

The Right to Education: Examining its Meaning and Implications

by

Joe Karmel

B.P.E., University of British Columbia, 1981

M.A., University of British Columbia, 1998

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### **Abstract**

Philosophers and others have debated for centuries about the concept of “rights” - what they are, where they came from, how they evolved, on what authority they proceed, and in what formulations. Because rights express values and are not simply rules governing an immutable status quo, there will always be debates over some aspects of human rights. It is precisely because of this uncertainty that the international community, in 1948, through the General Assembly of the United Nations, drafted the Universal Declaration of Human Rights as a standard of measurement for the formulation and interpretation of human rights and freedoms.

Acknowledged within the Declaration is the universal right to education. One reason for its acknowledgment is the crucial role that education plays in the promotion of equality and the full realization of all other human rights. A second reason concerns the growing appreciation of the relationship that exists between education and increased social and economic benefits. However, despite its pivotal role as a multiplier of human rights and socio-economic benefits, little has actually been written on the right to education to elaborate upon its direction or define its boundaries.

Most of what is documented on the right to education comes from legal and political sources, through the voices of judges, lawyers, statesmen, and politicians. Educators, who are generally held responsible for its actual promotion and implementation, have to date contributed very little to our knowledge of the right to education. Clearly this must change. To prevail in practice human rights require not only articulation but interpretation, validation, legislation, enforcement by rule of law and, finally, to be conceived of in a positive formulation. Thus, rights have to be made, and the purpose of this study is to invite educators into the conversation to assist in the making of the right to education by contributing to its interpretations and validating its claims.

This inquiry unfolds in twelve chapters. Chapter 1 sets an autobiographical context and includes my own memories and experiences interpreting the right to education as well as the research questions and methodology. Chapter 2 examines the concept of human rights, their evolution, and the basis for their authority. Chapter 3 examines existing interpretations of the right to education in the literature. Chapter 4 examines the meaning of education in the right to education. Chapter 5 examines the compulsory nature of the right to education and the basis for its distinct status among other human rights. Chapters 6 through 8 examine the concepts of equality and equal educational opportunity and their relationship to the promotion of human rights and the right to education. Chapters 9 and 10 examine the ends of the right to education as proclaimed in the Declaration, contrasting these ends with the goals set out by the Ministry of Education in the Province of British Columbia. Chapter 11 examines parental rights to choose the most suitable kind of education in the context of claiming the right to a free education for their children. The final chapter represents an attempt to make sense of the inquiry and the efforts and contributions of research participants and researchers in the literature towards increasing our understanding of the interpretations and implications of the right to education.

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## **CHAPTER 1**

### **BACKGROUND TO THE RESEARCH**

There is perhaps no better way to introduce the reader to the multiple dimensions of the universal right to education than through the lived experiences of the teachers and school administrators responsible for its promotion and implementation. On several occasions in my teaching and administrative career I have been confronted by a need to better understand exactly what is included under the labels of “equal educational opportunity” and “the right to education,” and it is from these experiences that the following narratives in Chapter 1 proceed and my search for understanding and meaning begins. For it is one thing to project universal concepts of equality and human rights in declarations and acts of legislation, and quite another to see how such concepts play out inside the schools and classrooms where they influence the day-to-day lives and future prospects of the children for whom they are intended to benefit.

#### **A High School Teaching Experience**

My first high school teaching assignment began in a small town on the west coast of British Columbia. In my homeroom class were two grade 10 students, whom I shall refer to as Chris and Jeremy. Homeroom class in this school was a fifteen minute block of time at the start of each school day, where the same thirty or so students gathered to take attendance, receive announcements, pick up report cards, and so forth. It provided students with a home base as well as some continuity with one teacher throughout their high school years. This particular episode occurred following the return from Spring Break during an extended homeroom block that was arranged for students to plan course selections for their grade 11 and 12 programs. It was necessary for students to consider career choices and/or post-secondary institutions when making decisions for graduation requirements in either the arts, sciences, or vocational areas. The role of the homeroom teacher was to help students through this process.

Chris and Jeremy were friends. Both were considered good students in that they generally achieved A's and B's on their report cards. Both students had thought about what they wanted to do when they finished school, and had in mind completely different career choices. Chris had decided that he would like to be a medical doctor. His mother was a family doctor, and he felt that the kind of work she did was quite interesting. He thought being a medical doctor would allow him to enjoy the kind of lifestyle he desired. His mother had suggested that they might even want to share a practice together.

Jeremy's father owned a service station where Jeremy worked on the weekends, after school, and on holidays. Jeremy loved cars, motorbikes, trucks, and anything else with a set of wheels and an engine. Given his keen interest in this area he had decided long ago that he would like to be a race car mechanic. Having both made their decisions the two friends filled out the forms and talked about life after graduation. I met with each of them to talk about their choices, congratulate them on making what seemed to me to be mature, well thought-out decisions, and sign forms indicating that they were ready to meet with the career and academics counselor for final approval. Many of the other students had no idea of what they wanted to do or what courses to take. In this regard Chris and Jeremy stood out from the rest, as they had given their decisions some thoughtful reflection before arriving at school that morning.

At the counselor's office Chris outlined his educational plans. The counselor noted Chris' high grade point average, and agreed that he had the marks and the necessary prerequisite courses to continue on to medical school. The counselor encouraged him to pursue his plans and wished him good luck in his endeavors.

Next it was Jeremy's turn to discuss his future education and career goals with the counselor. Jeremy indicated on his form that he was planning to concentrate on drafting, metal working, and computer-assisted power mechanics in his senior years. After reviewing Jeremy's excellent school record, however, the counselor felt compelled to point out that with his high marks Jeremy had the option to continue on

with a liberal arts program that would give him the prerequisites for college or university - something that not all students are able to do. The counselor suggested that the completion of certain academic courses would keep more doors open for his future career and lifestyle choices. He also indicated that if Jeremy kept up his grades he could qualify for a scholarship for post-secondary education. His advice to Jeremy was to discuss his plans with his parents and then come back to see him.

The following day Jeremy was much quieter than usual. Chris was his regular self, but Jeremy was in an uncharacteristically reflective mood. I spoke with the boys and inquired about their visits with the counselor. They both recounted their stories as I just described. I wanted to reassure Jeremy that his decision was a good one, but instead I inquired as to his parents' advice on the matter. His parents felt that he should pursue whatever he felt he wanted to do, keeping in mind that he was young and could always change his mind later on. However, they did agree with the counselor that more doors would probably be open to him by staying on an academic program rather than a non-academic one. They also agreed that not everyone had the marks needed for going on to university.

### **An Alternative School Experience**

I had been teaching for almost 10 years when I accepted a new teaching position that involved the restructuring of a grades 8 - 10 alternative education program at a high school in a small community in southeastern British Columbia. It was explained during my interview that the number of early school leavers in this community was excessively high, and it was thought that if the alternative high school program could make its curriculum more relevant to this population of students, then perhaps more students might choose to remain in school and graduate.

By the end of my first two years the alternative school program had accomplished just that; it was keeping students in school longer and had helped to lower the school drop out rate. In fact, enrollment in the alternative school program had increased from

eight students to twelve, with more students on a waiting list requesting to move “down” from the main high school. Given the growing interest in the program by both students and parents, I proceeded to write up a brief proposal to the principal of the high school suggesting that the district consider adding grades 11 and 12 to the program to enable more students to stay in school and graduate. I also recommended adding on to the existing building in order to accommodate up to 20 students in a comprehensive grade 8 to 12 alternative program.

Shortly after receiving my proposal I was invited to a meeting where I found myself seated at a table with the principal and the superintendent of the school district reviewing the changes to the program that I felt had sparked a renewed interest in the alternative school. I credited the success to an alternative approach to curriculum and instruction that focused on individual student interests rather than on subject disciplines. I further explained how larger blocks of time, integrated subject material, more hands-on learning, less teacher talk, and more independent project work all contributed to the program’s apparent success.

While I was not expecting a celebration in my honour, I did feel that a small congratulations was in order for increasing the enrollment and the popularity of the program. Instead, however, I was curtly informed that there would be no expansion of either the program or the building. Apparently I had made a grave error. The program was never intended to attract more students to the alternative school; it was there only to provide a “safety net” for those students who could not “make it” in the regular high school program. The school board had felt it necessary to provide something for those students who were at risk of failure and/or dropping out. An alternative route to graduation and an expansion of the alternative school was simply not in their plans. The Superintendent’s recommendation was that I focus on providing a more conventional program (that is, one centered around traditional subject disciplines), and concentrate my efforts on helping students to acquire the skills necessary for pursuing successful reintegration into the mainstream learning environment at the high school.

When I pointed out that the alternative program offered different opportunities for successful academic and social achievement than a regular classroom environment, the “recommendation” changed to an imperative. Sensing things were going terribly wrong, I tried quickly to explain that the environment at the alternate school had been modified in such a way as to support the individual needs and interests of the students. I further added that unless mainstream classrooms were willing to make some fundamental changes in this direction there would be no reason to expect any higher rate of reintegration in the very same environment in which these students had already experienced failure and rejection. My reasoning, however, fell upon deaf ears. “We are trying to promote success at this school, not celebrate failure,” was the parting comment of the superintendent as he got up to leave, signaling the end of the conversation and our meeting.

Like the episode with Chris and Jeremy, this incident would perhaps have remained an isolated event had it not been for a similar situation that took place under a very different set of circumstances, and in an entirely different school district some years later in my capacity as a school administrator. And the more I have reflected upon these three separate episodes, the more I have come to see their similarities and to recognize certain elements that are common to each set of circumstances. A recurring pattern was slowly emerging.

### **An Administrative Experience**

Following the completion of my Masters degree, I accepted the principalship of a K-10 band school in a small community in northern British Columbia. Fresh from my graduate seminars with First Nations colleagues, I felt ready and very excited about the prospects of taking on such a challenge. I already had many years of experience as a classroom teacher and I was looking forward to returning to the field in an administrative role.

I had not been in my new position a full week when the first such challenge came my

way. In the mail had arrived forms from the Ministry of Education requesting a verification of our student enrollment. These forms presented some difficulty to fill out, as students were very cavalier about showing up to school in the first month or so while the hunting and trapping season was still underway. However, with the help of a very able home-school coordinator quickly going down the roster of names, explaining who was where and for what reasons, the problem was soon overcome. And if it did not conform exactly to the letter of the law, no one seemed overly concerned about it.

Also in the mail was a second package of forms that needed to be filled out. These particular forms were for students assessed with special needs. After going through the class lists of students in grades 1 to 10, I found that of the 136 students enrolled in the school 72 were identified as having special needs according to the B. C. Ministry of Education's special needs guidelines. Confirming this number with the counselor and the home-school coordinator, the registration forms required only my signature for completion. As the mail delivery in this area was unreliable, I was advised to get the forms signed and in the mail as soon as possible. Additional funding was attached to the registration and the forms were required to be in by the deadline in order to qualify.

For me, however, Canada Post and additional funding were not the first concern. Rather, I had a real problem affixing my signature to the verification document. For there, in black and white, was a document stating that out of a school population of 136 students, over half could not function successfully within the prescribed curriculum. Were I to sign the document it would suggest that I was acknowledging the fact that these children all required special help.

So, what was the big deal the secretary, the home-school coordinator, and the counselor all wanted to know as I delayed sending in the forms? As principal, by simply signing the form the school gets more funding to pay for extra teacher aides, resources, and supplies. This had been done at the start of every school year. When

inquiring how long this had been done the looks and shoulder shrugging that went on suggested that no one really knew. Evidently things had been this way ever since any of them could remember - perhaps for the ten to twelve years that they had been associated with the school.

This I thought was quite incredible. Having previously worked in special and alternative education in three school districts, I was used to registering maybe 3 or 4% of a school population - not 53%! Feeling that I needed to speak with someone outside the immediate school community, I paid a visit to the local superintendent of public schools to discuss the situation. The superintendent confirmed the numbers, and assured me that this was quite normal in this area of the province. He recommended that I go ahead and apply for the funding, adding that we may not get all of it, but that we “could bank on getting a good chunk of it.”

I still couldn't believe it. When I got back to the school I immediately sent out e-mails to my former classmates explaining the situation and asking for their opinions. Over the next few days responses slowly started trickling in. In the main they agreed it was shocking, but also added that at least there was money to throw at the problem, unlike the circumstances in which many of them found themselves. Again, I couldn't believe it. I was exasperated. Did no one else see what I did? When the majority of any given student population is struggling to meet even the most basic criteria of a school curriculum surely educators must consider a problem may lie with the curriculum and not simply with the students. Why, I thought, should anyone expect that curricula and textbooks designed and written in Victoria, Ottawa, or Toronto would work for the students in this tiny, isolated village, 500 kilometers from the nearest highway? It was not working now, it had not worked in the past, and I felt there was little reason to believe that it would work any better in the future. I could not bring myself to sign the registration form. I simply could not authorize a form saying that there was something educatively wrong with the majority of the students in my school.

Having a background in alternative education I had some experience with adjusting, modifying and, in some cases, completely rewriting curricula for certain students. I knew from experience that success in school was largely determined by students intentionally striving for successful academic achievement. Laying out money for the purchase of more educational resources (teacher aides, computer software, easy-read books, audio tapes, etc.) would not improve academic achievement if students chose not to take advantage of these resources. In fact, the overwhelming perception that money would solve this problem seemed to me only to exacerbate the situation, since teachers and parents, as well as school board members and ministry officials, felt that the problem, though unfortunate, was being addressed through the provision of extra funding.

Later in the week, a solitary fax arrived from a former classmate in response to my e-mail. It contained a copy of the Dogwood Completion Rates for British Columbia students, posted by the School Finance and Data Management Branch for the 1995/96 school year (see Appendix 1). And though the information indicated provincial results for three years earlier, the statistical evidence was still shocking. The data showed that of all ethnic and linguistic populations represented, Aboriginal students ranked by far the lowest of any group. While I was not unfamiliar with the low graduation rate among Aboriginal students, the statistics highlighted a great dilemma. The data confirmed that province-wide about 70% of Aboriginal students - an even higher proportion of students than identified in this school - did not even meet the minimal educational expectations in the province.

There was also another disturbing fact that became evident. The provincial graduation rate among First Nations students (31%) was about the same as the federal dropout rate (25 %) among all Canadian students (Canadian Teachers Federation, 1995). This meant that the success rate among aboriginal students in B. C. was almost the reverse of the average success rate among Canadian students as a whole.

After I had a chance to digest this information, I wondered if my actions were

contributing to the problem or not. Could money actually help solve the problem? I consulted the budget information that I had on provincial expenditures for all the provincial school districts. Again it was hard to believe. While the average annual provincial cost per student was around \$6600.00, our district was receiving about \$19,000.00 per student, or a sum roughly three times that of the provincial average.

I made a further mental calculation. In my visits to the local provincial high school I had observed that class sizes were extremely small. According to the principal of the school, classroom attendance on a daily basis might be eight or nine students. It was not long before I could confirm similarly low attendance figures within my own school. Even in the younger grades, a class size of twelve students was not atypical. By southern British Columbia standards, where class sizes routinely ranged from twenty-five to thirty students, this was indeed incredible. Even with a clear financial and student-teacher ratio advantage the academic results were deplorable. The success rate among First Nations students was equivalent to the failure rate among the average Canadian students. I was now even more convinced that money was not the answer here. But who was I to change how things had been conducted in this community for so many years? As school principal I apparently had the authority to make such decisions, but I didn't feel that they were mine to make.

A school board meeting was called the very next week. Board members were concerned about the hold up in filling out the special needs forms and did not understand my position. I explained what I had discovered through my correspondences and the calculations that I had made with the school budgets and the student-teacher ratios. Those gathered around the table listened quietly, frequently nodding at the points I made. When I finished speaking the room was very still. After what seemed like an eternity, the awkward silence was abruptly broken by the home-school coordinator stating, "These [special needs] students should get the same opportunities that all them smart kids have!" I found it hard to disagree, but said that I didn't see how extra funding would solve the problem. Querying the home-school coordinator further about what she meant, she answered without hesitation, "These

students have a right to be successful in school.” And, after a short pause, as if to clarify what she meant, “They have the right to equal opportunities in their education.” She went on to insist that by not having the proper funding in place the “special needs” students would not be successful in school. After she had finished speaking other voices echoed similar sentiments. Her remarks had struck a chord with many in the room.

The meeting came to an abrupt ending. I remained seated, considering whether I was indeed interfering with these students’ right to education. Something wasn’t adding up. I felt something was wrong with what had been said, but I could not explain it. As the room slowly cleared I was left sitting opposite the Band Chief who had also been invited to the meeting. Upon my arrival in the village I had met the chief briefly. He had been quite frank in telling me that both he and the other band council members try to stay out of educational matters and let the school board handle things. However, he did let me know that should there arise any problems in which I needed his advice I shouldn’t hesitate to get hold of him, as he hoped that I would “stick around longer than the other feller” (the previous school principal).

Sitting there together, just the two of us at an enormous oval table, I began to recount the dilemma as I understood it. I showed him the facts and figures that I had spoken about. The chief was silent for an uncomfortably long time. Then, leaning back in his chair, with his hands clasped over his stomach, he looked straight at me and asked, “You married?”

“Yes”, I answered rather cautiously, wondering where this question was leading.

“Kids?” he asked.

“Yes. Four,” I answered.

Still staring straight at me he asked, “How long do you figure you’re here for?”

“I don’t know exactly,” I replied. “I had hoped a couple of years.”

“Two years? Three?” the Chief inquired.

“I’m not sure,” I answered. “It all depends.”

“Then,” he said calmly, “don’t interfere.”

“How do you mean interfere?” I asked.

The chief replied, “This isn’t a two or three year problem. From what you’ve told me the whole system is upside down and it can’t be fixed in just two years. If you’re gonna turn things around then you have to see it through. If you can’t, then don’t interfere!”

### **Discovering My Research in the Dailiness of Teaching**

And so it was decided. I would sign the necessary paper work to enable the special needs funding to go through. When the meeting came to an end I walked across the compound to the school contemplating what had just taken place. I felt intuitively that something was wrong with what had been said around the table, but I could not articulate it. The central question in my mind was not whether I had interfered with the process of funding for the students labeled as “special needs”, as clearly I had. Neither was it a question of on what basis I had objected to acquiring the extra funding, as I was simply not convinced that additional funding would adequately address the concerns. My questioning revolved around the notions of equality and success. Exactly what did my colleagues mean when they used the term “equal opportunity”, and what did they consider “success” in education? Receiving a School Leaving Certificate, confirming that a particular student had remained in school for twelve years, was not my idea of either equality or success.

I considered myself an advocate of student rights and equal educational opportunity. I certainly wanted all my students to be successful in their education. Why would I wish otherwise? Yet, my actions were seen as interfering with students claiming their rights to education, and depriving them of equal opportunities to find success at school. What seemed to be in question was how we interpreted the right to education and equal educational opportunity. It appeared that we interpreted these concepts according to our own experiences and perspectives of education. The fact that our experiences were vastly different meant that we did not share or even understand each others' interpretations.

What also stood out was the home-school coordinator's framing of the situation. While the terms "rights" and "equality" were all familiar expressions to me, I had never considered them in this context prior to the events that I have just recounted. My use of such expressions were only in an abstract and theoretical sense, one far removed from the dailiness of my teaching practice. Now, however, these terms seemed authentic expressions of what I was feeling, where upon connections and similarities between past and present episodes and events began to emerge.

What struck me was how educators working towards the same stated goals could find themselves advocating different means to attain very different ends in the name of equality and success. Was the superintendent correct when he suggested that expanding the alternative program invited failure rather than success? Would the students have been less successful if they completed an alternative educational program? Was I doing a disservice to students in the alternative school program by developing their interests rather than concentrating on upgrading classroom skills with a view to promoting reintegration? From what I understood in talking with parents, their children in the alternative program were happy in school for the first time in a long time. They were attending, and this in itself, I was reminded, was not insignificant.

Like the home-school coordinator, I too felt that all the students should have an equal

opportunity to be successful in their schooling, only not in the same way that she had argued for. I truly did not feel that offering special education and learning assistance to half the students in the school, so that they might receive a School Leaving Certificate at the end of twelve years was providing an equal opportunity to succeed. But if this was true, then exactly how was my position any different than the superintendent's or Jeremy's counselor. Was I not also deciding what constituted success in school? Furthermore, how could there be varying interpretations of equality?

From what I could see, while all students may have had equal opportunities to attend school they certainly did not all have equal opportunities to succeed in school. In the case of the alternative school students it seemed to me a Catch-22 situation. If they remained in the regular high school program it was likely they would either drop out or fail. Yet, if they moved to the alternative school program, to attempt learning in a different way with a different set of goals, in the eyes of many they had already failed! It appeared that the superintendent and school board would rather see failure than consider any alternative visioning of success. In their views there was one theme and some variation to that theme, but there would be no alternative themes considered.

In the case for special needs funding, the circumstances were similar. Special education was seen as providing more resources to help improve student performance as measured against the recommended learning outcomes of a systemically standardized, common, provincial curriculum. The goal was essentially to encourage the respective students to complete some kind of academic program that would keep them engaged in school. Never was it entertained that perhaps the contents or delivery of the curriculum might be unsuitable or even undesirable. It also did not seem to matter that the skills the students would leave school with might be inadequate and in no way support or promote their future plans or aspirations. In all three cases success was being gauged outside of the learner, using an external measure. Failure was viewed as shortcoming of the individual, not the education system. And while these circumstances raised little concern among my colleagues, I felt there was

something quite disturbing about promoting a form of education that resulted in such obvious inequity, leaving large populations of students feeling that they had underachieved and not met with the level of success held open to them.

In Jeremy's circumstances, the high school counselor was not promoting equivalent educational opportunities for the students not planning to go on to university even though they represented an overwhelming majority of the student body. Indeed, the alternative options were perceived to be of less significance and relegated to a lower level of status and priority within the curriculum. Yet, when I considered the changing needs of the automotive industry, it certainly required that tomorrow's mechanics possess a strong academic background in order to service a generation of highly sophisticated and complex motor vehicles currently on the drawing boards.

But what was the incentive for students with strong academic backgrounds to seek out employment in the servicing sector of the automotive industry? How was the education system promoting Jeremy's interests and encouraging him to excel in this branch of the curriculum? Promoting some areas of the curriculum at the expense of others the school was helping to elevate the status of some occupations by denigrating the status of other services in the community. This "equality" of education certainly would not make for the equality of pride or satisfaction in one's future occupational work. And while it might be argued that it is uncertain which is the cause and which is the effect, we must necessarily ask what then is the purpose of educating people if not to bring greater insight and understanding to the perpetuation of such inequities?

Out of these reflections it became clear what I wanted to know and to understand. I wanted to understand what equal opportunity meant in education and what constituted success in school. I also wanted to know what students are entitled to in their education and, just as importantly, who should decide? Without being aware of it at the time, my search for answers to these questions and others that would grow out of them would end up consuming a great deal of my time over the next ten years, ultimately to become the focus of my inquiry and the basis of this dissertation.

## Searching for Meaning and Understanding

In my search for meaning and understanding I have considered a number of ways of going about finding answers to my questions. I could look for patterns in my own experiences as a teacher and administrator and present these as a narratives. I could research definitions and descriptors in the literature and note common themes and evolving conceptions. I could conduct interviews and engage in conversations with educators who inhabit similar educational environments and take from these experiences any messages or understandings that they might offer. All of these strategies would contribute to a greater understanding of the conceptual complexities inherent in this inquiry, and to the extent possible this is what I have done.

### *Personal Narratives*

Many of my research questions flow from narratives generated in my own teaching practice and in conversations with other educators, and these questions cannot fully be appreciated without some understanding of the context in which they have arisen. To this end, I have recounted the events through a narrative inquiry, reaffirming the questions in the context in which they occurred. Similarly, conversations with colleagues and classmates have been ongoing throughout my graduate program and, where appropriate, I have brought these conversations into the discussion as part of an ongoing dialogue, exploring the many dimensions of the right to education.

### *Narratives in the Literature*

While the narratives are in each case unique, and often autobiographical, these experiences have found echoes in the writings and experiences of others. In my search for meaning I discovered that the concepts and principles of equality, rights, justice, merit, and freedoms used so frequently and liberally in educational conversation, are so multi-faceted and so completely interdependent that each one requires a great deal

of unraveling in order to begin to understand the complexity of the various elements that contribute to their formulation and our conceptualizations of the right to education. To help in this endeavour I have made frequent reference to interpretations and conceptualizations of the above principles and concepts as they appear in the literature. This inquiry owes a great deal to the observations of those who have contributed to these ideas from different perspectives. Their observations have been brought into the conversation to enrich and often guide the dialogue.

### *Interview Process*

In addition to my own conversations and those found in the literature, I structured an interview experience with ten middle school and high school administrators, from ten different schools, in three different school districts in British Columbia to investigate their understanding of the right to education. The participants include male and female principals and vice-principals from both independent and public schools in Southern Vancouver Island and the Greater Vancouver areas. All the participants have between 15 and 38 years of experience in education, with an average of 15 years of classroom teaching and 12 years of school-based administration. All participants had teaching and/or administrative experience in more than one British Columbia school district, while some participants had experience in other Canadian provinces. Only one participant had teaching and administrative experience outside of Canada.

I have not identified the participants or their schools they work in order to respect participant and school district anonymity. Throughout the inquiry I have referred to these participants using the designations (PSP) for Public School Participants, and (ISP) for Independent School Participants. These designations are numbered (e.g. PSP 1; PSP 2; etc.), and a brief profile corresponding to each research participants is contained in Appendix 2.

The majority of questions asked of the research participants during their interviews were taken directly from the text of the Right to Education as written in the Universal

Declaration of Human Rights. The questions and responses were audio recorded for the purpose of editing, transcribing, and analyzing at a later date. The interview questions were divided into four sections: 1) Participant Background, 2) General Questions Regarding Human Rights and the Universal Right to Education, 3) Specific Questions Regarding Interpretations of the Universal Right to Education, and 4) Other Information (that the participant would like to add). The participants were informed that the purpose of the interview was to solicit their interpretations and conceptualizations of the universal right to education to contribute to a wider understanding of this right from an educator's perspective. Participants had the option to answer all or only some of the questions. A copy of the interview questions is contained in Appendix 3.

All the interviews began in the same way. I invited each participant to share a bit about his or her background in the education field. The purpose of the questioning was to get a sense of the educational backgrounds and experiences of the participants in the inquiry. Participants were then asked where their knowledge of human rights came from, whether they had received formal instruction in human rights education at school, and if their school currently offered students instruction in human rights. Participants were also asked what understanding they had of the right to education and if they were familiar with the universal right to education as acknowledged in the Universal Declaration of Human Rights? To complete the general question section, participants were asked for their interpretations of success in education, and what meaning the expression "equal educational opportunity" held for them.

Next, the interview moved to questions regarding specific interpretations of the universal right to education. The participants were provided with a copy of Article 26 - the Right to Education - as written in the Universal Declaration of Human Rights (For the full text of the right to education see Appendix 4, on last page). After having an opportunity to review the text of the right to education, I began with some specific questions regarding its interpretation, moving line by line through the three paragraphs, highlighting different statements as they appeared in the body of the text.

Starting with Paragraph 1, for example, I asked the participants what they thought was included under the label of “education” in the statement “[e]veryone has the right to education.” Further along in Paragraph 1, where it states, “Education shall be free, at least in the elementary and fundamental stages,” participants were asked what they thought about the provision of free education and which grades they felt would be included under the labels of elementary and fundamental. After moving through the three paragraphs and ten questions, the participants were then asked whether or not the universal right to education had had any influence on their role as an educator and/or administrator, and whether there was anything that they would like to add or change in our discussion.

Not all the participants’ responses from the interview sessions were included in the final document. There are several reasons for this. At the start of each interview session, participants were given a choice of answering all or only some of the questions. Some participants, owing to time restraints or, in other cases, uncertainty surrounding the phrasing of a question or their particular position on a question, either did not respond or did not respond fully to an interview question. In some cases a particular question may have received a simple “yes,” without expanding on the reasons for holding this opinion. Only where such a response informed the question did I include these answers (e.g. such as the response from participant (PSP 6) on p. 185 in answer to Question 9b, “Do you feel that our schools and/or classrooms strengthen respect for human rights and freedoms?” This question was answered with a simple “Yes, I think so.”).

In all cases participants were given an opportunity to read and edit a transcription of the questions and their responses prior to inclusion in this document. None of the participants requested editing of their responses. However, where a participant felt that a particular response did not accurately reflect their position, in accordance with their request, their response was not included. In all, responses that in any way informed the questions and were not excluded by request of the participant have been included in this document. It is this researcher’s opinion that inclusion of the full

range of responses is the most reliable method of reporting accurately areas of diversity and convergence in prevailing interpretations of the right to education.

### *Interview Analysis*

To help interpret what was said during the interviews I employed three analytical techniques, often in sequential order. The first technique involved listening to the whole audio-recorded response uninterrupted so as to fully comprehend the context in which the event(s) took place. The second technique included a questioning of the event(s) as described, comparing what I thought was being said or done with what the participant actually said to have occurred. Finally, I reconstructed a summary of the responses and events to the satisfaction of each participant.

My analysis employed both narrative and paradigmatic methods of deduction, described by Lieblich, Tuval-Mashiach, & Zilber (1998) as a holistic-content and categorical-content form of analysis (pp. 12-17). The holistic-content mode of analysis is concerned with the telling of the whole story and focuses on the content as it unfolds, while the categorical-content approach inquires into the specific meaning of particular sections of the narrative irrespective of the story's context, and is often referred to in the literature as "content analysis" (p. 16).

Textual readings of an event employ similar techniques. The holistic-style approach attempts to reconstruct the event(s) in their entirety to reveal the crucial aspects of a happening in the retelling of the story. The categorical-style approach, on the other hand, seeks to break up the flow of the story in order to consider specific sections of a text conceptually, analyzing it line by line and/or word by word to clarify its meaning. Used in tandem, the holistic and categorical approaches are effective instruments used to derive meaning and understanding from an event or happening. It is this combination of the narrative-paradigmatic, holistic-categorical analysis that I have employed throughout my inquiry, interpreting meaning through the lens of human rights as I proceeded with the investigation of my central research questions.

## **Research Questions**

What understanding do educators have of the right to education and the principles of equality and equal educational opportunity that underlie its promotion and implementation? Does the right to education challenge the limits of existing practices, and are these limits reasonable and justifiable in a liberal democratic society? What alternative practices can be posed to further promote the right to education and rights in education?

## **Research Methodology**

This study follows in the traditions of both story tellers and social scientists. Jerome Bruner distinguished between narrative and paradigmatic approaches to differentiate between the posture in which knowing and understanding are achieved by means of general laws and inductive truths, and an alternative posture in which knowledge and understanding are not explained but interpreted.

### *Narrative Research*

The goal of interpreting meaning is to bring about agreement that one set of conclusions is more probable than another. Hirsch (1976) observes that, “each interpretive problem requires its own distinct context of relevant knowledge” (p. vii). In the western tradition, paradigmatic, scientific discourse that advances a hypothesis, reports evidence, and infers conclusions is seen by many to be the essence of truth finding (Polkinghorne, 1995, p. 9). However, Dray argues that “the deductive - nomological mode of explanation was not as appropriate for understanding human action as is a narrative-like explanation” (cited in Polkinghorne, p. 9). Gardner, finding value in multiple ways of knowing, suggests that “[b]oth the paradigmatic and narrative cognition generate useful and valid knowledge (cited in Polkinghorne, p. 9).” Similarly, Bruner (1990a) theorizes that paradigmatic and narrative reasoning constitute two different but complementary ways of thinking about the world:

There are two modes of cognitive functioning, two modes of thought, each providing distinctive ways of ordering experience, of

constructing reality. The two (though complementary) are irreducible to one another.... Each of the ways of knowing, moreover, has operating principles of its own and its own criteria of well-formedness. They differ radically in their procedures for verification. (p. 11)

These differences are explained by Halverson, Brown, & Zoltners (2001). The authors suggest that because complex practices are grounded in local customs and traditions, “representations which seek to find what is common across situations lose the rhythm, and often lose the heart, of the practice itself” (p. 3). According to Bourdieu, practice is often “unaware of the principles that govern it and the possibilities those principles contain; it can only discover them by enacting them, unfolding them in time”:

While both forms of reasoning involve post hoc reconstruction of events and actions, paradigmatic reasoning arrests the flow to discern the characteristics of practice, while narrative seeks to reconstruct the flow in the hope of capturing how the practice makes sense. Paradigmatic reasoning attempts to discern what is common across situations by constructing verifiable arguments that result in truth claims....Narrative reasoning, on the other hand...[r]ather than surrender the flow of practice to analysis...attempts to enfold the crucial aspects of practice in the retelling of the story. (Cited in Halverson, Brown, & Zoltners, p. 3)

Narrative research allows for the gathering of data that cannot be obtained through experimentation, surveys, questionnaires, or observations. In their publication of Narrative Research, Lieblich, Tuval-Mashiach, & Zilber (1998) cite researchers in diverse fields of psychology, sociology, and medicine who consider narrative research methodologies a highly appropriate means for the investigation of real life-problems and the gathering of rich and unique data:

In many studies in sociology and anthropology, the narrative is used to represent the character or lifestyle of specific subgroups in society...these groups frequently are discriminated-against minorities whose narratives express their unheard voices....Narratives are also used in developmental psychology and sociology to study...social and cognitive development. In the cognitive sciences, the narrative is employed to study memory, development of language, and

information processing.... In applied work, clinical psychology uses the narrative in the context of therapy. Restoration, or the development of the life story through psychotherapy, is considered the core of the healing process. (p. 4 - 6)

Jerome Bruner (1990a) noted that negotiating and renegotiating meanings by the mediation of narrative interpretation is one of the great achievements of human expression (p. 67). Narratives draw together diverse events, happenings, and actions of human lives into a thematically unified whole. Wilhelm Dilthey refers to narratives as “lived experiences of reality” (1985, p. 9), which Polkinghorne contends are “uniquely suited for displaying human existence as situated action” (1995, p. 5). In education, researchers often rely on stories and anecdotes from students and teachers to better understand “the contextual nature of practice as it unfolds in day-to-day life” (Halverson, Brown, and Zoltners, 2001, p. 2). We can see examples of this in the works of Eisner, 1995; Friere, 1970; Gardner, 1983; Goodlad, 1984; Holt, 1982; Lipman, 1985; McLaren, 1989; Matthews, 1994; and Neill, 1960.

Narratives further provide a method of conveying contextual knowledge that preserves the complexity and unity of a situation not directly observable by the listener, reader, or researcher. In the field of law, narratives are often primary resources in testimonies establishing reasonable doubt. The International Court of Justice frequently relies on narratives to establish violations of international law and abuses of human rights. Examples of this are seen in cases cited by Bittner, 2001; Brownlie, 1998; Caney, 2001; Hurrell, 2001; and Steiner & Alston, 2000.

### *Hermeneutic Theory*

While the strengths of narrative research in relation to social inquiry are considerable, such methodologies do have their limitations which, according to Lieblich, et al., stem from the sheer amount of accumulated material and “the interpretive nature of the work” (p. 9). Hirsch (1976), in particular, has made a strong case for concerns surrounding contextual autonomy and the application of generalized methods of interpretive research. He states that “an interpretive model or methodology that is

not correctly descriptive or normative for all textual interpretation is not correctly descriptive or normative for smaller groupings of texts.” He further contends “[t]he proper sphere of generalization is the domain of principles, not methods, and the determination of general principles is properly the concern of general hermeneutic theory” (p. viii).

According to Hirsch, hermeneutics can and should serve as a foundational and preliminary discipline for all literary interpretation. Hermeneutics is the study or science of understanding and interpreting. The validity of narrative inquiry is reconciled with the adoption of a hermeneutic approach to understanding, interpreting, and the “laying-out” or explaining of narratives:

From very early times the idea of interpretation has combined and, to some extent, confused two functions, the understanding of meaning and the explication of meaning. One of the earliest distinctions in hermeneutics discriminated between these two functions: the *ars intelligendi*, the art of understanding, and the *ars explicandi*, the art of explaining. Obviously an interpreter must first construe or understand a meaning before he explains it to others. Nevertheless, it is useful to stick to the broad term “interpretation,” that fuses the two functions, since they do go together whenever representation is explicated. To focus on the prior activity, one can simply use the term “understanding.” (p. 19)

### *The Hermeneutic Circle*

And while a fusion of terms into a broad conceptualization of “interpretation” may provide narrative researchers with some reassurance as to its particular meaning in hermeneutical thought, an interpretation of the word “meaning” itself comes under scrutiny. In answer to those who argue that “all knowledge is relative” and, therefore, there cannot be a singular or more valid interpretation of its meaning, Hirsch argues that it is not the meaning that changes, but rather the significance of the meaning (1976, p. 8). The relationship of the contextual meaning to which Hirsch is referring, is familiar to many as the “hermeneutic circle,” a paradoxical and at once reversible situation where it is necessary to understand something in order to explain it, yet, the

understanding is derived from the interpretation of the reading:

[I]n reading a novel of Dostoevsky, is not the dialogue heard with the “inner ear”? Is not meaning, therefore, inseparable from the aural intonations which are supplied in conformity with the “circle of contextual meaning” that has been built up in the process of reading the work.... Here is that reverse direction in the dialectic again: the reader supplies the “expression” in accordance with his understanding of the text. Clearly, the task of oral interpretation is not a purely technical one of expressing a fully transcribed meaning; it is philosophical and analytical, and can never be divorced from the problem of understanding itself.... It is this problem that is the subject of hermeneutics. (Palmer, 1969, p. 17)

T. S. Eliot (1979) explains the hermeneutic circle and the circle of understanding another way: “We shall not cease from exploration. And the end of all our exploring will be to arrive where we have started and know the place for the first time.”

Both the strengths and weaknesses of hermeneutics to social inquiry are evident in Ricoeur’s work. Ricoeur describes the nature of the hermeneutic circle:

[T]o understand, for a finite being, is to be transported into another life. Historical understanding thus involves all the paradoxes of historicity: how can a historical being understand history historically? These paradoxes, in turn, lead back to a much more fundamental question: in expressing itself, how can life objectify itself, and, in objectifying itself, how does it bring to light meanings capable of being taken up and understood by another historical human being, who overcomes his own historical situation? (1974, p. 5)

What is at once a weakness of hermeneutics becomes its great strength as a research methodology - the ability to coexist with irreconcilable approaches to the study of interpretation, explanation, and understanding. In Ricoeur’s work we see clearly the influence of Gadamer in the promotion of the philosophical and historical context of meaning and understanding in “Being” (1976). And if we accept Gadamer’s assertion that “[h]ermeneutics is an encounter with Being through language,” then the act of Being, transmitted through language, is narrative (cited in Palmer, p. 42). The intrinsic characteristic of narrative, spoken and written, is to bring meaning and understanding to an event.

Understanding requires knowledge of the historical and ontological context of Being, which returns us again to the hermeneutic circle and the methods and methodologies that guide this research inquiry into the meaning and implications of the right to education for classroom practices. Throughout this inquiry I have attempted to weave together narratives - my own, those of the research participants, and those that appear in the literature - in order to more fully examine the general claims of the Declaration as well as specific statements contained in the text of Article 26. The result, I hope, is a line by line unfolding of the universal right to education, and a laying open of its imperatives to the scrutiny of multiple interpretations.

To a large degree the structure of this study is dictated by the text of the universal right to education. While Chapter 1 provides the reader with a background to the study, and Chapter 2 a brief introduction and overview of the concept and evolution of human rights, the format of Chapters 3 through 11 follows a line by line, and often a word by word, interpretation of the right to education exactly as it appears in Article 26 of the Declaration. The many different voices intertwined throughout this study speak through a review of the literature, the interview inquiry, and through my teaching experiences and conversations with colleagues. These voices represent, in varying degrees, multiple positions on the interpretations and implications of the right to education.

At times it was difficult to uncouple myself from the various perspectives in which I have experienced and/or considered equality and the universal right to education. For I am at once a student, an administrator, a teaching colleague, a researcher and writer sliding between the many experiences engaged in from these distinctive perspectives. Alternating between the first person singular, "I", and first person plural, "we", I tried to assume ownership and take personal responsibility for my own views and speculations as the researcher and writer. However, I was equally conscious of not excluding others from this conversation, and to this end often found myself speaking to and as a member of the teaching profession, wishing to embrace and engage educators in the process of discussion and interpretation of the right to education.

## CHAPTER 2

### THE CONCEPT OF HUMAN RIGHTS

As astonishing as it may seem, educators know very little about the universal right to education as acknowledged in the Universal Declaration of Human Rights. This must change, for there exists a danger in not knowing. Though inherent in the fact that we are all human, the rights and freedoms we now enjoy were hard won through great struggle and sacrifice on the part of our ancestors. To assume that existing rights and freedoms are now protected by legislation and promoted by those charged with the responsibility of creating such legislation is unwise and, more over, untrue. For those in positions of power and authority - particularly governments - have traditionally posed the greatest threat to their promotion and realization.

A danger lies in disregarding the importance of human rights, assuming wrongly that they are merely a product of wishful thinking in the projection of a morally upstanding, utopian-like society. Human rights, in fact, are less an idealization of favourable moral interactions among members of society than a result of historical and reasoned precedent. Historical evidence indicates that legislation and enforcement of human rights are a necessary and indispensable part of our established legal codes, ensuring a minimum level of protection for the promotion of human dignity and the survival of the human species. However, human rights are only effective in this endeavour when they are fully acknowledged and their conceptualization fully appreciated. This is the object of the right to education, and understanding the concept of human rights is, therefore, the essential starting place for this inquiry.

The Preamble of the Universal Declaration of Human Rights (UDHR) displayed in Table 1, on p. 27, makes certain assumptions regarding the existence of human rights. This chapter examines several of these assumptions: What are human rights? In what way(s) are they universal in their application? Where do human rights come from? What is the basis of their authority? Why are human rights considered inalienable? And, finally, are human rights necessary?

<p>UNIVERSAL DECLARATION OF HUMAN RIGHTS</p> <p>United Nations General Assembly Resolution 217 A (III) of December 10, 1948</p> <p><b><i>Preamble:</i></b> Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world...</p> <p><i>Now therefore: The General Assembly Proclaims</i> this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of member States themselves and among the peoples of territories under their jurisdiction. (UN High Commissioner for Human Rights, 1948)</p>
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Table 1

Preamble of the Universal Declaration of Human Rights

### **What are Human Rights?**

Tautologically, one could say rights are simply a standard by which to judge what is right. To say that one has a right to something is another way of saying that the individual has a valid claim to it. The claim is valid because it is either proper or reasonable or both. *Human* rights are those rights considered fundamental to human survival and the preservation of human dignity and freedom. What is distinctive about human rights is that they are possessed equally by all human beings and no one has the power to give or take these rights away. Human rights are a conceptual

integration of moral principles that forms the basis of a code of conduct used to help guide relationships between people in a society. An appreciation for both their diversity and tendency toward convergence are conveyed in the following justifications. Human rights are expressed as principles that:

- 1) embody the most fundamental notions of morality, equality, and respect for persons (Dworkin, 1977);
- 2) strengthen civic courage and provide individuals with the capacity to recognize and articulate the abuses of freedom and dignity (Ignatieff, 2000);
- 3) are the institutional embodiment of a ‘common good conception of justice’ according to which each member of society’s goods counts (Rawls, 2003);
- 4) provide a measure and a standard for the formulation and interpretation of existing law (Steiner & Alston, 2000);
- 5) are a necessary step in the recognition of animal rights and the rights of other species to exist as a community of equals (Singer, 2000);
- 6) are the conceptual counterpart of governmental obligation to its citizenry (Tomasevki, 2001b);
- 7) provide a logical transition from the principles guiding an individual’s actions to the principles guiding his relationship with others (Rand, 1964).

As moral and legal entitlements, human rights identify minimum standards of legal, civil, and political freedom that can be claimed equally by all people and that take precedence over all other claims.<sup>1</sup> Human rights serve as a measuring stick and a standard for the formulation and interpretation of existing laws, providing an appeal to a higher authority when majority decisions are unjust. “Human rights,” as Michael Ignatieff contends, “are the rights men and women have when all else fails them” (p. 36). We did not, however, always have this understanding of the means and ends of human rights. Current conceptualizations of the inherent rights of the individual as a human being evolved slowly over a period of several thousand years.

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<sup>1</sup> The B. C. Human Rights Code states, “If there is a conflict between this Code and any other enactment, this Code prevails” (Government of British Columbia, 1996).

### **In What Ways Can Human Rights be Considered Universal?**

Cultural relativists contend that there are no human rights that can be adopted by everyone - that universality is a form of cultural imperialism which serves to extend and consolidate the dominance of western states in international relations (Spring, 2000, p. 32). Supporters counter that human rights are universal by virtue of our humanity; that is, owing to the fact that we are all human. They argue that as a species we have more in common than in difference, that we all share the same basic needs - “biological needs such as food, shelter, love, and social needs such as affection, community, and protection from physical harm and disease” - that transcend local culture and need to be protected universally (Perry, cited in Spring, 2000, p. 32). Supporters also argue that for the enjoyment of life human beings must claim certain rights, such as the right to sustenance and to be treated with dignity and respect.

Furthermore, it is argued that morality itself is a universal phenomena, that in a global society the actions and interests of individuals in one region of the world affect those of individuals living in other regions (Snook & Lankshear, 1979, p. 3). On this basis morality is seen as embracing the whole of the human race, creating mutual and reciprocal rights and obligations among all people. There is further evidence to suggest that among all the world’s great belief systems there is a universal interest in promoting the dignity and worth of all people. This interest is perhaps best understood in western culture as adhering to “The Golden Rule”:

Christianity (Matthew 7:12): “In everything, do to others as you would have them do to you; for this is the law and the prophets” (New Testament).

Confucianism (Analects 15.23): “Do not do to others what you do not want done to yourself” (Confucius, 2000).

Buddhism (Udana-Varga 5.18): “Treat not others in ways that you yourself would find hurtful” (Buddha, 1994).

Hinduism (Mahabharata 5:1517): “This is the sum of the duty: do not do to others what would cause pain if done to you” (Hiltebeitel, 2001).

Sikhism: “I am a stranger to no one; and no one is a stranger to me. Indeed, I am a friend to all” (Singh, 1966 p. 1299).

Taoism: “Regard your neighbour’s gain as your own gain, and your own neighbour’s loss as your own loss” (Legge, 1959, p. 213).

Zoroastrianism: (Shayast Na Shayast, 13.29): “Do not do unto others whatever is injurious to yourself” (West, 1970).

Jainism (Mahavira, Sutra Kritanga): “One should treat all creatures in the world as one would like to be treated” (Umasvami, 1974).

Baha’i (Baha’u’llah, Gleanings): “Lay not upon any soul a load that you would not wish to be laid upon you” (Baha’u’llah, cited in Hayes, 1986).

Islam (Hadith): “Not one of you truly believes until you wish for others what you wish for yourself” (Prophet Mohammed, cited in Brown, 1999).

Judaism (Talmud, Shabbat 31a): “What is hateful to you, do not do to your neighbour. This is the whole Torah; all the rest is commentary” (Hillel, 2005).

Consequently, there does appear to be a common horizon on which human rights can claim universality. Despite philosophical differences, human rights are ultimately supported by all belief systems that share a common interest in addressing the integrity, worth, and dignity of all persons. As Singapore’s Foreign Minister, Wong Kan Seng, stated at the Vienna conference:

Diversity cannot justify gross violations of human rights. Murder is murder whether perpetrated in America, Asia or Africa. No one claims torture as part of his heritage.

(Sim, cited in Steiner and Alston, 1996, p. 545)

Admittedly the horizon may be far, complicated by the fact that human rights are broadly conceived of in order to achieve consensus among diverse groups of individuals and nations. However, this, too, may not be without some benefit:

It is a strength of a notion of human rights that they are informative and directive but sufficiently flexible to make moral discussion fruitful within a particular culture or within the world community.

(Snook & Lankshear, 1979, p. 20)

*The Human Construct Theory*

Universality also calls into question the legitimacy of human rights as they are formulated, invoked, and applied internationally. The word “universal” can mean something which is belonging to, related to, or inherent in the whole of humanity, such as the basic human needs of food and shelter. It can also refer to something that is present at all times and in all places, such as the laws of gravity. Supporters of the human construct theory hold the view that human rights are not inherent in the fact that we are all born human, that a right is not a natural law like the law of gravity which continues to exist whether or not human beings acknowledge its presence. The argument here is that human rights are not simply out in the universe awaiting human discovery.

Adherents of the human construct theory point to historical and legal evidence, such as the Magna Carta, the Rights of Man, and the Declaration of Independence as examples illustrating the long political and military struggle to establish a basis for human rights. It is also pointed out that there are great numbers of peoples in the world who know no rights and who indeed cannot claim to possess any, even those most fundamental to the protection of life and human dignity. With little difficulty whole societies can be named wherein individuals lack each and every human right listed in the UDHR (Silvey, 1999, p. 74). These contentions are confirmed by comparing such societies to those where human rights are widely observed, and asking rhetorically if these rights were there simply for the taking, or were they won by political and economic struggle and maintained by enforcement of the rule of law?

*Rights, Liberties, and Freedoms*

To hold such a view, however, is to confuse rights with freedom and liberty. Certainly individuals cannot exercise their rights if there are obstructions placed in their way. Slaves, blacks, aboriginal peoples, and women have always possessed rights - inalienable rights - but they have lacked the conditions of freedom in which to

exercise their liberty to claim their rights. Denied the basic conditions of freedom, individuals are not at liberty to choose their own path or their own actions along their chosen pathway; they cannot choose to vote, make contracts, or marry. Members of other groups, such as persons with special needs or gays, often do not act on their liberties for fear of being seen as different and, particularly in the case of the latter, for fear of reprisal and physical violence. But unfavourable conditions of freedom do not negate the existence of people's rights, they simply mitigate their liberty to claim their rights.

The necessity of providing conditions conducive to the claiming and realization of human rights is expressed in the Preamble of the UN International Covenant on Civil and Political Rights:

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights. (Sieghart, 1985, p. 178)

### **Where do Human Rights Come From?**

We already possess our rights in two senses: either because our ancestors secured them or because they are inherent in the very idea of being human. (Ignatieff, 2000, p. 28)

Philosophers and others have debated for centuries about the concept of "rights" - what they are, where they came from, and how they evolved. Different theories have been advanced regarding their origins: divine rights, natural rights, inalienable rights, moral rights, rights of man and, finally, human rights. As a foundation for my present inquiry it is necessary to have some understanding of the history and evolution of rights and human rights in particular. What follows is a brief and highly selective chronology of some significant historical events that occurred in Europe and in North America that contributed to the development of human rights in the western world.

*Natural Law*

We can find origins of human rights beginning in the Northern Mediterranean region before the first millennia. The writings of Ancient Greek philosophers stressed that there existed a higher law than human law. Sophists argued that no one could violate the laws of nature, which showed in humans as well as in animals that the strong will dominate the weak. Natural law was that “might made right.” Plato (1980) argued that natural inclinations and capacities should order the ideal society, that duties and responsibilities are dictated by natural law which he defined “as the habit of giving to everyone what is due to him according to nature” (Strauss, 1965, pp. 146-147).<sup>2</sup>

Aristotle distinguishes between natural and man made laws, with the former comprising of enduring universal truths and the latter simply temporary rules (Hughes, 2001). For Aristotle, human laws were only copies of natural and eternal laws, and viewed natural law as a ruling principle based upon universal reason. Aristotle believed that this inherent rationality in the universe was created by God, whose law applied universally and equally.

In the first century B. C., the Roman philosopher Cicero insisted that Aristotle’s higher, “natural” law was universal and could be discovered through human reason. According to Cicero, natural law forms the basis for our intuitions of right and wrong, and is the context for our ability to reason. Furthermore, our ability to discern this natural law is universal:

True law is right reason in agreement with nature...it is of universal application, unchanging and everlasting...we need not look outside ourselves for an expounder or interpreter of it. And there will not be different laws at Rome and at Athens, or different laws now and in the future, but one eternal and unchangeable law will be valid for all nations and for all times. (1928, xxii. 33)

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<sup>2</sup> Plato describes the natural order as individuals who are a mixture of gold, silver, or bronze. In this “natural” ordering of society, he concluded that individuals should occupy a station in life according to their worth. According to Plato’s “Myth of the Metals”, men made of gold were the most precious and should, therefore, lead and rule, while those of lesser metals should work as craftsmen, soldiers, or farmers (Spring, 1999, p. 9).

