

Guide to Monitoring the Right to Education

Using Indicators

1 Plan & Focus



2 Identify Deprivations & Inequalities in Education



3 Analyse Education Laws & Policies & Their Implementation



4 Analyse the Use of Resources for Education



5 Examine Policy Processes



6 Report Writing & Advocacy



RIGHT TO EDUCATION PROJECT
promoting mobilisation and accountability

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Introduction

This Right to Education Monitoring Guide (*'Guide'*) is an easy to use, step-by-step guide to monitoring problems in education, using a human rights-based approach.

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Why use the *Monitoring Guide*?

You should use this *Monitoring Guide* if you would like to add a human rights perspective to your education advocacy¹ efforts.

More often than not the education issues you will want to monitor are human rights issues. By linking the issues you encounter to the right to education, your advocacy efforts are strengthened because States are legally and politically bound to protect everyone's human rights and can be held accountable if they fail to do so.

This *Guide* aims to simplify the monitoring process² and ensure that the right to education remains the focus of your advocacy efforts.

This *Guide* consists of six easy to follow steps. Each step provides guidance on how to monitor various aspects of the right to education, particularly through the use of human rights indicators.³

Using indicators will help you to gather evidence that a human rights violation has occurred. The Right to Education Project⁴ has developed a comprehensive list of human rights-based education indicators.⁵ In order to help you select the most appropriate indicators for your monitoring project, we have created a special online tool - the *Right to Education Indicators Selection Tool*⁶ ('Tool').

Why use a human rights approach to advocacy?

There are several reasons for adopting a human rights approach to education advocacy:

- Human rights provide a universally accepted normative framework that details the content of the rights people have and the corresponding obligations of the State. Thus it gives advocates a solid basis upon which to claim that the State has acted in a way that violates the right to education and to demand a change of policy.⁷

- Grounding education advocacy in a human rights framework promotes accountability. Human rights are not just moral rights - they are legal rights. Every country has ratified at least one human rights treaty that guarantees the right to education,⁸ and the majority of countries protect the right to education in their constitutions. This means that most States can be held legally accountable for violations.
- Using human rights-based strategies empowers rights-holders,⁹ who are often ignored, giving them a voice and allowing solutions to emanate from the people who are directly affected. This is particularly important for those belonging to marginalised groups.
- Using a human rights lens to analyse education issues changes the way we view a situation. For example, instead of seeing children who are out-of-school as unlucky or unfortunate, by recognising that they are rights-holders, we realise that these children are in fact victims of intolerable injustices, for which the State must be held accountable.

Why monitor the right to education?

The main purpose of monitoring the right to education is to identify problems in the implementation of the right to education, both in law (*de jure*) and in fact (*de facto*). For example, if a State does not prohibit discrimination¹⁰ in access to and through education, it is likely that many children will be denied their right to education. However, if a State does prohibit discrimination but many children remain out-of-school, the problem is not with the law but with the State's failure to properly implement the right to education through adequate policies and programmes.

It is only by identifying problems – through right to education monitoring – that these problems can be addressed.

When States make a legal or political commitment to implement the right to education (such as by ratifying a treaty, enshrining it in the constitution or guaranteeing it in laws and policies), they must monitor implementation; otherwise they cannot identify problems and solve them. Monitoring is the most effective way to understand problems in education and the impact these problems have. Without this information, States cannot formulate suitable, targeted and effective solutions.

Although the State is responsible for implementing the right to education, it is not desirable for the State to be the only actor engaged in monitoring. The State's responsibility to monitor serves a particular role – to ensure that laws, policies and programmes adequately address real problems. Other actors have different reasons to monitor the right to education.

Civil society plays an important and specific role in monitoring the right to education. Civil society provides an alternative view and insight in to education problems that the State may not be aware of. This is because civil society organisations (CSOs) are usually embedded in specific areas and have specialist knowledge of the problems that their constituents face. They may also have the time and skills that States lack to examine issues more rigorously and comprehensively.

In most instances, civil society monitoring complements State monitoring. Like States, civil society monitors *de jure* and *de facto* enjoyment of the right to education. However, in certain situations the State itself may be responsible (either by act of omission or commission) for certain problems. In these instances, it is the role of civil society to hold the State to account for its failure to protect the right to education.

Unlike States, CSOs cannot effect direct change. In order to hold the State to account and improve the protection of the right to education, CSOs must influence duty-bearers¹¹ through advocacy. In short, CSOs monitor the right to education in order to put pressure on the State to fully implement the right to education for all.

Lastly, human rights mechanisms¹² such as UN treaty bodies,¹³ National Human Rights Institutions and ombudspersons, and international development agencies also engage in monitoring work.

Human rights mechanisms play a specific monitoring role in that they assess the compliance of the State with either national or international law. These processes usually engage both the State and civil society, for example both the State and CSOs submit reports to UN treaty bodies.

International development agencies, in collaboration with States and civil society, work together to solve specific education problems and will usually monitor the right to education in order to uncover where States most need support, usually in the form of financial aid and technical support.

Who should use the *Guide*?

This *Guide* is aimed primarily at civil society organisations (CSOs) including: national and international non-governmental organisations, trade unions, faith-based organisations, indigenous people's movements, and other groups.

For CSOs interested in monitoring the right to education, whether coming from a development, education or human rights background, the overall purpose of human rights monitoring¹⁴ is generally to solve specific problems faced by the constituencies of those CSOs and hold States accountable for their human rights obligations. Monitoring serves as the backbone of effective advocacy:¹⁵ its main purpose is to generate evidence to advocate for the full realisation of the right to education.

Beyond CSOs, other actors may have an interest in using this *Guide*, such as: academics, governments, international organisations and donor agencies.

What are the special features of the *Guide*?

Using indicators to monitor the right to education

This *Guide* is designed to help advocates to strengthen their advocacy¹⁶ efforts by using human rights indicators.¹⁷ The use of human rights indicators can help advocates build a strong case, based on empirical evidence, that there has been a violation of the right to education. Specifically human rights indicators can help users to:

- Obtain evidence about the scope and magnitude of various forms of deprivations and inequalities in the field of education.
- Reveal and challenge policy failures that contribute to the perpetuation of those deprivations and inequalities.
- Assess the implementation and enforcement of education laws and policies.¹⁸
- Uncover hidden forms of discrimination,¹⁹ providing standardised measures that can be compared across various population groups.

Each step of the *Guide* will explain which types of indicators you should use, how to select appropriate indicators using the *Indicators Selection Tool*,²⁰ how to collect data for your chosen indicators and how to interpret that data from a human rights perspective.

Types of human rights indicators

This *Guide* uses three types of human rights indicators, which collectively enable you to monitor various aspects of the right to education:

- **Outcome indicators** measure the extent to which a population enjoys the right to education. That is, they measure the impact of the State's efforts to implement the right to education through laws, policies and programmes. For example, primary completion rates²¹ can tell us about the general level of enjoyment of free and compulsory primary education and percentage of students at the lowest level of

reading proficiency²² may, to some extent, tell us whether that education meets students' basic learning needs and is of sufficient quality.

- **Structural indicators** measure the commitments made by States to meet their obligations regarding the right to education, as reflected in the adoption of legal instruments and basic institutional mechanisms necessary for the promotion and protection of the right to education. For example, whether a State has ratified a human rights treaty that guarantees the right to education²³ and incorporated it in to domestic law can tell us about the strength of commitment to the right to education of that State.
- **Process indicators** measure the various types of efforts (such as education policies, education inputs, budget allocation, and programmes and measures to address specific education issues) being undertaken by the State, as the primary duty-bearer,²⁴ in implementing its obligations with regard to the right to education. Process indicators thus measure how the State is transforming commitment into concrete realisation of the right to education for all. For example, percentage of trained teachers²⁵ measures a State's efforts in realising the right to a quality education, and finance indicators, such as education allocation ratio,²⁶ show the extent to which the government prioritises education in the budget.

By using all three types of indicators, it is possible to make the connection²⁷ between the enjoyment of the right to education and the commitments and efforts made by the State. The aim of this Guide is to enable users to show that low levels of enjoyment of the right to education are a result of State actions or inactions, whether it is because of lack of commitment and a failure to adopt laws and policies (measured using structural indicators) or because the efforts they have made are inadequate (measured using process indicators). By showing this you can build a strong case to show that there has been a violation of the right to education.

Indicators Selection Tool

In order to help you monitor the right to education, the Right to Education Project has developed a *Right to Education Indicators Selection Tool*²⁸ containing over 150 indicators²⁹ to monitor just about every aspect of the right to education. However, for your monitoring purposes, you will probably only need to use a small number of indicators which are directly relevant to your work. By default, the *Tool* will show all our indicators. However, when you select the relevant criteria it will eliminate the indicators you don't need, leaving you a list of right to education indicators to use in your monitoring project.

The *Tool* has six selection criteria. For each one you can select the categories that are relevant to the issue you are monitoring. Below is a list of the selection criteria and categories:

The screenshot displays the 'Indicators Selection Tool' interface with five main selection criteria, each with a list of categories and their respective counts. Each criterion has a question mark icon in the top right corner.

- 1. Levels and Types of Education**
 - ☐ Pre-Primary (21)
 - ☐ Primary (36)
 - ☐ Secondary (36)
 - ☐ Vocational Education (20)
 - ☐ Higher Education (16)
 - ☐ Adult Education (3)
- 2. Types of Indicator**
 - ☐ Outcome Indicators (17)
 - ☐ Structural Indicators (19)
 - ☐ Process Indicators (116)
- 3. Areas of Focus**
 - ☐ Quality of Education (62)
 - ☐ School Safety and Violence (18)
 - ☐ Learning Outcomes (7)
 - ☐ School Infrastructure (10)
 - ☐ Teachers (24)
 - ☐ Learning Material (6)
 - ☐ Content of Education (7)
 - ☐ Access to Education (53)
 - ☐ Administrative Accessibility (4)
 - ☐ Economic Accessibility (3)
 - ☐ Physical Accessibility (4)
 - ☐ Free Education (15)
 - ☐ Educational Freedom/Private Education (33)
- 4. Marginalised groups**
 - ☐ Women and Girls (38)
 - ☐ Indigenous Peoples and Minorities (38)
 - ☐ Persons with Disabilities (38)
 - ☐ Persons with HIV/AIDS (29)
 - ☐ Migrants, Refugees and IDPs (33)
 - ☐ Persons in Detention (29)
 - ☐ Persons Living in Poverty (35)
 - ☐ Child Labourers (23)
- 5. Contexts**
 - ☐ Armed Conflict (Including Child Soldiers) (33)
 - ☐ Natural Disasters (18)

Policy Processes and Governance

 - ☐ Transparency (8)
 - ☐ Participation (7)
 - ☐ Accountability (25)
 - ☐ Decentralisation (4)
 - ☐ Education Financing (13)

So, if you wish to monitor the primary education of girls, under *Levels and Types of Education* you should select *Primary* and under the selection criteria *Marginalised Groups* you should select *Women and Girls*. The *Tool* will then eliminate all irrelevant indicators.

In order to further assist you, we have also provided information (where possible) on each indicator, including: definitions, comments on interpretation, where to find data, how data should be disaggregated, and relevant human rights standards.

The *Tool* has been designed to be user-friendly. At each step of this *Guide* you will be shown how to select the most relevant indicators for your project. You will also find further guidance in the *Tool* itself.

Please note that the *Tool* and the indicators are still being developed and tested. If you would like to contribute to this process, please send us your feedback.³⁰

How to use the *Guide*

What to monitor

This *Guide* will help you monitor the right to education, as guaranteed in international and national law.

International law

One of the main goals of monitoring the right to education is to identify violations.³¹ In order to do this you must 1) have a clear idea of the content of the right to education³² and 2) apply the content of the right to education to States' legal obligations.³³ Put simply: you must show that a State has failed to comply with its legal obligations and that this has affected someone's enjoyment of the right to education.

1) The right to education is most comprehensively laid out in Articles 13 and 14 of the *International Covenant on Economic, Social and Cultural Rights*³⁴ (ICESCR). In addition, there are numerous right to education provisions in international law,³⁵ laying out the content and scope of the right to education as applied to different groups and in different circumstances. The normative content of the right to education is derived from international law and is usually determined by the bodies responsible for interpreting treaties, such as courts or UN treaty bodies.³⁶ These bodies use various frameworks to interpret right to education provisions; the most widely used being the 4As framework.³⁷ This states that all education must be:

- **Available** in sufficient quantity.
- **Accessible** to everybody without discrimination.
- **Acceptable**, that is, the form and substance must be appropriate and of good quality.
- **Adaptable**, so that it is able to meet the unique needs of individual students.

2) A violation of the terms of a treaty occurs when a State fails to comply with its human rights obligations. This failure to comply may be a result of direct action (act of commission) or a failure to take steps (act of omission).³⁸

As with other economic, social and cultural rights, the full realisation of the right to education may be hampered by a lack of resources. This means that in some cases, certain aspects of the right to education can only realistically be achieved over a period of time, particularly for countries with fewer resources. For this reason some State obligations are progressive,³⁹ for instance, the introduction of free secondary (including technical and vocational), higher and fundamental education.⁴⁰ Although progressive realisation means that obligations are subject to time and available resources, States are obliged to “move as expeditiously and effectively as possible” towards the full realisation of the right to education. This implies that States should not take backwards steps or adopt measures that will repeal existing guarantees of the right to education. For instance, arbitrarily ending adult education programmes that provide those who have never received or completed primary education with a good quality substitute, would constitute a retrogressive measure.⁴¹

In addition to the obligation to progressively realise certain aspects of the right to education, States have an immediate obligation to “take appropriate steps” towards the full realisation of the right to education to the maximum of its available resources.⁴² A lack of resources cannot justify inaction or indefinite postponement of measures to implement the

right to education. States must demonstrate they are making every effort to improve the enjoyment of the right to education, even when resources are scarce.

One important aspect of the right to education which must be immediately realised, and is therefore not subject to progressive realisation or resource constraints, is to guarantee non-discrimination and equal treatment⁴³ in all aspects of education. Non-discrimination is considered a minimum core obligation.⁴⁴

Minimum core obligations⁴⁵ prioritise certain aspects of the right to education, without which rights-holders⁴⁶ are considered to be deprived of the right to education. According to the Committee on Economic, Social and Cultural Rights⁴⁷ (CESCR), there are five minimum core obligations:

- To ensure the right of access to public educational institutions and programmes on a non-discriminatory basis.
- To ensure that education conforms to the aims of education.⁴⁸
- To provide free and compulsory primary education for all.
- To adopt and implement a national educational strategy which includes provision for secondary, higher and fundamental education.
- To ensure free choice of education without interference from the State or third parties, subject to conformity with “minimum educational standards”.

One commonly used method for clarifying human rights obligations is to apply the ‘tripartite typology’⁴⁹ consisting of the obligations to respect, protect and fulfil.⁵⁰

National law

In most cases it is necessary to monitor the right to education as guaranteed in national law. National law is typically more detailed than international law; it also takes into account the national context and is usually directly applicable.

Violations at the national level occur if an actor (usually the State) acts in contravention of its constitution or education law, if education laws do not align with the constitution or if education policies are not in line with education law.

It is also important to remember that national law should be aligned with international law. States are legally obliged to implement the right to education through the adoption of laws and policies⁵¹ and to repeal laws that run counter to the right to education.

A monitoring framework

This *Guide* is organised around a *monitoring framework*, based on relevant international human rights standards⁵² and the literature on education. There are four substantive steps:

1. Identify deprivations and inequalities in the enjoyment of the right to education using outcome indicators.⁵³
2. Analyse education laws and policies and the implementation of these policies using structural and process indicators.⁵⁴
3. Analyse the use and misuse of financial resources allocated to implementing education policies, using finance process indicators.⁵⁵
4. Examine key policy processes, using process indicators that measure compliance with key human rights principles in the formulation of education policies.⁵⁶

The underlying premise of the monitoring framework is the recognition that prevalent problems in the enjoyment of the right to education (such as insufficient access to education and poor quality education) are often a result of:

- Avoidable deprivations,⁵⁷ that is, people are deprived of their right to education as a result of policy failures that are frequently generated or exacerbated by the lack of political will of governments.
- Unequal enjoyment of the right to education, which could reflect a pattern of discrimination.⁵⁸

The analytical framework at the heart of this *Guide* can strengthen your efforts to hold governments to account for widespread avoidable deprivations and inequalities in education, helping you to assess the extent to which those deprivations and inequalities can be traced back to specific public policy failures, thus building the case for arguing that violations of the right to education have taken place.

The distinction between outcome indicators⁵⁹ and structural⁶⁰ and process indicators⁶¹ is crucial for monitoring the right to education. In most cases,⁶² the first step in the monitoring process is to identify (using outcome indicators) deprivations and inequalities in the enjoyment of the right to education. The next step (using structural and process indicators) consists of identifying the various causes of those deprivations and inequalities in the enjoyment of the right and assessing the adequacy of policy interventions undertaken by the State to address these obstacles.

By linking evidence of the lack of enjoyment of the right to education using outcome indicators (eg high primary school drop-out rates or poor learning achievements in secondary schools) and specific shortcomings in education policies or their implementation using structural and process indicators (eg a high percentage of children for whom school-house distance is more than 5km⁶³ or a low percentage of trained teachers),⁶⁴ the *Guide* can also help users make policy recommendations to address those shortcomings.

It should be stressed that using indicators to monitor the right to education is not a linear process in which the issues and marginalised groups are first identified, then the indicators selected and finally the data collected and analysed. Rather, the monitoring process is an iterative process, in which these steps feed each other. Therefore, once you have moved onto Steps 3, 4 or 5⁶⁵ of the *Guide*, you may sometimes need to return to Step 2⁶⁶ to refine the selection of outcome indicators.

A focus on access to education and quality of education

Although monitoring the right to education can focus on a whole range of topics⁶⁷ most problems related to the right to education are related to two issues: access and quality.

Moreover, many of the obstacles that specific groups face – whether girls, minorities, persons with disabilities or children in detention – are related to inequalities or discrimination with regards to access to and / or quality of education. Even when the focus of a monitoring exercise is another issue – teachers without proper training or working conditions, decaying school infrastructure, lack of sufficient resources for the educational system, etc – these are policy failures which ultimately have a negative impact on access to and / or quality of education. Accordingly, the majority of reports monitoring the right to education focus on these issues. For that reason this *Guide* is primarily focused on helping users to monitor various aspects of access and quality.

However, there are some violations of the right to education that are unrelated to these two areas of focus, such as the freedom of parents to ensure the religious and moral education of their children in conformity with their own convictions and the freedom to establish private institutions (and the obligation that the education given in such institutions conform to minimum standards as set or approved by the State).

At this stage, this *Guide* does not provide detailed guidance on how to monitor these issues. However, the accompanying *Indicators Selection Tool*⁶⁸ lists a selection of indicators for issues related to the right to education not currently covered by this *Guide*. In the future, additional modules will be added on some of these specific issues.

Endnotes: Introduction

¹ **Advocacy** is the process of influencing those who make policy decisions, write laws and regulations, and distribute resources that affect people's well-being. Advocacy delivers deliberate messages intended to influence the thoughts, perspectives and actions of people in authority.

Campaigning is one strategy for advocacy, building public pressure around an issue through strategies like mass action, public forums and media campaigns.

Lobbying is another strategy for advocacy, building pressure around an issue within the education system through strategies such as policy analysis and dialogue, negotiation and forming collaborative partnerships.

Source: Commonwealth Education Fund (2009) *A Budget Guide for Civil Society Organisations Working in Education*: p.24:

www.right-to-education.org/resource/budget-guide-civil-society-organisations-working-education

² **Human rights monitoring** is the process of collection and verification of information on human rights problems. For more details on monitoring the right to education, see Right to Education Project's page on *Monitoring*: <http://www.right-to-education.org/page/monitor>

³ An **indicator** is a "trend or fact that indicates the state or level of something" (Oxford Dictionary: <http://www.oxforddictionaries.com/definition/english/indicator>). Indicators differ from statistics, which tend to be purely descriptive, in that they have a reference point. In the case of human rights indicators, the reference point is human rights norms, standards and principles.

