

A critique of Sri Lanka's National Education Policy Framework¹ (NEPF) from a lens of Education as a Human Right

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Introduction

Education is a human right for all people without discrimination – this was first declared internationally in the Universal Declaration of Human Rights (UDHR), the 75th anniversary of which was celebrated just recently – on the 10th of December 2023.

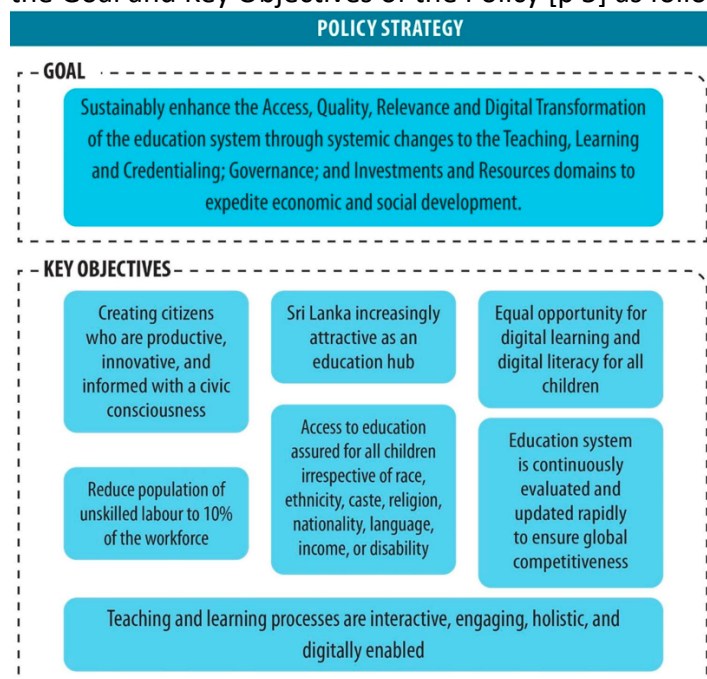
Although the UDHR was “only” a declaration, it formed the basis for many international treaties on Human Rights, including several concerning Education, primarily the 1960 Convention Against Discrimination in Education (CADE), the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) and the 1989 Convention on the Rights of the Child (CRC), which oblige signatory states to take concrete measures to protect and progressively realize those rights.

While recognizing that Education is right for people of all ages, this critique will be based primarily on articles from the CRC and its General Comments, which applies to all people under the age of 18.

Sri Lanka ratified the ICESCR in 1980, the CADE in 1983, and the CRC in 1991, obliging the state to take steps to Respect, Protect and Fulfill the Rights in the treaties.

Critique

While the NEPF does not explicitly set out the Aims or Objectives of education, it does define the Goal and Key Objectives of the Policy [p 5] as follows:



This presentation clearly demonstrates that this policy is based on a reductive version of the Human Capital Development framework of Education: the creation of the future workforce is the only goal of education under this policy. Note that the objectives only list two educational outcomes: the first centered on the quality (“citizens who are productive”) and the second on the quantity (constraining “unskilled labour to 10% of the workforce”) of the output. All other policy objectives are not related to educational outcomes, but only to how those outcomes are to be achieved.

This is further evidenced by the following statements introducing the policy:

- “Recognizing the urgent need for reforms in this sector to **achieve economic stability** and development...”
[“Preface”, p 1, emphasis added]
- The Education Sector is a key driver of **human capital development**, which has a direct impact on **Sri Lanka's economic performance** and resilience.
[“Introduction”, p 11, emphasis added]
- The country’s **development** and resilience **depend** on the capacity of its people and **workers** to cope with emerging challenges in a creative and critical way
[“Introduction”, p 11, emphasis added]
- ... shape them into **intelligent, hardworking** and civic minded citizens
[“Introduction”, p 11, emphasis added]
- The only pathway shown has all roads leading to the “World of Work”
[p 21]

It is illuminating to compare these implied goals with the Aims of Education, when Education is viewed as a Right, as set out by the CRC in § 29:

1. States Parties agree that the education of the child shall be directed to:
 - a. The development of the child’s personality, talents and mental and physical abilities to their fullest potential;
 - 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;
 - e. The development of respect for the natural environment.

It is evident that education, rather than having a narrow focus like in the NEPF, should be directed to a wide range of values. And, while preparation for future employment can certainly be a part of a “responsible life in a free society”, and those who wish to pursue it have a right to an education that prepares them for it, making it the only outcome² of education worth pursuing is clearly regressive.

