

Dilemmas and Countermeasures of Preschool Children's Right to Education in States of Emergency

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Abstract. The right to education is an inherent and inalienable fundamental human right. The importance of preschool education as the starting point of education cannot be overstated. The sudden onset of COVID-19 has disrupted traditional offline education. Furthermore, online distance learning has become a natural response to the normalization of epidemic prevention and control, and preschool education is naturally among them. Nevertheless, there are gaps in the current institutional framework, and preschool children face additional pedagogical risks in implementing online education, which makes realizing preschool children's right to education a dilemma of low quality and inequity. Therefore, addressing the existing practical difficulties is not only a matter of urgency to guarantee the realization of the right to education for preschool children in an emergency but also a matter of necessity to improve the emergency response system.

Keywords: Preschool Children; The Right to Education; States of Emergency; Equity in Education.

1. Introduction

The COVID-19 epidemic swept through the world at an unstoppable pace, and because the virus spreads so quickly and is so harmful to humans, this significant public health emergency has brought immeasurable inconvenience to all countries. In this particular period, China has adhered to the concept of people first and life first. Under the premise of ensuring the safety of people's lives, governments at all levels are integrating and controlling the resources of all sectors of society to restore social order to the greatest extent possible. Nevertheless, some rights of citizens will still be subject to unavoidable restrictions, but not all rights are subject to derogation.

Respecting and safeguarding human rights is a fundamental principle that must be observed in modern constitutional society. The right to education, as a fundamental human right, is implemented and protected by the Constitution. However, compared to other human rights, such as the right to life, equality, and freedom, the right to education has been valued by countries around the world since the end of World War II, and its rapid development is only a few decades old, so it has not yet developed a complete emergency response system in the face of unexpected risks.

In emergencies, the traditional offline education model has been strongly impacted, and online education, internet education, and distance learning have gradually entered the public domain. These new educational methods have become an effective way to address the limitations of the right because they break traditional education's time and space limitations and facilitate the circulation and sharing of quality educational resources, thus promoting the education process for all and lifelong learning. However, due to their particular characteristics, preschool children still have plenty of practical obstacles in the trend towards online education, making it much less effective and limiting the right to education to a great extent.

2. The Specificity of the Right to Education of Preschool Children

According to the educated person's developmental stages and growth rules, education is roughly divided into several stages, such as preschool, primary, middle, and advanced education. As the main subject of the entire process, the person receiving education plays a decisive role in the content and means of education at each stage.

Online pre-primary education in emergencies can be a tough challenge because of the unique characteristics of the preschool child. The target group for preschool education is children aged 3-6 years who are mentally immature, self-centered, unable to take care of themselves and protect themselves, and unable to express their thoughts in logical and explicit language. The unique characteristics of preschool children lead to particular demands on the educator, the educational environment, and the educational approach.

2.1. The Specificity of the Educator

"Without love, there is no education." In preschool work, it is crucial to create a good working environment that relies, first and foremost, on the love and responsibility of the teacher. Without love and responsibility, teachers cannot provide a good learning atmosphere for young children or make them feel pleasant, cheerful, and secure. Therefore, a caring and responsible preschool teacher is an emotional and fundamental requirement for children.

Second, as beginners, preschool children are inquisitive and exploratory, requiring educators to have sufficient knowledge of various aspects of natural science, art, and culture.

Finally, they are still young and cannot care for and protect themselves. While teaching them good habits and helping them to understand the world, teachers must also have protective and nurturing skills to enable children to grow up in a warm and healthy environment.

2.2. The Specificity of the Educational Approach

At this early stage of life, the easiest and most effective way for preschool children to learn about the world is through hands-on exploration, focusing on acquiring direct experience. Therefore, the educational approach requires play and activity as the primary methods.

Play is considered a relaxing form of entertainment for the public, but for preschool children aged 3-6 years old, play is the principal means by which they see and understand the world. Through role-playing games, for example, they choose their favorite subconscious characters to play and imitate. Through these games, they understand what is good and beautiful, thus enhancing their ability to distinguish between right and wrong. In addition, they can develop a sense of teamwork and are integrated into a diverse social environment through this process.

Moreover, Activities are the primary way preschool children gain direct experience. Because of their intense curiosity and weaknesses in comprehension, theoretical arguments are far less critical than their hands-on exploration, which fosters independent thinking, practical skills, and creativity in preschoolers. Therefore, play and activity are two essential components of preschool education.

2.3. The Specificity of the Educational Environment

The environment is subtle and far-reaching to human development. Most preschool children are between 3-6 years old, and their cognition of the world is still at a naive and ignorant exploration level. A too-deep educational environment will give them a considerable sense of vigilance and strangeness in kindergarten, which is not conducive to their physical and mental development. Generally, the design requirements for the overall environment of kindergartens are supposed to meet the needs of childlikeness, education, and artistry based on safety.