Human rights indicators are used by civil society to monitor human rights compliance and report findings to advocate for changes in legislation, policy and practice.

⁴ See: www.right-to-education.org

⁵ The entire list of right to education indicators can be downloaded, here: <http://www.right-to-education.org/monitoring/content/download-all-indicators>

⁶ Access the *Indicators Selection Tool*, here: <http://www.right-to-education.org/monitoring/tool>

⁷ **Education policies** are the set of actions, laws, regulatory measures, and funding priorities on education adopted by a government.

Strictly speaking laws and policies are distinct: laws are a system of rules that regulate behaviour, and are usually enforceable in courts; whilst policies are informal and set out a government's major objectives, defining the government's priorities and strategies to achieve its goals.

Education policies and laws are the primary means by which the right to education is implemented at the national and sub-national level.

⁸ For a comprehensive list of human rights treaties and other instruments, see the Right to Education Project's page on *International Law*: <http://www.right-to-education.org/page/international-law>

⁹ **Rights-holders** are individuals or social groups that have particular entitlements in relation to specific duty-bearers. In general terms, all human beings are rights-holders under the Universal Declaration of Human Rights.

In particular contexts, there are often specific social groups whose human rights are not fully realised, respected or protected. More often than not, these groups tend to include women and girls, ethnic minorities, indigenous peoples, and migrants and youth.

A human rights-based approach not only recognises that the entitlements of rights-holders need to be respected, protected and fulfilled, it also considers rights-holders as active agents in the realisation of human rights and development – both directly and through organisations representing their interests.

Source: UNICEF *Gender Equality - UN Coherence and You – Glossary*:
<http://www.unicef.org/gender/training/content/resources/Glossary.pdf>: p.5.

¹⁰ **Discrimination** “implies any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms” (Human Rights Committee *General Comment 18*: <http://www1.umn.edu/humanrts/gencomm/hrcom18.htm>: Para.7).

International law prohibits both direct and indirect discrimination:

- Direct discrimination is when a person, on account of one or more of the prohibited grounds (see multiple discrimination), is treated less favourably than someone else in comparable circumstances.
- Indirect discrimination is when a practice, rule, policy, or requirement is outwardly neutral but has a disproportional impact upon a particular group. For an example of indirect discrimination, see *DH and others v Czech Republic*: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256>

For further information, see INTERIGHTS (2011) *Non-Discrimination in International Law: A Handbook for Practitioners*: <http://www.interights.org/document/153/index.html>

¹¹ **Duty-bearers** are those actors who have a particular obligation or responsibility to respect, promote and realise human rights and to abstain from human rights violations. The term is most commonly used to refer to State actors, but non-State actors can also be considered duty-bearers. An obvious example is private armed forces or rebel groups, which under international law have a negative obligation to refrain from human rights violations. Depending on the context, individuals (eg parents), local organisations, private companies, aid donors and international institutions can also be duty-bearers.

Source: UNICEF *Gender Equality - UN Coherence and You – Glossary*:
<http://www.unicef.org/gender/training/content/resources/Glossary.pdf> : p.1.

¹² For further information on human rights mechanisms, see the Right to Education Project's pages on:

- *International Human Rights Mechanisms*:
<http://www.right-to-education.org/page/international-human-rights-mechanisms>
- *Regional Human Rights Mechanisms*:
<http://www.right-to-education.org/page/regional-human-rights-mechanisms>

¹³ **UN treaty bodies** are committees of independent experts created under a particular UN treaty. They are mandated to monitor how States that have ratified the treaty in question comply with their obligations to implement the human rights guaranteed by the treaty. They periodically examine State reports and issue concluding observations on States' compliance to the treaty, as well as make recommendations.

Most treaty bodies can receive individual complaints or communications in cases of human rights violations, if the State in question has recognised the competence of the treaty body to do so.

Treaty bodies also adopt General Comments, which provide authoritative interpretations of the provisions of the treaty the treaty body oversees.

For further information, see Right to Education Project's page on *International Human Rights Mechanisms*:
<http://www.right-to-education.org/page/international-human-rights-mechanisms>

¹⁴ *Idem* 2

¹⁵ *Idem* 1

¹⁶ *Idem* 1

¹⁷ *Idem* 3

¹⁸ *Idem* 7

¹⁹ *Idem* 10

²⁰ *Idem* 6

²¹ For further information on the indicator 'Primary completion rates,' see:
<http://www.right-to-education.org/monitoring/content/primary-completion-rate>

²² For more information on the indicator 'Percentage of students at the lowest level of reading proficiency,' see:
<http://www.right-to-education.org/monitoring/content/percentage-students-lowest-level-reading-proficiency>

²³ For more information on the indicator 'International human rights treaties relevant to the right to education ratified by the State,' see: <http://www.right-to-education.org/monitoring/content/international-human-rights-treaties-relevant-right-education-ratified-state>

²⁴ *Idem* 11

²⁵ For more information on the indicator 'Percentage of trained teachers,' see:
<http://www.right-to-education.org/monitoring/content/percentage-trained-teachers>

²⁶ For more information on the indicator 'Education allocation ratio,' see:
<http://www.right-to-education.org/monitoring/content/education-allocation-ratio>

²⁷ The following box taken from UNDP's Human Development Report 2000 illustrates the potential use of making this distinction:

BOX 5.3

Using statistics to look behind the questions

Imagine a country in which 87% of children are enrolled in secondary school. What does this reveal about the right of a child to an education? Certainly, the final goal—secondary education for all—has not been reached. But have all the obligations of those involved been met? Answering means looking beyond this one statistic, deeper into the issues.

If we discover that only 77% of girls are enrolled and 97% of boys, then much of the failure is due to discrimination. Do opinion polls reveal that parents discount the importance of girls' education? Then parents are failing to respect the rights of their daughters to a literate future and the government is failing to raise awareness and change that norm. Or do surveys reveal inadequate provision of school facilities, such as a lack of separate classrooms for girls or very few female teachers? Then the government is failing to promote the rights of girls to real access to an education.

Perhaps there is gender equity—but discriminatory legislation enforces apartheid and grossly underprovides for schools for children of the oppressed ethnic group, with only 40% of them in school. That would be a failure of the government to respect the rights of all people without discrimination, calling for an immediate change in legislation, but also for changes in institutions and norms.

Source: Human Development Report Office.

Or perhaps there is no discrimination—but all schools lack resources and cannot provide quality education. Is the government giving enough priority to education? It depends on resource availability. In a country spending twice as much on military power and presidential palaces as on secondary education, the answer would be no—and the government would be failing to adequately fulfil rights. But in a country spending 0.5% of revenues on national security and 8% on secondary education, the answer would be quite different: a lack of resources, not a lack of priority, would be the constraint.

And what about progress? If a country had raised enrolments from 50% to 87% in five years, it would be making strong progress in realizing rights—but if the country had let enrolments fall from 95% to 87%, it would be headed backwards.

If resources are lacking, what are donors and the international community doing? How much development assistance are they providing? What percentage is allocated to the education sector?

Clearly, statistics alone cannot give conclusive answers—but they do help open key questions. They need to be embedded in a deeper analysis of the actors involved and their range of obligations. But if statistics can reveal whether or not those obligations are being met, they help to create accountability and, ultimately, to realize rights.

Source: UNDP (2000) *Human Development Report 2000*:
http://hdr.undp.org/sites/default/files/reports/261/hdr_2000_en.pdf: 92: Box 5.3.

²⁸ *Idem* 6

²⁹ *Idem* 5

³⁰ Send feedback, here: <http://www.right-to-education.org/monitoring/content/contact-us>

³¹ For further information on identifying violations of the right to education see:

- The *Limburg Principles* (1987): <http://www.right-to-education.org/resource/limburg-principles-implementation-international-covenant-economic-social-and-cultural>
- The *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights* (1997): <http://www.right-to-education.org/resource/masstricht-guidelines-violations-economic-social-and-cultural-rights>
- Coomans, F (2007) *Identifying Violations of the Right to Education*: <http://www.right-to-education.org/resource/identifying-violations-right-education>

³² For further information on the normative content of the right to education, see Committee on Economic, Social and Cultural Rights (1999) *General Comment 13: The right to education (Article 13)*: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf

³³ For further information on States' legal obligations regarding the right to education, see:

- The *International Covenant on Economic, Social and Cultural Rights* (1966): <http://www.right-to-education.org/resource/international-covenant-economic-social-and-cultural-rights>
- Committee on Economic, Social and Cultural Rights (1999) *General Comment 13: The right to education (Article 13)*: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf
- Committee on Economic, Social and Cultural Rights (1990) *General Comment 3: The Nature of States Parties' Obligations* (Art. 2, Para. 1, of the Covenant): <http://www.refworld.org/docid/4538838e10.html>

³⁴ Articles 13 and 14 of the *International Covenant on Economic, Social and Cultural Rights* (1966): <http://www.right-to-education.org/monitoring/content/additional-information-international-covenant-economic-social-and-cultural-rights>

1. The States Parties to the present Covenant recognise the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognise that, with a view to achieving the full realisation of this right:

- (a) Primary education shall be compulsory and available free to all;
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

-
- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
- (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

³⁵ For a comprehensive list of provisions relating to the right to education in international law see the Right to Education Project's *International Instruments - Right to Education*:

<http://www.right-to-education.org/resource/international-instruments-right-education-0>

³⁶ *Idem* 13

³⁷ For further information on the 4As Framework, developed by Katarina Tomaševski, see:

- The Right to Education Project (2001) *Project Primer 3: Human Rights Obligations: Making Education Available, Accessible, Acceptable and Available*: <http://www.right-to-education.org/resource/primer-no-3-human-rights-obligations-making-education-available-accessible-acceptable-and>
- Committee on Economic, Social and Cultural Rights (1999) *General Comment 13: The right to education (Article 13)*: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf: Para.6.

³⁸ Examples of right to education violations, include:

- The introduction or failure to repeal legislation which discriminates against individuals or groups, on any of the prohibited grounds, in the field of education.
- The failure to take measures which address *de facto* educational discrimination.
- The use of curricula inconsistent with the educational objectives set out in Article 13 (1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).
- The failure to maintain a transparent and effective system to monitor that education is in conformity with Article 13 (1) ICESCR.
- The failure to introduce, as a matter of priority, primary education which is compulsory and available free to all.
- The failure to take "deliberate, concrete and targeted" measures towards the progressive realisation of secondary, higher, and fundamental education.
- The prohibition of private educational institutions.
- The failure to ensure private educational institutions conform to the "minimum educational standards" required by Article 13 (3) and (4).

- The denial of academic freedom of staff and students.
- The closure of educational institutions in times of political tension.

Adapted from the Committee on Economic, Social and Cultural Rights (1999) *General Comment 13: The right to education (Article 13)*: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf

³⁹ Article 2 (1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966) recognises that economic, social and cultural rights are not always immediately realisable. The full and immediate realisation of the right to education can be hampered by a lack of resources and can only be achieved over a period of time, particularly for countries with fewer resources.

The ICESCR therefore imposes the obligation to **progressively realise** certain aspects of the right to education (including free secondary, higher, and fundamental education). However, not all aspects of the right to education are subject to progressive realisation, for example, States must prohibit discrimination in and to education and ensure that primary education is free and compulsory for all.

For further information, see Right to Education Project's page *Understanding Education as a Human Right*: <http://www.right-to-education.org/page/understanding-education-right#sthash.Uat6sLqc.dpuf>

For further information on progressive realisation, see Committee on Economic, Social and Cultural Rights (2003) *General Comment 3: The Nature of States Parties' Obligations (Art.2, Para.1)*: <http://www.refworld.org/docid/4538838e10.html>

⁴⁰ **Fundamental education** replaces missed primary education; however the right to fundamental education is far broader. The Committee on Economic, Social and Cultural Rights (CESCR) provides the following interpretation of fundamental education (Article 13 (2) (d)) in *General Comment 13*:

"It should be emphasised that enjoyment of the right to fundamental education is not limited by age or gender; it extends to children, youth and adults, including older persons. Fundamental education, therefore, is an integral component of adult education and life-long learning. Because fundamental education is a right of all age groups, curricula and delivery systems must be devised which are suitable for students of all ages" (Para.24).

Furthermore, the CESCR adds that 'fundamental education' in general terms corresponds to 'basic education', as laid out in the *World Declaration on Education for All* (1990, *Jomtien Declaration*): http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Dakar_Framework_for_Action_2000_en.pdf

⁴¹ **Retrogressive measures** are those taken by States that downgrade or limit existing levels of enjoyment of the right to education. The Committee on Economic, Social and Cultural Rights (CESCR) states:

"There is a strong presumption of impermissibility of any retrogressive measures taken in relation to the right to education, as well as other rights enunciated in the Covenant. If any deliberately retrogressive measures are taken, the State party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the State party's maximum available resources" (CESCR (1999) *General Comment 13: The right to education (Article 13)*: <http://www.right-to-education.org/resource/cescr-general-comment-13-right-education-article-13>: Para.45).

Examples of retrogressive measures include introducing school fees in secondary education when it had formerly been free of charge or an unjustified reduction of public expenditure on education.

⁴² Article 2 (1) of the *International Covenant on Economic, Social and Cultural Rights* (1966) obliges States to take the necessary steps to the **maximum of its available resources** to progressively realise the right to

education. Maximum available resources refers to the resources available within the State and from the international community.

States must prioritise the allocation of necessary resources to ensuring the satisfaction of minimum essential levels of the right to education and other economic, social and cultural rights.

See the Committee on Economic, Social and Cultural Rights Statement (2007) *An evaluation of the obligation to take steps to the 'maximum available resources' under an optional protocol to the Covenant*: <http://www2.ohchr.org/english/bodies/cescr/docs/statements/Obligationtotakesteps-2007.pdf>

⁴³ See Paragraph 31 of Committee on Economic, Social and Cultural Rights (1999) *General Comment 13: The right to education (Article 13)*: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf

⁴⁴ **Minimum core obligations** are the obligations on the State to ensure the satisfaction of minimum essential levels of a right. Vis-à-vis the right to education this includes: prohibiting discrimination in access to and in education, ensuring free and compulsory primary education for all, respecting the liberty of parents to choose schools for their children other than those established by public authorities, and protecting the liberty of individuals and bodies to establish and direct educational institutions.

Minimum core obligations are not subject to progressive realisation, however: "In order for a State Party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations" (Committee on Economic, Social and Cultural Rights (2003) *General Comment 3: The Nature of States Parties' Obligations* (Art.2, Para.1): <http://www.refworld.org/docid/4538838e10.html>: Para.10).

For further information on the minimum core obligations of the right to education, see Coomans, F (1998) *Clarifying the Core Content of the Right to Education*: <http://aihr-resourcescenter.org/administrator/upload/documents/core.pdf>

⁴⁵ On minimum core obligations, the Committee on Economic, Social and Cultural Rights states:

"On the basis of the extensive experience gained by the Committee, as well as by the body that preceded it, over a period of more than a decade of examining States parties' reports the Committee is of the view that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party. Thus, for example, a State party in which any significant number of individuals is deprived of (...) the most basic forms of education is, prima facie, failing to discharge its obligations under the Covenant. If the Covenant were to be read in such a way as not to establish such a minimum core obligation, it would be largely deprived of its *raison d'être*. By the same token, it must be noted that any assessment as to whether a State has discharged its minimum core obligation must also take account of resource constraints applying within the country concerned. Article 2 (1) obligates each State party to take the necessary steps "to the maximum of its available resources". In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations."

Committee on Economic, Social and Cultural Rights (2003) *General Comment 3: The Nature of States Parties' Obligations* (Art.2, Para.1): <http://www.refworld.org/docid/4538838e10.html>: Para.10.

⁴⁶ *Idem* 9

⁴⁷ See Paragraph 57 of Committee on Economic, Social and Cultural Rights (1999) *General Comment 13: The right to education (Article 13)*: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf

⁴⁸ Aims of Education – Article 29 of the *Convention on the Rights of the Child* (1989):

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 civilisations 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.

For further information, see *Convention on the Rights of the Child*: <http://www.right-to-education.org/resource/convention-rights-child> and Committee on the Rights of the Child (2001) *General Comment 1: Article 29 (1): The Aims Of Education*: <http://www.right-to-education.org/resource/crc-general-comment-1-article-29-1-aims-education>

⁴⁹ The tripartite typology consists of three types of human rights obligations:

- The obligation to respect requires the State to refrain from interfering with the enjoyment of the right. For example, the State must respect the liberty of parents to choose schools for their children.
- The obligation to protect requires the State to prevent others from interfering with the enjoyment of the right usually through regulation and legal guarantees. For example, the State must ensure that third parties, including parents, do not prevent girls from going to school.
- The obligation to fulfil requires the State to adopt legislative, administrative, budgetary, judicial, and other appropriate measures towards the full realisation of the right to education. For example, the State must take positive measures to ensure that education is culturally appropriate for minorities and indigenous peoples, and of good quality for all.

For further information on the tripartite typology see Committee on Economic, Social and Cultural Rights (1999) *General Comment 13: The right to education (Article 13)*: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf; Paras.46-48 & 50.

⁵⁰ For a useful table that links outcome, structural and process indicators, States' obligations and violations, see Table 2, p.300 of Kalantriy, S, Getgen, JE & Koh, SA (2010) *Enhancing Enforcement of Economic, Social and Cultural Rights Using Indicators: A Focus on the Right to Education in the ICESCR*: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Kalantriy_Getgen_Koh_Enhancing_Enforcement_of_Economic_Social_and_Cultural_Rights_Using_Indicators_2010_En.pdf

⁵¹ *Idem* 7

⁵² *Idem* 35

⁵³ See Step 2 of the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide/step-2-identify-deprivations-inequalities-education>

⁵⁴ See Step 3 of the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide/step-3-analyse-educational-laws-policies-their-implementation>

⁵⁵ See Step 4 of the *Monitoring Guide*, available to download here:

⁵⁶ See Step 5 of the *Monitoring Guide*, available to download here:

<http://www.right-to-education.org/monitoring/guide/step-5-examine-policy-processes>

⁵⁷ There are numerous reasons why millions of people around the world are deprived of adequate education. Some of these reasons, such as natural disasters, humanitarian crises or scarcity of resources are often beyond the control of governments, and as such, cannot be deemed human rights violations. Nonetheless, using a human rights approach calls attention to the fact that widespread deprivations are all too often not inevitable; rather, they are frequently generated or exacerbated by the lack of political will of governments

A government's failure to prevent or rectify avoidable deprivations can take many forms. In some cases, these failures are the result of deliberate policies of government agents, such as corrupt practices that reduce the resources available for the progressive achievement of economic and social rights, or discriminatory practices such as deploying less qualified and experienced teachers to those areas where the majority of people belong to an ethnic minority group.

Adapted from Felner, E (2008) *A new frontier in economic and social rights advocacy? Turning quantitative data into a tool for human rights accountability*, *Sur International Journal on Human Rights*, Year 5, Number 9: <http://www.right-to-education.org/resource/new-frontier-economic-and-social-rights-advocacy-turning-quantitative-data-tool-human>

⁵⁸ *Idem* 10

⁵⁹ **Outcome indicators** measure the extent to which a population enjoys the right to education.

⁶⁰ **Structural indicators** measure the commitments made by States in order to meet their obligations regarding the right to education.

⁶¹ **Process indicators** measure the various types of State efforts (such as: education policies, education inputs, budget allocation, and programmes and measures to address specific education issues) undertaken in order to realise and implement the right to education.

⁶² In other – less frequent - cases, the starting point would be the use of process indicators. This would be the case, for instance, when the monitoring exercise focuses on the working conditions of teachers or on disparities of specific policy inputs that affect the quality of education, for example trained teachers, textbooks, class size, etc.

