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Article

Intersections of the Right to Education and Human Dignity in International Human Rights Law: A Purpose-Based Analysis

The States Parties [. . .] agree that education shall be directed to the full development of the human personality and the sense of its dignity [. . .]. (Article 13(1) ICESCR, 1966)

Abstract: The atrocities of World War II were pivotal to the launch of the human rights project, and it became anchored on the recognition of the inherent dignity of all humans and formed a cornerstone justifying the ascription of rights. Indeed, it became essential to recognise education as a human right given the emergent need to promote the use of *reason*, having recognised humans as people imbued with inherent dignity. This paper explores the right to education in international human rights law (IHRL) from the perspective of its purpose and uses IHRL as its starting point. It argues that the ascription of inherent dignity to everyone justifies access to education and investigates the nexus between dignity and education, arguing that access to education is a *sine qua non* to expanding the inherent dignity of all humans. So, it argues that the recognition of dignity requires that all children must be provided equal access to education to stimulate the use of *reason*.

Keywords: human rights; right to education; human dignity; children; democracy; compulsory education

1. Introduction

This paper discusses education as a human right from the standpoint of its purpose and uses international human rights law (IHRL) as its starting point. At the end of World War II, the promotion of human rights was perceived as part of the remedial measures to institute a global landscape of peace. This is recognised in the Preamble and Articles 1(3), 13(1)(b) and 55(c) of the 1945 United Nations Charter. Thereafter, the human rights ideals recognised by the UN Charter were codified into the Universal Declaration of Human Rights (UDHR) in 1948 (Fait, 2015: 26). Despite not having a binding force, the UDHR became a standard-setting instrument covering all generations of human rights including the right to education (Mowbray, 2020: 123). Article 26(1) of the UDHR provides for the right of everyone to education (Michpoulou, 2023: 16) and reads:

“Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory [. . .].”

The need to discourage discrimination in education and promote universal access to schooling led to the adoption of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) Convention against Discrimination in Education in 1960. This treaty became the first legally binding instrument on domestic education delivery under IHRL, particularly for public education (Singh, 2012: 7; Hodgson, 1996: 241-242). Later, two distinct treaties – i.e. the International Covenant on Civil and Political Rights (ICCPR) 1966 and the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966 were adopted as a follow-up to the UDHR and became the **International Bill of Human Rights**. Articles 13 and 14 of the ICESCR made more expansive provisions on the right to education than Article 26 of the UDHR. Article 13(1) became the core binding and enforceable provision on the right to education that imposes obligations on all State Parties pursuant to the international law principle of *pacta sunt servanda* (Gartner, 2013: 5). In

the same vein, Article 13(2) of the ICESCR provides for the right to education up to the tertiary level but particularly made provisions for the compulsory education of children. 61

Subsequently, in 1989, after long deliberations on the nature and specifics of children's rights as vulnerable human beings, the United Nations Convention on the Rights of the Child (UNCRC) was adopted (Freeman, 2914: 1360-1361). Article 28 of the UNCRC made provisions for the right to education and added legal obligations on member states. 62
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This strengthened the provisions of Articles 13 and 14 of the ICESCR and the right to education debates (Verheyde, 2006: 9). It should be noted that the provisions of Articles 13 and 14 ICESCR are stronger, clearer and impose more precise obligations than Article 28(1) of the UNCRC. Nevertheless, the preamble to the UNCRC 1989 makes specific reference to the UDHR and ICESCR, particularly, to Article 10 ICESCR, thereby connecting the principal purposes and goals of the UDHR, ICESCR and the UNCRC. This paper focuses on the compulsory education of children, based on the definition in Article 1 of the UNCRC. The principal instruments that laid the foundation for the right to education generally in IHRL and for children are tabulated (Table 1.1) below. 67
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Table 1. 1: Showing the main international human rights instruments that formed the basis for free compulsory education in recognition of the inherent dignity of all. 76
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Treaty	Year	Provisions
United Nations Charter	1945	Articles 1(3), 13(1) and 55 of the UN Charter laid the foundation for modern international human rights law.
Universal Declaration of Human Rights (UDHR)	1948	Article 26(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory.
UNESCO Convention against Discrimination in Education	1960	Article 4(a) The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education in particular: (a) To make primary education free and compulsory.
International Covenant on Economic, Social and Cultural Rights (ICESCR)	1966	Article 13(1) The States Parties to the present Covenant recognise the right of everyone to education. Article 13(2) The States Parties to the present Covenant recognise that with a view to achieving the full realisation of this right: (a) Primary education shall be compulsory and available free to all.
United Nations Convention on the Rights of the Child (UNCRC)	1989	Article 28(1)(a) provides: States Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all.

Convention on the Rights of
Persons with Disabilities 2006
(CRPWD)

Article 24(1) provides: State Parties recognise
the right of persons with disabilities to educa-
tion . . . directed to:
a. The full development of human potential and
sense of dignity and self-worth,

With the above (see, Table 1.1) foundational instruments setting out the right to edu-
cation, this paper argues that a central feature in the recognition of the right of access to
education is the acknowledgement of the inherent dignity of all individuals in the human
community. It became necessary to recognise this unique human attribute as a response
to the atrocities of WW II. Article 1 of the UDHR provides ‘[a]ll human beings are born
free and equal in dignity and rights. They are endowed with reason and conscience [. . .].’
As would be gleaned from the text of IHRL, the perceived inherent dignity of all humans
and the need to prohibit its abatement formed the basis for requiring the full development
of the human personality of everyone through education as a way of genuinely guaran-
teeing the ability to use *reason* and lead a life with dignity. Human dignity became an
important concept that captures the intrinsic worth and status of all humans and the need
for everyone to be respected (Weinert, 2015: 59). This paper argues that human dignity
has been recognised as a tool that could discourage the reoccurrence of the mayhems of
WW II and that universal access to education can provide a reliable channel for the
achievement of this unique human attribute. Human dignity became the focal point of
IHRL and the force driving the human rights project in addition to states’ cooperation and
compliance with human rights norms.

This paper is divided into three sections. The first reflects on the foundational rela-
tionship between human dignity and education as a human right. The second discusses
two purposes of education under IHRL – i.e. human dignity as the human right purpose
and the development of democracy as a social purpose of education. The third section
discusses human dignity as a complex yet crucial concept in the discussion of the pur-
pose(s) of education under IHRL and requires each child to be given access to education
as of right based on equal opportunities.

2. Human Dignity Justifies the Right to Education

This section argues that the achievement of human dignity is foundational to the
recognition of education as a human (socio-economic) right. Human dignity is a founda-
tional concept that justifies the ascription of human rights to the human community, and
therefore, education as a human right is founded on human dignity. IHRL recognises the
inherent dignity of all human beings and the centrality of education in maintaining this
unique quality as stated in Article 1 of the UDHR. Thus, it is important to promote each
person’s ability to use *reason* as a fundamental attribute that differentiates humans from
animals. Increasingly, education plays a significant role in the achievement of this purpose
and underscores the relationship between education and human dignity (Goodhart, 2015:
173; Coomans, 2007: 185; EFA GMR, 2002: 30).