First, as mentioned above, play and activities are essential educational approaches in preschool education; however, preschool children are physiologically vulnerable. So, the kindergarten must ensure their safety to the greatest extent possible and create an appropriate educational environment.

Second, while protecting their inner innocence, the educational environment should still play a crucial role in helping preschool children to integrate from a single-family environment to a diverse school environment as soon as possible.

Finally, the kindergarten needs to use an artistic environment to give preschool children a correct perception of the world's beauty and avoid forming an aberrant aesthetic.

3. The Practical Dilemmas of Realizing Preschool Children's Right to Education in States of Emergency

The current dilemmas and pedagogical risks in states of emergency create barriers to equal access to high-quality and meaningful education for preschool children. Moreover, the lack of access to high-quality and equitable education somewhat limits their rights.

3.1. The Inadequacy of the Legal System Restricts the Realization of the Quality of Rights

Realizing rights requires a complete legal system as a basis and guarantee. When emergencies occur and the social order is in an abnormal state, the fundamental rights of citizens should be sufficiently and entirely protected by the legal system, which is not only a requirement of the system itself but also a necessary guarantee to help human rights to move from ought-rights to actual rights in emergencies. In the case of preschool education, however, there are still deficiencies with the current legal system that limit the access of preschool children to high-quality education.

On the one hand, the present level of legislative protection for preschool education is relatively low. Among the four stages of education, only preschool education has no law to protect it. The highest level of effectiveness in the current legislative system concerning preschool education protection is *the Administrative Regulation on Kindergarten Management*, which came into force in 1990 and is the third level of effectiveness in the legal system.

On the other hand, there is a blank in emergency response laws for preschool education. Because of the impact of emergencies on the educational order, protecting the right to education for preschool children relies on laws on both emergency response and preschool education. Nonetheless, the current legal situation is that emergency-related legislation mainly focuses on how to respond to emergencies and does not provide comprehensive norms on realizing the right to education for preschool children. Meanwhile, the laws on education are mainly focused on the obligations of teachers, schools, or other educational institutions and administrative authorities and do not provide a complete basis for regulating how the right to education of preschool children is carried out in states of emergency, what remedies are available if the right is infringed, and what limitations are imposed on the right.

3.2. The Constraints of Online Education Limit the Effective Realization of Rights

Because preschool children have unique characteristics from those educated at other stages, special requirements should be placed for educational methods, educational environments, and educators. Although the educational method based on activities and games and the safe and artistic childlike educational environment are only auxiliary means in preschool education, they can achieve the effect of enlightenment education with half the effort. However, the limitations of online education create a dilemma in implementing the right to education.

First, the dominant position of the teacher is weakened. Both teachers and learners are subjects in the education process, and teachers play a leading role. With online education, teachers have less time with preschoolers and cannot communicate face-to-face. The hindrance caused by screens can make teachers much less friendly and binding, and their role as role models is not well served, preventing preschoolers from receiving a systematic and professional education.

Second, the impact of the educational environment is diminished. Online education in states of emergency can solve the dilemma that citizens' right to education is wholly restricted. Nevertheless, online education detaches preschool children from the environment of group living, and enjoyable play activities cannot be carried out, making educational initiation much less effective.

Finally, it should not be overlooked that most teachers choose video viewing or offline assignments to complete their teaching assignments. Most tasks involve parental involvement, and preschoolers

play a minor role. The lack of classroom atmosphere and student-teacher and student-student interaction makes video viewing less useful for preschoolers, thus making online education ineffective.

3.3. Imbalances in Educational Development Hinder the Equal Realization of the Right

Any legitimate right should align with a particular period's economic and social development. [1] The uneven development of education has been a constant problem in China due to the development of the economic level. As a fundamental human right, the right to education naturally encompasses the pursuit of equality for all. The equality of preschool children's right to education is mainly expressed in the equality of access to education and educational conditions.

Online education in states of emergency requires good network conditions, adequate educational equipment, and relevant educational platforms to break the time and space constraints in pursuit of efficient integration and sharing of educational resources. However, these children are denied access to online education in remote and poor areas due to the lack of necessary material and technical support, a severe challenge to educational equity.

4. Countermeasures to the Protection of Preschool Children's Right to Education in States of Emergency

Risks and opportunities coexist. How to deal with risks, balance the relationship between the protection of rights and emergency, and build a complete emergency response system has become a severe test for modern countries. As scholars have pointed out, a state of emergency and the protection of rights are not always opposed, nor does the former necessarily exclude or squeeze the latter's existence. [2] In the same way, the right to education of preschool children can be guaranteed moderately and substantially, even in a state of emergency, with a well-developed legal system, a scientific model of education, and the necessary hardware and facilities.

