

The (lack of) Integrity in the Right to Education in Albania

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Abstract

Education is one of the fundamental human rights enshrined in the United Nations Universal Declaration of Human Rights. Its importance is irreplaceable because it shapes the individual with knowledge and values. Many individuals are deprived of their right to education for various reasons, especially as a result of corruption, which affects in particular that strata of the population with disadvantaged economic opportunities and social problems. Corruption poses a serious challenge to the development of a country, economically, politically, socially and integrally, especially when it comes to a country like Albania that aims to integrate into the European Union. In the political sphere, corruption undermines democracy and good governance, bypassing and damaging the formal processes. While in the area of human rights, it openly violates them, leaving repercussions to the values of democratic systems. The paper addresses the phenomenon of corruption in the pre-university education system in Albania, as a violation of the right to quality education, intertwined with the constituent elements of this right. It dwells on the international and national legal framework addressing the right to education, analyzing the extent of this phenomenon across the legal framework which covers the education system. The presence of corruption in pre-university education will be evidenced by various studies as well as measures provided for in the strategy and legal framework for pre-university education. Moreover, measures taken to fight corruption will be seen to intertwine with the curricular aspects of pre-university education. The paper finally reveals the need for more steps in the fight against corruption in order to provide the right to quality education in Albania.

Keywords: integrity, right to education, pre-university education system, corruption, Albania

Introduction

Education is one of the fundamental human rights, widely sanctioned in a number of international instruments. The Universal Declaration of Human Rights acknowledges the right of everyone to education, defining the full development of the human personality and the strengthening of respect for human rights and fundamental freedoms, as the purpose of education. Therefore, continuous adoption of international instruments is needed to strengthen the pledge of the right to education and the fundamental importance it carries in the life of everyone. This is achieved through international recognition of both law and the relevant state obligations.

Article 13 of the International Covenant on Economic, Social and Cultural Rights 1966, expands on the content of the right to education, defining not only the objectives of education, which are oriented towards the full development of the human personality, his sense of dignity and the empowerment of everyone to participate effectively in a free society. Above all, it underlines the need for the establishment, and maintenance of education systems in different countries, accompanied by the relevant state obligations for their realization.

On the other hand, the Convention on the Rights of the Child, as one of the most important instruments of international law which provides for rights and obligations in all areas of the child's life, protects the right to education through two articles, Article 28 and Article 29 thereof. Principles on which the Convention is based such as non-discrimination (Article 2), the best interests of the child (Article 3), the right to life, survival and development (Article 6), and the right to express and evaluate views they (Article 12), serve to interpret the provisions that sanction the right to education. Furthermore, as part of global policy, there are the "Objectives for Sustainable Development" adopted by the Member States of the United Nations in 2015, that highlight the quality of education, as the foundation for creating sustainable development.

Albania has ratified these international instruments after the '90s, while accepting the obligations deriving from them in order to recognize, respect and protect fundamental human rights, including the right to education. Since coming out of the complete isolation from the monist system in the early '90s, Albania, which suffered a pronounced lack of recognition and guarantee of human rights and freedoms, the participation of interest groups in the political processes, the freedom from political influence and propaganda from extremist and intolerant governance in the education system, widely supported international instruments defending human rights and freedoms. However, Albania, like other European countries with a communist past, suffers from a high level of corruption even after almost 30 years of transition (Chabova, 2016). According to Rose, corruption is the biggest obstacle to the progress and democratization of post-communist societies and can undermine public confidence in government and consequently erode the legitimacy of newly formed democratic institutions (Rose, 2001, p. 93-106).

Corruption in Albania is a major challenge. The World Bank mentioned the phenomenon of corruption in Albania in its study conducted in 2006, (The World Bank Annual Report, 2006, p. 42-43) citing governance and corruption as the two main concerns of the country. On the other hand, the reports of the People's Advocate, at least since 2002, highlight the phenomenon of corruption in almost every sector and its

relations to the state administration institutions and mainly to the courts (People's Advocate Annual Report, 2003).

From the latest data published by Transparency International, according to the Global Corruption Barometer 2013, it results that 66% of respondents indicated that the level of corruption has increased in Albania. The Transparency International Corruption Perceptions Index of 2017 ranks Albania in the 91st place out of 180 countries, with a score of 38.