As is evident in Table 1.1 above, none of the international human rights (IHR) treaties
on the right to education provides a clear-cut definition of education itself (Delbruck, 1999:
94 & 99; Verheyde, 2006: 11). For instance, Article 28(1) of the UNCRC, which provides
for the right to education of children does not distinguish between formal and informal
education. Consequently, some scholars and educationists (e.g. Mieke Verheyde) (Ver-
heyde, 2006: 11) argue that the obligation conferred under Article 28(1) of the UNCRC is
for formal education, while others (e.g. Manfred Nowak) (Nowak, 1991: 421) contend that
it incorporates both formal and informal education (Verheyde, 2006: 12-13). While IHRL
does not provide an exact meaning of the right to education, such a meaning can be

reconstructed from the provisions of the UNESCO Convention against Discrimination in Education 1960, the ICESCR (Articles 13 and 14) and Articles 28 and 29 UNCRC (Nowak, 1991: 421). Thus, it can be said that education as a human right is an individuals' claim to learning, which is guaranteed and protected by law, and enforceable under the law. This means that the right to education ought to give the holders of the right the *locus standi* to enforce the performance of the obligation imposed by the right. Consequently, the right to receive compulsory education makes every child within the territorial sovereignty of each state a holder of the right to compulsory education. According to UNESCO, education

“[...] implies the entire process of social life by means of which individuals and social groups learn to develop consciously within, and for the benefit of, the national and international communities, the whole of their personal capacities, attitudes, aptitudes and knowledge” (Mason and Cohen, 2001: 20). (Emphasis added)

The above definition seems to be in consonance with the provisions of Article 13(1) of the ICESCR and the overall argument in this paper that requires education to focus on the achievement of human dignity through a holistic approach to education delivery. The European Court of Human Rights (ECtHR) in the *Belgian Linguistic Case* (1968) defined the right to education as ‘the right of access to educational institutions “existing at a given time” [...]’ (Coomans, 2002: 220-221). The UNESCO representative, after drafting the ICESCR, suggested that the right to education can be defined as ‘the right of access to the knowledge and training which are necessary to full development as an individual and as a citizen’ (Coomans, 2002: 221). However, this paper defines the right to education as that legal entitlement to learning that focuses on the full personality development of each individual learner for an overall life with dignity. This section progresses in two stages. Firstly, it argues that human dignity is the foundation of education and justifies the claim for access to schooling and secondly, argues that compulsory education as the first stage of learning for every child prepares the foundation for the pursuit of human dignity.

2.1. The Right to Education in IHRL: Human Dignity as Justification

Here, it is argued that human dignity is a foundational pillar that justifies all human rights, including the right to education, because of the need to promote each individual's ability to use *reason* and *thinking* abilities (Teo, 2023: 242). Education was first recognised as a human right in international law after WW II with the adoption of the UDHR in 1948. Although the UDHR is a mere Declaration, it has become the text of reference whenever the issue of the right to education arises and provides a standard in the protection and realisation of the right to education (United Nations, 1987: 4-5). It is a standard of achievement for all states, nations and peoples.

During its drafting process, discussions focused on what normatively ought to be the content and purposes of education as a right, whether it should be compulsory and free, and the implications of making it compulsory, especially at the primary school stage. In the deliberations and drafting of the UDHR, one major challenge was finding a single justification for the right to education and its purposes within the cultural and religious plurality of the world (Spring, 2000: 5). Nevertheless, the need to heal the wounds of WW II, and the recognition of the inherent dignity of all humans were given priority (Spring, 2000: 4; Unterhalter, 2007: 61). The need to promote this unique human quality and for everyone to achieve dignity received paramount consideration having regard to the atrocities of WW II and the brazen human rights violations that were its determinants. In justifying the inclusion of the right to education in the UDHR, it was recognised that individuals need a certain level of cognitive freedom in consonance with the inherent dignity of humans. Therefore, the justification for the right to education is arguably rooted in the inherent dignity and freedoms upon which all other inalienable human rights have their

foundations. During the Education for All (EFA) Conference in Jomtien 1990, some delegates who favoured an education focusing on individual emancipation and democracy, declared that 'Education is the crucible for democracy and liberty [. . .]. Education for all must be oriented towards individual liberation from every form of domination and oppression' (Spring, 2000: 4). This paper argues that the significance of education in promoting the use of *reason* and a life with dignity justified its inclusion as a human right in the UDHR and subsequently in the UNESCO Convention against Discrimination in Education, the ICESCR and the UNCRC, as may be recalled from Table 1.1 above (Tomaševski, 2004: 23). It became clear under IHRL that cognitive resources acquired through schooling are key to guaranteeing the ability to lead a life with dignity and that conversely, the absence of knowledge due to limited schooling inhibits practical reason and hinders the achievement of human dignity. For this reason, education was made compulsory for all children to ensure everyone is offered the opportunity to develop the level of cognition needed to make use of *reason*.

The justification of the right to education can be culturally sensitive. In some places and cultures, it may be thought that the purpose of education is to enhance cultural identity and homogeneity. For instance, for some Muslims, the fundamental reason for literacy may be primarily based on the ability to learn the teachings of the Holy Qur'an (Tomaševski, 2004: 23; Article 13 Saudi Arabia Constitution). This is more visible and prevalent in some states where religion determines the accepted standard of behaviour, for example where it shapes social systems. It therefore suffices to argue that the justification, aims and purposes of education can be significantly influenced and determined by the prevalent culture, values, and normative jurisprudence in a society. However, the inherent dignity of all humans and the need for each individual to achieve human dignity through the cultivation of cognitive resources became a universal foundation, as no culture denies the humanness and dignity of the human person and the need to strengthen and protect this dignity through learning. For this reason, this paper argues that the theoretical justification of education should be universal and predicated on the inherent dignity of all humans, and the need to promote each person's ability to achieve human dignity, not on cultural differences or specificities.

At the practical level educating people on their human rights could be difficult without the existence of the right to receive free compulsory learning to which each individual (child) has access without impediment. Equally, the right to education is essential when evaluated from the perspective of building the foundational basis for individual empowerment, autonomy, liberty and self-respect that are ideals of human dignity. Hence, education is crucial for harnessing basic civil and political rights and has utilitarian foundations because it is good for both the individual who receives it as a *sine qua non* for the achievement of human dignity, as well as for the larger society and democracy (instrumental and intrinsic values) (Rabin, 2008: 269). This is supported by the assertion of the Committee on Economic Social and Cultural Rights (CESCR) that the right to education is an empowerment and transformative right that cuts across all generations of human rights (CESCR General Comment No. 13, 1999). Considering the foundational significance of education and its position as a prerequisite for a life with dignity, it is of paramount importance that each child is given the opportunity to develop reasoning and thinking abilities through education.