² Some aspects of these aims are given token recognition when it is politically expedient to do so – such as the stand-alone statement on the inculcation of a Sri Lankan identity (a long standing National Educational Goal which would be suicidal to remove) and the generous sprinkling of “climate change” throughout the document (although even that is not seen as a vulnerability that requires “developing respect for the natural environment” but rather as an emerging technology along with Artificial Intelligence)

It is even more regressive to deliberately ignore completely the “development of respect for human rights” – the word “rights” does not appear even once in the NEPF document! This, despite proclaiming, on the very first page, that *“The NEPF aligns with the national development goals and the country’s global commitments on education.”* – where is the recognition of the global commitments made when Sri Lanka ratified the ICESCR, CADE and CRC?

On the next page, it claims, *“A transformation of education cannot be envisioned without an understanding of emerging technologies including Artificial Intelligence (AI), Climate Change, and local and global socio-economic realities, and their impact on education”*. This is all well and good, but why exclude human rights from the list of items that a transformation of education cannot be envisioned with an understanding of?

While acknowledging that the policy does include “Access”, which is one of the 4 elements in the “4As Framework” (along with Availability, Acceptability and Adaptability) for Human Rights in Education, given the overall lack of recognition of Rights, where it does not even recognize labour³ rights as part of its efforts to prepare people for the “world of work”, this may well be no more than a token gesture at best, or at worst a means to ensure that no child escapes the “value-addition” of education that transforms them into human capital. Especially given that the NEPF calls for “Quality” as defined from how the output of the education system meets the expectations of the labour market instead of “Acceptability” which is that *“the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students, and, in appropriate cases, parents”*⁴.

³ Surely a policy that calls for “career guidance regarding Tertiary education and career pathways” to be mandatory [6.21 in page 19] if it were taking a Rights-based approach to employment focused education would also make education on Worker Rights mandatory? And include topics such occupational health & safety; adequate rest and leisure; job security; protection from unfair labour practices including unfair termination; protection from discrimination; superannuation and retirement benefits; etc.?

⁴ From [General Comment 13 by the UN Committee on Economic, Social and Cultural Rights](#) [p 3] on the Aims of Education (Article 13 of the ICESCR)

A Democratic, Rights based Approach to Education

The 1943 report of the Special Committee on Education (chaired by then Minister of Education, Dr. C. W. W. Kannangara) states⁵ *“We have assumed that our task was to recommend an educational system suitable for a democracy”*. The foundation⁶ for a democratic way of life is the recognition that all human beings are equal in dignity and rights. If Education is to be enable a democratic⁷ way of life, rather than enabling only a “free market” way of life, then the state has a responsibility to ensure that democratic values and rights must form the foundation on which Education policy is established.

Much like free and fair exercise of franchise is a pivotal aspect of democratic governments, the pivotal Right in a democratic approach to general education is the Child’s Right to be Heard. While the NEPF document does not detail which stakeholders were consulted in the process of developing the policy, it is evident that they did not consult⁸ the most important stakeholder of all – the children. This is, unfortunately, not a surprise, given that in the 32 years since ratifying the CRC, the Sri Lankan state has not even fulfilled its obligations under § 42 *“States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.”*

The obligation to consult children derives from UN CRC § 12: *“State parties shall assure to the child who is capable⁹ of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child”*.

Since Education policy obviously affects children, the country’s global commitments obliges the state to provide meaningful opportunities for children to participate not only in the process of the formulation of educational policy, but to also provide opportunities to exercise children’s right to be heard on a regular¹⁰ basis in schools. This is confirmed by the statements of the UN Committee on the Rights of the Child on the child’s Right to be Heard in the context of education, given in the annex.

⁵ Chapter II: General Considerations

⁶ The very first article of the UDHR states “All human beings are born free and equal in dignity and rights”

⁷ which is how it is seen from a Rights’ based perspective – it enables the realization of all other rights

⁸ This omission is not specific to the NEPF, or to Sri Lanka – it is a common phenomenon that children are seen as “objects” of education, with education being something “done to them”.

⁹ This has been clarified in [General Comment 12 by the UN Committee on the Rights of the Child](#) [p 9] that *“State Parties should presume that a child has the capacity to form his or her views and recognize that he or she has a right to express them; it is not up to the child to first prove his or her capacity.”*

¹⁰ UNICEF has published a [Child Rights Education toolkit](#) that can be utilized for this purpose.