In such cases, you should subsequently check whether the data for the process indicators you use are reflected in outcomes, that is, there is a tangible impact on enjoyment. For example, in school completion rates or learning assessment results.

⁶³ For more information on the indicator 'percentage of children for whom school-house distance is more than 5km,' see: <http://www.right-to-education.org/monitoring/content/percentage-population-whom-school-house-distance-more-5-km>

⁶⁴ *Idem* 25

⁶⁵ *Idem* 54 - 56

⁶⁶ *Idem* 53

⁶⁷ Access Step 1.3 of the *Monitoring Guide*, available to download, here:

<http://www.right-to-education.org/monitoring/guide/13-categories-education>

⁶⁸ *Idem* 6

Step 1: Plan & Focus

This step will guide you through all the things you need to consider in planning your monitoring project, including how to decide which topic(s) to focus on and whether to seek additional help.

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1.1 The need for a clear focus

A clear and well-thought out focus is crucial to ensure that you will be able to carry out your research with adequate rigour and incisiveness, as well as to increase the effectiveness of your advocacy¹ efforts.

This preliminary step will help you determine which aspect(s) of the right to education you should monitor.² The nature of your work may automatically shape the scope of your monitoring work. For example, if your organisation's mission is to serve the local community and to work with local schools, then your geographic scope may already be determined.

It is also likely that your initial motivation to monitor the right to education comes from the fact that you have already identified a specific problem in education that you want to address. If this is the case this step may still be useful in helping you to critically assess your chosen thematic focus and to determine whether it requires further refining.

Nevertheless, if you consider that the thematic focus of your monitoring project is both well thought through and sufficiently narrow, you may skip this section of the *Guide* and move directly to Step 2.³

1.2 Criteria for deciding your focus

Various criteria should be taken into account when determining the thematic focus of your monitoring⁴ work, including:

Your organisation's remit

Your organisation's remit may determine the type of monitoring project you undertake. For instance, your organisation may have a pre-determined geographic scope or area of focus, such as promoting women's rights or the rights of persons with disabilities. In these instances it makes sense to focus your monitoring project on the obstacles that these specific groups face in fully enjoying their right to education.

Issues from the field

You may become aware of education issues from your work in the field or through media reports. For instance, if your organisation brings cases to court and you notice that there is a recurrent problem in the education system, you may decide to carry out a monitoring project to better understand the issue.

The gravity and / or scope of the problem

If you are considering more than one potential thematic focus, you may want to prioritise those problems that affect more people (eg this project that found that over half of children who finish fifth grade cannot do basic subtraction)⁵ and / or that are grave in terms of the violation (eg cases of segregation where children from ethnic minority groups are placed into ‘special schools’ with lower quality education).⁶

Your target audience

A key consideration in the focus and scope of your monitoring project is your target audience(s), who you are trying to influence with your monitoring report. Sometimes, the target audience may be the duty-bearer⁷ responsible for realising the right to education (eg the Ministry of Education). Other times, the primary target audience of your monitoring exercise may be an institution or mechanism that could influence the duty-bearers. For instance, you may write a monitoring report for a key meeting of the Education Parliamentary Committee, with the expectation that this Committee will have the leverage to influence the government’s policy, or you may write a shadow report⁸ for a UN treaty body⁹ (see Step 6.2)¹⁰ when a State appears before that mechanism. In this case, the thematic focus of that mechanism will likely inform the thematic focus of your monitoring exercise.¹¹

The allotted time for the monitoring exercise

If your monitoring project is meant to be submitted in an event or meeting with a fixed date (eg a UN conference or the inauguration of a new government) you may need to narrow the parameters of the monitoring project, in order to ensure you will have sufficient time to carry it out.

Skills of those carrying out the monitoring exercise

The aims of the monitoring project should be achievable by the people conducting the research. It is vitally important that you honestly assess the capacities of those involved and that you are able to enlist the expertise and skills of others if needed. For instance, it might be difficult to focus your monitoring on the financing of the education system, if you are not able to enlist – either in your own organisation or amongst other partners – people with some experience and skills on budget analysis. See Step 1.4¹² for further information on collaborating with others.

Advocacy opportunities

The leverage your organisation has to influence policy changes on a specific issue related to the right to education will often be the key criterion in determining whether you should focus your monitoring work on that issue. This is because, as we saw in *Why monitor the right to education?*,¹³ one of the key goals of monitoring the right to education is to influence policy-makers to fully commit to the progressive realisation¹⁴ of that right. In some cases, you may choose to focus on a specific issue because there is a unique window of opportunity to influence the government on that issue. Other times, you may decide not to focus on an issue because, after analysing the political environment in the country, you reach the conclusion that the political obstacles are insurmountable.¹⁵ If your organisation works at the regional or global level, you may decide to focus your monitoring efforts on a State that is up for review by a UN treaty body or other human rights mechanism.

For further information on advocacy strategies, see Step 6.2.¹⁶

1.3 Categories of education

Typically monitoring projects on the right to education focus on one or more of the following categories: level of education, geographic focus, a specific marginalised group, a specific type of education, or a specific context. The table below presents some of the categories you may wish to focus on:

Level or type of education	Pre-primary Primary Secondary Technical and vocational Higher Adult / Fundamental education
Geographic focus	School Local community District (school, local authority or county) Provincial (sub-national or federal) National Regional International
Marginalised group	Girls or women ¹⁷ Ethnic, religious or linguistic minorities ¹⁸ Indigenous peoples ¹⁹ Refugees, asylum-seekers, migrants, immigrants, or internally displaced persons ²⁰ Persons with disabilities ²¹ (including physical, mental, intellectual and sensory impairments) People living in extreme poverty (socio-economic status) Birth status Lesbian, gay, bisexual, transgender or intersex persons (LGBTI) Street children Homeless persons Persons in detention ²² Child labourers Child soldiers Persons with HIV / AIDS

	Other marginalised or vulnerable groups (depending on your local context)
Contexts	<p>Conflict²³ (including periods of social unrest or post-conflict recovery)</p> <p>Natural disasters</p> <p>Health crises</p> <p>Economic crises</p>

You can further narrow down your thematic focus by concentrating on a category within a category. For instance, you may focus on unequal access to a specific level of education of a specific marginalised group.²⁴

Another strategy is to focus on multiple forms of discrimination,²⁵ for instance girls from an ethnic minority, living in poverty.

Lastly, as you undertake your monitoring project, you may find that you narrow down your focus because the outcome data you gather²⁶ exposes where the most serious deprivations and inequalities occur.²⁷

1.4 Assess your capacities and identify partners

Monitoring²⁸ the right to education is often a complex endeavour, requiring a variety of skills and expertise. Therefore, you may wish to consider collaborating with others. In addition to providing financial or technical assistance, they can increase the credibility of your work, and help to harmonise the advocacy²⁹ message across the particular region or area that you work in.

To assess whether you and / or your organisation should collaborate with other people or organisations, you should consider the following:

Identify resources needed

Make a list of the various types of resources you will need to carry out the monitoring project. Resources may include specific expertise or skills and access to data and stakeholders³⁰ you want to interview. You should also take into account that the resources that are needed may change as the project evolves.

Resources needed to carry out monitoring projects on the right to education may include:

- Skills in quantitative and qualitative research.
- Field research and documentation skills.
- Knowledge of human rights standards and how to apply them.
- Familiarity with education policies³¹ and processes.
- Experience in writing for advocacy purposes.
- Access to policy-makers or civil servants who can provide data.
- Access to stakeholders in the field (school principals, teachers' unions, etc).

Check your own resources

Assess whether you have all the necessary resources identified in the step above to carry out the monitoring project and the financial resources to cover areas that you are missing. Your organisation might be strong in some aspects of the monitoring process but fall short in others. For instance, you may have skills on quantitative and qualitative education research but not have sufficient knowledge of human rights standards to be able to apply them in concrete situations. You may have both of these resources but lack contacts in the area where you are planning to carry out fieldwork and therefore need a local partner who can facilitate access to schools, teachers, children, etc.

Collaborate with others

If after the previous steps you realise that you do not have all of the resources needed to effectively carry out your monitoring project, you should consider collaborating with other organisations and individuals.³² Depending on the gap in your resources, you may decide to work, for instance, with community organisations, research institutes or human rights advocacy groups.

Endnotes: Step 1: Plan & Focus

¹ **Advocacy** is the process of influencing those who make policy decisions, write laws and regulations, and distribute resources that affect people's well-being. Advocacy delivers deliberate messages intended to influence the thoughts, perspectives and actions of people in authority.

Campaigning is one strategy for advocacy, building public pressure around an issue through strategies like mass action, public forums and media campaigns.

Lobbying is another strategy for advocacy, building pressure around an issue within the education system through strategies such as policy analysis and dialogue, negotiation and forming collaborative partnerships.

Source: Commonwealth Education Fund (2009) *A Budget Guide for Civil Society Organisations Working in Education*: p.24:

www.right-to-education.org/resource/budget-guide-civil-society-organisations-working-education

² **Human rights monitoring** is the process of collection and verification of information on human rights problems. For more details on monitoring the right to education, see Right to Education Project's page on *Monitoring*: <http://www.right-to-education.org/page/monitor>

³ See Step 2 of the *Monitoring Guide*, available to download here:

<http://www.right-to-education.org/monitoring/guide/step-2-identify-deprivations-inequalities-education>

⁴ *Idem* 2

⁵ This is apparently the case in India, where of children surveyed in grade 5 only slightly more than half could do subtraction. Source: Birdsall, N cited in Pritchett, L (2013) *The Rebirth of Education: Schooling Ain't Learning* [Online] CGD Books:

http://books.google.com.ar/books/about/The_Rebirth_of_Education.html?id=PQ72AAAAQBAJ&redir_esc=y

⁶ For example, see Amnesty International (2012) *Czech Republic: Five More Years of injustice: Segregated Education for Roma in Czech Republic*: <http://www.amnesty.org/en/library/info/EUR71/006/2012/en> and Černušáková, B (2015) *Must Try Harder – Ethnic Discrimination of Romani Children in Czech Schools*: <http://www.right-to-education.org/resource/must-try-harder-ethnic-discrimination-romani-children-czech-schools>

⁷ **Duty-bearers** are those actors who have a particular obligation or responsibility to respect, promote and realise human rights and to abstain from human rights violations. The term is most commonly used to refer to State actors, but non-State actors can also be considered duty-bearers. An obvious example is private armed forces or rebel groups, which under international law have a negative obligation to refrain from human rights violations. Depending on the context, individuals (eg parents), local organisations, private companies, aid donors and international institutions can also be duty-bearers.

Source: UNICEF *Gender Equality - UN Coherence and You – Glossary*:

<http://www.unicef.org/gender/training/content/resources/Glossary.pdf> : p.1.

⁸ **Shadow reports** are a method for non-government organisations (NGOs) to supplement and / or present alternative information to reports governments are required to submit under human rights treaties. Unlike governments' reports, which often highlight the progress of the State in meeting its human rights obligations whilst downplaying violations, shadow reports often provide treaty body committees with crucial information about problems in implementation and areas of government non-compliance.

NGOs around the world use shadow reports to lobby various United Nations' bodies, including treaty-monitoring bodies, thematic groups, charter-based bodies, and the High Commissioner for Human Rights.

Source: The Advocates for Human Rights page on *Shadow Reporting*:

<http://www.theadvocatesforhumanrights.org/mechanisms>

⁹ **UN treaty bodies** are committees of independent experts created under a particular UN treaty. They are mandated to monitor how States that have ratified the treaty in question comply with their obligations to implement the human rights guaranteed by the treaty. They periodically examine State reports and issue concluding observations on States' compliance to the treaty, as well as make recommendations.

Most treaty bodies can receive individual complaints or communications in cases of human rights violations, if the State in question has recognised the competence of the treaty body to do so.

Treaty bodies also adopt General Comments, which provide authoritative interpretations of the provisions of the treaty the treaty body oversees.

For further information, see Right to Education Project's page on *International Human Rights Mechanisms*:

<http://www.right-to-education.org/page/international-human-rights-mechanisms>

¹⁰ See Step 6.2 of the *Monitoring Guide*, available to download here:

<http://www.right-to-education.org/monitoring/guide/step-6-report-writing-advocacy>

¹¹ For instance, a shadow report submitted to the UN Committee on the Elimination of All Forms of Racial Discrimination will necessarily focus on some aspect of the right to education related to indigenous peoples and / or ethnic minorities, whilst a shadow report submitted to the UN Committee on the Elimination of All Forms of Discrimination against Women will focus on girls' and women's right to education.

For a full list of UN treaty bodies and other oversight mechanisms, see Right to Education Project's pages on:

- *International Human Rights Mechanisms*:
<http://www.right-to-education.org/page/international-human-rights-mechanisms>
- *Regional Human Rights Mechanisms*:
<http://www.right-to-education.org/page/regional-human-rights-mechanisms>

¹² See Step 1.4 of the *Monitoring Guide*, available to download here:

<http://www.right-to-education.org/monitoring/guide/14-assess-your-capacities-and-identify-partners>

¹³ See 'Why monitor the right to education?' in the Introduction to the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide>

¹⁴ Article 2 (1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966) recognises that economic, social and cultural rights are not always immediately realisable. The full and immediate realisation of the right to education can be hampered by a lack of resources and can only be achieved over a period of time, particularly for countries with fewer resources.

The ICESCR therefore imposes the obligation to **progressively realise** certain aspects of the right to education (including free secondary, higher, and fundamental education). However, not all aspects of the right to education are subject to progressive realisation, for example, States must prohibit discrimination in and to education and ensure that primary education is free and compulsory for all.

For further information, see Right to Education Project's page *Understanding Education as a Human Right*:

<http://www.right-to-education.org/page/understanding-education-right#sthash.Uat6sLqc.dpuf>

For further information on progressive realisation, see Committee on Economic, Social and Cultural Rights (2003) *General Comment 3: The Nature of States Parties' Obligations (Art.2, Para.1)*:

<http://www.refworld.org/docid/4538838e10.html>

¹⁵ For instance, you may have identified that a major source of inequality in access and quality of education amongst various regions of your country is the unfair formula by which the national government distributes resources for education amongst regional districts. However, you may still decide not to focus your monitoring project on the problems of the decentralisation of the educational system if you reach the conclusion that given the political forces in your country and what is required to change the normative framework for a change on this subject, it may not be possible to make any significant progress at this stage on this issue.

¹⁶ *Idem 10*

¹⁷ For further information on the right to education of women and girls, see:
<http://www.right-to-education.org/issue-page/marginalised-groups/girls-women>

¹⁸ For further information on the right to education of minorities, see:
<http://www.right-to-education.org/issue-page/marginalised-groups/minorities-and-indigenous-peoples>

¹⁹ For further information on the right to education of indigenous peoples, see:
<http://www.right-to-education.org/issue-page/marginalised-groups/minorities-and-indigenous-peoples>

²⁰ For further information on the right to education of migrants, refugees and internally displaced persons, see:
<http://www.right-to-education.org/issue-page/marginalised-groups/migrants-refugees-and-internally-displaced-persons>

²¹ For further information on the right to education of persons with disabilities, see:
<http://www.right-to-education.org/issue-page/persons-disabilities>

²² For further information on the right to education of persons in detention, see:
<http://www.right-to-education.org/issue-page/marginalised-groups/persons-detention>

²³ For further information on education in emergencies, see:
<http://www.right-to-education.org/issue-page/education-emergencies>

²⁴ For an example, see the following report: Amnesty International (2006) *The exclusion of Romani children from primary education in Bosnia and Herzegovina, Croatia and Slovenia*:
<http://www.amnesty.org/en/library/info/EUR05/002/2006/en%20%5d>

²⁵ A person is subject to **multiple forms of inequality** if she or he is deprived or has unequal enjoyment of a human right on the basis of multiple grounds. Inequality and multiple inequality do not always amount to a violation as sometimes it is unavoidable. However, when the deprivation or inequality of enjoyment is avoidable, this is a violation of the right to non-discrimination and is known as multiple discrimination.

Multiple discrimination occurs when a person is discriminated against on one ground in a certain situation and a different ground in another context. For example, an indigenous girl may face discrimination on the basis of her sex in one context and in another situation she may be subject to racial discrimination.

Compound discrimination is discrimination on two or more grounds occurring at the same time. For example, an indigenous girl may suffer discrimination on the basis of her sex and race simultaneously. As a result she suffers an exacerbated and distinct form of discrimination.

Intersectional discrimination refers to a situation where several grounds operate and interact with each other at the same time in such a way that they are inseparable.

All three terms are often used interchangeably.

²⁶ See Step 2 of the *Monitoring Guide*, available to download here:
<http://www.right-to-education.org/monitoring/guide/22-gather-outcome-data>

²⁷ For instance, you may have initially decided to focus your monitoring work on the obstacles that girls face in accessing the right to education. However, after you have analysed data disaggregated by gender you find that the obstacles in access to education and / or poor learning achievements is particularly problematic amongst indigenous girls. In such a case, you may decide from that stage onwards, to focus on the discrimination in education faced by indigenous girls.

²⁸ *Idem 2*

²⁹ *Idem 1*

³⁰ **Stakeholders** are all those who can affect your desired change, as well as those who are affected by it.

³¹ **Education policies** are the set of actions, laws, regulatory measures, and funding priorities on education adopted by a government.

Strictly speaking laws and policies are distinct: laws are a system of rules that regulate behaviour, and are usually enforceable in courts; whilst policies are informal and set out a government's major objectives, defining the government's priorities and strategies to achieve its goals.

Education policies and laws are the primary means by which the right to education is implemented at the national and sub-national level.

³² If you decide to team up with others for your monitoring project, you should clarify from the outset the responsibilities of each partner and the manner in which you will resolve conflicts that may arise amongst the various partners.

A 'network agreement' may be helpful for this purpose:

A network agreement for policy monitoring

Building a network of organisations to further your monitoring objectives can be a challenging task. It means creating and maintaining relationships of trust between multiple players who often have diverse needs, capacities and interests. It also calls for strong management skills to coordinate activities, facilitate joint ownership and decision making, manage conflict and foster ongoing alignment among stakeholders.

Aim: To create a clear and detailed agreement for cooperation of your network.

Context: This is a useful tool to consider when you want to boost your potential to work together effectively as a network. An agreement can be developed collaboratively with the various stakeholders contributing to and commenting on the contents. It can then be formalised and signed by all members as an indication of their commitment to it.

Key points that should be clarified in a network agreement include:

1. **Network objectives:** the concrete objectives your network agrees to work towards achieving.
2. **Guiding principles:** the basic principle all members agree to uphold and advance.
3. **Decision-making:** how decisions will be made and the different levels and methods of decision-making.
4. **Coordination:** who will coordinate the network and what decisions lie within and beyond their mandate.
5. **Roles:** precise roles for each member of the network.
6. **Delegation:** procedures to ensure clear and fair delegation of tasks.
7. **Authority:** who has the authority to do what.
8. **Accountability:** who is accountable to whom.
9. **Reporting:** who reports to whom and procedures to ensure reporting happens as and when it should.
10. **Financial matters:** who is responsible for financial management and accountability and the rules that apply to dealing with funds.

-
11. **Conflict:** how to deal with conflict among members.
 12. **Conduct:** a code of conduct for practices and forms of behaviour for meetings and other interaction between members.
 13. **Recourse:** what action will be taken if the agreement is breached.
 14. **Review:** how and when you will review your cooperation and adjust the agreement if necessary.

Source: CAFOD, Christian Aid and Trocaire (2007) *Monitoring Government Policies: A toolkit for civil rights organisations in Africa*: p.35: http://commdev.org/files/1818_file_monitoringgovernmentpolicies.pdf

Step 2: Identify Deprivations & Inequalities in Education

Evidence of deprivations or inequalities in the enjoyment of the right to education may be suggestive of human rights violations and can serve as a crucial first step in a more comprehensive human rights assessment. This step will ensure that your monitoring project is grounded in concrete problems that affect the enjoyment of the right to education.