2.2. Compulsory Education: Builds the Foundation for the Pursuit of Human Dignity

Here, it is argued that the need to ensure a good cognitive foundation and the promotion of the ideals of human dignity and the recognition of children as (potential) members of society, are the basis for compulsory education of children. Article 1 of the UNCRC 1989 defines a child as a person who is not yet 18 years old. This is without prejudice as

to who qualifies to be called a child in domestic instruments, especially as it affects criminal responsibility and certain civil rights and obligations such as, the right to vote or the legal capacity to enter into contractual relations. Thus, by the provisions of Article 1 of the UNCRC, any individual below the age of 18 is a child and is therefore the holder of the right to free compulsory education in accordance with General Comment No. 11 of the CESCR, subject to domestic contextual variations (UN Doc.CRC/C/46, 1995) In view of that, it is important for states to clearly define who is a child in all states' domestic jurisdiction. The CESCR in its concluding observations, partly arising from a lack of clarity in Kuwait's periodic reports in 2004, noted that the age for compulsory education needs to be clearly set out to ensure that children are not employed during their compulsory education years (Saul, Kinly and Mowbray, 2014: 1169).

Rosalind Dixon and Martha Nussbaum argue that a child is vulnerable and therefore requires education at this important period of vulnerability (Dixon and Nussbaum, 2011: 573). They contend that children have a form of cognitive, emotional and physical vulnerability, particularly because they lack independent capability and so rely on adults for many functions (Dixon and Nussbaum, 2011: 574). Children at birth are dependent at first on their parents for survival because they are weak and lack the capacity to fend for themselves. While growing, they are very susceptible to various outside influences and therefore need a sound moral and cognitive foundation under the guidance of an adult (Awopegba, Odulowu and Nsamenang, 2013: 21; Durkheim, 1973: 17-18; Crenshaw, 2006: 54; Newman, 2006: 752; Striegheer, 2013: 21 & 28). It is argued that imposing compulsory education and the provision of specific rights of children under the UNCRC 1989 recognises the vulnerability of children. Primarily, the purpose of education under Article 13(1) of the ICESCR is the full human personality development of each individual as a *sine qua non* for the achievement of human dignity and this requires that proper foundations must be laid from the beginning of a child's life through access to compulsory education.

In the course of deliberations on the constitutive components of the right to education, the Turkish delegate (Adnan Kural) proposed that 'primary education should be free, otherwise it could not be made compulsory' (Morsink, 1999: 213). The French delegate (René Cassin) suggested to the third committee that 'the compulsory nature of primary education should [...] be explicitly stated so that parents would not be able to neglect their duty to their children' (Morsink, 1999: 213). Therefore, children's schooling was made equally free and compulsory so as to guarantee access without impediments, considering the significance of education in ensuring a life of dignity (Tomaševski, 2003: 45-46). This brings to the fore the significance of compulsory education in reducing and removing poverty and hunger and governments acting *in loco parentis* to all children within the compulsory education age (Kumar, 2004: 239; Tomaševski, 2005: 74). The suggestion by a delegate of the United Kingdom to tie 'free' to the availability of resources, since all countries' resources vary, was rejected as there was fear it may legitimise non-commitment to compulsory education (Halvorsen, 1990: 351). Consequently, Article 26(1) of the UDHR as a standard-setting provision, provides that 'elementary education shall be compulsory' (Tomaševski, 2003: 45-46). Similarly, Article 13(2)(a) ICESCR provides that 'primary education shall be compulsory and available to all [. . .]'. In the same way, Article 28(1)(a) UNCRC provides that:

"States Parties recognize the right of the child to education [. . .] they shall [. . .]

(a) Make primary education compulsory and available free to all."

Thus, the implication of the provisions of Articles 26(1) UDHR, 13(2)(a) ICESCR, and 28(1)(a) of the UNCRC is that every State needs to provide compulsory education and does not have the discretion to choose to provide it, or not to make it available. Each child within the territorial sovereignty of each State is the holder of a right to compulsory education. According to Anderson, Hofmann and Hyll-Larsen, children arguably have rights

'to', 'in' and 'through' education (Anderson, Hofmann and Hyll-Larsen, 2011: 86). While the right 'to' education requires access to quality education, rights 'in' education presupposes the need to respect children in the course of learning, non-discrimination in access and protecting the best interests of the child (Anderson, Hofmann and Hyll-Larsen, 2011: 86). The right 'through' education entitles children and their parents to make choices when necessary and participate in civic development and democracy building (Anderson, Hofmann and Hyll-Larsen, 2011: 86). The State must guarantee the availability of education because it is compulsory, and, once that is done, it becomes the duty of the parents and the child to enrol or attend school (Tomaševski, Preliminary Report, 1998). The CESCR at paragraph 8 of its General Comment No. 13, states that in providing compulsory schooling, the State needs to guarantee the elements of availability, accessibility, acceptability and adaptability are complied with (Tomaševski, 2003: 51-52). Nonetheless, how the Committee will ensure States' compliance at the stage of delivery remains a challenge. Availability requires states to ensure that the implementation mechanisms put in place enhance the universal availability of the right to education to all the right holders and beneficiaries within the jurisdiction of the state. Accessibility requires states following paragraph 6(b) of General Comment No 13 of the Committee on ESCR to ensure all right holders have access to education without discrimination, i.e. the schools must be made physically accessible to all; and also, must be economically accessible (Kalantry, Gretgen and Koh, 2010: 276-277). Acceptability imposes on the states the obligation to provide a quality education that will achieve the individual aim of the right to education – i.e. the development of the human personality and the promotion of basic freedoms, choices and opportunities to achieve valued outcomes. Adaptability requires states to provide an education that is flexible, adaptable, and consistent with the contextual demands of each situation and circumstance – i.e. education needs to be sensitive to prevalent cultures, capabilities and abilities of the learner. It is argued that the roll-out of an education that complies with these key implementation principles prepares the landscape for the advancement of human dignity.

It is worth noting that neither the ICESCR, UNCRC nor the General Comments indicate the level of knowledge and skills that a child should have acquired by the time they have finished compulsory education. However, while guidance can be obtained from Articles 13(1) ICESCR and 29(1)(a) of the UNCRC, it appears to be a question left to the discretion of states (Verheyde, 2006: 25). Similarly, although the UNCRC as a children-centred treaty is silent on the duration of compulsory education, the Committee on the Rights of the Child (CRC), in one of its concluding observations has given a pointer on the minimum age for ending compulsory education when it states that it 'should coincide with the minimum age for employment' (Verheyde, 2006: 25; UN Doc.CRC/C/43, 1995; UN Doc.CRC/C/46, 1995). As a consequence, State Parties have arguably no discretion on whether to provide compulsory education or not because the obligation on them is mandatory.