During the years of transition, corruption affected every part of the Albanian society and has essentially damaged every fundamental human right, the right to education including, by creating extensive damage in educating citizens with the values of equality, justice and integrity. It has led to the violation of the right to education, particularly to that population stratum coming from a disadvantaged economic background and social problems. Corruption presents a significant challenge to the development of a country, in economic, political, social and integration terms, especially when it comes to a country like Albania that aims to integrate into the European Union. In the political sphere, corruption undermines democracy and good governance, bypassing and damaging formal processes. While in the sphere of human rights, it openly violates them, leaving serious consequences for the values of democratic systems. Although it is a widespread phenomenon in the Albanian society mainly after the '90s, according to a Council of Europe study, corruption in Albanian education has been carefully ignored for several years (Council of Europe, 2010, Project against corruption in Albania (PACA)).

The article will be focused mainly on the phenomenon of corruption in pre-university education as a means that undermines integrity, focusing on the legislative analysis for quality education, as a tool to fight this phenomenon. In addition, it will briefly present how corruption is addressed, and the breach of integrity in the pre-university education curricula.

Literature research

According to researcher Deliversky, corruption is an establishment of "the conduct of persons entrusted with public or private responsibility and who neglect their duties to achieve unjustified benefits." (Deliversky, 2016, p.141). It is often defined also, as the abuse of public power for private gain (Saunders, 2016, p. 9). According to Nye quoted by Cardenas, (Cardenas, 2006, p.8) corruption is associated with a behavior that deviates from the duties and public role of an official due to private matters (family, close family, private clique); financial or statutory gains; or violations of the rules against the exercise of influence for personal profit. These include behaviors such as bribery; using a reward to overturn a person's judgment in a position of trust; nepotism; gaining a position/task due to a quality/character rather than merit); and misappropriation (misappropriation of public resources for private use)."

Research by Hallak and Poisson (Hallak and Poisson, 2007, p. 29) shows that corruption in the education sector is defined as "the systematic use of public office for private gain, the impact of which is significant on the availability and quality of educational goods and services and consequently on access, quality or equity in education". According to them, this definition combines three elements: First, it bases itself on the standard definition of corruption in the public sector, namely "use of public

office for private gain". Second, it limits the scope of controlled behaviors of those regularly observed, which results directly from malfunctions in the system - thus excluding individual behaviors observed episodically and resulting mainly from the attitude of a particular person. Third, it creates a link between these behaviors and their effects on the system, which means: reduction of available resources, reduction in their quality and their unequal distribution.

What are the forms through which corruption is manifested in education? According to Osipian, (Osipian, 2008, p.348) corruption forms and phenomena include bribery, nepotism, favoritism, deception, deceit, embezzlement, plagiarism, ethical misconduct and breach of contract. The areas included are enrollment in pre-university education, teaching process, school completion/graduation, assessments received, licensing and accreditation, employment of teachers and other teaching staff, procurement, grants, medical services. Interactions include: state-school, business-school, school-student, school-administration, student-administration, and state-student relations.

According to Hallak and Poisson, (Hallak and Poisson, 2007, p. 55) there are known at least five forms of corruption: a) embezzlement (theft of public resources by state officials); b) bribery or bribery (payment in money or other similar means) given or received in a corrupt relationship; c) fraud (economic crime involving several types of fraud); d) extortion (money and other resources obtained through the use of force, violence or threats of use of force); e) favoritism (the mechanism of abuse of power meaning "Privatization", as well as the very biased distribution of state resources.

According to the Albanian legal framework, corruption is categorized into the active and passive type, depending on the individual who offers the illegal benefit or who benefits from it. In relation to people holding public office, including in the field of education, passive corruption means seeking or obtaining, directly or indirectly, any type of irregular benefit or promise, for oneself or other persons, or the acceptance of an offer or a promise arising from an improper benefit, from a person exercising public functions, in order to perform or not to perform an action related to his duty or function (Criminal Code of Republic of Albania, 1995, art. 259).

Tackling corruption in the Albanian legal framework of pre-university education

Albania ratified in 2006, the United Nations Convention against Corruption which, provides for the obligation of states to strengthen the recruitment systems of public service employees. This is accomplished by selecting individuals, who are equipped with proper education, and training programs and have the appropriate knowledge of the corruption risks posed by the exercise of these functions (Law no. 9492, dated 13.3.2006, "On the ratification of the United Nations Convention against Corruption of the Republic of Albania).

