

The vulnerability of human rights in restless times: Notes for a critical revival of human rights

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Abstract Recent years can be briefly characterized as times of unrest, self-referentiality, glorification of the individual, ambiguity, moral recession, trivialization of ways of life, political and democratic numbness, and sad passions. Given this description, the author reflects on different views of human rights and on the category of “human”, highlighting its complexity, irregular pulsations, and the views of the infra-human and inhuman that the dominant conceptions of *human* have hidden, even under a democratic veil, with obvious consequences in terms of the understanding, scope and usefulness of human rights. This work ends with a proposal for the critical reanimation of human rights, which encompasses the political and sociological dimensions, and it presupposes another reading of the *human* that respects its complexity, breadth and integrity.

Keywords: *Human rights, times of unrest, complexity of the human, critical redemption of human rights*

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1. Introduction

Education democratization has been conceived for a long time as the right to access a school. Meanwhile, a broader ambition arose: democratization should include not only access but also pupils’ academic success.

There are important differences between school or academic success and educational success. The first may only mean that someone understood the dominant school culture and behaved in order to meet what was expected from him/her. In this case, learning is frequently reduced to memorizing and repeating knowledge received. Too many times even excellent students are not happy with the way their apprenticeship is oriented by the school.

On the other hand, educational success is much more complex. It means that someone developed a full range of competencies (intellectual, social, emotional, moral) under the guidance of school which will enable him/her to continue a personal process of long life education.

In the worst cases, the school may be seen as an adversary to education if (i) it doesn’t encourage pupil’s curiosity and the development of understanding, critical thinking, and creativity, (ii) it doesn’t counter the excess of images over words, (iii) it doesn’t articulate knowledge with day-to-day life.

So education means much more than formal schooling: it is a lifelong process in which formal, non-formal, and informal learning experiences converge.

In this paper, we address only the pupils’ academic success measured by the school marks they obtain – a

purpose more limited in scope and easier to assess. After a general characterization of academic success/failure at an international level and in Portugal, we will consider some known factors contributing to the present situation, and finally, we will reflect on measures susceptible to increasing academic success.

2. Education as a human right

The approval of the Universal Declaration of Human Rights (1948) [1] brought a significant change concerning education. Article 26 of the Declaration recognized education as a human right, and so a universal one.

It states:

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

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 [...]” (UDHR, 1948, Art. 26).

The Declaration assumes three principles about education already present in liberal states’ constitutions since the 19th century: access to education for all, gratuity, and compulsory frequency. The novelty has been to extend them to the whole of the countries on earth.

Monteiro (2003) [2] argues that the right to education is a priority, but to be so it needs to have the quality of a

“human right”. In this sense, respecting, protecting, and implementing human rights, including the right to education, are the main obligations of a State of Law. According to the author, the right to education is a new paradigm demanding to rethink education, transform schools and recreate the identity of education professionals.

Lee (2013) [3] also considers that the claim to the right to education as a human right is an important one, “because there is a responsibility to enable children to develop an acquired set of capabilities to lead their own lives in a meaningful and fulfilling way”.

In fact, UDHR’s article 26 cited above directs us toward two goals concerning ambitious educational objectives, one situated at an individual level (the full development of the human personality) and another interconnecting the person and the society (the strengthening of respect for human rights and fundamental freedoms).

At the same time, some values shall frame the whole educational enterprise: “understanding, tolerance, and friendship among all nations, racial or religious groups and (...) the maintenance of peace”.

Meanwhile, the ascension and triumph of neoliberalism ideology over the last decades meant an overturn in the way the right to education was thought. Education, or at least quality education, is seen as a private good to be acquired by those having socioeconomic and sociocultural means. The “natural” role of schools is social selection and the main purpose, if not the only one, is to prepare future workers with the knowledge and skills dictated by the markets. Education is a private matter and institutions should be privatized and subject to offer-demand laws. Public schools should be intended only for the more deprived people.

As important as considering the ideals and the best practices regarding education as a human right is to know how it developed since 1948. In fact, the current state of education across countries gives us the effective degree of democratization already achieved and may inspire future commitments.