This step will help you obtain a snapshot of the level of enjoyment of the specific aspects of the right to education that you have chosen to focus on. It will provide you with guidance on how to select outcome indicators,¹ collect relevant data, compare that data with objective benchmarks and interpret the data that you have collected in light of relevant human rights standards.

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2.1 Select outcome indicators

This step starts with a brief explanation of the importance of outcome indicators² in monitoring the right to education.

It then goes on to explain how to use the *Indicators Selection Tool*³ to select the most appropriate outcome indicators to measure the extent to which there are deprivations or inequalities in the enjoyment of the right to education relevant to the problem that you are seeking to solve.

Before starting this step, ensure that your project's monitoring objectives are clearly defined and the scope sufficiently narrow, otherwise you will end up with a very long list of indicators.⁴

The role of outcome indicators in monitoring the right to education

In order to gather evidence of violations of the right to education, you will first need to know the level of enjoyment of the right to education relevant to the focus of your monitoring project. For example, if your work is focused on the impact of armed conflict on girls' access to education, you will need evidence that attendance rates have been adversely affected. Attendance and other metrics of right to education enjoyment are measured using outcome indicators.

Outcome indicators are important because they provide a snapshot of the level of enjoyment of the right to education. They can also be used to assess the impact of a State's policy efforts and help evaluate whether States – as the primary duty-bearer⁵ of the right to education – are complying with their human rights obligations.⁶

Outcome indicators can help assess whether a State is complying with its minimum core obligations,⁷ as data can reveal the extent to which the population is deprived of the most basic elements of the right to education.

Outcome indicators can also be used to measure the progressive realisation⁸ of the right to education according to maximum available resources,⁹ as data collected at intervals enables you to measure human rights progression or retrogression¹⁰ over time according to the level of a country's development.

Furthermore, disaggregated data¹¹ for outcome indicators can reveal inequalities in the enjoyment of the right to education by gender, ethnicity, socio-economic status or geographic location (eg urban / rural) which may be the result of the discriminatory effects of government policies.¹²

It is important to remember that even if the data for the outcome indicators you have selected are suggestive of deprivations and inequalities, this does not necessarily mean that they are unavoidable and thus violations (see 'A monitoring framework').¹³ Sometimes, despite the State's best efforts, the situation on the ground cannot be easily changed or improved. For example, economic reasons may temporarily prevent students from poor families from attending upper-secondary education in countries with limited resources, such as in post-conflict contexts. The State may do its best to progressively implement the right to education but may not have the resources to offer grants at this level of education. It may also be the case that the impact of policies is not immediate, for instance when a State adopts measures to ensure the right to education of marginalised groups, it may take years to see an effect on the ground, and even longer for the data to reflect an improvement.

Establish your shortlist of outcome indicators using the *Indicators Selection Tool*

To select appropriate outcome indicators for your monitoring purposes, using the *Indicators Selection Tool*:¹⁴

1. Go to the *Types of Indicators* criteria and select *Outcome Indicators*. This will give you a list of the seventeen outcome indicators.
2. You can then narrow down the indicators list by selecting the criteria relevant to the focus of your monitoring work. For instance, if the thematic focus of your monitoring

initiative includes access to primary education, you would filter down the selection of outcome indicators by choosing *Primary* under the category *Levels and Types of Education* and *Access to Education* within *Areas of Focus*. If your monitoring theme focuses on the right to education for migrants, you would filter down the choice of outcome indicators by choosing the sub-category *Migrants, Refugees and IDPS* within the criteria *Marginalised Groups*. If your project focuses on the right to education during armed conflict, select *Armed Conflict (Including Child Soldiers)* under the category *Contexts*.

It is important to remember that human rights monitoring is an iterative process. It is difficult to know the entire list of indicators that will be useful, until you have collected the relevant data. You should therefore be open to the possibility of adding further indicators at a later date.

Adapt your indicators

A key criterion for selecting an indicator is the extent to which it reflects an aspect of the right to education. However, in some instances there may not be data available for the indicator proposed by the *Tool*¹⁵ and you may wish to substitute this indicator for another that still captures the essence of the applicable human rights standard. For instance, primary completion rates¹⁶ are often used to measure the extent to which the right to free and compulsory primary education is enjoyed, however if there is no data available for your country or time-frame you can use the out-of-school rate¹⁷ for children of primary school age and failing that, the primary net enrolment ratio¹⁸ (which is in fact more a measure of access to education but nevertheless still tells you something about the enjoyment of the right to free and compulsory primary education). The *Tool* will provide you with all alternative indicators relevant to the criteria you choose.

One aspect of the right to education that you may need to find additional or alternative indicators for is the quality of education.¹⁹ This is because according to human rights law, the aims of education are to develop the child's personality, talents and mental and physical abilities and his or her human dignity, self-esteem and self-confidence. Learning

assessments and test results, therefore, do not fully measure outcomes in education quality. There is no consensus on reliable indicators regarding the development of a child's personality that can be universally applied to all countries, contexts and marginalised groups such as persons with disabilities. Therefore, the *Tool* only provides outcome indicators for basic intellectual skills, such as literacy and numeracy.

When monitoring the quality of education, outcome indicators are rarely sufficient.²⁰ You should also look at structural²¹ and process indicators²² (such as are there any established mechanisms that enable parents, children and / or community leaders to contribute to defining school curricula?²³ and do curriculum guidelines provided by the Ministry of Education include promoting respect for other nations, racial, ethnic or religious groups and indigenous people?)²⁴ because they can better capture dynamic concepts. This is because structural and process indicators, unlike outcome indicators, tend to be qualitative²⁵ rather than quantitative.²⁶ A good research project should use both types of data.

To monitor the right to education using structural and process indicators, see Step 3.²⁷

2.2 Gather outcome data

Effective human rights monitoring²⁸ is based on reliable and credible data, and accurate analysis of this data using international human rights standards. Data collected with an unclear or biased methodology risks being dismissed, undermining the credibility of your findings, and therefore your capacity to engage in advocacy. It could even damage your reputation as an organisation.

This step is intended to give you general guidance on education outcome data.

Data sources

National governments and international development agencies regularly collect and publish education statistics obtained at intervals from various countries, as well as disaggregated data.²⁹

There are three types of data:³⁰

Administrative data³¹

This primary source of education data includes information gathered from a census of schools in a given country,³² with categories of data such as pupil and repeater enrolments, numbers of teachers and derived pupil-teacher ratios, pupil progression rates (promotion, drop-out), education expenditure information, and participation rates derived from the combination of enrolment and population data (gross and net intake, enrolment, completion, transition rates), as well as information on the structure of the education system (duration of primary, lower secondary, upper secondary cycle).

Administrative data typically provides limited information on the individual characteristics of pupils (such as age, sex and residence), and some information on the characteristics of their households. Since much of this data is obtained from schools, it focuses on children who attend school and not children who are out-of-school.

Census data

A population census represents a complete enumeration of the entire population. It provides basic information about population size and distribution, gender, age, language, educational status, and other characteristics. Because census data provides information on the entire population, it can be disaggregated better than survey data (eg at the regional or district level or small sub-populations), which may not be representative at the sub-national level.

Student assessment tests

Many national governments carry out assessments of learning achievements, particularly on reading and maths competencies. Many countries also participate in regional and international student assessments,³³ which may allow for cross-country comparisons of learning achievements.

Where to find data in international databases

Data obtained from international data sets may be easier to obtain and this data has the advantage that its indicators allow for cross-country comparisons.³⁴

In the *Indicators Selection Tool*,³⁵ if there is data available for the indicator in international databases, we have provided a link to it. If you do not find any links to databases for some of the indicators you have selected in Step 2.1, it is probably because no international data is available for that indicator. However, you may be able to find data from national sources, such as the Ministry of Education, the National Statistics Office and UNDP Human Development Reports.

The main international databases are:³⁶

UNESCO Institute for Statistics³⁷

UIS is the leading source for international education statistics. Covering more than 200 countries and territories, the UIS database covers all education levels and addresses key policy issues such as gender parity, teachers and financing.

The World Bank EdStats Query³⁸

EdStats holds around 2,500 internationally comparable education indicators on access, progression, completion, literacy, teachers, population, and expenditures. The indicators cover the education cycle from pre-primary to tertiary education. EdStats also holds learning outcome data from international learning assessments (PISA, TIMSS, etc), equity data from household surveys, and projection data to 2050.

UNESCO's World Inequality Database on Education³⁹

WIDE brings together data from surveys from over sixty countries to enable users to compare education attainment between countries, and between groups within countries, according to factors that are associated with inequality, including wealth, gender, ethnicity and location.

The importance of disaggregated data

Under international law,⁴⁰ States are required to collect disaggregated data based on various grounds of discrimination.⁴¹ From a human rights perspective, collecting and analysing disaggregated data is crucial because inequalities across various segments of a population on various education outcome indicators often indicate that the chances people have to enjoy their basic rights to education⁴² are heavily shaped by the circumstances in which they are born and not by factors over which they have control. In many countries, being a girl, living in poverty, being disabled, belonging to an ethnic minority or living in rural areas radically reduces the chances of obtaining a quality education.⁴³ Even more so when you fall into multiple groups and experience multiple forms of inequality.⁴⁴

For each outcome indicator⁴⁵ (and relevant process indicators)⁴⁶ in the *Indicators Selection Tool*,⁴⁷ we have provided a list of possible levels of disaggregation.

OHCHR on disaggregated data⁴⁸

While disaggregated statistics are essential for addressing human rights concerns, it is not practical or feasible always to undertake disaggregation of data at the desired level. Disaggregation by sex, age, regions or administrative units, may, for instance, be less difficult than by ethnicity, as the identification of ethnic groups often involves objective (eg language) and subjective (eg self-identity) criteria that may evolve over time.

Data published at the national level is particularly helpful for obtaining disaggregated data. International data sets usually do not have data disaggregated by ethnic groups or by regions / districts. For the latter, you may sometimes find data in national databases, or else be able to access data from the local government (eg the district education office). National data sets may also contain more up-to-date data than international sources.

Many States and other institutions often fail to disaggregate data by all relevant marginalised groups, making it difficult to ascertain whether outcomes differ across groups. When disaggregated data by ethnic group is not available, it may be possible to use disaggregation by region or municipality, comparing right to education indicators data of

those regions in which an ethnic minority makes up more than half of the population with those regions where they make up less than half of the population. If you are working on a marginalised group for which disaggregated data is not easily available (eg immigrants or refugees), you may need to collect your own data (see below).

Rely primarily on existing data

In order to ascertain whether there are inequalities and deprivations in the enjoyment of the right to education, you are going to need data. In order to make your monitoring project more practicable, you should, whenever possible, select the outcome indicators for which there is existing data. A list of indicators for which you have no established data or where you lack the ability to obtain the data is not very useful. Beyond making the monitoring project more feasible, there are other advantages to using existing data.⁴⁹

When relying on existing data you should bear in mind that those who originally collected the data may have had reasons to distort that data. For instance, if resource allocation from the government to public schools is tied to enrolment, schools may report higher enrolment figures in order to obtain greater resources, producing distortions in the estimates of student enrolments and the number of teachers or classrooms. Likewise, private schools may under-report income and expenditure in order to derive greater benefits or lower their tax liability.

Therefore, whenever possible you should use a standard data source that is internationally accepted (such as those suggested for each indicator in the *Indicator Selection Tool*)⁵⁰ and whenever doubts have been raised about the veracity of the data, you should assess the reliability of that data.⁵¹

It may also be worth considering alternative sources of data, such as academic data sets or monitoring projects conducted by civil society organisations (CSOs).

If you cannot find any data, you may want to consider collecting your own.

Collect new data

For some indicators there may not be data available. It may be that no data has ever been collected for this indicator. For instance, for the indicators percentage of children with disabilities enrolled in mainstream schools⁵² and percentage of children with disabilities enrolled in special schools⁵³ it is likely that reliable data does not exist. It may also be the case that data is only partially available. For instance, often, statistics on enrolment rates will be available for the country but will not be disaggregated by region or by income. Or it may be that you have data but it is not of sufficient quality, eg it is too old. In such cases, you should consider whether you can collect your own data.⁵⁴

If you decide to collect your own data, you should assess whether you have the necessary expertise to ensure that the data you collect is reliable and credible. If not, you should think about seeking professional help.⁵⁵

2.3 Compare outcome indicators with benchmarks

In this step you will learn how to assess the data collected in the previous step against benchmarks. This analysis can reveal whether your country is complying with key aspects of its human rights obligations⁵⁶ regarding education.

Importance of benchmarks

The data you have collected for your outcome indicators⁵⁷ will generally not tell you much about the level of enjoyment of the right to education. For instance, if you found that the secondary completion rate is 89%, you will be able to say that there is an 11% shortfall from the ideal, but you would not be able to tell if an 89% secondary completion rate is very high or very low in relation to the country's development level, or whether the country has made progress in ensuring this aspect of the right to education.

Therefore, it is often necessary to compare outcome data with various types of reference points, targets or benchmarks against which it can be judged.

Types of benchmarks

For the purposes of human rights monitoring,⁵⁸ we recommend using one of the following types of benchmarks against which to compare human rights indicators:

- **A commitment either by a State or by a specific government administration**

If a State, government or institution makes a commitment that binds them (measured using structural indicators), then it is possible to hold that body to account. A State may make legal commitments, such as ratifying a human rights treaty,⁵⁹ enshrining the right to education in its constitution or enacting education legislation. A legal commitment is the highest form of commitment a State can make and therefore benchmarks associated with laws are particularly powerful when used to pressurise the government. There are also softer forms of commitment, for instance the adoption of education policies (which may include nationally determined benchmarks) and political commitment to development goals such as the *Education 2030 Incheon Declaration and Framework for Action*⁶⁰ and Sustainable Development Goal 4 on Education,⁶¹ to which governments can be held accountable (although these development agenda are not fully aligned with human rights standards). In both cases, the commitment itself should also be scrutinised, as it could be flawed from a human rights perspective.

- **Nationally determined benchmarks**

The Committee on Economic, Social and Cultural Rights, which monitors implementation of the *International Convention on Economic, Social and Cultural Rights*, recommends in General Comment 1⁶² that States set goals and benchmarks for each convention right because they provide an “extremely valuable indication of progress”. To find nationally determined benchmarks, it may be useful to look at State party reports.⁶³

- **A past value of the same outcome indicator**

By comparing data for the same indicator over time, it is possible to discern whether the level of enjoyment of the right to education has increased or decreased. Although decreasing levels of enjoyment are not evidence of a *de facto* violation of the right to education, it may be indicative of the State failing to progressively realise⁶⁴ the right to

education, or the State taking retrogressive measures,⁶⁵ an issue which could be elucidated when analysing education laws and policies.⁶⁶

- **Countries from the same region or with the same level of economic development**

Cross-country comparisons can reveal whether the level of enjoyment of the right of education is lower than expected given the country's level of development (as measured by GDP per capita)⁶⁷ which is typically similar to other countries in the same region. For instance, you may have found that your country has significantly lower levels of an outcome indicator than other countries in the same region, even though your country has the same or higher levels of economic development. Such findings would be indicative of a problem⁶⁸ in the progressive realisation of the right to education according to maximum available resources.

- **Disaggregated national data (male / female, indigenous / non-indigenous, etc)**

In order to identify inequalities in access to and quality of education, you can compare disaggregated data⁶⁹ within and between groups, for example enrolment rates of boys compared to girls, or ethnic minorities against the general population. Ensuring non-discrimination and equal treatment is a minimum core obligation⁷⁰ of the right to education; therefore a gap in a given indicator between two or more groups is evidence of a potential violation of the right to education, which would require further investigation through the analysis of laws and policies.⁷¹

What can be measured with benchmarks?

The following table⁷² provides an illustrative list of simple methods for comparing data collected for outcome indicators with relevant benchmarks in order to assess the various dimensions of State obligations pertaining to the right to education.

State Obligation	Method	Illustrative Question
Measuring essential minimum levels of the enjoyment of the right to education	Compare data for outcome indicators relevant to the right to education against GDP per capita, making a comparison of your country with other countries of the same region or other relevant groupings ⁷³	Are the levels of the relevant outcome indicator in your country below the level typically observed in other countries in the region with similar levels of GDP per capita?
	Compare data for key outcome indicators with relevant legal or political commitments made by the State	Has your country achieved the levels of secondary completion rates promised by the government? If not, how large is the shortfall?
Measuring progressive realisation according to maximum available resources ⁷⁴	Examine your country's rates of progress in improving data for outcome indicators compared with other countries in the same region or political block	Has your country made progress, or has it regressed, over time in achieving the desired levels for outcome indicators? If your country has made progress over time, has the progress made been larger or smaller ⁷⁵ than that of other countries in the same region?
	Compare rates of progress with goals to which your country has committed	Is your country on course to achieve target 4.6 ⁷⁶ of Sustainable Development Goal 4 on Education?

	Compare data for outcome indicators over time against GDP per capita growth in your country and other countries in the region	Has the rate of progress for an outcome indicator (eg percentage of students at the lowest level of reading proficiency) ⁷⁷ been slow in your country compared to poorer neighbouring countries, especially when contrasted with its economic growth?
<p>Measuring inequality in enjoyment of the right to education across different groups, including:</p> <ul style="list-style-type: none"> • Gender groups • Ethnic groups • Indigenous / non-indigenous • Rural / urban • Geographic regions • Economic groups (wealth quintiles)⁷⁸ • Persons with and without disabilities 	Compare disaggregated data for each marginalised group (to each other and to the national average) to identify inequalities ⁷⁹	Is the percentage of girls finishing secondary school much lower than that of boys or vice versa?
	Compare levels of enjoyment over time	Are the average scores in the mathematics, science or reading scale much lower for children belonging to an ethnic minority than for other children in the country and do they appear to be getting worse?
	If inequality levels of the outcome indicator in your country are being reduced, compare rate of progress with those of other countries of same region	Are these inequalities higher or lower than in other countries in the region? Has the progress made by your country in reducing inequality been bigger or smaller than that of other countries in same region or at the same

		level of economic development?
	Examine multiple forms of inequality ⁸⁰ by comparing further disaggregated data for outcome indicators of people who belong to more than one marginalised group to corresponding marginalised groups and the general population	Do indigenous girls have similar levels of enjoyment of access to education to 1) indigenous boys and 2) to the general population?

2.4 Interpret data

This step will help you to interpret the data you gathered in Step 2.2 and to decide whether that data reveals any potential shortfalls when compared with relevant benchmarks, as identified in Step 2.3.

Using the previous steps, you should have identified the most problematic dimensions of the enjoyment of the right to education that you are monitoring.⁸¹ This is reflected in those outcome indicators⁸² for which your country has the largest shortfall when benchmarked.

Now you can analyse those problematic dimensions in light of the relevant human rights obligations. For instance:

- Obligations of immediate effect and minimum core obligations require immediate action and must be prioritised by the State. If data for your chosen outcome indicator falls short of the benchmark, which for immediate and minimum core obligations tends to be implied in the content of the right itself, then there is a

plausible reason to believe that the State is not complying with its obligations. For example, the obligation to guarantee free and compulsory primary education implicitly sets a benchmark of 100% for primary education completion rate.⁸³ Any shortfall is indicative of the State not meeting its immediate and minimum core obligation to guarantee free and compulsory primary education for all.