This obligation sets forth in the international instrument requires from the state to take measures to fight corruption, both in the legislative and curricular aspects in terms of providing knowledge and addressing the phenomenon of corruption and its consequences starting from pre-university education curricula.

The Law on Pre-University Education in Albania adopted in 2012 has sanctioned as one of the goals of the pre-university education system the formation of

every individual with the deep conviction that justice, peace, harmony, cooperation and respect for others are the highest human values (Article 3, letter "c" of Law no. 69/2012, dated 21.06.2012, "On the pre-university education system in the Republic of Albania). For this purpose, the law has recognized as general principles, the predominance of the student's interest in the activities of the institutions of the pre-university education system. Thus, respecting, protecting and promoting human rights and freedoms in general and the rights of children in particular; protecting students and educators from any form of action or omission that may cause them discrimination, violence, ill-treatment or moral damage; the principle of student inclusion; the right of everyone to quality education and equal opportunities for education, on the basis of which the school-teacher-student-parent-community relations will be built on.

The Law on Pre-University Education, on the other hand, provides for the establishment of the Ethics and Conduct Commission in the educational institution (Article 33, of the Law no. 69/2012, dated 21.06.2012, "On the pre-university education system in the Republic of Albania), which has the task of reviewing the students, parents and employees complaints of the violations of ethical and behavioral norms by proposing to the institution relevant measures. However, there are no published reports from local schools or public instances on the work done by these commissions in order to understand what are the most common violations of ethics and behavior in educational institutions.

Despite acknowledging several issues affecting the reduction of quality in education, the pre-university education strategy 2014-2020, did not mention and did not analyze the presence of the phenomenon of corruption in the pre-university education system (Decision no. 11, dated 11.01.2016 of the Council of Ministers, "On the approval of the strategy for the development of pre-university education, for the period 2014-2020").

It is the Normative Provisions in Pre-University Education, (Order no. 343, dated 19.08.2013 of the Minister of Education and Science, "On the approval of Normative Provisions for the pre-university education system", article 40) which constitute the basic rules on which the activity of the educational institution is based. These provisions constitute the first sub-legal act that has defined prohibitions within the course of the teacher's work, related to corrupt actions caused by the educational staff. The teacher is forbidden to remove the student from the lesson for personal issues or needs; take private courses with students of his school; have cash relationships with students or their parents; as well as to force students to purchase literature that is not included in the Annual Textbook Catalog.

One of the main tasks of the teacher is to respect the Code of Ethics, which is a descriptive rather than a normative document (Code of Ethics for Teachers in Public and Private Pre-University Education approved by the Minister of Education and Sports on November 30, 2013). Based on this document, the cases of corrupt actions encountered in the literature and the Albanian reality, can not be processed properly within educational institutions.

In the framework of the procedures for the development of national exams, the Normative Provisions have provided for violations of correctness during the state matura by the school principal or teachers, which are analyzed by the State Matura Commission (Order no. 343, dated 19.08.2013 of the Minister of Education and Science, "On the approval of Normative Provisions for the pre-university education

system", article 108). However, no relevant explanation was provided for these cases, especially concerning the behavior that constitutes a violation of the procedures for the conduct of these exams. It should be noted that in the majority of the legal and political documents, there is a lack of clear provisions supporting the fight against corruption, helping in this way evaluation of integrity.

Preparing students in educational institutions with the values of human rights, equality, respect for individuals, ethics and integrity go hand in hand with the fight against corruption. Corruption in its broadest form becomes synonymous with vices, diseases of politics and bureaucracy becoming identical to unethical behavior or breach of integrity. However, informing students should not just happen in schools. An important role is played by family, society and the surrounding environment.

In the absence of an analysis of the situation in pre-university education by the state, the presence of corruption in the pre-university education system has been examined in the framework of the Council of Europe Anti-Corruption Project in Albania (Council of Europe, 2010, Project against corruption in Albania (PACA). The final report identified corrupt behavior in several decision-making processes regarding the constituent elements of the pre-university education system, and specifically bribery given for student admissions to higher education institutions, problems in the selection of textbooks through Altext, or lack of relevant legal provisions regarding the collection of records and data of students enrolled in pre-university education. Furthermore, UNESCO in its analysis of education policies in Albania in 2017 has identified the problem of political interference and corruption in employment decisions in the pre-university education sector (UNESCO, 2017, Albania Education Policy Review: Issues and Recommendations, p 38).

