

# LIBERTAD DE EDUCACIÓN O ENSEÑANZA

## FREEDOM OF EDUCATION OR TEACHING



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### RESUMEN

El ser humano en su proceso de enseñanza - aprendizaje distingue procesos y modelos en la educación formal que considera pertinentes conforme a su acceso. El derecho a la educación es un derecho de toda persona, la cual se asocia con la educación no formal. Como parte de la libertad de educación o enseñanza, está se comprende desde un aspecto de libertad por parte de los padres, tutores o el propio estudiante a elegir el tipo de educación conforme a creencias, convicciones, modelos de enseñanza - aprendizaje y regularmente, o en su caso la mayoría, reside en una educación en el sector privado y no público. Este documento pretende exponer algunos aspectos generales del derecho a la libertad de educación o enseñanza conforme a una revisión literaria.

**Palabras clave:** derecho, educación, libertad de decisión, sistema educativo.

### ABSTRACT

*The human being in his teaching-learning process distinguishes processes and models in formal education that they consider pertinent according to their access. The right to education is a right of every person, which is associated with non-formal education. As part of the freedom of education or teaching, it is understood from an aspect of freedom on the part of the parents, guardians or the student himself to choose the type of education according to beliefs, convictions, models of teaching learning and regularly or where appropriate the majority resides in an education in the private and non-public sector. This document aims to expose some general aspects of the right to freedom of education or teaching according to a literary review.*

**Keywords:** Law, education, freedom of decision, educational system.

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## 1. INTRODUCTION

The right to educational or teaching freedom implies a transversal process for the person in his teaching-learning process as such entails a system with interdependent aspects such as freedom, equality, justice and prosperity based on a sustainable construction (Naciones Unidas, 2015) and progressive (Rodríguez Acosta, 2018) in the short, medium and long term, even in complex situations caused by natural phenomena or actions of the human being in which the educational system may be immersed.

Formal education entails a co-responsibility between the State and civil society (Anzola Nieves, 2012) (Torres, s/f), in the first falls the obligation to establish and maintain the educational system in terms of infrastructure, planning and execution with conditions of availability, accessibility, acceptable and adaptable. In the case of civil society, it copes with decision-making and participation in actions and activities as members of the student community; likewise, the legitimacy of the free and full development of the human personality is reflected.

The right to education has been integrated based on a multidimensionality of education through words such as the school system, training, the acquisition of knowledge, the legitimization of institutions, which develop through institutions forms of implementation and development.

An important point is the recognition of the right to education as a civil and political right. Not only is there the right of parents and their own children to educate and decide their studies freely in the sense of *laissez faire et laissez passer* (González Fernández, 2018) but, in other very general circumstances, there is also a responsibility of parents with their children to give them an education.

Rallo (2017), points out that it is evident that liberals' consent that each adult individual has the right that others do not force him to educate himself in those matters in which he does not wish to

be educated: it is a negative right or not to be indoctrinated by any group, sect or State. In this sense, every minor by the simple fact of being a person is attributable to him the positive right in which access to education must be guaranteed.

## 2. EDUCATION AS A RIGHT

In Mexico, the right to education is recognized in Article 3 of the Constitution, which provides for access to this right (Article 3, CPEUM) at educational levels, emphasizing the responsibility of the State to raise awareness of its importance. But it does not restrict or limit access to education only to the State but establishes and guarantees education through private schools.

All public administration, in this case concerning formal education, establishes public policy strategies that provide for quality actions, inferring as such the educational program and the infrastructure aspect (physical and virtual).

As a human right, education is part of the integration and formation of the personality of the subjects since it entails the access, acquisition and development of knowledge, skills and competences autonomously. In addition to being a human right, everyone is a right holder who carries implicit the principles of interdependence, indivisibility, progressivity and universality.

Jiménez (2019) describes dignity as food of rights such as education, which forms and transfers to the individual the basic tools to achieve the goals set by the journey of their own humanity, in addition to constituting a basic right of intellectual conformation in the vital purpose that means the free development of the personality of the subject. Which underlines the importance of education in the formation of the person.

In this process of the right to education and in relation to educational freedom, innovative processes

are proposed that allow greater exercise of decision-making and participation of society, proposing structural changes based on understanding aspects of critical training, capable of modifying and adapting new processes, in addition to the established one.

Educational freedom concentrates fundamental aspects that as a formative part of the person strengthens the freedom in members of the community or society to decide the formative process in the education of their children or guardians based on convictions of educational ideals to mention the Montessori model or to carry out a parallel education, that is, of formal education based on educational programs that at the same time carry a religious formation, that in the case of Mexico all States carry out this type of education in private schools. Decision-making then falls on educational or teaching freedom, the main aspect of which is freedom of decision.

### 3. EDUCATIONAL OR TEACHING FREEDOM

The Sustainable Development Goals (Naciones Unidas, 2015) highlight education as an aspect of theoretical and practical knowledge that promotes sustainable development, human rights, equality, cultural

diversity among others, through the strengthening of teacher training. It has a range of possibilities to ensure access to quality education.

A quality education can come from different educational systems and teaching methods from homeschooling (Jamil Cury, 2019) to full hospitalization and a free society must respect and promote that there are all those systems that adapt to the specific needs of each student.

In the case of homeschooling (teaching at home or at school) it indicates the decision-making power of the parents or guardians in choosing valid alternatives regarding the teaching and education of the children. It is an option of educational training at home with its own methodology and pedagogy (Valle Aparicio, 2012). It must consider personal development in respect for coexistence, fundamental rights and freedoms, pronouncing content and values in accordance with the legal and academic system of the educational level in progress and established.

In the same vein, a process is understood that also involves self-learning, self-discipline (Salcedo Benites *et al.*, 2021) not only for the student but for parents or guardians. Some cases are:

TABLE 1.

Countries with criteria of educational freedom

Country	Aspects
Argentina	In his education of educational freedom, he incorporates comprehensive sex education, in this regard they point out the scope and implications on issues such as abortion, sexual responsibility, planning.
United States	They add aspects or criteria of intersectionality, social identity that address in a particular way issues of gender, ethnicity.
Chile	They consider important aspects such as cultural and inclusive (Muñoz Gaviria, 2017).
Mexico	There are educational establishments incorporated under a scheme of educational models (Ayala Hernández, 2012), the plurality of educational establishments goes into consideration of religious beliefs or educational models.

Source: own elaboration.

The pedagogical approach must be integrated with elements of social process, openness to dialogue and communication, cooperation scheme, strengthen the

process of adaptation of new critical schemes that allow to have intellectual skills, cognitive objectives and their relationship with society and the future.

There are educational establishments from the basic to higher level that the contents of the programs consider what the Ministry of Public Education indicates, but they preponderate the institutional vision and mission based on convictions in some type of community, group, among others. Likewise, there are schools that adopt specific learning methods based on educational models different from that of public schools and indicated in public education programs.

Betting on educational freedom means opening the way for education in the market. The society in coordination with the government is the one who has the educational task obtaining options of resources, trained people and more complete information.

#### 4. CONCLUSION

Education is constituted as a human right that is part of the individual freedom that a person exercises as a right. In this regard, educational freedom is an option in the range of the plurality of the educational system with respect to access to education as a right.

It is recognized and regulated in the Mexican State, represents a way of choice for the person responsible for the student, allows to be an option that integrates the aspects of the free development of the personality as a member of a community, beliefs, group or community. It is important to note that this existing option is recognized but also adheres to principles and norms that regulate the Mexican State, which promotes and respects democratic, equitable, egalitarian life through tolerance, respect and inclusion.

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