- The right to non-discrimination and equality is both an immediate and minimum core obligation. As such, data for outcome indicators that reveals significant inequalities between and across groups (eg girls vis-à-vis boys, ethnic minority group vis-à-vis majority group, rural vis-à-vis urban, etc) may be indicative of discriminatory policies⁸⁴ (of action or inaction) against the marginalised group.
- Benchmarked outcome data may reveal that the State is failing to progressively realise,⁸⁵ according to maximum available resources,⁸⁶ various aspects of the right to education. For example, a low secondary completion rate⁸⁷ compared to relevant benchmarks may indicate that the State is not taking all necessary steps and devoting its maximum available resources to the progressive realisation of universal free secondary education.
- Poor performance, as determined by benchmarking, on standardised tests (eg low value of mean performance on the reading scale⁸⁸ or high percentage of students at the lowest level of mathematics proficiency)⁸⁹ may raise concerns about the quality of education.⁹⁰

To help you analyse the specific shortfalls in the enjoyment of the right to education that you have identified, we have included some information for each indicator in the *Indicators Selection Tool*⁹¹ that can help you interpret shortfalls in light of the relevant human rights standards (also provided). If you need further guidance on that issue, we suggest you review those standards.

Lack of enjoyment: not necessarily a violation of the right to education

It should be stressed that evidence of deprivations or inequalities in the enjoyment of the right to education does not provide in and of itself conclusive evidence that a State has violated this right. This is because deprivations or inequalities may sometimes exist, despite a State's genuine and ongoing efforts to eradicate them.⁹²

However, in most cases inequalities in the enjoyment of the right to education (reflected in inequalities in outcome indicators between various groups of a population) are created and / or exacerbated by direct and / or indirect forms of discrimination.⁹³ Therefore, finding evidence for such inequalities is often a first step in proving discrimination, which needs to be corroborated later in the monitoring process.⁹⁴

Endnotes: Step 2: Identify Deprivations & Inequalities in Education

¹ **Outcome indicators** measure the extent to which a population enjoys the right to education.

² *Idem* 1

³ Access the *Indicators Selection Tool*, here: <http://www.right-to-education.org/monitoring/tool>

⁴ See Step 1.1 of the *Monitoring Guide*, available to download here:
<http://www.right-to-education.org/monitoring/guide/11-need-clear-focus>

⁵ **Duty-bearers** are those actors who have a particular obligation or responsibility to respect, promote and realise human rights and to abstain from human rights violations. The term is most commonly used to refer to State actors, but non-State actors can also be considered duty-bearers. An obvious example is private armed forces or rebel groups, which under international law have a negative obligation to refrain from human rights violations. Depending on the context, individuals (eg parents), local organisations, private companies, aid donors and international institutions can also be duty-bearers.

Source: UNICEF *Gender Equality - UN Coherence and You – Glossary*:
<http://www.unicef.org/gender/training/content/resources/Glossary.pdf> : p.1.

⁶ See ‘How to use the *Guide*’ in the Introduction to the *Monitoring Guide*, available to download here:
<http://www.right-to-education.org/monitoring/guide/how-use-guide>

⁷ **Minimum core obligations** are the obligations on the State to ensure the satisfaction of minimum essential levels of a right. Vis-à-vis the right to education this includes: prohibiting discrimination in access to and in education, ensuring free and compulsory primary education for all, respecting the liberty of parents to choose schools for their children other than those established by public authorities, and protecting the liberty of individuals and bodies to establish and direct educational institutions.

Minimum core obligations are not subject to progressive realisation, however: “In order for a State Party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations” (Committee on Economic, Social and Cultural Rights (2003) *General Comment 3: The Nature of States Parties’ Obligations* (Art.2, Para.1): <http://www.refworld.org/docid/4538838e10.html>: Para.10).

For further information on the minimum core obligations of the right to education, see Coomans, F (1998) *Clarifying the Core Content of the Right to Education*:
<http://aihr-resourcescenter.org/administrator/upload/documents/core.pdf>

⁸ Article 2 (1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966) recognises that economic, social and cultural rights are not always immediately realisable. The full and immediate realisation of the right to education can be hampered by a lack of resources and can only be achieved over a period of time, particularly for countries with fewer resources.

The ICESCR therefore imposes the obligation to **progressively realise** certain aspects of the right to education (including free secondary, higher, and fundamental education). However, not all aspects of the right to education are subject to progressive realisation, for example, States must prohibit discrimination in and to education and ensure that primary education is free and compulsory for all.

For further information, see Right to Education Project's page *Understanding Education as a Human Right*: <http://www.right-to-education.org/page/understanding-education-right#sthash.Uat6sLqc.dpuf>

For further information on progressive realisation, see Committee on Economic, Social and Cultural Rights (2003) *General Comment 3: The Nature of States Parties' Obligations (Art.2, Para.1)*: <http://www.refworld.org/docid/4538838e10.html>

⁹ Article 2 (1) of the *International Covenant on Economic, Social and Cultural Rights* (1966) obliges States to take the necessary steps to the **maximum of its available resources** to progressively realise the right to education. Maximum available resources refers to the resources available within the State and from the international community.

States must prioritise the allocation of necessary resources to ensuring the satisfaction of minimum essential levels of the right to education and other economic, social and cultural rights.

See the Committee on Economic, Social and Cultural Rights Statement (2007) *An evaluation of the obligation to take steps to the 'maximum available resources' under an optional protocol to the Covenant*: <http://www2.ohchr.org/english/bodies/cescr/docs/statements/Obligationtotakesteps-2007.pdf>

¹⁰ **Retrogressive measures** are those taken by States that downgrade or limit existing levels of enjoyment of the right to education. The Committee on Economic, Social and Cultural Rights (CESCR) states:

"There is a strong presumption of impermissibility of any retrogressive measures taken in relation to the right to education, as well as other rights enunciated in the Covenant. If any deliberately retrogressive measures are taken, the State party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the State party's maximum available resources" (CESCR (1999) *General Comment 13: The right to education (Article 13)*: <http://www.right-to-education.org/resource/cescr-general-comment-13-right-education-article-13>: Para.45).

Examples of retrogressive measures include introducing school fees in secondary education when it had formerly been free of charge or an unjustified reduction of public expenditure on education.

¹¹ **Disaggregated data** is data that has been broken down by detailed sub-categories, for example by marginalised group, gender, region or level of education. Disaggregated data can reveal deprivations and inequalities that may not be fully reflected in aggregated data.

¹² **Education policies** are the set of actions, laws, regulatory measures, and funding priorities on education adopted by a government.

Strictly speaking laws and policies are distinct: laws are a system of rules that regulate behaviour, and are usually enforceable in courts; whilst policies are informal and set out a government's major objectives, defining the government's priorities and strategies to achieve its goals.

Education policies and laws are the primary means by which the right to education is implemented at the national and sub-national level.

¹³ *Idem* 6

¹⁴ *Idem* 3

¹⁵ *Idem* 3

¹⁶ For more information on the indicator 'Primary completion rate,' see: <http://www.right-to-education.org/monitoring/content/primary-completion-rate>

¹⁷ For more information on the indicator ‘Out-of-school children rate,’ see:
<http://www.right-to-education.org/monitoring/content/out-school-children-rate>

¹⁸ For more information on the indicator ‘Primary net enrolment ratio,’ see:
<http://www.right-to-education.org/monitoring/content/primary-net-enrolment-rate>

¹⁹ For more information on quality education, see:
<http://www.right-to-education.org/issue-page/education-quality>

²⁰ For further information on measuring quality of education, see Right to Education Project (2011) *Promoting Rights in Schools: Providing Quality Public Education*:
<http://www.right-to-education.org/resource/promoting-rights-schools-providing-quality-public-education>

²¹ **Structural indicators** measure the commitments made by States in order to meet their obligations regarding the right to education.

²² **Process indicators** measure the various types of State efforts (such as: education policies, education inputs, budget allocation, and programmes and measures to address specific education issues) undertaken in order to realise and implement the right to education.

²³ For more information on the indicator ‘Are there any established mechanisms that enable parents, children and / or community leaders to contribute to defining school curricula?,’ see:
<http://www.right-to-education.org/monitoring/content/are-there-any-established-mechanisms-enable-parents-children-and-or-community-leaders>

²⁴ For more information on the indicator ‘Do curriculum guidelines provided by the Ministry of Education include promoting respect for other nations, racial, ethnic or religious groups and indigenous people?,’ see:
<http://www.right-to-education.org/monitoring/content/do-curriculum-guidelines-provided-ministry-education-include-promoting-respect-other-nations>

²⁵ **Qualitative data** is information that describes something that is not measurable, for example feelings, behaviour, gender, race, and socio-economic status.

²⁶ **Quantitative data** is information that can be measured and expressed numerically, for example age and income.

²⁷ See Step 3 of the *Monitoring Guide*, available to download here:
<http://www.right-to-education.org/monitoring/guide/step-3-analyse-educational-laws-policies-their-implementation>

²⁸ **Human rights monitoring** is the process of collection and verification of information on human rights problems. For more details on monitoring the right to education, see Right to Education Project’s page on *Monitoring*: <http://www.right-to-education.org/page/monitor>

²⁹ *Idem* 11

³⁰ These can also be used as data sources for process and structural indicators.

³¹ Adapted from UNESCO (2004) *Guide To The Analysis And Use Of Household Survey And Census Education Data*: <http://www.uis.unesco.org/Library/Documents/hhsguide04-en.pdf> and Education Policy and Data Center (2004) *About EPDC Administrative Data*:
<http://www.epdc.org/data-about-epdc-data/about-epdc-administrative-data>

³² For example, the *District Information System for Education*, administered by The National Institute of Educational Planning and Administration (NIEPA) of India, which can be accessed, here: <http://www.dise.in/>

³³ International and regional student assessments:

- *Trends in International Mathematics and Science Study (TIMSS)* is an international assessment of the mathematics and science knowledge of 4th and 8th grader students around the world: <http://www.timss.org/>
- *Progress in International Reading Literacy Study (PIRLS)* is an international study of reading achievement in fourth graders: <http://www.pirls.org/>
- *Programme for International Student Assessment (PISA)* is a worldwide study by the *Organisation for Economic Co-operation and Development (OECD)* in member and non-member nations of 15-year-old school pupils' scholastic performance on mathematics, science, and reading: <http://www.pisa.oecd.org/>
- *Southern and Eastern African Consortium for Monitoring Educational Quality (SACMEQ)* is a consortium of African education ministries, policy-makers and researchers. To date, it has conducted three nationally representative school surveys in participating countries. These surveys collect extensive background information on the schooling and home environments of students, and in addition, test students and teachers in both numeracy and literacy: <http://www.sacmeq.org/>
- *The Latin American Laboratory for Assessment of the Quality of Education (LLECE)* is the network of quality assessment systems for education in Latin America. It is coordinated by UNESCO's Regional Bureau for Education in Latin America and the Caribbean. It assesses learning performance in the third and sixth grades in mathematics, reading and writing, including natural sciences for the sixth grade: <http://www.unesco.org/new/es/santiago/education/education-assessment/>

³⁴ UNESCO Institute of Statistics (UIS) indicators such as primary gross and net enrolment rates are based on a definition of primary education established by the International Standard Classification of Education (ISCED). National definitions of the duration of education cycles may differ from the ISCED, and consequently indicator values reported by a national source in such cases would not be the same as those reported by UIS.

Source: Education Policy and Data Centre (2012) *About EPDC Administrative Data*:
<http://www.epdc.org/data-about-epdc-data/about-epdc-administrative-data>

³⁵ *Idem* 3

³⁶ The Right to Education Project also has a page on where to find international *Data and Statistics*:
http://www.right-to-education.org/page/where-find-information#section_view-default-5

³⁷ UIS: <http://www.uis.unesco.org/datacentre/pages/default.aspx>

³⁸ EdStats:
<http://databank.worldbank.org/Data/Views/VariableSelection/SelectVariables.aspx?source=Education%20Statistics>

³⁹ See the *EFA GMR World Inequality Database on Education (WIDE)*: <http://www.education-inequalities.org/>

⁴⁰ For instance Article 31 of the *Convention on the Rights of Persons with Disabilities* requires:

1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:

- (a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;
- (b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.

2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.

3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.

⁴¹ **Discrimination** "implies any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms" (Human Rights Committee *General Comment 18*: <http://www1.umn.edu/humanrts/gencomm/hrcom18.htm>: Para.7).

International law prohibits both direct and indirect discrimination:

- Direct discrimination is when a person, on account of one or more of the prohibited grounds (see multiple discrimination), is treated less favourably than someone else in comparable circumstances.
- Indirect discrimination is when a practice, rule, policy, or requirement is outwardly neutral but has a disproportional impact upon a particular group. For an example of indirect discrimination, see *DH and others v Czech Republic*: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256>

For further information, see INTERIGHTS (2011) *Non-Discrimination in International Law: A Handbook for Practitioners*: <http://www.interights.org/document/153/index.html>

⁴² As we shall see in Step 3 investigating the causes of why people have unequal chances to enjoy their right to education could help you detect if policies or practices may be discriminatory. Step 3 of the *Monitoring Guide* is available to download here: <http://www.right-to-education.org/monitoring/guide/step-3-analyse-educational-laws-policies-their-implementation>

⁴³ For instance, a girl from a rural area belonging to the poorest quintile in Niger has a 96% chance of receiving less than 4 years of schooling, whilst a boy in the same country from an urban area belonging to the richest quintile has a 41% chance of receiving less than 4 years of schooling.

Source: EFA GMR World Inequality Database on Education (WIDE): http://www.education-inequalities.org/indicators/edu4/countries/niger/communities#?dimension=community&group=|Urban|Rural&dimension2=sex&group2=|Male|Female&dimension3=wealth_quintile&group3=|Quintile%201|Quintile%205&age_group=edu4_20&year=2006

⁴⁴ A person is subject to **multiple forms of inequality** if she or he is deprived or has unequal enjoyment of a human right on the basis of multiple grounds. Inequality and multiple inequality do not always amount to a violation as sometimes it is unavoidable. However, when the deprivation or inequality of enjoyment is avoidable, this is a violation of the right to non-discrimination and is known as multiple discrimination.

Multiple discrimination occurs when a person is discriminated against on one ground in a certain situation and a different ground in another context. For example, an indigenous girl may face discrimination on the basis of her sex in one context and in another situation she may be subject to racial discrimination.

Compound discrimination is discrimination on two or more grounds occurring at the same time. For example, an indigenous girl may suffer discrimination on the basis of her sex and race simultaneously. As a result she suffers an exacerbated and distinct form of discrimination.

Intersectional discrimination refers to a situation where several grounds operate and interact with each other at the same time in such a way that they are inseparable.

All three terms are often used interchangeably.

⁴⁵ *Idem* 1

⁴⁶ *Idem* 22

⁴⁷ *Idem* 3

⁴⁸ Source: OHCHR (2000) *Human Rights Indicators: A Guide to Measurement and Implementation*: <http://www.ohchr.org/EN/Issues/Indicators/Pages/documents.aspx>: p. 68.

⁴⁹ Advantages of using existing data:

- The cost and time demands of gathering existing information are generally low.
- You may find high-quality data, gathered in a sound way by experts, covering a much larger geographical area or sample size than you could have tackled yourself.
- The data may have been collected at different points in time, so you can use it to establish a baseline and discern a trend.
- The data could be broken down in such a way that you can easily supplement it with additional evidence of your own.

Source: CAFOD, Christian Aid and Trocaire (2007) *Monitoring Government Policies: A toolkit for civil rights organisations in Africa*: http://commdev.org/files/1818_file_monitoringgovernmentpolicies.pdf: p.50.

⁵⁰ *Idem* 3

⁵¹ To assess the reliability and usefulness of existing data, CAFOD has developed the following tool:

Context: This tool can be used individually or with a group, although it is probably best suited for individual research. If you have many sources of data to assess, members of a network or team could use the steps below and apply them to different data sets.

How to use this tool:

- **Step 1:** Establish the source of the information. For example, was it gathered by a government department, by independent researchers, consultants or a CSO? What do you know about their respective reputations?
- **Step 2:** Pinpoint the timeframe for the data. How long ago was it gathered? What time period does the information apply to? How does this relate to the time period you have chosen for your monitoring?
- **Step 3:** Find out how the information in the document was gathered. What methods were used? How reliable were these methods?
- **Step 4:** Assess whether the data is representative. What or who does it represent?
- **Step 5:** If the source includes a discussion or analysis of the data, consider from what perspective this has been done. Can the data be interpreted in other ways?
- **Step 6:** Decide whether the data reflect any clear contradictions or discrepancies. Can these be explained to your satisfaction?
- **Step 7:** Draw a conclusion. Based on your answers to the questions above, what can you say about the reliability, credibility and legitimacy of this data?

Source: CAFOD, Christian Aid and Trocaire (2007) *Monitoring Government Policies: A toolkit for civil rights organisations in Africa*: http://commdev.org/files/1818_file_monitoringgovernmentpolicies.pdf: p.51.

⁵² For more information on the indicator 'Percentage of children with disabilities enrolled in mainstream schools,' see: <http://www.right-to-education.org/monitoring/content/percentage-children-disabilities-enrolled-mainstream-schools>

⁵³ For more information on the indicator 'Percentage of children with disabilities enrolled in special schools,' see: <http://www.right-to-education.org/monitoring/content/percentage-children-disabilities-enrolled-special-schools>

⁵⁴ Two examples of CSOs collecting their own data:

Uwezo - Information on learning outcomes: examples from Tanzania, Uganda and Kenya

The Uwezo initiative aims to draw public attention to educational challenges by researching and reporting on actual learning levels of children living in East Africa. Uwezo conducts annual household assessments of basic literacy and numeracy levels in Kenya, Tanzania, and Uganda. The tests are based on the Class [Grade] 2 curriculum expectations of each country. Every year, Uwezo partners with over 350 local organisations to mobilise and train over 22,000 citizens to conduct the survey. In 2012, the Uwezo army of citizen volunteers assessed a total of 343,104 children in 124,627 households across 362 districts in East Africa.

Source: Save the Children (2013) *The Right To Learn: Community participation in improving learning*: http://resourcecentre.savethechildren.se/sites/default/files/documents/the_right_to_learn.pdf%20: p.19.

Annual Status of Education Report – India

ASER stands for Annual Status of Education Report. This is an annual survey that aims to provide reliable annual estimates of children's enrolment and basic learning levels for each district and state in India. ASER has been conducted every year since 2005 in all rural districts of India.

ASER is the largest citizen-led survey in India. It is also the only annual source of information on children's learning outcomes available in India today.

Source: Aser Action: <http://www.asercentre.org/Survey/Basic/Pack/Sampling/History/p/54.html>

⁵⁵ See Step 1.4 of the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide/14-assess-your-capacities-and-identify-partners>

⁵⁶ *Idem* 6

⁵⁷ *Idem* 1

⁵⁸ *Idem* 28

⁵⁹ For instance, Article 13 of the *International Covenant on Economic, Social and Cultural Rights* compels States to provide compulsory and free primary education, which means that the benchmark for primary school enrolment is 100%.

⁶⁰ Access the *Education 2030 Incheon Declaration and Framework for Action*, here: <http://www.right-to-education.org/resource/education-2030-incheon-declaration-and-framework-action>

⁶¹ Sustainable Development Goal 4 on Education: Ensure inclusive and quality education for all and promote life long learning. For further information on the Goal and its related targets, see here: <http://www.un.org/sustainabledevelopment/education/>

Also see the Danish Institute for Human Rights's *Guide to SDG 4*, which goes through all 17 goals and 169 targets to uncover their human rights anchorage, as well as the underlying indicators' human rights adequacy, available, here: <http://www.right-to-education.org/resource/human-rights-guide-sdgs-sdg-4>

⁶² The Committee on Economic, Social and Cultural Rights (1989) *General Comment 1 on Reporting by States parties*: <https://www.escr-net.org/docs/i/425212>

⁶³ States parties' reports can be accessed at the Office of the High Commissioner on Human Rights's page *Universal Human Rights Index*: <http://uhri.ohchr.org/en>

⁶⁴ *Idem* 8

⁶⁵ *Idem* 10

⁶⁶ *Idem* 12

⁶⁷ **Gross domestic product** (GDP) is the value of the output of all goods and services produced in a country during a given time period – usually a year.