However, corruption in education in Albania is not focused only on pre-university education level. The study conducted by the Youth Council of the American Embassy on the fight against corruption in the higher education system in Albania (US Embassy Youth Council in Albania, 2017, Fight against corruption in the higher education system in Albania, The case of the University of Tirana) highlights the presence of various forms of corruption in the respective faculties of the University of Tirana, as well as the students' certainty that corruption is one of the most acute problems in a country like Albania.

On the other hand, the public policies adopted in relation to the change in the admission procedures of students to higher education institutions, and the inclusion of the state matura in 2006 (Decision no. 78, dated 08.02.2006 of the Council of Ministers, "On the establishment of the State Matura and admissions in public high schools", as amended), the closure of various institutions in private pre-university education and higher education (Decision no. 539, dated 06.08.2014 of the Council of Ministers, "On revoking the license of some private institutions of higher education"), the limitation of the number of textbook providers (Article 6 of Law no. 56, dated 28.05.2015, "On some changes in law no. 69/2012, "On the pre-university education system in the Republic of Albania") or the development of the employment portal "Teachers for Albania" (Instruction no. 55, dated 19.11.2014 of the Ministry of Education and Sports, "On the organization of testing of candidates for practicing the profession of teacher in pre-university education"), mean the acknowledgement by the state of the phenomenon of corruption in pre-university education in the following directions:

- the admission of students by higher education institutions;

- poor quality of educational services provided by educational institutions;
- the process of creating and selecting school textbooks;
- the recruitment of teaching staff by the part of the heads of local education units.

Tackling corruption in pre-university education curriculum

Starting from the Xth grade of upper secondary education, students in the pre-university education system are prepared for active participation in a democratic society, through the acquisition of knowledge on law, human rights and education and related legislation. Through the subject of “Citizenship”, the student will gain competencies to make decisions about the actions he takes, without harming the interests of others, by the help of knowledge on the importance of law in society, the diversity of social and legal relations, the consequences of law enforcement / non-enforcement for the individual and society and factors affecting the quality of law enforcement.

Knowledge of the law helps to better understand the human rights in the national and international arena. Additionally, it foregrounds the pivotal role of education in each individual’s life, by stressing on the role and responsibility of school institutions to guarantee the right to education for all.

Nevertheless, it should be noted that in the legislation of the field of education and the curriculum of pre-university education, students do not try to corroborate or further analyze cases or situations of corruptive practices, nor in the fight against corruption one. According to Transparency International, corruption not only distorts access to education but also affects the quality of education and the credibility of academic research findings. Risks of corruptive practices can be found at every level of education and research systems, from the procurement of school equipment to nepotism in hiring teachers, or promoting research results for personal gain. On the other hand, education serves as a tool to strengthen personal integrity, and it is essential for addressing corruption effectively.

Conclusions

After reviewing the literature which various studies conducted in the field and the relevant legislation in pre-university education, it is concluded that the identification of cases of corruption and the fight against it in the right to pre-university education is not accompanied by system analysis, the legal framework in force, to anticipate measures against corruption cases and to increase transparency, as well as personal and institutional accountability.

Considering the significant lack of studies and analyzes on the phenomenon of corruption in pre-university education in Albania, there is a need to complete the legal framework in force, regarding the detailed forecast of all possible cases of corruption in education. This should be accompanied by the establishment of effective mechanisms in order to denounce cases of corruption in education, both within the

school, local education units, and the central government, and to raise the awareness of students through the best practices used in the fight against corruption.

On the other hand, increasing transparency in all educational processes while leaving no room for abuse of power or relevant public authority, serves the fight against corruption.

In order for students to gain knowledge during the teaching process on the forms of corruption in the field of education and beyond, it is necessary to supplement the pre-university education curricula in the field of sociology and human rights, with analysis and examples of convicted cases related to corruption, accompanied by the identification of punitive sanctions against individuals who commit corruptive practices.

A comprehensive approach is needed to fight against corruption prevailing in education in Albania by providing for the right to education to the younger generation.

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