Russell Kirk expands upon the Ciceronian concept of natural law:

Learned men know that law is the highest reason, implanted in nature, which commands what ought to be done and forbids the opposite....Law is a natural force; it is the mind and reason of the intelligent man, the standard by which justice and injustice are measured. Law, then, at base is a knowledge of the ethical norms for the human being. (1991, pp. 109 - 111)

Kirk further points out that natural law, conceived as a natural *moral* order rather than a natural *physical* order, was the “moral imagination” enabling human beings, through the exercise of reason, to apply other laws humanely (p. 112). According to Cicero:

Justice is right reason applied to command and prohibition....if the principles of justice were founded on the decrees of peoples, the edicts of princes, or the decisions of judges, then justice would sanction robbery and adultery and forgery of wills....But in fact we can perceive the difference between good laws and bad by referring them to no other standard than nature. (1928, xv. 42 - xvi. 44)

*The Divine Right of Kings: Unjust Laws Are Not Laws*

During the Middle Ages some important English legal documents evolved from the idea of natural law. The earliest, and perhaps the most famous, is the Magna Carta, that King John approved against his will in 1215. The Magna Carta is often thought of as the corner-stone of liberty and the chief defense against arbitrary and unjust rule in England. The Magna Carta establishes for the first time a very significant constitutional principle, namely that the power of the king could be limited by a written grant. Below we can see the term “rights” underlying the liberties of free men and the social institutions that protect citizens from the arbitrary exercise of power by their rulers:

(1) First, that we have granted to God, and by this present charter have confirmed for us and our heirs in perpetuity, that the English Church shall be free, and shall have its rights undiminished, and its liberties unimpaired. That we wish this so to be observed, appears from the fact that of our own free will, before the outbreak of the present dispute between us and our barons, we granted and

confirmed by charter the freedom of the Church's elections - a right reckoned to be of the greatest necessity and importance to it - and caused this to be confirmed by Pope Innocent III. This freedom we shall observe ourselves, and desire to be observed in good faith by our heirs in perpetuity. (Britannia, 2004)

King Edward III reaffirmed the Charter, in 1354, introducing into law the principle of “due process”, a concept stating that no person could be deprived of life, liberty, or property without a fair and adequate trial. Due process, however, did not include the King who, according to the theory of The Divine Right of Kings, was above the law. As there seemed little way of getting around the law of divine right, Parliament, instead, ruled that certain laws of the King (Charles I), such as levying taxes without the consent of Parliament, were unjust. The Petition of Right, drawn up by the English Parliament in 1628, claimed the sole right to create laws, and placed an emphasis on freedom from government control and the formulation of liberty rights, including freedom of speech, religion, and enterprise. Parliament did not, however, guarantee the ability of citizens to exercise these rights, and the ability to exercise their rights was often hindered by illness, poverty, and lack of education.<sup>3</sup>

Natural law had always stressed the duties over the rights of government and individuals. However, in the late 1600's natural law began to emphasize natural rights. This change was influenced largely by the writings of the English philosopher, John Locke (1663/2002), who theorized that the legitimacy of governmental authority depended upon the people's consent. His theory of natural rights is based on three principles: a) all persons possess rights by nature and are, therefore, an intrinsic property of people; b) that no law, state, or sovereign can legitimately give or take away an individual's rights; and c) laws are valid and binding only in so far as they are compatible with people's natural rights.

According to Locke, people originally lived in a state of nature with no restrictions on their freedom, but soon came to realize that confusion would result if each person enforced his or her own rights. People agreed to live under a common government, but

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<sup>3</sup> 350 years later, equality rights will be guaranteed in the Canadian Charter of Rights and Freedoms.

not to surrender their “rights of nature” to the government. Instead, they expected the government to protect these rights, especially their rights to life, liberty, and property. Locke's ideas of limited government and natural rights became part of the English Bill of Rights in 1688 (Encyclopaedia Britannica, 2000a) and, a century later, would heavily influence the drafting of both the French Declaration of the Rights of Man and of the Citizen (2000b), as well as the United States Declaration of Independence and Bill of Rights (2000c). The English Bill of Rights essentially brought to an end the Divine Rights of Kings, recognizing Parliament’s legal right to establish laws. Laws made without the consent of Parliament were considered illegal.

### *The Rights Revolutions*

By the end of the Middle Ages, the idea that individuals all had a specific and “natural” role to play in a society was giving way to the notion of individualism. People were uncoupled from society, and individuals increasingly became free to determine their own social destinies.<sup>4</sup> As the 18th century unfolded, a new Age of Reason was well underway. Fueled by new discoveries of the natural sciences, and liberated from feudal custom by the enlightenment activities of the Renaissance and the Reformation, the stage was set for the American and French Revolutions.

The outcomes of the French and American Revolutions were revolutionary in several ways: a) the hereditary rule of monarchy was overthrown and replaced by elected representatives of a republic;<sup>5</sup> b) government power within the new republics was limited to the powers granted by the state’s Constitution; c) the principle of sovereignty resided in the people through the state; and d) the rights and freedoms of the individual were identified and enshrined within the Constitution.

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<sup>4</sup> The promotion of individualism and the uncoupling of the individual from society already had a great impetus from the Protestant Revolution that was sweeping through Europe. The Reformation promoted the idea that every individual should learn to read and to interpret the scriptures by themselves, that individuals were not puppets on a string with pre-determined lives, and that the individual could affect their own destinies. This break from the church influenced the separation of the individual from the state.

<sup>5</sup> Though it was not long before Napoleon declared himself Emperor and ruler of France, the impact of the Revolution would have an enormous effect on the events that would follow his brief reign.

The revolutions also produced other significant innovations important to our inquiry. First, they refuted the long held belief that some people are born into special classes (e.g. aristocracy or nobility) and, therefore, deserving of special rights. This idea was replaced by the concept of equality - the understanding that all people are born equal under the law, and that no individual or groups of individuals are entitled to special rights. Secondly, it was held that the natural rights and freedoms of the individual were granted by divine hand, under the authority of the creator, and that these rights were both inalienable and natural.

In France, this expression took the form of the Declaration of the Rights of Man and of Citizens, where upon the National Assembly of France, in 1789, declared that “Men are born and remain free and equal in rights:”

The representatives of the French people, organized as a National Assembly, believing that the ignorance, neglect, or contempt of the rights of man are the sole cause of public calamities and of the corruption of governments, have determined to set forth in a solemn declaration the natural, unalienable, and sacred rights of man....Therefore the National Assembly recognizes and proclaims, in the presence and under the auspices of the Supreme Being, the following rights of man and of the citizen.

(Encyclopaedia Britannica, 2000b)

In the American Declaration of Independence of 1776, natural law appears in a new form - the “laws of nature” - to be found in the natural world and discerned by the new discipline of natural science. The Declaration also acknowledges that an individual’s life is their own by right, owing both to the laws of nature and moral principle, and that these rights are inherent and also inalienable:

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That

to secure these rights, Governments are instituted among Men.  
(Encyclopaedia Britannica, 2000c)

The United States Declaration of Independence transformed liberty rights into claims or entitlement rights; that is, they required that the state make possible the exercising of peoples rights (U. S. Government, 1776/2005).<sup>6</sup> Increasingly throughout the 19th and 20th centuries it would become the responsibility of the state, for example, to ensure the social conditions allowing freedom of speech to be exercised. Economic and social rights, including the rights to education, fair wages, health-care, and decent living conditions also became the responsibility of government (Spring, 2000, p. 12).

### *The United Nations Organization*

Prior to World War II, international law was more concerned with common rights rather than individual rights (Humphrey, 1986, p. 86). The treatment of individuals in their own countries was, in fact, considered outside the authority of international law:

What they [governments] did to their own citizens was their own business, beyond the reach of international law, and not the legitimate business of other countries or of the international community. (1986, p. 10)

Following the end of the War and its evidence of wholesale violations of the rights of German and European citizens by the democratically elected government of Germany, there was a compelling interest in the development of international laws protecting the rights and properties of human beings - all human beings. The creation of the United Nations organization in 1945, established by the Allied powers in order to prevent further war and to protect people's rights, brought members of the international community together in an effort to promote international peace and cooperation.

However, even after World War II many governments were still reluctant to push for

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<sup>6</sup> Joel Spring (1999) summarizes the distinction between claims rights and liberty rights in the following way. *Liberty* rights provide the right to do something without the obligation of ensuring that a person can actually exercise that right. Liberty rights only require that individuals and government do not interfere with the exercise of liberty. *Claims* rights (also referred to as entitlement or welfare rights) place a duty on society and government to ensure that everyone can exercise their rights. Claims rights require human activity to ensure human rights, whereas liberty rights require only passive non-interference (pp. 160-161).

and support international laws that could conceivably challenge their authority as the supreme law makers for the citizens of their country.<sup>7</sup> According to Humphrey, the real push for the recognition of individual human rights was more the result of determined lobbying by non-governmental organizations - churches, trade unions, ethnic groups, peace movements, etc. - rather than any affirmative government action.

The first task of the new organization was the creation of the Charter of the United Nations, in 1945, that set forth its general aims. The Charter was unanimously accepted by all 51 original member states (U. N. Department of Public Information, 2007), and an international treaty became binding on all constituents:

- to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and
- to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and
- to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and
- to promote social progress and better standards of life in larger freedom. (United Nations, Preamble, 1945)

### *Justice: The Balancing of Rights*

Among the important innovations of the U. N. Charter was the development of the World or International Court of Justice (ICJ) in 1945, in The Hague, Netherlands. The ICJ has a dual role to play: to settle in accordance with international law the legal disputes submitted to it by States, and to give advisory opinions on legal questions

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<sup>7</sup> The Canadian government, for example, showed little interest in the promotion of human rights, and even abstained from voting to adopt the UDHR in the General Assembly until, “embarrassed by the company in which they found themselves, reluctantly changed their position in time for the final vote in the Assembly three days later.” The company to which Humphrey refers were six communist member states, Saudi Arabia, and South Africa (Humphrey, p. 8).

referred to it by duly authorized international organs and agencies. A second feature of the Charter was the development of the Universal Declaration of Human Rights, identifying and enumerating what was now referred to in the Charter as “fundamental human rights”. The Declaration was adopted in 1948 by 48 countries.<sup>8</sup> The Court and the Declaration are considered the principal judicial and human rights organs of the U. N. Charter.

The U. S. Declaration of Independence emphasized the rights and liberties of individuals. But it also recognized that the greatest threat to their existence and the best hope for their protection was the government. The Declaration acknowledged the urgent need to limit the power of government:

The Conventions of a number of the States having, at the time of adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added, and as extending the ground Bill of Rights of public confidence in the Government will best insure the beneficent ends of its institution. (U.S. Government, 2005)

Since introducing the U. S. Bill of Rights little seems to have changed in this respect. Noting the great atrocities and abuses of powers regularly committed by governments, Steiner & Alston reiterate the same twin aims of human rights today:

[T]he freedom to act without interference, to be secure against assault on his person or property, to think and speak his mind freely, to keep the fruits of his labour. And while government is necessary to secure that freedom, it is also the greatest danger to it. Thus, the concept of rights serves two functions: to legitimate government and to control it. (2000, p. 257)

Exposing the tyranny of Hitler’s Nazi Germany has resulted in less tolerance for state violations of human rights and increasing support for a world court. Consequently, accepted into the theory and practice of the international legal system, and protected by the principles of international law, human rights have, to a great extent, become

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<sup>8</sup> The UDHR was adopted by a vote of 48 to 0, with 8 abstentions. As of 2004, 192 sovereign nations have signed the UN Charter whose references to universal human rights and freedoms are detailed by the Declaration (United Nations High Commissioner, 2004, p. 8).

enforceable by the International Court of Justice.<sup>9</sup> Thus, from a historical and evolutionary perspective, the acknowledgment and entrenchment of human rights appears a necessary condition for the dispensing of justice through the rule of law:

Majorities can be wrong, when all else fails, morality informs law. Even after human rights and freedoms have become part of the positive fundamental law of mankind, the ideas of natural law and natural rights which underlie them will constitute that higher law which must forever remain that ultimate standard of fitness of all positive law. (Steiner & Alston, p. 149)<sup>10</sup>

Building on this observation Michael Ignatieff adds:

When majority decisions are unjust, dissenting authorities must have the capacity to appeal to a higher authority. Human rights legislation provides just such a language of appeal...There is a need for a higher law protecting minimal rights to dignity and freedom that no country or government can take away. Human rights... gives individuals the capacity to recognize and articulate the abuses of freedom and human dignity. (2000, pp. 43-49)

### **What is the Basis of Authority for Human Rights?**

#### *Domestic Statute Law*

Historically, the importance of the Universal Declaration of Human Rights is comparable with the Magna Carta and the American Declaration of Independence. Human rights have gradually become a strong political and legal influence in many nations. Our legal systems recognize different sources of authority in creating laws. One of these sources is statute law. Statute law is the formal, written law of a country or state, written and enacted by its supreme legislative authority. Within a democratic nation state the authority of human rights is justifiable by the fact that such rights are enacted in full accordance with the provisions of the state's

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<sup>9</sup> According to the ruling of judge Fuad Ammoun, of the International Court of Justice, the principles enunciated in the UDHR "have acquired the force of custom through a general practice accepted as law" (cited in Humphrey, 1984, p. 76). In recent years, we have seen the actions of despotic Heads of States such as Augusto Pinochet of Chile and Slobodan Milosevic of the former Yugoslavia come under the rule of international law.

<sup>10</sup> Compare with Cicero's quote (p. 33) regarding the imutability and universality of natural law.

constitution, by elected assemblies that are constitutionally and legally endowed to enact them.<sup>11</sup>

The Canadian Charter of Rights and Freedoms, for example, adopted in 1982, guarantees “the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.” The Charter also guarantees these rights equally to all its citizens. Section Fifteen of the Charter consists of a guarantee against all forms of discrimination perpetrated by the government:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability. (Government of Canada, 1982)

The Canadian Charter does not invoke natural rights, the power of God, or any other philosophical basis for human rights. Rather it links human rights with human dignity and treats that value as self-evident; that is, without need for justification. The Charter further supports human rights as a state value by linking it to the state’s peace and security. The influence of the Charter is clearly seen in the formulation of provincial human rights codes.<sup>12</sup> The Saskatchewan Human Rights Code states that the purposes of this code are as follows:

- (a) To promote recognition of the inherent dignity and the equal inalienable rights of all members of the human family; and
- (b) to further public policy in Saskatchewan that every person is free and equal in dignity and rights and to discourage and eliminate discrimination. (Government of Saskatchewan, 1979)

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<sup>11</sup> This concept is consistent with the idea that we have held of a nation state since the 17th century, where a state is - or at least ought to be - a society founded on the mutual consent of its members, where its citizens broadly agree on how their society will be run for the common good (Locke, 1986). This agreement is what Jacques Rousseau referred to as a “Social Contract” (Rousseau, 1980).

<sup>12</sup> Canadian legal and legislative practices have also had a strong influence on the drafting of the Universal Declaration of Human Rights. Canadian legal scholar, John Humphrey, assisted in the drafting of the Declaration (Humphrey, 1984). Humphrey supported the creation of a welfare state in Canada, and according to Canadian historian, Michael Ignatieff, this view is strongly represented in the Declaration: “The Universal Declaration of Human Rights, for all its formidable abstraction, is actually an attempt to universalize Canadian social democracy as it stood in the bright dawn of victory after 1945” (cited in Ignatieff, 2000, p. 10).

The BC Human Rights Code (2004, Section 3) acknowledges similar claims:

- (a) to foster a society in British Columbia in which there are no impediments to full and free participation in the economic, social, political and cultural life of British Columbia;
- (b) to promote a climate of understanding and mutual respect where all are equal in dignity and rights;
- (c) to prevent discrimination prohibited by this Code;
- (d) to identify and eliminate persistent patterns of inequality associated with discrimination prohibited by this Code;
- (e) to provide a means of redress for those persons who are discriminated against contrary to this Code;

(Government of British Columbia, 1996)

Furthermore, Section 4 of the B. C. Human Rights Code, stresses the supremacy of human rights over other legislation: “If there is a conflict between this Code and any other enactment, this Code prevails.”<sup>13</sup>

#### *International Customary Law*

As there is no world parliamentary or congressional institution for the creation of international law based on statutes, a question arises as to how human rights can be enforced internationally; that is, on what authority? The answer, according to Humphrey (p. 65), is that the Universal Declaration of Human Rights is a principal organ of the U. N. Charter, and most if not all the provisions of the Declaration have become a part of international customary law. In addition, the widely accepted ratification of the two human rights Covenants, and the fact that the rights stated in the UDHR are commonly recognised as “well-founded in moral and good practice terms,” means that there are now increasingly unchallengeable grounds for asserting that the UDHR rights have become part of international customary law.

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<sup>13</sup> Interestingly, the BC Human Rights Code was recently amended to overturn mandatory retirement at the age of 65. BC Attorney General, Wally Oppal, stated that “What this [legislation] really means is that if you are laid off or terminated at 65, you have a remedy under the Human Rights Code whereas before you didn’t” (Kines, 2007). What this suggests, is that an appeal to human rights is a strong influence in the formulation and readdress of legal decisions.

Furthermore, unlike treaties, that only bind a country once it has accepted the treaty obligations, all countries in the world are bound, whatever their particular view may be.<sup>14</sup> A country cannot repudiate international customary law as it can a treaty obligation. Human rights are recognized as a platform for international law, providing a universal standard of norms that can be used for balancing claims in a global society. This is so because the rights defined in the Declaration were founded on “general principles of law recognized by civilized nations” (Humphrey, p. 38):

It is out of such stuff the customary law of nations is made. For custom is simply the consensus of states as to what the law is and it is proved out of their own mouths, as it were, by their official statements and practice. What should be more official than a vote cast at the United Nations? When a member state votes for a resolution that purports to say what the law is, that is evidence that, in the opinion of that state, such is the law. So while resolutions of the General Assembly are not ordinarily binding in themselves, they may be evidence of customary law. (p. 76)

### *A Code of Rights*

Today, in the international legal system, the rights of the individual supersede the rights of the state: “fundamental human rights are superior to the law of the sovereign state....the recognition of inalienable human rights and the recognition of the individual as a subject of international law are synonymous” (Steiner & Alston, 2000, p. 148).<sup>15</sup> Paul Sieghart (1985), further describes a detailed code of rights under international law which, although introduced in 1976, was already officially recognized and adopted by nearly half of the world’s sovereign states by 1984. Sieghart identifies nine components that make up the code of international human rights laws:

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<sup>14</sup>The International Covenant on Economic, Social, and Cultural Rights (U. N. High Commissioner, 1966) is now acknowledged by 149 states, and the International Covenant on Civil and Political Rights is now acknowledged by 152 states (Humphrey, 1984, p. 12; Sieghart, 1985, p. 238). According to Hurst Hannum, “[t]he two Covenants are considered the most authoritative global expositions of the content of international human rights law” (1985, p. 13).

<sup>15</sup> It is for this reason that legal scholar, John Rawls, (2001) entitled his book on constitutional democracy *The Law of the Peoples*. The title reflects the idea that “peoples have different features than states as traditionally conceived with their two powers of sovereignty” (p. v).

There are three global treaties: the Charter of the United Nations, and the two UN Covenants on Economic, Social, and Cultural Rights, and on Civil and Political Rights respectively....There are four regional treaties: the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter, the American Convention on Human Rights, and the African Charter on Human and Peoples' Rights....And there are two Declarations, one global and one regional: the Universal Declaration of Human Rights, and the American declaration of the Rights and Duties of Man.<sup>16</sup> (p. viii)

Given the increasing trend towards globalization and expanded international trade, it is likely that a corresponding increase and expansion of international law will also serve to reinforce the legal authority of human rights. As Steiner & Alston observe, [t]he moral claims of today are often the legal rights of tomorrow. (p. 149)

Snook & Lankshear (1979) also assert the need for a higher authority that informs our legal systems: "Although legal systems have similar aims to morality, they are only codifications, they cannot cover all eventualities and need constant revision in light of our heightened understanding of morality" (p. 3). According to Ignatieff, the relationship between our legal system, justice, and human rights must remain mutually interdependent:

Establishing what is just involves balancing rights claims, which is to imply that rights conflict: my right to property versus yours, your right to privacy versus the public's right to know. (p. 30)

Evidence of the legal influence of human rights is steadily increasing. As Ignatieff again observes, "[r]ights make explicit the rival claims that must be adjudicated if a society is to be just" (p. 30). Human rights law is needed to protect the rights of those least able to protect themselves. In the case for the right to education, those least able to protect themselves and, therefore, require rights protection are school-aged children. In the U. S., states have modified school laws and administrative practices following the authoritative rulings of the U. S. Supreme Court on the rights

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<sup>16</sup> Sieghart adds that, "Depending on where one draws the line between human rights law and other kinds of international law, there are now twenty or more specialized treaties now in force in the field." These are listed in the Table of Instruments at the back of his book (pp. 239-244).

of students.

The Tinker case (United States Supreme Court, 1969), for example, reaffirmed the rights of students to freedom of expression in schools. In December, 1965, a group of students decided to publicize their opposition to the conflict in Vietnam by wearing black armbands. The principals in the Des Moines Community Schools District heard about the plan and adopted a policy in all schools that forbade the wearing of armbands to school. Students refusing to remove their armbands would be suspended until they complied.

John Tinker, a 15-year-old high school student, and several of his siblings decided to wear armbands to school. They were immediately suspended and told not to return to school unless they removed their armbands. The students stayed away from school until after New Year's Day, when the planned period for wearing the armbands had expired, but their parents pressed charges against the school board. Following a hearing of both parties, the Court ruled in favour of the students, giving the following reasoning in their judgment:

In our system, state operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. Students in school as well as out of school are persons' under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. (Part II, Paragraph 9)

In the United States Constitution, the right to freedom of expression is protected by

the First and Fourteenth Amendments.<sup>17</sup> Equivalent protection is provided internationally and universally by the Convention on the Rights of the Child (UN High Commissioner for Human Rights, 1989, Article 13) and the UDHR which states:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers (Article 19)

Based on the Tinker decision, lower courts have considered human rights criteria in writing their opinions as well. The *Sims v. Colfax Community School District* was unique because it involved the hair length of a female student (Koenings & Ober, 1975). The student was suspended from an Iowa high school because she refused to change her hair style which was longer than the “one finger width above the eyebrows” rule. The Court’s decision sustained the student’s right to wear her hair as she wished, and ruled that conformity is not a necessary part of the educational process and can violate students’ rights. Ground rules from Tinker were stressed in the *Sims* decision:

Only those school rules and regulations which are reasonable are permissible...In other words, school hair rules are reasonable and thus constitutionable only if the school can objectively show that such a rule does in fact prevent some disruption or interference of the school system.<sup>18</sup>

The *Wisconsin v. Yodel* decision demonstrates another important ruling for human rights (U. S. Supreme Court, 1972). Expert witnesses testified that the basic tenants of the Amish religion emphasize informal learning-through-doing, a life of goodness rather than intellect, wisdom rather than technical knowledge, community welfare rather than competition, and separation rather than integration with contemporary

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<sup>17</sup> A recent United States Supreme Court ruling *has* restricted the free speech rights of American students in a divided 5 to 4 court decision. At issue was the public displaying of a banner on school property that promoted illegal drug use. In support of the majority decision, Chief Justice John Roberts stated that “Student speech celebrating illegal drug use...poses a particular challenge for school officials working to protect those entrusted to their care from the dangers of drug abuse.” The ruling declared that, “The First Amendment does not require schools to tolerate, at school events, student expression that contributes to those dangers” (Alberts, 2007). It should also be noted that this interpretation is consistent with the limiting of human rights for the prevention of harm suggested by *John Mills* in 1861 (1980, p.293).

<sup>18</sup> *Sims v. Colfax Community School District* 307 F. Supp. 485 (Iowa, 1970); For more information see: Koenings, S. L. & Ober, S. L. (1975). *Schooling and the Rights of Children*.

society. The Amish maintained that high school education emphasizes competition, intellectual and scientific accomplishments, worldly success, and a social life with other students. High school would also remove Amish children from their community during important formative adolescent years in which it was necessary for them to acquire the necessary attitudes, skills and knowledge for them to carry on the Amish community.

The U. S. Supreme Court ruled in favor of Yoder. The Court found that the compulsory school-attendance law was in violation of their rights:

The evidence showed that the Amish provide continuing informal vocational education to their children designed to prepare them for life in the rural Amish community. The evidence also showed that respondents sincerely believed that high school attendance was contrary to the Amish religion and way of life and that they would endanger their own salvation and that of their children complying with the law.<sup>19</sup> (US Supreme Court, 1972, p.1)

In Canada, the Supreme Court of British Columbia, in the Johnston Judgment, ruled that charging students fees for school supplies is contrary to the School Act. In a landmark decision in October 2006 the Court struck down the wide spread practice of charging fees for the official education program in British Columbia. The Court ruled that school boards may not charge for “materials and equipment that are necessary to meet the learning outcomes or assessment requirements of an educational program provided by a board.”<sup>20</sup> Interestingly, however, the BC government introduced new legislation (Bill 20) in March 2007 designed to get around the Court ruling by allowing school districts to legally charge school fees (Rud, 2007). The new legislation appears to defy both the universal right to education and the B. C. School Act. I will come back to this point in our discussion of the right to a free education later on in the inquiry.

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<sup>19</sup> For more information see: Hurlbert & Hurlbert, 1989 - 406 U. S. 205 1972

<sup>20</sup> Also known as the Young v. B. C. Ministry of Education case, 2006BCSC1415 [65]. Judge Johnston ruled that student fees are contrary to 82(1) of the School Act R.S.B.C. 1996. This decision reinforces Paragraph 1 of Article 26 in the UDHR protecting the right to a free education.

### **Why are Human Rights Considered Inalienable?<sup>21</sup>**

The full development of the human potential can only be achieved within a society. By adding our strengths together we can accomplish much more than we could as individuals. However, as the need for other beings naturally arises, so too does the potential for conflict. In the course of competition for property and material goods, especially those in short supply, people are apt to exploit, deprive, and persecute each other in order to get a greater share. Human rights identify a set of minimal conditions necessary not only for governing the harmonious relationships between individuals, but also between individuals and property.

No property can be held in common, for the enjoyment of all, without the individual claiming a right to some portion of the common stock for his or her own use. As Locke (1986) observes, water flowing in a stream is of little use to anyone if it remains wholly within the common stock. Some portion of that water must be removed and claimed by the individual in order to drink and thus sustain life “for reason tells us that men, being once born, have a right to their preservation, and consequently to the meat and drink and such other things as nature affords for their subsistence” (p. 129).

And it is here that the laws of nature intersect the laws of humankind. The laws of nature dictate that all living things must nourish themselves to survive. All living organisms are bound by such laws. These are universal laws that all life forms, including human beings, must obey or cease to exist. For most creatures such laws are sufficient to dictate their actions. But for human beings such laws do not entirely suffice. Humanity has developed a second set of laws that govern how we should act in conformity to the universal laws of nature. The laws of humankind are rules governing the micromanagement of human behaviour in any given situation; the laws of nature dictate the situation.

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<sup>21</sup> It should be noted that in the French Declaration of the Rights of Man and of Citizens, and the U. S. Declaration of Independence use the spelling “unalienable”. The Universal Declaration of Human Rights uses the spelling “Inalienable”. I have chosen to go with the more recent spelling as per the UDHR. The terms, however, have the same meaning.

The laws of nature determine that each individual or group of individuals should procure from the common stock - that is, to take from the earth's natural resources - sufficient food, water, and materials as is necessary to survive and sustain themselves in comfort. This is not to say that individuals may take all that they want of the common stock. The extent to which an individual may take from the common stock is precisely limited by what can be used to satisfy their own needs and/or comforts. Procuring more from the common stock than can be used; that is, allowing what is taken from nature to either spoil or to take so much as to leave another wanting, goes against the law of nature. In this respect the law of nature is also the law of reason and on this basis sets limits on each individual's share of the common stock.

Consequently, when we speak of human rights, we generally think of them in the moral or ethical sense. However, it is a universal law of nature that a living creature deprived of sufficient nourishment will die. Thus, the *right* to receive adequate nourishment is a "right" not because it is morally or ethically upstanding, but because it conforms to the laws of nature. Thus, the word "right" invokes a second meaning. A right in this sense is not a moral judgment, but rather a truism - an agreement of fact and a fundamental principle of nature. As Ayn Rand observes:

Rights are conditions of existence required by man's nature for his proper survival. If man is to live on earth, it is right for him to use his mind, it is right to act on his own free judgment, it is right to work for his values.... If life on earth is his purpose, he has a right to live as a rational being: nature forbids him the irrational. To violate man's rights means to compel him to act against his own judgment. (1964, p. 111)

What are the right goals for human beings to pursue and what are the values our survival requires are questions to be answered by the science of ethics:

Morality or ethics is a code of values to guide man's choices and actions - the choices and actions that determine the purpose and the course of his life....Ethics, as a science, deals with discovering and defining such a code....Ethics is an objective, metaphysical necessity of man's survival....Since reason is man's basic means of survival, that which is proper to the life of a rational being is good; that which negates, opposes or destroys it is evil....Life can be

kept in existence only by a process of self-sustaining action. The goal of that action, the ultimate value which, to be kept, must be gained through its every moment, is the organism's life.

(Rand, pp. 13-25)

Human rights are not simply a product of wistful thinking. Instead they appear to be the product of reason and constitute a necessary basis for human survival. When we speak of the inalienability of human rights we mean that such rights are so fundamental to human existence that they are incapable of being alienated, transferred, changed, or separated from the individual human being. Human rights are inalienable because they cannot be alienated from humankind without destroying it. Human rights are a coalescence of morality and reason; they codify what is good, upright, and proper for the harmonious coexistence of human beings within a society precisely because the harmonious coexistence of human beings in society is fundamental to our success and ultimate survival as a species. Rights must be compatible with nature in order to meet the minimal requirements for our survival. Human rights represents this minimum level.

Accordingly, I feel it is pivotal that educators are brought fully into the conversation on human rights. For education, as we shall see in this inquiry, plays a central role in making possible the full realization of all other fundamental human rights - social, economic, and political. And while such rights may be inalienable simply because we are human, the conditions of freedom necessary to exercise these rights are not. As Ignatieff (2000) observes, "it is the nature of human rights to be abused" (p. 37). Thus, to be realized in the spirit in which they were intended, an education in human rights is both necessary and essential to maintain the freedom to claim rights and prevent their abuse by those in positions of power and authority. For these reasons educators must increase their knowledge and understanding of the right to education. With this aim in mind, the goal of this inquiry is to open a space in the body of educational literature for educators to share their common experiences and contribute their interpretations of the right to education so that we may more precisely define its conception and gain a better understanding of the means to its fullest realization.

## CHAPTER 3

### THE RIGHT TO EDUCATION IN THE LITERATURE

In Chapter 2 we considered some historical and contemporary evidence for an increasing commitment to, and validation of, the moral, legal, and constitutional authority of human rights. This evidence revealed an evolutionary process in the development and acceptance of universal human rights that includes: a) the recognition of a higher (natural) law than human law, b) an increase in the complexity and number of rights, c) a movement from liberty to claims rights, d) a shift in the responsibility to make good on these rights, and e) an appreciation of human rights as constituting a valid claim on morality and reason consistent with the universal laws of nature and the growth and development of human society.

Concern was also raised over the lack of familiarity with the universal right to education among educators, and I suggested that not having a knowledge of human rights creates opportunities for their abuse. A second concern that I would like to raise in this chapter lies in the acceptance of unexamined interpretations of the right to education. A search through the extensive body of educational literature since the inception of human rights shows little in the way of a comprehensive discussion either now or in the past regarding the means and ends of the universal right to education. My concern here is which interpretations of the right to education prevail in our schools today, and from where do these interpretations derive?

In recent interview sessions conducted among British Columbia public and independent school administrators I learned that while strongly believing in the promotion of a universal right to education, few were familiar with the text of the universal right to education or exactly what fulfillment of this right actually entailed. As one of the research participants acknowledged, “I am aware that it exists, but I am not familiar with its contents. I couldn’t quote it” (PSP 5). Similar sentiments were voiced by a second colleague in the same school district, “I would say no, I don’t believe I’ve seen a copy of it” (PSP 6).

Perhaps one of the reasons for the lack of familiarity with the right to education among educators is because it is not a topic of instruction or discussion in teacher education programs. Fourth and fifth year students in my history and philosophy of education classes at the University of Victoria over the last several years have frequently indicated that our brief examination of the right to education was often their first encounter with the study of human rights in any sort of detail. They were generally surprised by the number of rights contained in the Declaration and intrigued by the implications that the means and ends of a universal right to education may hold for their future teaching practices.

### **Discussion with Research Participants: An Education in Human Rights**

This discovery prompted me to ask research participants during their interviews how they acquired their knowledge of human rights (Appendix 3, Question 2). None of the participants could recall having received formal instruction in human rights:

I think my age would probably say that I didn't receive such education in school. I grew up in the Okanagan, and I remember my mom walking us through the park and telling us to stay away from that building because that's where the mentally retarded kids are, and that's where the Indian children live - stay away from those! So as far as human rights go, there was tremendous segregation in my mind, but all those stereotypes and thoughts were blown away when I started teaching and realizing. So to me, human rights in education, in the late 1970's, came to be quite profound in my own thinking and learning. I think that my nature is to be a caregiver and I knew something was wrong. The messaging was wrong in how I was brought up. But I think that was cultural. (PSP 4)

For some, however, human rights were taught informally during teachable moments, usually as part of a related study in another subject area:

I do not remember receiving any formal instruction. I do remember teachers who raised my awareness by virtue of who they were as educators and human beings. In their classrooms, and usually this was in Social Studies or English, they would raise people's attention to human rights and equality, but it was done incidentally

or in the context of a novel, or in a historical conversation. It was never done, that I recall, formally. (PSP 3)

I was fortunate to have a teacher a way back in History 12 who was a bit of a champion of human rights. I have been involved on the periphery with groups like Amnesty International and have sponsored an Amnesty International club in the school. I also have some cousins who have been engaged in human rights work on a much more global basis than I have. We talk an awful lot which gives me some insights I guess. (PSP 2)

Human rights education was also not a topic of discussion in professional day workshops or staff meetings that any of the participants could recall. However, a recent B. C. Supreme Court (2006) ruling banning school boards from charging extra school fees for required courses and materials had brought human rights issues to the forefront at school district level meetings in which many of the research participants had been involved. As one participant inquired:

The right to education is an interesting question that was raised in our conversation around school fees. When we talk about students having a right to an education, what should be provided for them? (PSP 3)

The recent media attention on school funding perhaps raised an awareness of rights in education, as all of the participants expressed a sincere interest in the right to education and the timeliness of this inquiry. Participants indicated that discussions regarding the universal and fundamental goals of education were very much needed, and that it is a worthwhile endeavour in bringing such discussions to the attention of the educational community:

When you are in the trench doing it, you don't get a chance to step out and think philosophically about where you are in the whole scheme of societal development and your contribution to society as a whole in Canada. So the questions that you are asking are important ones, and we operate on a premise that is so ingrained that it is not necessarily as well understood as perhaps we would like. So I think that your research has some tremendous value for educators to take a look at these kinds of things. We take a lot things for granted in Canada, in British Columbia, and certainly in our community, so these kinds of questions are helpful for examining what is really important to us. (PSP 1)

The response from one independent school administrator expressed a similar opinion, and was fairly typical of the comments voiced by the research participants:

The right to education is very broad and I guess it needs to be so that you don't run into a lot of trouble. But it needs a lot of interpretation. I think that this kind of topic would be very valuable to us as a community to discuss. (ISP 1)

### **The Uncertainty of Educational Practices**

As a student of education it did not come as a total surprise to find in the interviews a great diversity among the responses of research participants in their interpretations of the right to education. Over the years I have learned that among educators there is not now, nor it seems has there ever been, a shared and epistemological agreement regarding the purpose(s) of education or what knowledges and experiences are most necessary or valuable beyond those of basic literacy, numeracy, and the acquisition of social skills. Consider the questions posed by Aristotle over 2000 years ago and one will find that these same questions remain unanswered and virtually unchanged with the passage of time:

How young persons should be educated, are questions which remain to be considered. As things are, there is disagreement about the subjects. For mankind are by no means agreed about the things to be taught, whether we look to virtue or the best life. Neither is it clear whether education is more concerned with intellectual or moral virtue. The existing practice is perplexing; no one knows on what principle we should proceed - should the useful in life, or should virtue, or should the higher knowledge, be the aim of our training; all three opinions have been entertained.

(Aristotle, 1980, p. 542).

So unchanged are the fundamental concerns of educators, that these same questions could be raised at any symposium anywhere in the world today without raising a single eyebrow, for these same issues are still the focal point of current debates in education. One only has to compare the observations of Aristotle with those of Charles Ungerleider, a university educator and British Columbia Deputy Minister of

Education from 1998 to 2001 to see that this is so:

Let me be blunt. In too many cases we have lost sight of what should be the enduring goals of public schooling: fostering student success and reducing inequalities among students in terms of what they achieve from their schooling. Perhaps the most significant obstacle to overcome is the uncertainty surrounding the goals of education. For most of this century, schooling has been directed toward the achievement of four broad aims: intellectual preparation, vocational preparation, personal development, and social development. There has been little agreement on the meaning of those aims, the relative priorities placed on them and, most important, the particular goals they suggest. Indeed, if one were to select a single word to characterize our attitude towards the goals of education, it would be “uncertainty.” (2005, p. 284)

Again this is not surprising, for a review of the great body of educational literature reveals wide differences of opinion regarding both the means and ends of education. Among some educators there is outright rejection of the practices that currently prevail in our schools (Gatto, 1992; Hern, 1996; Holt, 1982; Illich, 1971; Noddings, 1993), and a great concern that the philosophies which underlie these current practices have not been sufficiently challenged (Chomsky, 2004; Friere, 1970; Gardner, 2003; Gutmann, 1987; Hurn, 1979; Tolstoy, 1991).

Some modern researchers and educators credit education and schooling in Canada and United States as serving two main purposes: the acquisition of various academic or cognitive skills and knowledge, and the development of the essential social skills necessary to successfully engage in the social, political, and economic functions of society (Bowles & Gintis, 1976; Entwistle, 1978; Hirsch, 1987; Sarason, 1996; Schlechty, 1990). However, there is an equal number of writers and practitioners who argue that these ends are wholly insufficient and lacking in meaningful purpose (Bruner, 1971; Darling-Hammond, 1993; Giroux, 1985; Kirkness, 1991; Roland-Martin, 1995).

Traditionally, public schools have awarded status and priority to the pursuit of higher knowledge for the express purpose of promoting and advancing an industrialized-

based society and an educated citizenship with the capacity to critically question and appraise such developments in a democratic manner. On both accounts we can say that such efforts were successful. For industrial and technologically-based societies have emerged with the ability to increase and expand productivity, and their citizens do have the capability to critically appraise the industries and the economic activities they have created within the framework of democracy.

But success in achieving these ends has raised some serious questions and concerns regarding the kinds of industrialized activities in which we find ourselves presently engaged. All around us the industrial paradigm is coming under assault by competing theories of post-modernism (Doll, 1993), challenging and chipping away at the fundamental structures of industrialism. As we move away from an industrial-based to a knowledge-based society (Tofler, 1980), there is a corresponding and parallel movement away from “having” to a greater focus on “being” (Heidegger, 1962). The values upon which such a transformation is based are personal fulfillment, feelings of self-worth, meaningful and stimulating work, time for leisure, and individuals who are self-reliant and autonomous but yet connected to their communities with a sense of purpose (Miller, 1981). And the role of education is not merely one of reflecting these changes in its curricula, but in many cases education and public schools are being pressed to lead this transformation (Counts, 2000).

### **School Improvement and Educational Reform**

Throughout the 20th century educators have expressed concerns about the need to ensure equality, fairness, justice, and freedom in public education. John Dewey was constantly searching for ways to bring the concerns and interests of the individual to the fore, and sought to promote the dignity and freedom of the individual. Dewey died just four years after the proclamation of the Universal Declaration of Human Rights, and makes little mention of the right to education. Had he lived a little longer I have no doubt that Dewey would have promoted his cause for freedom, dignity, and

the worth of all persons through the language of human rights. For the basic language of rights talk is that each individual is an end in itself, not a means to an end.

The 1960s saw a reawakening of concerns focusing on notions of student-centered learning, social justice, freedom of choice, and equality of opportunity. The 1960 publication of A. S. Neill's Summerhill, whose alternative vision presented a direct challenge to conventional, state-run, compulsory schooling, gave the education world a glimpse of the controversial English free school. The Summerhill philosophy maintained that the learner should have complete freedom to choose how, when, and from whom they wanted to learn. In the United States, John Goodman (1964), among others, also argued against custodial institutions, asserting that compulsory schooling amounted to nothing but "compulsory miseducation".

Perhaps the most widely publicized objections to traditional, state-run schooling came from teacher and author, John Holt (1964). Holt claimed that a fear of not succeeding, boredom, and an utter lack of interest in what was being taught were the greatest factors promoting student failure at all levels among American students. Honoured as New York's "Teacher of the Year", Holt's publication of How Children Fail, condemned current educational practices as a tedious ritual that promotes fear and failure. Holt's observations sparked a contentious debate over the means and ends of public education that has not yet subsided. He began with the following lines:

Most children fail in school...They fail because they are afraid, bored, and confused. They are afraid, above all else, of failing, of disappointing or displeasing the many anxious adults around them, whose limitless hopes and expectations for them hang over their heads like a cloud. They are bored because the things they are given and told to do in school are so trivial, so dull, and make such limited and narrow demands on the wide spectrum of their intelligence, capabilities, and talents. They are confused because most of the torrent of words that pours over them in school makes little or no sense. It often contradicts other things they have been told, and hardly ever has any relation to what they really know....Except for a handful [of students], who may or may not be good students, they fail to develop more than a tiny part of the

tremendous capacity for learning, understanding, and creating with which they were born and of which they made full use during the first two or three years of their lives. (1964, pp. 1-2)

Holt attempted to support his claims, arguing that his conclusions were justified when so many children and young adults, despite compulsory education laws, voted against school with their feet. He argued for a child-centered approach to education, where the learner would be at the center of their education, as agent and architect of their own learning.

### **Defending the Status Quo**

When Holt, Goodman, Neill, and others published their ideas calling for non-compulsory, child-centered education, they encountered some sharp criticism. In particular, Harold Entwistle, an educational philosopher at Concordia University in Montreal, was highly skeptical of the philosophies promoted by these reformers. Entwistle (1970) argued that over the years the idea of learner-centered, or what is often referred to as “child-centered education”, has come to mean all things to all people: “[i]t has become a slogan with all the potential for promoting change and creating misunderstanding of slogan mongering in education... Not surprisingly, it has provoked a critical, even hostile reception from many educationists” (p. 11).<sup>22</sup>

In a later essay, entitled Compulsory Schooling and Freedom in Education (1993), Entwistle specifically takes Holt to task on his position that schools promote fear and teach children to think badly. He claims that “Holt’s condemnation of schools fails to make a distinction between learning and education”, and that it is “inappropriate to talk about the desirability of free, natural learning...when the function of schools is to initiate children into [the] artificial world we call civilisation” (1993, pp. 84-86).

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<sup>22</sup> Calls for learner-centered curricula that reflect the passions and interests of the child have been a reoccurring theme in educational literature for at least two centuries. A good example of this approach is found in Rousseau’s education of the fictional child Emile (Rousseau, 1980a).

Entwistle also accuses Holt of failing to fully comprehend the important differences that exist between the various kinds of freedom that, if overlooked, could lead to the restriction rather than promotion of equality, freedom, and the right to education that Holt championed. According to Entwistle, compulsory schooling and a common, compulsory curricular core are fundamental to the acquisition and acceptance of a “common core of laws and values” that, in a pluralist society, he contends, is both necessary and essential for a democratic conception of the common good (p. 83).<sup>23</sup> Entwistle posits that pluralism depends on the acceptance of certain universal values that impose certain duties and obligations upon people to promote and respect the rights of others, without which democratic societies cannot function.

Furthermore, Entwistle (1970) claims that child-centered advocates fail to distinguish between technical and moral reasons for focusing attention on the individual learner. According to Entwistle, “all good teaching is child-centered” in as far as the rationale of child-centered learning requires attending to “the learner’s peculiar strengths and limitations in order to promote efficient learning at a technical level” (p. 205):

Focusing attention upon the individual learner may derive from either technical or moral considerations. A teacher who stresses individuality may be attempting to follow the moral imperative<sup>24</sup> to treat his pupils as ends and not, technically, as things. But it is also possible to be interested in individual differences merely in a technical sense, as a means towards the teaching and the learning of a *given* curriculum, which may make no concessions to individual interests or talents. (p. 25)

But Entwistle also cautioned against interpreting a child-centered approach as one which must revolve around the immediate and limited interests of children:

A learner-centered education which starts from a child’s own spontaneous experiences and interests and is limited by his present capacity for understanding carries dangers of subjectivity and may merely confirm the child in his immaturity, his prejudices and his cultural poverty... Motivation intrinsic to the learner may dispose

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<sup>23</sup> Entwistle is not alone in his views. ED Hirsch Jr. (1987) makes a similar argument for a common, core curriculum as a necessary requirement of “Cultural Literacy.”

<sup>24</sup> The moral imperative to which Entwistle refers, derives from R. S. Peters (*The Concept of Education*, 1967, P. 3) who states, “To say that we are educating people commits us to morally legitimate procedures.”

him towards activity having no educational value....the learner's attention should be directed towards meanings which are significant for living in a civilized culture. The child's education should point him towards the *best* available culture.<sup>25</sup> Thus in the child's own interests, we need the concept of the teacher as authority. (p. 207)

For Entwistle, then, unqualified interpretations of child centered-learning could lead to indifference in planning some sort of direction in which children's learning ought to be channeled. He further sees that unchecked, child-centered education might promote egocentrism from which he claims it is a function of public education to move away from. Finally he argues that education must be more scientific than spontaneous, and that the whole reason for public education is to systematically and deliberately introduce children to the kinds of learning experiences "which cannot be had from the ordinary business of living" (p. 85).

Entwistle's arguments were persuasive, providing justification for the compulsion of education as a prerequisite for the promotion and protection of human rights, freedom and equality of opportunity. By the late seventies Holt had all but given up on the possibility that schools would welcome and promote the kinds of sweeping liberal changes he and others were proposing. Unable to affect the changes he desired within the public education system, Holt (1974) resigned himself to promoting his educative values outside of the institution of school, and began to fight for children's rights to control their own learning. He continued to develop these ideas and practices, which finally led to his promotion of the home schooling movement as a legal alternative to state-run, public education (Holt, 1976).

Entwistle's arguments defend attacks on the status quo, articulating the need to maintain compulsory schooling and a common, compulsory, curricular core for the benefit of society and the common good. And since Entwistle there is little evidence that educators have ventured to ply the right to education in support of their claims

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<sup>25</sup> Here Entwistle uses Matthew Arnold's conception of culture: "[c]ulture is 'the pursuit of perfection'. This 'perfection...is a harmonious expansion of *all* powers that make the beauty and worth of human nature'. And, especially, this pursuit of 'our total perfection' is a process 'of getting to know, on all matters which most concern us' the best which has been thought and said in the world'" (p. 132).

for educational reforms. But convincing as Entwistle's arguments are, they have not been sufficient to deter a long line of challengers from continuing the push for a different kind of education than the one currently taking place in our schools. The diversity and extent of the claims calling for educational reform and school improvement is extensive, and the following voices are representative of these challenges.

### **The Language of Human Rights**

In his recent publication Noam Chomsky (2004) labels current educational practices as "MisEducation", lending support to the voices of John Dewey (1966), Paul Goodman (1964), and Paulo Freire (1970) in their condemnation of educational practices that promote values of accumulation and domination. Samuel Bowles and Herbert Gintis (1976) argue against the contradictions inherent in reconciling equality of opportunity with the "sorting functions" of school. Ivan Illich and Matt Hern call for "deschooling" and "unschooling" society, advocating an end to state-controlled, compulsory education and the remaking of a society without schools (Hern, 1996). John Taylor Gatto (1992) and Vinoba Bhave (cited in Hern, 1996) criticize schools for "dumbing us down", and making us dependent on knowledge and methods of learning that act to enslave rather than liberate our minds.

Female voices have also not been absent from this conversation, and raise a different set of concerns. Maxine Greene (1988), decries the absence of conditions necessary for the promotion of liberty within our schools - conditions that when present in our education provide opportunities to deliberate between alternatives - which she contends is the true aim of freedom. Similarly, Amy Gutmann (1987) argues that schools need to preserve freedom of thought and cease from imposing their views or repressing individual and alternative concepts of the good life. Jane Roland Martin (1985) calls for "gender-sensitive" education, articulating a need to redefine the functions of education in terms of our productive and reproductive roles in society.

Carol Gilligan (1982) and Nel Noddings (1992) point to the lack of caring in our schools, and argue that a liberal education has no place as the universal ideal of schooling. They argue that the traditional focus on classical liberal arts should be replaced by a focus on caring and respect.

And while challenges to the status quo are many and varied, essentially they are all advocating for the same thing; the reconstruction of our schools into more equitable, just, and caring enterprises that invite participation in the creation of common goals that are democratically conceived. And this, of course, is the language of human rights, and begs the question of whether existing educational practices fulfill the means and ends of the universal right to education? For Entwistle and many others the answer would be yes, as it is widely held that education is of great benefit to all members of society, and that fulfillment of the right to education consists of providing all children with equal access to free, compulsory education protected by legislation and enforced by the rule of law. Yet, there is, I think, something inherently wrong with the compulsion of a human right that does not support gains for all students nor promote the interests of all members of society equally. I have given a great deal of consideration to Holt's observations and, despite the pointed attacks which his views have frequently drawn, I believe that his vision truly captures the spirit and the intent of the universal right to education:

The alternative - I can see no other way - is to have schools and classrooms in which each child in his own way can satisfy his curiosity, develop his abilities and talents, and...get a glimpse of the richness of life (1964, p. 180).

Thus the idea of "rethinking an approach to the content and delivery of curriculum and instruction" through the lens of human rights that supports gains for more students, I feel is worthy of the efforts required "to bring some conceptual clarity" to current interpretations and conceptualizations of the universal right to education (Graham & Young, 1998, pp. 398 - 399).

### **Rights *in* Education: New Challenges to the Status Quo**

If there has been a lack of discussion on the right to education in the literature in the past, it is at least partly due to the fact that previous conceptualizations tended to be confined to a rather narrow interpretation of its means and ends. However, with the recent observations and contributions of Swedish researcher, Katarina Tomasevki, and American educator, Joel Spring, there is a compelling need to revisit previously held interpretations of the right to education, and to reconsider our assumptions about what constitutes its fulfillment.

According to Tomasevki, while equal access to free and compulsory education is a necessary prerequisite for fulfillment of the right to education, it is not sufficient:

“[e]nsuring that children attend school is only one component of the right to education. What children are taught about themselves and others, how they are educated, can amount to indoctrination, advocacy of racism or sexism, propaganda of war, or stultifying regurgitation of useless bits of information. Knowledge of the variety of purposes to which education can be devoted - explicitly and implicitly - has led to introducing requirements upon the orientation and contents of education aiming at conformity with human rights values (2001d, p. 27).

For Tomasevki there exists an important distinction between rights *to* education and rights *in* education, a distinction that separates the act of getting all children to school from what and how they will learn once they are in school (2001d, pp. 8-10). She contends that both rights to education and rights in education are needed to promote human rights through education. Tomasevki further claims that what happens in schools is seldom examined through the lens of human rights because the notion of rights *in* education is new. She concludes her observations by stating:

Education is widely - albeit wrongly - perceived as inherently good. Getting children to school is equated as their right to education. Questions about what and how children are taught are rarely asked, usually only when cases of abuse arise” (2001d, p. 9).

With these observations, Tomasevki brings a new perspective to the universal right to

education, challenging educators with some difficult questions regarding what exactly the right to education consists of and when is it fulfilled?

### **Reconsidering the Universal Right to Education**

American educator, Joel Spring is perhaps the only researcher since Entwistle to take up discussion of the right to education in any significant sort of way.<sup>26</sup> In the last chapter of his book, Wheels in the Head, Spring (1999) introduces the universal right to education into the body of educational literature for discussion and reflection. Spring maintains that freedom of thought is lost in government-operated schools to curricular content which can then influence the future choices of students. To restore free choice and freedom of thought to students, Spring calls for adherence to the universal right to education as outlined in Article 26 of the Universal Declaration of Human Rights (for quick reference to Article 26 see Appendix 4 on the last page).

Subsequently, in the following year, Spring devotes an entire book to this discussion, helping to increase our understanding of the notion of rights *in* education by highlighting the absence of education in human rights in American schools. In The Universal Right To Education, Spring (2000) identifies five “dimensions” of the right to education, making it clear that what is important to him is that children receive an education *in* human rights:

- 1) numeracy and literacy necessary to equip one to participate in society and navigate through the complexities of modern life;
- 2) creative reflections and manipulations of past and present social, political, and economic arrangements brought to bear on expanding the good life to more people with more conceptions of what that good life might look like;
- 3) the fostering of habits of mind that consider it one’s moral duty

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<sup>26</sup> As Peter McLaren and Timothy Reagan note on the back cover of Spring’s The Universal Right to Education, “[t]his is a very important book. There is nothing like it in the field.... fills a huge gap in the field.... There are simply no comparable works available.” While others have also written on different aspects of the right to education, none have been as comprehensive as Spring’s.

to actively engage in the promotion and protection of human rights for all persons;

4) cultural centeredness, such that one understands the framework of their own culture within a global culture; and

5) the study of moral economy to understand how economics affects human relationships.<sup>27</sup> (2000, p. 157-163)

For Spring the teaching of human rights in education is the prime directive of the right to education. He argues that the right to education should focus on the active promotion and protection of human rights as a moral duty, and that this becomes a justification for the right. He is concerned that celebrating current social and economic arrangements as being the best possible arrangements (e.g. the free market economy, democratic government, the rule of law) serve to promote the status quo. Spring feels that we should be considering more equitable ways of spreading the wealth, and that the right to education should “foster social imagination” in the consideration of how we can organize the good life for all people (pp. 127-130).

According to Spring, the promotion and protection of the right to education is necessary to prevent government control of curricular content which can influence the future choices of students in restrictive ways (1999, pp. 158-159).<sup>28</sup> In the traditions of Dewey (1966), Niell (1960), Friere (1970), Gutmann (1987), and Greene (1988), Spring advocates for a need to restore free choice and freedom of thought to government-controlled schooling. Spring’s solution is to compel government school systems to provide instruction in human rights education. For Spring, instruction in human rights education will help to raise critical consciousness and promote freedom of thought and action which, in turn, will serve to protect students from the authoritarian control of education.

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<sup>27</sup> Peter Singer (2000) voices the same concerns for the effects of the global economy, but also recognizes that this relationship extends beyond humans to plants, animals, and the environment.

<sup>28</sup> In the early years of public schooling in Canada, Harold Entwistle (1993) contends that parents needed to be convinced of the worth of mandatory attendance in school and the need to send their children to school rather than contribute to the economic situation of the family. At this time governments were instrumental in affecting legislation to enable the right to education to obtain. However, there is also evidence of abuse of government power with First Nations and other ethnic minorities. Enforcing compulsory education is still a major concern in many areas of the world, and government agendas in this capacity remain suspect (Lewis, 2005; Matsuura, 2002).