Paradoxically Articles 2(1) ICESCR and 4 of the UNCRC give States the discretion to progressively implement the right to education subject to availability of resources. Thus, there is a tension between the discretion of States and the compulsoriness of children's schooling under Articles 13(2)(a) of the ICESCR and 28(1)(a) of the UNCRC as the obligation of each State. Furthermore, according to the Maastricht Guidelines adopted on January 22-26, 1997, the provision of compulsory schooling for all children is an important obligation on each State Party which admits of no derogation because it is a core compulsory obligation. Therefore, the significance of compulsory education is that States must provide it in order to guarantee the foundation for human dignity. Similarly, the International Labour Organisation (ILO) as far back as 1921, linked free and compulsory education with child labour. The ILO suggested that it is central to stopping child labour because

it hosts the realisation of other rights, while its denial has a ripple effect on other human rights, causing spiralling poverty and affecting children's human dignity (Tomaševski, 2005: 74).

Compulsory education presupposes that the choice of a child to enrol in schooling is not recognised. It should be noted that while Articles 26(3) UDHR, 13(3) ICESCR, and 29(1)(c) of the UNCRC recognise the liberty of parents to choose and determine the type of education given to their children to ensure it is in consonance with their family moral convictions, they cannot stop the child from enrolling in education (Smith, 2010: 322-323). A consideration of the deliberations during the drafting of the UDHR reveals René Cassin (the French representative) contending that the 'compulsory' nature of primary education means that 'nobody could prevent children from receiving a basic education', not even their parents (Volio, 1979: 23). In support, the CESCR in General Comment No. 11, paragraph 6, states that neither parents nor guardians can stop a child from having access to compulsory education (Saul, Kinley and Mowbray, 2014: 1168-1169). The compulsoriness of children's schooling is founded on the need to imbue in them good cognitive resources, to build their capabilities, and save them from negative social influences at a vulnerable and formative developmental stage. This understanding highlights the central significance of compulsory education, especially in stimulating the pursuit of human dignity (Tomaševski, 2003: 102).

Similarly, compulsory education is foundational because it forms a solid base for higher levels of education. This alone arguably makes compulsory education essential as it is at this level that the consciousness to pursue knowledge and learning is instilled in children. It may not be possible to skip this level of education and go to the next level, thus underscoring the need to ensure every child enrolls at this important level of learning. Finally, and importantly, one major issue in compulsory education delivery is funding. It is argued that compulsory education is generally less expensive to fund in comparison with higher levels of education, as States can initiate and deliver a universal compulsory education system without as much resource commitment as may be required by other levels of learning (Dixon and Nussbaum, 2011: 578-580). The key argument here is not that the funding of compulsory education is inexpensive, but that it is economical and more cost effective to fund compulsory early education programmes than any other level of education such as secondary and university education (Dixon and Nussbaum, 2011: 582). In sum, it is suggested that compulsory education of children has instant and future benefits, and this is justifiable, particularly in the long run as it foundationally prepares and empowers all children to be autonomous and make use of *reason* (cognitive resources).

3. Article 1 UDHR, Human Dignity and Democracy as Purposes of Education

Article 1 of the UDHR declared the inherent dignity of all humans in recognition of the rationality of humans and in so doing, laid the foundation for human dignity in IHRL. It provides that '[a]ll human beings are born free and equal in dignity and rights. They are endowed with reason and conscience [. . .].' By this provision, everyone has a unique human quality and are naturally endowed with rational abilities, including the aptitude to decipher virtue and pursue a purposeful life. Within the international community, it was thought that recognising a universal inherent worth of all humans, could promote the sanctity of human life and discourage dehumanising others considering the atrocities of WW II. Thus, in order to promote the use of *reason*, it became important for people's human personality to be developed through access to learning. As would be recalled from section 1.1., this justified the recognition of the right to education, particularly children's

compulsory schooling. As a result, education became a central factor in people's ability to use *reason* and exhibit the inherent attribute of humans, i.e. rational thinking.

Later, as a follow up, Article 13(1) of the ICESCR provides:

"The States Parties to the present Covenant recognize the right of everyone to education. They agree that *education shall be directed to the full development of the human personality and the sense of its dignity* and shall strengthen the respect for human rights and fundamental freedoms. They further agree that *education shall enable all persons to participate effectively in a free society*, promote understanding, tolerance and friendship among all nations [. . .]" (Emphasis added)

From the above provisions, this paper identifies two important purposes of education (italicised in the quote above). While one is individualised and specific, the other is more collective and general, and this section aims to discuss these two important purposes of education. It argues that focusing education on 'the full development of the human personality' as required by IHRL is in pursuance of the need to achieve human dignity, therefore that human dignity is the human right purpose of education. Similarly, under IHRL, it is an essential purpose of education to promote the development of democratic institutions; as a result, the development of democracy is argued as the second important purpose of education. Notably, the need to have a specific purpose of education was discussed at the drafting stage of the UDHR as it was suggested that it should focus on achieving purposes in consonance with the philosophical conceptions of human rights (Morsink, 1999: 213-214). This was highlighted at the deliberations for the UDHR, when the representative of the World Jewish Congress pointed out that the provisions for the human right to education only stipulated a technical framework for education but failed to provide for the 'spirit' governing that right, which he asserted was an essential element (Morsink, 1999: 213). He further asserted that the lack of a 'spirit' governing education in Germany 'had been the main cause of the two catastrophic wars' and argued for the inclusion of the overall purpose of education in the draft Declaration (Halvorsen, 1990: 352). He suggested that:

"This education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedoms and shall combat the spirit of intolerance and hatred against other nations or racial or religious groups everywhere" be added as part of the Article providing for the right to education (Morsink, 1999: 213). After many deliberations and arguments on what exactly should be the focus and purposes of education, at the third committee stage, the U.S. and Mexican delegates jointly proposed the following replacement:

"Education shall be directed to the full development of the human personality, to strengthening respect for human rights and fundamental freedoms and to the promotion of understanding, tolerance, and friendship among peoples, as well as the activities of the United Nations for the maintenance of peace" (Morsink, 1999: 217).

Taking cognisance of the inherent dignity of all humans as unanimously declared under Article 1, the full Mexican-US joint text was eventually included in the second paragraph (Morsink, 1999: 217). The *travaux préparatoires* show the extent of the deliberations and how consensus was reached on the purposes of education, the intention of the drafters and the fundamental significance of the purposes of education in IHRL.

The analysis of the purpose(s) of education in IHRL relies on the treaty provisions, the 1969 Vienna Convention on the Law of Treaties, General Comments of the CESCR and the Committee on the Rights of the Child (CRC) and accepted principles and doctrines on education in IHRL (Verheyde, 2006: 3). Firstly, relying on the binding provisions of Article 13(1) of the ICESCR, this section suggests that human dignity is the human right purpose of education. Secondly, in identifying human dignity as the human right purpose under Article 13(1) of the ICESCR, it contends that Article 29(1)(a) of the UNCRC complements

the provisions of Article 13(1) of the ICESCR on the centrality of education in human dignity. Lastly, it argues that democracy development is the second purpose of education (social purpose).

