the more basic forms of education.

However, according to our definition of the right to education, this should not be problematic. Our right to education extends well beyond publicly supported education—our right to education covers all forms of education, institutional and other. With the right to education, individuals are guaranteed the right to develop cognitive capacities and receive information necessary for survival. This is absolutely fundamental to celebrate the basic right of liberty—without the proper cognitive capacity individuals can and likely will fail to make the best usage of their established rights. Additionally, the right to education guarantee that individuals can learn the skills necessary to survival, whether that is how to farm or how to code. As long as jobs are necessary to survival, individuals need to be able to acquire the skills to survive, regardless of socioeconomic status.

According to the definition of the right to education as established by international precedent, the first two criteria can exist within the framework of basic rights. Both establish a degree of educational certainty—primary education is guaranteed and free, and secondary and tertiary forms of education should be reasonably accessible. The third criteria, that education must be provided equally and free from discrimination, however, is unnecessary and beyond the basic right to education. What must be guaranteed under the basic right to education is not that educa-

tion is equally accessible to all; rather, that education, at the minimum and in its broadest definition, is accessible. Any demands of equality on the basic right to education are impossible and violate the ability for the right to education to be considered a basic right. The consideration of equal access is not mandatory for others to enjoy the right to education. As a consequence, we can, and must remove the demand of equal access in education in order to consider the new, revised definition of the basic right to education.

Stripped of unnecessary demands and made to be a basic right, the basic right to education is as follows:

Where education is the act of receiving knowledge, developing a skill, and improving cognitive capacities through the process of learning,

1. Primary education must be free, guaranteed for all and progressively realized.
2. Secondary and tertiary education should be generally accessible and progressively realized. It is suggested that access to secondary and tertiary education are made free.

With this new definition, we can now progress to explore the two ethical debates concerning the basic right to education.

## **Two Ethical Debates**

Using the works of Michael Walzer and John Rawls, I plan on exploring the two following ethical debates: (1) what is the obligation to provide education given that education is a basic right? (2) In what format should educational content be organized? What are the appropriate forms of education, if any? In answering these questions, hopefully we can come to some consensus about how the basic right to education should be manifested.



### ***Obligation to Provide Public Education***

At the most fundamental level, a right to education is basic. However, the right for a public education provided by the state, isn't necessarily.

With all but two countries having signed the Convention on the Rights of the Child, it is nearly universally recognized that the right to education, in particular a primary education, is something inherent and fundamental to human life. Having such a strong international backing to the basic right to education, then, creates a strong degree of international obligation to providing for the achievement of the right. To some, this is an ethical debate, one that deals with the extent and importance to which education is provided. For instance, should education be the national priority or does it come second to other rights and securities that are also basic? To help explore some of the potential ethical debates in the obligation to providing the right to education, I've decided to look at the works of both Michael Walzer and John Rawls for their logical connection to the questions that we seek to answer.

Morality of States, a theory posed by Michael Walzer, works from the assumption that individuals are self-determining. Since individuals form communities and these communities, simply exist peacefully without resistance from their members, these communities are said to be self-determining. Communities form a state, reliant on the community's support—without community support the state has no authority to govern.

Before I progress, it is worth noting that Walzer doesn't explicitly recognize or build in a procedure or logic into how rights, basic or not, should be observed. Therefore, to understand the Morality of Statist perspective on the right to education, we'll have to expand the conclusions provided by the core assumptions of the theory.

In aligning this expectation with reality, when any state ratifies an international treaty and does not experience any threat to its authority from the community, the actions of the treaty serve as a manifestation of the community's right to self-determination. The agreement, considering that community opinion doesn't change, should be considered binding. It is true that at some level, this can make the community seem hostage to their state—but they're not. Walzer argues that individuals, if they disagree with their state, have every right, as the original sources of self-determination, to redefine and fix the way that their state is operating. To Walzer, the community, composed of individuals, forms the operating body of authority.

Specific to the right to education and the question of obligation, both International Covenants (ICESCR and ICCPR) and the Convention on the Rights of the Child are signed by a majority of countries. Walzer and Morality of States theorists would argue, then, that countries that have signed any of these conventions are obligated to meet the terms and conditions of the treaties. This is enforced simply because when the signatures were made, they were done with the authority of the community in mind. Any reversal in the signatures would require a sufficient demand from the community. Effectively, this would push nearly all states, save Somalia and the United States—the only states that have not signed the CRC, pursuing the positive and gradual right to education.

Holding to the Morality of States principle of non-intervention, states cannot and are unjust in pushing the right to education upon other countries, for it is a violation of states right to self-determination. Morality of States doesn't explicitly recognize any universal rights, only certain incidences where it is just for states to intervene in holding to the doctrine of self-determination. In accordance with Morality of States theory, any country that forced the right to

education, or any right for that matter, would be considered paternalistic and disrespecting of the states authority and ability to self-determine.

John Rawls differs slightly on the issue of international obligation to providing the right to education. Rawls derives a list of eight agreements that both liberal and decent peoples can agree to. Out of these eight, the following two are relevant to the obligation to the right to education: (6) People are to honor human rights, (8) People have a duty to assist other peoples living under unfavorable conditions that prevent their having a just or decent political and social regime. (Rawls, 37)

The first of these shared agreements, the honoring of human rights, describes the overlap of human rights exceeding the eight agreements. For instance, if both countries ratified the same treaty, then both countries are obligated to provide the basic right to education.