Proceeding from Tomasevki's observation that there is a difference between rights *to* education and rights *in* education, and that both the rights to education and rights in education are needed to promote "human rights through education" (2000d, pp. 8-10), it is reasonable to argue that compulsion of the right to education through legislation imposes upon governments and our public school systems a reciprocal obligation that demonstrably justifies its compulsion in a free and democratic society. What both Spring and Tomasevki are suggesting, and an argument that will be considered later on in this inquiry, is that prevailing interpretations of the right to education may promote the compulsory nature of the right to education, but without promoting or protecting each person's individual interests as is the goal of human rights (Ignatieff, 2000; Peters, 1966).

Spring succeeds in drawing attention to the fact that a formal education *in* human rights is sorely lacking in American schools and, from my experience the same appears to be true in Canadian schools. Yet, as Spring's research is currently constituted, attention is focused primarily on one particular aspect of the right to education, leaving other areas wholly unexamined. And given the inclusive title of his book (2000), The Universal Right to Education, I am concerned that readers will focus their attentions on only a very small part of the right to education to the exclusion of other important areas that also require consideration. Thus, while I tend to agree that there is a need to ask where the presence of human rights education is in our school curricula, I suggest there are other "dimensions" of the right to education that also warrant investigation.

### **Article 26: Conflicts of Interpretations**

As inferred earlier on by one of the research participants (ISP 1, on p. 55), claims of universality are necessarily broad in order to achieve consensus among diverse populations and individuals. The Universal Declaration of Human Rights is no exception. Enshrined within a nation's charter, rights and freedoms are guaranteed to all citizens of a liberal democratic state through legislation and enforced by the rule of

law. But important as human rights are as a code of conduct for measuring the promotion and protection of liberties and human dignity, they remain an inarticulate expression of law requiring further interpretation and elaboration. The right to education offers a good example of this.

What exactly is being claimed under the right to education is unclear (Appendix 4). The wording is often ambiguous if not completely contradictory, resulting in a preponderous number of claims flowing from its imperative. Consider the opening line in the first paragraph which states, “Everyone has the right to education,” as though there exists some universal agreement on what is included under the label of “education” and, therefore, a corresponding knowledge of what people have a right to. However, as discussed earlier on, no such agreement or common understanding exists among educators.

The second line in Paragraph 1 declares, “Education shall be free, at least in the elementary and fundamental stages,” yet it is unclear how the terms “elementary and fundamental” should be interpreted. Does elementary, for example, include students in grades 1 to 5, 1 to 7, or 1 to 12? Should elementary education include Kindergarten and/or Early Childcare Education? And what is considered fundamental? Is this a universal notion? Paragraph 1 also states, “Elementary education shall be compulsory,” yet the idea of a compulsory right is a contradiction of terms. Central to our notion of promoting human rights is the liberty on the part of the individual to choose whether or not to exercise their rights. For what is a right without the freedom of choice to choose whether or not to exercise that right?

Paragraph 1 concludes by stating: “higher education shall be equally accessible to all on the basis of merit.” The question raised here is whether or not merit should determine equal access to higher education and, if so, how such merit is judged. If access to higher education is based primarily on the ability to earn high test scores and grade point averages, is this a reliable or reasonable indicator of merit? Furthermore, how is ability judged in a school setting? Is ability a necessary component of merit,

and does merit based on ability promote equality of access?

Paragraph 2 affirms the ends of the right to education. It is from here that Spring draws support for his claim that children have a right and schools a responsibility to provide an education in human rights. Yet, a closer examination of Paragraph 2 reveals that there is not one, but two goals of the universal right to education. While the Declaration clearly states that education shall be directed to “the strengthening of respect for human rights and fundamental freedoms”, it also states that “[e]ducation shall be directed to the full development of the human personality” (Appendix 4).

It is this idea that the ends of education should be directed to the *full development of the human personality* that has caught my attention. For how can a common curriculum, one designed to standardize the delivery of educational programs to more than 600, 000 learners in the province of British Columbia alone, possibly claim to promote the full development of the human personality? How is this possible unless the right to education is interpreted as applying to human beings and people in general and not to individuals? As human rights are generally understood to be for the protection and promotion of the liberties and freedoms of the individual, such an interpretation is not likely to be acceptable in a liberal democratic society (Benn, 1988; Ignatieff, 2000; United Nations, 1989).<sup>29</sup> Thus, the question arises in what way is the promotion of a standardized, common curriculum an adequate response to the development of the full personality of each child?

Finally, in Paragraph 3, the Declaration confirms the right of parents to direct their children’s education: “Parents have a prior right to choose the kind of education that shall be given to their children.” But while in principle such authority may belong to parents, in practice it is highly questionable. Exactly how far does parental authority go in determining the kind of education most suitable for their children? If, for example, a parent chooses to send their child to an independent school, such as a

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<sup>29</sup> The *Convention of the Rights of the Child* (United Nations, 1989), expanding upon Article 26 of the Declaration, states: “[T]he 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;” Here the reference is to “child”, not “children”.

Waldorf, Montessori, or Catholic school, because they feel this form of education is most suitable for their child, are they entitled to claim the right to a free education for their children as stated in Paragraph 1, or do they give up their right by choosing an education offered outside the umbrella of public institutions?

To summarize, then, there are many dimensions of the right to education that warrant further investigation and consideration in this inquiry. Spring and Tomasevki have challenged the narrow interpretations of the right to education that have been both vigorously promoted and pointedly attacked by educators over the last half a century. The distinction between providing equal access to free education and what exactly people are entitled to claim under the label of education is what we shall continue to explore in the remaining chapters of this inquiry.

## CHAPTER 4

### EDUCATION: THE MEANING BEHIND THE WORD

#### Education and Learning

I remember well the Teacher Orientation Session in my first teaching assignment. Eight teachers, two of us fresh out of teacher's college, were assembled on benches in a First Nations long house awaiting a welcoming address from Jim, the school's executive director. As Jim took the microphone in hand, he began his address abruptly with the words, "I am not an educated man. I left school when I was in the eighth grade..."

What immediately followed I do not recall. But several minutes into his address he imparted to us what he thought the most important job of a band school was - "to teach our children how to be Indians." The statement caught me off guard, but he continued on to explain. "The children of our village are *born* Indian. But, if they leave the community, if they are adopted or fostered into a non-Indian family, how will they learn to be Indians?" At the end of his presentation came a heart-felt plea to the teachers assembled before him, "I am up here speaking to you and doing this job because I don't want them to go through life like me - uneducated!"

The reason I haven't forgotten what Jim said is because I would have considered him to be an educated person. I had met lots of educated people but few seemed as knowledgeable as Jim. And the more I saw of him over the next two years the more I grew to think so. He was very successful in running the school, settling disputes, dealing with all the administrative and financial matters, maintaining contacts with the various levels of government, and promoting good relations with all the agencies, unions, and professions connected with the school. Jim often represented the school and the Native community in meetings, and was frequently called upon to present at workshops and conferences. He spoke slowly, in a halted and very simple way, but people listened attentively to what he had to say.

Furthermore, Jim understood and promoted his own culture, and tried to help those of us from outside the community to understand and respect traditional ways. He was always sought out for advice, support, and to help bridge the gap between the community and the outside professionals - teachers, health workers, social workers, RCMP officers, etc. - who worked in and around the village. “Uneducated” is certainly not a word *I* would have used to describe Jim.

I recount this story here because it illustrates how we often use and think of the word “education”. People seem to have something very definite in mind when they use the term “educated.” In Canada and other industrialized nations it means more than simply being able to read, write, and do basic mathematical calculations. The 3 R’s are certainly considered essential and included in any notion of being educated, but beyond this base line, as noted in the preceding chapter, there exists little agreement. Understanding the meaning of the word “education” in the introductory statement of Paragraph 1 in Article 26 - “Everyone has the right to education” - is, therefore, fundamental to determining what exactly it is that people have a right to.

#### *Discussion with Research Participants: What is Education?*

I asked the research participants, “What is your understanding of the term education? That is, what do you think people have a right to under the label of education?” Some of the participants’ responses included access to formal instruction and school attendance:

I think that everyone has the right to access learning. I say it that way because for certain students there are different models and kinds of ways of doing that, and we experience that every day in this school. (PSP 6)

Well, definitely to be able to go to school. I mean, I think it is more than going to school, but I believe everyone has the right to be educated. I think I would support more of a liberal arts education, so school from K - 12. (PSP 3)

Alternatively, another participant saw education as something beyond attending school or receiving formal instruction:

I think education is broader than just school. I think the right to education is obviously the literacy and numeracy issues that we generally lump together in school. But its also cultural. People have a right to learn and know their culture and the culture of others. They have the right to that without censorship, including totally being free. Education can't just be put into the box of school; it needs to be expanded beyond that. (PSP 5)

One independent school administrator articulated what she saw as a difference between education and schooling:

Going to school and “getting an education” can be very different things. The child has the right to learn and grow and become all that is possible as a unique human being. There is no value in all children having the right to a “formal” education if that education is not one of quality. A demeaning, dictatorial, tedious, narrow education does more harm to a child than not having a formal education. Quality “formal” education means that every child has a wide range of opportunities that encourage and develop their natural inquisitiveness and build upon and expand their interests so that they learn skills and knowledge about themselves, others, and the natural world around them. The child is nurtured socially and spiritually. The child is “drawn out” in his/her thinking and analytical skills. (ISP 3)

It also occurred to me to ask this question because, in his condemnation of child-centered education, Harold Entwistle accuses Holt of failing to make a distinction between *education* and *learning* (Entwistle, 1993, pp. 84-86). For while there does seem to be some consensus among participants that education does not necessarily have to take place within a school building, and that education should cover more than just text book learning and formal instruction, none of these educators made any distinction between these two terms either. Similarly, my search through the literature reveals no clear distinctions made between education and learning outside of Entwistle's. Instead, both terms are used interchangeably, suggesting that perhaps among educators there is no discernible distinction.

*One Word, Multiple Meanings*

I did discover, however, that when a certain emphasis is placed on the use of the word “education” it can result in radically different interpretations of its means and ends. For Holt, Neill, Goodman, Friere, and several of the research participants, education is seen as a means to freedom. Education is viewed as a liberating process through which the learner is freely able to explore what the world and society has to offer in accordance with their own individual interests and passions - free to deliberate between alternatives of the good life. For Entwistle, Hirsch, and others education is not a process of free exploration, but rather a formal and specific body of instruction given involuntarily to the younger members of society as a method of induction into the ways and traditions of the society in which they will live.

Thus, when Holt and Entwistle speak of education they both envision something quite different, and their views differ not only in kind but also in their intent. Entwistle’s conception of education involves the acquisition of knowledge through a process of formal education for the purpose of coexisting and furthering the aims of society in conformance or adherence to the customs, beliefs, and interests of that society. Holt’s idea of education is to satisfy the natural aspirations, interests, and curiosities of the individual. And while I have no difficulty agreeing with Holt et al regarding the benefits derived from learning through free exploration, it occurs to me that this is not what education is all about. Webster’s (Third New International Dictionary, 1976) defines learning as:

The process of acquisition and extinction or modification in existing knowledge, skills, habits, or action tendencies in a motivated organism through experience, practice, or exercise. (p. 1286)

While this definition of learning seems to me a reasonable one, it is not one which closely approximates what I have observed to be true in our schools on a day to day basis. In my experiences as a classroom teacher, most of the young “organisms” that I have come to know could hardly be called “motivated” when it comes to studying algebraic equations, historical facts, periodical tables, or rules of grammar. The word motivated implies that something intrinsic is occurring in the learning process, some

factor within the individual that is channeling their efforts to intentionally strive to gain this knowledge. The terms “experience” and “practice” further suggest active participation on the part of the individual in the gaining of this knowledge. Likewise, the word “exercise” implies the individual is proactive in its acquisition.

By contrast, Webster's defines education as:

The act or process of providing with knowledge, skill, competence, or usu. desirable qualities of behaviour or character or of being so provided esp. by a formal course of study, instruction, or training.  
(p. 723)

The defining elements in this definition are “providing with,” which implies the receiving of information from an external source that does not necessarily require the recipient to strive to gain its acquisition, and a “formal course of study, instruction, or training,” which further suggests that the need to know is extrinsic, derived from sources outside of the individual, and created and planned in advance. In my mind the definition of education comes closer to approximating the kinds of practices I see taking place in our schools. It also supports Entwistle’s assertion that there is a difference between education and learning that Holt may have overlooked.

However, when Entwistle suggests that it is “inappropriate to talk about the desirability of free, natural learning”...when “the function of schools is to initiate children into [the] artificial world we call civilisation,” he is making a distinction not between education and learning, but between learning and school, as though school or schooling is synonymous with education (p. 86). He also suggests that the ends of the education that takes place in schools should be directed towards the development of future citizens rather than the development of a child’s natural inclinations. A similar notion is conveyed by Ungerleider who, quite interestingly, also uses the terms education, schools, and schooling interchangeably:

The primary contribution of schooling is to the society as a whole rather than to the individual. Education is not so much about *we* or *you* as it is about *us*. That is the reason societies establish schools in the first place. They want to make sure that society survives and improves from generation to generation. There is no question

that individuals benefit greatly from schooling in many ways. But individuals are not the primary beneficiaries of what schools do. (2003, p. 30)

Thus we have an entanglement of three terms - education, learning, and schooling - that are used interchangeably but, depending on the user, can often mean very different things. What I would like to do is attempt to disentangle this trinity from the context in which they have been referred and offer a more authentic meaning of the term “education.”

### *The Garden of Eden*

I believe that we can establish a difference between education and learning if we consider them both in their most fundamental states. Suppose we went back in the time of creation in the garden of Eden. According to this old testament story Adam is the first person ever to exist. Consequently, there can be no accumulated knowledge of any kind - no customs, no beliefs, no values, no expectations, no preconceptions, and so forth. As such, Adam cannot receive an education from anyone. All the knowledge that Adam accumulates he will have to *learn* by himself through his own personal experiences.

To a similar extent the same circumstances will apply to Eve, the second human being to exist, and Adam’s partner in the garden. However, in the case of their children, Cain and Abel, while there is still much to be learned first-hand, some of this information or knowledge will come through the process of *education* - knowledge acquired through the lived experiences of Father Adam and Mother Eve. Cain and Abel will not have to learn everything first-hand. The two sons will be educated about which animals to be wary of, how to avoid danger, what is good to eat and drink, and how to keep warm through the process of education. But, as there is not yet an extensive body of accumulated knowledge in their “society”, not everything that will be necessary for them to know can be provided through the process of education. Much will still have to be *learned* through first-hand experience.

Accordingly, in successive generations, as the accumulation of knowledge increases, a greater proportion of an individual's knowledge would be derived through this process of education. And such would continue to be the case until so great would be the accumulation of knowledge that eventually a system of education would have to be devised in order to organize, prioritize, and disseminate this knowledge. Ultimately, humankind would arrive at the point where today a full twelve years of education is needed just to acquire a minimal understanding of this accumulated knowledge.

Upon reflection, then, education is largely second-hand information gained from first-hand experiences. It is a method of speeding up the learning process by making the accumulated learning experiences of the past more readily available to those in the present. Hence, there exists a fundamental interrelationship between education and learning, where upon learning is the experiential process of self-discovery and education the intellectual process of accumulating, organizing, compacting, and making sense of these original experiences for the purpose of teaching others and expanding our knowledge base. This interrelationship is neither hierarchical nor linear, but rather cyclical and interdependent as illustrated in Figure 1 below.

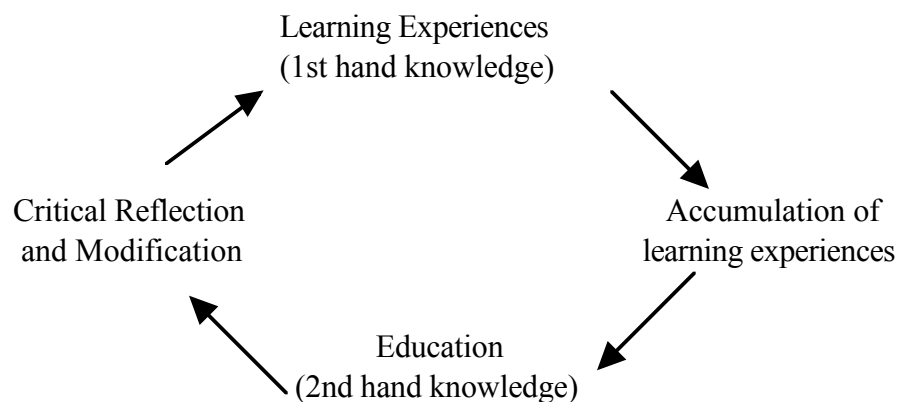


Figure 1

The Interdependency of Education and Learning

Education also serves the function of stimulating learning. What is not known has to be discovered and education helps to reveal what is unknown. Thus, while education is dependent on the accumulation of past learning experiences, future learning experiences are often modified and made more productive through the reflective and critical processes of education. Essentially this is the process in which I am presently involved. Reflecting on my own teaching experiences prompted me to seek out the learning experiences of others in order to find out what is already known about the things I wish to learn. After sorting through the literature and interviewing other educators about their experiences, it was possible to determine what appears to be known and what still needs further investigation and learning. It is the purpose of this inquiry to add to our knowledge base on the right to education for others to consider and, hopefully, identify new learning opportunities.

It is this accumulation of lived experiences together with the rapid dissemination of ideas for collective reflection that has enabled the tremendous technological achievements of the last few centuries. If we consider one of humankind's major technological achievements - the evolution and development of human flight - we can see this interdependency at work. Three hundred years ago people could not be educated about flight because a knowledge of flight did not exist. Beyond reflecting on the basic shapes and designs of winged creatures, an education could not be gained simply by observation and knowledge of other flying creatures. Humans had to experience flight in order to gain a knowledge of it. Try as we might, it took humankind 4 million years to get off the ground for the first time.<sup>30</sup> Once this feat was accomplished, using first balloons and then gliders, it took another hundred years to fully understand the concept of lift, and only a further hundred years to fly to the moon and begin interplanetary travel by unmanned spacecraft.

### **Education and Schooling**

The great proliferation of technological achievements in the last two hundred years

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<sup>30</sup> The first recorded flight in a balloon with humans on board took place on October 19, 1783. It was built by the brothers Josef and Etienne Montgolfier in Annonay, France.

corresponds with the inception of public schooling and the development of mass education, whose combined contributions to the development of western civilization has been indeed remarkable and, at the same time, catastrophic. And it is here we find a distinction between education and learning, and a corresponding union developing between education and schooling and the influences that have largely shaped their present form and function.

*The Evolution of Civilization: Waves and Megaparadigms*

William Doll Jr. (1993) categorizes the history of western civilization into three megaparadigms: pre-modern, modern, and post-modern. Within this framework, the pre-modern era covers a span of time from earliest recorded western history to the scientific and industrial revolutions beginning in the Renaissance period. For Doll, the modern age begins in the early 1500's with Copernicus and ends in the mid-1900's with Albert Einstein.<sup>31</sup>

Alvin Tofler (1980) etches a parallel history, using similar landmarks on the evolutionary landscape. Tofler divides the pre-modern age into two stages: a hunting/gathering stage and an agricultural stage. Tofler identifies three "waves" of change that follow after the initial hunting/gathering stage and correspond to Doll's three paradigm shifts.<sup>32</sup> Thus, in broad terms, we can identify four stages in the evolution of humanity that occur in three successive waves. The development of public schooling and mass education lies in the transition between the third and fourth stages, or the post-modern wave. To put these last two stages into perspective I shall introduce briefly the first two.

The first stage in the evolution of humankind is thought to have begun some four to

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<sup>31</sup> Around 1514, Copernicus distributed a little hand book, usually called the *Little Commentary*, that sets out his theory of a universe with the sun at its center.

<sup>32</sup> Tofler's metaphorical use of "waves" as an analytical approach to social change is a highly appropriate one. As Tofler observes, "It looks at history as a succession of rolling waves of change and asks where the leading edge of each wave is carrying us. It views each of these turning points in human social development "not as a discrete, one-time event, but as a wave of change moving at a certain velocity" (p. 29).

seven million years ago. Researchers tell us that during this period human beings lived rurally as hunters and gatherers of food, locked in competition with other species for their survival.<sup>33</sup> Human populations were sparse, mobile, and lived off the land completely dependent on the bounty of nature. This first stage of development is known as the Hunting /Gathering stage.

A second stage in the development of humankind (the first wave of change) is thought to have begun 10 000 to 13 000 years ago, coinciding with the end of the last ice age and the introduction of farming and husbandry. This second stage of evolution, a period commonly referred to as the Agricultural Revolution, saw a decline in human dependancy on hunting and gathering and an increased reliance on the planting of crops and the domestication of animals.

The development of an agrarian-based society was accompanied by significant changes in the pattern of human settlement. While populations for the most part continued to develop in rural areas, these populations became sedentary and greatly increased in number as food surpluses became routine. Among other developments, this second stage brought with it the institutionalization of the rule of law, governments, politics, nation states, towns, commerce, guilds, money, markets, churches, and schools.

A third stage, beginning roughly five hundred years ago with the emergence of the European Renaissance, lead to a period in history known as the Modern Age or, perhaps more commonly, the age of Industrialization. With the start of industrialization, a second great wave of change began to sweep across the globe. The “Industrial Revolution” brought with the mechanization of work and the creation of systems to govern production. Large, centralized locations became necessary to support the newly industrialized methods of production. Formerly sparse and rurally populated settlements and villages were transformed into towns and cities with large,

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<sup>33</sup> Jarred Diamond (1997) places the start of humankind at 7 million years BCE, while Alvin Tofler (1980) at 4 million years BCE. Tofler and Diamond both agree on 11 000 to 8000 BCE as marking the start of the Agricultural Revolution.

dense populations. Great concentrations of goods, services, and labourers were required to feed, clothe, and house the increasing populations that had abandoned the hunting, gathering, and agricultural lifestyles in favour of the industrialized, urban centers of production.

During the latter half of the Industrial Revolution public schools began to emerge. Among other social and political factors, economics was a dominant force in the creation of public education. Massive child unemployment and the need to maintain a continuous supply of trained workers for the factories provided both the environment and incentive for the creation of public schools. Public schooling was a child born out of industrialization, inheriting all the characteristics of its institutional genes. And as was true of all industrialized institutions - schools, factories, churches, guilds, unions, political parties, and so forth - these same industrial, mechanistic elements were replicated and entrenched in nearly all aspects of modern life.

### *An Industrial Code*

Industrialization can be characterized by the presence of certain structural elements which helped to accommodate and sustain a movement from an agrarian-based economy to an industrial-based economy. This “Industrial Code” (Tofler, p. 62-72) is characterized by the presence of specific structural elements which, considered together, mark a radical departure from the preceding stages of evolution. From these (eight) structural elements - systemization, maximization, synchronization, standardization, centralization, concentration, organization, specialization - we begin to see the influence of industrialization on the evolution of public education.<sup>34</sup>

#### *Systemization and Maximization*

Industrialization is characterized by a system or method of doing things in order to maximize production. Perhaps the clearest example of the effect of these two elements on production is Adam Smith’s (1776/1980, p. 3) observations regarding the

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<sup>34</sup> Tofler actually identifies only six structural elements. I added two more - systemization and organization - which Doll (1993), in reference to Ramus’ curricular map, refers to as “methodization.”

division of labour and the production of pins. Smith observed that a pin maker prior to industrialization could scarcely make a single pin in a whole day. He identified eighteen separate steps that a pin maker had to go through in order to produce a single pin: drawing out the wire, straightening the wire, cutting it to the right size, grinding the end to receive the head, fashioning the head, sharpening the point, and so on. However, with the advent of industrialization, a system was put in place to coordinate production and maximize efficiency. Each phase of production was isolated and each job became a specialty. In this way, ten men in a factory could produce 48 000 pins per day or 4800 pins per person per day.

### *Specialization and Synchronization*

“By the time Henry Ford started manufacturing Model T’s in 1908 it took not 18, but 788 specialized operations to complete a single unit” (Tofler, 1980, p. 66). Until the age of machinery, synchronization occurred naturally by the patterns of the seasons and the rhythm of the day. Oarsmen on boats used singing and drums to synchronize their efforts. When factory-style assembly lines were introduced, the interdependence of specialized labour required more refined synchronization. Clocks, watches, whistles, bells, and buzzers became necessities as jobs were timed (Tofler, p. 67-68). The 9 to 5 work day, with two coffee breaks, and a lunch hour became industry standards, as did the annual two week leave, and even the beverage served during the “coffee” break.

### *Standardization*

Industrialization also required the standardization of various interrelated systems. Time was a prime example of the necessity of standardization. Prior to the late nineteenth century, time keeping was a purely local phenomenon. Each town would set their clocks to noon when the sun reached its highest point in the sky. A clock maker or town clock would keep the "official" time, and citizens would set their watches and clocks to this local time. Travel between towns meant having to reset one's watch upon arrival. While the principle method of transportation was walking or traveling by horse, such a system was workable and hardly an inconvenience.

However, as railroads began to operate, moving people rapidly between towns, this system soon became problematic. Train schedules became very confusing, as each stop was based on a different local time. The standardization of time became both necessary and essential for the efficient operation of railways.

### *Centralization and Concentration*

Industrialization could not happen with activities spread throughout the countryside. Industrialization demanded that people, resources, and facilities be concentrated into centralized locations. Industrialization required a concentration of people, capital, resources, and fossil fuel energy. Centralization and concentration enabled the growth and transformation of towns into cities, and small shops into large factories.

### *Organization*

While the pin maker sat in his basement shop alone making pins, there was infrequent interaction with other workers, suppliers, and buyers. However, as the scale of production increased, so did the need for organization (both as a noun and a verb). As the production of pins was industrialized, it became necessary to organize production. Organizations replaced private ownerships and partnerships. Large sums of capital were required to be invested in these manufactures, more money than was available from an owner-operator business. It was necessary to bring together capital from different sources, and to organize the various steps of production and manage the invested capital.

### *The Effects of Industrialization on Education and Schooling*

Throughout the western world the industrial code clashed with the ancient codes of the agricultural world. Industrialization brought with it new ideas about the world and the future, challenging traditional views about time, space, authority, and the production of goods and services. There were, of course, counter-voices who resisted adopting ideas of free enterprise and individualism. But throughout all second wave civilizations a new view of humankind's place in the universe was emerging.

Nature, with whom humankind had been at the mercy of since creation, was seen as an object waiting to be exploited and dominated by human society (James, 2000, p. 77). The discoveries of scientist, Charles Darwin (1980a), helped in formulating this position. The understanding that life was a competition, in which only the fittest and the strongest would prosper, created a “scientific” basis on which to promote the evolution of industrialization. Economic competition was seen as a destined way of life in the natural order of things. The defeat of nature was increasingly viewed as progress. As Tofler observes:

three key concepts - the war with nature, the importance of evolution, and the progress principle - provided the ammunition used by the agents of industrialism as they explained and justified it to the world. (p. 118)

One of these “agents of industrialism” was United States industrialist, Frederick Taylor. In the 1911 publication of Scientific Management (1947), Taylor outlined certain “laws” thought to underlie the efficient management of work, particularly industrialized factory work. Doll & Gough (2002) make reference to Taylor’s fourth law, “the equal division of work and responsibility...between management and labour” (p. 35), which states that “management’s task is to plan while labor’s is to follow these plans in precise detail.” Furthermore, Taylor suggests every worker is to receive work orders each day that specify “not only what is to be done but how it is to be done and the exact time allowed for doing it” (p. 35).

Influenced heavily by Taylor’s paradigm for the industrialized work place, university educator and curriculum theorist, Franklin Bobbitt (1924), applied Taylor’s theories to curriculum development. Bobbitt likened schools to factories; places in which to transform raw materials into finished products for the market. One could say that Bobbitt saw schools in terms of input and output, where the input of certain means (raw materials - e.g. students) produced certain ends (finished products - e.g. useful citizens). Bobbitt’s theory was that if society were to put into their schools just the right mixture of resources and materials, it would result in efficient educational institutions, producing educated and productive citizens.

On the surface such a theory seemed to make sense. Bobbitt was concerned with efficiency and cost effectiveness. In 1912, Bobbitt published a book entitled The Elimination of Waste in Education, where he reasoned that if education was organized on the pattern of industrialization, then schools would be transformed into efficient work places with predictable and quantifiable results (1912a, pp. 259-271). For Bobbitt education was simply a means to an end. Individuals were viewed as separate economic units contributing to an industrialized economy. Children were put “through” school. Students followed a set pattern of education - a curriculum - that would produce an “educated” worker who could contribute to a modern, industrialized society. The effects on education and schooling were dramatic.

### *Swimming Against the Tide*

Not everyone, of course, held the same opinions of the means and ends of work and education as envisioned by Taylor and Bobbitt. A growing minority was expressing concern about the direction in which society seemed to be heading. To some it had become clear that the kinds of economic, industrial, and technological activities being promoted in the new economy were economically irresponsible and socially and environmentally harmful. A polar split was developing in ideologies and philosophies, and by the middle of the 19th century every industrialized nation entertained sharply divided right and left wing political views among its citizens.

The views of Dewey and Whitehead, for example, differed greatly from those of Bobbitt and Taylor. Dewey (1966) also recognized the great importance of the Industrial Revolution. He saw how it was transforming America and was highly critical of the factory-industrial model of schooling and education. Dewey viewed with skepticism the idea that by acquiring certain skills and learning certain subject areas needed for later on in life children would be better prepared for the needs and circumstances of their futures:

In a certain sense every experience should do something to prepare a person for a deeper and more expansive quality. That is the very meaning

of growth, continuity, reconstruction of experience. But it is a mistake to suppose that the mere acquisition of a certain amount of arithmetic, geography, history, etc., which is taught and studied because it might be useful at some time in the future, has this effect, and it is a mistake to suppose that acquisition of skills in reading and figuring will automatically constitute preparation for their right and effective use under conditions very unlike those in which they were acquired.

(cited in Reed & Johnson, 2000, p. 113)

For Dewey any separation of activity from its ends reduced the activity and the individual to a mere means. Instead of accepting education as a process through which individuals are moved, Dewey saw education as an individually transformative experience affecting the whole person. Three major concepts of education underlie Dewey's vision of curriculum:

(1) as a process, education does not aim for an end external to itself; (2) ends arise from within activity rather than being set prior to activity; (3) the child and the curriculum, the learner and the text, as it were, unite through the process of inter- (or trans-) action.

(cited in Doll & Gough, 2002, p. 37)

In a similar vein, Whitehead (1967) argued that knowledge is being isolated in a scientifically arbitrary way, one that separates the relationship of ideas and ignores the harmonies of nature. Whitehead asserted that education should move from its position of holding fixed ideas based on simple brute facts, towards a pedagogy that views the world as a complex and interdependent entity alive with the vitality of experiences (pp. 5-7).

William James' and George Counts' attacks on the education of the times are even more pointed. James (1890/1980) regards all mechanical actions such as endless figuring and rote learning completely meaningless, claiming that importance is only to be found in activities that hold personal interest and excitement for the doer of the task (p. 275). Counts (2000) criticizes schools and the teaching profession for not leading the way to a new vision of American life:

To refuse to face the task of creating a vision of a future America immeasurably more just and noble and beautiful than the America of today

is to evade the most crucial, difficult, and important educational task.... As the possibilities in our society begin to dawn upon us, we are all, I think, growing increasingly weary of the brutalities, the stupidities, the hypocrisies, and the gross inanities of contemporary life. We have a haunting feeling that we were born for better things and that the nation itself is falling far short of its powers.... The times are literally crying for a new vision of American destiny. (pp. 121-122)

A growing dissatisfaction with schools and the corresponding call for educational reforms in the 20th century increased; the education system and public schooling were under attack. Henry Giroux reports that since the beginning of the 20th century there have been, in the United States alone, more than 30 national reports and over 300 task forces dealing specifically with recommendations for school improvement and educational reform (1985, p. 62).

### **A Tension Between Education and Learning**

It is at this particular juncture where the views of Holt and Entwistle intersect, and the aims of education and schooling are seen to be at crossroads with the means and ends of learning. I cannot help but think that the only reason to continue to promote Entwistle's conception of education, as distinct from learning, is that we are afraid that if we center our classrooms around the interests, curiosities, and aspirations of children there will not be enough of an emphasis on academic disciplines and, consequently, students will not get a "proper" education. There is a concern regarding how we will be able to successfully compete in the new global market place and how we will ensure technological progress and economic prosperity if our children do not receive a strong academic foundation. As Ungerleider observes, increasingly "Canadians doubt whether public schools are preparing their children for a competitive economy" (p. 19).

However, while the ends of a formal, academic education appear to be a highly valued outcome of schooling in our society, it is also evident that these polarized views of education create a noticeable degree of tension among educators that is difficult to

reconcile. Although the necessity of education is widely accepted, it is apparent that educators also see benefits accruing from the provision of other kinds of learning opportunities. As one participant observes:

I suppose that education in our society means the right to formal instruction, but to me that seems rather limiting. To me education means providing students with opportunities to develop their potential. (PSP 1)

A similar response is given by a second participant:

Students should get a chance to expand their worlds beyond their known worlds, so that they have every part of their brain being utilized, exercised, pushed, and stretched to whatever capacity the brain, as we are well learning, can do. So a right to learn, to live beyond domestic means, I think is critical. That could be music, that could be art, that could be science. (PSP 4)

The tension is also evident in one participant's response to what her understanding is of the term education in the right to education, emphasizing a need to resist any idea of the learner as a passive recipient of education. She qualifies her response by prefacing education with the word quality, suggesting that quality rather than quantity is necessary if we wish children to thrive in their education:

Quality education is not "done" to a child; it involves the child, the family, and the community creating and implementing a curriculum with materials and methodologies that are sensitive to the learning styles and stages of child development. A quality formal education means that it is: 1) inclusive of all children; 2) academically effective and relevant for children; 3) healthy and physically and psychologically safe; 4) gender responsive, and 5) involving of students, families, and communities. (ISP 3)

Finally, another participant considers the importance of the right to education for the purpose of survival and expressed a need for making education compulsory:

Some form of education needs to be compulsory, if only to deal with the basic issues of the individual's survivability. If we don't make it compulsory, if we don't mandate it as something that everyone must do, in some act, we create a situation where we could have some very significant social issues emerge that I don't think we are nearly prepared to handle. (PSP 2)

*Discussion with Research Participants: Compulsory Education*

The notion of making current educational practices compulsory is a most intriguing concept, and perhaps one of the most controversial elements of the right to education. The compulsion of education has essentially two components: compulsory attendance and a compulsory curriculum. The first does not preclude the second. It is possible to compel children to attend school, but not study a specified body of subject material. A.M. Neill's Summerhill School in England is one example of this (Neil, 1960), while the free school and home schooling movements in Canada and the United States provide still other examples (Spring, 2000, pp. 47-62). Thus, even if it could in some way be demonstrated how compulsory attendance is beneficial to all children, it would still be necessary to show how our schools fulfill the aims of the right to education by enforcing compulsory participation in a common curriculum.

Justification for a common curriculum typically includes such reasoning as the promotion of democracy, literacy, and the prevention of suffrage, and generally supports the idea that it is in children's best interest to have a grounding in a common liberal education in preparation for their future participation in life after school. According to Entwistle, a common, compulsory, curricular core is fundamental to the acquisition and acceptance of a "common core of laws and values" which he maintains in a pluralist society is both necessary and essential for a democratic conception of the common good (Entwistle, 1993, p. 81- 83). E. D. Hirsch Jr. claims that a common curriculum promotes cultural literacy, which in turn improves and enriches communication by providing a framework of civilization's knowledge through which it is then possible to interpret individual pieces of information in a deeper, more meaningful way (1987, p. 8). In addition, Hirsch suggests that "No modern society can hope to become a just society without a high level of universal literacy."

Entwistle and Hirsch are not alone in their assertion that compulsory education is a necessary and essential condition for the promotion of freedom. The architects of the Universal Declaration of Human Rights also had this in mind when they acknowledged education to be a compulsory right (Humphrey, 1986). That the mind needs training

suggests that there is a need for education prior to being able to choose freely. Consequently, they too saw education as a right that must be received in order to make freedom of choice possible. A compulsory common curriculum is thought to guarantee a baseline of knowledge necessary for functioning in an industrialized society. In addition to reading and writing skills, the intellectual, social, economic, and political development of a society is thought to be enhanced and improved with the ability of all its citizens to be able to interact and understand their surroundings through perspectives of mathematics, science, and social studies. Together with the study of language, these four components of a common core curriculum are seen to provide the optimum baseline for thinking about the world in which we live.

Reading through Paragraph 1 of Article 26 during the interview sessions, the research participants were asked to comment on the statement, “Elementary education shall be compulsory.” The participants were asked two questions: a) Do you think that it is justified compelling all children to attend some sort of schooling - public, private, or home schooling? b) Should compulsion also include a compulsory curriculum (Appendix 3, Question 7)?

Among participants I found support for both compulsory attendance and a compulsory curriculum. The reasons for their support, however, varied significantly. For some of the participants support for compulsory education is directed primarily at ensuring the basics of literacy and numeracy:

That is a good question, and it seems almost to contradict the right to education in a way. It doesn't seem to fit and, you know, I am thrown by that one. I do think some form of the processes of learning are critical, but what we fill the term “elementary education” with I guess is arbitrary. We would assume it would be literary, we would assume that it would have a numerical function as well as social responsibility. (PSP 4)

I think there should be compulsory elements, such as literacy and numeracy, because those are some of the attributes we need as graduates of our systems. (PSP 6)

Participants also qualified their support for compulsion by pointing out a need to ensure the inclusion of basic curricular elements for the common good of society:

I believe there are certain aspects of a curriculum necessary to be an educated human being that I think are universal, in terms of reading and writing and being socially responsible, that need to be in all school curriculums. (PSP 3)

I think in order for a society to continue to grow and evolve, we have to claim this right for ourselves. I feel this is critical for us in order to maintain and continue to evolve our understanding of what democracy means. To me democracy includes providing those opportunities for developing one's full potential. So we need a compulsory curriculum with some common components. (PSP 1)

It would, I think, be nearly abusive for us not to make sure that people learn to read and write and function in our society. Otherwise, we are going to be handicapped in our society, because if kids were allowed to make the decision on their own, many kids would not go to school. (ISP 3)

Alternatively, support for compulsion is also believed to be one way of ensuring what is in the best interests of children:

I know what our elementary education looks like, but should all of it be compulsory? I guess that depends; I'm not sure. I worked at an elementary school that was just changing from a Summerhill-like philosophy to a school in which children would actually learn to read. And, you know, the saddest thing in a westernized culture is to find a grade 7 student heading off to high school or leaving elementary school who cannot read. He had the ability to read, he was not learning disabled. Even kids with Down's Syndrome can learn to read; they do read. So I would say that there are, in fact, critical elements of a core curriculum. (PSP 4)

Some aspects of a curriculum have to be compulsory, but what those are I don't know. Students need to be able to understand what is written. Students need to be able to communicate their thoughts, ideas, goals, dreams, and other things in ways that society can understand and interpret. Students need to understand how an economy works, as their survival depends on it. (PSP 2)

To make school non-compulsory, would be detrimental to the poorest, the most marginalized, and those with the quietest voice. A nation that cares about its children, takes responsibility to ensure that the children have proper care, are safe and protected, have avenues to voice their opinions and have quality education. (ISP 3)

I also found support for compulsory education but not a compulsory curriculum:

There are lots of mandatory curriculums which students don't need. What I am starting to see, and if someone asked me what the schools of the future will look like, I think they will be charged primarily with the responsibility or challenge of creating a cohort of kids that understand social responsibility - that understand what it means to be a member of society and what it takes. Schools are going to be less and less charged with the notion that they need to teach children how to balance chemical equations or that they need to teach about Louis Riel. I think in some ways this will reduce the amount of compulsory curriculum. We are already starting to see that; there are some emerging hints of that already happening. In a mobile society, with the amount of technology we have available to us to gather information and collect facts, the presentation of fact in a school setting is going to be less and less important. (PSP 2)

Finally, one participant supported compulsory education and a compulsory curriculum only in so far as it provided students with a great deal of choice and the appropriate kind of education:

Yes, I support compulsory education as long as there is an extremely wide choice about what is compulsory. If it is only a traditional model of education, then, no, I am not comfortable with compulsory education. But I think that it should be compulsory for every child to be involved with a broad-based education. If we value education as something to prepare the next generation, then the parent of a six or seven year old child should not be allowed to say no. That would be unfair to the child. Children need a wide range of choices. (ISP 1)

With the exception of the last participant, it was evident that most of the participants did not question the need for compulsory education, often supporting their views by qualifying compulsion either for the benefit of the individual or of society. Charles Ungerleider perhaps best summarizes the sentiments of participants, concluding that

“schools represent the delicate balance between serving the individual needs of students and the broader needs of society” (2003, p. 103).

I also did not find any support for the views of reformers like Ivan Illich or Matt Hern who advocate an end to state-controlled, compulsory education and a push towards “deschooling” our society. The last participant (ISP 1) challenged the two forms of compulsion in education, but qualified his support based upon the availability of free choice and a wide range of educational and curricular options. Ultimately, support for both mandatory attendance and a compulsory curriculum was evident among my colleagues. None of the participants questioned the legitimacy and justification for a compulsory right to education in both its present forms.

I find it difficult to accept the validity of the arguments in favour of compulsory education. The contradiction of terms inherent in a compulsory human right is one reason for my uneasiness. Another is the unhappiness and inequalities that I have witnessed among students and parents over these last many years. But also there is the lingering issue in my mind over the great uncertainty that prevails among educators over the means and ends of education discussed in Chapter 3 (pp. 55 - 62).<sup>35</sup> There exists far too many contradictions and far too many unanswered questions about the way our schools operate that do not measure up under the scrutiny of sound reasoning for educators not to consider that perhaps we are destroying the very educational experiences we seek to promote by continuing to teach what we teach in the manner that we do, as indeed our methods often appear to be at odds with our goals. Without the assurance of knowing why we do what we do - for what purpose and to what ends - I feel that educators should remain cautious and somewhat suspicious of the conventional wisdom that currently guides accepted and compulsory educational practices. The following chapter explores this thought further.

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<sup>35</sup> I am recalling the great similarities in the uncertainties of education as expressed by Aristotle and Ungerleider. I am also cognisant of the arguments laid open by Gatto, Hern, Holt, Illich, and Noddings rejecting prevailing educational practices inherent in our schools, as well as the observations of Bruner, Friere, Darling-Hammond, Giroux, Gutmann, Kirkness, Roland Martin, and Tolstoy that question the ultimate purpose and meaningfulness of modern education. My concern over the validity of arguments for compulsory education concerns exactly what *kind* of education we are making compulsory, as all education is not created equally.

## CHAPTER 5

### A COMPULSORY HUMAN RIGHT

As individuals living in a democratic nation, we have become accustomed to our rights and freedoms as recognized under the Canadian Charter of Rights and Freedoms and the Universal Declaration of Human Rights, regarding such rights as fundamental to a free and prosperous society. Central to our notion of promoting human rights is the freedom on the part of the individual to choose whether or not to exercise their rights. For example, in the Universal Declaration of Human Rights freedom of speech is acknowledged as a fundamental right (Article 19); we have the right to speak out, yet we also have the choice to remain silent. Voting is a right (Article 21); we have the right to vote, but we also have the right to abstain. Freedom of movement is also a right (Article 13); we have the right to move about freely, but we also have the choice to stay put.

It would, indeed, be very hard for Canadians today to imagine any of our basic rights, such as the right to marry or the right to hold a religious belief, as constituting a legislated, compulsory practice enforced by the rule of law. Thus, the compulsory nature of the right to education invites us to search for reasons underlying its distinct status. For if education is truly a human right, and fundamental to the concept of a human right is freedom of choice with regards to the exercising of these rights, then there appears to be some discrepancy between the right to education and all other human rights such that we may conclude either: a) education is a human right that is justifiably limited, b) education is a human right that has been and continues to be violated, c) education is not actually considered a human right, or d) education is considered a human right but, unfortunately, children are not considered human. All four of these conclusions we shall examine in this chapter.

Freedom of choice is a necessary and essential characteristic of a human right, without which the resulting practices do not fit prevailing conceptualizations of a human right. Educational philosopher, Jerrold Coombs (1996), claims that we can think of a

concept as a complex set of rules that serve three purposes: 1) specify when it is appropriate to apply the concept name or label, 2) determine what sorts of things are to be grouped together in the same class or group, and 3) show how the group or class is related to other groups or classes (p. 46). Coombs posits that unless there is just cause for special treatment we can judge all concepts according to these rules. It will, I think, be helpful to apply these rules in our conceptualization of the right to education.

### **Education is a Human Right that is Justifiably Limited**

Justification for the limiting of a human right requires that an individual or a group of individuals demonstrate an unacceptable use of their liberties. Accordingly, limiting freedom of choice to claim the right to education based on age is generally done so on the basis of immaturity and a corresponding inability of children to make rational and reasonable decisions that may negatively impact upon their futures. Children hold a special status in (western) society. It is with a view to this special status whereby one of the participants responded to the question, “Do you think that it is justified compelling all children to attend some sort of schooling,” by stating:

I am confused about an obligatory right- it’s your right but you have to do it! For adults, this would not make sense, but we are talking about children and that puts a whole new slant on things. It is my experience that a society that truly values quality education for their children must make school provide quality education that is compulsory. (ISP 3)

However, Article 2 of the Universal Declaration of Human Rights makes it clear that neither age, nor any other status is an acceptable basis for excluding individuals from human rights and freedoms:

Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.

Article 7 of the Declaration further states that, “All are equal under the law without

discrimination.” Hence, it would appear that it is not the entitlement of any person or groups of persons to interfere with the plans and projects of any other individual or groups of individuals simply because they hold a different status in our society. According to university educator, Roland Case, the only morally defensible reason for exclusion from a human right, “must be the very reason we have for ascribing the right in the first place” (Case, 1986, p. 451). Thus, while age may differentiate between children and adults it does not categorically justify the limitation of human rights laws. Article 15 of the Canadian Charter of Rights and Freedoms (1982) confirms that age should not be deemed a barrier to equal benefit of the law:

Every individual is equal before and under the the law and has the right to equal protection and equal benefit of the law without discrimination and in particular without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

### *The Principle of Conferred Benefits*

Those who justify limiting children's rights on the grounds that they are acting in their best interests generally do so based on the principle of Conferred Benefits - the conferring of benefits which on account of their young age and immaturity recipients may not fully understand nor appreciate (Entwistle, cited in Reicken & Court, 1993). I have a concern with this principle as it applies to the right to education. Prudential judgments must necessarily proceed on the principle of conferred benefits, without which there is no morally defensible position. However, where is the evidence to show that compulsory inclusion in a systemically standardized curriculum, with all its required courses, letter grades, tests, and lock-step progressions is beneficial to all children? Furthermore, if the recipients of this conferment are unable to appreciate or acknowledge the benefits what then confirms they are beneficial?

Support for an argument based upon conferred benefits may also be reasonable were it not for research indicating that the ends of education do not result in increased benefits

for all students, but rather in the gaining of advantages for a relative few (Bowles & Gintis, 1976; Bruner, 1971).<sup>36</sup> Furthermore, there is evidence to suggest that this indeed is the aim of education, wherein the ends of education will not provide increased benefits for all members of society, but only for some members, and that this group represents a minority rather than a majority (Hurn, 1979; Noddings, 1993). And this kind of evidence does not support the existence of an education that has as its goal increased benefits for the common good (Friere, 1970), as any consideration of benefits for the common good is recognized as contributing to a majority and not a minority, while provisions of equality must necessarily include benefits for all and not just some (Ignatieff, 2000).

Unless it can be shown how the interests of some are more important than the interests of others, or that the success of a few will provide for an equal distribution of benefits to all (Rawls, 2003), I would suggest that current educational practices are not equal, but rather very much unequal, and that educators have perhaps overlooked some element(s) in their considerations of equal educational opportunity and, in turn, promotion of a compulsory right to education.

### *The Principle of Respect for Persons*

I will begin by positing that it is not the principle of conferred benefits that serves as the basis for the promotion of human rights. Human rights are rooted in the principle of Respect for Persons - a principle that presupposes a certain minimal equality among all persons:

Capable in some measure of overriding established hierarchy...it is grounded in the fact that each [person] speaks from his own particular point of view, having perceived interests that no one else can presume to know...and which cannot be assumed to be interchangeable with anyone else's...because the actions and determinations have a different significance when seen, as it were, from the receiving end.... To respect someone as a person is thus to

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<sup>36</sup> Jerome Bruner, observes that, "Education is not a neutral subject. It is a deeply political issue in which we guarantee a future for someone and frequently, in guaranteeing a future for someone, we deal somebody else out" (1971, p. 21).

treat his own view of himself seriously. (Benn, 1988, p. 104)

Early 20th century philosopher, William James, refers to this idea as the “Sovereignty of the Living Individual”, and suggests that fundamental rights and freedoms are limited to those acts which, at the very least, do not harm others (cited in Kilpatrick, 1951, p. 139). John Stuart Mill’s interpretation is consistent with that of James’:

Acts, of whatever kind, which, without justifiable cause, do more harm to others, may be, and in the more important cases absolutely require to be, controlled by unfavourable sentiments, and, when needful, by the active interference of mankind. The liberty of the individual must be thus far limited; he must not make himself a nuisance to other people. (1861/1980, p. 293)

Mill’s interpretation can be illustrated by considering the following example. If the world were starting anew, and the reader was the only person on earth, there would be no need to establish the principle of respect for persons, nor any need to acknowledge or promote human rights. Such rights would already exist as natural rights or, as John Locke suggested, “Unalienable Rights” provided by the nature of the universe (1986). Until such time as there was a second human being who could conceivably interfere with the rights of the reader there would be no need to recognize the existence of human rights, as these freedoms are already present in nature and only remain to be limited. The prevention of harm, not the conferring of benefits is the principle that underlies the principle of Respect for Persons and, in turn, the acknowledgment of human rights.

Michael Ignatieff expresses a similar understanding of the purpose of human rights:

One of the essential functions of human-rights legislation is to protect human beings from the therapeutic good intentions of others. It does so by mandating an obligation to respect human agency - however expressed, however limited - and to desist from any actions, even those that are intended to help, if these agents refuse or in any other way give signs of contrary will. (For to be human is to have a will, however constrained, limited, or fallible.) ...the test of human respect always lies with the hard cases - the babbling, incontinent inhabitant of a psychiatric ward or a nursing home; the prisoner who has shown no respect for others, and now

asks respect from us; the uncontrollable adolescent whose behaviour seems to cry out for coercive restraint. To give these human beings the benefit of informed consent, the rule of law, and such autonomy as they can exercise without harm to others is the proof that we actually believe in human rights. (p. 39)

Consequently, in order to justify the limiting of a human right there must be evidence of misuse; to do otherwise is unjust. Furthermore, the burden of proof rests upon those who take action to limit an individual's rights, in this case, our schools and our ministries of education. Yet, to my knowledge the incapacity of students to make use of their liberty has not been demonstrated, neither have I seen any evidence to show that compulsory inclusion in current educational practices is beneficial to all children.

### **Education is a Human Right which Has Been and Continues to be Violated**

Another concern I have with the legislation of compulsory education is that government-controlled education systems can promote and enforce compulsion without promoting and protecting the interests of the individual as is the object of a human right and an acknowledged aim of the right to education. According to Paragraph 2 of Article 26, the right to education has several aims:<sup>37</sup>

Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and freedoms. It 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.

Joel Spring (1999, 2000) has written at length regarding the lack of instruction in human rights education in the curricula of American schools. In Chapter 10 of this

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<sup>37</sup> Article 29 of the Convention on the Rights of the Child (1989) expands upon these ends, citing five aims of the right to education: (a) the development of the child's personality, talents and mental and physical abilities to their fullest potential; (b) the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c) the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own; (d) the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; and (e) the development of respect for the natural environment.

inquiry we will investigate the presence of human rights education in the British Columbia school curriculum. However, as noted earlier on, there was no discussion in Spring's writing concerning the first aim, "Education shall be directed to the full development of the human personality." An examination of this aim is the focus of Chapter 9, but here I will introduce this aim briefly in order to illustrate my concerns regarding provisions of equality and possible violations of the right to education.

I have already discussed and I hope raised a degree of reasonable doubt regarding justification for the compulsion of education based on the conferring of benefits. I should now like to proceed to examine a second claim - that a common core curriculum is necessary for the promotion of equality, freedom, and the common good of a pluralistic society (Entwistle, 1993, Hirsch, 1987). I have maintained that there exists a relationship between equality and human rights that is grounded in the principle of Respect for Persons. I will further suggest that the relationship between equality and rights also has to do with freedom, particularly freedom of choice, and that the realization of equal educational opportunity and fulfillment of the right to education are conditional upon the presence of freedom of choice for persons of all ages. Having arrived at this conclusion, I contend that compulsory inclusion in a systemically standardized, common curriculum does not provide equal educational opportunities for all students. I have two reasons for holding this opinion.

Firstly, any approach that aims to standardize teaching practices and student programs stems from an interpretation that suggests that conditions of equality exist when the same circumstances prevail for everyone. Central to the notion of a standardized system of education is the acceptance of a standardized curriculum, one that assumes there is an essential body of basic knowledge that must be mastered through a process of formal schooling. Furthermore, this knowledge must be acquired through mandatory study in a particular group of subject areas, within a particular time frame.

The difficulty here is that while appearing to be fair and non-discriminatory, using the criteria of sameness can actually deny students equal opportunity by ignoring

individual differences. Practices that seek to standardize a system of education also contribute to its inability to accommodate the diverse needs and interests of its learners. Under increasing pressure to standardize educational practices and student programs, the recognition of individual student needs - the rich diversity of cultural, ethnic, linguistic, and individual differences - to which we pay lip service, can, and often is, facilitated through a process of assimilation rather than accommodation. The following case study is a good example of this concern.