3.1. Article 13(1) ICESCR 1966: *The Human Right Purpose of Education*

The codification of education as a human right under the UDHR, came with a specific universal purpose, appealing to all cultures and religions (CRC, General Comment No 1, 2001). Some delegates at the drafting of the UDHR insisted that education must be given a precise purpose, since otherwise including it as a right seemed worthless, considering the experiences of WW II (Morsink, 1999: 213). For instance, the representative of the World Jewish Congress, A.L. Easterman, contended for a universal purpose. Eventually, Article 26 UDHR 1948, which provides:

“Education *shall be directed* to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms [. . .].” (Emphasis added)

was designated a minimum standard of achievement for all States (Michpoulou, 2023: 15; Konsta, 2019: 264). Therefore, as rational beings, the ability to take independent and autonomous decisions as crucial components of human dignity were recognised. Human dignity became the human right purpose of education. Another purpose of education recognised under Article 26(2) of the UDHR includes ‘the strengthening of respect for human rights and fundamental freedoms’ and access to schooling is its key determinant (Beiter, 2006: 468). However, while Article 26(1) of the UDHR provides for the right to education at all levels, Article 26(3) recognises the right of parents and or guardians to choose the type of education given to their children. Subsequently, the ICESCR in Article 13(1) made provisions that are in *pari materia* with Article 26(2) UDHR as may be recalled from Table 1.1. Consequently, while Article 13(1) ICESCR created the right to education and its purposes (Beiter, 2020: 240), Article 13(2) provides for the execution processes at all levels, and Article 13(3) recognises the liberty of parents to choose schools for their children. Article 13(4) allows private bodies and individuals to invest in schooling and access to learning facilities which must conform to the standards set by the state. It is suggested that Article 13(4) of the ICESCR is a provision in consonance with the neo-liberal and associated neoclassical economic ideals that were formulated within the same period of this treaty i.e. in the 1960’s (Nowak, 2017: 60 & 62).

It is argued that the wording of Article 13(1) ICESCR requires mandatory compliance, particularly having regard to the use of ‘shall’. The use of that word in a statute (or a treaty) denotes that the act required is mandatory, therefore it presupposes that every State Party to the ICESCR is bound to ensure that education curricula are at all times designed in such a manner as to comply with this normative standard to stimulate the ability to lead a life with dignity (CESCR, General Comment No. 13). After the horrifying WW II atrocities, there is a need to promote the inherent worth of all humans and doing so requires the development of everyone’s human personality as a springboard for the use of *reason* and *thinking* abilities in the pursuit of human dignity. Thus, the achievement of these ideals that are associated with human dignity became an important purpose central to the recognition of education as a human right. This paper argues that human dignity is the human right purpose of education that basically justifies the recognition of education as a human right. In support, the CESCR in its General Comment No. 13 of 1999 while interpreting Article 13(1) ICESCR at paragraph 4 states that: ‘states parties agree that all education, whether public or private, formal or non-formal, shall be directed towards the aims and objectives identified in article 13 (1) . . .’ (CESCR, General Comment No. 13: 1999).

Consequently, the combined provisions of Articles 2(1) and 13(1) ICESCR mandate State Parties to ensure that all steps taken on the right to education concentrate on achieving this human right purpose. This may arguably require designing a liberal education that could inculcate all the relevant knowledge that will make individuals cognitively autonomous and self-reliant, and encourage people's participation in the affairs of their communities and other human commitments that are in consonance with the sense of the dignity of all humans (Nussbaum, 2010: 79-94). Therefore, it suffices to suggest that, the purpose achieved by education are largely dependent *ab initio* on the overall purpose it was designed to accomplish. A cursory analysis of Article 13(1) of the ICESCR demonstrates that it first provides the specific human right purpose of education and thereafter, its importance before providing for other purpose(s) e.g. the development of democracy. This means that, since Article 13(1) of the ICESCR is a normative standard, all State Parties must clearly recognise the human right purpose of education in all legislative measures as a guide to framing educational policies and equally ensure that education is designed to fully develop each individual learner in conformity with the ideals of human dignity.

Notably, whereas human dignity is arguably the human right purpose of education in accordance with the mandatory provisions of Article 13(1) of the ICESCR and has been supported by the CESCR in General Comment No 13 (1999), IHRL could not provide an approach and *modus operandi* to achieving this human right purpose. This is because, although Article 2(1) ICESCR requires States through cooperation to take appropriate steps including legislative measures, it has no provisions on content or focus. Article 13(1) ICESCR only made express provisions on what should be the focus of education, but no provision as to contents. Article 2(1) made recommendations on the steps to be taken but no provision on what the content of such steps and its direction will be. Similarly, the Education for All (EFA) Declaration 1990 was not clear on this as its Article 1(1) merely listed knowledge, skills, values, and attitudes as basic learning content and could not give insights on key subjects for their achievement.

The EFA, therefore, could not precisely outline what should be the content and focus of education, and the General Comments of the CESCR No. 13 do not appear helpful in this regard. Thus, it is argued that this may have been left to the States' discretion. This is a critical factor in understanding the behaviour of States in designing their education provision, particularly in relation to compulsory education, in a manner that primarily promotes the development interests of the State, rather than those of the child (Dubey, Edem and Thakur, 1979: 4-5). The irony of such a fragmented and narrow approach is that it does not promote a full development of the individual that transcends all social spectra, and incorporates the intrinsic values of education that recognise people as ends in themselves, and allows people to see education as something good since it opens the doorway to achieving human dignity as the human right purpose. It is the task of education to make individuals aware of their unique human attribute (inherent dignity), and of their ability to lead a life that reflects and epitomises human dignity (Beiter, 2006: 471). Hence, the human right purpose deducible from Article 13(1) of the ICESCR and supported by the CESCR through General Comment No 13 (1999) is an international normative standard for all states in accordance with the inherent dignity of human beings that is valid regardless of the specific (cultural) context in which education is delivered. Subsequently, the 1989 UNCRC, through Article 29(1)(a), supports Article 13(1) of the ICESCR and further strengthens the need to direct education to the achievement of the human right purpose.

3.2. Article 29(1)(a) UNCRC 1989: Complements the Human Right Purpose

Here, Article 29(1)(a) of the UNCRC is analysed and argued to have complementary provisions on the purpose of education that support human dignity as the human right purpose. This subsection argues that, while the provisions of Article 13(1) of the ICESCR

states that human dignity is the human right purpose of education, Article 29(1)(a) of the UNCRC supports and complements this important purpose. Apart from Article 24(1)(a) of the Convention on the Rights of Persons with Disabilities (CRPWD) 2006, Article 29(1)(a) of the UNCRC is the most recent child-centred provision on the purpose of education as a human right (Hodgson 1996: 243). Article 24(1)(a) of the CRPWD contains provisions akin to Article 13(1) of the ICESCR and directly links the right to education with human dignity as the human right purpose of education (De Beco, 2022: 1335-1336). Article 29(1)(a) of the UNCRC reads:

“States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential.”

The UNCRC developed the right of children to compulsory education originally included under the UDHR. In addition, the CRC in General Comment No 1 (2001) requires education to be child-centred, child-friendly, and empowering (Verheyde, 2006: 9; CRC General Comment No 1, 2001). It brought specific concerns and interests of children into international deliberations on education as a human right (Verheyde, 2006: 9). However, it is argued that it seems the UNCRC lowered the high standards on the right to education instituted by the ICESCR, because its provisions could not link education with human dignity in the text as Article 13(1) of the ICESCR did, despite sharing important similarities (De Beco, 2014: 266).