Per capita GDP is GDP divided by the total population.

GDP and per capita GDP are indicators commonly used to measure the level of economic development of a country.

⁶⁸ Bear in mind that cross-country comparisons are not always valid, if, for example you compare one country going through or emerging from an armed conflict or a natural disaster, with another that is not, you may find that results differ due to the redirection of efforts and resources.

⁶⁹ *Idem* 11

⁷⁰ *Idem* 7

⁷¹ *Idem* 27

⁷² Adapted from Felner, E (2008) *A new frontier in economic and social rights advocacy? Turning quantitative data into a tool for human rights accountability*, *Sur International Journal on Human Rights*, Year 5, Number 9. Accessible, here: <http://www.right-to-education.org/resource/new-frontier-economic-and-social-rights-advocacy-turning-quantitative-data-tool-human>

⁷³ For example, other countries belonging to the Organisation for Economic Co-operation and Development (OECD) or fellow BRICS members (Brazil, Russia, India, China and South Africa).

⁷⁴ *Idem* 9

⁷⁵ In case of huge differences between two data points, check the methods used by the surveyors. Are the findings strictly speaking comparable?

⁷⁶ Target 4.6 reads: "By 2030, ensure that all youth and at least a substantial proportion of adults, both men and women, achieve literacy and numeracy."

⁷⁷ For more information on the indicator 'Percentage of students at the lowest level of reading proficiency,' see: <http://www.right-to-education.org/monitoring/content/percentage-students-lowest-level-reading-proficiency>

⁷⁸ A **quintile** is the portion of a frequency distribution containing a fifth (or 20%) of the total sample or population. The first quintile contains the lowest 20% of the sample or population. The first and second quintiles contain the lowest 40% of the sample or population.

A quintile is an example of a **quantile**. A quantile is: "Each of any set of values of a variate which divide a frequency distribution into equal groups, each containing the same fraction of the total population" (Oxford Dictionary: <http://www.oxforddictionaries.com/definition/english/quantile>).

⁷⁹ See the *EFA GMR World Inequality Database on Education (WIDE)*: <http://www.education-inequalities.org/>

⁸⁰ *Idem* 44

⁸¹ *Idem* 28

⁸² *Idem* 1

⁸³ *Idem* 16

⁸⁴ The reasons for the existence of inequalities in the enjoyment of the right to education may vary depending on the indicator in question, as illustrated by the analysis of Katarina Tomaševski, regarding the gender gap in outcome education indicators:

“The existing quantitative data have identified three facets of the gender gap. The difference in male / female illiteracy rate is a reflection of the heritage of unequal access to education, the difference in male / female enrolment points to continuing unequal access, while the male / female difference in the completion of the full cycle of primary education indicates that getting girls into school does not necessarily lead to their staying at school.”

Source: Tomaševski K (1999) *Preliminary report of the Special Rapporteur on the right to education*: <http://www.ohchr.org/EN/Issues/Education/SREducation/Pages/AnnualReports.aspx>

⁸⁵ *Idem* 8

⁸⁶ *Idem* 9

⁸⁷ For more information on the indicator ‘Secondary completion rate,’ see: <http://www.right-to-education.org/monitoring/content/secondary-completion-rate>

⁸⁸ For more information on the indicator ‘Mean performance on the reading scale,’ see: <http://www.right-to-education.org/monitoring/content/mean-performance-reading-scale>

⁸⁹ For more information on the indicator ‘Percentage of students at the lowest level of mathematics proficiency,’ see: <http://www.right-to-education.org/monitoring/content/percentage-students-lowest-level-mathematics-proficiency>

⁹⁰ When interpreting results on standardised tests, you should be aware of the limitations of these types of assessments as an indicator of the quality of education. For further information, see Right to Education Project (2013) *Learning Outcomes Assessments: A Human Rights Perspective*: <http://www.right-to-education.org/resource/learning-outcomes-assessments-human-rights-perspective> and the ‘Adapt your indicators’ step of this *Guide*, available to download, here: <http://www.right-to-education.org/monitoring/guide/21-select-outcome-indicators#quality>

⁹¹ *Idem* 3

⁹² For instance, disparities in outcome indicators disaggregated by gender, ethnicity or other grounds of discrimination may, on occasion, be the result of economic, historic or other factors, and they may exist despite the government’s genuine efforts to close those enduring gaps. In such a case, the data will indeed show inequalities in the enjoyment of the right but not necessarily discrimination.

⁹³ *Idem* 41

⁹⁴ *Idem* 27

Step 3: Analyse Education Laws & Policies & Their Implementation

Human rights standards do not prescribe the specific actions States must take in order to implement the right to education. Rather States are granted the discretion to decide for themselves the most appropriate means by which to comply with their obligations¹ and realise the right to education. International law² does, however, require States to adopt various measures to progressively realise³ the right to education.

This step will help you identify and expose cases in which State actions (or inaction) contribute to the creation, perpetuation or exacerbation of deprivations or inequalities in the enjoyment of the right to education, as identified in Step 2.⁴ This step is crucial for building the case that there has been a violation of the right to education.

While Step 2 focused on the realisation of the right to education from the perspective of the right-holder,⁵ this step, like Steps 4⁶ and 5,⁷ is meant to help you assess the extent to which the State, as the primary duty-bearer,⁸ is complying with its human rights obligations.

This step will guide you to select the most appropriate structural⁹ and process indicators,¹⁰ gather the appropriate data, compare that data to the relevant benchmarks and finally interpret that data.

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3.1 Select structural and process indicators

This step explains how to use the *Indicators Selection Tool* ('Tool')¹¹ in order to select the most appropriate structural¹² and process indicators¹³ to assess whether the deprivations and inequalities you identified in Step 2¹⁴ were avoidable and thus a result of State action or inaction.

States are permitted to realise the right to education through a variety of different means. This step focuses on the analysis of the most common of these – laws and policies.¹⁵

Laws incorporate the right to education, as guaranteed by international law, into the domestic legal order. This creates a legal obligation for all duty-bearers¹⁶ to act in accordance or refrain from acting in a way that affects the enjoyment of the right to education as guaranteed by these laws. Most countries¹⁷ have enshrined the right to education in their constitutions, meaning that the right to education enjoys the highest form of legal protection.

Policies are more flexible than laws, and set out a government's major objectives, defining the government's priorities and strategies to implement the laws and achieve its education goals. Policies must be aligned with laws.

In this step you will learn how to assess the commitment of the State to the right to education, using structural indicators and the State's efforts to transform its commitments into greater enjoyment, using process indicators.

Because the laws and policies (and other measures) that States implement address specific problems and contexts, the structural and process indicators that could potentially be applied to monitor¹⁸ the right to education are numerous.

Your choice of which laws and policies to examine, and which structural and process indicators to select, will largely depend on which factors¹⁹ are preventing people from fully enjoying the right to education in your specific context.

The role of structural and process indicators in monitoring the right to education

In Step 2,²⁰ you used outcome indicators²¹ to determine whether there is evidence of deprivations and inequalities in the enjoyment of the right to education. However, evidence of unequal enjoyment is rarely enough to show a violation of the right to education.

Structural and process indicators will help you link deprivations and inequalities with States' efforts to comply with their obligations. By doing this you can demonstrate that these deprivations are attributable to the primary duty-bearer, thereby strengthening your case that a violation has occurred. Although structural and process indicators are distinct, used in tandem they measure policy efforts.

Structural indicators measure the commitment of the State to the right to education and can be used to assess the extent to which a State's domestic law complies with international human rights law. Every country in the world is a State party to at least one human rights treaty guaranteeing the right to education, meaning that all countries have international legal obligations regarding the right to education. Structural indicators can tell you when a State fails to comply with these obligations and is thereby in violation of human rights law, including when a State adopts or fails to repeal legislation or policies incompatible with the content of the right to education and its associated obligations.²² In some cases, a State may have favourable results regarding structural indicators, for example, they have ratified every relevant human rights treaty. However, it is important to remember that structural indicators measure commitment and not actual efforts.

Process indicators measure a State's efforts to transform its commitments into greater enjoyment of the right to education. They can be used to assess the quality, appropriateness, effectiveness and efficiency of education laws and policies and their implementation,²³ as well as education inputs.²⁴ If the State has not adopted appropriate laws and policies to implement the right to education, the State is in breach of its obligations under international human rights law.

Establish your shortlist of structural and process indicators using the *Indicators Selection Tool*

In order to select structural and process indicators relevant to your monitoring exercise, you should use the *Tool*.²⁵

As a first step, you should select *Structural Indicators* and / or *Process Indicators* under the *Types of Indicators* filter.

Depending on the focus of your monitoring exercise, you may also want to click one or more options under the other criteria.

If you are unsure which laws and policies to examine, you should consider the following:

- **The topic of your monitoring project**

In many cases the topic of your monitoring project will help narrow down your set of indicators. For instance, if the topic of your monitoring initiative is the quality of teaching, you should select *Structural* and *Process Indicators* and *Teachers* under *Quality of Education*, which is under *Areas of Focus*. This will include indicators on teachers' training, qualifications, knowledge and experience, the availability of learning materials, the state of school facilities, etc. If the topic you are focusing on is the availability of education to persons in detention, you should select *Structural* and *Process Indicators* and *Persons in Detention* within *Marginalised Groups*.

- **Data on outcome indicators**

Interpreting the data you gathered on outcome indicators²⁶ may also help you select structural and process indicators. For instance, if you have found that there is a lack of access to education (reflected in, for instance, significantly low enrolment rates), you may wish to focus your analysis on education laws and policies that specifically address that issue, such as laws and policies on the availability of schools, school infrastructure,²⁷ and teachers or ensuring free education. However, if you found that access to education is not a generalised problem (eg the national average for enrolment rates is quite high, even when

compared with relevant benchmarks), but there is a persistent problem in access to education amongst some specific group (eg persons living in poverty, girls, persons with disabilities or an ethnic group) or region, then you would probably want to identify and critically analyse the policy efforts that typically contribute to that group in the population falling behind in the levels of access to education. The specific policy issues you focus on will vary depending on which group you are focusing on.²⁸

- **Factors preventing people from fully enjoying the right to education in a specific context**

Analysing the specific factors that are preventing people from fully enjoying the right to education will help you determine which laws and policies to examine and which structural and process indicators to use.²⁹

Adapt your indicators

You may find that the indicators offered by the *Tool* do not fully address the factors you want to examine. While the Right to Education Project's ('RTE') indicators are intended to be comprehensive, they are not exhaustive. This is because there are a multitude of possible laws and policies³⁰ that governments can legitimately implement to address a specific problem, indeed this is desirable as laws and policies should take into account the particular context and / or group in question. This means that that there are a corresponding number of possible structural and process indicators that may be applicable.

If you find that the structural and process indicators RTE offers are too generic or do not address the specific problem you are monitoring, you can add your own indicators. You should however bear in mind that the added value of right to education indicators is that they are based on and reflect international human rights law, and that they are used to measure the extent to which States fulfil their legal obligations. Therefore, if you use indicators that are not in the *Tool*, you should make sure that they measure a principle enshrined in international law.

You should also ensure that the indicators you add are specific and measurable.³¹ This means that when different people use the same indicator to measure the same thing, they should end up with the same data.

For instance, if the focus of your monitoring exercise is on school infrastructure, you may add more specific indicators than those listed in the *Tool*. Thus, instead of just using the indicator percentage of schools with buildings in a state of disrepair,³² you may want to have a number of more specific indicators, such as percentage of schools with classrooms with leaky or collapsing roofs, percentage of schools with classrooms with broken windows, or percentage of schools with broken toilets.

In order to adapt or formulate new structural indicators you should consider whether the State that is the focus of your project has ratified an international human rights treaty that is relevant to the problem you are monitoring. For instance, if you are monitoring the right to education of children with disabilities, you may want to check the ratification status³³ of your country to the *Convention on the Rights of Persons with Disabilities*,³⁴ as well as more general treaties such as the *International Covenant on Economic, Social and Cultural Rights*³⁵ and the *Convention on the Rights of the Child*.³⁶ In addition you should also check that the State has not made any reservations or declarations that limit the domestic applicability of the right to education.

You will also need to formulate structural indicators that measure commitment taken at the national and subnational level. For example, if you are monitoring the availability of primary education and have identified a problem in the recruitment of teachers, you should look for local, regional and national laws and policies that may impact on the recruitment of teachers.

If you create and adapt indicators that prove to be useful for monitoring the right to education in the field, please do let us know.³⁷

3.2 Gather structural and process data

This step will give you general guidance on collecting data for structural³⁸ and process indicators.³⁹

Data sources

Since there are a variety of laws and policies that a State could adopt to fulfil its obligations regarding the right to education, the data sources related to process indicators are varied.

In addition to the data sources for outcome indicators,⁴⁰ other sources that regularly produce data on structural and process indicators at the national level include:⁴¹

Population surveys

This data source includes statistical information about people, their homes, their socio-economic conditions and other characteristics. The most common type of survey is a household survey that collects data about private households.

Data from household surveys can complement school-based data by providing information on aspects of children's backgrounds that may influence household schooling decisions, with possible disaggregation by segments of the population. For example, surveys with questions on education demand have been used to help understand how factors such as direct and indirect costs of schooling and distance to school affects parents' decision to send their children to school.

Since surveys are based on asking people the same questions, they can be a very useful source of comparative data.

Although household surveys typically produce disaggregated data,⁴² you should bear in mind that disaggregation for specific subgroups might be constrained due to sample size limitations, especially in low-income countries.

Legal and policy documents

For structural indicators you will need to identify laws and policies that implement and affect the right to education. For process indicators you will use and analyse these laws and documents.

Governments produce a variety of documents that have information and data on the problems that affect education, the current policies that the government has in place to address some of those problems and new laws and policies and / or programmes it intends to undertake.

Many of these documents are produced by the Ministry of Education, but others are produced by other State institutions. These include national development plans, as well as laws and policies directed at children, equality and poverty reduction.

Depending on the issue(s) and marginalised group(s) you are monitoring, you may want to check laws and policies related to: child marriage, child labour, minimum age of criminal responsibility, and regulation of private actors in education.

Documents about policy performance

If the policies or programmes you are assessing have been in place for some time, you may find various documents already analysing performance of that programme. Reviewing this type of document (government reports, materials submitted to parliamentary standing committees or Q&A sessions in parliament, independent evaluations, previous monitoring reports carried out by CSOs, development agency evaluations of government projects, in-depth media reports) can help you to learn what achievements and problems have been identified to date in the implementation of a policy.

Reports and shadow reports⁴³ submitted to UN treaty bodies⁴⁴ are particularly useful for identifying gaps and problems with national education laws and policies, in particular reports submitted to the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child. It may also be worth checking reports submitted to UNESCO.

The Education for All Global Monitoring Reports and the background papers related to these reports that often focus on specific countries, and UNDP National Human Development Reports often contain analysis of education policies that could be helpful when analysing the State's efforts to comply with its obligations regarding the right to education.⁴⁵

Disaggregated data

As with data for outcome indicators,⁴⁶ it is necessary to collect disaggregated data for process indicators, in order to compare whether education inputs⁴⁷ are equitably distributed between different groups. For example, for the indicator is there a special funding system to ensure access to education for students from marginalised groups?⁴⁸ looking at whether the special funding system is accessible to all marginalised groups tells you about State efforts to address accessibility problems.

Because process indicators measure State efforts, it is not always possible to achieve the same the levels of disaggregation as for outcome indicators, which measure the level of enjoyment of the right to education. For outcome indicators, it is possible to show unequal enjoyment of the right to education by breaking down the data by marginalised group. However, this is not the case for process indicators. Process indicators such as pupil / teacher ratio⁴⁹ and percentage of trained teachers⁵⁰ cannot be broken down by marginalised group; instead the levels of disaggregation will be related to the distribution and prioritisation of education inputs. For example, for pupil / teacher ratio, you should compare data for public and private schools, urban and rural areas, by region and by level of education. In this case, disaggregating data by urban and rural and by region, may tell you, by proxy, whether certain marginalised groups benefit less from State efforts. This is because certain regions may be dominated by particular minority groups, and people living in rural areas tend to be less well off than their urban counterparts.

Disaggregated data for process indicators may also enable you to identify cases in which a marginalised group is disproportionately subject to a violation of the right to education, as illustrated in a report by the ACLU and Human Rights Watch,⁵¹ which found that in the

United States, students with disabilities make up 19 per cent of those who receive corporal punishment, yet just 14 per cent of the nationwide student population.

The *Indicators Selection Tool*⁵² includes notes on interpretation for each process indicator, as well as how data for each process indicator can be disaggregated.

Where to find data

In the *Indicators Selection Tool* we have included a link to available data for some quantitative⁵³ process indicators.

For qualitative process indicators and structural indicators, legal and policy documents can be found on Ministry of Education websites, in Parliamentary records and in a range of aggregate databases.⁵⁴

Challenges in accessing official data

You may encounter obstacles in accessing the data that you need to analyse laws and policies. The following table⁵⁵ lays out some of the typical challenges that you may face and some suggestions on how to address them:

Challenge	Possible solution
Official data exists but the State agency that holds it denies public access to it	<ul style="list-style-type: none">• Talk to other CSOs or stakeholders⁵⁶ to see if they have copies of the documents that you require• Make formal requests in writing to the relevant government department to access the documents and keep a record of your efforts. In addition to the sources listed here, national legislation (constitutions and national laws) is another important source for data on structural indicators• Ask the media to report on the denial of access to policy information• Get your legislator to raise the problem and ask for the

	<p>information</p> <ul style="list-style-type: none"> • Develop closer relationships with key people in relevant government departments and convince them that they can benefit from your work • Lobby government information offices • Invoke freedom of information laws⁵⁷
Official documents with relevant data are accessible but the data is incomplete or inaccurate	<ul style="list-style-type: none"> • Supplement the data produced by the State with data from other sources, such as CSOs, international bodies, universities, etc • Develop or bring in external analytical abilities (eg a statistician from a local university) to study the data and assess what can and cannot be used • Interview government officials to fill in what is missing from documents or explain discrepancies • Extract the data you need from existing data sources such as household surveys or departmental records
The data that you need does not exist or has not been recorded	<ul style="list-style-type: none"> • Develop your own survey to gather relevant data (see Step 6.2) • Advocate for better information: call on the government to begin recording the kind of data needed to monitor policy implementation • Use media reports or other semi-anecdotal evidence

Bear in mind that a lack of official data for certain indicators is often, in itself, a reflection of a State's failure to take its human rights responsibilities seriously. For instance, if the government does not collect data on school buildings in a state of disrepair, this is a sign that the State is not fulfilling its responsibilities regarding the right to quality education, since it cannot take steps to ensure that those schools that are in disrepair get fixed. Therefore, if you find that the data from government documents is unreliable or incomplete; you should point out these deficiencies to the government in your monitoring report and include these issues in the report recommendations.⁵⁸

Collect new data

Beyond raising the issue with the government, when there is no data available for your process indicators, you may need to collect your own data. This may be particularly necessary with regard to the acceptability and adaptability of education,⁵⁹ as it is crucial to learn about the perceived experience of those using the education system (ie children and parents). This type of information is typically unavailable and primary data⁶⁰ may need to be collected.

Methods for collecting your own data

- **Population surveys**

As noted above, governments commonly use population surveys to gather information on various aspects of a population, including information related to education. It is also possible to produce your own survey to obtain data that is not gathered by the government surveys. There are two types of population surveys that are particularly useful for monitoring the right to education: household surveys and children's surveys. These surveys can be carried out at national, provincial or local level.

Surveys allow you to collect qualitative⁶¹ information and are particularly suitable when you want to gather specific information from many individuals or households in a consistent way. It enables you to gather evidence that can be readily counted and categorised and analysed statistically, helping you to assess the scope of a problem (eg 47% of children who dropped out of school mentioned the cost of schooling as the key obstacle for access to education).