In the *Lau v. Nichols* decision of the U. S. Supreme Court, the San Francisco School Department was sued on behalf of Chinese-speaking students for failing to provide these students with equal educational opportunities (cited in Nieto, 1992). The school department argued that Chinese-speaking students were indeed being provided with equal opportunities, as they received exactly the same instruction, materials, and teachers as all the other students in the area. In a unanimous decision, the Supreme Court ruled against the school department. The Court reasoned that providing Chinese-speaking students with the *same* critical resources as English-speaking students did not meet conditions of equality, as Chinese-speaking students could not benefit in a similar degree from instruction provided in English.<sup>38</sup>

If the interpretation of the United States Supreme Court is correct, then it would help to explain why, despite the best efforts and intentions of educators, the ends of existing practices do not result in an equal distribution of educational benefits to all students or to all members of society. If equality requires treating people differently (Strike, 1982), then perhaps in our efforts to educate all learners with the same curriculum, under the premise of equity and nondiscrimination, schools have mistakenly equated the notion of equality for that of sameness, thereby offering students *identical* opportunities rather than *equal* opportunities.

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<sup>38</sup> At issue was whether school administrators may meet their obligation to provide equal educational opportunities merely by treating all students the same, or whether they must offer special help for students unable to understand English. Lower federal courts had absolved the San Francisco school district of any responsibility for minority children's "language deficiency." But a unanimous Supreme Court disagreed. Its ruling opened a new era in federal civil rights enforcement under the so-called "Lau Remedies." The decision was delivered by Justice William O. Douglas on January 21, 1974 (excerpts 414 U. S. 563, No. 62-7520).

A second concern with a compulsory curriculum is that the existence of a common, mandatory curriculum can exclude students from the freedom of choice inherent in all human rights and ignore the interests of the individual which is the object of the universal right to education. As R. S. Peters (1966) reminds us, the whole purpose of a freedom or right is “to promote people’s interests” (p. 179). Thus, if education is truly considered a right, and one “directed to the full development of the human personality,” it then follows that children, “in accordance with the age and maturity of the child” (Convention on the Rights of the Child, Article 12 - 1), should be given the right to choose the kinds of things they would like to study relevant to their individual interests and aspirations.

In our schools there are two commonly held interpretations of equal educational opportunity; the *Input* interpretation and the *Output* interpretation. The input interpretation suggests that equality has been achieved when the same range of educational programs is made available to all students, while the output interpretation holds that equality is realized when the educational programs that are available result in the same level and range of educational achievement among students (Coombs, 1994). Conceptualized in this manner, there are those who feel quite justified in believing that a certain level of equality has been achieved through the equal distribution of school resources and the implementation of a standardized curriculum for all students.

However, lacking in both these interpretations is any consideration of student interest. Strategies that serve to consolidate and streamline our system of education also contribute to its inability to accommodate the diverse needs and interests of its learners. Conditions cannot be considered to be equal and fair unless all students are given an opportunity to be equally interested in the subject material being offered, as students whose interests are being met in the classroom maintain an advantage over those whose interests are not being met. Students who are interested in what is being taught tend to learn quicker, easier, and with greater satisfaction and enjoyment than those who are not interested in what they are learning and are only there because they

feel they have to be. Without interest there is little motivation for students to participate in and contribute to the learning environment, with the result that uninterested students are unlikely to intentionally strive to take full advantage of the educational resources that help to promote successful academic achievement. Successful academic achievement, however, is not the prerogative of an academic elite; all students have a right to be interested in what they are learning.

Because the right to education is compulsory and justification for this compulsion is based on the provision of equality of opportunity in the attainment of successful academic achievement, I contend that schools have an obligation to provide the kinds of learning opportunities in which students are interested in order to maximize the conditions for successful academic achievement to obtain and thereby justify compulsion. Similarly, if teachers are committed to promoting successful academic achievement for all students, then it follows that they have a professional obligation to make every attempt to provide all students with an equal opportunity to be interested in what they are learning. Unless all students are provided with equal opportunities to intentionally strive for successful academic achievement the right to education cannot properly be achieved.

Thus, I suggest that we have made a grave error in our interpretations of equality and, subsequently, in the manner in which we have organized our schools around a narrow grouping of subject areas within the framework of a standardized curriculum. Rigid adherence to a common curriculum represents the aspirations and interests of only some students, while essentially ignoring the diversity that naturally exists among student's backgrounds, abilities, and individual interests. Such an approach is in opposition to efforts to promote equality and the full development of the individual human personality. Equal educational opportunity should not mean identical education for all learners. Instead equality of opportunity should facilitate equivalent educational opportunities that help to develop individual potential in one's own area of interests. How this might be achieved within our education system will be the focus of Chapter 9.

*Freedom of Choice and the Voluntary Nature of School Attendance*

Meanwhile, regardless of whether or not a common, standardized curriculum is adequate for promoting the full development of the human personality, it can be argued that students in Canadian high schools already have a great deal of choice in what they choose to study, and are free to elect subject areas that lead to the type of graduation program and career opportunities in which they are interested (Ungerleider, p. 110). It can further be argued the very fact students choose to remain in school beyond the age of mandatory schooling, on a voluntary basis, is sufficient evidence these students are making the choice to continue on in school and to select courses of study that are of interest to them (Entwistle, cited in Reicken & Court, 1993, p. 81).

And to a certain extent this is so. Some students do choose to continue on in school beyond the point that is required of them by law. And there are, in fact, several options from which students may choose for their courses of study. I will argue, however, that conditions whereby the influence of unwritten rules, expectations, perceptions, and obligations dictate the actions of students in ways over which they have no control cannot truly be said to constitute respect for democracy, human rights, or persons. I believe that there are at least four reasons for attending high school and choosing educational programs which are neither compulsory nor voluntary actions, but which nevertheless act in ways to both restrict options and unduly influence student choices through practices of coercion and fear.

*A Lack of Acceptable Alternatives*

The simple fact that there exists no acceptable alternatives to school is a principle reason for attending school. It is quite astonishing to realize that in a democratic society we offer no acceptable alternatives to schooling. For high school students under the age of sixteen there is often a choice between going to school or going to jail. A rather harsh punishment, but incarceration in youth detention programs for repeated or prolonged truancy is one of several strategies used in dealing with

noncompliance, often in conjunction with removal from the family home to a treatment facility, and/or a sentence of probation.

For students over the age of sixteen, since it is no longer mandatory to stay in school, the only alternative is dropping out of school. As the reader will recall from the narrative in Chapter 1 (pp. 3- 6) entitled, *An Alternative School Experience*, deterring drop outs was one of the main reasons given by the superintendent for the creation of the alternative school program. It was not to provide an alternative education per se, but rather to provide a “safety net” for those students who could not “make it” in the regular high school program, and as a result were at risk of failure and/or dropping out. And here it should be emphasized that the majority of early school leavers are not students with low academic abilities or a history of school-related difficulties as is often assumed. They are, in fact, among the best and the brightest of Canadian youth. The majority of students cite a lack of interest in school and a preference for work as the main factors for leaving school:

Only 8% of [early] school leavers cited problems with school work as their main reason for leaving, and just over 10% reported average grades of D or F. More than 30% of high school drop outs had A or B averages when they left school.

(Canadian Teachers’ Federation, 1995, p. 1)

And while leaving school early is perhaps not the best alternative it is still the most widely utilized, as more students opt to leave school early rather than participate in the alternative school programs currently offered. In 1995 the Canadian Teachers’ Federation (p. 1) reported that between 18% and 25% of Canadian students chose this “option.” A decade later, British Columbia Minister of Education, Shirley Bond, reconfirms the national average, reporting a high school drop out rate of 21% in the province of British Columbia (Vancouver Sun , 2005). Consequently, with 1 out of every 5 Canadian children dropping out of school, it makes it difficult to support the claim that current educational practices are beneficial to all students (Chow, 2005). Likewise it is difficult to support the claim that current educational practices that go under the name of “equal educational opportunity” promote conditions of equality.

*Jeopardizing the Future*

A second reason for *voluntary* attendance has to do with the fear of jeopardizing one's future life style. In a comprehensive study of Ontario schools Michael Fullan (1991) found that over 50% of high school students were uninterested in school, but continued to attend out of a concern for future employment and prospective earnings (pp. 171 - 173). His findings indicated that one out of every two students who decided to remain in school did so fearing unemployment or poverty as the alternative. Combining together the 18% of high school students that leave school early, with the 50% of students who remain in school out of fear as reported by Michael Fullan, this leaves over two-thirds of Canadian high school students who are not interested in what schools have to offer. The British Columbia Ministry of Education (2002) Satisfaction Survey confirmed similar findings among grade 12 students surveyed in this province, in which over half the student respondents reported that they were unhappy and dissatisfied with what they were learning in school.

From a human rights stand point such statistics are very disturbing, and support my concern that prevailing interpretations of the right to education do not fulfill the goal of promoting and protecting each person's interests as is the goal of human rights. For it cannot be considered either reasonable or desirable that in a thoughtful and caring society the promotion of a human right is not received with enthusiasm and joy, but rather forced upon its young recipients by means of coercion, fear, and deception.

As observed by Tomasevki (2001d) and introduced earlier on, there is a difference between the right to education and rights in education. While promotion of the right *to* education may be considered to be fulfilled with the provision of equal access to free and compulsory education, students' rights *in* education may still be denied if they are not provided with the education they either need or want. Because promotion of the right to education is bounded and limited by conditions of equality, my concern is that the prevailing interpretations of equality that underlie the promotion of a common and systemically standardized curriculum can interfere with the ability of

schools to facilitate the conditions of freedom necessary for each student to pursue their right to education to its fullest extent.

### *Securing a Successful Future*

A third reason, which is essentially a corollary of the second, is based on the belief that schooling offers “[t]he opportunity to escape from the limitations of the social group in which one is born” (Dewey, cited in Fullan, 1991, p 14). In other words, schools offer students hope - hope for political ascendancy, economic success, and social well being, without which the alternative is despair, poverty, and fear. This belief is echoed by the Director General of UNESCO, Koïchiro Matsuura, who concludes that “education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty” (Matsuura, 2002, p.1).

### *A Sense of Obligation*

A fourth reason for attending school (and trying to get good marks, being a good student, following school rules, policies, etc.) stems from a sense of obligation to one’s family and those significant others with whom students feel a connection and a sense of responsibility. It stems from the desire to please parents, relatives, and friends, and to make these people proud to be associated with their efforts and achievements. Conversely, leaving school early, low academic achievement, or poor behaviour necessarily reflects badly upon those associated with that student, bringing shame or disappointment to all concerned. Thus, unless a student is willing to defy common sense and to reject the advice and endure the disappointment of teachers, parents, peers, and society at large, the idea of not attending school “voluntarily” for most students is not an option.

*Freedom of Choice and Student Options*

R. S. Peters observes, “[t]here is all the difference in the world in choosing between alternatives and ‘opting’ for alternatives based upon available options” (1966, p. 197). Voters are not unaware of this difference. Often voters vote for a certain candidate or political party not because they feel that that particular party or candidate promotes their views, but simply because of the options available, that particular candidate or party appears least likely to interrupt or interfere with the voters plans and projects. Along similar lines, passengers in a burning airplane could be offered a choice either to jump with a parachute or go down with the plane. Neither of these options truly express the wishes of the passengers. But, out of the available options, parachuting appears to be the least harmful to their persons.

In the case for education the situation is much the same. Of the available options high school students often choose ones in which their chances of survival are the greatest, such as courses involving the least amount of math or essay writing, courses with little home work, or even courses that best suit their time tabling schedules. Students (like Jeremy) also make course selections based on what they understand from parents, counselors, teachers, and friends will provide the most desirable career choices.

High schools, in particular, operate on the combined principles of hope and fear: the hope of upward economic and social mobility (Dewey, 1966), and the fear of doing without and of not belonging (Fullan, 1991). A strategy of external incentives and deterrents - a “carrot and stick” strategy - appears to be the principle motivating force behind many students currently choosing to remain in school. The idea of dangling a carrot from a pole or stick, just in front of a donkey’s nose and slightly out of reach of its grasp, is a strategy used as an incentive to move forward in anticipation of reaching the carrot. Conversely, if the carrot incentive does not work, the stick can be used to persuade the donkey that it is truly not in its best interest to refuse to comply. And although the carrot appears as quite an innocent motivational strategy in comparison to the harshness of the stick, both strategies are ultimately aimed at coercing the animal into doing what it does not want to do.

Furthermore, while it might appear quite obvious that children are not to be treated as donkeys, it is not at all obvious why we employ the same strategies and motivational devices in their education. Dangling career and lifestyle opportunities enticingly out of reach of most students' grasp is as alluring as the "innocent" carrot, while the fear of unemployment, insufficient income, and relegation to a level of social insignificance are capable of inflicting blows more painful and more enduring than any that could be delivered by want of a stick.

I believe that the incentive to remain in school and choose courses of study must be accompanied by considerations of interest, enjoyment, a sense of wonder, and personal fulfillment, rather than simply considerations of future employment, a lack of genuine choice, or a sense of obligation. Students need to be able to choose from a variety of educational programs, driven by individual choice, so that there exists an equal opportunity to be interested in what they are learning and intentionally strive for successful academic achievement of their own accord. As Roland Case observes:

The justification for liberty is the value of pursuing one's own will. If an action does not reflect the intentions and volitions of that person, then it is not his/her will. As such, it is not the proper object of a right to liberty.<sup>39</sup> (Case, 1986, p. 452)

If we consider Case's justification for liberty a reasonable and acceptable interpretation, then we must concede that current educational practices are not objectified by conditions characteristic of a human right, as current educational practices lack for many students the essential element of free choice by which we recognize and judge the worth of human rights. Referring back to the rules governing the establishment of concepts (p. 194), these rules must be applied equally in accordance with any special or relevant circumstances that may affect the application of these rules. As there seems to be no cause for special treatment of the right to education we can proceed to judge this concept according to the same rules. In doing so, however, we find that only if we break all the rules governing the establishment of a concept, or extend the notion of a right beyond our current understanding of a right, can we include compulsory education in a class with all other human rights.

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<sup>39</sup> Remembering here, the limitations of liberty bounded by creating harm and/or interfering with the liberties of others (e.g. the hateful actions of Hitler are not the proper object of the right to liberty).

### **Education is Not Actually Considered a Human Right**

But if, as I have argued, education in its current form does not proceed as a fundamental human right, is there a conceptual equivalent under which it might be classified that achieves aims comparable to that of a human right? The answer to this question I think is yes. In the social construct of some cultures *obligation* occupies an equivalent place to human rights.

Obligation is a parallel concept that may perform a similar function in a society. Though considered conceptual opposites or counterparts, there is a union between rights and obligation as complementary elements in the promotion of a democratic and pluralistic society. Obligation is imposed on the individual and comes from an innate sense of belonging and responsibility to the well-being of the collective. Rights, on the other hand, reflect the volition and will of the individuals within a community. Consequently, within the framework of human rights the recipient of the obligation is reversed; the community has the obligation and the responsibility to protect and promote the freedom and the security of the individuals who comprise that society.

In a selection written by Robert Cover (2000), entitled Obligation: A Jewish Jurisprudence of the Social Order, the author makes the case that there is a concept in Jewish Law that occupies an equivalent place to that of rights, this is the concept of obligation or “mitzvah” (pp. 343 - 345).<sup>40</sup> Cover claims that the Jewish legal system which evolved over the past two millennia did so without a state, and “largely without much in the way of coercive powers to be exercised upon the adherents of the faith.” There was, he suggests, no centralized power and little in the way of coercive violence. The critical center of the Law reinforced the bond of solidarity, where common, mutual, reciprocal obligation was necessary. The word mitzvah literally means commandment, but has a general meaning closer to an “incumbent obligation”. Cover explains that behind the term mitzvah is the story of Sinai, and that the story of Sinai was a collective experience and has its roots in the idea of heteronym (subordination to the law). Sinai, says Cover, was not chosen; it was commanded.

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<sup>40</sup> Webster’s defines *mitzvah* as, “a religious or civic duty or a humanitarian or charitable act”.

By contrast, the story behind the term rights is the concept of social contract, a concept that postulates free, independent, but highly vulnerable beings:

who voluntarily trade a portion of their autonomy for a measure of collective security....[T]he collective arrangement is the product of individual choice and thus secondary to the individual. “Rights” are the fundamental category because it is the normative category, and one which most nearly approximates that which is the source of legitimacy of everything else. Rights are traded for collective security. But some rights are retained and, in some theories, some rights are inalienable. (Cover, 2000, p. 344).

Social movements in western democracies, such as Canada, often organize around rights. When there is an urgently felt need to change the law a rights movement is started - civil rights: the right to life, welfare rights, and so forth, which claim entitlement. But entitlement without obligation, Cover declares, “is a sad notion”, and that obligation is the closest thing there is to a definition of completion within a community. In the case for education, making education compulsory for children also requires parents and governments to perform their obligations towards children. School legislation imposes upon parents the duty of sending their children to school. Governments, in turn, have the obligation of providing an education that justifies the compulsion.

A consequence of the symmetry of law is that there is no right to education without corresponding obligations for governments. It is to secure these rights that governments are instituted. Thus it is the responsibility of government, and by extension its public education system, to ensure that the right to education is provided for throughout the entire process of education, and to maintain conditions whereby the fullest extent of an individual’s rights can be realized, without jeopardizing respect for human rights and freedoms to which *all* persons are entitled and “without distinction of any kind” (UDHR, Article 2). Hence, several interesting questions arise from this relationship between rights and obligations with regards to education that call for further consideration and reflection. Are children obliged to be educated? Does the state have an obligation to educate its citizens? If so, is the state justified in using force (compulsion) in order to meet this obligation? Do citizens of a state have

an obligation to be educated in the ways of that state? Is it one's civic duty to be educated? Are civic duties also rights?

### **Education is a Human Right but, Unfortunately, Children are Not Considered Human**

To suggest that education is a human right but that children might not be considered human may strike the reader as odd, for by definition human rights must include children simply because children are human beings. Yet, I feel it is still necessary to highlight the fact that the women of Canada were not granted official legal status as "persons" until 1929. On March 14, 1928, the Supreme Court of Canada considered the question: "Does the word 'persons' in Section 24 of the British North America Act of 1867 include female persons"? Six weeks later an official ruling came back as "no!" At issue was whether women could be appointed to the Canadian Senate. Canada's constitution stated that one must be a "person" to serve in the Senate. In 1928 the Supreme Court of Canada ruled that when the Constitution Act of 1867 (also known as the BAN Act) was written the term "person" was not meant to include women, only men (Supreme Court of Canada, 1928). The decision was appealed with Canada's highest court at the time, the Judicial Committee of the British Privy Council. On October 18, 1929, the Council over turned the Supreme Court and ruled that, "yes," women are in fact persons and, therefore, eligible to become Members of the Senate of Canada.<sup>41</sup>

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<sup>41</sup> This was the famous "Persons Case" which came to the Supreme Court of Canada in March of 1928. The question asked by five Alberta women was, "Does the word 'person' in Section 24 of the BNA Act include female persons?" They chose Toronto lawyer Newton Wesley Rowell who was supported by the Attorney General of Alberta & opposed by the Solicitor General of Canada and the Government of Quebec. On April 24, 1928 Chief Justice Anglin ruled that since persons required for public office must be fit & qualified, only men would be eligible for appointment.

However, determined to win, the five women lobbied to take their case before the Final Court of Appeal which, at that time, was the Judicial Committee of the Privy Council in London, England. The five women went with Prime Minister King's support and Canadian government continued paying for the case. On October 18, 1929, the women of Canada were finally declared 'persons'. Lord Sankey, Lord Chancellor of the day, said, "The BNA planted in Canada a living tree, capable of growth and expansion.... the word 'persons' in section 24 of the BNA Act includes members of both the male and female sex...& women are eligible to be summoned & may become Members of the Senate of Canada".

Similarly, it was not until the ratification of the 19th Amendment in 1920 that women in the United States were considered responsible enough to vote. Until this time it was the general consensus that for the purposes of responsible decision making it was necessary for husbands to act “in the best interest” of their wives, as women were considered much too innocent and thus wholly incapable of understanding politics.

As Tomasevki observes, the history of human rights has evolved through broadening the categories of people endowed with the liberty to claim their rights. Originally it was “adult white, propertied, male citizens.” Rights were then “gradually extended to women, then to non-white people, and finally to non-citizens” (Tomasevki, 2001d, p. 26). The process of inclusion, however, may still not be complete. The rights of children *in* education may still be unjustifiably limited. Children, Canada’s largest minority group, may in fact be the last group of individuals to be acknowledged as persons or, as in the case for human rights - humans!

### **Revisiting Justifications for Compulsory Education**

In the preceding chapter we were presented with various arguments supporting compulsion of the right to education, both in the literature and among the research participants. In this chapter I highlighted a curious inconsistency of the right to education in regards to its compulsion, and four possible explanations were offered for its distinct status. In our investigation of the first explanation, “education is a human right that is justifiably limited,” I agreed with Case (1986) that aged-based restrictions are empirical generalizations and not at all equivalent to moral entitlements, since any claims of immature behaviour cannot be confined to the ages characteristic of children.<sup>42</sup> I also posited that limiting human rights based on the principle of Conferred Benefits cannot be confirmed and is subordinate to the principle of Respect for Persons which places autonomy and the entitlement to non-interference ahead of prudential judgments over what may be deemed to be in a child’s best interests.

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<sup>42</sup> Roland Case (1986) in a paper entitled Pulling the Plug on Appeals to Irrationality, Immaturity and Expediency, makes a very strong case against age-based restricts from which I have borrowed liberally.

In our examination of the second explanation, “education is a human right that has been and continues to be violated,” it was argued that to ignore a child’s right to choose, by enforcing outside plans or expectations upon them, is a violation of the rights due to them as a person. As educators and adults we deeply resent outside interference in our own plans and projects and must acknowledge the same entitlement to non-interference in the aspirations and interests of students. I agreed with Roland Case (1986) and William James (1980) that the only morally justifiable reason for limiting a human right can only be for the very same reason the right was proposed in the first place, which is to respect the will of every individual through a policy of non-interference in their lives, other than for reasons of preventing harm unto themselves or to others.<sup>43</sup>

In our investigation of the third explanation, “education is not actually considered a human right,” we are left to consider three things: firstly, whether or not a right can legitimately exist independent of free choice; secondly, whether we can extend our notion of what constitutes a right without regard for the characteristics which distinguish a right from either a duty or an obligation; and thirdly, whether obligation is a conceptual counterpart or a complimentary element of a human right?

Finally, in our consideration of the last explanation, “education is considered a human right but, unfortunately, children are not considered human,” it was suggested that the question of whether or not children are considered human for the purpose of enacting human rights is perhaps not as ludicrous as it may sound. The objective of human rights is to provide safeguards against the abuse of power by according legal rights to those members of society in need of protection from those in positions of power and authority (Sieghart, 1985).

Historically, the law has treated children as objects of the right to education, “by speaking and acting on their behalf and not allowing them to speak for themselves or

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<sup>43</sup> The Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25, on November 20, 1989, Article 13, Paragraph 2, states that rights “may be subject to certain restrictions, but these shall only be such as provided by the law and are necessary: (a) For respect of the rights or reputations of others; or (b) For the protection of national security or of public order (ordre public), or of public health or morals.”

to articulate their own interests and needs” (Tomasevki, 2001a, p. 22). But, as Tomasevki (2001b) points out, the objective of human rights law is “to alter political choices by bestowing legal rights upon those actors who have the least access to decision making, such as children” (p. 10). Agreeing with Tomasevki (2001b) that “the law is symmetrical,” I have argued that a consequence of the symmetry of law is that there is no right to education without corresponding obligations for governments. The legislation of compulsory education requires governments and parents to meet their obligations towards educating children (p. 13). School legislation compels parents to fulfill their duty of sending their children to school, and imposes on government the obligation of providing an education that justifies compulsion.

## CHAPTER 6

### MERIT AND THE WILLINGNESS TO TRY

In the preceding two chapters we investigated two questions: why do societies that strongly promote freedom insist upon compulsory education, and what is the case for compelling all children to learn certain things; that is, why can we not leave children's learning to their own natural instincts and free choice of what seems important to them? Examining responses from research participants and writers in the literature we found that support for compulsory attendance and a common curriculum is thought to be in the best interests of children and society as well as a necessary condition for the promotion of freedom and equality of opportunity. I, however, questioned how compulsory education is an adequate response to the promotion of equality and freedom of choice, and inquired on what basis schools claim to promote the full development of the human personality through the delivery of a common curriculum.

In this chapter I would like to explore the relationship between equality and merit as articulated in Paragraph 1 of Article 26, which states that "higher education shall be equally accessible to all on the basis of merit." I shall begin by reviewing responses to three questions asked of the research participants regarding the above: a) What does this statement mean to you? b) Should merit be the determining criteria of equal access? c) If so, how should we judge merit? (Appendix 3, Question 8)

#### **Discussion with Research Participants: Interpreting Merit**

For two of the participants the criteria of merit was thought to be a reasonable approach for determining equal access to higher education:

In order to get in to university or college you have to reach a certain level which is usually set by the universities in consultation with the government. Accessibility can mean everyone gets in, or that you have to meet a certain standard to get in, which I guess is merit. I do think merit is a fair criteria. (PSP 6)

I guess merit is looking at the credibility. Has the student met the qualifications to get in to university or college? And I guess they can in a way because it is private. We pay for anything post secondary, so I suppose that they can set the standards. (PSP 4)

Other participants qualified their responses, suggesting that while merit is often determined by grade point averages and test scores, other criteria could be included in the judging of merit:

[On the basis of merit] means that people should have access to higher education, but only those with the greatest ability to be there and to benefit from it. But I'm not sure that I agree with this because I don't think we have very good measures of what merit is. Typically we are using exam scores and letter grades to determine admission to post-secondary. I am not sure that is the best criteria. I think we need a much broader measure for the purpose of admission. (PSP 1)

To me "equally accessible" means regardless of race, religion, or culture people should have access to it. It is based upon merit and that is always a difficult term because who determines what merit is and where that lies? It is a bit obscure, because if it comes down to grade-point average is that an adequate vision of merit? (PSP 5)

One participant observed that determining equal access according to the levels of achievement on test scores or grade point averages could be deceiving and, if determined through competition, unfair:

I believe this means that if you get the marks, you get to go to the high school or university. But while this may sound like common sense and fair, the reality is quite different in different places. In Vanuatu, for example, the grade six exam automatically excludes 60% of children from higher education. They are pushed out because only 40% can pass every year on the bell curve system, and it is 100% exam driven. (ISP 3)

Some participants felt that an expanded notion of merit was needed, and that a broader conception should include some consideration of the virtuous and personal qualities of each individual:

Merit is more than just how you perform in your academics. I

think it has to be balanced with your character, leadership, and who you are as a whole person. That is why I am a believer in student portfolios. They demonstrate your knowledge, abilities, and attributes that are reflected in a more diverse way than transcripts which just reflects marks. (PSP 4)

Merit has been narrowly defined in terms of grade-point average. That has been the indicator, and I think that one of the things that needs to be considered is the willingness to learn, the ability and desire to find out more, and the ability to work with people in a thoughtful, cooperative way. Also what are your goals in terms of doing this, is it purely individual or is it broader in it's sense? This is perhaps even more ambiguous than grade point average, but those things need to be part of the question. (PSP 3)

The participant below brings a different focus to the above questions that is reminiscent of Tomasevki's observations, where she suggests that because education is perceived to be inherently good there is a tendency to focus our efforts on how to provide more of it rather than on the reasons for its promotion. In addition to considering what form of merit should be considered and how such merit would be judged, this participant is concerned with why we are judging - for what purpose and to what ends - and if these ends are those that we should be striving for:

The question is, rather than simply training nuclear physicists that will, yes, push us ahead in nuclear physics, are we doing this with some sort of social conscience? Do we do it just because we can do it, or do we not do it because we shouldn't do it. *That*, is the big question. This ethics and morality piece is a big part of what we do in terms of merit. To say it in a short and distinct way, I believe that judging merit based on grade-point average is too narrow a definition of merit for determining access to higher education. (PSP 3)

### **Merit as a Criteria for Judging Equal Access to Higher Education**

On the whole it appears that participants embraced the criteria of merit as a fair standard for judging the worthiness or the entitlement of students to access higher education. But it is also evident that the criteria used to judge merit, based upon academic performance

levels achieved in high school, was thought to be too narrowly defined, and that the concept of merit should embrace a more holistic and balanced set of criteria that includes a consideration of the individual qualities of the student. This is a much different way of looking at merit than in the legal profession, where merit is seen as the judging of the factual content of a matter as distinct from any emotional, contextual, or individual considerations of personality or personal qualities. But it seems that a legal interpretation of merit is the one used most frequently by our institutions of higher learning to determine equal access. And though it appears that some educators would like to see the criteria for the judging of merit adopt a broader frame of reference, there is a logic behind the prevailing legal interpretation of merit which might help to explain its appeal and account for why such an interpretation prevails within our education system.

When a certain matter is considered legal, the decisions that result are thought to be just. Justice, according to legal scholar, John Rawls (2003), is associated with what is fair and what a reasonable person in a liberal democratic society would judge to be fair and equal for all persons regardless of whom the recipient of the judgment might be. Furthermore, according to Michael Ignatieff (2000), justice involves the balancing of people's rights and such rights can only prevail under conditions of equality. Since legal cases are judged according to their "merits", the idea of merit as a criteria used for determining equality has become an acceptable measure of deserving and satisfying rights claims.

The concern, however, is not with the reasoning that makes the judging of equal access to higher education based on merit acceptable or unacceptable, but with the prevailing interpretation of equality as formulated by John Rawls. At its simplest, Rawls suggests that equality of opportunity attempts to level the playing field by providing equal access to education and employment advantages based on merit:

[B]ackground social conditions are such that each citizen, regardless of class or origin, should have the same chance of attaining a favoured social position, given the same talents and willingness to try. (Rawls, 2001, p. 123)

If we accept a Rawlsian conception of equality, as underlies current notions of equal educational opportunity, then we must also accept that conditions of equality have

been met when individuals, based on merit alone, are able to achieve positions of social and economic advantage. The reasoning here is that opportunities for social (as well as presumably economic and political) mobility should not be governed by circumstances of birth, race, ethnic origin, or other criteria over which the individual has no control (Rawls, 2003). And while this is a widely held conceptualization of equality there remains several misgivings with this interpretation as it applies to the fulfillment of the universal right to education and the promotion of equal educational opportunity.

Firstly, Rawls' interpretation claims that given the *same* chances and the *same* willingness to try, people are provided with conditions of equality. I, however, have argued in the previous chapter that such an interpretation equates the notion of equality with that of sameness, thereby offering students *identical* opportunities rather than *equal* opportunities. As educational philosopher, Kenneth Strike (1995, p. 53), observes "maybe equality requires treating people differently, while Michael Ignatieff (2000, p. 41) concludes that, "human equality actually manifests itself in our differences." Using the criteria of sameness can deny students equal opportunities in education by ignoring individual differences through practices of assimilation as illustrated earlier on in the *Lau v. Nichols* decision of the U. S. Supreme Court.

### **Multiple Intelligences and Freedom of Expression**

A second difficulty with a Rawlsian interpretation of equality concerns the criteria of "a willingness to try". I have argued that there may be valid reasons for not trying, such as ignoring student interests, which have not been taken into account in the judging of equality but which may exclude some students from an opportunity to benefit equally from the provision and distribution of educational resources. Howard Gardner's (1983) work on "multiple intelligences" indicates a number of ways in which children can demonstrate their talents and abilities. Gardner identifies at least seven kinds of intelligence that address the diverse nature of how children learn, and which can increase opportunities for students to master their learning objectives and

enhance conditions to demonstrate their understanding.<sup>44</sup> These multiple ways of knowing can play a key role in assessment practices, creating opportunities for children to perform at as high a cognitive level possible using specified intelligences of personal strength.

The first two intelligences are ones that have been typically valued in schools; the next three are usually associated with the arts; and the final two are what Gardner called personal intelligences (1999, pp. 41-43)

*Linguistic intelligence*: involves sensitivity to spoken and written language, the ability to learn languages, and the capacity to use language to accomplish certain goals. It includes the ability to effectively use language to express oneself rhetorically or poetically; and language as a means to remember information.

*Logical-mathematical intelligence*: consists of the capacity to analyze problems logically, carry out mathematical operations, and investigate issues scientifically. It entails the ability to detect patterns, reason deductively and think logically.

*Musical intelligence*: involves skill in the performance, composition, and appreciation of musical patterns. It encompasses the capacity to recognize and compose musical pitches, tones, and rhythms. According to Gardner musical intelligence runs in an almost structural parallel to linguistic intelligence.

*Bodily-kinesthetic intelligence*: entails using one's whole body or parts of the body to solve problems. It is the ability to use mental abilities to coordinate bodily movements. Gardner sees mental and physical activity as related.

*Spatial intelligence*: involves the potential to recognize and use the patterns of wide space and more confined areas.

*Interpersonal intelligence*: is concerned with the capacity to understand the intentions, motivations and desires of other people. It allows people to work effectively with others. Educators, salespeople, religious and political leaders and counsellors all need a well-developed interpersonal intelligence.

*Intrapersonal intelligence*: entails the capacity to understand oneself, to appreciate one's feelings, fears and motivations. It involves having an effective working model of ourselves, and to be able to use such information to regulate our lives.

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<sup>44</sup> Multiple intelligence theory suggests nine different pathways to learning and assessment. Gardner originally identified seven different intelligences, but in the years since has added two more - naturalist and existential. While the naturalist form of intelligence is generally accepted, the ninth form of intelligence - existential - is often excluded. Gardner (2003), himself, is not yet certain of its validity as a distinct form of intelligence.

Twenty years after introducing his theory of multiple intelligences, however, Gardner observes that our culture and our schools still focus most of their attention on the promotion of only two forms of intelligence: verbal-linguistic and logical-mathematical intelligence, in order for people to communicate what they know and understand (2003). Gardner contends that we should give equal attention to individuals who show gifts in the other intelligences: the artists, architects, musicians, naturalists, designers, dancers, therapists, entrepreneurs, and others who enrich the world in which we live.

Researcher and educator, Thomas Armstrong (2003), observes how many children who exhibit these forms of intelligence often do not receive sufficient reinforcement for them in school. Many of these children, he contends, end up being labeled learning disabled or ADD (Attention Deficit Disorder), or simply underachievers when their unique ways of thinking and learning are not addressed through the prevailing linguistic or logical-mathematical curricula (1994). What is notable about multiple intelligence theory in relation to this inquiry is that it suggests a range of possibilities for interpreting merit, equal educational opportunity, and the promotion of the right to education as introduced earlier on in our discussion on freedom of expression and Article 13 of the Convention on the Rights of the Child (pp. 45-46 in this inquiry) which guarantees that all children have the right to:

Seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

(United Nations, 1989)

Multiple intelligence theory helps inform our thinking on what criteria fit under the label of “other media”, a freedom designed to enhance opportunities for the equality of benefits derived from the learning experience. Too often, however, the stated goals and learning outcomes upon which educational success is defined and judged in our schools neglects the imparting of information through any media other than that which emphasizes verbal-linguistic or logical-mathematical expressions of knowing and understanding. A survey of the British Columbia Provincial Learning Assessment

(Government of British Columbia, 1989) and standardized student Foundation Skills Assessment (B. C. Ministry of Education, 2007f) tests for grades 4, 7, and 10 confirms that assessment of student achievement is based upon demonstrated skills in reading, writing, and numeracy. Furthermore, a review of school district goals in the province of British Columbia indicates that the most frequently cited goals emphasize increased literacy and numeracy.<sup>45</sup>

The idea that some forms of intelligence and learning experiences should be assessed and others not, denies freedom of expression to those students whose strengths lie in the areas not selected for testing. There is no inclusion, for example, of the arts as a basis for merit or assessment. Thus, those students who can express themselves through the media of drawing or painting better than through the media of words or numbers are denied the opportunity to do so, their abilities completely disregarded. Yet, as a form of communication, music, drawing and other art media predate reading and writing and provide powerful and articulate forms of expression and language.

As demonstrated through the Children's Global Arts Initiative, art can and does provide for many children a richer and more expressive media in which to convey what they know, feel, and understand about themselves and the world around them (Cruikshanks, 2006; Sanford & Hopper, 2006).<sup>46</sup> In a global society, where there is a need to communicate across borders and across language barriers, alternative forms of literacy such as those of drawing and painting, that go beyond the comprehension of words on a page, can offer expressions of knowing and understanding not yet available to children through the written or spoken word.

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<sup>45</sup> A review of the district goals for British Columbia school districts 61, 62, 63, and 64 (Victoria, Sooke, Saanich, and the Gulf Islands, respectively) indicates that the number one goal for all four districts is the improvement of reading and writing skills in comparison to the provincial average as assessed by provincially standardized testing. The next most frequent goal cited is the improvement of numeracy according to the same provincial testing standards. Furthermore, the BC Ministry of Education's *Foundations Skills Assessment* and *Provincial Learning Assessment* for students in grades 4, 7, and 10 are used for comparison with the *National and International Assessment* test which assesses student achievement in the areas of reading, writing, math, and science only.

<sup>46</sup> The Children's Global Arts Initiative is a University of Victoria-sponsored initiative inviting school-aged children from Canada and other countries to connect with each other and communicate their understanding of the world around them and the conditions in which they live. Nadine Cruickshanks' study, in particular, points to gains in transformational learning opportunities for children as a result of this art media exchange.

### **Discussion with Research Participants: How Much Free Education is Enough?**

Related to the question of why we study certain subject areas is the question of how much study is enough. Research participants were asked to consider the statement in Paragraph 1 of Article 26, “Education shall be free, at least in the elementary and fundamental stages,” and comment on how they would interpret elementary or fundamental (Appendix 6, Question 3). Because traditionally we have divided schools according to elementary, junior and senior high school, and more recently in some school districts as elementary, middle, and high school, the participants had some pre-existing notions about the term elementary. However, while acknowledging the existing designations, participants had little trouble re-evaluating the designation of the word “elementary” to mean something more akin to fundamental or basic and proceed to examine more closely the Declaration’s intended meaning.

With the exception of two participants, who interpreted fundamental to mean up to and including grade 10, the remainder felt that a fundamental education in our society would include grade 12. As summed up by one participant:

What is fundamental? I believe that we are at the place now that if an individual doesn’t have high school graduation in this province, then unless they win a lottery or are an extraordinary athlete or musician, they are almost always condemned to a service industry life style at minimum plus for the rest of their life. There are always exceptions to that, but as I look at what the labour market is asking for, as I look at what’s out there - at internships and apprenticeships - I am almost always seeing minimum standards for entry as being the Dogwood. If you don’t get the Dogwood, then equivalencies that might exist at a college level also I believe needs to be free. I think that you have to be able to get to the equivalency of a high school graduation that will allow you then to pursue those things that might be in your interest. And after that I think there is some logic in being responsible for working towards the cost of [your education]. As I see it, free post-secondary starts to send the wrong messages. (PSP 2)

Unexpectedly, I found that there was more deliberation over when education should begin than end. Some participants felt strongly that (free) education should begin with

all-day kindergarten, while others felt that “fundamental” could be interpreted as including early childhood education:

If we have to make the choice to put the money in one place or the other I would steer it towards the early years. I have educated a lot of kids whose parents didn't have the where-with-all to get any kind of formal instruction for them prior to kindergarten. They also didn't have either the time or perhaps the inclination to be reading to them at home. And these kids were at a real deficit compared to their classmates that had five books read to them a day and that sort of thing. If we could make it universal and free any place, I would say the early years would be the better ones. And if the cost for that was that at grade 11 or 12 students had to start pitching in a bit of money, there are certainly a lot of 15, 16, and 17 year olds that could do with a job and pay \$500. a year to complete their education. That would be better than taking it from the other end. (PSP 7)

One participant felt that fundamental education should include up to grade 12 equivalency, but rejected outright the idea of free, institutionalized, early childhood education. His views were in stark contrast with those of the other participants:

Free Early Child Care Education? Now there's a funny one. There was a time where one-income-wage-earning families had home situations where kids were being educated. I am one of those. I grew up in an environment where my mom taught me to read. She spent time with me, she taught me how to count and she taught me how to do things. She was engaged in teaching me pre-school skills. The problem we have now is that what use to be the base of single-income wage-earning families generally did what pre-school environments tend to do now. But now we have a situation where two income families are the norm, and children are now in day cares and pre-schools, and in a variety of different places. So what is the answer to that? Universal pre-school? I guess my point is that we have undergone such a profound social change that at some point we have to apply the notion that there are some responsibilities in education that at some level need to be parental. (PSP 2)

This response is significant on a number of levels. It brings up questions of how much education is necessary and, furthermore, who is responsible for its provision? The question of how much education is also one that caught my attention, though not

from the same perspective. This participant was reflecting on when formal education should begin, while in asking the question I was originally more concerned with finding out when educators thought elementary or fundamental education should end. I was interested in finding out their opinions regarding at what point they would consider the baseline for elementary or fundamental education to have been met.

### **Educating for the Future**

Earlier in this inquiry we looked at arguments supporting a compulsory common curriculum and discovered that research participants generally felt there was value in promoting a common curricular core. This core included literacy and numeracy as a baseline to ensure the promotion of a common language in which individuals and societies could communicate and interact, as well as a fundamental knowledge in areas of science and social studies in order to more fully comprehend the world around us. But while I can appreciate how knowledge in these areas could conceivably contribute to the enhancement of society in general, and the lives of individuals in particular, there is also evidence to suggest that much of this fundamental knowledge is not retained or called upon in life beyond school. Thus, a question in my mind is how much common knowledge is necessary for individuals to be able to appreciate the world around them and to contribute fully as members of society?

For example, just how much math is necessary or essential for life beyond the classroom? I have found that I do not use mathematical skills beyond those learned in the eighth grade, except when I am teaching mathematics. All the mathematics I require for everyday use, for activities such as construction, cooking, completing tax returns, shopping, travel, financial planning, and so forth is now learned in the first eight years of the B. C. math curriculum (B. C. Ministry of Education, 2001). Yet, the completion of mathematics at the grade 11 level is the minimum requirement for graduation in the province of British Columbia and a minimum requirement for entrance to most university programs.

Consequently, I was interested to discover that in a recent study conducted by a Spanish researcher, Jose M. Esteve, it was found that most of what is taught to grade 6 students in the Basic General Education curriculum in Spain is completely forgotten by the time they become adults:

After obtaining more than 200 examinations used in 36 primary schools with 12-year-old children, a standard examination was made mixing questions of different subjects. This examination was taken by a group of university students and most of them failed outright.... The results obtained by 125 such students in the above examination, marked generously, were an average of 2.48 out of 10...only 7 university students out of the 125 were successful. (2000, pp. 1 & 7)

Intrigued by the results of this research, I administered this same test to myself and a class of pre-service teachers at the University of Victoria where we measured similar results (my score was 3 out 10). Of course the questions on the exam were not derived from a Canadian curriculum, so the question still remained as to how adults educated in British Columbia might fair on a standardized test of the B. C. curriculum at a particular grade level. Some months later I was able to shed some light on this question with a different class that I was teaching at the university. Using materials from the British Columbia curriculum of a grade 9 class that I was teaching concurrently, I put together a test using subject materials from Math, Science, and Social Studies 9. After completing and marking the 45 minute test in class we discussed the results of the quiz and the value of what students were learning at the grade 9 level.

The exercise was revealing in several ways. First of all the students were astounded at how much they had forgotten or perhaps not taken in. None of the students, in fact, passed the exam. The achievement of low scores on a test of “basic education” among highly educated adults shifted the classroom conversation to the topic of relevancy which was, in fact, the whole point of the activity. The test was taken not to show what poor memories we have, but rather to have pre-service high school teachers reflect on their prospective teaching areas, and look closely at what they are asking their students to learn and for what reasons.

The discussion that ensued was interesting because these pre-service teachers found that they needed to look at their subject areas through the eyes of both teacher as well as student, and as facilitator and recipient of the information. It was also interesting because the class' conversation on the relevancy of the curriculum found echoes in the classroom reading assignment taken from B. C. educator and former Deputy Minister of Education, Charles Ungerleider's book entitled Failing Our Kids:

The problem is the curriculum. It has become bloated, fragmented, mired in trivia, and short on ideas. It does not demand that students connect what they learn with anything else....The curriculum stifles curiosity. (2003, p. 105)

The pre-service teachers readily agreed with Ungerleider's observations, acknowledging that the common curriculum in which they had participated at school (a few students were from out of province, and one was from the United States) and were now preparing to teach, had rarely undergone any questioning during their teacher training. They had never entertained the question of why they were teaching what they were teaching from a pedagogical point of view. In general the students supported Ungerleider's view of what a common curriculum ought to attain:

The curriculum of the public school should exhibit four attributes, (1) It should be meaningful, enabling students to connect what they should learn in class with their lives outside of school. (2) Students should be challenged by the curriculum to reach beyond previous boundaries in knowledge and experience. (3) The curriculum should stimulate student's curiosity, prompting them to want to know more. And (4) the curriculum must require students to think deeply, to invest mental effort in their learning. (p. 107)

The students were also supportive of Ungerleider's conclusions regarding the purposes of education and the preparation of students for their futures:

We should not try to prepare the next generation for a specific set of circumstances, since we are unable to predict even with modest accuracy what the future will hold. We would serve our society well if our schools ensured that the next generation possessed a strong foundation in reading, writing, and numeracy; was disposed to treat others with respect; had the ability to work cooperatively with others; appreciated and acted upon the values and principles

that make us human; understood Canada and could appraise its strengths and limitations; and could exercise a critical intelligence that was adaptable to circumstances unforeseen. (p. 107)

*The Five Great Goals of Education*

The class then compared the views of the former Deputy Minister with the official views of the Ministry of Education as they appeared on the Ministry web site under the heading of British Columbia Ministry of Education Mission Statement, that was adopted in 1993 and still in effect today:

The purpose of the British Columbia school system is to enable learners to develop their individual potential and to acquire the knowledge, skills, and attitudes needed to contribute to a healthy, democratic and pluralistic society and a prosperous and sustainable economy. (BC Ministry of Education, 1993)<sup>47</sup>

Ungerleider had served as Deputy Minister between the years 1998 - 2001, and as a group of educators we speculated on whether his views might express a revised view of the goals and purposes of education in the new millennia and whether or not we could agree with this view. The activity and discussion that occurred in this class was never intended to be a part of this inquiry, but my recollection of this event and my curiosity prompted me to investigate what the official view of the purposes of education is held to be at present. In doing so I discovered that the Ministry web site features a document entitled Service Plan Update 2006/2007 - 2008/2009. The plan contains the B. C. Government Vision Statement declaring that: “The Ministry's vision is to make B. C. the best-educated, most literate jurisdiction on the continent” (British Columbia Ministry of Education, 2007a).

The Service Plan Update provided a link to the Ministry's Five Great Goals and the recommended means by which they might be attained:

Continued progress toward the Province's Five Great Goals depends upon well-educated citizens. Graduates of the K–12

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<sup>47</sup> Interestingly the Mission Statement adopted by the Ministry in 1989 was officially reworded 4 years later to include three extra words in the last line - “democratic and pluralistic.”

system should be able to demonstrate:

- intellectual capacity/achievement through large scale provincial exams and assessments, such as Provincial Examinations and Foundation Skills Assessment;
- the ability to make healthy life choices; and
- career development skills through the successful transition to either post-secondary education or to the workforce.

The Five Great Goals are listed as:

1. Make B. C. the best educated, most literate jurisdiction on the continent.
  2. Lead the way in North America in healthy living and physical fitness.
  3. Build the best system of support in Canada for persons with disabilities, special needs, children at risk, and seniors.
  4. Lead the world in sustainable environmental management, with the best air and water quality, and the best fisheries management — bar none.
  5. Create more jobs per capita than anywhere else in Canada.
- (British Columbia Ministry of Education, 2007b)

### **Discussion with Research Participants: Success in Education**

The Five Great Goals of the BC Ministry of Education, if realized, would indicate successful achievement of the recommended outcomes of education as recognized by the Province of British Columbia. Yet, a comparison of the goals of education presented by Charles Ungerleider and supported by the pre-service teachers in my university class, with those of the Government of the Province of British Columbia, reveals some philosophical differences between their projections of the essential purposes and aims of education. These differences prompted me to ask research participants for their views on what they felt indicated successful achievement in education (Appendix 3, Question # 4):

One participant recognized grade 12 graduation to be a measure of success in education:

I think success varies from student to student. I don't think that

there is a universal measurement of success other than everyone agreeing of some fairly basic one, like all students graduating from high school. (PSP 6)

Other participants, while recognizing the existence of grade 12 graduation as a widely acknowledged measure of success, questioned the appropriateness of the criteria required for graduation:

Success looks different for every child, it isn't necessarily a Dogwood [certificate]. I have an awful lot of concern about the top down educational model that exists in our province. I see kids who have sets of skills that are really quite valuable, who are not given opportunities to pursue those sets of skills because of arbitrary lines drawn in sand at the post secondary level. I find that to be as annoying as anything I have to deal with. I just had a young man walk out of here who is one of the most brilliant musicians I have ever known. He is clearly not an academic, but the lines drawn in the sand by our [local] post-secondary institutions deny him access to additional training and present me with some serious issues. I wonder why they do not look at who he is and recognize that he has a gift. (PSP 2)

Is completion of high school with a Dogwood graduation success? Sometimes I would have to say no, and sometimes yes, depending upon the situation of the child. Success is a rather illusive thing. It is measured on an individual basis rather than by meeting a bar which means you are successful. Frankly, our society tends to measure success according to lots of money, and I do not believe that this is a true measure of success. Success is happiness, contentment, and a sense of knowing and understanding your place in society. (PSP 5)

Still, other participants made no connection with graduation requirements, Dogwood Certificates, or any other forms of external measure. Instead, they viewed success as something determined by the individual, and based their notions of success on whether a student was able to benefit from their education in order to help them to realize their future aspirations in whatever capacity that might be:

What do we mean by success was the topic of our Pro-D last year. When we say that we want our students to be successful, what does that mean? What I want for children in education is to know

what is out there for them in the world, I want them to know who they are, what they are good at, and help them get where they want to go. (PSP 3)

I would gage success as children being able to be given the tools, the knowledge, and the skills to achieve the things that they want to achieve later on in life. I think, like most teachers, that education is about preparing kids to achieve what they hope to achieve, and that all kids have access to the best quality education. (PSP 7)

I feel that school is a social institution which has some educational learning benefits attached to it. In a bigger way, relationship building, human connectedness opportunities, and knowing how to be able to leave their adolescence behind and be very successful adults, raise families, work in communities, and provide service I would say are the signs of success. (PSP 4)

Success for me is helping all students to open doors to reach their full potential, and that is different for every child. It's not about letter grades. It's about providing the greatest and widest opportunities possible to become the person that they want to be or discover themselves to be. So I often put the definition of success on to the individual to take responsibility for that. We want them to determine what it means to them as well. (PSP 1)

### **The Means and Ends of Education Through the Lens of Human Rights**

The participants' responses regarding what they considered to be success in education were considerably different, but all emphasized a single theme - equality of opportunity for all students to determine and find success in their own individual ways. In none of the participant's responses did I find any emphasis placed on education as a competition for success. And, yet, in each and every one of their Five Great Goals the B. C. Ministry of Education lauds education as a process directed towards securing the greatest social and economic gains in comparison with every other jurisdiction. More over, none of the government's Five Great Goals directly support those of the universal right to education in promoting the full development of

the human personality, friendship, peace, and the strengthening of human rights and freedoms. While the Ministry's Mission Statement does include promoting the full "potential" of the individual, given the province's Vision Statement and Five Great Goals it seems evident that the "full potential of the individual" is interpreted with reference to their respective contributions to the social and economic development of society and not to the development of the individual personality.

The Ministry goals clearly promote education as a means to secure the best social and economic arrangements for the province of British Columbia. Ultimately they expect to emerge from this competition a winner, the winner being the one that succeeds in accumulating the most social and economic advantages for themselves at the expense of the other competitors. This strategy is promoted through compulsion of the universal right to education, where compulsory education is grist for the mill of competition. The ability to claim that everyone has an equal position at the starting line greatly weakens any claims of unfairness in the competition that lays ahead.

Legislating and enforcing "the right to education", providing students with "equal educational opportunity", promoting the "full potential of the individual" is language used to convey efforts and strategies for accommodating the promotion of successful academic achievement for all students. Teachers as well as parents fall victim to this ploy. Assuming from their labels that certain goals prevail in our schools, and that the corresponding resources are in place or being put in place to facilitate these goals, teachers and parents assure students that the existing strategies are in their best interests and to accept and trust in their counsel even when these students show an aversion to these strategies. As Ungerleider observes, "In many cases parents have to exhort their children just to hang on until grade twelve to get their diploma" (p. 105).

As a classroom teacher and school administrator I have seen this happen time and time again. And the tragedy presented by the falseness of this situation is not simply the confusion and misconceptions that inevitably result, but also the utter disillusionment and befuddlement created in the minds of children encouraged to value what does not deserve to be valued, to look for importance in what is trivial, to respect what does

not deserve respect, and to intentionally strive for what is not worth striving for.