Article 29(1)(a) of the UNCRC requires education to be designed in a manner that focuses on the full development of the child's potential. It introduced a new nomenclature different from the one used under the ICESCR. While the ICESCR, requires education to focus on human dignity, as the human right purpose, the provisions of Article 29(1)(a) of the UNCRC require education to be directed to the 'development of the child's personality, talents and mental and physical abilities to their fullest potential'. It is argued that both provisions are in *pari materia* because their provisions are imperative on the need to focus education to the full development of the child so as to promote everyone's ability to lead a life with dignity. This presupposes that *a fortiori*, both the provisions of Articles 13(1) of the ICESCR and 29(1)(a) of the UNCRC recognise the need to achieve human dignity as the human right purpose of education. Article 29(1)(a) of the UNCRC recognises that children have some inherent attributes, talents, and useful physical abilities that, during their formative stages, require development to lay the foundations for a life in dignity. The CRC in paragraph 1 of its General Comment No. 1 (2001) on 'the aims of education' under Article 29(1)(a) of the UNCRC suggests that the purpose of education needs to always 'promote, support and protect the core value of the Convention: the human dignity innate in every child and his or her equal and inalienable rights'. The CRC states that focusing education delivery on the full development of the human potential of each child is 'linked directly to the realisation of the child's human dignity [. . .]' (CRC, General Comment No. 1, 2001). It is argued that the opinion of the CRC brings to the fore the centrality of education in the pursuit of human dignity and the need for everyone to lead a life that is in consonance with human dignity. Similarly, the CRC in General Comment No 1 of 2001 connects children's education and human dignity and suggests that children's education needs to be firmly rooted on the values expressed under Article 29(1)(a) of the UNCRC. The CRC in Paragraph 1 of General Comment No 1 suggests that '[. . .] Article 29(1) are all linked directly to the realisation of the child's human dignity and rights.'

This is in recognition of the need to fully develop each child's ability to use *reason* and *thinking* abilities as rational humans with inherent dignity. As a result, this paper contends that the provisions of Article 29(1)(a) of the UNCRC complements the recognition of human dignity as the human right purpose.

Similarly, CRPWD s.24(1) as a thematic treaty, recognises the significance of education and sets the landscape for the education of people with disabilities. Given the fundamental importance of education in inextricably promoting the use of reason and its central significance in offering people with disabilities the opportunity to contribute to society and dissuade discrimination, it is ubiquitously necessary that they are provided access to schooling as a *sine qua non* for the full development of their human personality (s.24(2) CRPWD). The CRPWD arguably incorporates rights common to the international Bill of Rights and particularly with the UNCRC (Stein, 2007) and from a universalist perspective recognises that what entitles people with disability to access to education is their common humanity and their unique worth (human dignity) recognised by IHRL (see Article 1, UDHR). This means that the dynamics of human dignity literally recognises that this unique worth is available to all humans, which includes persons with disabilities (Donnelly, 2015), and therefore arguably portrays Article 24 CRPWD as complementing the human rights purpose of education.

In addition, the CRC iterates that ‘the overall purpose of education is to maximise the child’s ability and opportunity to participate fully and responsibly in a free society’, which is similar to the human right purpose expressly recognised under Article 13(1) of the ICESCR and is in tune with the basic relationship between education and democracy (CRC, General Comment No. 1, 2001). In sum, since the provisions of both Articles 13(1) ICESCR and 29(1)(a) of the UNCRC supports the recognition of human dignity as the human right purpose, this paper therefore argues that human dignity is the human right purpose under IHRL. Notably, the CRC has interpreted Article 29(1)(a) of the UNCRC in a manner *in pari materia* with Article 13(1) of the ICESCR, and the CRC construes it to include the need to prepare children for political participation, as another important purpose of education (CRC, General Comment No. 1, 2001). In what follows, democracy development as a purpose of education is discussed.

3.3. Human Rights and Democracy in IHRL

This subsection argues that the achievement of human dignity as the human right purpose of education, correspondingly stimulates the development of democracy as an important social purpose of education. It is argued that education as a human right under IHRL has a social purpose, which is the development of democracy. Article 13(1) of the ICESCR partly provides:

“The States Parties to the present Covenant recognize the right of everyone to education [. . .]. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and . . .”

The above provisions of IHRL demonstrate that the need to effectively participate in the society (political participation) as a way of developing democracy is an essential social purpose of education. It depicts that education is an important element in the formation and development of democratic principles (Michpoulou, 2023: 18-19), and to the creation of a sustainable democratic culture (Nussbaum, 2000: 333). Thus, this paper argues that education is of special significance in developing democracies. Martha Nussbaum, in support of the crucial role of education in the development of democracy, posited that ‘nothing could be more crucial to democracy than [. . .] education [. . .]’ (Nussbaum, 2006: 387). Under Article 13(1) of the ICESCR, IHRL recognises the key importance of education in providing individuals with the ability to participate in a free society (Beiter, 2005: 471). It provides that, ‘[. . .] education shall enable all persons to participate effectively in a free society [. . .]’ in recognition of the significance of democratic institutions not only in the promotion of the human right project, which includes the achievement of the human right purpose; in addition, it is a *sine qua non* for a peaceful and orderly society. In this paper, a ‘free society’ is understood as one with an established authority which recognises the

rights and privileges of all individuals. It is a society that allows people to express their views and contribute their quota to governance through their various voting rights with a collective purpose. These are possible only in a democracy which is founded on the rule of law and popular participation, showing a strong link between education and democracy (Fait, 2015: 8). This presupposes that while education stimulates everyone's ability to live in dignity (as its human right purpose), it also prepares each individual for the task of democratic participation (as its social purpose) (Kelly, 1995: 101).

Article 13(1) of the ICESCR provides that education 'shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups [. . .],' and presupposes that education fortifies people with skills they need to engage in civic and political participation. Educated people are better equipped to initiate ideas that assist in building and strengthening democratic institutions. In the same way, education teaches people to be good citizens, fulfilling the rights and obligations of citizens of a state. Similarly, it is central to the realisation of all other human rights and opens opportunities for educated individuals to partake in the development of democratic norms (Kelly, 1995: 101). Arguably, education can only assist in developing democratic institutions when it has been designed *ab initio* to increase people's ability to universally use *reason* and thinking aptitudes.