Population surveys also allow researchers to monitor actual practices. For example, child marriage is illegal in a number of jurisdictions and yet the practice continues to affect girls' access to education. Another common example is the charging of illicit fees despite the law guaranteeing free primary education.

A population survey may combine different types of questions, for instance on factual information (eg gender, income, ethnicity, etc), experiences in the education system (eg have you encountered any situations of discrimination because of your gender, ethnicity?), and behavioural motives (eg the reasons you dropped out of school). By combining these types of questions, you can gather data about specific marginalised groups. For example, you can show that a certain percentage of an ethnic minority reports that they dropped out of school because they experienced discrimination in school.

Bear in mind that although population surveys can be very useful, conducting such surveys requires a considerable level of technical expertise on survey methodologies (such as question design and sampling), time and resources. If your organisation does not have the technical skills and resources necessary you should team up with other organisations or individuals that have this expertise (eg research centres).

- **School surveys**

Field visits to schools⁶² can help you gather data on a range of education inputs⁶³ that affect the realisation of the right to education, such as:

- School infrastructure (including level of reasonable accommodation for children with disabilities).
- Learning environment, including language of instruction (and related difficulties encountered by children of language minorities).
- Teaching / learning activities.
- Status of positive discrimination schemes (eg scholarships or specific incentives).
- Teacher working conditions.
- Ancillary services delivered in the school (eg health check-up and school meals).

- The nature of the relationship between the school and the community overall.

By gathering the same type of information in numerous schools, you may be able to turn qualitative information about specific schools into qualitative data that is expressed numerically, thus providing more precise information of the scope of various problems in the education system.⁶⁴

- **Interviews / focus group discussions**

Interviews with children, parents, teachers, head teachers and statutory bodies for community participation (eg Parent Teacher Associations) can help in identifying obstacles to educational attainment and strategies for overcoming these obstacles, and in making appropriate policy recommendations to governments. They are particularly helpful for obtaining more in-depth, qualitative information about a certain issue or to get a variety of perspectives on the same issue.

Although interviews often lack the representativeness that population surveys can offer, it is possible to use interviews with a range of stakeholders as a primary source for a critical analysis from a human rights perspective of specific policies on education.⁶⁵

Conducting interviews with affected communities can also provide you with the personal stories of an individual or family to use in your report. These testimonials or stories are very powerful tools in human rights monitoring and advocacy, showing the real impact of deprivations and inequalities in education.

When you are conducting interviews with rights-holders,⁶⁶ such as children or parents, you should observe certain principles to ensure that you are respecting the rights of the interviewees.⁶⁷

Issues to take into account with gathering your own data

1. Principles of data collection

Data collection requires considerable time, resources and expertise. Since the success of your advocacy⁶⁸ strategy will depend on gathering reliable, credible evidence, there is little use in gathering evidence and presenting findings that can be dismissed as fabricated, unreliable or biased. To reduce the likelihood that your research is discredited, you should make sure that you observe the key principles of data collection.⁶⁹

It may not always be feasible to observe the key principles of data collection, for instance when monitoring the right to education in emergency situations. In these instances, it may still be worth collecting data as important information may be revealed. However you should be transparent about your data collection methods and be aware of its limited reliability.

2. Geographic scope

Unless you have the necessary time, resources and technical expertise to conduct a nationally representative survey, it is advisable to limit the geographic scope and / or the thematic focus of your data gathering, to make the data collection effort more feasible.

An effective strategy to determine which geographic area(s) to focus on is taking one region in the country in which in Step 2.4⁷⁰ you found the worst levels of right enjoyment and compare them with a region in which you found the best education outcomes.⁷¹

3.3 Compare structural and process data with benchmarks

As with the interpretation of data gathered for outcome indicators,⁷² it is necessary to compare the information you have gathered for your structural⁷³ and process indicators⁷⁴ with various types of benchmarks.

Types of benchmarks

For the purposes of human rights monitoring you will need to be able to identify whether there are shortfalls in the information for the structural or process indicators you have selected. We recommended you use one of the following types of benchmarks:

- **International human rights standards**

Compare laws adopted at the national level (ie structural indicators) with relevant provisions of international human rights law. This will enable you to assess whether those laws are in compliance with international human rights standards. For instance, if the laws on education do not require compulsory and free primary education, this would fall short of the international standard that primary education shall be compulsory and available free to all.⁷⁵

- **Laws and policies**

Compare the data you compiled on particular policy issues against the commitments undertaken by the government in national laws⁷⁶ or policy documents.⁷⁷ Policy documents may reveal the rationale behind a government policy or intervention. You could then contrast that rationale with the manner in which that policy is carried out.⁷⁸

- **Disaggregated data**

Disaggregated data for process indicators can help you determine whether State efforts have discriminatory⁷⁹ effects. For instance if the distribution and prioritisation of education inputs by the State favours certain regions, groups of people (the general population, people living in urban areas, relatively well-off families, etc), types of school or levels of education, then a case can be made that the State is allocating its resources in a way that exacerbates inequalities within society. For example, regions dominated by the majority group may have a higher pupil / textbook ratio⁸⁰ compared to regions that are home to high numbers of minorities. This indicates that the State prioritises the distribution of education inputs to the majority group.

- **A past value of the same process indicator**

Comparing present year data with a past value of the same indicator can reveal whether the State has made progress or has regressed⁸¹ in providing for the education input⁸² necessary for the full enjoyment of the right to education. A decreasing commitment to provide for education inputs may be indicative of a problem in the progressive realisation⁸³ of the right to education according to maximum available resources.⁸⁴ For instance, if you find that the

pupil / textbook ratio has increased over the years (ie the average number of pupils per textbook in schools is higher than in the past), this may indicate that the government is failing to provide equal access to quality education, since textbooks are one of the major teaching and learning resources used in schools and in many countries many low income families cannot afford to buy their own textbooks.

3.4 Interpret data

This step will help you identify some of the key problems in the State's laws and policies⁸⁵ that may be having a detrimental effect on the full realisation of the right to education, through the analysis of the data you gathered in Step 3.2.

Firstly, this step will help you identify whether the data for your selected structural indicators⁸⁶ reveals that there is a problem with the State's commitment to the right to education.

Secondly, this step will provide you with guidance on how to interpret, in light of relevant human rights standards, the shortfalls you may have found in the process indicators⁸⁷ when benchmarked (see Step 3.3).

Finally, this step will help you identify specific problems in the policies and implementation patterns that the government is undertaking to realise the right to education.

3.4a Interpret data for structural indicators

After you have identified deprivations and inequalities in the enjoyment of the right to education, the first thing you should look at is the commitment of the State to the right to education, using structural indicators. This is because a lack of commitment could be the reason why enjoyment is unacceptably low. For example, it may be the case that a contributing factor for low levels of enjoyment of primary education is that no laws or policies exist to address the obstacles that prevent access for marginalised groups.

You should also review relevant constitutional provisions, legislation and policies in order to identify gaps in the protection the right to education, as well as inconsistency with international human rights law.⁸⁸

Legal analysis is particularly helpful in identifying cases where discrimination⁸⁹ is entrenched in law, for instance when the law specifies that schooling will be provided exclusively in the language of the majority, not allowing linguistic minorities the opportunity to learn in their own language which is shown to have a detrimental impact on the development of the child.

Moreover, legal analysis in areas such as the family code (eg minimum age for marriage)⁹⁰ and labour laws (eg discriminatory practices in salaries or working conditions for women) could help identify laws that, although not specific to education, may actually have a detrimental effect on girls' access to school.

A useful source for identifying gaps in existing legislation and policies regarding the right to education is the final observations and recommendations made by UN human rights mechanisms.^{91 92}

3.4b Interpret data for process indicators

In Step 3.3, you will have identified those process indicators for which your country has the largest shortfall relative to a suitable benchmark.

At this stage, you can analyse those shortfalls in light of the relevant human rights standards and make a preliminary determination as to whether a violation of the right to education has occurred. As mentioned in 'What to monitor',⁹³ this requires an analysis of whether the State has breached its legal obligations when applied to the normative content of the right to education.

The normative content of the right to education is derived from human rights instruments. However, right to education provisions tend to be broad, for example: "Primary education

shall be compulsory and available free to all”. This provision does not elucidate the form of education, its quality, or whether local authorities can charge for textbooks, school meals, transportation, etc.

There are a number of ways courts, quasi-judicial bodies and other stakeholders have conceptualised and determined the normative content and scope of the right to education. The most common and widely used (including by the Committee on Economic, Social and Cultural Rights) is the 4As framework,⁹⁴ developed by Katarina Tomaševski.

The following table illustrates how to link your findings from the previous two steps with the normative content of the right to education in order to determine whether a violation has occurred:

The 4As Framework	Process Indicator	Shortfall Relevant to Benchmark	Human Rights Issue
Availability	Percentage of schools that have a shortage of classrooms ⁹⁵	A high percentage of schools that have a shortage of classrooms	Problems in the availability of education inputs (classrooms, teachers, textbooks) may affect the quality of education
	Teacher absenteeism rate ⁹⁶	A high teacher absenteeism rate ⁹⁷	
	Pupil / textbook ratio ⁹⁸	A high pupil / textbook (average number of pupils per textbook in schools)	
Accessibility	Percentage of the population for whom school-house distance is more than 5 km ⁹⁹	A high percentage of the population for whom school is farther than 5km	Problem in the physical accessibility of schools
	Percentage of household expenditure on education ¹⁰⁰	A high percentage of household expenditure on education	Problem in the economic accessibility of schools
	Are reasonable accommodation measures available for children with disabilities in	A high percentage of schools that fail to reasonably accommodate the needs of disabled	Problem in the physical accessibility of education for children with disabilities

	mainstream schools? ¹⁰¹	students (eg they are designed and built in ways that make them inaccessible to wheelchairs)	
Acceptability	Percentage of trained teachers ¹⁰²	A low percentage of trained teachers (as a percentage of the total number of teachers at the given level of education)	Problem in the quality of education
	Percentage of teachers not belonging to minority groups or trained in minority culture or languages ¹⁰³	A significantly low percentage of teachers not belonging to minority groups, or trained in minority culture or languages, may contribute to a lack of cultural adaptability of education to the needs of children belonging to minority groups	Problem in the cultural appropriateness of education
Adaptability	Are there special measures to include child labourers in education and find solutions for them and their families? ¹⁰⁴	A failure to adapt schools' schedules during harvest seasons in rural areas or to make non-formal schooling available for child labourers may hinder their access to education	Problems in the adaptability of the education system to suit locally specific needs and contexts
	Are there mobile schools for children of nomads? ¹⁰⁵	Lack of mobile schools for children of nomads may prevent children of nomads from enjoying the right to education	

Analysing government policies meant to address access to education for marginalised groups

Governments often adopt policies to improve access and retention of children from marginalised groups, such as providing scholarships, free textbooks or school meals to disadvantaged children.

The following are some suggestions that can be helpful to assess whether the manner in which your country has implemented such programmes has been inadequate:

- **Identifying inadequate coverage**

It is relatively simple to assess the coverage of a programme aimed at addressing obstacles to the enjoyment of the right to education: compare the number of people covered by the programme with the number of people affected by that specific demand-side obstacle. For instance, if a scholarship programme meant to offset the costs of education is reaching only 10% of the poor families not sending their children to school, then the programme coverage is patently insufficient.

- **Identifying underfunded programmes**

An international comparison can show whether spending on a programme aimed at addressing a demand-side obstacle is sufficient. This is done by a double comparison of the resources devoted to a specific programme with those spent on similar programmes in other comparable countries of the same region, related to levels of the deprivation that the programmes are meant to address.¹⁰⁶

- **Measuring whether programme benefits are unfairly distributed**

Analysing distribution of the benefits of a programme aimed at boosting demand by group (eg indigenous / non-indigenous, poor / non-poor) or location (eg provinces or municipalities) and contrasting them with levels of deprivation that programme is supposed to address across the same groups or locations, can help identify unfair distribution patterns that benefit people who do not need these programmes the most.

Seek additional information

To interpret some of the data you obtained in Step 3.2 and Step 3.3, you may need to obtain additional information. For instance, if you found that the least qualified teachers are concentrated in the poorest areas you may want to get information on whether there are any incentives for more qualified teachers to go to poorest areas and, if there are such incentives, how they compare with similar measures in other countries of the same region. If you found that there are a high number of reported incidents of discrimination against children because they or their parents are HIV-positive or against teachers who are HIV-positive, you may want to research whether it is because of a lack of appropriate legislation or the lack of enforcement of relevant legislation.

Endnotes: Step 3: Analyse Education Laws & Policies & Their Implementation

¹ See 'What to monitor' in the Introduction to the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide/how-use-guide>

² Article 2 (1) of the *International Covenant on Economic, Social and Cultural Rights* reads:

"Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures."

³ Article 2 (1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966) recognises that economic, social and cultural rights are not always immediately realisable. The full and immediate realisation of the right to education can be hampered by a lack of resources and can only be achieved over a period of time, particularly for countries with fewer resources.

The ICESCR therefore imposes the obligation to **progressively realise** certain aspects of the right to education (including free secondary, higher, and fundamental education). However, not all aspects of the right to education are subject to progressive realisation, for example, States must prohibit discrimination in and to education and ensure that primary education is free and compulsory for all.

For further information, see Right to Education Project's page *Understanding Education as a Human Right*: <http://www.right-to-education.org/page/understanding-education-right#sthash.Uat6sLgc.dpuf>

For further information on progressive realisation, see Committee on Economic, Social and Cultural Rights (2003) *General Comment 3: The Nature of States Parties' Obligations* (Art.2, Para.1): <http://www.refworld.org/docid/4538838e10.html>

⁴ See Step 2 of the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide/step-2-identify-deprivations-inequalities-education>

⁵ **Rights-holders** are individuals or social groups that have particular entitlements in relation to specific duty-bearers. In general terms, all human beings are rights-holders under the Universal Declaration of Human Rights.

In particular contexts, there are often specific social groups whose human rights are not fully realised, respected or protected. More often than not, these groups tend to include women and girls, ethnic minorities, indigenous peoples, and migrants and youth.

A human rights-based approach not only recognises that the entitlements of rights-holders need to be respected, protected and fulfilled, it also considers rights-holders as active agents in the realisation of human rights and development – both directly and through organisations representing their interests.

Source: UNICEF *Gender Equality - UN Coherence and You – Glossary*: <http://www.unicef.org/gender/training/content/resources/Glossary.pdf>: p.5.

⁶ See Step 4 of the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide/step-4-analyse-use-resources-education>

⁷ See Step 5 of the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide/step-5-examine-policy-processes>

⁸ **Duty-bearers** are those actors who have a particular obligation or responsibility to respect, promote and realise human rights and to abstain from human rights violations. The term is most commonly used to refer to State actors, but non-State actors can also be considered duty-bearers. An obvious example is private armed forces or rebel groups, which under international law have a negative obligation to refrain from human rights violations. Depending on the context, individuals (eg parents), local organisations, private companies, aid donors and international institutions can also be duty-bearers.

Source: UNICEF *Gender Equality - UN Coherence and You – Glossary*:
<http://www.unicef.org/gender/training/content/resources/Glossary.pdf> : p.1.

⁹ **Structural indicators** measure the commitments made by States in order to meet their obligations regarding the right to education.

¹⁰ **Process indicators** measure the various types of State efforts (such as: education policies, education inputs, budget allocation, and programmes and measures to address specific education issues) undertaken in order to realise and implement the right to education.

¹¹ Access the *Indicators Selection Tool*, here: <http://www.right-to-education.org/monitoring/tool>

¹² *Idem* 9

¹³ *Idem* 10

¹⁴ *Idem* 4

¹⁵ **Education policies** are the set of actions, laws, regulatory measures, and funding priorities on education adopted by a government.

Strictly speaking laws and policies are distinct: laws are a system of rules that regulate behaviour, and are usually enforceable in courts; whilst policies are informal and set out a government's major objectives, defining the government's priorities and strategies to achieve its goals.

Education policies and laws are the primary means by which the right to education is implemented at the national and sub-national level.

¹⁶ *Idem* 8

¹⁷ To check whether your country has constitutionally guaranteed the right to education and search for education laws, visit Right to Education Project's page on *National Implementation- Constitutions, Laws and Policies*: http://www.right-to-education.org/page/where-find-information#section_view-default-2

¹⁸ **Human rights monitoring** is the process of collection and verification of information on human rights problems. For more details on monitoring the right to education, see Right to Education Project's page on *Monitoring*: <http://www.right-to-education.org/page/monitor>

¹⁹ Imagine for instance that during Step 2 of the monitoring process you found that a large proportion of girls are dropping out of school, whilst most boys complete primary education. You may come to the conclusion that traditional social norms may be influencing parents' decisions to send girls to school. At this stage you may want to examine whether the government has made efforts to counteract these entrenched social norms that have proven to be useful in other circumstances. This could include legislative reforms, such as marriage rights and inheritance, or public awareness campaigns about the benefits of girls' education.

However, you may have found that the primary reason that many parents are not sending their girls to school is not due to cultural or social norms, but rather due to economic reasons. For example it could be that in your country, educated boys can expect to receive a higher future income than equally educated girls, and therefore poor households without the means to send all their children to school choose to send only the boys

to school. In such a case, during this step, you should assess whether governments have made specific efforts to change labour market circumstances, so that it does not discriminate against women, and so that the opportunities and advantages faced by all children at given levels of education and achievement are broadly equal.

²⁰ *Idem* 4

²¹ **Outcome indicators** measure the extent to which a population enjoys the right to education.

²² *Idem* 1

²³ Examining the efficiency and effectiveness in the implementation of policies is often as important as analysing the policies themselves.

For instance the policy may be one textbook per pupil, but the books are not delivered on time, or the policy may be inclusion of children with disabilities, but the system of identifying such children could be inadequate.

²⁴ **Education inputs** are the means used in an education system to achieve education objectives, such as: the number of teachers, school facilities, teaching materials supplies and the cost and level of financial resources used for education.

²⁵ *Idem* 11

²⁶ See Step 2.4 of the *Monitoring Guide*, available to download here:
<http://www.right-to-education.org/monitoring/guide/24-interpret-data>

²⁷ For instance, a study in India comparing access to school in different regions of the country found that in those areas in which schooling facilities are inadequate, parents have less motivation to send their children to schools and – particularly in poor households - often opt instead to send their children to work.

Source: Mukherjee, R (2012) Exploring the impact of physical infrastructure on universal attainment of primary education in India: A comparative analysis of West Bengal and Tamilnadu, *International Journal of Education and Social Sciences*, Volume 2, Issue 1.

²⁸ For instance, if in the previous step you found that a large proportion of children with disabilities are out of the school system despite high attendance in the general population, the next step of the monitoring process should be to focus your research on the various barriers that typically affect the schooling of children with disabilities, including but not limited to:

- Denial of admission to the general education system.
- Failure to provide reasonable accommodation in schools.
- Failure to provide specific training to teachers in mainstream schools who have one or more children with disabilities in their classes.

Alternatively, if you found that girls are excluded from education, the next step of the monitoring process should be to focus your research on the various barriers that typically affect access of girls to education, including but not limited to:

- Lack of effective policies to change deep-rooted cultural beliefs in traditional societies that may dismiss the value of education for women and discourage parents from sending girls to schools.
- A high gender pay gap that may reduce the willingness of parents to make sacrifices for their girls' schooling and call in to question whether schooling will significantly benefit the girl in question.
- Lack of legislation (or enforcement thereof) prohibiting marriage below the age of 16.

²⁹ *Idem* 19

³⁰ Bear in mind that in identifying relevant policies, it is important to look across multiple sectors, given that various factors influence the enjoyment of the right to education. For example deficient roads may limit access to schools; a failing health system and / or deficient nutrition programmes may affect students' learning capacities; gender discrimination in the labour market may influence parents to stop sending girls to school; and the lack of effective social protection programmes may leave poor families without a safety net to ensure they will send their children to school in times of crisis.