The second and more prominent of these agreements is the agreement to aid states that would otherwise be considered liberal or decent, but aren't due to a lack of infrastructure or resources. Rawls calls these states "burdened states". As the agreement mandates, liberal and decent states have the "duty to assist" these burdened states. Placed in the perspective of education, a basic right with correlations to economic progress, liberal and decent societies then have a duty to assist these types in providing the most foundational forms of education. However, assistance provides some clear logistical problems. As Rawls says, "there is no easy recipe for helping a burdened society to change its political culture. Throwing funds at it is usually undesirable, and the use of force is ruled out by the Law of Peoples." The only reasonable and realistic option, then, is to provide support to developing the infrastructure of education in the country, such that every individual meets the basic right to education; as he goes on to argue. The form of this sup-

port is entirely subject to the two states (or more) seeking to develop an educational infrastructure.

Both perspectives postulate that there can be no overt force to enforce the right to education. Walzer would argue that this is a violation of the right to self-determination, while Rawls would argue that overt force violates the Law of Peoples. Logically, this makes sense for two reasons:

1. There is little incentive to educate the population of another state.
2. Even if there is an incentive to educate, education requires a sustained presence to provide—an overt presence will likely experience little permanence.

At the same time, both of these theories have different ethical outlooks on the obligations owed to society. Walzer and Morality of States theorists would condone or, in the least, be wary of any form of assistance to burdened states. I imagine that establishing development of infrastructure and resources could be a form of neo-colonial acculturation.

With that difference in perspective aside, what results from analysis of both these theories, then, is that countries should provide education to satisfy the requirements of a basic education. States that do not, however, are not demanded to meet this obligation by force via the international community. The only obligation states face is to the ratifications of international treaties concerning the right to education and to the demands of the community that composes the state. States that have insufficient resources should be aided by liberal and decent states. These states should aim to develop the infrastructure of the burdened states, such that the basic right to educa-

tion is satisfied. Of course, all of this is conducted with the full authority from the state and, by extension, the community that supports the state.

### ***Content of the Curriculum***

With the basic parameters of the right to education outlined, the question follows to what kind of education must be provided.

Walzer has a very quick answer to the problem—whatever the community, the ambiguous and imponderable group that it is, decides. Individuals are self-determining and this self-determination is passed on to the community, which delegates the responsibility of the provision of education to the government. The government is responsible for providing the basic right to education in a format in accordance with community preferences, meaning, that if the community prefers to self-educate its children, then that should be the dominant form of education. Though, the satisfaction of the basic right to education is especially important to consider—even though the society *prefers* to self-educate, those who do not have access to the form of self-education deserve to have that basic criteria met. This, in the background of history, results in the creation of the public education system within a state. In essence, medium of education doesn't matter as long as the basic right to education is satisfied.

Now, onto the more pressing of issue of the content of the education. To put it simply, the content does not matter as long as it satisfies the following conditions: (1) it satisfies the basic right of education (2) it meets the demands of the community. The first condition expanded simply means that individuals are provided the education necessary to the full and proper mobilization of their rights. How this looks like will vary significantly from state to state. The second

condition embodies the Morality of States conception of self-determination at the core of human existence.

Rawls, surprisingly, follows in some vein the findings and conclusions of Walzer. At the core of the differences between differing states is the conception of the value of toleration. Toleration, as explained by Rawls is the liberal value whereby one society, while disagreeing with the values, or lack of values shared by a given society, does not act or condemn this difference—it is tolerated. It is, in particular, a liberal value, because of the empathetic understanding that liberal societies are known for—a liberal society should always be considered tolerating and empathetic to the differences across cultures, and therefore, should refrain from condemnation or aggressive action in order to preserve international peace.

To my surprise, this understanding of toleration works hand-in-hand with the preservation and respect of self-determination that Walzer and Morality of States theorists argue for. Toleration respects the self-determining nature of the community and pushes for a degree of equality and empathy on the international scale.

## **Conclusion**

It is remarkable how simply, within the definitions established for the right to education, that the perspectives from Michael Walzer and John Rawls establish realistic parameters on the provision of the basic right to education. As illustrated earlier, the provision of the basic right to education is well within reason for a myriad of reasons. The following are listed:

1. With the basic right to education established, states are encouraged to provide means and pathways to the satisfaction of this right, yet are not, by any means, forced to do so.

2. States, as pushed by Morality of States theorists, are obligated to meet the requirements demanded by the community. Additionally, ratifications of covenants providing the right to education demand positive action.
3. States with the resources available have the obligation to help develop the infrastructure necessary to provide the basic right of education.
4. The content of education must satisfy both the demands the society and the basic right to education. There cannot be any pitfalls.
5. Finally, liberal societies are obligated to tolerate any differences ideologically or methodically in the provision of the basic right to education.

Almost beautifully, Morality of States theorists and John Rawls blend together to create a fairly holistic model for the provision of the basic right to education. I do concede that the agreement between the two is not sufficiently conducive at creating a debate. Perhaps a more rounded debate could be explained by Realist and Cosmopolitan theorists compared to this finding. However, I believe the omission of such perspectives serves to create a more realistic and attainable provision of the basic right to education.

This paper only reaches the surface of the explanation need to explain the extent to which the provision of the basic right to education is utterly essential. It explains the right in the abstract, removed from the true realities and complexities preeminent in modern international relations. There is much to expand upon, much to prove, and much to argue before education can truly and with full force be considered a basic right. Yet, in full knowledge of this, I can only hope that the conversation doesn't end at this sentence.

## Resources

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