The alternative school in which I taught was a prime example of exhorting students to stay in school. Students frequently remained in school believing that they would get the “alternative” opportunity they needed in order to be successful in their education. In reality, however, they were not recipients of equal educational opportunity, but simply objects of the school board’s vision of successful academic achievement. However, as posited earlier (see p. 97), prudential judgments do not outweigh the principle of Respect for Persons which underlies the promotion of all human rights. While the school board may have made its decisions based on what they considered to be in the best interests of the alternative school students, Ignatieff reminds us that “[o]ne of the essential functions of human-rights legislation is to protect human beings from the therapeutic good intentions of others (2000, p. 39)

Today, looking through the lens of human rights, I realize that the needs and interests of the alternative school students were never taken seriously. Ungerleider observes, that “[p]lacing special needs students in an age-appropriate setting without offering an alternative program does students a disservice” (2003, p. 141). As I am coming to know through this inquiry, these special needs students were not given their due respect as autonomous human beings, “in accordance with [their] age and maturity” (UN, 1989, Convention on the Rights of the Child, Article 12 - 1). Students were categorically denied the freedom of expression and freedom of thought to which they are fully entitled. They were denied the freedom to fully pursue their right to an alternative form of education - one perhaps better positioned to meet their needs and promote their interests:

***Article 14:***

1. States Parties shall respect the right of the child to freedom of thought. (UN Convention on the Rights of the Child, 1989)

## CHAPTER 7

### COMPETITION AND EQUALITY OF OPPORTUNITY

#### **Discussion with Research Participants: Considerations of Equal Opportunity**

In none of the participants' responses regarding what they considered success in education did I find any emphasis placed on education as a competition for success. Instead, their interpretations of success emphasized equality of opportunity for students to determine and find success in their own individual ways. Equal opportunity, however, is an ideal and therefore open to interpretation. This being the case, I decided to ask research participants for their understanding of equality in education (Appendix 3, Question #4). I was curious to know if it was something they intentionally strive to promote in their schools and, if so, for what reason, and how it might be achieved:

Equality means that we are providing all students with the same access to learning contexts, resources, environments, and opportunities regardless of where they are living or what school they are attending. I try to ensure that a social studies 11 student in class A has the same opportunities for learning as a social studies 11 student in class B. So we do talk about students getting the same quality of education from teacher to teacher. Without me or anyone else infringing upon a teacher's autonomy, we have a responsibility to ensure the same equity of opportunity. (PSP 1)

Now we are getting into some pretty tough grounds, and it's an issue that comes up quite often. I think I would say that there is a threshold where there is a level of equality, but the reality is the difference between theory and practice. For me, equality is equal access to schooling across the board, equal access to the same courses and the same educators, and students being treated in the same way with fairness. Those kind of things I think are in place. But when you start getting into some premium programs, when you start looking at socio-economic differences and home support, things like that, that's when we start to see some inequity. (PSP 6)

It is here where echoes of Tomasevki's observations (regarding the equating of the

right to education with equal access to education, on p. 64), and the *Lau v. Nichols* decision (equating equality with sameness, on p. 101) could be heard in the responses of the above participants. And while both of these interpretations of equality of opportunity seemed to be present in the responses of other participants, they also offered other considerations in their interpretations.

For one participant financial equity was paramount in the consideration of equal educational opportunity:

I think that public education works hard so that every opportunity is provided to every child from every walk of life. When I put out a document where there is a cost involved, for a field trip or something like that, there is a statement attached that says no child will be denied access to the field trip because they can't afford it. We step up to the plate and either take the cost away, or subsidize, or give a bursary, or something to cover the cost. So I feel that we do try to promote equality. (PSP 4)

Still, for other participants, while access to educational resources was an essential component in the attainment of equality, it was not sufficient. These participants were concerned that equal access is not a guarantee that a student would be able to benefit from from the provision of educational resources to the same degree as other students. For these participants diversity among learning needs and abilities were crucial factors in determining conditions of equality:

Equal opportunity suggests a variety of things. First of all it is access; you better have access. So that becomes the first piece of business. If you are not providing access, and everybody doesn't have the ability to access an education, then you've got a problem and need to address that issue first. But having access doesn't necessarily guarantee an equal right to an education, because the diversity of students and what students bring with them will dictate whether they can actually access it once they've arrived. A school must have plans in place and ways of helping students whose learning styles might be dramatically different or whose home lives may be dramatically different. It is one thing to say to a student that you've got an hour's worth of homework tonight, it is another thing to recognize that that student may not have any opportunity to do it; they may not have the place or the support at

home to get it done. That to me is an equal access issue. (PSP 2)

My understanding of equality is that we provide educational institutions, and anybody who is a citizen of our country - any child - can apply to go to those schools. But there is more to it than that. Equal educational opportunity also means considering a student's level of ability. We have some students who have learning disabilities. Now they may be provided with a classroom, and with a teacher, but that doesn't necessarily mean it is an equal educational opportunity unless the situation addresses the student's particular challenge - to read, or write, or study, or concentrate, etc. And this varies from school to school, and district to district, and not all schools have it. (ISP 2)

Equal opportunities means that each child has the opportunities that will support his/her educational success. This may include free lunch programmes, additional academic, physical or psychological support, and access to the materials to ensure learning. Equity does not mean that each child has exactly the same opportunities or support, but that each has equal access to those opportunities/resources/personnel that are essential to his/her specific situation to ensure learning success. (ISP 3)

Finally, one participant looked to judge equality of educational opportunity by ensuring that there was equity in opportunities to access higher learning, funding, and career/job training. But again there was the familiar interpretation of equality as constituting conditions of sameness:

An equal education for me means that no matter what part of town your school is in, students deserve to have the same opportunities and be prepared for whatever is out there for them when they graduate. Do I think that that's the reality out there right now? No, not really. I think I have a duty and a responsibility as an educator to make students aware of the opportunities available to them, and help them work towards finding out how to get there, and not sell themselves short. So whether I work in here or in another school in another part of the city, I have a responsibility to prepare students for scholarships and bursaries and colleges and trade schools. And I am pleased that there are more seats in our colleges and universities because I think a lot of our students haven't taken that opportunity and have sold themselves short a

little bit. I want all of our teachers to raise the bar for those kids, and to know what's possible for them. (PSP 3)

Throughout the interviews it was evident that equal educational opportunity was a highly valued concept among participants. Overall the participants' responses highlighted three key elements in their considerations of equal educational opportunity: 1) access to (the same) educational resources, 2) distribution of school funding, and 3) support for individual needs and future interests. Based on these three goals, participants generally felt that their school districts consciously strive to promote equality of opportunity. While acknowledging that there is room for improvement, participants expressed some satisfaction that their school districts or their own particular schools had reached a high level of success in the promotion of equal opportunity.

Once again, among the research participants I did not find any evidence of promoting equal educational opportunity in order to create conditions for increased competition. Interestingly, though, with the exception of the last participant, considerations of equality were confined to providing the means by which conditions of equality in education might obtain, and did not include either the purpose or ends served by its achievement. This I found intriguing, because it was quite evident from our examination of the Five Great Goals of education that the B. C. Ministry of Education promotes education as a competition for securing the best social and economic arrangements for the province of British Columbia. However, Charles Ungerleider observes that equality of opportunity may be at cross-purposes with the promotion of competition. He claims, in fact, that governments in Canada are purposely retreating from the promotion of equality in order to promote competition:

In many jurisdictions - most notably Ontario, Alberta, and British Columbia - governments are retreating from the core Canadian value of trying to achieve equality. They are saying that inequality fuels the competition leading to economic progress. (2003, p. 183)

Similarly, Entwistle contends that equality is counter-productive to economic and social development. He suggests that achieving a state of equality would render a

society economically and socially dysfunctional:

Life (and schooling) is a race in which there have to be winners and losers. At best we can only devise a fair system of handicapping and, although theoretically a perfect handicap would lead to everyone's breaking the tape at the same instant, this is the last thing we really expect from a good race....And when we cash this sporting metaphor in terms of the requirement of any society, the notion of a dead heat would be socially and economically dysfunctional. (1978, pp. 9-10)

Ungerleider states that governments in Canada are “retreating” from the promotion of equality, while Entwistle claims that equality is counter-productive to economic and social development, claiming that a state of equality would, in fact, render societies economically and socially “dysfunctional.” However, promoting competition as the fundamental method of economic and social progress raises several important questions that will be examined further over the next two chapters. Firstly, how does a government go about the business of promoting inequality when, as indicated in the above responses, its school administrators are committed to the promotion of equality? Secondly, what is the basis underlying the belief that competition promotes social and economic progress? And thirdly, if inequality promotes competition, and competition promotes social and economic progress, why would any society wish to promote conditions of equality, and why should educators strive to achieve equal educational opportunity?

### **Promoting Inequality in Education**

In Chapter 5, I argued against the principle that given the same chances and the same willingness to try people are provided with conditions of equality. I suggested instead that such an interpretation confuses the provision of identical opportunities with the provision of equal opportunities. Yet, most participants found value in the promotion of a compulsory curriculum. In fact, some participants felt strongly that a standardized, common curriculum was essential to ensure equality of opportunity from school to school and district to district. This is also the belief of some

researchers (Entwistle, 1993; Hirsch, 1987; Humphrey, 1986). Given the wide spread support for a common curriculum it is easy to see how equality of opportunity can be interpreted as providing all students with access to the same educational programs across the province.

However, a difficulty in equating equality with sameness in education is that it tends to promote the same ends for all students. That is, the promotion of a common curriculum tends to lead all students in a common direction by providing instruction in the same basic subject areas. Consequently, in order for a student to distinguish them self from the multitude of other students who have gained competency in the areas of mathematics, language, social studies, and science, and for teachers to assess their level of competency, a method of assessment is used to rank students using a common standard of testing and grading. As these compulsory and common curricular subjects are also those required for access to institutions of higher education, which in turn provide access to the credentials required to enter well-paying professional careers, competition arises among many students for the achievement of high grades. Furthermore, because the subject areas outside of this common core are not required for access to higher learning (that is, they are not as critical for gaining access to these institutions), the core subject disciplines tend to receive higher status and priority than other subjects, and in doing so help create a hierarchy among subject areas.

### *A Hierarchy of Knowledge*

When I reflect on the episodes involving students at the alternative school (pp. 3 - 5), and my encounters with the school executive director, Jim (pp. 71-72), a discernible pattern begins to emerge. Although Jim possessed a superlative knowledge of his own native ancestry, a knowledge of the traditional foods, customs, laws, and ceremonies of his people, knew a great deal about traditional ways of fishing, hunting, trapping, and preserving foods, and understood the songs, dances, drumming, and symbols of his ancient culture, he did not consider *himself* to be an educated individual. Given what I knew about Jim, this seemed to me quite absurd, so some months later I

ventured to ask him why he didn't consider himself to be educated. With a laugh, followed by a moment of silence and a more serious expression appearing on his face, he related to me that he could never sit the LSAT exam to enter law school as he had once entertained doing. He further doubted that even now, after all these years, could he pass the English 100 exam, much less go on to study law.

In his response Jim had revealed an understanding of something that has taken me many years in the interval to comprehend. The wealth of knowledge Jim possessed held no status and commanded no authority outside of his own First Nations culture. Status and authority in education is determined by the dominant society and legitimized through government recognition, funding, and political support. This I believe is what one high school administrator was inferring when I asked him for his understanding of the term education and what he thought people had a right to under its label:

You know, I've struggled with that one a bit, just in terms of understanding it. I think whatever a government determines. The government establishes what is a public educational program, and I think that everybody has a right to that public education program free of charge. (PSP 2)

I have since realized that Jim's experiences are not unique, and that the hierarchy of knowledge that exists in education is not determined along ethnic or cultural lines. The same hierarchy was at play in the experiences encountered by Chris and Jeremy, as well as the students in the alternative school program and band school. Certain areas of knowledge within our school curricula are awarded higher status and priority, and a competition exists among the subject disciplines for recognition as valued programs of study and, therefore, worthy of government support and funding. The enduring competition between areas of educational knowledge constitutes a significant barrier in the promotion of equality.

#### *Liberal Arts v. Vocational Education Debate*

A hierarchy exists among high school subject areas, one that can be identified along the

lines of liberal arts v. vocational training, or what is also commonly referred to as academic v. non-academic subject areas. The areas of study which we refer to as “academic” are the compulsory, common core subjects, while the subjects designated as “non-academic” are the non-compulsory or elective courses that reside outside this common core. Be that as it may, there are those who would argue that the knowledge gained in the academic subject areas is more desirable and of higher order, and that this type of knowledge should be the kind that is promoted in our school curricula.

Russel Kirk (cited in Holtz et al., 1989, p. 48), for example, claims that schools should be spared “the assaults of utilitarianism and egalitarianism” in favour of “the training of the mind and conscience through well-defined academic disciplines.” What is often seen as an encroachment on the promotion of a liberal education is an “illiberal” or vocational education, promoted by educators who have seen a need for developing more than simply the abilities of the mind to engage in theoretical reasoning, logic, and critical thinking (Bruner, 1971; Dewey, 1932; Roland-Martin, 1985).

The earliest references to the word “liberal” as applied to education that I have found in the literature are contained in the writings of Aristotle, and denoted a distinction between the education of free men and that of slaves who, not unlike domesticated animals, were trained to perform specific tasks and functions within society. Slaves were not educated for their own good, but rather for the employ in which they were intended. Accordingly, education was categorised as either liberal or illiberal, with the latter term applying to any occupation, art, or science, “which makes the body less fit for virtue,” including “all paid employments for they absorb and degrade the mind” (Aristotle, p. 542). To be considered liberal education should serve the ends of leisure in the pursuit of excellence, otherwise “if done for the sake of others” even a potential liberal art becomes “menial and servile” (p. 542). It was, therefore, not only the nature of the subject by which an education was judged as either liberal or illiberal, but also by its intended use.

Traditionally speaking, then, in the context of current educational practices, the

disciplines of Mathematics, English Literature, Science, and Social Studies cannot of themselves be classified as liberal arts if they are intended to make oneself in a better position for gainful employment. The study of particular subject disciplines for the purpose of making a career or earning a living as a lawyer, doctor, engineer, or teacher is, traditionally speaking, the ends of a vocational or “illiberal” education and not a liberal one, for we must take into account not only the means but also the ends.

Put another way, the future doctor who, while studying Science and Mathematics also studies woodworking for his/her own enjoyment and towards furthering their knowledge in that area for his/her own satisfaction is, by historical definition, in pursuit of a liberal education through their hobby rather than through their principle area of study at the university. By the same measure, those students who currently study subject areas in high school that have been relegated to a vocational status - subjects such as cooking, drafting, woodworking, mechanics, and the like - but who have no desire to attain those ends for employment, and are learning simply for the sake of enjoyment, self-interest, satisfaction, or otherwise increasing their understanding of the art may be said to be pursuing a liberal education.

From a traditional point of view, then, the promotion of a liberal arts curriculum of science, mathematics, socials, and language, constituting a more worthwhile focus of study, is done so under false pretenses, recklessly and needlessly applying an order to knowledge that is often wholly unjustifiable. And if we were to rename and reorder the subject disciplines in our current high school and middle school curricula, such that vocational electives are recast as liberal arts subjects, since they often meet the criteria of the traditional meaning of the word, what situation would result? Would we then value more highly vocational training as it is now a liberal art, or would the former distinctions become meaningless altogether?

I remain uncertain as to what higher purpose is being served by dividing knowledge into sub-classes of liberal and illiberal or academic and non-academic/vocational. Is there really any logical reason for schools to place greater value on some areas of

knowledge than on others unless we are intentionally striving to promote two classes of students in our schools? For I cannot see that the benefits of such naming outweigh the costs to the individuals in who feel that they have achieved less through study in an area of personal interest relevant to their happiness and well being.

I also do not see this distinction contributing to the creation of equality or, in turn, the promotion of equal educational opportunity. This is especially true for students like Jeremy and the students I encountered in the alternative school. Designating some subject areas in the curriculum as academic and others as non-academic helps to condition their opinions of success at school. Should a particular student follow an academic program he or she is generally considered successful and, therefore, “smart”. However, should the same student (e.g. Jeremy) decide that (s)he would rather concentrate on a non-academic or vocational program of study, they are all of a sudden in a different category of students - the students who can’t quite make it - the “not so smart” students.

In this respect I believe Canadian high schools do not promote equal educational opportunity. Non-academic subject areas are perceived to be of far less significance and relegated to a vastly lower level of status and priority within the education system. So low, in fact, that in the province of British Columbia, the ministry of education does not even bother to sanction provincial testing outside of academic or university prerequisite subject areas.<sup>48</sup>

*The Principle of Universality: If Everyone Were Allowed to Succeed*

Promoting academic subject areas and programs of study that prepare students for university entrance through government-controlled curricula is one way in which governments promote competition. And while it might be argued that there is not

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<sup>48</sup>Interestingly, on my daughter’s 2006/2007 grade 5 report cards from one Victoria elementary school, she received letter grades in only 4 out of the 8 subject areas listed on the front of the report card. These were the academic subject areas of math, science, social studies, and language arts. The other four (non-academic areas) were listed but were left blank.

only one goal (e.g. university entrance), this goal is given the highest educational status not only by governments, but also frequently by educators, parents, and society. However, by sending out the message that graduation synonymous with university entrance is the ultimate goal to strive for our schools do a great disservice to the majority of students because it is a goal that cannot be reached from the outset, and therefore morally unjustifiable. Let me explain.

Suppose that British Columbia high schools did an absolutely outstanding job of graduating students in the year 2008, and every high school student managed to graduate meeting all the requirements for a university entrance. What would we do? We could not hope to accommodate everyone in our universities. Furthermore, suppose that not only did our high schools do a tremendous job of getting students to university, but let us also say that the universities did an equally tremendous job, and in the year 2016 were able to graduate one thirty-five thousand doctors, lawyers, engineers, teachers, etc. The question is, where would we put all these professionals - these highly trained, educated specialists for our highly technological society year after year after year?

This scenario is perhaps a good example of the “Universal Consequences Test” (Coombs, 1980, p. 31) - the consequences of everyone acting on the same principle - for the fact remains that what our society has come to value as the most desirable jobs attainable through the education process, has also become the measuring stick for gauging educational success, even though the opportunity cannot be available to everyone. We can only support so many doctors and lawyers in our society and, therefore, we set rigorous academic standards that rely on most students failing to reach these highly sanctioned goals. Our evaluation system, in fact, depends on most students failing to make the grade. For without the failure of the many there cannot be the success of a few. If everyone could make the grade we would simply raise the qualifications in order to restrict the number of eligible applicants.

That our system of education relies on failure in order to work has been well

referenced, though still not widely appreciated for its ruthlessness (Bruner, 1971). As Nel Noddings observes:

Learning as it is defined today is a rigged game. It is designed to separate and point up differences. It has little to do with the interests or needs of children. (1993, p. 14)

In education there is a well-defined and well-understood principle at work that Bowles & Gintis (1976) identified as the “sorting function” of schools, a Law of the Jungle so to speak - a competition - where someone is going to win and someone is going to lose. That is how the “real world” works and, as a recognised training ground for the real world, schools quite naturally reinforce this principle. The idea that all students have an equal opportunity to succeed is upheld by the belief that equal educational opportunity has leveled the playing field for all students to compete fairly. We have built failure right into the fundamental structures of our education system in such a way that it appears to be fair and equitable and, therefore, worthy of public support.

This notion is further reinforced because the image appears to be so correct and so matter of fact, that to reject this belief would appear to contradict common sense (Apple, 1990; McLaren, 1989). Against this background students are given to understand that they can succeed in the job market if they stay in school and get a good education. Students are lead to believe that they all have the opportunity to be a winner in this competition. However, while it may be true that individuals or groups of individuals who have more education will stand a better chance of success in a given society, it does not follow that if everyone has more education then everyone will be more successful, as the status quo will not have changed and there will still be those required to attend to the menial (Hurn, 1979).

Thus, it appears that Ungerleider may be correct in his observations, and would explain why it is that the prime educational goal of our high school curricula is to prepare students for university entrance. Providing equal access to the competition guarantees an unequal outcome, because it is one that the majority of students must

fail to reach. As is the case with a lottery there can only be so many winners, and this amount cannot exceed the number of losers. To win in the education lottery students must choose university accredited courses and draw the highest grade point averages. However, unlike the usual lottery that is voluntary and only for those who enjoy gambling, all students must enter this government-controlled education lottery and compete for the few winning tickets. Students have no choice but to enter into this competition. Society, acting through democratically elected governments, has decided that fair competition is the best way to ensure equal educational opportunity.

By the time they finish high school students understand how this lottery works, and what they must do to compete successfully for a winning ticket. A student who wishes to be successful in this competition must ask themselves a pointed question: “How can I best use my education to realize certain advantages over my peers so that I can increase my chances of gaining access to university, and through this process increase my opportunities to secure employment and the comfortable lifestyle which it can bring?” Ultimately it is this kind of questioning that is responsible for promoting inequality and reinforcing the competition that education has become.

### **Competition as the Fundamental Method of Socioeconomic Progress**

This brings us back to considering our second question: “What is the basis underlying the belief that competition promotes social and economic progress” (p. 139) Will I agree that inequality promotes competition, I cannot agree that competition is the fundamental method of economic and social progress. Such a belief appears to be the basis for promoting competition in education, but I am not convinced that competition will bring about these celebrated ends. Instead, I feel that competition as it is currently exists in our schools is an impediment to social and economic development, causing far greater harm than benefit. I also believe that the relationship which has evolved between competition and education is misguided, as are the prevailing notions of what constitutes social and economic progress in a post-colonial, global economy.

*Evolution and Education*

As discussed in Chapter 4, education has a long history, almost as long as humankind itself. Education is an evolutionary process, a device of nature to speed up the learning process by stockpiling learning experiences in the mature members of the same species for passing on to its younger members. Education increases the chances of survival of the human species - the ultimate goal of evolution.

In particular we associate the name of one man with evolution. Charles Darwin's publication of the Origin of Species in 1871 took the industrialized world by storm, challenging the previously held convictions of our oldest cultures (1980a). Darwin's theories of evolution had a profound effect on the social, political, and religious institutions of the 19th century, including the newly created institution of public education (Desmond & Moore, 1991). Just as the industrial code gave shape to the physical structure and organization of schools and schooling practices (see pp. 78 - 85), Darwin's theories on evolution provided public education with its *raison d'être*, defining at once both its means and ends. Darwin's theory of competition among species for survival - "survival of the fittest" - became the hallmark of schools.<sup>49</sup>

Education was a competition, and through this competition society would train the best young minds to produce strong leaders and captains of industry to compete against nature in "the struggle for life". The theory came at the right time and place in the evolution of public education, as not all were convinced of the value of public education (Entwistle, cited in Reicken & Court, 1993, p. 81-83). Providing public education that allowed those with the strongest abilities to rise to the top was seen to be a legitimate way to raise up all of society. Keeping the social, political, and economic leadership of the community strong would ensure the health and survival of the herd. The theory was sound. It had the endorsement of science. The means and ends of education were validated.

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<sup>49</sup> See also Thomas Malthus (1817), An Essay on the Principle of Population. Malthus' theory of competition as the basis for humanity's survival strongly influenced Darwin's observations on evolution.

At its most fundamental level science is an attempt to understand the rules and regularities that order the physical world. Science is largely based on observation, and very often what first appears to be the most important and critical factors in determining the normative conditions of a certain phenomenon are found to be less so over time as scientists and researchers make more observations and gain greater insights in their understanding of the object of study. During this process researchers single out certain influences as being the most critical influences in determining the normative conditions of an observed phenomenon until other factors are observed and their contributing influences acknowledged. When this results, researchers find that their original observations and theories explain only part of what is actually taking place. As science and research progress together in such a manner, finer and finer distinctions are observed, bringing more and more knowledge to bear on the object of study, and in this manner a greater understanding of the laws that govern the existence of a particular phenomenon is gradually achieved.

Researchers apply the same scientific method to help understand the workings of our social institutions. When existing theories are no longer sufficient to support and validate new observations made in the field, other attempts must be made to understand the contributing influences that underlie these observations. And so it is with the current Theory of Evolution. While a theory of evolution based on competition may account for the survival of some species of plants and animals, it does not sufficiently account for the success of a specie capable of making choices through rational thought. Competition and all that it inspires, rationalizes, and otherwise legitimizes is perhaps responsible for moving humanity closer towards the brink of self-extinction rather than self-preservation.<sup>50</sup>

Human beings do not wish merely to survive in this world; we wish to thrive. And human beings thrive by cooperating with each other not by competing against each other. We have only to consider what brings people closer together and what pushes us apart to see that this is so. Is communication and understanding between people

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<sup>50</sup>As Daniel Quinn (1997) observes, paradoxically, it takes great intelligence to destroy the world.

facilitated best through competition or through cooperation? Do people feel more secure when they are united in a common effort or when pitted against each other? Can we accomplish more by community competing against community, nation against nation, or when the family of nations all work together? The very reason that humans come together and enter into social unions in the first place is to increase their opportunities for survival. Human beings are social beings and social beings benefit from cooperation. Hence, we may want to consider that the fundamental method of social and economic progress for humanity is cooperation not competition.

### *The Ends of Competition and Cooperation*

The rigorous competition that exists within our schools is frequently justified on the basis of a need for even more rigorous competition in the outside world. Schools, often viewed as training grounds for the *real world* - the economic world - the world of competition, have become one of the most competitive of all social institutions (Bruner, 1971). One only has to consider the devices of businesses and governments designed to control competition in our economies to see that this is so. The great proliferation of unions, professional colleges, and federations in our society are designed to reduce and control competition. The General Agreement on Trade and Tariffs (GATT), for example, is designed to limit and control competition between nations, as is the North American Free Trade Agreement (NAFTA), and the European Economic Union (EEU).

It is through the process of cooperation not competition that we preserve our economies. Each time competition creates an advantage, the disadvantaged unite for mutual benefit and ultimately become more powerful. The formation of the European Economic Union (EEU) serves as a good illustration. The EEU was formed to promote and sustain competition through cooperation. Individual European countries could no longer compete against larger nations. Only by cooperating together to create a larger socio-economic union could they succeed in the increasing global competition.

As a result of the EEU we have the formation of NAFTA. The North American continent must now cooperate together to compete against the European continent. But should the countries of Asia decide to form a cooperative union we shall no doubt see the creation of a still larger North American-South American economic union. However, it will not end there. The EEU will never be able to sustain competition between a united Asian block and a union of the Americas. Furthermore, how will the African nations respond to this increased competition? Will there be the creation of still larger economic unions or will there be war - the final strategy in competition.

Nation states have found that they must limit competition in order to promote competition. Certainly a paradoxical situation if ever there was one. In Canada we have legislated a "Competition Act" and created a "Competition Commission" to ensure that competition is fair and that individual organizations do not become too powerful or threatening. Its intent is to promote an "equitable opportunity" for all players to compete fairly:

The purpose of this Act is to maintain and encourage competition in Canada in order to promote the efficiency and adaptability of the Canadian economy, in order to expand opportunities for Canadian participation in world markets while at the same time recognizing the role of foreign competition in Canada, in order to ensure that small and medium-sized enterprises have an equitable opportunity to participate in the Canadian economy and in order to provide consumers with competitive prices and product choices.

(Government of Canada, 1985)

The United States recognizes the same dangers inherent in unbridled competition. The recent break up of computer software giant, Microsoft Corp., by the United States Supreme Court is a testimony to the destructive capacity of competition when allowed to progress freely towards its natural ends.<sup>51</sup> When any business is allowed to compete without restriction it can become so successful that it soon begins to stifle competition, which then acts to limit rather than encourage creativity and innovation

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<sup>51</sup> The struggle to control the highly successful Microsoft Corp. continues. Google Inc. is currently asking the Court to extend the consent decree that settled the antitrust suit against Microsoft Corp. in order to address competition concerns involving the Windows Vista operating system. According to Google, "Vista's computer search function puts other rivals at a disadvantage" (Times Colonist, 2007).

in the market place. This is undesirable for an economy, as creativity and diversity create the novelty and variety that keeps consumers wanting to buy more products and services. Diversity and variety are key elements for survival both in nature and in economics. When one set of ideas, activities, and products dominate a marketplace stagnation occurs and customers do not buy. And economies do not do well when money is not being spent and goods and services not traded. Thus it is in the best interest of the economy that businesses cooperate in order to develop fair competition to ensure that the greatest number may benefit.

The natural ends of competition encourage only two outcomes; winning and losing. Everyone cannot be successful in a competition. There must ultimately be a winner and a loser. That is the nature of competition - to find out who is the most successful through the process of elimination. The winner is the one who succeeds in accumulating the most advantages for themselves (e.g. the Five Great Goals). Gaining the greatest advantage is paramount to winning and is the basis for all competition.

By contrast, the natural ends of cooperation is mutual success. To cooperate means to work towards a common goal for the benefit of all who participate. Taken to its ultimate conclusion everyone wins, for success is judged by the equal distribution of benefits to all participants (Coombs, 1994). The ends of cooperation attempt to bring the greatest benefits for the greatest number, while the ends of competition seek to bring the greatest advantages to the fewest number. Thus cooperation, particularly in education, is preferable to competition, as the ends of competition promote and encourage inequality, and in doing so deprive society of the social, economic, and political benefits that result when all members are able to be full participants and contributors (Coombs, p. 281).

This is not to conclude that competition itself is undesirable. Competition can enhance performance, confidence, and strengthen future opportunities for successful achievement. But these are not the ends of competition that current educational practices seek to promote. Competition in schools is not designed to increase

competition for the outside world, but rather to narrow it. There are not enough positions created in our economy for everyone to compete. Competition in education is designed to sort those who will receive an opportunity to compete from those who will not. Schools do not level the competitive playing field; they weed it.

### *The Real Cost of Competition*

Humanity has reached a second stage in its evolution. Life is no longer a competition with nature for survival. Humankind has demonstrated that we can compete with nature and succeed; we can create conditions favourable for promoting our own survival. We are no longer governed solely by the circumstances that exist in nature; with technology we can create our own. We can move mountains and divert rivers. We can bring water to deserts, turn valleys into lakes, make snow in the summer and suntan in the winter. We can go over, through, and around mountains. They are no longer obstacles in our way. We can travel on, under, or over the oceans. They no longer divide us. With the aide of technology they unite us. Technology ignores the seasons, slowing neither for the cold of winter or the stillness of night. With technology we can create our own energy - our own light, our own heat.

But competing against the forces of nature comes at a high cost, and only recently have we begun to understand the true cost. Competition is not a long term solution to the continued success of our specie. We cannot succeed by sustaining competition with nature or with each other. Continuous competition depletes the critical supply of resources; our own and those in nature. The science of economics recognizes cost efficiency as a basis for prolonged existence. A competitive existence is not cost effective; sharing the cost is more efficient. And sharing is the science of cooperation not competition.

This is not to suggest that competition has no place in nature or in education. Evolution *is* a competition and a struggle for life. But competition is not the whole story of evolution. Individuals cannot survive alone; there must be cooperation

between members of a species in order to survive. Those who feel that they can enhance their own lives and their own positions to the detriment or indifference of others destroy what they themselves require to succeed as free individuals (Greene, 1988). A preoccupation with only half the evolutionary equation helps to explain, in part, the failure of human reasoning to reject social and economic “progress” that comes at the expense and the suffering of a great many of the world’s population, and the devastating exploitation of the planet’s natural resources. It also raises some pointed questions concerning the desirability of the educational practices that underlie and promote the economic activities of humankind.

### *Education and Economics*

Industrialization, which in its infancy promised to bring prosperity, enlightenment, and increased benefits to all of humanity, brought with it a most important discovery that affected a change in thinking in every nation around the world. Whereas increased agricultural and industrial production used to be considered the primary basis for the subsequent extension of schooling, and was thus the decisive factor for further investment in education, the order of things began to change. Long considered as a non-productive outlay, taking manpower away from economic development (Entwistle, 1973), new developments in agriculture, industry, and trade demanded resources, capital, machines, and trained workers, and these instruments of economic power could only be realized with an increased investment in education. Education increasingly became a key element in economic and social development, until the present day where the promotion of education is considered a profitable and highly valued investment, since it contributes to the social and economic wealth of a country.

Heralded by the start of industrialization, the potential to decrease humanity’s struggle lay in the advancements of economics and the increased dissemination of knowledge and information with the realization of mass education and public schooling. Yet, following two centuries of economic and educational progress, advancements in this direction are questionable. Benefits for the greater good of

humanity have at best been limited, succeeding only in shifting humanity's struggle unevenly.

Traditionally schools have given status and priority to the pursuit of higher knowledge through the study of academic disciplines - science, mathematics, social studies, language and literature - for the express purpose of developing a work force and a support system capable of promoting and advancing an industrial and technological-based society and fostering citizens with an ability to critically appraise such developments. On both accounts it can be said that such efforts have been successful. Industrial and technologically-based societies have emerged with the ability to increase productivity, and its citizens are able to critically appraise the industries and economic activities which they have created and the systems which are necessary to support them.

However, success in achieving these ends has also raised some critical questions concerning the kinds of economic activities in which we presently find ourselves engaged, and these questions now require some thoughtful answers. It has become abundantly clear that a great many of the economic activities which have been and still continue to be promoted by the industrially developed world are self-centered, irresponsible, and ultimately destructive, and that our systems of organization and the resources required to support these systems are bringing the world towards a social and ecological crisis of massive proportions.

Thus, it is time to look hard at what we do as individuals and as organized systems, and to question why we continue on in this manner. And educators must not refrain from participating in this process of inquiry, for it is education that underlies, supports, and promotes the economic activities of humankind. Unless we are willing to accept that the education we receive in school has no bearing on future decision making outside of school, in which case it would be necessary to question the whole purpose of education, we must then recognize that education shares responsibility for the decisions we make - both good and bad. And this acknowledgment raises a

question that we shall look at in the next chapter, concerning the inherent good of education and its impunity as a contributing factor in the increasing environmental degradation, poverty, and inequity that we have come to accept as unfortunate but unavoidable casualties in the competition for economic and social progress.

## CHAPTER 8

### THE VALUE OF EQUALITY

In the previous chapters I had begun an examination of the prevailing interpretations of equality of opportunity that underlie the statement in Article 26, Paragraph 1, “higher education shall be equally accessible to all on the basis of merit.” As a necessary step towards achieving equality of opportunity legal scholar, John Rawls, articulates a need for “securing fair education for all,” and contends that *fair* equality of opportunity should offer “the same chance of attaining a favoured social position, given the same talents and willingness to try” (2001, p. 115). Issue was taken with the means by which Rawls suggests equality of opportunity might obtain, and three reasons laid out for these concerns.

Chapter 5 argued against the principle that given the *same* chances and the *same* willingness to try people are provided with conditions of equality, arguing instead that such an interpretation confuses the provision of *identical* opportunities with the provision of *equal* opportunities. In Chapter 6, I suggested that there may be reasons for not trying and for not intentionally striving, such as a lack of interest, that has not been taken into consideration in the judging of equality. In Chapter 7 the basic premise of promoting competition as the fundamental method of economic and social progress was questioned. The question was also raised that if inequality promotes competition, and competition is thought to promote social and economic progress, why should a society value equality, and why should educators strive to achieve equal educational opportunity?

In this chapter I continue with an examination of equality, for there is also concern regarding the ends to which Rawls interpretation of equality is directed. According to Rawls, *fair* equality of opportunity should offer the opportunity of “attaining a favoured social position” in society (2001, p. 115). Rawls qualifies this notion stating that, “Equality of opportunity means an equal chance to leave the less fortunate

behind in the personal quest for influence and social position” (2003, p. 91).

The whole point of promoting equality of opportunity, however, is to create a society in which people ultimately stand in relations of equality to one another (Peters, 1966; Pogge, 2002; Singer, 2000). If we accept that equal access to favoured social and economic positions fulfills our conception of equality, then we must also accept that people may not ultimately stand in relations of equality with each other. One could, for example, have such extensive talent and ambition as to completely dominate and monopolize the world of business leaving others in the global market place destitute. And if this were so, would this satisfy our notion of equality? Would we consider such results fair or just? Such questions and deserve careful deliberation as we consider our new roles and responsibilities within the emerging global society for which children are now being educated, .

### **World Poverty and Global Inequity**

In the opening chapter of his book, World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms, legal scholar and author, Thomas Pogge, introduces his readers to some very unsettling statistics concerning global poverty and inequality:

Each year some 18 million [people] die prematurely from poverty-related causes... one-third of all human deaths - 50 000 every day, including 34 000 children. (Pogge, 2002, p. 2)

Quoting World Bank figures, Pogge states that an estimated 2.8 billion of the world’s approximately 6 billion people currently live at or below the poverty level, surviving on an equivalent income of less than \$2.00 US per day. He calculates that the combined income of the lowest 46% of the world’s population represents barely 1.2% of the aggregate global income.<sup>52</sup> Noting that such severe poverty and inequality could be eradicated with a modest transfer of wealth from the affluent nations, Pogge

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<sup>52</sup> The World Bank makes a distinction between levels of poverty and levels of *extreme* poverty. According to World Bank figures, the number of persons living on less than \$1.00 US per day; that is, persons living in *extreme* poverty, stands at approximately 1.2 billion or roughly 20% of the world’s population. (Pogge, 2002, p. 2)

finds that existing global arrangements and institutions are in need of urgent reform. Many of the problems associated with global poverty, Pogge argues, could be solved were there the desire on the part of the affluent nations to do so:

One-third of human deaths are poverty-related causes such as, starvation, diarrhea, pneumonia, tuberculosis, malaria, measles and perinatal conditions, all of which could be prevented or cured cheaply through food, safe drinking water, vaccinations, rehydration packs, or medicines. (Pogge, p. 98)

Of further concern, Pogge observes that the situation appears to be worsening: “the bottom 5 percent of the world grew poorer, as their real incomes decreased between 1988 and 1993 by 1/4 while the richest quintile grew richer. It gained 12% in real terms, that is it grew almost twice as much as the mean world income, 5.7 %” (p. 2).<sup>53</sup> He further laments that:

Such severe and extensive poverty persists while there is a great and rising affluence elsewhere. The average income of citizens in affluent countries is about 50 times greater in purchasing power and about 200 times greater in terms of market exchange rates than that of the global poor. (Pogge, p. 2)

#### *Four Easy Reasons for Ignoring Global Poverty and Inequality*

Consequently, even when possessing the means to do so without serious injury to our own life styles, Pogge charges that western nations refuse to take seriously any moral or economic responsibility for the eradication of global poverty. Given that the situation appears to be worsening, Pogge poses two questions concerning the position of western states in relation to increasing levels of world poverty and inequality. In the first question Pogge asks:

How can severe economic poverty of half of humankind continue despite enormous economic and technical progress and despite the

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<sup>53</sup> As a case in point, Stephen Lewis (2005, p. 20) reports that Africa’s share of world trade in the 1980’s had declined from 3% to 1%. Furthermore, this decline occurred before the present pandemic of HIV/Aids, a poverty-perpetuated disease that is expected to leave Sub-Saharan Africa in even worse economic circumstances, with a share of world trade well below 1%. Furthermore, the United Nations predicts a doubling of poor populations by 2030, adding another 1.7 billion to the world’s existing 1.2 billion that live in extreme poverty, and urges “the dire necessity of action from the rich countries to avoid catastrophe” (De Souza, 2007).

enlightened moral norms and values of our heavily dominant western civilization? (p. 3)

In answer to this question, Pogge introduces four “easy” reasons which he claims are often cited for the failure of affluent nations to act in earnest to eradicate world poverty: 1) preventing poverty deaths is counter-productive because it will lead to overpopulation and hence to more poverty deaths in the future; 2) world poverty is so gigantic a problem that it cannot be eradicated in a few years, at least not at a cost that would be bearable for the rich societies; 3) the history of failed attempts at development assistance illustrates that world poverty cannot be eradicated by throwing money at it; 4) world poverty is disappearing anyways (pp. 6 -11).

Pogge claims that these reasons are essentially economic in nature and seek to rationalize, if not excuse, a lack of moral concern for the plight of nearly half the world’s population. Pogge, however, has four counter-arguments. Firstly, with regards to overpopulation, he argues that historical evidence shows that birth rates tend to fall dramatically wherever poverty is alleviated. Pogge points out that as women gain better economic opportunities, they also gain more control within their households and better access to reproductive information and technologies. Therefore, progress against poverty may be the best strategy against overpopulation (p. 7).

Secondly, arguing against the over burdening of the wealthy nations, Pogge posits that a transfer of just 1% of the aggregate gross national incomes of the richest western states (amounting to approx. 300 billion dollars US) would effectively double the income level of the poorest 1.2 billion people, making a tremendous difference to the lives of the poor without causing any substantive change in the circumstances of the rich.<sup>54</sup>

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<sup>54</sup> Pogge is countering, in particular, Richard Rorty’s claim that the taxing of rich countries to alleviate world poverty would be so severe as to “sap our arts and culture and our capacity to achieve social justice at home” (p. 7). However, University of Montreal educator, Michel Chossudovsky (1999, p. 30), argues that there is a double standard in the measurement of poverty. The World Bank’s one dollar a day criterion applies only to developing countries, and contradicts established methodologies used by western governments to define and measure poverty in their own countries. “The U.S. poverty threshold for a family of four (two adults and two children) in 1996 was \$16,036. This figure translates into a per capita income of eleven dollars a day (compared with the one dollar a day criterion of the World Bank for developing countries).”

Thirdly, with regards to the idea that poverty is not solved simply by throwing money at it, Pogge contends historical results are not conclusive that money cannot help with the alleviation of poverty. He suggests that there are reasons why it didn't work in the past, and that we should learn from these problems rather than dismiss money as a solution outright (p. 8).

Finally, refuting the idea that world poverty and inequality are gradually disappearing, Pogge shows that statistical data and research do not support this theory. Research indicates that at the start of the 19th century, the income between the West and the East was calculated at 3:1. By 1997 this gap had risen to a staggering 74:1 (2002, p. 13). Pogge, therefore, dismisses the above four reasons as being inadequate, or at least insufficient explanations to account for western indifference to world poverty.

### *Loopholes in Our Moral Code*

Still probing for answers, Pogge turns to his second question which aims to investigate the lack of moral concern for poverty and the considerable inequity between rich and poor nations despite heightened awareness and acknowledgment of human rights:

Why do we citizens of the affluent western states not find it morally troubling, at least, that a world heavily dominated by us and our values gives such very deficient and inferior starting positions and opportunities for so many people? (p. 3)

In seeking answers to his second question, Pogge theorizes that there exist certain “loopholes” in the moral codes of affluent nations that give its citizens permission to act in immoral ways (p. 72). Furthermore, he suggests that because such actions under this moral code are legal and hence just, and because “justice is associated with the morally appropriate and, in particular, equitable treatment of persons and groups” (p. 31), affluent societies do not view their actions as moral transgressions, and hence do not find their actions morally troubling. According to Pogge, loopholes can occur when a legitimate and ethical third party institution (e.g. a law firm or the directors of a public corporation) is employed to promote the best interests of a client. The

contractual relationship between the third party institution and the client demands a greater sense of responsibility between the two parties and the interests of the client than on those that reside outside of this special relationship.<sup>55</sup>

Loopholes are created when third party intervention allows their clients to side-step their moral obligations and distance themselves from the issue of moral responsibility. Since the legal role of the third-party institution is to promote the best interests of their client rather than those of the public good, moral conflicts of interest can arise which compel them to act in favour of their clients, even though the results of such actions may be socially, economically, or politically damaging to those that reside outside of this special relationship.<sup>56</sup>

Applying this theory to world poverty, Pogge reflects on the special relationship that exists between government leaders and the promotion of national interests:

I have a somewhat broader view of nationalism, focusing on persons who have an ordinary patriotic commitment to their own country. Quite content with the status quo, those persons view it as legitimate and even admirable that they and their leaders should show a preeminent concern for preserving and enlarging their own collective advantage. (pp. 118-119)

Pogge's theory invites us to reflect upon existing social institutions and arrangements in light of how they might be contributing factors in the promotion and sustainment of world poverty and inequality. It urges us to reconsider the moral implications

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<sup>55</sup> McNish & Stewart (2004), explain the client-third party relationship as follows: "Under North American corporate and securities law, directors of companies with publicly traded shares are bound by a duty to ensure that business decisions are made in the best interests of all shareholders. At companies...which are controlled by a majority shareholder, the duty falls to independent or outside directors who do not work at or have any business ties to the company"(p. 21).

<sup>56</sup> Pogge (2001) gives us a second example to consider in the relationship between a client and lawyer in defending the former against the charge of rape (p. 8). The contractual agreement between the two parties demands that the lawyer act in the best interest of his client. Even though the accused may have confided his guilt in his privileged relationship with his lawyer, their legal relationship requires that the lawyer do everything in his/her power to strengthen their client's case in the hopes of achieving a lighter sentencing. To promote their client's case, strategies may include attacking the moral character and integrity of the victim in order to weaken her claim and strengthen the claim of the accused. Fabrications about the victim's sexual past and preferences which, even if true, do not have the slightest legal relevance. And though such methods are unethical, they are not illegal and, therefore, constitute a just method of defending one's client.

resulting from third party intervention. Pogge brings to our attention the contractual demands of client relationships and the negative consequences that they can have on parties residing outside of this special relationship. Finally, he suggests how such relationships and activities can be extended to the actions of government leaders and national policy, giving nation states permission - incentive even - to act in immoral ways.

The identification of loopholes that act to legitimize immoral actions provides a valuable contribution to our understanding of the underlying factors that may contribute to western disaffection with world poverty. It provides a new platform from which to address issues of excessive inequalities. Yet, as Pogge's research is currently constituted, it tends to focus attention upon the influences of only one particular social institution - namely our justice system - and the necessity of responding to global poverty and inequality from a moral perspective.

#### *Beyond the Reach of Morality*

Rudiger Bittner (2001) by contrast, locates the problems associated with inequality and poverty outside the reach of morality (pp. 25-31). For Bittner, global poverty is a political problem that morality cannot speak to. He cites two reasons for holding this view: distance and imputability. According to Bittner, political problems typically have no one person or organization directly responsible for the problematic situations. Furthermore, he claims that the distances, both in terms of space and the ability to empathize, between those affected by poverty and those held responsible for its creation and eradication, are often so vast that moral understanding is diminished by a lack of closeness and an inability to accurately assign blame or responsibility.

Compounding the problem of geographical and personal distancing (impunity and accountability), Bittner also contends that time is a factor. He suggests that moral action is further distanced by the time required from when we first become aware of

an immoral situation and the actual mobilization of the collective moral consciousness necessary to address the issue (p. 25). The result imposes a severe limitation in the range upon which moral reflection can be presupposed to act affectively.

Charles Beitz (2001) is also critical of the moral argument presented by Pogge. Beitz argues that demands for equality may simply be a requirement of the political legitimacy of state. He suggests that perhaps equality is part of a culturally specific ideal associated with the tradition of social democracy of the West, rather than the result of any specific moral imperative (p. 106).<sup>57</sup> Beitz then goes on to question if there might not be a more persuasive argument for the promotion of equality that does not derive its force from an egalitarian moral appeal.

Neither Bittner nor Beitz offer solutions to the problems raised through our political shortcomings. They are content merely to critique Pogge's assertions and offer their own views on the causes of poverty and inequality. And while I am not fully supportive of Pogge's assessment of moral loopholes, I also cannot agree with Beitz and Bittner that political and cultural influences fall outside the reaches of morality. Instead I interpret Bittner's and Beitz's political and cultural influences as simply different dimensions of the same moral dilemma outlined by Pogge. For morality is influenced not only by prevailing conceptions of justice and countervailing legal practices, but also by the structures of society, its cultural practices, and the political systems that promote its values, beliefs, and customs.

I believe that the differences of opinion lie in Pogge's rather liberal use of the term "moral loophole". The term "loophole" seems to be an apt description of the contradictions that arise between our intentions and actions, and between theory and practice. However, the reference to *moral* loopholes does not accurately describe the source of the loopholes posited by Pogge. The loopholes to which Pogge makes reference are actually caused by legal proceedings. For Bittner and Beitz a similar situation occurs because of political posturing and cultural relativity. Both views I

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<sup>57</sup> Beitz finds support for his argument in John Rawls. According to Rawls, a condition of liberal democracy requires the prevention of excessive social and economic inequalities (Rawls, 2001, p. 49).

believe are correct; legal, political, and cultural inconsistencies all help to define moral boundaries and can ultimately contribute to moral transgressions. The problem here is that Pogge blurs the boundaries between cause and effect. Violations of the moral code may not be so much the cause of our actions as the result. That is, western disaffection with poverty and inequality is not caused by moral loopholes, but rather it is the effect of our actions that can be judged as immoral and, therefore, a transgression of our moral code.

Of equal importance are the observations of Beitz and Bittner which suggest that there may, in fact, be a number of different kinds of inconsistencies or “loopholes” - legal, political, social, and cultural - that contribute to inequality and global poverty and ultimately violate our moral code. Their contributions, like Pogge’s also raise a concern that the very institutions intended to promote and protect equality, human rights, and freedoms - particularly for the least advantaged members of society- may do just the opposite; they may, in fact, limit their realization.

Pogge concludes his investigation by offering several remedies and strategies concerned with minimizing the negative effects of the aforementioned loopholes. Locating the source of the problem in the lack of moral perturbation in the West, Pogge contends that solutions to increasing global inequality and poverty lay in our collective moral reasoning. However, Pogge does not foresee a major change in our moral reasoning, and comes to the sad conclusion that “it is quite unfortunate for the global poor whose best hope may be our moral reflection” (p. 26).

But while Pogge recognizes a pressing need to consider social causes in order to answer his two central questions regarding world poverty and inequality, the focus of his remedies is not on social change but on economic and political change. Thus, while his argument focuses on moral causes, his solutions seem to support Bittner’s conclusions that poverty and inequality are political problems. It also appears that Pogge has come to the same realization as Beitz, that in the search for solutions “it is naive to complain about global inequalities on simple egalitarian grounds” (Beitz, cited

in Pogge, 2001, p. 107). For as Pogge pointed out earlier, it is easily within the economic means of the West to remedy the inequities of global poverty, but we refuse to accept a moral argument for equality which compels us to act.

### **Education as a Remedy for Inequality and Poverty**

The contradiction presents an interesting dichotomy. On the one hand we can see that Pogge is thoroughly convinced that moral reflection resulting in ethical behaviour is a learned behaviour rather than an innate practice. We clearly see this when he states that “[i]n view of such massive deprivation and unprecedented inequalities, we cannot decently avoid reflection on global institutional reform” (2004, p. 195). Pogge’s writing is further evidence of this fact; it is an attempt to have the reader begin to think about existing social institutions and arrangements in light of how they may be contributing factors in the promotion and sustainment of world poverty and inequality. He suggests that our conceptualizations of justice and morality are learned, yet the relationship between what we learn and the moral code by which we live remains wholly unexplored in his writing - dismissed even:

What more particular prerogatives and obligations emerge may depend to some extent on the unique history, culture, and/or traditional habit of this or that nation. But we can leave such complications aside. (204, p. 119)

The establishment of a moral code is undeniably a feature of historical, political, and cultural practices, and such practices are traditionally passed on, promoted, and sustained through the process of education. Hence, one could assume that any serious discussion of the elements contributing to the creation or remediation of loopholes in our moral code would quite reasonably take into consideration the relationship between what we learn and how we act. Yet, there is no mention of the institution of public education, arguably the most dominant and widely regarded learning institution in western society. Upon reflection, however, such an oversight may not be surprising. As Beitz and Bittner both observed, a critical element in the formulation of a loophole is that we do not readily look for causes to our problems within the

social institutions devised for their solution. Education, and particularly public education, is not usually associated with the causes of injustice, poverty, or inequality. In fact, the opposite is held to be true. Education is seen by many to be the antithesis of inequality and poverty. This view is expressed by the Director General of UNESCO, Koïchiro Matsuura :

The Right to Education is a fundamental human right. It occupies a central place in Human Rights and is essential and indispensable for the exercise of all other human rights and for development....education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty, and obtain the means to participate fully in their communities. None of the civil, political, economic and social rights can be exercised by individuals unless they have received a certain minimum education....Achieving the right to basic education for all is thus one of the biggest moral challenges of our times.

Such a belief also underlies Canada's foreign policy on international aid. In a recent Canadian Government publication entitled, Canada's International Policy Statement - A Role of Pride and Influence in the World, the Minister for International Cooperation, Aileen Carroll, outlines "Canada's role in the fight against poverty" (cited in CIDA, 2005, p. i). The policy statement lays out five areas in which Canada's efforts will be concentrated: promoting good governance; improving health outcomes; strengthening basic education; supporting private sector development; and advancing environmental sustainability (p. vii). Introducing the sector on education, the policy states:

Canada will assist countries to accelerate progress toward ensuring that every girl and boy is able to access and complete free, compulsory, basic education. (CIDA, 2005, p. 15)

According to former Canadian Ambassador to the UN, Stephen Lewis (2005), calls promoting "education for all" are not new. Beginning with the 1934 International Convention on Education, the international community has called for universal schooling for all children on more than twenty separate occasions (p. 75). Compelling governments to provide children with free access to public education, and legislating the universal right to basic education as a compulsory requirement of citizenship are

increasingly viewed by democratic societies as positive steps towards promoting social justice and economic prosperity. The reasons, according to Lewis, are well understood:

[E]veryone agrees that primary education is the salvation of struggling societies, that every additional year of schooling - beyond providing the glorious wellspring of knowledge - brings with it the best chances to defeat poverty, the best chance for better parenting, better health, better nutrition, greater opportunity, and a direct line to economic growth....it is agreed that universal primary education is the ultimate vector of human progress. (p.75)

Given the wide spread belief that education has the capacity to improve the social and economic status quo, it comes as no surprise that at the Year 2000 World Education Forum, which took place in Dakar, Senegal, on the initiative of UNESCO, the Dakar Framework for Action assigned to the international community several goals. The first of these goals commits countries to ensuring that all children have equal access to free and compulsory education by 2015 (Lewis, p. 95).

Thus, it is clear that education is believed to play a vital role in the remediation of poverty and inequality in at least three ways. Firstly, it is thought that education can help to bridge the gulf between our collective understanding of global poverty and the application of moral reflection (Pogge, 2001, 2002). Already through the process of education it seems that we are coming to realize, in a conscious way, that there is only one world and one limited and finite supply of resources upon which all of humanity depends (Singer, 2000).<sup>58</sup> There are also signs of increasing understanding of the relationships that exist through our responsibilities to each other and to the environment in which we live and share with other all other life forms on the planet (UNESCO, 2003a).

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<sup>58</sup> In 1987, the United Nations World Commission on Environment and Development issued a call for the creation of a new world charter that would set forth fundamental principles for sustainable development. The drafting of the *Earth Charter*, was the unfinished business of the 1992 Rio Earth Summit. The Charter calls for recognition of the world's environmental challenges, with special emphasis on the protection and promotion of the environment, human rights, equitable human development, and respect and care for the totality of community life. The Commission approved the Charter at the UNESCO headquarters in Paris, and it was made official in The Hague on June 29, 2000.

We are learning, too, that people, societies, nations, and even institutions are interdependent rather than independent agents in a single, interconnected, global economy. Evidence of this evolution in thinking are expressed in the writings of Gregory Bateson (2002), Noam Chomsky (2004), Doll, (2005), Paulo Friere (2004), Andrew Hurrell (2001), Peter Singer (2000), and David Suzuki (1993), whose efforts articulate the “simplicity” (William Doll, 1993) of nature and humankind’s role in this great web of life. The educational courses increasingly offered at public universities on issues of global poverty, global economics, global justice, dispute resolution, and human rights are further evidence that such efforts are gradually filtering down to mainstream thinking, replacing the naiveté that any individual or group of individuals can profit in the long run to the detriment of others.