Indeed, individuals have a key role to play in the development of democracy and for this reason requires the acquisition of cognitive resources. A democratic society needs people with developed human personalities who can think broadly and can take autonomous decisions (Nussbaum, 2006: 388; Friedman, 2002: 86). Therefore, it is important to direct education delivery to the achievement of human dignity as the human right purpose. This is because it has direct positive consequences on the quality of democracy and societal norms. Individuals who acquire social interactive skills may apply them in their society in the course of human relations (Carver and Scheier, 2008: 4; Eysenck, 1960: 2). People can engage in socio-political functions after cultivating knowledge through education having regard to the provisions of Article 13 (1) ICESCR. It is argued that it is only through education that individuals can acquire the social interactive skills necessary for social engagements and this is a normative position that is at the foundation of societies and the formation of social groups in society. As early as 1781, Thomas Jefferson in his book 'Notes on the State of Virginia' (Berger, 2003: 614) expounded his views on several philosophical matters. He identified the importance of education and its correlative link with democracy and suggested that in order to ensure democratic governments are safe, 'peoples' minds must be improved to a certain degree' through a systematic provision of free compulsory education (Berger, 2003: 614). Conversely, it has been argued that the existence of democracy contributes to the ability of a state to respect and spend on compulsory school enrolment. For instance, in an E-9 country like Nigeria, governmental commitments in compulsory education were all made during periods of democratic government (Gartner, 2013: 7-8).

Furthermore, the development of democratic institutions needs people (i.e. citizens) 'who can think for themselves', - so as to be able to contribute meaningfully to the advancement of democracy and, conversely, it is the aim of education to facilitate people's ability to think independently (Nussbaum, 2006: 388). In addition, education plays a significant role in determining individuals' social interactive skills. By contrast, those not educated are more likely to shy away from public functions (Kelly, 1995: 101). It means that education, in addition to preparing individuals to lead a life in dignity, prepares all people for certain social functions that collectively benefit the whole society (Kelly, 1995: 101). This presupposes that while education has human dignity as the human right purpose and is central to the development of democratic institutions and culture (as its social

purpose), it is important that education delivery takes cognisance of these principal purposes.

In sum, it is argued that the purposes of education articulated under Articles 13(1) ICESCR and 29(1)(a) of the UNCRC seem neither exhaustive nor comprehensive but only reveal their overarching purpose i.e. human dignity, and IHRL demands that education should be conceptualised in its broad connection with human dignity as the human right purpose (Delbruck, 1999: 100, CESCR General Comment No 13; Saul, Kinley and Mowbray, 2014: 1093). The use of human dignity under IHRL is briefly discussed below to demonstrate its centrality in education and the need for it to be the focus of education delivery.

4. The Concept of Human Dignity Under IHRL and Its Basic Requirements

This section argues that the recognition of human dignity as the human right purpose, as argued above, requires education to focus on the personality development of human beings instead of state-centred interests. Article 13(1) of the ICESCR directly links dignity with education, demonstrating the centrality of education in the pursuit of human dignity. Thus, this section argues that, while there is no consensus on its definition, it is a basic normative idea under IHRL that is often invoked when construing human rights violations. Under IHRL, human dignity denotes the unique worth of human being, and the recognition of the right of everyone to education is in furtherance of the acknowledgement of this human quality i.e. what Pablo Gilabert refers to as ‘basic dignity’ (Gilabert, 2018: 139-140). As a result, in accordance with IHRL, everyone is assumed to be born with *reason* and therefore have inherent dignity.

The recognition of this unique quality presupposes that each individual must be given the opportunity to develop their ability to use *reason* and thinking aptitudes, as well as to become economically independent. This showcases the significance of education and its impact in promoting human dignity and the need to encourage learning aiming at a full human personality, and equality in access to education. Therefore, the ascription of inherent dignity to all humans essentially requires that everyone, especially children, be given access to an education that enables people to make use of *reason* and prepares them to take advantage of education to achieve human dignity as the human rights purpose. This section progresses in two stages. Firstly, it argues that human dignity which has different connotations is not only a foundational concept but the human right purpose of education under IHRL. Secondly, it argues that the inherent dignity of all humans is the basis of the relationship between education and human dignity and argues the strategic significance of access to learning based on equal opportunities.

4.1. Human Dignity and Its Theoretical Connotations

Having established a mutual nexus between human rights, and human dignity, Article 1, UDHR 1948, in setting the observance landscape for all states, groups, and nations require that ‘all human action [. . .] must act in accordance with human dignity’ (Capps, 2009: 107). For Capps, dignity ‘is a universal principle of practical reasonableness because the Declaration requires that it governs *all* practical action’ (Capps, 2009: 107).

Capps recognise two features of human dignity:

“a) Human beings have dignity when they can exercise freedom or, more specifically, autonomy; and b) autonomy is protected by a series of rights which every human being has because they are a human being” (Capps, 2009: 108).

According to Capps, human dignity can be seen ‘as a form of *empowerment*’ (Capps, 2009: 108) that centrally stimulates people’s capability to exercise autonomy (Dupre, 2015:

33). Under Article 1, UDHR, being born with dignity brings to the fore people's aptitude to autonomously decide the causes of action that guarantees a fulfilled life. This understanding provides us with two key factors, i.e., autonomy and empowerment that are central to IHRL. Also, other central ideals that connects human dignity are respect and equality (Dupre, 2015: 30-37).

4.2. Autonomy

Kant linked dignity with autonomy and suggested that a basic attribute of humans is their ability to independently will their own actions, as a fundamental ideal of human dignity (Barak, 2015: 27; McManus, 2019: 22-23; Teo, 2023: 249). According to Kant, autonomy rests on the recognition of everyone as rational humans and their ability to use reason and thinking abilities as ends in themselves, and as such a distinguishing factor between humans and other animals. This crucial ideal of dignity allows people to choose their cause of actions, shape their future and destiny in line with their individual interests (O'Mahony, 2012: 565). Kant conceptualises dignity (Teo, 2023: 242) as primarily founded in autonomy and self-determination i.e. each individual is an end in his/herself and should not be used as a means by others because humans have an 'absolute inner worth called dignity' (Barroso, 2012: 360). Nevertheless, this paper argues that every individual needs to be cognitively empowered to be able to engage in value judgements that is necessary to exercise autonomy. This justifies the recognition of the right to education as a way of stimulating the accumulation of cognitive resources through direct access to learning as empowerment.

4.3. Empowerment

Empowerment is an important element for the exercise of autonomy (Capps, 2009:107). A significant determinant in the promotion of the ability of each individual to exercise autonomy is education, through the right to education. Education empowers people and promotes their ability to use practical reason. Therefore, to empower children to be able to exercise autonomy, they need to have access to an education that promotes their ability to develop practical reason and empowers them as ends in themselves to choose a good fulfilling life. This paper argues that this type of education needs to be designed in a manner that focuses on the promotion of human dignity as a way of encouraging the equal development of all children. The ability to exercise practical reasonableness is a dynamic element of empowerment and requires giving people equal opportunities to develop their cognitive resources.

4.4. Equality

Equality is often associated with human dignity and has been built into human rights norms with political relevance requiring the treatment of all humans equally without discrimination. The recognition of human dignity requires that every individual be given the opportunities offered to others without any form of discrimination (Konsta, 2019: 264). Equality requires the recognition of human equality despite the claims they make to identities (Weinert, 2015: 61). Pufendorf is known for situating natural equality on human dignity (Saastamoinen, 2010: 40; Saastamoinen, 2002: 189-201). The recognition of a unique human attribute (dignity) for all humans puts equality amongst all individuals as a core ideal. Under IHRL, equality in the context of the right to education requires symmetrical equality in access to schooling for both boys and girls as a way of providing everyone with the opportunity to develop their cognitive levels to be able to use *reason*. As a result, equality here represents 'the right against discrimination' (Baer, 2010: 70) and the use of human dignity under IHRL arguably situates within Kant's conceptions on dignity.