2.1. The world

Over the last seventy years, the democratization of education has progressed significantly all over the world.

Data from the Global Education Monitoring Report (UNESCO, 2020) [4] show that:

- 73% of countries guarantee 9 years of compulsory primary and secondary education;
- 52% of countries guarantee 12 years of free primary and secondary education;
- 49% of countries guarantee at least 1 year of free pre-primary education;
- the youth literacy rate (15-24) raised to 91%.

But equity, inclusion, and social justice are still far from being reached. The same institution in 2019 [5] pointed out that 102 million youth still lack basic literacy skills. In low-income countries, only 4% of the poorest students complete upper secondary school while 36% of the richest do so. If we take into account lower-middle-income countries, the gap is still wider: 14% of the poorest versus 72% of the richest.

While old problems still persist concerning access to school and academic success, new problems arise since nowadays societies continue to make more and more ambitious demands for educational policies and practices.

Due to the COVID-19 pandemic, UNESCO (2020) estimates that 1.6 billion students (94% of the world’s student population) were negatively impacted by the closure of schools. Assessment studies already developed showed the fragilities of education systems and the inequalities among students to face the crisis.

In 2018, a report [6] by the special rapporteur on the right to education on governance and the right to education, prepared for the UN Human Rights Council, highlights the importance of governance based on standards that ensure education is provided in an equitable, high-quality manner to all, without discrimination. It also explicitly advocates that the norms and practices under the Sustainable Development Goals [7] provide specific guidance on how national education systems should be implemented. In this sense, the 4-A scheme for education (available-accessible- acceptable-adaptable) is recommended.

Specialists in the field of the right to education also made numerous proposals, among which:

- the development of more inclusive schools supporting more vulnerable groups (disabled people, migrants, refugees, asylum seekers, foreign citizens);
- the strengthening of national education systems and the enhancement of planning, monitoring, and evaluation;
- to educate for global sustainable development;
- to educate for participation in society, democracy and citizenship;
- to provide digital education for all and distance learning opportunities;
- to ensure lifelong learning;
- to better qualify teachers and to improve teachers’ careers.

So, the challenges to make effective the right to education are many, and of different nature in present times and for the near future. Some of the regions in the world registered major advances. We will characterize the situation in two international organizations to which Portugal, the author’s country, belongs and inside which it compares.

2.2. OECD countries

Educational benefits for individuals and societies have been long studied. International organizations such as the Organization for Economic Cooperation and Development gather, interpret, and regularly publish data that measure the impact of education on youth/adult employment and welfare. Since 2001, this organization implemented PISA (Programme for International Student Assessment) every three years. The assessment focuses on three learning areas: reading literacy, mathematics, and sciences.

In the edition of 2018 [8], 70 countries participated. PISA became perhaps the most powerful tool influencing national educational policies.

To a certain extent, results allow understanding academic success or failure of youngsters aged 15, across more than one-third of world countries. In fact, those results are contextualized in order to assess education

equity, a construct assuming both the principles of inclusion and justice. The purpose is to research the relationship between individual circumstances (socioeconomic status, gender, immigration) and learning outcomes (schooling access, performance, attitudes and beliefs towards apprenticeship, and expectations for the future). Some moderating variables are taken into account, such as (i) the concentration or distribution of disadvantaged pupils per school, (ii) the pupil access to educational resources, and (iii) the students' stratification per different school pathways, according to their individual characteristics or performances.

Criticism over PISA and its negative effects soon appeared and the arguments presented deserve to be considered.

Although the mentors of this international program always denied the purpose of drawing a ranking of educational systems, the fact is that such ranking is the more evident result of PISA. Educational authorities are then frequently tempted to follow short-term national policies to improve the country's position in the ranking. If those goals are not immediately met, an attitude of resignation may arise.

Most researchers [9] criticized the promotion of standardized tests everywhere, despite the serious reservations about their validity and reliability, and the increased reliance on quantitative data.

The narrow range of measurable aspects considered is also referred to. Pupils' physical, moral, artistic, and civic competencies and attitudes are not assessed.