Secondly, it is thought that education can accelerate the response time between when a problem is first acknowledged and understanding what is necessary in the mobilization of resources needed to address the situation (Bittner, cited in Pogge, 2001). This, in fact, is perceived to be the great value inherent in education. At its most fundamental level education is the process of passing on the accumulated learning experiences of humankind, condensed into a cohesive, informative body of knowledge. The benefit of the educative process is that it is capable of providing a multiplicity of information and knowledge from our collective learning experiences in a very short space of time.

Finally, by virtue of its accepted universality, the institution of public education and schooling have gained both the power and the authority to legitimize and enshrine certain practices that act to reinforce the prevailing values and attitudes of a society (Werner, 1991). Thus, the inclusion of educational programs that promote values of equality, human rights and freedoms as an integral part of the school curriculum is thought to have an excellent opportunity of achieving status and priority in the collective conscience of society from an early age.

### Education as a Contributor to World Poverty and Global Inequality

However, while it is tempting to believe that a remedy for world poverty and global inequality lies in increasing universal access to education, almost two hundred years of public schooling has not shown that the correlation between education and equality is necessarily a positive one. In fact, as posited by Pogge earlier on, research data indicates that since the start of the 19th century - a date roughly coinciding with the introduction of mass education and public schooling in western society (Doll, 1993; McKnight, 2003) - the level of inequality between the wealthy and poor nations of the world has risen dramatically. As indicated in Tables 2 and 3, during the same period of time that public education and literacy were spreading throughout the world, rather than an anticipated decrease in poverty and inequality, the world continued to experience an increase.

Year	World Literacy Rates
1980	69.2%
1995	77.2%
2010	83.4%

Table 2

Past and Projected Increases  
in World Literacy Rates  
(Matsuura, 2002, p. 1)<sup>59</sup>

Year	Income Ratio of Rich Nations (West) to Poor Nations (East)
1820	3:1
1870	7:1
1913	13:1
1960	30:1
1990	60:1
1997	74:1

Table 3

Increasing Income Gap Ratio  
Between West and East  
(Pogge, 2002, p. 13)

<sup>59</sup> According to Matsuura, "literacy has significantly diminished in relative terms and should continue to decline. The percentage of illiterates fell from 30.8% in 1980 to 22.8% in 1995 and should drop to 16.6% in 2010.

Furthermore, if we consider Figure 2 below, illustrating in graphic form the information from Tables 2 and 3, we see an inverse correlation between education and equality. The data indicates that as access to education increases equality decreases.

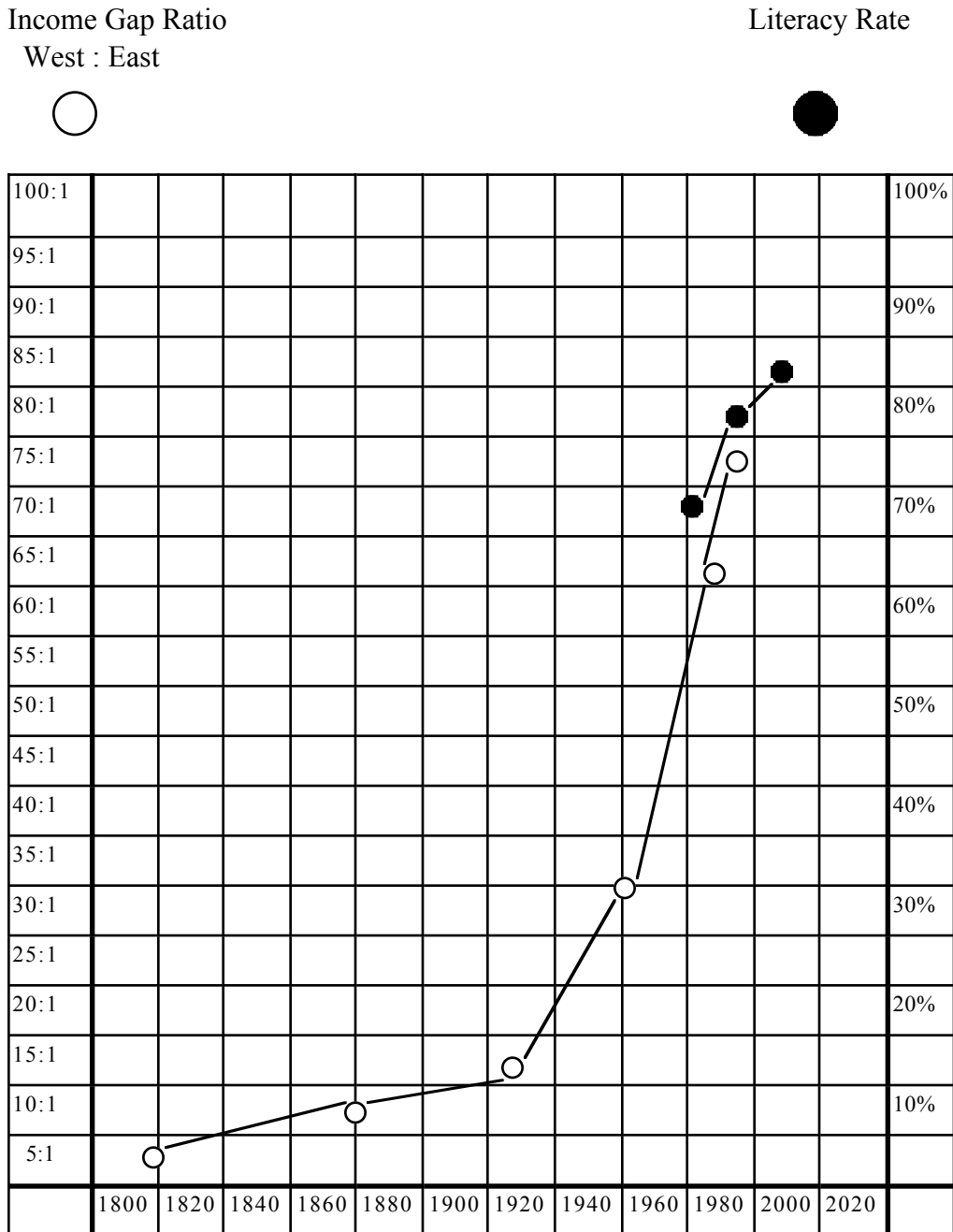


Figure 2  
Rising Inequality and Global Literacy Rates

Equally intriguing, is that during the same period of time in which public education and literacy have increased, so too have the laws and rights protecting individuals and disadvantaged groups within society. Colonial practices that previously supported slavery, domestic violence, genocide, and non-democratic government, and established practices that discriminated against women, ethnic minorities, gays, lesbians, and so forth, have largely given way to the promotion of democracy, human rights, and the rule of law (Pogge, p. 2). Thus, while education, human rights, and socio-political arrangements have seemingly progressed, equality and decreased poverty appear to have moved in the opposite direction.

### *Interpreting the Data*

A correlation between increased inequality and the growth of public education could be purely coincidental. It is possible to argue that there are a number of factors that contribute to poverty and inequality. And this is of course true. There are a number of ways through which democratic societies attempt to promote equality and alleviate poverty. The legislation of equality laws, quotas, taxation, social services, transfer payments, and the socialization of benefits are some of these strategies. However, it would be difficult to argue that *no* correlation exists between education, poverty, and inequality. It does, in fact, raise the question of reasonable doubt.<sup>60</sup>

For those who understand that the greatest gains in the universalization of education have been among western nations such findings may not pose any particular dilemma.

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<sup>60</sup> The data represented in Tables 2 and 3 does not represent hard, scientific evidence of a direct correlation between increased education and rising inequality and/or poverty. Rather it serves the purpose of raising reasonable doubt concerning the impunity of education as a contributing factor. It would, I think, be unreasonable and naive to suggest that while education may have a direct and positive correlation to increased social and economic benefits, under no circumstances can education have a negative effect (Tomasevki, 2001d, p. 26). The point to be made here is that when we start with the underlying assumption that education can only have an effect in one direction - a positive direction and never a negative one - researchers eliminate an entire set of possibilities from their exploration of the elements contributing to the causes and remedies for inequality and poverty. Bringing to the reader's attention the possibility of a negative correlation is a way to introduce the question of impunity, and challenges the widely held assumption that education is always and necessarily a benefit. The unchallenged existence of unexamined assumptions is discussed in greater detail beginning on p. 175 in the section entitled, "The Plausibility of Pedagogical Loopholes."

In fact, they simply serve to confirm the obvious; that there is a strong link between what we learn and what we earn. In western societies it is well understood that more education generally translates into greater potential earning power (Bruner, 1971; Entwistle, 1978), and that post-secondary education, particularly a university education, can help to secure better economic, social, and political arrangements (Bowles & Gintis, 1976).

This is thought to be true not only of socio-economic arrangements within individual nation states, but also in the relationships between members of the global community. In a joint international survey of 20 countries in the OECD (Organization for Economic Cooperation and Development), it was concluded that “educational attainment is the most important determinant of wages in most countries, even when variations in the other factors are held constant” (Statistics Canada, 2000, p. XV). Together the 20 countries in the OECD account for over 50% of the world’s entire gross domestic product.<sup>61</sup> It is not simply a coincidence that states in which equal access to free and compulsory education is a priority share the highest levels of affluence (Matsuura, 2002; Pogge, 2002).<sup>62</sup> As the World Bank reports:

Life expectancy in Sub-Saharan Africa is 50 years, and in Japan it is almost 80. Mortality among children under the age of five in South Asia exceeds 170 deaths per thousand, while in Sweden it is below 10 per thousand. Over 110 million children in low-wealth nations lack access to primary education, while almost universal enrollment is the norm in industrialized countries.

(cited in Kaufman & Rizzini, 2002, p. 8)

It can be further reasoned that since the West boasts higher per capita levels of education and literacy than the East, given the positive correlation between education and income it logically follows that the West would enjoy greater economic prosperity. If we consider the graph in Figure 2, on page 169, we see clearly the greater economic prosperity of the West, but we can also plainly see a corresponding

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<sup>61</sup> The OECD countries include: Canada, United States, Great Britain, Ireland, Germany, France, Norway, Sweden, Denmark, Portugal, Netherlands, Poland, Switzerland, Belgium, New Zealand, North Ireland, Australia, Hungary, Finland, Italy.

<sup>62</sup> Levels of affluence are determined by taking into consideration such things as: per capita income, life expectancy, infant mortality, literacy, health, social services and benefits, public and civic participation of women, and access to education.

level of inequality compared with the East. So, while it appears that increased access to education may contribute to the increasingly favourable social and economic arrangements in which those of us in the West find ourselves currently situated, it seems that this same education does little to discourage a status quo in which world poverty and socio-economic inequalities are largely featured.

And herein lies the difficulty in suggesting that promotion of the universal right to education is a remedy for inequality and poverty. Provisions of equality are not relative. It cannot be said that there is equality for some but not for others, for equality is not something which can be separated from universality. Rawls, himself, claims that there are no reasonable grounds for the hardship of some being offset by the greater good of the many: "It may be expedient but it is not just that some should have less in order for others to prosper" (1971, pp. 14 & 27). Thus, I believe that the loophole Pogge is searching for lies not in our refusal to accept a moral argument which compels us to act against inequality, but rather in the (Rawlsian) interpretation of equality.

As all global regions must share a limited and finite supply of goods and services, the benefits derived from those goods and services must be distributed in equal measure, otherwise a state of equality does not exist. Any imbalance of goods and services that does occur, but which does not favour the least advantaged members of society, does not fit with accepted notions of equality in a "reasonably just constitutional democratic society". In this political arrangement, which most industrialized western states, including Canada, purport to embrace, the two basic democratic values of liberty and equality demand that we "must satisfy the criterion of reciprocity, which in turn requires a basic structure that prevents social and economic inequalities from becoming excessive" (Rawls, 2001, p. 49).

Consequently, either we are not a reasonably just and democratic society or there exists a loophole in our interpretation of equality that allows us to justify education as a legitimate means to continue to secure for ourselves a larger share of the world's

goods and services while others go without. As I do not believe western democratic societies are largely populated with unjust or immoral beings, it leads me to suspect the alternative - that there exists a loophole in our interpretation of equality that rationalizes inequity through the attainment of educational credentials, legitimizing pedagogical practices that are counter-productive to the promotion of equality and fulfillment of the universal right to education.

### **The Plausibility of Pedagogical Loopholes**

One of the difficulties in determining the presence of loopholes concerns the question of plausibility. Loopholes are often based upon assumptions, and when people start with certain assumptions or beliefs about education, such as the idea that “education is inherently good” (Tomasevki, 2001d, p. 4), or that education is a remedy for poverty and inequality (Lewis, 2005; Matsuura, 2002), we encounter our first pedagogical loophole.

The quality of education is determined by the quality of thinking and the free exploration of ideas, and this does not occur when we start with assumptions. As Joel Spring observes, when one starts with an assumption it is as if a particular wheel has been implanted in our heads by an outside force such as society or school (1999, pp. 39 - 40). A “wheel in the head” is any idea or concept that we cannot get rid of because the idea owns us, we do not own the idea. A pedagogical loophole occurs when we begin our thinking from a starting point that assumes education to be a remedy for poverty and inequality. As passive recipients of this wheel in the head we do not think to question the basis for its claim.

Behind the conviction that education is a public good and a remedy for poverty and inequality lies the belief that increased awareness of undesirable circumstances and a greater understanding of their causes and effects would constitute at least some rational and morally valid reason to revise the offending practices. If educating people

about these situations were not thought to have an affect on people's actions, we would not have the appeals of writers, such as Pogge, Beitz, Bittner, Lewis and others who feel that their contributions to the conversation might bring about some positive changes. Increasing awareness of the devastating effects of poverty and inequality through the process of education, however, has not proven to be sufficient to alter the status quo.

Those of us who live in the West are only too aware of the numerous reports and statistics claiming that we are using far in excess of our fair share of the earth's resources. We have heard the figures bandied about at various world summits and conferences on sustainability and environmental degradation that 20% of the world's population (the West) is consuming 80% of the world's natural reserves (Suzuki, 1989). But still we continue to over-consume at a voracious rate.

We have heard Stephen Lewis report that every cow in the European Union is subsidized at two dollars per day, while over a billion people world-wide exist on half that amount (2005, p. 18). Likewise, we have been made aware of the fact that the 0.7 % of the annual GNP of the G-8 countries designated for foreign aid has never been realized by the seven wealthiest countries who pledged to do so in 1969. Even Canada, whose own Prime Minister, Lester B. Pearson, negotiated the foreign aid agreement, is embarrassingly aware of the fact that it has failed to live up to its commitment (Lewis, p. 27). Yet, we remain unmoved in our efforts to take seriously our responsibility and commitment to help eradicate world poverty and inequality.

And if our disaffection and stoicism can be excused by appealing to the lack of human suffering invoked by statistical data, then we have also read in utter disbelief Paulo Friere's account of a Brazilian family so poor that their Sunday dinner was prepared from pieces of amputated breasts found discarded in a pile of hospital waste at a public landfill (2004, p. 58). We have read, too, the account of Stephen Lewis who begins his tale in sub-Saharan Africa by recounting, "I have spent the last four years

watching people die” (p. 1).<sup>63</sup> Lewis takes us on a sobering journey through his nightmarish encounters with HIV/aids, revealing the utter despair of the young children who must care for their sick parents, only to bury them as they finally succumb to the realities of a poverty that the West refuses to acknowledge (p. 54).

Yet, if increased awareness cannot make a difference, without it there is also no hope in moving forward. While we see that it is not sufficient simply to describe in precise details the ravishing effects of inequality and poverty, as Durkheim observes, it is still necessary to initiate people into the great problems for which they are being asked to take responsibility to help resolve (1977, p. 4). Thus, though insufficient, increased awareness through education is still a necessary step towards the eradication of inequality and poverty. Aristotle reminds us that a goal of education has always been not only to make known situations which are in need of improvement, but being consistent with our moral code to take appropriate actions to help remedy those situations: “the end aimed at is not knowledge but action...and if there is an end for all that we do, this will be the good achievable by action” (cited in Reed & Johnson, 2000, p. 19).

But here we arrive back at a familiar place in our investigation, where heightened awareness of global poverty and inequality calls us to act, but yet exactly why we fail to respond remains unclear. Understanding that inconsistencies or loopholes in legal, economic, and political arrangements may be significant factors contributing to global poverty and inequality says nothing about how such arrangements come to be in the first place. Furthermore, for reasons cited by Bittner, Beitz, and Pogge such arrangements do not offer immediate remedies. The existence of loopholes, the lack of impunity and accountability, the distance between those affected by poverty and those held responsible for its creation and eradication, and the time needed to address complex issues all impose severe limitations on remedial action.

But perhaps solutions are also not forthcoming because these are not the only

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<sup>63</sup> Lewis’ book, *Race Against Time*, was broadcasted on the CBC Radio 2005 Massey Lectures. The book, though published before the lectures series began, is comprised of the five lectures.

institutions or even the primary institutions contributing to the problem. Can we be so certain of the impunity of western educational practices that we should not even consider the possibility of pedagogical loopholes which might contribute to the promotion and perpetuation of global poverty and inequality? After all, it is in education and not in the secondary institutions of politics, justice, and economics where our critical thinking skills and habits of mind are intended to be formed. And it is also through the process of education that societies create the very institutions which create the political, legal, and economic arrangements in the global order.

Education is, of course, not the only influence. Family, religion, the media, fraternities, clubs, teams, and many other social institutions can all have an influence during these formative years. But increasingly schools and education play a pivotal role in shaping who we are, what we do, and how we view the world around us. Educational institutions serve to legitimize and justify our world views and help individuals to define their place within it. Hence, it seems both prudent and incumbent upon researchers seeking to uncover ways to remediate a better world to investigate closely the theories and practices contributing to the processes of education. For if, in the final analysis, education is meant to make a better world for everyone, to increase equality and to improve the welfare of the general populous, then something has gone terribly wrong.

### *The Globalization of Poverty*

Can the universalization of education make a difference? There are many who believe this to be the case, and actively promote universalization of the right to education (CIDA, 2005; Lewis, 2005; Matsuura, 2001). I believe such convictions are unexamined. While the universalization of the right to education may have some merit in relative terms, the consequences of everyone acting upon the same principle may contribute to the loophole noted earlier on (p. 146) by Christopher Hurn (1979) where it does not necessarily follow that because everyone in society has more education that everyone can be successful, because the status quo does not change.

Perhaps this same maxim applies globally and, if so, would help to explain the inverse correlation between education and equality. Perhaps what we are witnessing is a universalization of Hurn's observation, for in the post-war years there has been an enormous increase of credentialed workers in western society that has resulted in two things happening. First, the amount of education required for entry positions in many sectors of the work force has increased. Whereas 50 years ago a high school graduation certificate was considered quite sufficient for many employs, increasingly employers now look to college diplomas and university degrees as minimal educational requirements (Bowles & Gintis, 1976; Bruner, 1971). Secondly, as a more educated society demands higher remuneration for services rendered, and because liberal democratic societies support regular increases to minimum wages, certain kinds of employers, particularly those in the manufacturing sectors, have found it advantageous to meet these demands and still retain a healthy profit by relocating to areas in which the populations have low or no education and low wage demands.

Relocating business ventures to areas where populations are less educated and demand lower wages is not designed to spread the wealth equitably. It is a strategy aimed at increasing profits for shareholders which, as Pogge (2001, p. 8) and McNish & Stewart (2004, p. 31) remind us, is the object of the legal and binding relationship between shareholders and directors in publicly held companies. And even though as a result of these strategic relocations there have been considerable savings in the costs of production, the increased profits go to the shareholders rather than to raise local living standards or to the general public in the form of tax revenues (Anderson & Cavanagh, 2000, p. 582-58).<sup>64</sup>

According to Anderson & Cavanagh (2000), such strategies have been used by General Motors and Nike, moving their manufacturing operations to Mexico and Southeast

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<sup>64</sup> The high interest rates set by developing nations to attract foreign investment has crippled locally-owned firms, causing bankruptcy and unemployment. Employment in new factories does not require the same number of workers as they are more efficient. So there is more money going to fewer people. In Mexico there was a 72 % decline in earning power between 1987 and 1998, while in 1998 top US executives received a 36% pay hike, an average of 10.6 million each, or 419 times the average factory worker. At the same time, the share of federal taxes paid by corporations dropped, despite record profits, because of foreign operation in areas with low tax rates.

Asia (pp. 582-588). In 1994, for example, GM expanded its manufacturing of the popular Suburban sport utility vehicle into Mexico. In 1996, GM reported its average wage for workers producing Suburbans in Janesville, Wisconsin at \$18.96 an hour, and in Silao, Mexico at \$1.54 per hour. A total of 83 000 vehicles were produced in Wisconsin and 80 400 in Silao. The sticker price of a Suburban sold in the U. S. in 1994 was reported to range between \$21 000. to \$24 500. In 1996, the same vehicle sold at a price of between \$23 500 and \$31 000 (Anderson & Cavanagh, p. 52). There is nothing illegal about such an arrangement. But is it just?

### **The Plausibility of Loopholes in Our Interpretations of Justice**

At the very least, there are three standards by which justice is frequently judged; according to what is fair, what is legal, and what is reasonable or rational. If what we mean by justice is what is considered legal under the law by rational people in reasonably just societies then the judging of equality becomes highly tenuous. Since such actions conform to the rule of law they are considered legal. But because what is legal is generally considered just, and because “justice is associated with the morally appropriate and, in particular, equitable treatment of persons and groups,” affluent societies may not view their actions as unjust (Pogge , 2002, p. 31). This is the loophole through which Pogge contends permission is given to social institutions and individuals to act immorally and with indifference to inequalities without regret is derived (2001, p.75).

Rawls' (2003) interpretation of justice - “justice as fairness” - suggests that what is just can be judged by what reasonable and rational people would choose without knowing who would be the recipients of their decisions. That is to say, however a situation turns out, all rational and reasonable beings, including those parties who defined the circumstances, would accept the results as fair. Rawls refers to this principle as a “veil of ignorance”; a condition that ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances. He explains this principle as follows:

Somehow we must nullify the effects of specific contingencies which put men at odds and tempt them to exploit social and natural circumstances to their own advantage. Now in order to do this I assume the parties are situated behind a veil of ignorance. They do not know how the various alternatives will affect their own particular case and they are obliged to evaluate principles solely on the basis of general considerations.

It is assumed, then, that the parties do not know certain kinds of particular facts. First of all, no one knows his place in society, his class position or social status; nor does he know his fortune in the distribution of natural assets and abilities, his intelligence and strength, and the like. Nor, again, does anyone know his conception of the good, the particulars of his rational plan of life, or even the special features of his psychology such as his aversion to risk or liability to optimism or pessimism. More than this, I assume that the parties do not know the particular circumstances of their own society. That is, they do not know its economic or political station, or the level of civilization and culture it has been able to achieve. (2003, p. 118)

Rawls' interpretation of justice as *fairness* makes the judging of equality easier to reconcile, as there are few reasonable or rational people living in affluent societies that would trade positions with persons living under conditions of extreme poverty. It is also unlikely that reasonable or rational persons would suggest that it is fair for many to go without the basic necessities of life while others boast an excess of the same vital resources. This, indeed, would constitute a moral transgression.

A third interpretation of justice constitutes what is reasonable or rational. By reasonable we mean actions or choices that constitute right thinking or right judgment; that is, making decisions that are not in conflict with reason itself. It is reasonable, for example, to wish to promote one's best interests (Rand, 1964). The difference between what is reasonable and what is rational is subtle, although rationality carries with it a stronger use of reason than reasonableness, with a stronger implication of the power to reason and to be guided by conclusions drawn from such reasoning (Webster's, 1976). Being rational involves more than just reasoning that is practical or sensible. It also suggests what is necessary for our survival by means of logical and

reasonable thinking (Locke, 1986; Rand, 1964). Reasonableness does not tolerate excess; it does not extend to the extreme (Rawls, 2001). Given this understanding, then, it is unlikely that reasonable people would view extreme differences in equality to the point of starvation, illness, or death as being just.

### **Appeals to Equality**

So what then, one might ask, is the reasoning behind the promotion of equality? If we follow Beitz's initiative to establish a more persuasive argument for the promotion of equality, one whose force is not derived simply from a moral appeal to the egalitarian principles of right and wrong, then we might choose an appeal to self-interest. For an appeal to self-interest is a reasonable and rational course of action. Not to do so would be irrational, since we imperil our own existence. Such is the appeal upon which the Canada's Foreign Policy Statement on development is based. Canada's "fight" against poverty does not find its strength in its appeal to morality; it derives from an appeal to self-interest. It is in Canada's national interest to eliminate poverty and inequality. As Canada's former Minister of International Cooperation, Aileen Carroll explains:

Increasingly however, such [global] poverty poses a direct risk to Canada and our allies. We understand that there are links between acute poverty and state failure, and between state failure and global security. (CIDA, p. i)

Pogge (2001) reminds us that government has a special relationship with its citizens, where "such persons view it as legitimate and even admirable that they and their leaders should show a preeminent concern for preserving and enlarging their own collective advantage" (p. 118-119). Thus, when Carroll states that "poverty is a moral affront to all of us, and this reason alone compels our response," it is reasonable that in addition to her appeal to values of fairness and decency that she should make

an appeal for her fight against poverty based on self-interests (CIDA, p. i).<sup>65</sup> Despite the political rhetoric it is evident that moral appeals are insufficient to change the global order and the social institutions which contribute to its promotion and sustainment. Appeals to fairness and decency, while perhaps offering a more tenable position, are equally dependent upon the good will of people, and have also proved insufficient in altering the offending global arrangements (Pogge, 2002, p. 26).

Consequently, if the whole point of promoting equality is to create a society in which people stand in relations of equality to one another (Peters, 1966; Pogge, 2002; Singer, 2000), then perhaps our strongest reason for doing so is not that it is the fair or decent thing to do, which may also be true, but because it is the surest way to increase opportunities for our own survival. Promoting equality serves to reduce the threat of violence that threatens our very existence, and an appeal to protect our person and sovereignty may be a sufficiently persuasive reason to change the way we do business. Changing what we do in order to avoid the threat of war, terrorism, or extinction is an appeal to the rational. Survival is, after all, in our best interest, and promoting what is in our best interest is a further appeal to what is reasonable. As Carroll concludes:

We understand that the surest way to achieve peace is to build a world in which all children, boys and girls, can go to a good school, get a good job, raise a healthy family, have a voice in their community and leave their own children a better planet. (CIDA, p. 1)

The value in promoting equality and equal educational opportunity is that it is critical to our success and survival as a society. Any interpretation of equality that does not ultimately stand people in relations of equality to each other endangers our survival and is, therefore, counter-productive not simply to the goals of public education, but ultimately to our social and economic progress.

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<sup>65</sup> The whole passage reads as follows: "Such poverty offends our most basic values of decency and fairness. There is simply no good reason why, in the twenty-first century, half a million women a year should die during child birth, or why thousands of children should be killed every day by easily preventable and treatable diseases. Such poverty is a moral affront to all of us, and this reason alone compels our response."

## CHAPTER 9

### THE ENDS OF THE RIGHT TO EDUCATION - PART I

In Paragraph 2 of Article 26, the Declaration outlines the ends of the right to education: “Education shall be directed to the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms.” As these goals are not those that the B. C. Ministry of Education promotes, I asked research participants for their opinions on whether or not our schools met the goals of the universal right to education (Appendix 3, Question # 9). In this chapter I shall explore interpretations examining “the full development of the human personality.” In Chapter 10 we shall consider “the strengthening of respect for human rights and fundamental freedoms.”

#### **Discussion with Research Participants: Development of the Full Human Personality**

Two of the participants were uncomfortable with the wording as used in the Declaration, finding that there was a need for clarity in the terminology.

I wish I knew what that [statement] meant. Personality? Where does that word fit? What is the full development of my personality? I haven't a clue, and I don't think that anyone else does. I sit and talk with a bunch of very bright people and we all shake our heads. I don't know how we define that, and if we don't know how to define it I don't know what the heck we do with it. Here we look at the full development of people according to their ability levels. We always look at it as trying to provide the opportunities for people to maximize their potential. So I think we perhaps trade words. (PSP 2)

I like these ideas, but there is nothing about respecting and sustaining the environment. I am also not sure if the “human personality” is talking about the spiritual side of humanity, because that is an important part of a child's and adult's continuing search.

I don't know if classrooms fulfill these areas in specific cases, but in general I would say no. Teachers around the world are so busy trying to get through the curriculum that students needs are left and specific potentials are lost in the process. (ISP 3)

Other participants felt that on the whole schools do promote such ends, but their responses were nondescript and did not reflect a specific interpretation:

Yes, I think so. (PSP 6)

I think they do as much as they can from an institutional point of view, but it is a very, very difficult thing to develop. It involves more than simply schools and classrooms to fully develop the human personality. But, yes, I believe we do a good job, even if in some ways it may not be as full as it might be. (PSP 5)

I know that we try to. How effective we are, I think we are effective to some degree. So the answer is yes. But is it enough? I'm not so sure. (ISP 2)

Another participant felt that schools did promote the full development of the human personality, but was ambivalent about its direction and the pedagogical practices that promote these ends:

Yes, I do. But I worry that we are shifting from teacher as teacher, to teacher as instructor. Certainly teaching is about imparting knowledge and skill, but it is also about raising kids. The notion of promoting personality and character is all part of a job which used to be called a "calling". I worry that with the bureaucracy of public education and, to make up a new word - the "scientificizing" of education - we are shifting to teacher as instructor, and the idea that a better educator does this in the classroom, and there is not time for these other things; let's just stick with the content and stick to the text book. I do worry about that, and I wonder if it will all just stop. The type of teacher I remember may not have been as skilled at getting the information across to you, but at 35 and 40 years old I still have flashbacks in my mind and think what he or she would have thought about that. They became one of the measures or standards in my life, and I hope that we don't lose that as we start to bring more data from research in and start to change our practice that way. I think there is too much of that and it is a shift I often think about. (PSP 7)

Two participants felt that their schools may not be able to make the claim that they promote the “full” development of the human personality, but did think that their schools were effective in their promotion to some degree, and provided specific examples of its efforts to do so:

I don't know if we develop the *full* personality, but certainly we promote the development of the human personality. We do this in two ways. Every Monday and Friday morning all 172 students and teachers in the middle school get together for an assembly centered around this year's theme of “The Power of One.” Last month we had in a speaker who was a triathlete to talk about how one person can make a difference through perseverance. This has been a common theme among the speakers coming in. The message is that, if you do something you believe in and are passionate about, you can make a difference. Right now these [middle school] students are transitioning to adulthood and are trying to find their places in this world. Having people come in who have had a great impact on the world helps motivate them and give them a greater understanding about what they can do.

The second way is more concrete and is done through the guiding questions in an integrated curriculum. They are philosophical questions couched in kid-friendly terms that they can really relate to. The guiding question might arise in social studies and then integrate projects from the different disciplines to make them think outside the box. A lot of these questions relate to rights and responsibilities, and not only in their community, but outside the community and how they can play a part in that. In grade 7, the students have a project called “Make a Difference”, where students develop all the elements of it out in the community. (ISP 1)

We provide a rich curriculum, but I think teachers tend to back away from changes around personality because of the fear of treading on parent toes and what's acceptable to them. They really would like just a text book, and a here's what I'm supposed to teach around social studies, English, math, or whatever. The “human personality” many teachers back away from, because they do not consider themselves counsellors. I don't know about the *full* development, but to assist in the development of the human personality - absolutely! (PSP 4)

Finally, there were some some participants, including the one above (PSP 4), who felt that the expectations or requirements of the curriculum interfered with the achievement of goals in this direction:

Some do and some don't. Because we teach learners, we shouldn't be teaching just subject material any more. (PSP 3)

I think at the secondary level some courses do. Unfortunately at this level we tend to focus on the curriculum, which pretty much tends to focus on content-specific areas and not the development of the whole person. However, as a school I think we do a pretty good job of wanting to focus on the whole person, and that is why we have support services, and that is why we have curriculum planning and other course work to allow us to address those kinds of issues. But I think the curriculum here as a school is very much focused on developing the whole person. (PSP 1)

It is difficult to draw strong conclusions from the participants' responses. Several of the participants who believe that schools do promote the full development of the human personality did not give specific examples to support their claims, while those who felt that schools did not promote these ends, cited difficulties with the wording and terminology in the statement as written. The examples that were given, however, suggested that a guided, school-driven, model-based development of the human personality was being promoted, rather than any personal exploration or interpretation of these ends. This was clearly evident in the participants' responses regarding the promotion of success in education.

My thinking here is that there was not a clear understanding of this particular statement. The majority of participants felt that our schools do generally contribute to developing the personalities of their students, but there was uncertainty as to what the *full* development of the human personality actually constituted, or exactly how schools are capable of contributing to its full development. I did not substitute wording found in the Declaration, as I was looking for an interpretation of this wording. However, I believe the notion of developing the full "potential" of students, as indicated by one of the above

participants (PSP 2) may have resonated among the participants and perhaps resulted in alternative interpretations.

### **Interpretations in the Literature**

Among human rights “experts” there is a distinct lack of discussion on the right to education. Human rights consultant, Paul Sieghart, is typical of the many authorities on human rights who give little consideration either to the right to education or the achievement of its goals. In his chapters entitled, *Freedom of Thought and Freedom of the Mind*, Sieghart dismisses the goals of education as inconsequential, summarizing the text of Paragraph 2 in Article 26 as: “There follows an unexceptional paragraph about the aims of education” (1985, p. 143). Historian and university educator, Louis Francois (1968 ), in his UNESCO publication, *The Right To Education: From Proclamation to Achievement 1948-1968*, is one authority who does not dismiss the goals of the right to education and interprets the “full development of the human personality” in the following way:

[T]he potential of each student must be developed to the fullest extent through the exercise of his individual intelligence, sensitivity and determination. The selection of a large and vigorous *elite* should follow from the extension of education to the greatest possible number of young people, no doubt; but on condition that these young people are provided with able teachers, pleasant surroundings, suitable educational materials and textbooks, and a lively school atmosphere, demanding yet relaxed, earnest yet cheerful; on condition, too, that every single child shall daily have the opportunity of exercising his potential for understanding, his curiosity, his imagination, his memory, his desire to do well, all this with the patient help, the warm encouragement, the dynamic leadership of a good teacher....This is an ideal; the reality is sometimes disappointing. The results are inflated classes (forty pupils or more); chain production teaching; teaching methods by which pupils are condemned to listen, to assimilate, to imitate, to learn by heart and to recite. Short of being a genius the individual child is lost and swallowed up in the anonymous mass.

(Francois, 1968, pp. 39-40)

Francois' interpretation invites two comments. Firstly, there is a striking similarity to both Rawls' and Entwistle's assumptions that the ends of education should produce an academic elite through a process of "selection" based on merit. However, unlike his colleagues, Francois suggests that equality, not inequality, should be the outcome of such a selection:

Henceforward equal opportunities for development and access to culture must be made available to all comers, and merit, rather than birth or wealth, must be the deciding factor. Such equity has two, in no way conflicting but rather complimentary, facets: equality and diversity. (p. 41)

Secondly, in a further departure from Entwistle and Hirsch, Francois sees equality as a way to preserve diversity. In other words, for Francois equality does not constitute sameness, but rather the promotion and preservation of differences. Diversity among learners, he suggests, will occur by allowing students on a daily basis to engage their individual curiosities, imaginations, and interests rather than be "condemned to listen, to assimilate, to imitate, to learn by heart and recite" (p. 40).

I am interested in Francois' conception of an education that embraces both equality and diversity which follows from a competitive process of selection based on merit. Hitherto, Ungerleider, Entwistle, Hirsch, and the B. C. Ministry of Education have projected inequality as an outcome of education, using an interpretation of equality that supports compulsion of a common curriculum to achieve these ends. Francois' observations are similar to those of Gatto, (1992); Goodman (1964); Neil (1960); and Hern (1996) introduced in Chapter 3, who condemn the wide spread use of a compulsory common curriculum as constituting compulsory "Miseducation" (Chomsky, 2004). Francois' observations also closely parallel those of John Holt, whom I earlier (Chapter 3) inferred captured the true intent of human rights in his appeal for promoting the individual interests and spirit of the individual:

The alternative - I can see no other way - is to have schools and classrooms in which each child in his own way can satisfy his curiosity, develop his abilities and talents, and...get a glimpse of the richness of life (1964, p. 180).

Of particular interest is the deliberation between alternative forms of education. As Maxine Greene (1988) reminds us, the inability to deliberate between alternatives reveals a lack of true freedom. The ability to name alternatives and to contemplate their influences is a form of intellectual freedom that schools must strive to promote rather than restrict. Intellectual freedom is integral to the promotion of human rights, without which students cannot make full use of their liberty to claim a right to an education promoting the full development of their human personality.

However, among the participants as well as my own teaching colleagues I have found that alternative forms of education and alternative approaches to promoting the right to education and equal educational opportunities are rarely examined. The starting point for any sort of deliberation generally begins with the understanding that current educational practices are generally okay. In the main concerns involve devising ways to make the delivery of these practices better, expanding them and increasing access to these goods. Consequently, the loopholes discussed in Chapter 8 become “wheels in the head” of educators and governments. Thinking starts with the assumption that because education is inherently good, the right to education is fulfilled with the provision of free and equal access to this good (Tomasevki, 2001d, p. 27).

The previous chapter questioned the inherent goodness of current educational practices, suggesting that an inverse correlation between equality and education raises an element of reasonable doubt regarding the impunity of education as a contributing factor to global inequality. In Chapter 5, I stated that successful academic achievement is *not* the prerogative of an academic elite. It only becomes so when we abandon the pursuit of equality in favour of promoting inequality through educational competition. I make this claim because I envision an alternative to the common, high school curriculum, one that contributes to the promotion of equality and diversity without taking away from the promotion of social and economic progress. It does so using cooperative rather than competitive means, and focuses on the interests of the students rather than on what is held to be in the best interest of students - a critical distinction that I should like to expand on.

### **Learning by Interest: An Alternative to the Standard High School Curriculum**

My experiences as a classroom teacher and school administrator have prompted me to question what is often taken for granted as constituting sound theory and practice in the education of children. As human rights are generally understood to be for the protection and promotion of the liberties and freedoms of the individual, I find it difficult to accept that compulsory inclusion in a common and systemically standardized curriculum is an adequate response to the development of the full personality of each child. John Holt (1964) observed that a fear of not succeeding, boredom, and an utter lack of interest in what was being taught were the greatest factors promoting student failure at all levels among American students.

Similar observations were noted among Canadian students by University of Toronto educator, Michael Fullan, and the Canadian Teachers Federation (see pp. 104-105 in Chapter 5), indicating that boredom and a general lack of interest in what is being taught are the main reasons for early school leaving and the overwhelming disinterest in school. And after many years of teaching, I too have come to the realization that our high schools are not designed to interest students; they are designed to be in their best interest - which to say is not the same thing - and this conflict of interests contradicts the very reasoning behind the promotion of human rights.

Typically high schools teach subject disciplines and high school teachers try to create an interest in these discipline areas by looking for the relevancy that will hook students and motivate learning. For some students this approach works, but for many students, like those who opt for alternative school settings, it does not. And when these under-performing students show little inclination towards what they are learning, teachers in the regular program readily assume that either the material is too difficult or that these students are not putting in enough effort (Armstrong, 2003). In some cases this may be true, however, in many cases I believe it is a matter of interest or, more precisely, a lack there of that is responsible for the lack of academic success and enthusiasm.

Educators now accept that all children can learn, and that all learners should have an equal opportunity to succeed in education (Durkheim, 1977). And if we also accept that students are more likely to intentionally strive to take advantage of the educational resources that help to promote successful academic achievement when they are interested in what they are learning, the question surrounding the notion of learning by interest then becomes one of how rather than why. In fact, several “how” questions arise. First, how is it possible for a high school student to focus on his/her interests and still learn what is required and deemed necessary for a sound education? Second, how can a single high school accommodate the individual interests of all its students? And, finally, how will the study of student interests affect opportunities for post-secondary education, future career and employment opportunities, and the social and economic progress that we have come to expect of education?

*Those with Whom We Share the Learning Environment*

As things currently exist, secondary schools populate their classrooms in roughly the same manner, wherein students are assigned to a particular classroom and/or teacher according to their age and corresponding grade level. Students requesting a certain teacher, or a teacher selecting certain students is only permitted under certain special conditions (e.g. special needs) and in certain subject areas, such as elective areas or senior academic subjects. Based on an interpretation of equality which suggests that a level of equality has been achieved by providing all students with the same opportunities, a random grouping in the core subject areas (mathematics, science, English, social studies, and physical education) is deemed a fair and reasonable approach. This approach is based on the twin principles that: a) the considerations of all students are treated equally, and b) all teachers assigned to the subject areas are equally competent to teach the students in the assigned areas.

In the Learning by Interest approach, however, it is necessary to alter the random pairing of teachers and students, matching them instead according to their mutual interests. But before going further, I think it would be helpful to point out that such a

strategy is common to most learning environments outside of school. Generally it is found advantageous for most learning situations in which we engage, to group people together according to their interests. Ballet lessons, for example, or instruction in karate, gymnastics, swimming, music, art, first aid, accounting, stamp collecting, bird watching, and so forth are all arranged according to the mutual interests of the pupil and the teacher. There is no notion of forcing an individual to study things in which they are not interested. Outside of school we seem to take it for granted that forced learning will be unproductive not only to the uninterested students, but also to those with whom they share the learning environment.

There would be little use, for example, in having a stamp collecting club or a competitive swim team if a good many of the members had no interest in collecting stamps or swimming competitively. The first order of business would be to ask all those who do not wish to be there to leave so that the rest of the members could get on with what they needed to do. In learning situations outside of school we seem to take for granted that only by grouping together people of similar interests can we create the best possible learning environment for the best possible teaching and learning conditions to obtain. A good learning environment depends not only on the knowledge and direction of the instructor, but also on the support and enthusiasm of the learners themselves to encourage and help each other, and in doing so further each others interests and knowledge for the common good as well as for their own benefit. It is only through a shared interest that these leaning associations continue to function. For without a common interest there would be no reason to come together.

#### *A Five Year Implementation Plan*

How would a Learning by Interest approach be implemented? Let us suppose that a high school was to adopt a five year plan to accommodate the implementation of a Learning by Interest approach. In the first year of this plan the school would invite its grade 8 and 9 students to think about what it is that they would really like to learn in school; that is, to think about where their interests, aspirations, and curiosities

lie. These interests would be recorded and added to a pool of interests that would then be considered as possible teaching/learning activities to be offered in the upcoming years. At this same time the school would consider the recruitment of any new teachers keeping in mind the interests expressed by students. The object is to match perspective teachers and students who share similar interests in a particular area outside of those currently offered within the standard, common curriculum.

To continue on with this example, let us suppose that of six new teachers recruited, three were hired expressly because of their abilities and desires to teach in areas which students had expressed an interest in learning. We shall say that these three areas of mutual interest are theatre, photography, and cycling. With three such matches in place we could offer in the second year three new corresponding programs of study, open to any grade 9 or 10 student who had expressed a desire to pursue studies in one of these three areas of interest.

Imagine a high school student getting out of bed in the morning and actually looking forward to going to school not simply because his/her friends will be there, but because of what he/she is going to be learning in class. If the reader can picture a grade nine student waking up on a Monday morning and going to school to study not English, or social studies, or home economics, but rather to study theatre, this would be a good starting point. Envision a student getting up and spending a whole day learning something that he/she has a great interest in and has asked to learn - an entire day learning with other students who actually want to be there, and a teacher who is inspired and encouraged by the enthusiasm and interest of his/her pupils' ambitions. Furthermore, this student and his/her classmates will have the opportunity to look forward to studying theatre every day for an entire semester. What a wonderful feeling for both students and teachers.

### *Earning Academic Credit*

Through the study of interests, such as an interest in theatre, it is quite possible for a

student to attain high school credits in English, French, social studies or humanities and, depending on their special interests, credits in an elective area. For example, if we consider that vital to a well-rounded understanding of theatre is the acquisition of knowledge about the language of the performance - its subtleties and innuendoes, knowledge about the times and context of the story, knowledge about the actual staging of performances including: costuming, stage sets, sound and lighting, special effects, choreography, music composition, seating arrangements, acoustics, advertising, and financing one can see there is plenty of scope for serious academic input. And this is exactly what the Learning by Interest approach attempts to do, to enhance and enrich a student's study of theatre by initiating them into the various perspectives of the academic subject areas that contribute to a greater understanding and enjoyment of this interest.

By way of example, let us consider a social studies perspective and a theatrical production of *Romeo and Juliet* or *Gulliver's Travels*. To really understand the story of *Gulliver's Travels* it is necessary to understand the philosophical and satirical context in which the writer, Jonathan Swift (1726/1980, Part IV) was writing, and to appreciate the socio-economic and political events of 17th and 18th century Europe unfolding through his eyes. Following *Gulliver's* adventures and encounters in the strange lands he visits, we can explore the emerging concepts of statehood, democracy, constitutional reform, social justice, rights, freedoms, free enterprise, capitalism, imperialism and the many other institutions arising in pre-industrialized Europe that contribute to a social study of this era.

Having some familiarity with the concepts, skills, and learning outcomes of the grade 9 social studies curriculum, a teacher could then devise a social study, such as the one depicted in Figure 3 on the following page, that would enhance a student's understanding of theatrical productions, while also satisfying the aims of the social studies curriculum. Learning history through the study of theatre is derived of the same principle as learning history through the study of art. Art History has evolved as a legitimate and fascinating way of looking at the development of humankind, and

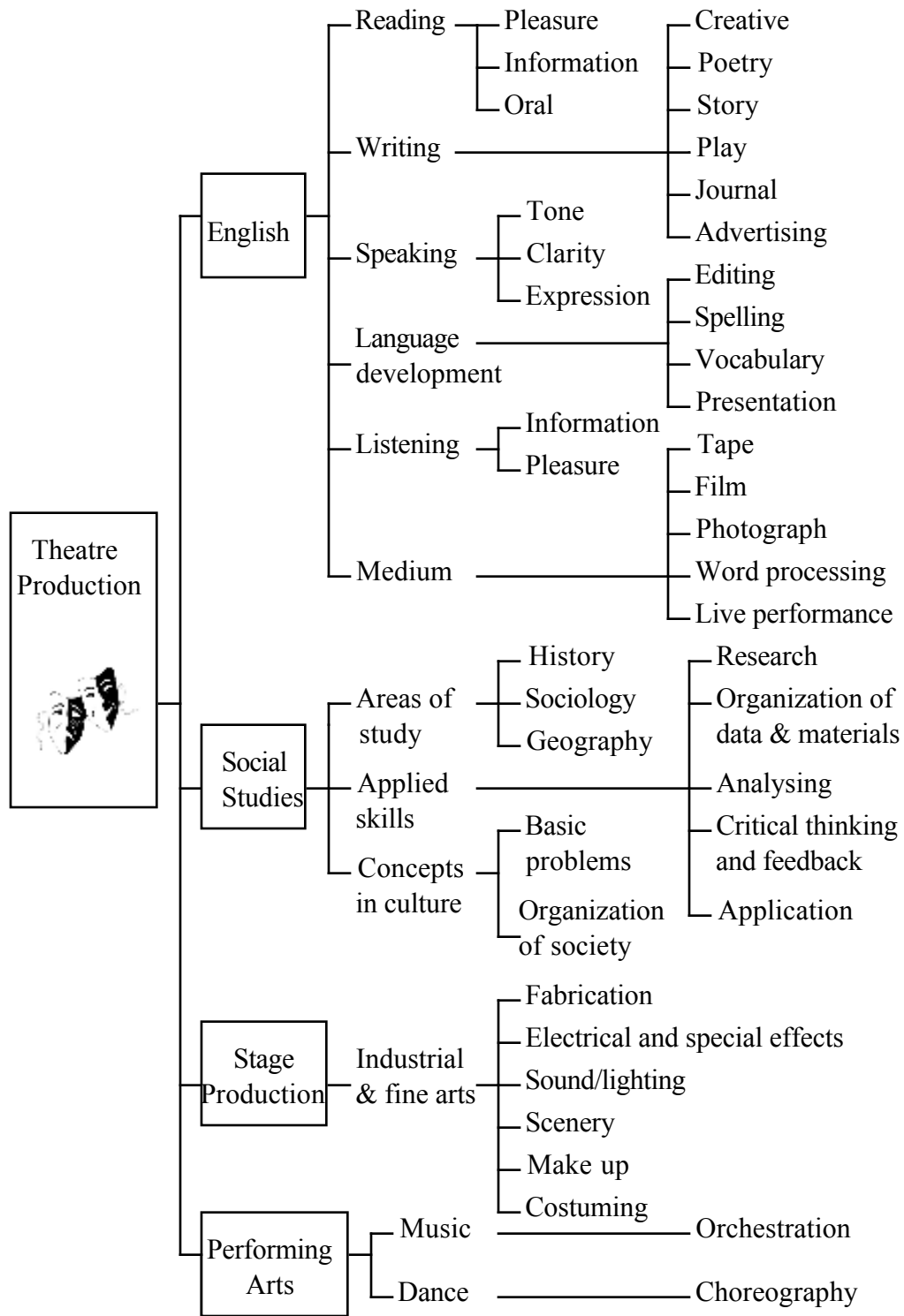


Figure 3  
Learning by Interest: Theatre Study

in a way that is of interest to a certain segment of the school population for which the study of wars, politics, and treaties would hold little interest and, in turn, offer little incentive to acquire knowledge or skills in this discipline area.

What I am suggesting, is that if we want students to be interested in what they are learning, then perhaps for many students we are applying the teaching-learning process backwards. Instead of teaching subject disciplines and trying to create an interest in these subjects, why not teach what is already of interest to students and enhance and enrich the learning experience with skills and knowledges from the appropriate and corresponding disciplines? That is, rather than using theatre to enrich and compliment the English curriculum, the Learning by Interest approach promotes the study of English as a way of enriching and complimenting a study of theatre.

In a similar manner a Learning by Interest approach could also be applied to elective areas. Students with an interest in costuming, for example, could make a thorough study of the dress and fashions of 17th and 18th century Europe and combine this historical research with home economics to produce the necessary costumes and receive credit in the elective areas of clothing or textiles. The same would be true in the areas of wood working, construction, or technology, where students could learn about the construction of stage sets and props, or the technology of sound and lighting for theatre, learning how to create special effects and oversee a staged performance. In much the same manner, theatre students could also earn credits for band, music, dance, or business education.

If we stop and think about it, this is the way in which we acquire most of our knowledge about the world we live. Whether our interests are in photography or acting, gardening or cooking, motocross racing or downhill skiing, we gain more knowledge and derive more pleasure from these interests when we know something of their evolution and history and the science behind their developments and changes. We like to read up on them, hear about the experiences of others, compare notes, and speculate on the diverse aspects of these interests. To have no historical perspective,

or to not understand the science behind the activities we engage in, would not serve our interests and, therefore, not contribute to our enjoyment or enthusiasm for the activity. To be able to draw on different perspectives - historical, scientific, literary, physical, environmental, etc. - is the whole point of acquiring an education. Indeed to be able to fully engage our interests is the real test of an education.

*Do All Roads Lead to Rome?*

The question arises as to whether or not a student would be able to choose to study just any interest? In other words, are all interests worthy of consideration for serious academic study? The answer to this question is both yes and no. Yes, provided that a particular interest can be matched with a teacher who will act as advisor or mentor and, no, if student-teacher interests cannot be matched or if there is reasoned evidence to show that such an interest may be harmful to the student or to others. An example, I think, would be helpful.

Suppose a group of students have indicated an interest in pursuing studies in outdoor education and, among these students, several who would dearly love to learn more about bicycles and bicycle touring as a part of their schooling. It would, I think, be difficult to make a case for this activity being harmful. Yet, I have inferred that students should thrive from their schooling experience, not simply survive. Our first consideration, therefore, should be to show how bicycles and bicycle touring could contribute to a purposeful and meaningful academic study - one worthy of our support and recognition. Such evidence can be demonstrated in two ways. If we look at Figure 4 on the following page we see many subject areas that could potentially contribute to an in depth study of this two-wheeled marvel of industrialization. "The Role of the Bicycle in Society" is a theme that could be covered quite effectively using an interdisciplinary or integrated approach engaging several academic perspectives.