Interestingly, Jack Donnelly, in ascribing dignity to humans, differentiates between two ways of typifying humans, the normative and the taxonomic (Donnelly, 2015; 34). A normative human being is a creature with certain qualities that demand recognition and respect, while a taxonomic human being is a creature with certain biological features. **This seems to suppose that every taxonomic human is entitled to dignity and hence should be offered the opportunity to acquire cognitive resources that stimulate the use of reason as subjects of dignity.** Donnelly argues that the UDHR in Article 1 uses “human dignity” based on the taxonomic sense (Donnelly, 2015; 17-18). Donnelly further argues that human rights discourses have made human dignity an ‘attractive and vibrant concept’ (Donnelly, 2015; 17-18). He concludes that human dignity is substantiated by human rights and suggests that:

“By fusing the ideas of human dignity, understood as a morally defining attribute of all taxonomic human beings, and human rights, understood as the equal and inalienable rights of all taxonomic human beings, we have constructed a hegemonic vision of political legitimacy and the minimum conditions for human flourishing” (Donnelly, 2015; 34).

Overall, dignity accepts that human beings have inherent worth that deserves respect, thus, education delivery must promote the continuance and enlargement of intrinsic worth. Under IHRL, human dignity is an underlying concept that justifies all human rights and a value that has a nexus with the right to education (O’Mahony, 2012: 564). Dignity encompasses autonomy, empowerment, and equality as its key ideals. Consistent with the use of dignity under IHRL and its philosophical connotations, dignity can be said to ‘signify a unique human attribute foundational to the ascription of human rights to the human community, including the right to education’ (Obibuaku and Edeji, 2024). Notably, only an education ‘that advances the interests of human beings and guarantees full human personality development and facilitates the use of *reason* furthers the notions of human dignity’ (Obibuaku and Edeji, 2024).

4.5. Physical Access and Equal Opportunity to All Children

It is argued here that each child must be provided access to schooling as a *sine qua non* to the achievement of the human right purpose of education. Thus, this paper recognises physical access for all children to compulsory schooling as a basic constitutional ingredient, needed in all states in compliance with their IHRL obligations. It is argued that for human dignity as the human right purpose of education to be achieved, each child must have unimpeded physical access to tuition.. In concurrence, the CESCR in General Comment No 13 (1999) in paragraph 6(b) states that, in education delivery, States must ensure it is ‘accessible to all, especially the most vulnerable groups, in law and fact, without discrimination [. . .].’ Therefore, this paper recognises the importance of legal safeguards that guarantee each child unhindered physical access to free compulsory schooling as a demand of human dignity. This is in recognition of the need to achieve the human right purpose.

The need to guarantee each child physical access to compulsory schooling has been a perennial challenge in many states, especially in E-9 countries.¹ This paper deems the need for each child to have physical access to compulsory schooling fundamental and a central factor in the pursuit of human dignity. Having discussed the essential prerequisites for the realisation of the human right purpose of education, particularly the importance of ensuring that all children are given physical access to quality compulsory schooling, this paper equally recognises the significance of equal opportunity in access

¹ The ‘E’ stands for education and the ‘9’ for the nine countries that made up the group. The E-9 Countries are Bangladesh, Brazil, China, Egypt, India, Indonesia, Mexico, Nigeria, and Pakistan.

and quality of education. It argues that it is an essential element in consonance with the demands of human dignity needed to safeguard the achievement of the human right purpose of education.

4.6. Equal Opportunity

It is argued that the universal achievement of the human right purpose of education will require granting all children equal opportunities in access to compulsory schooling as an 'overarching principle' (Singh, 2011: 5; De Beco, 2018: 398; Riddell et al, 2021: 42-43). A fundamental norm of IHRL is non-discrimination and the need to afford everyone equal opportunity, hence in education IHRL provides for universal access to schooling. Yet, according to Katarina Tomaševski, global education statistics demonstrate that children throughout the world do not have access to the same quality of learning, and their access to education is often irregular (Tomaševski, 2004: 8). Therefore, taking cognisance of the centrality of education in the quest to achieve human dignity, this paper argues the need to institutionalise equal opportunities as a basic social justice requirement through codifications both in the constitution and in education policy mechanisms. Premising on the vital ideals of human dignity discussed above, it is argued that the recognition of individuals as an end in themselves, in accordance with the dignity of all humans, calls for each child, as a matter of necessity, to be given an equal opportunity, to access compulsory education. This will promote gender equality and equal opportunities. Under IHRL, Articles 1(1)(a), 3(a) and 4 of the 1960 UNESCO Convention against Discrimination in Education prohibits discrimination of any kind in access to schooling. Equal opportunity is more important because of the causal relationship between access to education and the achievement of human dignity.

Therefore, States are required to make compulsory education freely available and accessible to all 'on the basis of equal opportunities' as provided under Article 28(1) of the UNCRC (Verheyde, 2006: 36). According to Kishore Singh, a former UN Special Rapporteur on the right to education, the non-discrimination principle, as contained in the 1960 UNESCO Convention against Discrimination in Education, has direct links with equal opportunities in access to education (Singh, 2008: 71). Singh argues that the equal opportunity principle in access to education 'is an overarching principle' because it is reflected in almost all international human rights conventions and appears to suffuse the work and concerns of treaty bodies which originate in the United Nations (Singh, 2008: 72). Mieke Verheyde argues that the requirement of equal opportunities under Article 28(1) of the UNCRC mandates States not only merely to ensure 'formal equality' but also 'substantive equality' (Singh, 2008: 72) as an ideal of human dignity.

This paper argues that equality and equal opportunities are fundamental components of the right to education. Once equal opportunity is institutionalised, it will be the constitutional responsibility of States to ensure that all children, have universal access to compulsory education, and also to ensure that private education service providers maintain this standard without fail (Verheyde, 2006: 51).

5. Conclusion

This paper has argued that, under IHRL, education has two broad purposes: one is human dignity as the human right purpose, the other is the development of democracy as another important social purpose of education. It is the responsibility of states to take cognisance of these two important purposes that encourage children-centred education (Manion and Menashy, 2013: 229). This is important in acknowledgement of the inherent dignity of everyone. The promotion of the fundamental ideals of human dignity calls for the adoption of a holistic approach in education delivery and it is the responsibility of States to do so, despite the influence of economic principles that interpret education

through the lens of economics (Christie, 2010; Muller, 2011: 254). The influence of economic principles in education and the inability of treaty monitoring bodies to advance human dignity as the human right purpose through their treaty interpretations and General Comments mean that the human right purpose of education has been ignored. It is important therefore to reorient education in a manner that recognises human dignity as the human right purpose of education.

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