PISA was explicitly meant to provide an assessment useful to identify the best educational practices and to disseminate them globally. But critics argue that the program ignores differences among cultures and development levels where the national systems are rooted. The lack of consideration of non-educational factors to explain or interpret results is also a matter of critics.

Perhaps due to some of the criticisms above, the last PISA edition (2018) included a statistical analysis of several relationships among variables as exemplified below (see 2.4).

Besides the overall analysis, PISA 2018 also provided reports country by country, so enabling a more in-depth analysis of each case and a finer contextualization of the data.

Annually the OECD publishes *Education at a Glance* [10], a report portraying lately the educational situation in 38 countries.

2.3. EU countries

Another international organization that since the beginning of the present century multiplied studies and recommendations on education is the European Union (EU). Most of those documents help us to understand the level of education democratization among the EU countries.

A recent study published in 2022 [11] focused on the early leavers from education and training, defined as individuals aged 18-24 who had completed at most a lower secondary education and were not enrolled in further education or training during the four weeks preceding the survey.

The concept of lower secondary education varies from country to country. In Portugal, the Basic Education of 9 years is divided into three cycles.

It was found that, in the EU, an average of 9.7% of young people are early leavers. One may conclude that they left school without completing compulsory education for 9 or 12 years.

This is an important indicator showing problems of poor academic success of an unneglectable number of students who apparently gave up schooling. At the same time, the indicator of early leavers is also used to account for the European Pillar of Social Rights principles and to monitor the Sustainable Development Goals.

There are significant differences among countries ranging between 2.4% of early leavers in Croatia and 15.3% in Romania, followed by Spain and Italy (around 13% each). The Portuguese situation will be presented below (see 2.4).

Concerning also the geographic distribution of early leavers the study considered three areas according to the degree of urbanization: cities, towns, and suburbs or rural areas. Cities had the lowest rate of early leavers (8.7%). Towns with 10.7%, and suburbs or rural areas with 10% of early leavers in the population aged 18-24 will demand a major effort to meet the EU target for 2030 (less than 9% on average).

The study gives us some more relevant information to assess the state of education democratization.

A higher proportion of early leavers are men (11.4%), 3.5 p.p. plus than women (7.9%).

As for the individuals' labor status, in 2021, 42.3% of all early leavers were employed, 34% were not employed but wanted a job, and 23.7% were not employed and did not wish to be. In Portugal, within the share of 5.9% of early leavers, there were 3.3% employed and 2.6% not employed. There is no need to stress the consequences both for the individuals in question and for society in terms of well-being, social inclusion, employment, and salaries.

In 2021, the EU Council approved a resolution in the framework of the European Education Area (EEA 2030) [12] fixing five strategic priorities for the period 2021-2030:

- improving quality, equity, inclusion, and success for all in education and training;
- making lifelong learning and mobility a reality for all;
- enhancing competencies and motivation in the education profession;
- reinforcing European higher education;
- supporting the green and digital transitions in and through education and training.

2.4. Portugal

Nearly fifty years ago (1974), Portugal finally knew the end of a dictatorial regime that ruled the country between 1926 and 1974.

During that period, school education was seen more as a privilege of a few than as a right for all. Access to school was only (formally) guaranteed to compulsory education of 4 years. As a consequence, the country registered about 25% of illiterate people when the 1974 Democratic

Revolution took place, and so not even primary school was available for all.

Given this context, Portuguese democracy had to face very difficult challenges. Providing democratic access to school and raising the educational levels of the people was not easy nor could the results be immediate. The country had not enough teachers prepared to teach the increasing number of students demanding school education. The lack of school buildings was also a fact until the middle of the eighties.

At the same time, a significant change in education aims and contents was needed in order to contribute to the general democratization of Portuguese society. Finally, in 1986, a General Law on the Education System was adopted. This law guarantees effective access for all to schooling and aims at providing the conditions for their educational success. At the same time, compulsory education passed from 6 to 9 years. Since 2009, compulsory education comprehends 12 years (a cycle of 9 years of basic education, plus 3 years of secondary school).

