

Report 2007/2008 on freedom of education in the world

Summary

Both a social dimension and a freedom dimension have been distinguished with relevance to the right to education (F. Coomans, 1995). This second dimension is mainly concerned with two liberties: to be able to choose a school and to be free to create educational centres. In the last few years, *reports on the condition of education in the world* have been published with the aim to reinforce the protection of rights. However, the dimension of freedom has often been neglected. Aware of the importance of educational freedom in human development, OIDEL (www.oidel.ch), since its inception, has primarily dedicated itself to the promotion of freedom in education. The organisation has thus opened an avenue that has since been largely explored by the UNDP in its 2004 **Human Development Report** dedicated to cultural freedom. «*Expanding cultural freedoms is an important goal in human development - specifies the Report – one that needs urgent attention in the 21st century. All people want to be free to be who they are. All people want to be free to express their identity as members of a group with shared commitments and values.*»

1. Our research is based on the provisions contained in international law, in particular the **International Covenant on Civil and Political Rights** (ICCPR) and the **International Covenant on Economic, Social and Cultural Rights** (CESCR), both texts having been ratified by nearly every country in the world. As one shall see, the emphasis is laid on article 13 of the CESCR, rather than on article 18 of the ICCPR. The reason for this is simple: it is considered that economic, social and cultural rights imply the intervention of the State, a concrete action that citizens are liable to demand. Civil and political rights rather translate, roughly said, the "withdrawal duties" of the State, or again they oblige the latter to respect a certain amount of freedoms.

2. In 2002, OIDEL published a **Report on freedom of education in the world**¹, following a prior similar work in 1995. The 2002 Report worked out and calculated an *index of freedom of education* which took into account legal provisions while examining the right to found non governmental schools (NGSs)². It also looked into the existence of rules regulating even partial financing of such schools. This study did not yet consider the effective pedagogical autonomy available to non governmental schools, although it is an essential component of freedom of education.

The right to education and freedoms : conceptual framework

The school policies we will study are almost all based on a constitutional text or on provisions of an act formulated in terms of right to education or of freedom of education. A national legislation that would not make any mention of this right or this freedom would seem suspect, rightly so, in the light of human rights in general. Nonetheless, the right to education, especially as regards its freedom dimension, has been neglected for a long time, just as cultural freedoms have been in a more general way.

However, one cannot deny a certain "instrumentalisation" of educational freedom: education systems, for the most part, established within the context of the State Nation, have often been used as tools, if not as the privileged tool for setting up a political system.

Too late indeed, has education come to be considered as a fundamental right. One can be glad that it has become today the object of numerous works, which outline a real international consensus. Educational policies have, for a long time, been a matter of goodwill on behalf of decision-makers. Today they should be recognized as moral and legal obligations (S. R. OSMANI, 2004, p. 3).

Free access to education should not only concern schools depending on public authorities but also "establishments other than those of the public authorities", according to the CESCR terminology. Without this extension, we would be in a situation of economic discrimination. Having to express itself repeatedly on the subject, the French Constitutional Council has thus stressed the "compulsory character of State help" for private schools. "*According to the Constitutional Council, State funding of private schools is an 'essential condition of the existence of freedom of education' and (...) as such, constitutionally compulsory*". (L. FAVOREAU / L.PHILIP, 2001, p. 349).

Risking oversimplification, one could say the following: All people are entitled to basic free education. And it is unacceptable that those who use the fundamental right to choose a different school should be deprived of such free basic education. To accept that only children choosing a state school have the right to free education is depriving the "right to chose a school" of its meaning.

¹ A. FERNANDEZ / J.-D. NORDMANN (2002), *Rapport sur la liberté d'enseignement dans le monde*, OIDEL, Genève. There is also a spanish version : *El estado de las libertas educativas en el mundo*, Santillana, Madrid.

² We have chosen the expression "non governmental school" (NGS) in order to use neutral terminology inspired on the expression "non governmental organization" (NGO). In reality, schools named "private" are for the major part, schools having been created by civil society. On this subject, see the interesting typology established by I. KITAEV (1999) *Private education in sub-Saharan Africa : A re-examination of theories and concepts related to its development and finance*, UNESCO/IIEP, Paris

The question of the funding of non-governmental schools is symptomatic of a faulty understanding of the notions of "public" and "private". The *Resolution on freedom of education in the European Community* had already clearly asserted that *"the right to the freedom of education implies the obligation for the member states to enable the application of this right also financially and to grant (private) schools the subsidies necessary for them to further their mission."*

The study we present here will show that the classic distinction between the public and the private sector of education is not relevant anymore. The theoretical contribution of Amartya Sen has clearly clarified the link between liberties and State action as facilitator of rights: *"Development is the fruit of the expansion of the freedom of choice of human beings, be it related to processes allowing freedom of action or to concrete opportunities offering themselves to persons due to their personal situation and their social environment"*.

What is the role of civil society? According to UNESCO, it takes on three functions in the educational field: *1) to supply alternative services; 2) to implement innovative steps; 3) to exert a critical and mobilizing role.*

The Report attempts to cover, in about a hundred countries, the role of civil society in education by analyzing freedoms.

We wanted to present each country's situation through a synthesis work gathering the main information. Up right of the card a frame sums up country's salient facts. Criteria are indicated on the left and comments on the right. At the centre are figures for each criterion and eventually we can find the **freedom of education simple index** (FEI 07) set up by making the total of criteria 1 to 5 (max. 80 points). The **freedom of education composite index** (FECI 07) comes from the addition of the simple index and the points from the 6th criterion: NGS's autonomy (max. 20 points). Thus 100 points is the maximum grade that can be allotted to a country. By taking autonomy into account we wanted to highlight that true freedom of education assumes schools autonomy.

As already noted, this report follows the one we published in 2002. The former referred to, for most of the countries, the developments that occurred between 2002 and 2006. In this report we outline the status of educational freedom in 100 countries, which represent about 95 % of the world population in 2007.

Countries according to the Freedom of Education Composite Index (FECI)