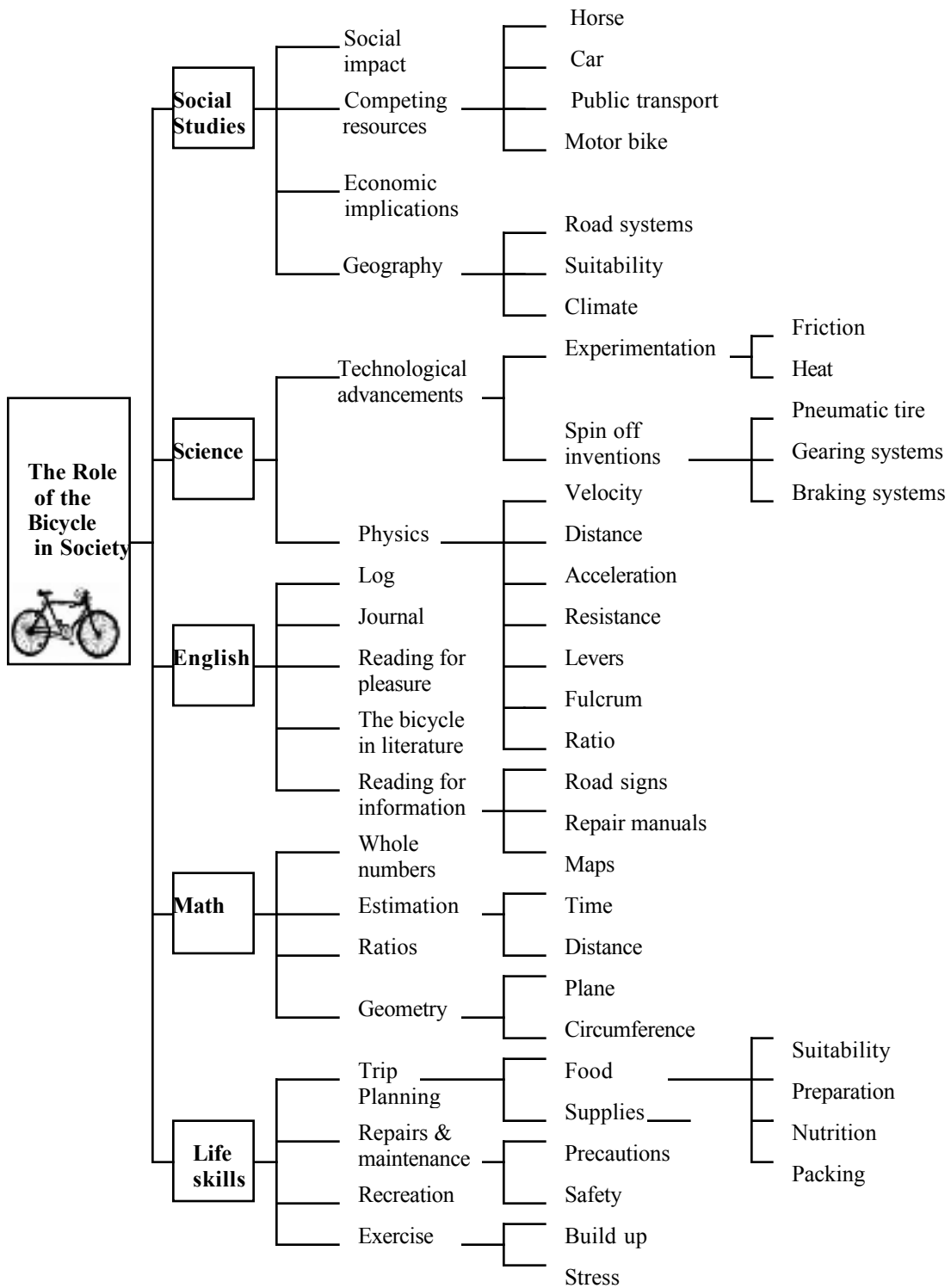


Figure 4  
Learning by Interest: Bicycle Study

In Figure 4 I have highlighted four areas as strategies for exploring the role of the bicycle from a social studies point of view: social impact, competing resources, economic implications, and geography. After identifying these learning strategies, the next step is to illustrate how these strategies would actually contribute to a comprehensive social study. Detailing elements of the flow chart is our second piece of evidence. If we consider the element “social impact”, as shown at the very top of the chart in Figure 4, we could illustrate the impact of industrialization and invention on the socio-economic developments of industrialized society - an important learning outcome of the grade 9 social studies curriculum in the Province of British Columbia (1997). The overview in Table 4 on the following page highlights a few of the key events in history that could form the basis of a historical approach to the study of bicycles. Similar overviews could also be prepared to illustrate the significance of the bicycle in the areas of geography, civil rights, the emancipation of women, and economics. Tracing the evolution of the bicycle through time and space is at once a study in social studies, technology, science, industry, and mathematics.

From a scientific and mathematical point of view, the bicycle is a rolling piece of physics - mathematics on wheels - if you will. As an innovation of technology and industry, the bicycle is perhaps the epitome of the perfect union of man, machine, and the environment. From a science perspective the bicycle would complement several areas of the physical science curriculum, fitting in under the recommended topics of matter and energy, simple machines, industry, and transportation studies.

Furthermore, rebuilding and modifying old bicycles, improving their design beyond the original manufacture, and taking these bikes on a cycling trip would enrich many of the learning outcomes suggested in the science curriculum under the headings: developing applied skills, fostering scientific attitudes, increasing scientific knowledge, experimentation, satisfying curiosity, hypothesizing, testing results, critical thinking, and so on. With a little imagination and creativity it is possible for a teacher to mix and match many of the existing learning outcomes, areas of studies, and applied skills to create a sound academic study in almost any area of study that students and teachers choose to pursue and explore.

### **The Bicycle in History: A Brief Overview**

From a historical perspective, the bicycle merits a special place in our study of history as an intriguing technological and social phenomenon. Consider, if you will, the following capsulated points:

**18th Century** - The velocipede (a predecessor of the modern bicycle without pedals) is considered “faddish nonsense”, and without any conceivable use in modern society.

**19th Century** - The bicycle is seen as a fashionable leisure activity for “gentlemen”. Social clubs dedicated to bicycle touring are established in major European cities. International cycling competitions evolve, forging a relationship between sports and new industrial technologies. The cost of a new bicycle is equivalent to one year’s wages for a working man (two and a half years for a working woman).

**20th Century** - The bicycle is eclipsed by the increasingly popular motor car for gentlemen of the leisure class. Women demand radical changes in leisure clothing to accommodate the open-legged position on the bicycle. “Decent women” are forbidden by their husbands to ride bikes. The bicycle and ladies’ “slacks” become symbols of the emancipation of women. The City of Chicago boasts the fastest bicycle-powered fire engine on the continent.

**World War I** - The bicycle makes its debut as a “silent messenger” for deliveries and communications behind enemy lines.

**Post World War II** - The advent of cheap and plentiful supplies of Middle-Eastern oil, brings about a sharp increase in the manufacture of automobiles in North America. The bicycle in Canada and the USA is reduced to the status of a toy; something only children use.

**1950’s** - China takes over as the world leader in bicycle transport and manufacture. The bicycle becomes the symbol of the working man’s transportation in much of Europe and Asia.

**1960’s** - The bicycle, in Canada and the USA, is considered quite unfashionable and “uncool” by urban high school students. They would prefer to walk long distances to school rather than be seen riding a bike.

**1970’s** - The Middle-Eastern oil crisis, and the corresponding rise in gasoline prices, creates a renewed interest in bicycles. Many new designs and models hit the N. A. consumer market.

**1980’s** - Governments offer tax incentives to help promote bicycles as an alternative for urban commuters. City councils consider the designation of bike paths and lanes in urban centers.

**1990’s** - Increasing interest in the bicycle as an “environmentally friendly” source of transportation, with global implications for addressing problems of air pollution, global warming, heart disease, increased dependence on fossil fuels, traffic congestion, and so forth.

**2000** - As traffic congestion increases in major cities, planners look to bicycles as an alternative source of Green transportation, along with trains, buses, and rapid transit. Bicycle routes are planned for new developments and are given priority on some routes.

Table 4

### The Bicycle in History: A Brief Overview

To recap, then, in the first year of the proposed five year plan the idea is to poll students to find out the nature and scope of their interests. Based on these interests schools inform their search for any new teachers coming on board. (This is not to say that existing staff would not also be included if there is the interest to do so). In the second year the possibility exists for the introduction of three or four new Learning by Interest courses offered to some of the student population. In the third, fourth, and fifth years of the plan, a school would gradually see an increase of Learning by Interest courses offered simultaneously along side the standard curriculum and interchangeable with the standard subject disciplines. Expansion of the Learning by Interest approach would initially require that a school focus on three specific areas: 1) the identification of student interests and recruitment of teachers with compatible teaching interests, 2) working with teacher training programs to train teachers in the development and modification of curricula to support a Learning by Interest approach, and 3) increasing the number of choices open to students who wish to pursue a Learning by Interest approach as an equal and equivalent alternative to the standard curriculum.

### *Program Compatibility*

It is critical to point out that many students enjoy the study of academic disciplines, like mathematics for instance, and hold an interest in mathematics purely for the joy of doing mathematics. The same can be said of science, social studies, and English. For this reason, any alternative approach that purports to promote equal educational opportunity must not interfere with a student's or teacher's interest in the study of the traditional discipline areas. This would be counter-productive to the promotion of equality and a Learning by Interest approach. By acknowledging the benefits of the existing curriculum model at least two advantages can also be realized: a) we create a basis for establishing program compatibility by allowing students and teachers freedom to move between approaches without loss of academic credit or educational status, and b) we preserve and support existing approaches and programs in the

common curriculum that have proven to be effective for some individuals in the student population.

However, in order for a Learning by Interest approach to be effective, teachers must be able to spend more time with each student than they do currently. The less students per teacher the more personal instructional time each student receives is, of course, not a new revelation. Smaller classes have been shown to produce significant educational gains across the board (Biddle & Berliner, 2002; McGivern, 1989). A reduction in class sizes, however, is costly and in these times of fiscal restraint often economically impractical. Yet, there is a way to reduce the relative student-teacher ratio by reorganizing time tabling and teaching assignments that do not involve the actual reduction of class sizes.

### *Reordering Instructional Time*

In a linear, eight-course, high school instructional model, where a teacher typically has 7 classes of approximately 30 students (the 8th class is teacher preparation time) per week, a reduction from 210 students per week to 30 students per week can be achieved by facilitating two simple changes to existing timetable models.<sup>66</sup> First, many high school teachers, especially those teaching grades 8 to 10, are fully capable of teaching in more than one subject area. A teacher could, for example, teach a combination of English, social studies, and drama; or maybe science, math, and technology; or perhaps humanities, physical education, and shop.

Secondly, the school year could be divided into a trimester, offering three subjects in each of the three terms. The current school day would allow for two 1.5 hour blocks of instructional time in the morning and, after lunch, a third 1.5 hour instructional block followed by a half hour to forty-five minute tutorial set aside for group work, discussions, homework, student council business, peer tutoring, remedial help, band,

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<sup>66</sup> On a semester timetable, with 4 classes of 30 students (in one semester a teacher would have three classes with the fourth class used for teacher preparation), the number of students seen by one teacher would be between 90 and 120 per term.

rehearsals, and so on. Alternatively a schedule might offer two 1.75 hour blocks of instructional time in the morning and, after lunch, a third 1.75 hour instructional block as indicated in Table 5. Under such a framework a teacher could then assume responsibility for a class of thirty students, in three subject areas, for an entire term as illustrated below.

<b>Daily Schedule</b>	<b>Fall Term Semester 1</b>	<b>Winter Term Semester 2</b>	<b>Spring Term Semester 3</b>
	<i>Teacher A</i>	<i>Teacher B</i>	<i>Teacher C</i>
<b>8:45 Block 1</b>	English	Social Studies	Applied Math 9
<b>10:30 Recess</b>			
<b>10:45 Block 2</b>	French	Science	Physical Education
<b>12:30 Lunch</b>			
<b>1:15 Block 2</b>	Elective	Elective	Elective
<b>3:00 Dismissal</b>			

Table 5

## Timetable A

Timetable A accommodates both a Learning by Interest approach as well as the common curricular approach, allowing for full or partial adoption of either one. With the relative independence of each classroom, lockstep planning for subject rotations no longer impact the usage of any other classroom in the school building to the same degree, and teachers using a Learning by Interest approach are free to combine together periods and lessons. Taking away concrete divisions between subject areas enhances opportunities for the facilitation of classroom projects, field studies, performances, and special events.

*Accommodating a Learning by Interest Approach*

Timetable A accomplishes the task of not disturbing the existing standardized curriculum. Except for lengthening classroom periods, shortening the term, and reducing the relative student-teacher ratio, students and teachers wishing to stay with the standard curriculum are largely unaffected by these changes. Students are still able to take all the traditional subject areas and rotate from teacher to teacher and from classroom to classroom. Teachers can still teach in their traditional subject areas and teach more than one group of students per day. Grading and evaluation remain entirely unchanged, while the rhythm of the day, though slightly modified, remains essentially in place with the traditional starting time, dismissal, recess, lunch, period rotations, and hours of instructional time. But what is also accomplished with the structural changes in Timetable A is the creation of conditions needed to facilitate a Learning by Interest approach as illustrated below in Table 6.

<b>Daily Schedule</b>	<b>Fall Term Semester 1</b>	<b>Winter Term Semester 2</b>	<b>Spring Term Semester 3</b>
	<b>THEATRE</b>	<b>PHOTOGRAPY</b>	<b>CYCLING</b>
<b>8:45 Block 1</b>	English	Humanities	Applied Math 9
<b>10:30 Recess</b>			
<b>10:45 Block 2</b>	Social Studies	Science	Physical Education
<b>12:30 Lunch</b>	<i>and choose one of:</i>	<i>and choose one of:</i>	<i>and choose one of:</i>
<b>1:15 Block 2</b>	- Technology - Dance - Textiles	- Journalism - Art - School annual	- Life Skills - Shop
<b>3:00 Dismissal</b>			

Table 6  
Timetable B

If we consider Timetable B, in Table 6, we see that both students and teacher are now able to devote the entire day to interest studies without effecting the smooth running of the school day, and without competing against any other program. Students and teachers can easily move between subjects and interests. Thus we have satisfied the first of the conditions necessary for program compatibility and have also created the physical capability to move into or out of programs without a loss of school time. The final step, as illustrated in Table 7 below, is to erase the boundary lines between blocks, allowing teachers the ability to seamlessly integrate an interdisciplinary approach to the particular interest study.

<b>Daily Schedule</b>	<b>Fall Term</b>	<b>Winter Term</b>	<b>Spring Term</b>
	<b>Semester 1</b> <b>THEATRE</b>	<b>Semester 2</b> <b>PHOTOGRAPHY</b>	<b>Semester 3</b> <b>CYCLING</b>
<b>8:45 Morning session</b>	(English Social Studies  <i>and one of:</i> - Technology - Dance - Textiles)	(Humanities Science  <i>and one of:</i> - Journalism - Art - School annual)	(Applied Math 9 Physical Education  <i>and one of:</i> - Life Skills - Shop)
<b>12:30 Lunch</b>			
<b>1:15 Afternoon Session</b>	<b>Theatre</b> (continued)	<b>Photography</b> (continued)	<b>Cycling</b> (continued)
<b>3:00 Dismissal</b>			

Table 7  
Timetable C

A second condition of program compatibility requires that we maintain equivalent status and transferable academic credits in all student programs so that the credits are

interchangeable and can be applied towards graduation requirements. The ability to interchange school credits is accomplished by considering the standard curriculum when developing courses, and offering subject combinations in the areas of interest that fulfill the necessary requirements for graduation. Once the course credits are established, students, along with their parents and/or counsellors, will determine what credits are required for graduation that are also offered in the various Learning by Interest options.

### *Adapting to Change*

An interest study in an area such as photography, for example, could offer credits in science, social studies, English, humanities, or applied math, as well as elective areas in fine arts or photo-journalism. Other areas of interest, like theatre, might extend credits in social studies, English, French or perhaps a credit for humanities or an elective courses in an area of the performing arts, fine arts, or industrial arts. In some cases, subject disciplines such as mathematics, English literature, chemistry, or geography may be one of the interests of a student. The more familiar educators and curriculum developers become with student and teacher interests, the more sophistication and imagination we will see in the planning and refinement of Learning by Interest programs. It will take some time, but once people adjust to the idea of studying interests for interest sake rather than for course credit equivalencies, making comparisons to the existing common curriculum will become unnecessary and gradually unimportant.

An example of this adjustment time can be seen in the fairly recent transition from horse-drawn vehicles to self-propelled, motorized vehicles. When motorized vehicles were first introduced to the general public they were regarded as novelty items and not something for serious work. Over the years, however, as these self-propelled, motorized vehicles were improved and refined, their advantages soon became evident. While being developed and adapted to the various uses that oxen and horses traditionally filled, it was necessary to judge the output of these motorized vehicles

(including tractors and trucks) with constant comparisons to the pulling power of an equivalent number of horses. And for many years “horsepower” was the standard by which to judge the performance level of a vehicle and its potential for work.

Today, however, horsepower is frequently not a critical consideration of prospective vehicle buyers. In fact, many buyers do not even understand the relationship that exists between the performance of their vehicle’s engine and the calculation of horsepower. Buyers today are often more aware of engine performance through such measures as cubic centimeters, liter uptake capacity, number of cylinders, rate of acceleration, and so forth. Today’s vehicle owner no longer requires a confirmation in horsepower, neither to appreciate the vehicle’s worth or to judge its work potential.

Similar to the gradual acceptance of change in traditional modes of transportation, changes in education will also require some time for people to adapt. And when we consider that “traditional” education has known many faces over the centuries, and the division of knowledge into the current subject disciplines is a very recent approach to education and schooling, we can begin to appreciate that adapting to change is an inevitable and inherent part of education.<sup>67</sup>

### *Employment and Career Opportunities*

There remains one more important consideration of a Learning by Interest approach that I would like to comment on concerning the issue of future employment and career choices. The nature of a Learning by Interest approach lends itself well to the compiling of student portfolios and dossiers of projects and learning experiences that students have engaged in over the course of their studies, and which will help enhance

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<sup>67</sup> The modern approach to education emerged at the end of the Renaissance, largely through the efforts of Peter Ramus’ development of curricula to map specific learning outcomes. In the 19th century a modern curriculum was refined according to theories of scientific management. Current pedagogical practices appeared with the influences of U. S. industrialist, Frederick Taylor (1947/1911), and curriculum theorist, John Franklin Bobbitt (1912a, 1912b). Influenced heavily by Taylor’s paradigm for the industrialized work place, Bobbitt (1924) applied Taylor’s theories to curriculum development. The current, prevailing model of education derives from Bobbitt’s influence. Hence, “traditional” education is very short on tradition in the evolution of education. For more on the evolution and development of curriculum and modern educational practices see: Triche (2002), and McKnight (2003).

opportunities for employment as well as inform their consideration of career choices. To see how this might work, let us consider a third program of study suggested by students in the area of photography.

It is quite possible for a student to elect to study photography over a period of two or three years and at the same time contribute to the development of a personal portfolio or dossier containing their learning experiences, accomplishments, and finished work. The same student might conceivably combine photography with his/her interest in theatre and use their skills to video tape rehearsals or performances, produce posters or hand bills to advertise the production, take cast pictures, make scenery, help with special effects, sound, lighting, and so on. As well this student might be encouraged to do layouts for the school annual, take pictures for sports teams, special events, community happenings, school newspaper, student identification cards, Valentine's Day telegrams, local business promotions, and so forth. In addition, this student might choose to combine his/her interest in photography with a course offered in environmental or community issues, gaining experience with on-location filming, interviewing, and/or news reporting out in the local community.

The study of photography could easily encompass the disciplines of science, social studies, and English as illustrated in Figure 5 on the following page. A student could obtain credits and knowledge in these subject areas by applying their understanding of science, English, and history to the understanding of how pictures influence the way we think about our world and how we express ourselves. From the experiences offered through a Learning by Interest approach, a student could realize an equal opportunity to distinguish him/herself from the multitude of other students who possess an expertise in English, mathematics, science, and social studies. Such a student would actually have the experience of applying these learned skills to something useful and tangible in an area that interests them.

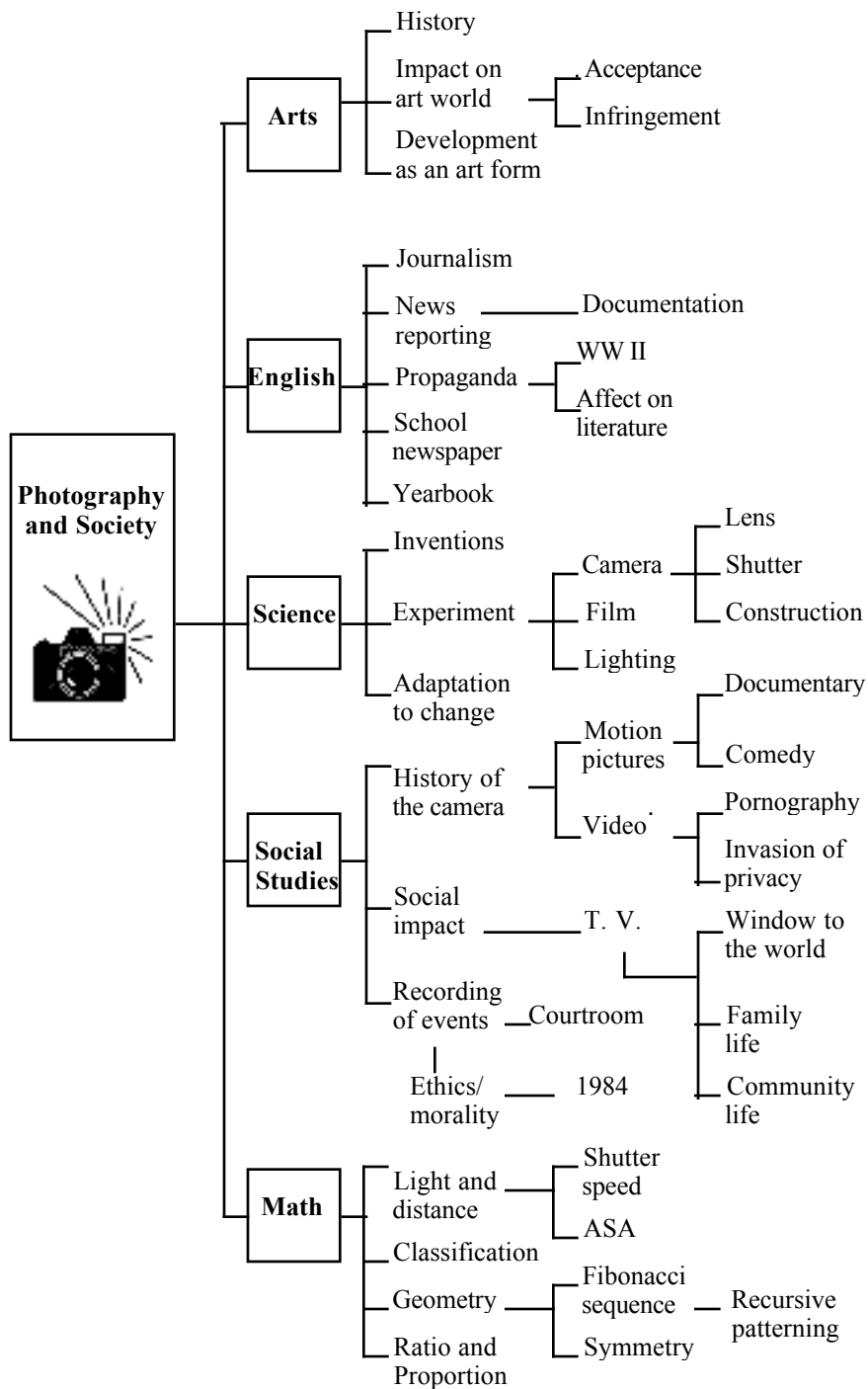


Figure 5  
Learning by Interest: Photography Study

A student who has had the opportunity to study and pursue an interest in photography or theatre over the course of four or five years at high school would, upon graduation, have had exposure to a variety of different job and career possibilities.<sup>68</sup> With these accumulated learning experiences documented in his/her portfolio, when the time arrives for this student to seek employment, whether it is part-time employment while attending school or full time employment following graduation, he/she would not have to enter the work force like so many other students seeking a “no experience necessary” job placement in a local fast food restaurant, convenience store, or service station. Rather than searching the classifieds for restaurant or gas station jobs, such a student would naturally be drawn to seeking employment and career opportunities at a camera shop, or perhaps a photography studio, local newspaper, or even a public relations position with a theatre company or television station.

Such a student would be able to walk into a camera shop or photography studio and, with his or her portfolio tucked under their arm, and several years of “on the job” experience, demonstrate a knowledge of: the different types of cameras they had constructed in class, the many school and community events which they had photographed, which kind of camera is best suited to which kind of projects and conditions, the pros and cons of using different types of cameras, which type of film to use for which situations, how to develop film for the best lighting effects, how to improvise when called for, and so on.

In the final analysis, students who have been provided with an opportunity to explore their personal interests, and to gain practical experience from these areas of study through a Learning by Interest approach, have essentially developed marketable talents while studying something that was of great personal interest and satisfaction. As a result we have knowledgeable and confident students, eager to learn more, encouraged to learn more, and ready and willing to contribute his/her skills to their

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<sup>68</sup> In addition to being encouraged to participate in community and local business events, field experience could be organized as an integral part of a student’s learning program. A school could offer students apprenticeship and/or mentorship opportunities that would increase students’ situated cognition, addressing Dewey’s (1966) concern regarding the future applicability and transferability of skills gained in the isolation of a classroom.

communities. These are not students who have been forced to compete for equality of opportunity. As a result they will not have to ask themselves how to gain advantages from their education, for they have already acquired such advantages and need only to apply them to everyone's benefit.

If education is truly to be a springboard to a better future through social and economic progress, then our educational institutions must help students to develop their individual interests and talents. For many students this means being provided with an equal opportunity to be interested in what they are learning. Consider the range of possibilities available in a high school with 600 to 1000 students where a Learning by Interest approach is offered. If only half of the forty or fifty teachers teach in one or two areas of their interest or passion, it would mean students in that school would have an opportunity to pick and choose from forty or fifty different learning experiences, in addition to those already offered through the standard curriculum. Choices, of course, cannot be unlimited, but over the course of their high school years, students would at least have opportunities to explore several different interests, or perhaps choose to study one or two areas of interest in greater depth, while earning credits for graduation that might well lead to career opportunities or lifetime interests.

Much, much more could be added to this discussion in order to address all the questions it raises, and many more years of experimentation would be needed to establish reliable answers. However, an in depth discussion would exceed the limits of this inquiry, and my reason for introducing this approach is not so much to explore all the benefits and debate its pros and cons, but rather to raise reasonable doubt concerning the belief that a common curriculum is the only or even the best way to go about the process of teaching and learning. It is further intended to support my claim that a non-competitive approach to education can promote equality and diversity without hindering social and economic progress as many would have the reader believe. A non-competitive, egalitarian approach to education contributes to an increase in social and economic development by bringing people together in a cooperative venture to share their interests and knowledge.

I will conclude this chapter by summarizing five principles upon which the Learning by Interest approach is based.

*Five Principles of the Learning by Interest Approach*

1. Education is more productive when students are interested in what they are learning.
2. Students who are not interested in what they are learning are unlikely to take advantage of the educational resources that promote successful academic achievement.
3. There is a difference between what students are interested in learning and that which is held to be in their best interest to learn. An essential element of the right to education is the promotion of the former and protection from the latter.
4. Schools have a responsibility to promote conditions of equality for all learners. Equality does not equate to conditions of sameness. Equality requires taking into consideration relevant differences such that that all learners can benefit from the educational experience to a similar degree.
5. The full development of the human personality is more likely to prevail under conditions that promote the intrinsic interests of the individual.

## CHAPTER 10

### THE ENDS OF THE RIGHT TO EDUCATION - PART II

#### Discussion with Research Participants: Strengthening Respect for Human Rights

A second goal of the universal right to education is the “strengthening of respect for human rights and fundamental freedoms.” When I asked the research participants whether they felt that schools strengthen respect for human rights and fundamental freedoms, and if so in what ways (Appendix 3, Question 9), there was once again a wide range of interpretations and responses. Two of the participants were unsure of the extent to which rights and freedoms were promoted in their schools:

I think that many of the privileged are very aware and insistent of having these rights, while the most vulnerable have the least expectations for themselves, and are bullied and disregarded. Generally I hear, “I have the right to this and that,” but I don’t hear “I have the responsibility to ensure these rights for others.” Like I said, the responsibility and the right go hand in hand. You cannot have one without the other. (ISP 3)

Honestly, are we getting it done? I’d like to say yes, but, in fact I would say no, which is why it is always at the forefront of our minds as to how to do it better. It is certainly something we look at all the time. Social responsibilities, rights, freedoms - this is a school that pays a ton of attention to that. (PSP 2)

Three other participants felt that their schools and schools in general did promote the strengthening of human rights and freedoms through respectful behaviours modeled mainly by teachers and school staff:

Maybe not in those words. But I think in some ways kids are a lot nicer than they were 25 or 30 years ago. I think that has a lot to do with teacher’s being quite deliberate about promoting respect. Not so much a change in the language kids use, but more respect and acting appropriately. And this goes back to the teacher-instructor

shift. There is also a change in language - “Johnny shouldn’t do that to Suzy because it is inappropriate.” And because there has been such a deliberate drive on it, I think kids know maybe more than before, when they are being disrespectful and not having respect for human rights. They are aware of it at least. They don’t always go with it, but I do think that they are more aware. The real physical bullying has gone way down. From what I see, if there are 2 or 3 incidences a year that would be high. When I went to school in England it was constant. It was a pretty violent place. Fighting this year, I’ve seen three, maybe four. Real fights, only two. And one of these was between best friends, and they sat here crying because they had just punched their best friend. So that stuff is a lot calmer. (PSP 7)

I would say that those things are all equally modeled in all our classes. Would they focus on it in some classes more than in others - law classes or health and education - type classes? Probably, but I think it is pervasive throughout the whole system. Based on the responses of the recently completed parent and student surveys I would say that this does seem to be the case, they are being modeled, they are being taught, and we are creating these attributes in our students. (PSP 6)

With 172 kids issues are going to come up, and whether what we do and say promotes tolerance, understanding, and friendship is important. We have to think globally and act locally because we are a microcosm of the greater community. Getting along together might not be as big an issue as World War, but really the fundamentals of them are the same. So the question is, as a [middle school] community how do we deal with them? One of the approaches when there are issues is a restorative justice approach - more a community solving approach - where everyone comes together and communicates directly. This is far more effective, because we are all working together and this promotes tolerance and understanding. Basically, you can’t fool kids. You have to role-model it and do it as a community together. (ISP 1)

Other participants felt that strengthening rights and freedoms was inherent in most school and classroom codes of conduct, and that their promotion was a general expectation of schools. They saw in place a framework for their potential promotion,

but also recognized that human rights education was still dependent upon the individual initiatives of the teachers and school staff in general:

I believe that we do. I believe in my particular context [at this school], that there is a significant amount of work that happens in and around this idea. Human rights is really entrenched in our codes of conduct and how we behave towards one another in the school and within the school system. So the potential is there for that to clearly happen. (PSP 5)

I think a lot of classrooms do that, and that a lot of classrooms don't even touch on it. Do I think that kids are really educated on their fundamental rights and freedoms? Minimally, except in the three classes mentioned earlier. There are a lot of wonderful teachers that weave it into the curriculum. I also believe that schools, the majority of them, have goals around social and personal responsibility which are included in this. On global issues, compared to when I was working with kids 10 years ago, I see them now working on poverty issues, going to Africa, South America, clearing land mines, Amnesty International. The list goes on - raising money, raising awareness, aides education. It's unbelievable what they are doing and the initiative they are showing. I also think it comes from this age group of teenagers. They are much more aware of what is going on in the world, and that is because of school, television, and computers. Also, looking at the text of paragraph 2, regarding promoting "understanding, tolerance, and friendship," that is an active part of the curriculum in school now, tolerance and acceptance for all races and religions, whether it is in CAPP, or planning, or career classes, or peer helper, or leadership classes those are the themes. And all schools have statements in their codes of conduct to promote tolerance and acceptance. No question, we are expected to have those. (PSP 3)

Certainly we promote human rights and freedoms. We also promote democracy, and we are doing that right now with the selection of our valedictorian. Unlike the "olden days" - 5 years ago - when the person was chosen based on merit; you know, where the top academic student gets to be the valedictorian, this person is now selected by their peers to act as the spokesperson for the graduating class. There are some problems with that, but at least it feels more democratic. So I think schools in general do a

pretty good job with it, and I feel that that happens at all levels. I have worked at all levels and I have seen a real respect for that aspect of learning. (PSP 1)

Over all, I got the sense in talking with participants that this group of administrators took seriously the promotion of human rights. They appeared to be very much advocates of human rights, the rights of students, and the promotion of respectful and reciprocal behaviours. There also seemed to be a recognition that promotion of human rights and freedoms was a general expectation of our schools and of educators working in our education system. It seemed beyond reproach that their school boards encouraged and led the way in the promotion of human rights and freedoms within their districts. However, the promotion and strengthening of human rights and freedoms in individual schools was still considered to be very much dependent upon the efforts of the individual teachers within their schools.

A number of participants had also expressed the idea that the promotion and strengthening of human rights and freedoms was often carried on outside of the classroom in a number of school-wide events that included such things as charitable fund raising activities, awareness campaigns, and hands on experiences at the local and/or global levels. Respectful behaviour was frequently mentioned in conjunction with the promotion of human rights. In talking with participants respect for persons - their different lifestyles, customs, expectations, and beliefs - was an essential and unquestionable expectation of both staff and students in their schools. Again, while not wanting to substitute the Declaration's wording, I felt that the idea of "promoting respect" may have captured the spirit of our schools efforts to a larger degree than "strengthening the respect for human rights and fundamental freedoms."

The wording in the declaration is more specific in terms of what direction the promotion of respect should take. Joel Spring (2000) claims the Declaration intends that students should receive instruction in human rights, and that human rights education be considered a necessary and essential element of the school curriculum. According to Spring, human rights education should open up creative thinking about

alternatives to existing political, economic, and social arrangements, and not enshrine democracy, sustainable development, and the rule of law. He is critical of equating democracy with the promotion of human rights, and suggests that the Convention on the Rights of the Child [Article 13] offers students “protection from such blatant attempts to limit freedom of thought by trying to persuade students that democracy, rule of law, and UN policies offer the best hope for the protection of human rights” (p. 83).

Spring advocates the need for a diversity of institutions and ideas regarding the pursuit of the good life. Spring finds support for his argument in the beliefs of Amy Gutmann (1987), who argues that a non-repressive education requires that students are availed of the opportunity to consider different concepts of the good life. For this to occur there must be freedom of thought in the classroom. For Spring, such ends require not only freedom of thought in the classroom, but also instruction in human rights. Spring’s concern prompted me to ask research participants whether their schools provided instruction in human rights (Appendix 3, Question #2):

I would say no. (PSP 6)

After I worked internationally I was dismayed to learn that children/teachers in Vanuatu and Cambodia had whole programs based around these rights, but in Canada we “assumed” that they were in place and never talked of them. Individual teachers included programs on human rights in their curriculum, but [human rights education] was not a school-wide program. (ISP 3)

Certainly some would, and here I am differentiating between the curriculum and what a teacher would choose to bring to their classroom outside of that. In the grade 6 - 8 curriculum I would say in very round about ways. I don’t know of any specific instruction in human rights. But there is lots of room for teachers in our schools to add on, and I do know that some teachers will touch on it when they have the opportunity. So it is more of an informal rather than a formal approach. (PSP 7)

No. We do not specifically talk about it. We promote the values

inherent in human rights through programs like our student leadership programs, and we have several cultural groups - an Aboriginal Support group and a Multi-cultural/Student Leadership group. We also address some of these things through courses such as Planning 10 and through an examination of comparative political systems in Social Studies. But it is never presented as, “now we are doing human rights!” (PSP 1)

One of the participants felt that while instruction in human rights was not specifically covered in the British Columbia curriculum, the school nevertheless offered their students a comprehensive education in human rights through special school events.

Nothing outside of the curriculum. The teachers, of course, have a certain latitude and personal expectations, I would hope, but as a curriculum we don't do it. We do, however, emphasis charitable things. We have a special Giving Day coming up which is something where our students prepare for a period of time to go out in the local community to volunteer their time helping in various endeavors like food banks, old folks homes, cleaning up beaches, etc. There has also been a whole awareness and a fund raising aspect for the situation in the Sudan and Darfur for a few years now. And the kids are taught about that, and we try not to let up on it. We also do a fairly significant thing around the Holocaust, and basically this is all about human rights. Especially in our Grade 9 year, in which the students spend a number of weeks preparing for a trip to the Holocaust Museum in Washington D. C. This is not just a field trip; students actually do an intensive study of it. So while [human rights] are not specifically covered in the curriculum, they are covered in special school events. (ISP 2)

Other participants felt strongly that human rights were addressed in the social studies and social studies-related areas of the curriculum:

We've spent a fair amount of time building our social studies curriculum around the concepts of social responsibility and what that looks like. We have also spent a significant amount of time developing programs that reflect the incredible diversity which this school has. We are very much a cosmopolitan-type school. We have an international program and we draw students from around the world, and some of those students lead somewhat privileged lives in their other environments. Some also come with baggage and

with the issues that come with refugee status and that type of thing. So we have a fairly interesting client base that has provided us with a pretty good reason to have our Social Studies department look closely [at human rights]. Nothing is ever enough, but I think we are certainly conscious of human rights, and are actively engaged in trying to educate our kids. We have established some priorities in terms of social responsibilities. Social responsibility is the number two goal in our school plan. And we view human rights, anti-racism, and anti-gender-phobia as being particularly important pieces of that goal for us.

There is active engagement in determining a program to get at those types of issues in our school. So while [human rights] aren't covered very well in any of the existing IRP's [Integrated Resource Plans], we make sure that we create the learning structure so that it happens. We've come to understand that purely curriculum driven instruction is only part of the demand that a school needs to address in terms of getting kids ready. (PSP 2)

Human rights is embedded in our Civics curriculum, which a number of students take instead of Socials 11. I know that it is also included in the Law 12 course. And in our Flex Service Model, human rights is very much included in that curriculum, and well over a hundred students take that class. (PSP 3)

### **A Review of the British Columbia Integrated Resource Packages**

After talking with the participants there seemed to be a great deal of uncertainty regarding the degree to which human rights education was addressed in the provincial curriculum. This observation promoted me to examine the Province of British Columbia Integrated Resource Packages (IRP's) in the area of Social Studies. My examination revealed that human rights are specific topics of discussion in four subject areas: Social Studies 6, Law 12, Social Studies 11, and Civic Studies 11. The following is a brief account of my findings.

The grade 6 social studies curriculum (BC Ministry of Education, 2006a) focuses on

“Canada and the World” through five areas of study: Skills and Processes, Identity, Culture, and Society, Governance, Economy and Technology, and Human and Physical Environment (p. 30). Under the heading, “Governance,” there are five sections in which Sections 3 and 4 deal with issues of equality, Canadian rights, and comparative rights (p. 42). The prescribed Learning Outcomes for the section entitled “Canadian Rights” anticipates that following a study in this area students will be able to “assess equality and fairness in Canada with reference to the Canadian Charter of Rights and Freedoms.” Additionally, under the heading, “Comparative Rights”, it is recommended that teachers introduce students to the UN Convention on the Rights of the Child, and have them demonstrate their knowledge by completing a “Global Awareness Project” (p. 42).

The Law 12 curriculum (BC Ministry of Education, 2006b) is divided into four areas of study: Foundations of Law, Family Law, Civil Law, and Criminal Law. Human rights is one of six topics of discussion found under the heading of Foundations of Law. An expectation of the Prescribed Learning Outcomes in this topic area is that students will be able to “analyse the impact of the Canadian Charter of Rights and Freedoms and human rights legislation on Canadian society” (p. 29). Students primarily investigate the legal, democratic mobility, equality, and language rights guaranteed under the Canadian Charter and the B. C. Human Rights Code. To a lesser degree they also consider rights, freedoms, duties, and responsibilities acknowledged in the Charter in comparison to the Universal Declaration of Human Rights.

The Social Studies 11 curriculum (BC Ministry of Education, 2005a) is divided into five areas of study: Skills and Processes of Social Studies, Politics and Government, Autonomy and International Involvement, Human Geography, and Identity and Society (pp. 19-20). Under the heading of “Autonomy and International Involvement” the study is broken into four sections, and the fourth section is divided into four sub-sections. An expectation of the Prescribed Learning Outcome is that students will be able to assess Canada’s participation in world affairs with reference to: human rights, the United Nations, the Cold War, and modern conflicts. Instruction is mainly in the

form of discussion and simulations.

The Civic Studies 11 curriculum (BC Ministry of Education, 2005b) is divided into four areas of study: Skills and Processes of Civic Studies, Informed Citizenship, Civic Deliberation, and Civic Action (p. 23). Two of the four areas directly support the promotion of human rights and freedoms (pp. 56-79). Under the heading of “Informed Citizenship” the Prescribed Learning Outcome recommend that students will be able to “compare human rights provisions in Canada and internationally with respect to the: Canadian Charter of Rights and Freedoms, BC Human Rights Code, and the Universal Declaration of Human Rights (p. 74). Under the heading of “Civic Deliberation” the Prescribed Learning Outcome suggests students should be able to “analyse the domestic and international effects of Canada’s record with respect to: environment, trade, foreign aid, peace and security, human rights (p. 74). This section includes directives for investigations of the concepts of human rights and freedoms (p. 75), rights comparisons (p. 75), issue analysis (p. 76), case studies (p. 76), and a historical and evolutionary analysis of human rights (p. 77).

Under the heading of “Civic Action” the Prescribed Learning Outcomes suggests that students should be able to “implement a plan for action on a selected local, provincial, national, or civic issue” (p. 23). The recommended instructional activities include: comparative summaries, letter writing, mock trials, model parliaments, and action plans. Included in the assessment of these activities is the students’ efforts in making contact with the individuals and organizations involved as well as their participation in civic events (p. 62). Assessment includes both a teacher and student self-assessment.

The responses of those participants who felt that human rights issues were being addressed through the social studies curriculum and related social sciences, was in contradiction with Joel Spring’s observations of American schools. Having taught many social studies courses in B. C., I also tended to agree with Spring and the research participants who felt that human rights issues were not adequately addressed. Spring’s observations are drawn from American schools prior to the publication of his

book in 2000, while my own views come from more recent experience teaching social studies 7 to 10, and History and Geography 12. A review of the B. C. social studies curriculum (IRP's) confirms that human rights are not a focus of study in the courses which I taught recently. However, I was unaware of recent changes to the curricula for Social Studies 6 and 11, Civic Studies 11, and Law 12 in 2005/06.

### *Is it Enough?*

A review of the IRP's in the above four subject areas does support the responses of five research participants who felt that human rights issues were being addressed specifically through the curriculum. A concern, however, is one raised in the response of a research participants regarding how much instruction in human rights is enough:

I know that we try to [address issues of human rights]. How effective we are, I think we are effective to some degree. So the answer is yes. But is it enough? I'm not so sure. (ISP 2)

The response suggests that there are at least two factors we could explore in considering this question: a) how much time is devoted to the study of human rights, and b) how will we know how effective the teaching/learning experience has been?

At the grade 6 level more time is spent on English and mathematics than either social studies or science. That is, literacy and numeracy are given the greatest emphasis in a curriculum which generally consists of eight or so subject and elective areas: Science, Mathematics, Social Studies, English, Physical Education, Music/Band/Drama, French/Second Language, and Art. If Mathematics and English each occupy 150 out of approximately 960 instructional hours per year (Clark, 2002, p.7), science and social studies would receive no more than 100 hours, perhaps less depending on teacher preference, integration of subject areas, school population, and so forth.

Furthermore, if each of the five areas of the grade 6 social studies curriculum receive an equal 20 instructional hours, and the area dealing with rights and equality issues involves 2 out of the 5 sections covered in that area, then the maximum instructional time devoted specifically to issues of rights and equality might be a total of 8 out of

960 hours. And this time would not necessarily be spent on *human* rights, but those rights acknowledged in the Canadian Charter of Rights and Freedoms.

The high school curriculum is divided a little differently, but I was able to use a similar process to estimate approximately the hours of study devoted to human rights. Each (four unit) course in the high school curriculum is awarded approximately 100-120 hours of classroom time per year. Using the maximum possible allowable hours for instructional time (e.g. based on 120 hours) I have estimated the time that can be devoted to human rights issues, if proportioned equally, would be roughly as follows: Social Studies 11 - 3 hours; Law 12 - 5 hours; and Civic Studies 11 - 30 hours. All the above calculations are speculative and based on a simple division of time. However, teachers are responsible for teaching the whole curriculum, and high school courses, in particular, are subject to provincial examinations. It is therefore unlikely that the above hours of instruction in human rights education would be exceeded, unless a teacher utilized an integrative or inter-disciplinary approach to teaching the subject material with a special focus on human rights.

Certainly the time devoted to understanding rights and human rights is quite considerable in Civic Studies 11. The course overview indicates that students and teachers should approach the subject with a critical view, comparing the Canadian Charter and the British Columbia Code of Human Rights with other similar documents, legal and political systems. The learning strategies encourage students to consider and analyze the basic premise of individual and group rights; their evolution, history, as well as the appropriateness of human rights in a global society. This course also emphasizes civic involvement and the acquisition of knowledge through engagement in active citizenship. Such a course would appear to be the kind of study of human rights that both Joel Spring and Amy Gutmann would support.

### *My Experiences with Teaching Human Rights*

The effectiveness of the course can only be gauged in the short run by the teachers and

students engaged in this particular learning experience. Given my experiences teaching human rights, the Civic Studies 11 as described in the IRP has the potential to be far more effective than what has been open to teachers in the past. Spring's suggestion for instruction in human rights was for teachers to use a teaching guide provided by the U. N. High Commissioner for Human Rights (1997, 2004b) entitled, ABC Teaching Human Rights: Practical Activities for Primary and Secondary Schools. The purpose of the manual states that it is designed "to stimulate discussion and ideas and thus hopefully help children develop an objective, basic understanding of rights and obligations, so as to apply human rights principles to the fullest extent of our human existence" (Chapter 4, Introduction).

I myself have used this teaching guide over a four year period for students in grades 7 to 9, but found that much more was needed to encourage adolescents to apply human rights principles in their daily lives. My experiences suggest a very limited ability among students to transfer what was learned from the suggested simulation exercises for the classroom to real life situations out in the community. The learning experiences recommended in the guide are, for the most part, contrived activities that (my) students (in grades 7 to 9) quickly came to anticipate and to recognize them for what they are - simulations - events and issues that are not real. Ultimately, I found the recommended teaching guide uninspiring, and that there were other writings, video productions, and forms of art which stimulated much greater discussion and offered far more insight into the effects of either promoting or denying human rights.<sup>69</sup>

These resources I also found were best utilized within an integrated or inter-disciplinary approach to human rights, as human rights relate to so many subject disciplines and to many areas of every day life. Over the years I have been inclined to emphasize Active

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<sup>69</sup> Written works that are effective in promoting discussions and critical thinking about human rights issues among middle and high school students include: *The Bread Winner* (Deborah Ellis, 2000); *Daughters of Copper Woman* (Anne Cameron, 1981); *My Ishmael* (Daniel Quinn, 1997); *To Kill a Mockingbird* (Harper Lee, 1960); *The Virtues of Selfishness* (Ayn Rand, 1964); *What Then Must We Do* (Leo Tolstoy, 1991); *Free the Children* (Craig Keilberger, 1998); and the video recording of *Ryan's Well* (Ryan Hreljac, 2001). Viewing children's art from Afghanistan, Iraq, and other areas of the world also stimulated a great deal of conversation, interest, and empathy for children deprived of their rights. The art work is available to teachers through the Children's Global Arts project in the Faculty of Education at the University of Victoria.

Citizenship, a “learning by doing” approach to understanding rights and responsibilities. I have found that the most meaningful discussions are generated once students have some lived experiences to share. Hence, I see a strengthening of human rights occurring in the curriculum with the inclusion of active citizenship and the encouragement of civic involvement in Civic Studies 11. According to the course assessment overview, efforts in active citizenship contribute to 30% of the final grade in Civic Studies 11 (2005b, p. 54). The written sources that students use are also not focused simply on classroom activities and human rights simulation exercises. They include an investigation of the concepts behind human rights and freedoms, the conducting of a comparative analyses of similar kinds of rights documents, a review of relevant case studies, and an exploration of the history and evolution of human rights over the course of the last 800 years.

Though only recently introduced, Civic Studies 11 is moving towards providing instruction in human rights and, at least in one area of the B. C. curriculum, granting equal status to the acquisition of this knowledge in relation to the core subjects areas. Is it enough? I do not feel that it is sufficient, but it is certainly a positive step in the right direction. Certainly much more discussion and critical thinking is needed around the right to education itself. Interestingly, the right to education is not one of the rights addressed in any of the above courses, even though it is arguably a most relevant and significant topic of discussion for both teachers and students.

Perhaps those who designed the course curricula on human rights agree with Paul Sieghart that the right to education is “unexceptional” in its means and ends (1985, p. 143). Another possibility may be that having guaranteed the right to equal access to free and compulsory education in Canada, educators feel that the right to education has been achieved as suggested by Louis Francois in 1968 and, therefore, as Sieghart claims, unexceptional. Yet, among some of the research participants there did seem to be a recognition of the need for the inclusion of human rights education in the promotion of a healthy school system:

I think our Social Studies curriculum has really addressed human rights well. Completely? Likely not. But I applaud education for all the change and awareness teachers now have. This district leapt

in probably earlier than I would have for student's rights to moving out of a segregated classroom for low incidence kids - kids in wheel chairs, mentally handicapped, Down's syndrome, and similar disabilities. They were locked up and not included. We must include our children at all levels and in all activities. That probably burst open over and above anything else the right that kids have to education. I think it woke up educators, administrators, and others who were asking "what is this?" And when you really look at do they have a right, of course they have the right, as do ESL kids, as do Aboriginal kids. I think that our educational climate is now very open and conducive. It is very healthy in our school system.

(PSP 4)

On the whole, I sensed that there was a great deal of support and enthusiasm among participants for the efforts of our education system in helping to strengthen the promotion and recognition of human rights education, while also acknowledging that we have not gone as far as we need to in this direction. This idea was perhaps best summed up by one participant who related that:

We will be working with a new curriculum next year on social justice. It will be a trial class, and we will certainly deal with human rights issues! (PSP 5)

Thus the B. C. Curriculum does appear to be making strides towards the inclusion of human rights education as a part of the high school experience in this province. It would be worthwhile to monitor these new human rights-related subject areas, and create an ongoing dialogue with students and teachers as these courses slowly unfold and gain a foothold in the curriculum. It would also seem necessary for teacher training programs to consider the inclusion of human rights education in their programs so that new teachers will be better informed and better prepared to provide the much needed instruction and leadership in human rights education.

## CHAPTER 11

### FREE CHOICE AND FREE EDUCATION

#### **Discussion with Research Participants: A Parent's Right to Choose**

Paragraph 3 in the Declaration prompted the final question asked of participants interpreting the text of Article 26. In this third and final paragraph the Declaration confirms the right of parents to direct their children's education, stating that "Parents have a prior right to choose the kind of education that shall be given to their children." I asked the participants for their views on the above statement, inquiring as to whether they felt parents in Canada could fully exercise their right to choose the kind of education most suitable for their children (Appendix 3, Question 10). Half of the participants responded that they did not feel parents could fully exercise their rights to choose. Their reasons focused mainly on two concerns; funding and logistics:

No, because of the funding - the money. What if kids felt that they all wanted to go to St. Michael's University School? They all can't afford that. If parents wanted to have them home schooled they also couldn't do that because they are both working. So who is going to home school them? The whole thing is I think questionable. (PSP 4)

I don't think that is particularly true. But I also think that education across Canada is a reflection of the community that it is trying to serve. So we kind of get what we ask for. If we are not happy with it we have the ability to change it. There are separate school boards in Alberta and Ontario, for example, where religious schools are fully funded. I think financial implications get in the way for parents in many cases, not only in terms of school fees but also in proximity to the school and the transportation to it. In jurisdictions in British Columbia, schools are more alike than they are different, and provide similar programs to students. So I feel pretty good about that in our jurisdiction. I'm not sure that this is the case all across Canada. (PSP 1)

It is very limited because many parents are not in the financial or geographical position to have a wide range of choices. In a small community, for example, the sustainability of a wide range of choices is almost none existent. I think provinces on the whole

have moved towards opening up a lot of choices. But, at the same time, I think there is a market driven approach where schools have to have a certain number of bodies in the seats to make them function from an operational point of view. There is the right to choose some forms of different education, but not a really wide range. So I think the right is there, but for logistical reasons the ability is not there. (ISP 1)

For two other participants there were logistical concerns with the wide range of diversity among parental wishes on the one hand, and geographical obstacles of program availability on the other:

I would probably say no. I mean if parents are looking for something that is extreme it may not be available. The reality is that someone of East Indian decent that wants an education in Punjabi in this school district is probably not going to get it. So there is respect for the right to choose and respect for diversity, but is it readily available in all situations? I would say no. (PSP 6)

Not totally. We have, for example, Native students on reserves whose curriculum is not as rich as some of the urban centers. The parents are restricted as to what is in their community. Parents can keep their children home, and do what is called home schooling, however, it is limited by the institutions close to their home. Is home schooling a good enough choice? I don't know. But I don't think all parents have a real right to choose. (ISP 2)

Three of the participants felt that while there was some parental right to choose this right was not afforded to all parents yet. The reasons for their conclusions, however, were quite different. One participant cited monetary issues as a basis for her thinking, suggesting that the ability to claim this right increases with the ability of parents to be able to afford it:

I think that parents have more options than they ever had before, especially in urban areas. Rich parents have the ability to "choose" the education they want for their children. Poor parents don't have the same options available to them. If the local public school is not where they want to send their child, then they will have many challenges in finding other options. (ISP 3)

A second participant responded that while there was an ability to exercise this right, there may also be valid reasons for limiting a parent's freedom that must be addressed:

I think for the most part parents can [choose] within a set of structures. But what if a parent wants to see their child raised as a White Supremacist? I think that governments and societies have to have some limitations that prevent abuse. Some schools shouldn't exist because they are contrary to what we think is right for kids. So, having a "prior right to choose?" Yes, but within a set of parameters or a set of guidelines established by your society. It can't be absolute, or it will create more problems than we care to think about. I guess what I am assuming is that the United Nations in its best wisdom, as an amalgam of world societies, has created an understanding of what is right and what are human rights. And I want to make sure that educational platforms exist for young people, and to start teaching kids to exercise actions that are concrete. (PSP 2)

A third participant saw increasing opportunities in the promotion of a parent's right to choose with the expanding Charter Schools and Schools of Choice movements:

That ability is growing with the Charter Schools movement and the Schools of Choice, and I think more and more they have that ability. Twenty years ago there were only independent schools, Catholic schools, or the public system. And though one could attend a school that was reputed to have a great sports program or was thought of as a great academic school, I don't think that there were any formal demarcations. A shift has taken place in the last few years. I think parents now have greater opportunity to choose a school closer to their liking in terms of values within the larger umbrella of public schools, and I think that's great. (PSP 7)

Only one of the participants felt that there was sufficient ability for parents to currently choose the most appropriate form of education for their children:

Yes, I think we have a significant ability to do that. If you consider early childhood care, we have the right to shop around for child care options that are available. We also have the right to choose private schools, or home schooling, and a whole variety of ways to educate our children right up to the public school system. (PSP 5)

For most of the participants financial considerations strongly influenced their

responses, but in opposite ways. While some felt that there was a distinct lack of choice owing directly to financial inequity among parents, others saw the ability to afford more choices as contributing to the promotion of this right. My interpretation of a *human* right, however, is that the ability to pay should have no consequence on an individual's opportunities to exercise their right. A lack of freedom does not extinguish a human right, only the liberty to claim it. I will come back to this point again later, as I believe current funding arrangements may contribute to a further loophole in our interpretation of providing equal educational opportunity.