In the last fifty years Portuguese educational panorama changed dramatically. Illiteracy almost disappeared. The schooling levels of the population aged 14+ years old raised significantly. In 2021, the scholarship real tax in the nine years of basic education was 91.9% (against 17.8% in 1974); The same measure concerning the secondary scholarship, raised from 4.9% to 85.1%, in the same period of time. As for higher education, 25% of people aged 25-65 had completed a diploma, against 5% in 1974.

Portuguese young people performed successively better on the PISA tests and now rank near the average for OECD countries.

Nevertheless, some findings concerning academic success deserve further consideration and reflection, and the adoption of new educational policies.

- Relationship between Economic, Social, and Cultural Status (ESCS) and learning outcomes: Portugal has been found as one of the countries where the difference in ESCS among pupils (more advantaged/more disadvantaged) is larger. Only 16 countries in 78 presented larger inequalities. Regarding only academic success in reading, the 25% of more disadvantaged young people had three times more probability of failing than the 25% of more advantaged. ESCS explained 13.5% of the variation in results, against the average variation in OECD countries of 12%.

- Index of non-diversity, created from socioeconomic and cultural status, generally separates private and public schools. Private schools tend to be more homogeneous. Portugal presents one of the highest values in this indicator of non-diversity, in private schools, and a value lower than the OECD mean, in public schools.

- Academic and socioemotional resilience facing ESCS disadvantages: 10% of Portuguese respondents were classified as resilient once they obtained results in reading among the 25% rated higher.

- Emotional support received from families and teachers (stronger versus weaker): there is no statistical difference in the results of different groups of pupils in relation to this variable, but the difference is statistically significant at the OECD level.

- Pupils' expectation of completing a higher education degree: 73.6% of Portuguese participants had that aim,

above the OECD's average (69.0%), but once more ESCS separated two groups – 93.1% of the more advantaged versus 50% of the more disadvantaged.

- Interest in reading diminished between 2009 and 2018 and a positive significant correlation was found between higher interest in reading and higher levels of academic resilience.

Portugal made an astonishing evolution concerning early leavers. In the last ten years, their number dropped from 23% to 5.9%.

We believe that this decline in early leavers from school and the raise in learning outcomes mentioned above were the results of changes in educational policies and school practices.

A new national curriculum design gave more space for local decisions at the school or group of schools' level. Schools were invited to interpret the curriculum in a more flexible way. The autonomy of each school should lead to the emergence of an original educational project simultaneously rooted in the local context and respectful of the national framework of competencies to be attained by the students after 12 years of compulsory education.

Schools' working conditions did not improve so much which is an issue of constant criticism from principals and teachers.

Nevertheless, teachers in most institutions were able to introduce innovative practices at school and classroom levels. Teachers' competencies were subject to a severe trial when face-to-face teaching activities were suspended due to COVID-19, and they had to build distance learning situations in a short time. Generally, teachers passed this challenge with flying colors, and as a consequence, the social esteem for the profession increased.

The present situation is showing an ever lower attractivity of the teaching profession among young people. The country faces already a severe shortage of qualified teachers and it will be worse in the near future. Preparing new professionals takes time – 5 years of higher education studies being the standard in Portugal. But this crisis will not be overcome unless the teaching profession status improves significantly.

3. Challenges to increase academic success – pedagogical differentiation

Diversity is the main characteristic of world education nowadays. Diversity of development levels among countries; diversity of education systems; diversity among schools, classrooms, and students; diversity of human and material resources are easily recognized.

Simultaneously, there is universal rhetoric, and eventually, commitment to increasing the quality of education, promoting educational and academic success for all, and innovating.

Each one of these aims needs specific and appropriate actions. All of them should be thought together since they interact and produce more or less desirable results.

Here, we will focus only on one of those levels: schools, classrooms, and pupils.

In the domain of the teaching-learning processes, it is not easy to deal with the diversity of students who enter schools: different socio-economic and socio-cultural

backgrounds; different life experiences and expectations; multiple forms of intelligence; different cognitive abilities, attitudes, and emotional dispositions. The building or developing of inclusive schools in a broader sense, and not only for handicapped people, schools where all sorts of diversity are recognized and a starting point for relevant and meaningful learning became, as we see it, the greatest challenge to accomplish the democratization of school success.