4.1. Alleviating Deficiencies and Filling Gaps in Existing Laws

In a modern society governed by the rule of law, the law, as a manifesto for protecting civil rights, guides realizing rights and fulfilling obligations. Blank legal systems and ineffective regulations fail to provide clear directions for exercising rights and a complete system of remedies when rights are infringed. Therefore, alleviating deficiencies and filling gaps in existing laws is the first step in protecting rights in an emergency.

First, as far as preschool education is concerned, a systematic and comprehensive preschool education law with a high level of effectiveness is needed to make comprehensive arrangements for preschool education in China. It should provide detailed provisions on the subjects, objects, and contents of the relevant legal relationships and clarify the responsibilities of various parties. In addition, it ought to plan reasonable and scientific education methods according to the particular characteristics of preschool children and stipulates the operational mechanisms and rights remedies for preschool education

Second, given the potential risks of sudden social disorder, it is necessary to enact *the Emergency Law*. On the one hand, this law is supposed to clarify the rule of law in a state of emergency, preventing the expansion of state power and safeguarding citizens' fundamental rights. On the other hand, it makes a comprehensive plan for all aspects of society at the legislative level, providing institutional protection for exercising citizens' rights, administrative enforcement, and judicial activities and restoring social order as soon as possible.

4.2. Constructing an Education Model that Combines Online and Offline Approaches

In response to the current boom in online education, there are two extreme views in academia: the moving theory, which calls for offline classes to be moved online, and the substitution theory, which suggests that online education can completely replace offline education. [3]

Both views have apparent limitations. So, in July 2020, the National Development and Reform Commission and other departments jointly issued *Opinions on Supporting the Healthy Development of New Industries and New Modes and Activating the Consumer Market to Drive Employment Expansion*, proposing: "Vigorously develop integrated online education. Build a mechanism for the integrated development of online and offline education, and form a benign interaction." This document overcomes the shortcomings of both views by affirming the fundamental role of online learning in guaranteeing the right to education while clearly emphasizing the vital role of offline education.

Online learning has shown strong efficacy in the epidemic prevention and control stage and also highlights the unique advantages of offline teaching. In the aftermath of the COVID-19 outbreak, online education effectively ensured the safety and health of teachers and students, and more than 200 million primary and secondary school students attended school online, an unprecedented milestone for online education on a large scale. [4] Online education can break the limitations of space and time, make flexible use of fragmented time, and adjust the learning program according to the actual situation, making up for the shortcomings of offline classes, which cannot fully take care of the actual situation of each student. Offline education has an intense learning atmosphere, simple and direct emotional communication, and efficient and convenient teaching by example, all of which can help students build good emotional ability and moral quality.

Therefore, if the purpose of education at all stages is to be achieved, it is necessary to combine online and offline education, applying the remote information access and content delivery of online education to the teacher's explanation and teacher-student interaction and cooperation in the offline classroom in order to achieve the best educational results.

4.3. Strengthening Infrastructure and Integrating Educational Resources

Online education enables the sharing of resources and promotes equity in education, which is based on the development of technological networks. The lack of infrastructure in remote and poor areas has deprived them of the opportunity to share resources, and this inequity has widened the gap between them and developed areas, exacerbating educational inequality. According to the composite nature of the right and obligation of the right to education and the theory of civil rights - state obligations, the State, as the duty-bearer of the right to education, must fulfill its obligation to provide equal access to education for its citizens.

First, it is necessary to increase the investment in infrastructure in remote and poor areas to ensure that the network can operate stably based on full coverage, which is essential for introducing information technology in education. Specifically, the government should play a role in promoting the development of education by implementing precise assistance, while schools ought to gain an in-depth understanding of students with difficulties and provide timely and practical assistance to ensure that preschool children can receive an education without discrimination, thus genuinely realizing the function of promoting equity in online education.

Second, diversified educational resources should be integrated. Due to cultural and economic differences, preschool children in different regions have different educational needs. Moreover, there are also differences in personal development among preschool children. Integrating diverse educational resources, widening the options for preschool children's educational development, and meeting the educational needs of different individuals is an essential step toward putting into practice the substantive equality of preschool children's right to education.

5. Conclusion

In a state of emergency, the priority for society is to take the most effective measures to control and even quell the emergency so that regular social order can be restored as soon as possible. In pursuit of this aim, some citizens' rights are severely restricted. The right to education, however, is a fundamental human right and an essential guarantee for the full development of the individual. Thus, in a state of emergency, balancing society's public interest and citizens' right to education is a real issue that should be emphasized.

The rise of online education has provided some protection for preschool children's right to education, but it has also created new educational dilemmas. Hence, a comprehensive legal system and an education model that integrates online and offline education are needed. As the duty-bearer of citizens' right to education, the State should play its part in consolidating resources and investing in education, ensuring that fundamental human rights are guaranteed even in times of emergency.

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