### **Discussion with Research Participants: The Right to a Free Education**

In light of the B. C. Supreme Court (2006) decision overturning extra payment for school activities and summer school courses (Rud, 2007), it occurred to me that the question of parental choice would also need to be interpreted in the context of Paragraph 1 in Article 26 that states: "Education shall be free, at least in the elementary and fundamental stages." Among the research participants it was generally felt that "elementary and fundamental" should be interpreted as inclusive of kindergarten or grade 1 up to and including high school graduation (Chapter 6, pp. 122-124). This being the case, I asked participants to consider the parent who chooses to send their child to an independent school because they feel that the education offered there is most suitable for their child. I asked the participants whether or not that parent should be able to claim the right to a free education as stated in Paragraph 1 of the Declaration? (Appendix 4, Question #10).

Three of the participants interpreted this to mean that any parent who opted to send their children to schools outside of the public school umbrella opted out of their right to claim a free education:

I think they still have the right to choose a different school, but it is not necessarily free. But in the way I interpret Paragraph 1 I guess they have lost that right. The wide range of choices that I interpret of the right to education doesn't really match. (ISP 1)

Two of the three participants felt that independent schools tended to be elitist, and that parents who choose an elite education should be willing to pay a premium for the special resources required to meet these ends.

Yes, I would say [they lose the right]. But that's good. Maybe then they would all come back to the public school system and we would get closer to the right to education. I am not a fan of private schools. They tend to be very elitist. (PSP 4)

I believe parents have the right to choose [the type of education for their children]. Whether they should pay for it or not is a separate question. If one can afford GNS or SMUS, they are paying for smaller classes and all sorts of things that will provide a very elitist education. So I believe in the right to choose, at any time, in K - 12, or even with three year olds. But I can't accept that it should be free. (PSP 3)

Most of the participants, however, interpreted the texts of Paragraphs 1 and 3 to include independent and private schools under the heading of free education. But not without some reservations. One participant voiced a concern about the full funding of religious independent schools and the public education system's commitment to providing secular education:

Yes, ideally, I think we should fund all schools. If the charter schools and schools of choice continue I don't know what would prevent a Waldorf school from applying for a charter under the public system. And that would be great. I'm all for that. But I don't think that the religious schools should be rolled into that. I don't think we should omit God from the classroom, but I also don't think we should be sitting down to teach one religion. For the other private schools I think that might be a great thing. I call Waldorf and Montessori semi-private rather than private. I know plenty of parents here who would be quite interested in the Waldorf [approach] if you pulled it in under the public umbrella. It's just that it's not here. (PSP 7)

Participants also expressed some concern regarding equality of access in religious schools, suggesting that a critical element in the determination of full funding should take into consideration whether or not the education in a particular school fully supported all members of the public:

Partially, to some level, yes. Fully? No. Only those schools that both follow the BC curriculum and accept all students who apply, (excluding those denied for reasons of school safety, which even I don't have to accept and other facilities are provided for them), should receive full funding. If the education provided in these [independent school] institutions is provided free, then they have to fall in line with regards to a bunch of stipulations regarding how their teaching staffs are chosen, and who can and can't be in front of a classroom. These are institutions that can hire and fire at whim. So there are a set of processes that they have to be engaged in if the government is going to fund it, and all the curricular expectations outside of the religious curricula need to be in place. But these are also institutions that deny access. So I believe if we want to see it publicly funded, then it has to be an educational organization that has exactly the same responsibility as public schools to accept all students who apply. And that for me becomes the critical difference. Those institutions have the right to deny access, while the public school doesn't. Unless independent schools accept all who apply, including those with learning difficulties, physical challenges, or religious differences, and not choose who will attend their school, then I believe that this a situation that should not be funded completely. (PSP 2)

Presently [independent schools] are partially funded and I would support that. It is public funds, so if they are not conforming to the public model then I don't think they should have access to equal funds. If, however, they conform to the [Ministry] learning outcomes, then I would say yes. (PSP 6)

One participant suggested that alternative forms of education, like those commonly offered in independent schools, might not be possible without some kind of extra funding, and that this would impact negatively on a parent's right to choose:

It would be nice if there was enough coming from the government so that every school could be free. I think that they do that in Alberta, but that is not the reality here in British Columbia. So, the answer is, yes, I would like it, but that's not what we have. But these [independent] schools might not exist if they were not given the opportunity to charge a tuition fee. But this still doesn't make it into a free education. (ISP 2)

Another participant anticipated that governments in the future may give parents the right to apply transferable educational credits to any school of their choosing as a consequence of paying taxes towards a public education system:

From what I am seeing, there will most likely be changes continuing to come in this direction in terms of how much funding goes to schools, as parents begin to exercise the right to say that I pay taxes and I have chosen to send my child here and would like to transfer my school credits. There are issues I have with that but, nonetheless, it appears things are beginning to shift in this direction in our society. So it would be my interpretation that, yes, parents would have the expectation to be able to choose to educate their children in a certain way and, if there is a facility to do so, to transfer the money to that institution. (PSP 5)

However, a second participant was concerned that providing transferable educational credits could result in increased disparity between educational institutions:

Should we have a system where the child has educational funds attached to them and these can be used in any school? It sounds good in theory. However, I know there are many problems in practice. The worst schools get poorer and the most marginalized children continue to go there, and it becomes rather ghetto-like.

(ISP 3)

Overall the participants expressed an acceptance of equal funding for independent and private schools, providing that these institutions were willing to offer equal services, equal access, and follow the requirements of the B. C. curriculum. However, a distinction was made between the right of parents to choose the most suitable form of education for their children, and the right to pursue this personal choice at the expense of tax payers. There was strong agreement among participants that parents should have the right to exercise freedom of choice with regards to the kind of education their children receive, but whether this choice should be fully funded by government as a condition of equality was dependent on whether or not the schools of choice met the criteria of equal access to programs and resources as mandated by our public education system. The participants concerns are perhaps best summarized in the response of the following participant:

I do think [governments should fund independent schools] because they provide a different delivery system of a common curriculum. But I think that a school needs to adhere to a common understanding of what the curriculum is, and I think the government is doing an okay job with that. This again is about the equity of opportunity. I have difficulty with the funding of a religious school, because we have made it clear in our society that church and state should be separate. I also have difficulty with admission criteria to get into a certain school where taxpayer money is being used to help fund that school but not everybody has access to it. There is something inherently wrong with that. But students who study in the Waldorf or Montessori system, their parents also pay taxes, so a portion of their taxes should go towards funding these schools, as long as the common curriculum is being adhered to. Otherwise, they would be taking seats in the public school and would be fully funded there. Just because a parent chooses to participate in an alternative school setting, I don't think that they should lose their right to a free education. (PSP 1)

### *Paying for Equality*

Together, the participant's responses touch on a number of the concerns that have helped to shape the public education system in British Columbia over the last two centuries. Issues of secular versus religious education, the promotion of a common curriculum, equality of access, equality of funding, and the rights of parents have been discussed at every level since the inception of public education. What is different about this conversation, however, is viewing these concerns through a lens of human rights, for rights are not rights unless they are available to all members of society equally. Neither the principles of equality or justice tolerate a lack of freedom for some being offset by improved benefits for others.

Again the concept of equality proves to be a difficult principle to apply to interpretations of human rights. Limiting student access to a school based on religious affiliation does not seem to fit with our notion of a human right. But it may also be reasonable to argue that a parent would not choose to send their child to a school that

did not offer the kind of educational experiences which they are seeking for their child. For example, it is doubtful whether agnostic parents would feel that they were being denied their right to equal access to a Catholic or Jewish independent school when they have no interest in placing their child in that religious environment in the first place. The same would be true of Jewish children being denied access to a Muslim or Catholic school.

Financial arrangements can also act to limit the freedom necessary to exercise one's rights. It often comes down to the observation that there is insufficient money to fund all choices and, therefore, some people cannot fully claim their rights. Consequently, it appears that if there were an unlimited supply of money many participant's concerns regarding equality of access and equality of opportunity would disappear, leaving primarily issues concerning religious and secular education, equality of access, and adherence to the requirements of a common curriculum to consider. There is not, of course, an unlimited supply of money for educational funding, yet, it does stand to reason that if funding was not as great an issue then its connection to ensuring equality would also not be as crucial. As one participant concluded:

I don't know if we can afford to fund [independent schools] at the same level [as public schools], because it is more expensive to fund smaller schools. We don't do that in public schools, because we are looking for efficiency in large numbers, and it would cost more to teach students in a smaller system or a smaller setting. (PSP 1)

The inability to exercise one's fundamental rights owing to a lack of financial resources has prompted me to examine this issue further. In the case for education, I do not feel this limitation is justifiable. To tie provisions of equality to school funding facilitates another wheel in the head, one that derives from a widely held belief that cost efficiency and economy of scale favours large, centralized public schools over smaller, private models. I believe that we must distance our interpretations of equality from the funding issues that influence considerations regarding equality of access and equality of opportunity.

We saw in Chapter 4 (pp. 83-85) how public education emerged as a result of

industrialization, and how economics was a key factor in shaping both the form and function of education and the institutions in which this education takes place. We noted, too, the influences of U. S. industrialist, Frederick Taylor, and how curriculum theorist, Franklin Bobbitt, applied Taylor's theories on increasing the efficiency of the industrialized work place to public education. Bobbitt saw education as a key factor in the creation of a new industrialized economy, rigorously applying elements of the industrial code - the maximization, concentration, centralization, and standardization of goods and services - to increase the economy of scale and cost efficiency of public schools.

Increasingly challenged by the pervasive and powerful forces of industrialism that conspired to dismantle, extinguish, and otherwise render impractical all organizations that did not embrace these key elements as their fundamental method of being, economy of scale and large, centralized schools gradually replaced the traditional one room school house. Large, centralized schools are now the back bone of the public education system, and the rationale for maintaining these institutions is their continued cost effectiveness. While the one room school house, a once familiar landmark on the educational landscape remains little more than a nostalgic memory, the cost of providing public education continues to increase, and wide-spread school closures, increased class sizes, and continuous reductions in school programs and educational services have renewed concerns over how best to fund public education.

We are increasingly aware of the fact that these "cost effective" institutions are not inexpensive to operate, and that this reality effects the ability to fund the wide range of choices that are necessary to fully support a parent's right to choose the kind of education that shall be given to their children. Thus, there is a contradiction between the rhetoric surrounding the promotion of human rights and the financial realities involved with providing the range of choices deemed necessary for parents to fully claim an equal right to choose the most appropriate form of education for their children.

Referring back to the discussion in Chapter 2 regarding the two meanings of the term “right”, my interpretation of a right invokes both meanings; that is, to qualify as a right the actions emanating from the fulfillment of this claim have to be the right or moral thing to do because it is reasonable according to what is demonstrably true. A theory, no matter how elegant or economic, if untrue, must be revised or replaced. I for one am suspect of the economy of scale theory as it relates to education, and wonder if it might not contribute to a further loophole in the promotion of equality. Remembering that part of the loophole is not suspecting those conditions thought to contribute towards remediating a concern, I suggest that the economy of scale theory contributes to our inability to fully fund equal access to a range of educational options outside the public school umbrella from which parents may freely choose.

### **Small Schools and Private Practice**

I feel that new circumstances can be envisioned and different economic theories applied to alternative educational models which are more cost effective than large, centralized schools. For example, I suggest that there is no need for all teachers or even the majority of teachers to work in an institutional setting. The costs associated with providing elementary education (K-7) can be decreased and the quality of educational services provided to students increased by considering a model of schooling and educational funding that supports teachers in private practice and a more cost effective use of community resources. I am not suggesting creating more private schools. What I am suggesting is creating opportunities for teachers to develop private teaching practices under the existing public school umbrella.

Teachers, students, and the community could all benefit from the decentralization and deinstitutionalization of public schools. In a capacity similar to their counterparts in the public health care systems - doctors, physiotherapists, chiropractors, pharmacists, etc. - teachers could establish private teaching practices as an integral part of the public education system. My conclusions to date, and what the following research on small schools and private practice is intended to show, is that in the case

for K-7 education, bigger is not better - neither in terms of cost efficiency or program delivery. In fact, I believe that we can reduce the costs of providing elementary school education by almost half its current cost, while at the same time increasing the quality of the educational services available to both students and teachers. I will demonstrate this claim by examining two different formulas for calculating educational spending, and then explaining their significance in relation to funding allocations and school planning.

### *Funding Allocations*

The B. C. Ministry of Education's projected funding allocation for K-12 in the 2007/08 school year is \$5 494 000 000.00, based on a student population estimated at 547 840 or an equivalent of \$10 028 per student (B. C. Ministry of Education, 2007a).<sup>70</sup> School districts receive an average per student funding allocation of \$7 932.00 to meet operating costs (4.35 billion), while the Ministry retains the balance (1.15 billion) for capital cost expenditures.<sup>71</sup> The province has a built in funding "differential" to account for individual differences between school districts (e.g. weather, geography, access, student needs, cost of living, etc.).

The 2007/08 funding allocation for the Victoria School District (School District 61) is estimated at \$7681.00 per student, with a total student projection of 18 563 F. T. E. (B. C. Ministry of Education, 2007d). Statistics on capital cost expenditures are not provided on a school district basis, so the capital costs for any one school district must be estimated and adjusted according to the provincial average. Victoria, as an urban center with a moderate year-round climate and good access to all major transportation routes, would experience less than average capital cost expenditures. According to the above figures on capital and operational costs for the province, capital costs are approximately 26% of the province's operational costs. If we use a

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<sup>70</sup> The Provincial Funding Allocation includes 1655 public schools and 355 independent schools. Depending on their category ( 1, 2, 3 or 4), independent schools receive a maximum 50% of public school operating costs. The cost per public school student will therefore will be higher than this figure.

<sup>71</sup> For more information on specific funding grants, see British Columbia Ministry of Education 2007a, 2007b, and 2007c.

low estimate for Victoria of 20%, the combined estimated student allocation of operating and capital costs (\$7 680. + \$1 537.), would equal \$9 217.00 per student, or roughly 92% of the average per student provincial funding allocation.

As calculated by Formula A, in Table 8, costs for professional instruction in education in Victoria appear very reasonable.

<b>School District 61 Estimated Funding Allocation per Student/hour</b>	
Operating cost per student per year	\$7 681.00 <sup>72</sup>
Capital cost per student	<u>1 536</u> <sup>73</sup>
Total cost per student	\$9 217.00
Instructional days per year (maximum)	<u>190</u> <sup>74</sup>
Cost per day per student (\$7681÷190)	48.50
Max. hours of classroom supervision and/or instruction per day	<u>7</u> <sup>75</sup>
Hourly cost of education per student per day (49 ÷ 7)	<b>\$7.00</b>

Table 8  
Funding Formula A

By the hour, the current system of publicly funded education seems extremely cost effective in comparison to other forms of professional instruction. Yet, a cost breakdown by the hour represents only one way of viewing the funding formula, a view which favours the “bigger is better” theory. Another way of looking at the funding equation is not through a process of division, which yields the lowest common denominator, but through a process of multiplication, which provides us with the highest common multiple as indicated by Formula B in Table 9.

<sup>72</sup> The average allocation for public school students in the Province of British Columbia for 2007/08 stands at an estimated \$7932 per student according to Education Minister, Shirley Bond (Ministry of Education, 2007a).

<sup>73</sup> Calculated estimate based on provincial averages, with approximated differential included.

<sup>74</sup> Clark, 2007, p.7.

<sup>75</sup> 8:30 AM to 3:30 PM - includes lunch and recess but not supervision of extra-curricular activities.

<b>School District 61 Estimated Funding Allocation per Classroom</b>	
Government funding per student per year	\$9 217.00 <sup>76</sup>
Students per classroom (average)	<u>26</u>
Annual operating cost of 1 classroom (26 x \$7680.00)	<b>\$239 642.00</b>

Table 9  
Funding Formula B

The cost analysis for a private practice classroom in Table 10, on page 242, illustrates how, in a private teaching practice, a teacher could provide an equivalent service for much less money. By private practice I mean that an experienced teacher, with a license to teach under authority of the B. C. College of Teachers and the B. C. Ministry of Education, could set up their own classroom in a private or public facility, and deal directly with the Ministry of Education under the supervision and guidance of an appointed District Principal. Teachers would be free to rent, build, lease, or purchase classroom facilities in the same manner as doctors, dentists, or chiropractors. All facilities would have to meet government approved safety regulations, and all programs approved by the Ministry of Education. The theory being presented is that there are alternative ways to provide equivalent educational services to 26 elementary school students for less money than the province currently spends by using facilities, resources, and staffing in a more cost effective manner.

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<sup>76</sup> Includes funding for Special Needs & ESL

<b>Cost per Year for a Private Practice Classroom</b>	
<b>1.0 <u>Instruction and Administration</u></b>	
1.1 Teacher (Average teacher salary in the Victoria School District) (British Columbia Ministry of Education, 2007e)	\$60 000.
1.2 Specialty instruction (Art, Music, French) 5 hrs/week @ 30.00/hr x 40 weeks [Teacher Prep. time]	6 000.
1.3 Learning Assistance, ESL 5 hrs/week @ 30.00/hr x 40 weeks	6 000.
1.4 Special Education ( Speech therapist, audiologist, psychologist) 5 hrs/week. @ \$50.00/hr x 40 weeks.	10 000.
1.5 Student teacher/aide 10 hrs/week (\$1000. stipend per term x 3 terms)	3 000.
1.6 Substitute teacher -1.5 days per month @ \$200.00/day x 10 months	3 000.
1.6 District Principal @ 3% per diem (26 x \$230.)	<u>5 980.</u>
1.7 Total Instructional Costs	\$93 980.
<b>2.0 <u>Program Costs</u></b>	
2.1 Resources (books, supplies, equipment purchase/rental)	\$5 000.
2.2 Operating costs (office supplies, copying)	1 500.
2.3 Gym rental	2 500.
2.4 Curriculum and program	2 000.
2.5 Professional development	<u>1 000.</u>
2.6 Total program costs	14 000.
<b>3.0 <u>Classroom costs</u></b>	
3.1 Rent/Mortgage @ \$3000.00/mo. x 12 months	\$36 000.
3.2 Insurance	2 500.
3.3 Telephone, internet, utilities @ \$500.00/mo x 12 months	<u>6 000.</u>
3.4 Total classroom costs	44 500.
4.0 Total Operating and Capital Costs	<u>\$152 480.</u>
4.1 Number of students per class	26
4.2 Total cost per student per year	<b>\$5864.62</b>

Table 10

Cost Analysis for Private Practice Classroom

A comparison of costs between the two different classroom models in Table 11 indicates that the current cost of a conventional school classroom is approximately 60% more than the equivalent private practice classroom.

Annual cost per student - Conventional classroom	\$ 9217.
Annual cost per student - Private practice classroom	<u>- 5865.</u>
Savings per student	<b>\$3352.</b>

Table 11  
Cost Differential: Conventional and Private Practice Classrooms

*Accounting for the Differences*

The differences in required funding are accounted for in the sharing of facilities and a corresponding reduction in management and administrative costs, and expenditures. Public schools are dedicated instructional facilities. They are in business a 190 days a year for typically 6 or 7 hours a day. This means that these single use, public facilities are in regular use only 25% of the day, for only half the year. In other words, except for special school or community functions, a school's classrooms, libraries, gymnasiums, meeting rooms, and auditoriums are used at 12.5% of their potential capacity. At the same time, for these 6 to 7 hours, five days a week during the school year, public libraries, community centers, swimming pools, gymnasiums, meeting rooms, and so forth are under-used while children occupy duplicate facilities in our schools.

Consequently, a duplication of services and facilities occurs that is frequently unnecessary. As a teacher in private practice I could rent or purchase my own classroom facility. I could take my students out into the community to use the public services and facilities already provided, such as public libraries (that are generally much better equipped than the average elementary school library), swimming pools,

gymnasiums, skating arenas, and so forth. In doing so the costs and the benefits of having publicly owned facilities are shared and contribute to a more cost effective use of public resources.

The teacher in private practice assumes many of the administrative duties formally done by school-based administrators. One district principal would be assigned a group of up to twenty classrooms under their jurisdiction. Given an average of twenty school days per month, a district principal could spend at least a half day in each classroom every month. This would be far more time than administrators currently spend in individual classrooms, and would constitute a significant change in school-based administration. In this new role, a district principle acts more in the capacity of teacher-mentor, advisor, and consultant for the teachers in his/her classroom grouping. The district principal also acts in the capacity of Ministry liaison, ensuring that a Ministry-approved curriculum and all provincial standards and regulations adhered to.

### *Benefits of Private Practice*

The tremendous savings in capital costs and the streamlining of operational costs allows for some added benefits that I believe contribute to an improvement in the delivery of educational services. Looking back at the Cost Analysis for Private Practice illustrated in Table 10, there is the addition of a student teacher/aide for 10 hours a week (see line 1.5). This allows for a student student from a recognised teacher training program to come for two hours each afternoon, or two full days, or perhaps three mornings a week, to work as a teacher's aide, providing both practical experience for the student teacher while also offering extra adult supervision and learning assistance. In recognition of services rendered, student teachers would receive a stipend of \$1000.00 per term, which at the present time, would pay approximately 60% of their annual university tuition (at the University of Victoria).

Listed under Program Costs (line 2.1), teachers receive \$5 000 towards the purchasing of classroom books and supplies. This sum is awarded yearly (plus annual inflation

costs) to enable teachers to keep their classrooms up to date with the necessary resources. A one time equivalent “Start Up Grant” (perhaps obtained from the sale of public schools) could be paid retroactively to teachers after their second year of operation to help purchase computers, an overhead projector, text books, and other non-disposable classroom equipment.

A further \$2000.00 a year is provided for teachers to take advantage of community resources, such as taking students on field trips to museum exhibits, science displays, art galleries, swimming pools, skating rinks, and special events (line 2.4). An annual Professional Development grant of \$1000.00 will enable teachers to remain current in the field by allowing them to participate in two or three major workshops or conferences per school year (line 2.5). To facilitate the professional development a Substitute Teacher allotment of \$3000. has been provided to cover sickness, personal time, and professional release time (line 1.6). Teachers would be encouraged to take advantage of this time for professional and personal needs, and a District Principal could help to facilitate this time away by establishing a list of approved substitute teachers that can be engaged to cover classrooms on a regular basis for teachers in his/her classroom grouping.

Private practice in education invites many questions as well as a further examination of ideas surrounding the sharing of community resources, multi-graded classrooms, the roles of school boards and school administrators, the impact on teacher training programs, what to do with school closures and how best to reallocate public lands, the role of the teacher’s union, etc. There are many areas for further research and expansion that again exceed the scope of this inquiry. While aware of the limitations, I still felt that it was important to introduce the concept of private practice into any discussion regarding what kinds of alternatives in school funding may be viable and worthy of further examination.

The reduced costs associated with private practice I believe raises reasonable doubt regarding the promotion of large, centralized schools based on theories of cost

effectiveness and economy of scale. It is an opportunity to rid ourselves of another “wheel in the head,” and provide a new departure point for considering alternative theories of school funding that may allow for an increase in the choice of educational models to address issues of parental rights. Furthermore, private practice offers opportunities for educators to contribute their entrepreneurial skills, initiative, and imagination to help lessen the perennial problems associated with school funding.

Finally, the sizable reduction in school spending offered through a private practice model is worthy of further consideration if it can contribute to increased equality of opportunity as suggested by some of the research participants. It is a strategy that may be able to provide more opportunities in education for more children because it costs less. For this reason I am not against school closures, for large, centralized schools are in many cases not cost effective. Yet, at the same time, I am against the closing of School X and dividing its 180 students between Schools Y and Z in order to increase the latter two schools to their full carrying capacity of 350 or 400 elementary students on the grounds that it is more cost effective to operate two schools filled to maximum capacity than three schools filled to partial capacity.

Of course it may well be true, but this kind of tautological reasoning excludes consideration of any other solutions and perpetuates the problem of inefficient spending. The B. C. government’s recent amendment to the School Act (Rud, 2007) designed to get around the B. C. Supreme Court ruling disallowing public schools to charge school fees for school supplies and summer courses is a good example of this kind of thinking (B. C. Supreme Court, 2006). Taking away from free education takes away from the ability of schools to provide equality of opportunity, as some parents simply cannot afford to pay the extra costs. It may also be yet another example of Ungerleider’s claim that the British Columbia government is retreating from the promotion of equality (2003, p. 83).

Ultimately, the question is not whether or not two schools are less expensive to run than three. The question is whether or not there may be a model of schooling that

costs less than the current and prevailing models of schooling. My answer to this question is yes. I believe that private practice is one model that could contribute to more efficient educational spending. The substantial savings would allow money to be put towards the full funding of independent schools, thereby increasing a parent's liberty to claim their right to choose a suitable and free education for their children.

To view education through the lens of human rights is to recognize that governments cannot justify inequality or the limiting of rights based on economic, legal, or political theories that rationalize a loss of liberty for some being offset by increased liberty for others. To advocate for human rights means making a concerted effort to explore alternative avenues that may contribute to conditions that increase equal opportunities for all persons to claim their rights. It is not appropriate for government policies to arbitrarily limit human rights. Nor is it acceptable for governments to abrogate their responsibilities towards the promotion of equality. For it is precisely to promote equality and protect our rights that governments are instituted in the first place.

**CHAPTER 12****THE RIGHT TO EDUCATION: A CONCEPT IN SEARCH OF A DEFINITION**

The focus of my research inquiry is not one that suddenly came to me in an inspirational, “ah-ha” kind of moment. It evolved slowly, over several years, through my combined experiences as a classroom teacher and school administrator, my readings as a graduate student, and conversations with students, parents, and colleagues. One of these conversations I have tried to recall, as it was fairly typical of the kinds of conversations I often found myself engaged in when formulating my research topic. This particular conversation is perhaps a good summary of why I have attempted this research project, and why I felt it necessary to open space in the body of educational literature for discussion on the right to education. Unlike the preceding interviews, however, I did not record this conversation for transcribing verbatim at a later date. I have, therefore, taken liberties in the reconstruction of the conversation in order to recreate the natural progression towards the main points of discussion and the final outcome of our dialogue. To the best of my recollection the conversation unfolded in the following way:

*Colleague:* “So, your area of research is the right to education? (*long pause*) You mean in the developing world? You are looking at education internationally?”

*Myself:* “No, the main focus of my research is investigating the right to education in schools in British Columbia and Canada. Although I am also looking at education through a global lens.”

*Colleague:* “In Canada? Doesn’t everyone already have this right here? I mean, kids here have lots of options and it’s free. No one is really brainwashed or forced to learn things they don’t want to. It doesn’t seem like there is much to research here compared with other places in the world. What are you investigating exactly?”

*Myself:* “Well, for a start, when you say that everyone has this right, what do you mean? What is your understanding of the right to education?”

*Colleague:* “I guess the fact that all kids here have a right to go to school and don’t have to pay for it. They can also go on to university or college if they have the ability to do so, and get help paying for that. There are other things too, like for kids that

need special help. But essentially it's the right to attend school free and without discrimination."

*Myself:* "Well, that is a good part of it, but not all of it. When we talk about the right to education I am assuming that we are talking about the *universal* right to education. And you're right. The universal right to education does stipulate free and compulsory education as part of this right. But it also talks about an education that promotes equality, peace, and develops the full potential of the individual personality. This is the part I am investigating. This is the part I am not sure about.

I think that we fulfill some elements of the right to education, particularly the ones you mentioned - the fact that all kids can go to school free, and receive special help - but I am not sure it's fair and I am not sure it promotes equality. In fact, from what I've seen, I think it may do just the opposite. I also don't think that kids have a lot of choice in going to school or what they will learn once they get there. It seems to me, however, that freedom of choice is a big part of having a right."

*Colleague:* "But children do not have the same rights as adults in a lot of areas. They do not have the right to vote, get married, or drive a car, and they are restricted in the amount of freedom they have. Because they are unable to decide a lot of things in their own best interests, others, especially parents and teachers, have to decide for them and act in their best interests and on their behalf."

*Myself:* "Yes, this is how it appears. And that was, and in some places still is, the rationale for suppressing the decision making and freedom of women. They are not given the freedom to make their own choices. They are not provided with opportunities to develop their full personalities."

*Colleague:* "So what are you saying?"

*Myself:* "What I think I am trying to say, is that from my experience our educational practices may fall short of the intent of the universal right to education, and it is worth looking into."

*Colleague:* "Can you give me an example?"

*Myself:* "Yes. I can. And then you can give me your opinion."

*(I recounted the episode with the alternative school and superintendent on pp. 3-5)*

*Colleague:* "So, what is it that is bothering you? The fact that the superintendent

ignored your suggestions, or that he and the board had a different idea of success?"

*Myself:* "Both, I guess. Do you think they were right? What would you have told your 13 or 14 year old if she had wanted to go to the alternative school program instead of remaining in the regular program?"

*Colleague:* "I guess that would depend on the reasons why she wanted to attend the alternative school program."

*Myself:* "What if she wasn't doing so well in the regular program, and rather than cut school she wanted to try the alternative school program?"

*Colleague:* "Then I would probably tend to agree with the superintendent. Going to an alternative school because the work is a lot easier and provides an easier route to graduation is not exactly my idea of success in education either?"

*Myself:* "Who said it was easier?"

*Colleague:* "Well, why else would a student go to an alternative school?"

*Myself:* "How about because they are not interested in what they are learning, and feel the alternative school program offers a more interesting program."

*Colleague:* "So what you are saying is that just because a student isn't interested in the regular program that everyone else has to learn, the school board should offer them something else - something that is more interesting to them."

*Myself:* "Yes."

*Colleague:* "So, in addition to everything else that our schools are responsible for these days you feel that they should also be catering to the interests of every student; not just accommodating their individual needs, but promoting their individual interests and aspirations as well?"

*Myself:* "Yes, I do."

*Colleague:* "What on earth for?"

*Myself:* "Because students have a right to be interested in what they are learning."

*Colleague:* "I see. And this is where *your* right to education comes in?"

*Myself:* “This is where the *universal* right comes in. Let me show you.”

*(I produced a copy of Article 26 of the Declaration for my colleague to review)*

*Colleague:* “I don’t see anything here about a right to be interested, or that schools have to offer what is of interest to students.”

*Myself:* “I know. It doesn’t say a lot of things. It doesn’t say that schools have to accommodate the needs of all children either. There is much that has to be interpreted.”

*Colleague:* “And you feel that your interpretations are better?”

*Myself:* “Well, that’s just it. I don’t really know. There aren’t any interpretations out there to compare mine with. The interpretations of the right to education that do exist are mostly to do with exceptional circumstances, such as whether or not school rules concerning the permissible length of a student’s hair violate their rights, or whether banning slogans on T-shirts violates the right to free speech, or if searching a student’s locker violates student privacy. But these are sensational cases, nothing a teacher would use in thinking about the dailiness of classroom teaching.

Also these interpretations are generally made by the courts or the government. I’ve done a fair amount of reading and digging around, but for the most part the right to education doesn’t seem to have been part of the conversation in education until the fairly recent contributions of two American and Swedish researchers. But these researchers addressed only certain particular aspects of the right to education. No one has written on or interpreted the whole text, which is why I am undertaking to do this. That is what I’m investigating. I want to find out how educators interpret the right to education as it is written here. If you like, I could start with you!

### **Concluding Thoughts**

My colleague declined the offer, but perhaps it was just as well, as I had not yet fully established my interview questions. However, recalling this episode and similar conversations capsulize why I set out to inquire into the right to education in the first place. It was because of uncertainty; the uncertainty of not fully understanding whether or not I was interfering with or abetting the promotion of equality and the right to education.

On several occasions in my teaching career I had been hard pressed to come up with good reasons for continuing to promote certain kinds of school practices, particularly those which seemed to have little to do with providing an education and more to do with fitting into existing patterns and structures of schooling. At these times I found it necessary to question many of the assumptions that I came into the profession with, assumptions which I had subsequently developed within my own teaching practice to rationalize and legitimize what it is that I do as a teacher and an educator. What began as an inquiry into the meaning of one small aspect of the Universal Declaration of Human Rights grew exponentially as layer upon layer of meaning was revealed through the many interpretations ascribed to the right to education.

Unlike previous studies that had considered only one or two aspects of the right to education (e.g. Entwistle, 1993; Snook & Lankshear, 1979; Koenings & Ober, 1975; Spring, 2000), I was anxious to reveal that there were many dimensions of the right to education that warranted consideration. Throughout this inquiry I have been concerned with the examination of three overarching questions: 1) What understanding do educators have of the right to education and the principles of equality and equal educational opportunity that underlie its promotion and implementation? 2) Does the right to education challenge the limits of existing practices and, if so, are these limits reasonable and justifiable in a liberal democratic society? 3) What alternative practices can be posed to further promote the right to education and rights in education?

In this examination I discovered that the right to education, as acknowledged in the Universal Declaration of Human Rights, is wholly unfamiliar to most educators and, despite common references to its imperatives, its contents remain largely unexamined. Compounding this unfamiliarity is the fact that while numerous purposes have been ascribed to education, and diverse ways of achieving these goals, few have ever agreed as to its exact means or ends. Viewed by some as a means to promote competition for the social and economic development of society (Entwistle, 1993; B. C. Ministry of Education, 2007a), compulsion of the right to education has frequently been used to justify restrictive and confining conditions within our schools and our school

curricula. Viewing education through a lens of human rights does not end the uncertainty, but it does provide educators with some direction. The right to education acknowledges two ends: the first is aimed at promoting the full development of the human personality, and the second at strengthening human rights and fundamental freedoms to create a world with understanding, friendship, and peace.

My examination began with a sketch of human rights as an evolving and organic concept. Historical evidence indicates that though human rights are generally defined as moral rights, and that morality itself justifies their ends (Spring, 2000), this may not be the ultimate goal of human rights. Ayn Rand (1964) argues that human rights are not simply a product of morality, but rather a reasoned code of ethics aimed at improving conditions of human survival and preserving human dignity. Similar arguments are put forward by Cicero (1928, xxii. 33, xv. 42 - xvi. 44), and legal scholars, Steiner & Alston (2000) and Rawls, 2001).<sup>77</sup>

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<sup>77</sup> It has been pointed out to me, by members of my research committee, that citing Ayn Rand together with John Rawls is an unusual coupling and deserving of a footnote. While Rand and Rawls are often thought to represent polarized views of western, capitalist culture, I found an interesting bridge between their antagonistic positions when reviewing two documents: John Locke's Two Treatises of Government (1986/1660), and Canada's Foreign Policy Statement (CIDA, 2005).

Locke argues for the right to claim personal ownership of property, but that individuals should not procure from the common stock more than is required to live in comfort. He places two limitations on the acquisition of common resources: a) not to take more from nature than can be used; that is, not to allow resources to be wasted, and b) not to take so much as to leave others wanting. Not to do so he suggests is unreasonable, as it depletes resources and threatens human survival. For Locke, the laws of reason are synonymous with the laws of nature.

Rand (1964) shares Locke's view that individuals "own themselves" and therefore possess natural rights. She also observes that nature does not tolerate irrational behavior. Irrational behavior for a human being includes acting in an unethical manner towards other human beings (p. 111). Rand argues that the essential purpose of a code of ethics (e.g. a declaration of human rights) is to determine the "right" values and the "right" goals for our survival. For Rand, ethical behavior is not simply an exercise in morality, but rather an objective, metaphysical necessity for the survival of a rational being. She claims that the "two essentials of the method of survival proper to a rational being are thinking and productive work" (p. 25).

Rawls (2001) contends that the best chance for human survival is through the creation of liberal, democratic societies. He posits that the two fundamental democratic values of liberty and democracy must satisfy the principle of reciprocity in order to prevent excessive social and economic inequalities. The failure to do so invites unfavourable circumstances for human existence.

Aileen Carol, Canada's former Minister of International Cooperation (CIDA, 2005, p. i), observes a positive correlation between inequality, poverty, and threats to human security. Canada's foreign policy views the promotion of a national and international code of ethics as a rational strategy for increasing chances of survival by improving conditions of security for its citizens.

To act with an aim is to act intelligently in relation to existing conditions. Because aims are always conceived in relation to their perceived results, we can gauge the success of our aims by their outcomes. Aims are formulated by taking into consideration what is currently going on, taking stock of any difficulties that prevail, and making the necessary adjustments to these conditions in order to achieve the intended aims. Thus aims represent a freeing of our ideas and activities and are, therefore, founded upon the intrinsic activities, needs, aspirations, and interests of the individual. To have an aim suggests that there are personal choices to be made in our ways of acting; intrinsic aims as opposed to aims being set outside of the individual.

Extrinsic aims lose their flexibility to respond alternatively to different conditions. In education, aims set externally (e.g. standardized curricula and testing) impose a rigidity on learning, reinforcing a form of learning that is often remote and disconnected from the aims of the individual. Rigid adherence to a systemically standardized, lock-step, pre-planned, common curriculum lacks consideration of individual student interests, a consideration wherein intentional striving for equal access to the kinds of resources that promote successful academic achievement is essentially overlooked. Any approach that aims to standardize teaching practices and student programs stems from an interpretation of equality which considers that conditions of equality are fulfilled when the same conditions exist for all students. In such an approach the needs and interests of individual students tend to be facilitated through practices of assimilation rather than accommodation. Under these circumstances true alternatives cannot co-exist.

Through my research I discovered that our schools lack true alternatives in education. What we have in place is a single, dominant model of education. Any existing alternatives are simply variations of this one theme - different pathways leading to the same ends. In a pluralistic society this is an unhealthy situation. A lack of diversity decreases novelty and, in doing so, reduces the sources of renewal upon which a healthy, democratic society depends (Peters, 1966). A lack of choice in education leads to increased disaffection, disillusionment, and dissatisfaction with our schools.

Moreover, the inability to deliberate between alternatives further restricts efforts to fulfill the right to education and interferes with the freedom to pursue equal educational opportunity (Greene, 1988; Gutmann, 1987). A lack of alternatives is, therefore, contrary to the very goals of a public education.

This study has also examined and raised issue with interpretations of equality that contribute to the creation of loopholes in our moral reasoning which give permission and incentive to social institutions and individuals to act immorally and with indifference to inequality even though such actions are unreasonable and unjustifiable in a liberal democratic society (Pogge, 2002). As evidenced by the responses of research participants, an evolving interpretation of equality predicated on respecting rather than ignoring individual differences may be a more appropriate interpretation of the principle of equality (Strike, 1982). Such an interpretation has implications for the promotion of equal educational opportunity, one that gives recognition to aspirations of individual students and takes into consideration the element of student interest in the judging of equality.

Through this examination it was also revealed that interpretations of justice as what is legal rather than what is fair can contribute to the creation of other loopholes. This is due, in part, to the special relationship that exists between governments and their citizens. This relationship is based on promoting the interests of that particular society and increasing their economic and social advantages even though, in claiming these advantages, other societies and/or individuals may be left in extreme forms of poverty and despair (Pogge, 2001). Together these legal, political, and moral inconsistencies contribute to the formation of a pedagogical loophole that rationalize inequity through the attainment of educational credentials. Such a loophole acts to legitimize educational practices that are counter-productive to the promotion of equality and fulfillment of the universal right to education.

A second loophole in pedagogical practices can occur as a result of a belief that inequality promotes competition and that competition, in turn, fuels economic and

social progress (Ungerleider, 2003). And while there does appear to be a positive correlation between inequality and competition, the correlation between inequality and socioeconomic development is inverted. Thus, while governments retreat from the promotion of equality in favour of promoting competition, education has become a competitive arena which in principle must reject the promotion of equality as the ends of educational practices. Equality of opportunity becomes equality of access to an educational process that promotes and encourages inequality. This strategy is promoted through compulsion of the universal right to education, where the ability to claim that everyone has an equal position at the starting line, and that public schools have leveled the playing field for all to compete fairly, deters claims of unfairness in the ensuing competition to gain social and economic advantages (Entwistle, 1993; Rawls, 2001).

Though the efforts of government conspire to promote inequality and competition (B. C. Ministry of Education, 2007a; Ungerleider, 2003), it is evident in the observations of research participants that there is a push by educators to achieve conditions of equality through the universalization of the right to education. Not only do educators embrace equality of access to educational resources based on merit rather than wealth or family background, they understand that there is a difference between the right to attend school and the rights of learners once they are in school (Tomasevki, 2001d). There is a recognition that after schools have been built, and after legislation has guaranteed equal access to these institutions regardless of individual differences, programs of education must suit the needs and interests of each individual child. Yet, despite the best of intentions, minimal knowledge and understanding of the actual means and ends of the right to education inhibits recognition of the loopholes inherent in pedagogical practices that promote aims counter-productive to the efforts of educators working to achieve a true equality of opportunity through education.

Taking into account existing circumstances, and viewing education through the lens of human rights, this inquiry has suggested alternative ways to promote equality that are not counter-productive to socio-economic progress. Finding support in an

interpretation of equality that takes into consideration relevant differences among individuals, this inquiry has outlined strategies of cooperation that promote and accommodate diversity among student needs and interests. These strategies contribute to the development of a social and economic framework which recognizes the benefits that accrue when all members of society can be equal contributors. With a contribution of research participants, this inquiry has proposed alternative interpretations of the right to education, interpretations which promote the interests of the individual that are not in opposition to the greater interests of society.

The full realization of the right to education is both necessary and essential for the fulfillment of human rights (Matsurra, 2002, p. 1). Without the full realization of the right to education none of our economic, civil, political, or social rights can be fully exercised to achieve the aims for which these institutions were originally conceived (Humphrey, 1986). Adherence to a code of human rights counters the mischief brought about by political and legal loopholes in our collective moral reasoning that act to promote aims counter-productive to the welfare and freedom of humanity.

As it now stands, however, educators are quite unfamiliar with the contents of the right to education as acknowledged in the Universal Declaration of Human Rights. It is important that educators be brought fully into the conversation on the right to education. It is a necessary beginning. As I noted at the beginning of this dissertation (p. 26) there is a grave danger in not knowing. The danger in not knowing results in the inability among educators to recognize and articulate abuses of the right to education, which can result in the participation and promotion of practices counter-productive to the goals of education in a liberal democratic society. Thus, it is imperative that educators become better acquainted the right to education, and help to define its conception to gain a more precise understanding of the means to its fullest realization.

With this aim in mind it is a goal of this inquiry to open a space within the body of educational literature for educators to contribute to the right to education through

sharing their valuable experiences and interpretations. The full promotion of the right to education challenges current educational practices to create conditions that will stand all members of our global society in positions of equality relative to each other, and in doing so achieve the aims of a liberal and just democratic society (Rawls, 2001). In order to accept such a challenge it will be necessary to consider alternative practices in education that facilitate the promotion of social and economic progress through a freeing of ideas and the liberation of the individual to fully claim his or her universal right to education. Pursuit of such freedom is perhaps the greatest liberty inhered in the right to education.

At the present time the British Columbia Ministry of Education appears to be making strides towards the inclusion of human rights education in our school curricula. Future studies in this area would do well to monitor these efforts, and to facilitate ongoing dialogues among students, teachers, school districts, and the Ministry as these courses unfold and are further developed. Faculties of Education could also play a critical role in the promotion of human rights and the right to education. The facilitation of dialogue, and the provision of instruction and leadership in human rights education would help prospective teachers to be more informed and better prepared to teach and help lead the way in this new and important area of humanity's development.

Finally, reconsidering existing educational practices through an acknowledgment of certain "wheels in the head", may assist future researchers in proposing alternative educational models that will contribute to a fuller realization of the right to education. A contribution of this study has been to suggest alternative departure points for reconsidering education through the lens of universal human rights. There is ample room to engage in rethinking existing approaches to educational curricula and school structures, as well as a revisioning of the means and ends of education through the promotion and realization of the right to education. But it will require the participation and the continued contributions of educators to help define its meaning, explore its implications and, ultimately, to actualize its potential through the promotion of evolving notions of equality and equal educational opportunity.

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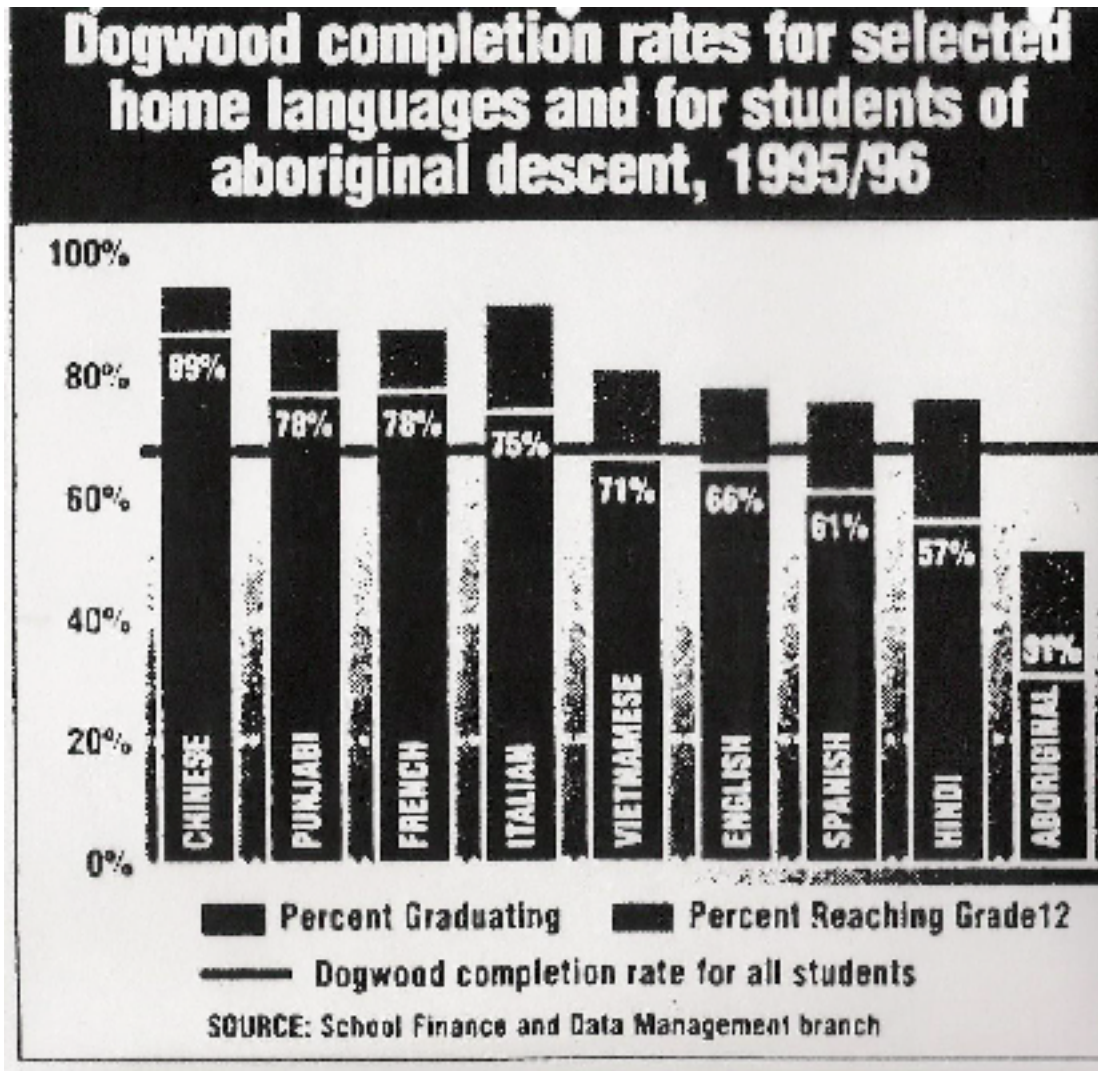
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## Appendix 1

Dogwood Completion Rates for British Columbia 1995/1996



**APPENDIX 2****Profiles of Research Participants****Independent School Participant #1 (ISP 1)****Gender:** Male**Title:** Middle School Principal**Experience:** Teacher - 10 years; Principal - 6 years**Locations:** Ontario, British Columbia**Independent School Participant #2 (ISP 2)****Gender:** Male**Title:** High School Principal**Experience:** Teacher-20 years; Vice-principal - 12 years; Principal - 3 years**Locations:** Vancouver and lower mainland regions in British Columbia**Independent School Participant #3 (ISP 3)****Gender:** Female**Title:** Pre-K to 9 School Principal/Education Consultant**Experience:** Teacher- 23 years; Principal - 15 years; Education Consultant - 5 years**Locations:** British Columbia, Alberta, Australia, Cambodia, Vanuatu, Pakistan**Public School Participant #1 (PSP 1)****Gender:** Male**Title:** High School Principal**Experience:** Teacher - 11 years; Principal - 12 years**Locations:** Victoria and Vernon school districts in British Columbia**Public School Participant #2 (PSP 2)****Gender:** Male**Title:** High School Principal**Experience:** Teacher and Principal - 33 years**Locations:** Victoria and Lower Mainland school districts in British Columbia**Public School Participant #3 (PSP 3)****Gender:** Female**Title:** High School Principal**Experience:** Teaching and administration combined -38 years. Classroom teaching experience at all grade levels, including Pre-K to grade 12 and Adult Basic Education.**Locations:** various school districts in British Columbia

**Public School Participant #4 (PSP 4)****Gender:** Female**Title:** High School Principal**Experience:** Teacher - 15 years; Principal/Administration - 15 years**Locations:** Merritt and Victoria school districts in British Columbia**Public School Participant #5 (PSP 5)****Gender:** Male**Title:** High School Principal**Experience:** Teacher - 19 years; Principal - 8 years**Locations:** Cariboo, Fraser Valley, & Vancouver Island school districts in British Columbia**Public School Participant #6 (PSP 6)****Gender:** Male**Title:** High School Vice-Principal**Experience:** 15 Years: Teacher - 13 years; Vice-Principal - 2 years**Locations:** British Columbia**Public School Participant #7 (PSP 7)****Gender:** Male**Title:** Middle School Vice-Principal**Experience:** 15 Years: Teacher - 6 years; Vice-Principal - 9 years**Locations:** Lower Mainland and Southern Vancouver school districts in British Columbia

## Appendix 3

### Interview Questions

This interview is designed to increase my understanding of your interpretations and conceptualizations of “the universal right to education”. You may choose to answer all or only some of the following questions. My questions and your responses will be recorded. You will have an opportunity to review and, if you wish, edit the responses that I have transcribed prior to their inclusion in the research data.

#### Section I: Participant Background

1. Could you please tell me a bit about your background in the education field, such as how long you have been involved in education and where?

#### Section II: General Questions Regarding Human Rights and the Universal Right to Education

2. a) Where does your knowledge of human rights come from? Did you receive instruction in human rights education at school? b) Does your school currently offer students instruction in human rights education? If so, could you please give some examples.

3. We often hear references made to the “right to education.” a) What is your understanding of this right, and what do you think follows from having this right? b) Are you familiar with the *universal* right to education as acknowledged in the Universal Declaration of Human Rights?

4. In education we often talk of providing students with equal opportunities for success. What is your understanding of equal educational opportunity, and what would you consider to be success in education?

#### Section III: Specific Questions Regarding Interpretations of the Universal Right to Education

Please take a moment to read Article 26 - the right to education - as written in 1948 in the Universal Declaration of Human Rights. After reading the right to education I have some specific questions that I would like to ask you regarding its interpretation.

5. Paragraph 1 - *Everyone has the right to education.*

What is your understanding of the term education? That is, what do you think people have a right to under the label of “education”?

6. Paragraph 1 - *Education shall be free, at least in the elementary and fundamental stages.*

a) Should all aspects of education be free, or do you see certain limitations either necessary or desirable? b) How would you interpret elementary or fundamental? Does this include all students in K-12? How about Early Childcare Education (ECE)?

7. Paragraph 1 - *Elementary education shall be compulsory.*

a) Do you think that it is justified compelling all children to attend some sort of schooling - public, private, or home schooling? b) Should compulsion also include a compulsory curriculum?

8. Paragraph 1 - *Higher education shall be equally accessible to all on the basis of merit.*

a) What does this statement mean to you? b) Should merit be the determining criteria of equal access? c) If so, how should we judge merit? If not, what criteria should be used to determine equal access?

9. Paragraph 2 - *Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.*

Questions: a) Do you feel our schools and/or classrooms promote the full development of the human personality? If so, in what ways? b) Do you feel that our schools and/or classrooms strengthen respect for human rights and freedoms? If so, in what ways?

10. Paragraph 3 - *Parents have a prior right to choose the kind of education that shall be given to their children.*

Questions: a) Do you feel that parents in Canada can fully exercise their right to choose the kind of education most suitable for their children? b) If a parent chooses to send their child to an independent school, such as a Waldorf, Montessori, or Catholic school, because they feel this form of education is most suitable for their child, should they still be able to claim the right to a free education, as stated in Paragraph 1 of the Declaration?

#### Section IV: Other Information

11: Has the universal right to education had any influence on your role as an educator?

12: Is there anything more that you would like to add to our discussion concerning the right to education or areas related to our discussion? Is there anything you would like to change or add to any of your responses?

*Thank you for your participation.*

## Appendix 4

### Article 26: The Right to Education

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It 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.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

The Universal Declaration of Human Rights  
United Nations General Assembly  
Resolution 217 A (III) of December 10, 1948

The full text of the Universal Right to Education can be retrieved on line from the United Nations Organization web site: <<http://www.un.org/Overview/rights.html>>.