Pedagogical differentiation appears then as the strategy more adequate to pursue that goal. It means that teaching-learning processes must shift in focus from the teacher who presents knowledge to the student who learns. Individualization is a constitutive element of the strategy. From this perspective, teachers' responsibilities increase, and their work become more difficult. Perhaps that is the reason why so many applaud differentiation but only a few act in coherence with that purpose.

Being a general strategy and not a particular method or technique, pedagogical differentiation is susceptible to multiple interpretations and so a matter of controversy.

We share the view of Perrenoud (2005) [13] when he clarified his position on this problem through fifteen statements. We highlight some of them, namely:

- Differentiation is a part of a positive discrimination perspective, it is a political choice before being a pedagogical one;
- Pedagogical differentiation focuses on the means and modalities of work, not on learning objectives;
- Differentiation cannot and should not reach entirely individualized teaching;
- It demands a new organization of schoolwork;
- There is a need to involve students in the resolution of problematic situations or in projects;
- Pedagogical differentiation is defensible no matter what the curriculum in place, but some curriculum frameworks are more favorable than others;
- Teamwork is a condition to plan and develop differentiation.

So, to discuss pedagogical differentiation implies questioning social and educational values as well as teachers' professional values. Not all differences among pupils are to be praised and perpetuated. The existent diversity among pupils does not authorize suppressing learning objectives for those who have difficulties but finding alternative work proposals for them.

The overwhelming impact of new information and communication technologies asks for an answer from school education. First, they provide tools useful to differentiate pupils' learning opportunities by means of e-learning or blended learning. Second, they may enhance classroom activities in face-to-face situations, and facilitate group work among pupils with respect for different learning rhythms. Finally, democratizing education nowadays implies the recognition that a new form of literacy is needed to cope with information and communication, and that schools must contribute to that purpose.

Attaining the goals above demands an enhancement of teachers' education and training.

Both initial and continuing teachers' education should be in most cases a matter for the reconceptualization of

programs in place, having in mind the professional competencies teachers need today.

Focusing only on the work in classroom sets, we suggest the development of four main fields.

- (1) Characterization of the pedagogical situation and identification of possible problems

Teachers need to know as best and soon as possible what pupils' groups exist in the classroom according to their motivations, abilities, and skills toward certain specific apprenticeships – it means a teacher's competency to draw a first diagnostic assessment. Such a competency for systematic observation should be developed from initial teacher education.

- (2) Conceptualizing and planning the intended learning outcomes

The national curriculum where it exists provides a general framework. It is important that teachers are committed to managing it in a flexible way by contextualizing the national orientations and by combining them with local projects.

- (3) Practicing the planned intervention

Teaching practices are the cornerstone of the teaching profession. They involve motivating pupils, clearly communicating and stating activities, organizing pupils' groups, providing auxiliary learning means, managing time, and developing systematic formative assessment, among other minor aspects.

- (4) Evaluation of the results

After each sequence of differentiation, an overall evaluation of the process should take place. This means collecting evidence, drawing conclusions, making judgments, and taking decisions for the future. Collaborative work with pupils and with pairs being relevant in other moments is at this stage highly recommended in order to enhance professional reflection.

4. Conclusions

Education is a never-ending enterprise and its democratization is not an easy task, as time goes by and new aims and goals will arise.

Quality education cannot be defined once and for all. The prognostic is that it will continue to unfold in the future in ways we are not able to anticipate today.

In the meantime, we must focus our attention and efforts on asking some main questions: what can we do now to improve education and academic success? Which values to prioritize in school education? Is our notion of academic success an indicator of education success or not? Which policies should be developed? How is it possible to innovate in curriculum design and school practices? How are the digital technologies of information and communication impacting teachers' roles and students' learning? How to prepare new teachers for the challenges they will face in the near future? Is the current continuing teachers' education contributing to their professional development?

Answers to these questions and others will certainly vary according to national and cultural contexts. More, those answers are not ready to be used. Finding them should demand a permanent development of educational scientific research in dialog with schools and teachers.

Concerning teaching practices, action research seems to be the best way to insure that real problems are taken into account and that innovative strategies and methods are tested and eventually adopted.

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