Policy Recommendations

1. Legislate the CRC, to make child rights justiciable, and to signal to society that Child Rights deserve to be taken seriously.
2. Elevate the Right to Education to a fundamental right in the constitution, and give legislative¹¹ protection to the Aims of Education set out in the CRC.
3. Ensure representation of Rights' experts and defenders (especially Child Rights) in Policy making bodies such as the National Education Commission¹².
4. Introduce non-coercive Human Rights education (and especially Child Rights education, as it is an obligation under the CRC § 42) to
 - a. children via schools (The Human Rights Commission of Sri Lanka is already working on this) and informal methods
 - b. adults with professional contact with children (teachers, law enforcement, health care professionals, social services, etc.) via professional training and informal methods
 - c. parents and care givers by informal methods
5. Progressively include children and young people in educational decisions (from classrooms to policy) as recommended in the General Comment on the Child's Right to be Heard. It must be understood that until societal attitudes shift, there will be a tendency for children to respond with what they think adults want to hear – but even the process of dismantling this oppression must begin by respecting their right to be heard.

¹¹ This is called for in § 17 of [General Comment 1 \(Aims of Education\) of the CRC](#).

¹² While the NEC, on the basis of their National Educational Policy Framework 2020-2030 (published June 2022) gives better treatment to Education as a Right that than the NEPF 2023-2033, because it acknowledges at least the domestic Rights obligations in terms of the Directive Principles of State Policy in the Constitution and commits to the continuation of the Free Education policy, it is remarkably deficient in acknowledging Sri Lanka's international obligations. Only the chapter on Special and Inclusive Education makes reference to UN Rights treaties.

Annex 1: Extracts from General Comment 12 of the UN Committee on the Rights of the Child on “the right of the child to be heard” in the context of “Education and School” [pp 24-25]

Emphasis added by author.

105. Respect for right of the child to be heard within education is fundamental to the realization of the right to education. The Committee notes with concern continuing **authoritarianism**, discrimination, disrespect and violence which characterize the reality of many schools and classrooms. Such environments are not conducive to the expression of children’s views and the due weight to be given these views.

106. The Committee recommends that States parties take action to build opportunities for children to express their views and for those views to be given due weight with regard to the following issues.

107. In all educational environments, including educational programmes in the early years, the active role of children in a participatory learning environment should be promoted. Teaching and learning must take into account life conditions and prospects of the children. For this reason, **education authorities have to include children’s and their parents’ views in the planning of curricula and school programmes.**

108. Human rights education can shape the motivations and behaviours of children **only when human rights are practised in the institutions in which the child learns, plays and lives together with other children and adults.** In particular, the child’s right to be heard is under critical scrutiny by children in these institutions, where children can observe, whether in fact due weight is given to their views as declared in the Convention.

109. Children’s participation is indispensable for the creation of a social climate in the classroom, which stimulates cooperation and mutual support needed for child-centred interactive learning. Giving children’s views weight is particularly important in the elimination of discrimination, prevention of bullying and disciplinary measures. The Committee welcomes the expansion of peer education and peer counselling.

110. **Steady participation of children in decision-making processes should be achieved** through, inter alia, class councils, student councils and student representation on school boards and committees, where they can **freely express their views on the development and implementation of school policies and codes of behaviour.** These **rights need to be enshrined in legislation**, rather than relying on the goodwill of authorities, schools and head teachers to implement them.

111. Beyond the school, **States parties should consult children at the local and national levels on all aspects of education policy**, including, inter alia, the strengthening of the child-friendly character of the educational system, informal and non-formal facilities of learning, which give children a “second chance”, school curricula, teaching methods, school structures, standards, budgeting and child-protection systems.

112. The Committee encourages States parties to support the development of independent student organizations, which can assist children in competently performing their participatory roles in the education system.

113. In decisions about the transition to the next level of schools or choice of tracks or streams, the right of the child to be heard has to be assured as these decisions deeply affect the child's best interests. Such decisions must be subject to administrative or judicial review. Additionally, in disciplinary matters, the right of the child to be heard has to be fully respected. In particular, in the case of exclusion of a child from instruction or school, this decision must be subject to judicial review as it contradicts the child's right to education.

114. The Committee welcomes the introduction of child-friendly school programmes in many countries, which seek to provide interactive, caring, protective and participatory environments that prepare children and adolescents for active roles in society and responsible citizenship within their communities.