³¹ For further guidance on how to create education indicators, see Rowe, K & Lievesley, D (2002) *Constructing and Using Educational Performance Indicators*: http://research.acer.edu.au/learning_processes/11

³² For more information on the indicator 'Percentage of schools with buildings in a state of disrepair,' see: <http://www.right-to-education.org/monitoring/content/percentage-schools-buildings-state-disrepair>

³³ *OHCHR Status of Ratification Interactive Dashboard* is a comprehensive data visualisation portal containing the latest status of ratification of 18 UN treaties and optional protocols. The dashboard allows users to view treaty ratification through interactive world and regional maps. Users can generate some statistical data such as number of State parties to a treaty and create filters to obtain a more tailored information on acceptance of individual communications procedure and inquiry procedure. Users can also view an aggregated map that shows the total number of treaties each member State has ratified. Users can view a specific country profile, listing its ratification status for each treaty and a summary of declarations. Access the *Dashboard*, here: <http://indicators.ohchr.org/>

³⁴ *Convention on the Rights of Persons with Disabilities*: <http://www.right-to-education.org/resource/convention-rights-persons-disabilities>

³⁵ *International Covenant on Economic, Social and Cultural Rights*: <http://www.right-to-education.org/resource/international-covenant-economic-social-and-cultural-rights>

³⁶ *Convention on the Rights of the Child*: <http://www.right-to-education.org/resource/convention-rights-child>

³⁷ Contact information can be accessed, here: <http://www.right-to-education.org/monitoring/content/contact-us>

³⁸ *Idem* 9

³⁹ *Idem* 10

⁴⁰ See Step 2.2 of the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide/22-gather-outcome-data>

⁴¹ For other sources of education data, see the Right to Education Project's page on *Where to Find Information?*: <http://www.right-to-education.org/page/where-find-information>

⁴² **Disaggregated data** is data that has been broken down by detailed sub-categories, for example by marginalised group, gender, region or level of education. Disaggregated data can reveal deprivations and inequalities that may not be fully reflected in aggregated data.

⁴³ **Shadow reports** are a method for non-government organisations (NGOs) to supplement and / or present alternative information to reports governments are required to submit under human rights treaties. Unlike governments' reports, which often highlight the progress of the State in meeting its human rights obligations whilst downplaying violations, shadow reports often provide treaty body committees with crucial information about problems in implementation and areas of government non-compliance.

NGOs around the world use shadow reports to lobby various United Nations' bodies, including treaty-monitoring bodies, thematic groups, charter-based bodies, and the High Commissioner for Human Rights.

Source: The Advocates for Human Rights page on *Shadow Reporting*:
<http://www.theadvocatesforhumanrights.org/mechanisms>

⁴⁴ **UN treaty bodies** are committees of independent experts created under a particular UN treaty. They are mandated to monitor how States that have ratified the treaty in question comply with their obligations to implement the human rights guaranteed by the treaty. They periodically examine State reports and issue concluding observations on States' compliance to the treaty, as well as make recommendations.

Most treaty bodies can receive individual complaints or communications in cases of human rights violations, if the State in question has recognised the competence of the treaty body to do so.

Treaty bodies also adopt General Comments, which provide authoritative interpretations of the provisions of the treaty the treaty body oversees.

For further information, see Right to Education Project's page on *International Human Rights Mechanisms*:
<http://www.right-to-education.org/page/international-human-rights-mechanisms>

⁴⁵ The *2010 Education for All Global Monitoring Report* attempts to identify the children without access to education and ascertain why they are being left behind, and looks at concrete solutions to ensure that no child is excluded from schooling: <http://unesdoc.unesco.org/images/0018/001866/186606E.pdf>

The *2005 Education for All Global Monitoring Report* reviews evidence on the multiple factors that determine quality, and maps out key policies for improving the teaching and learning processes: <http://unesdoc.unesco.org/images/0013/001373/137333e.pdf>

Access the *Education for All Global Monitoring Reports*, here: <http://en.unesco.org/gem-report/>, background papers, here: <http://en.unesco.org/gem-report/background-papers> and *UNDP Development Reports*, here: <http://hdr.undp.org/en>

⁴⁶ See 'The importance of disaggregated data' in Step 2.2 of the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide/22-gather-outcome-data#disdata>

⁴⁷ *Idem* 24

⁴⁸ For more information on the indicator 'Is there a special funding system to ensure access to education for students from marginalised groups?', see: <http://www.right-to-education.org/monitoring/content/there-special-funding-system-ensure-access-education-students-marginalised-groups>

⁴⁹ For more information on the indicator 'Pupil / teacher ratio,' see:
<http://www.right-to-education.org/monitoring/content/pupilteacher-ratio>

⁵⁰ For more information on the indicator 'Percentage of trained teachers,' see:
<http://www.right-to-education.org/monitoring/content/percentage-trained-teachers>

⁵¹ The ACLU and Human Rights Watch found that students with disabilities made up 18.8% of students who suffered corporal punishment at school during the 2006-2007 school year, although they constituted just 13.7% of the total nationwide student population.

At least 41,972 students with disabilities were subjected to corporal punishment in US schools during that year. These numbers probably undercount the actual rate of physical discipline, since not all instances are reported or recorded.

Source: ACLU & Human Rights Watch (2009) *Impairing Education; Corporal Punishment of Students with Disabilities in US Public Schools*: <http://www.hrw.org/node/84950>

⁵² *Idem* 11

⁵³ **Quantitative data** is information that can be measured and expressed numerically, for example age and income.

⁵⁴ *Idem* 41

⁵⁵ Source: CAFOD, Christian Aid and Trocaire (2007) *Monitoring Government Policies: A toolkit for civil rights organisations in Africa*: http://commdev.org/files/1818_file_monitoringgovernmentpolicies.pdf: p.22.

⁵⁶ **Stakeholders** are all those who can affect your desired change, as well as those who are affected by it.

⁵⁷ When considering whether to invoke freedom of information laws you should take into account that it may take longer to get the data you need compared to other strategies. On the other hand, you may be helping to enforce the right to information and transparency of government, which is an important human rights principle. For further information, see Step 5.2, available to download here: <http://www.right-to-education.org/monitoring/guide/52-transparency>

⁵⁸ See Step 6.1 of the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide/61-draft-report>

⁵⁹ For further information on the 4As Framework, developed by Katarina Tomaševski, see:

- The Right to Education Project (2001) *Project Primer 3: Human Rights Obligations: Making Education Available, Accessible, Acceptable and Available*: <http://www.right-to-education.org/resource/primer-no-3-human-rights-obligations-making-education-available-accessible-acceptable-and>
- Committee on Economic, Social and Cultural Rights (1999) *General Comment 13: The right to education (Article 13)*: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf: Para.6.

⁶⁰ **Primary data** is data collected through primary research, that is, data collected from direct, first-hand experience, for example through interviews or questionnaires. Secondary data is data that has been previously collected.

⁶¹ **Qualitative data** is information that describes something that is not measurable, for example feelings, behaviour, gender, race, and socio-economic status.

⁶² For an example of school-based rights monitoring see the *Promoting Rights in Schools* initiative by the Right to Education Project and ActionAid: <http://www.actionaid.org/what-we-do/education/promoting-rights-schools>

⁶³ The following excerpts from reports of field visits to schools illustrate the types of information you can collect from using this method of information gathering:

- "There are ten classes for over 1000 children, leading to chronic over- crowding. Most classrooms are bereft of teaching materials and furniture, except for a table used by the teacher. The blackboards have disintegrated. Many teachers report that they cannot get hold of chalk. Books and writing materials are a rarity, with six children in Grade 3 sharing one mathematics book. Children sit on stones or on the floor. The vast majority of teachers have had minimal training. In many cases, lessons take place under trees. Few of the schools have access to a reliable source of water, and the latrine facilities are inadequate." (*Oxfam field visit to Shinyanga, an area in the central-southern region of Tanzania*)

- "There are around 60 children from the Hmung ethnic community in a classroom which should accommodate fewer than half this number. Their ages range from 6 to 15. Three grades share the same room, with three teachers conducting lessons simultaneously. The language of instruction is Kinh, which most of the younger children are unable to follow. There is a strong emphasis on discipline and rote-learning, with no visible participation from the children themselves in the learning process." (*Oxfam field-visit report on a school in Lao Cai district in the Northern Upland region of Vietnam*)
- "In effect, the primary schools we visited were little more than child- minding centres. In most cases, even if more than one teacher was present, we found that all children had been gathered together in one place, irrespective of age or grade, and were only expected to maintain a semblance of order. ... Supervision took one of the following forms: watching the children from a desk or chair; asking one senior child to maintain order; letting the children look after themselves. In many schools the ambience was nothing short of chaotic." (*PROBE survey of primary schools in Uttar Pradesh*)

Source: Watkins, K (2000) *The Oxfam Education Report*:

<http://oxfamlibrary.openrepository.com/oxfam/bitstream/10546/115525/5/bk-the-oxfam-education-report-231100-en.pdf>

⁶⁴ Based on a survey of schools in 234 villages in five Indian states, the Public Report on Basic Education (PROBE) team found nearly two-thirds of the schools visited have a leaking roof; six schools do not have any building, and classes are held in open spaces and in one third of all the schools the headmaster was absent at the time of the investigators' visit.

Source: PROBE & Centre for Development Economics (1999) *Public Report on Basic Education in India*: http://www.undp.org/content/dam/india/docs/public_report_basic_education_india.pdf

A survey conducted in Guatemala by a coalition of non-governmental organisations from around the country to monitor the implementation of programmes that provide free meals and textbooks in public primary schools programmes found that approximately 80 percent of principals were unaware of the free meal programme and that approximately 75 percent of schools did not receive textbooks for all students.

Source: Rankumar, V (2008) *Our Money, Our Responsibility: A Citizens' Guide to Monitoring Government Expenditures*, The International Budget Project: <http://www.internationalbudget.org/resources/expenditure/index.htm>

⁶⁵ The Human Rights Watch report "*As Long as They Let Us Stay in Class*" *Barriers to Education for Persons with Disabilities in China* is based on 62 interviews conducted in 12 provinces in China. Most of interviews were with children and young people with disabilities or their parents, but they also included a handful of interviews with government officials, academics, and educators and administrators in public schools. This primary source of information was complemented with an analysis of national laws and regulations; and a review of relevant English- and Chinese-language domestic and international press reports, official documents, UN documents, NGO reports, and academic articles.

Based on the set of interviews and the complementary research, Human Rights Watch was able to show that "across China, children and young people with disabilities confront discrimination in schools". More specifically, the report "documents how mainstream schools deny many such children admission, ask them to leave, or fail to provide appropriate classroom accommodations to help them overcome barriers related to their disabilities. While children with mild disabilities are in mainstream schools where they continue to face challenges, children with more serious disabilities are excluded from the mainstream education system, and a significant number of those interviewed by Human Rights Watch receive no education at all."

Source: Human Rights Watch (2013) "*As Long as They Let Us Stay in Class*" *Barriers to Education for Persons with Disabilities in China*: http://www.hrw.org/sites/default/files/reports/china0713_ForUpload.pdf: p.1.

⁶⁶ *Idem* 5

⁶⁷ Principles for conducting interviews with rights-holders:

- Explain to the interviewee the purpose of the interview and how the interview materials will be used and distributed.
- Ensure you have the participant's informed consent prior to any interviews.
- Tell the interviewee that they can terminate the interview at any time or refuse to answer any question.
- Conduct the interview in the interviewees' language or with a translator.
- Make sure that the way you ask the questions is appropriate for the specific characteristics of the interviewee (eg child-friendly, sensitive to specific disabilities, culturally-sensitive, etc).
- Protect all interviewees' privacy and safety. Ask the interviewees if they prefer that you replace their real names with pseudonyms in the report and always do so if your report is about a country in which the safety of the interviewee may be at risk.

Adapted from Human Rights Watch (2013) *"As Long as They Let Us Stay in Class" Barriers to Education for Persons with Disabilities in China*: http://www.hrw.org/sites/default/files/reports/china0713_ForUpload.pdf: p.8-9.

For further information, see the British Educational Research Association's *Ethics and Educational Research* (2012): <https://www.bera.ac.uk/wp-content/uploads/2014/02/Ethics-and-Educational-Research.pdf>

⁶⁸ **Advocacy** is the process of influencing those who make policy decisions, write laws and regulations, and distribute resources that affect people's well-being. Advocacy delivers deliberate messages intended to influence the thoughts, perspectives and actions of people in authority.

Campaigning is one strategy for advocacy, building public pressure around an issue through strategies like mass action, public forums and media campaigns.

Lobbying is another strategy for advocacy, building pressure around an issue within the education system through strategies such as policy analysis and dialogue, negotiation and forming collaborative partnerships.

Source: Commonwealth Education Fund (2009) *A Budget Guide for Civil Society Organisations Working in Education*: www.right-to-education.org/resource/budget-guide-civil-society-organisations-working-education: p.24.

⁶⁹ The '5-right principles' of data collection:

1. **Get the right data:** collect data which are relevant to the specific topic or issue. For example, to better understand gender disparity in school, one must collect data on students separately for boys and girls.
2. **Get the data right:** collect data with precise definition and appropriate method of measurement. For example, data on new entrants in Grade 1 must not include those who actually attended another school, dropped out, then enrolled in this school for the first time.
3. **Get the data right away:** get current and timely data. For example, school censuses should be organised as close to the start of the school year as possible, once enrolment is complete and attendance has stabilised.
4. **Get the data the right way:** get data through a rigorous process which can guarantee data quality and ensure consistency. Instructions about methods and data standards must be explained clearly. The people involved in data collection should be trained.
5. **Get the right data management:** collect reliable data which is guaranteed by good quality control conducted by relevant stakeholders. It is important to involve all the stakeholders at different levels of the education system to check that the collected data are reliable and complete before they are processed, analysed and used.

Source: UNESCO Asia and Pacific Regional Bureau for Education (2011) *Systematic Monitoring of Education for All – Training Modules for Asia-Pacific*. Bangkok: UNESCO Bangkok: Module A2, p.8-9.

⁷⁰ *Idem* 26

⁷¹ The Public Report on Basic Education in India compared education facilities from four north Indian states that had the worst performances in the country in terms of primary education (Bihar, Madhya Pradesh, Rajasthan, Uttar Pradesh), with a fifth Northern State - Himachal Pradesh - which has made remarkable progress towards universal primary education.

Source: PROBE & Centre for Development Economics (1999) *Public Report on Basic Education in India*: http://www.undp.org/content/dam/india/docs/public_report_basic_education_india.pdf

⁷² *Idem* 21

⁷³ *Idem* 9

⁷⁴ *Idem* 10

⁷⁵ Article 13 (2) (a) of the *International Covenant on Economic, Social and Cultural Rights*: <http://www.right-to-education.org/resource/international-covenant-economic-social-and-cultural-rights>

⁷⁶ A study on the education workforce in Honduras contrasted the average number of days teachers taught in Honduras for the last ten years (125 days) with the relevant national law that establishes that students should have 200 days of instruction a year.

Source: Arcia, G & Gargiulo, C (2010) *Análisis de la fuerza laboral en educación en Honduras*. New York: Banco Interamericano de Desarrollo: <http://publications.iadb.org/handle/11319/1720?locale-attribute=en>

⁷⁷ The Public Report on Basic Education (PROBE) team in India analysed the evidence it found on school infrastructure in 234 villages against the goals set by Operation Blackboard, a nation-wide programme to improve primary schools:

- At least two reasonably large all- weather rooms along with separate toilet facilities for boys and girls.
- At least two teachers, as far as possible one of them a woman.
- Essential teaching and learning material including blackboards, maps, charts, a small library, toys, games and some equipment for work experience.

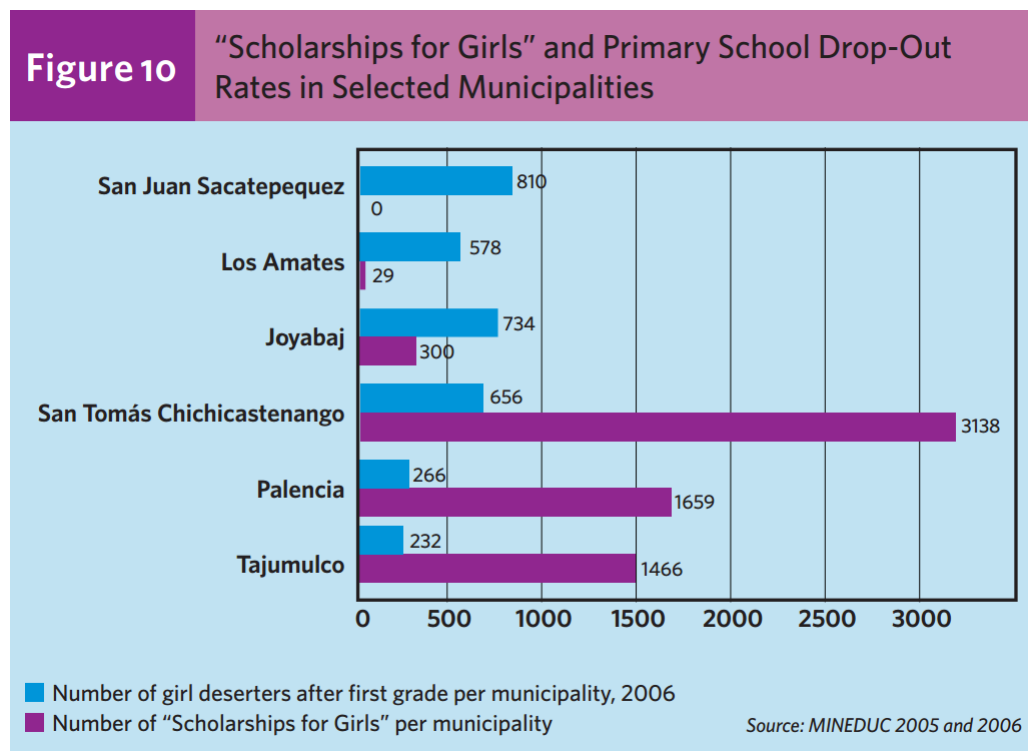
When comparing the evidence it found with this benchmark, the PROBE team found that only a few of the schools they had visited met this benchmark, and in most cases the shortfall was serious.

Source: PROBE & Centre for Development Economics (1999) *Public Report on Basic Education in India*: http://www.undp.org/content/dam/india/docs/public_report_basic_education_india.pdf: Chapter 4, p.1-3.

The South African Ministry of Education adopted an Action Plan to improve the basic education sector. The plan sets 27 national goals (p.8-9) and explains how the goals will be achieved, how improvements will be monitored, and clearly states the exact national and provincial targets for each goal. The first 13 goals focus on enrolment and learning, ie outcomes. The following goals concern how the outcomes will be achieved, ie they are process goals.

Source: Department of Basic Education, South Africa (2011) *Action plan to 2014: towards the realisation of schooling 2025*: http://planipolis.iiep.unesco.org/upload/South%20Africa/South_Africa_Action_Plan_To_2014.pdf

⁷⁸ For example, the following graph shows that the allocation of resources of Guatemala's 'Scholarships for Girls' established to reduce the staggering repetition and desertion rates of first grade girls, has often been skewed. Some of the municipalities with a relatively low number of girls dropping out of school after first grade in 2005 received a large number of 'Scholarships for Girls' the following year. In other municipalities with much higher levels of girl deserters after first grade, received fewer scholarships the following year.



Source: Center for Economic and Social Rights *Fact Sheet No. 3 (Guatemala)*: <http://www.cesr.org/downloads/Guatemala%20Fact%20Sheet.pdf>: p.5, figure 10.

⁷⁹ **Discrimination** "implies any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms" (Human Rights Committee *General Comment 18*: <http://www1.umn.edu/humanrts/gencomm/hrcom18.htm>: Para.7).

International law prohibits both direct and indirect discrimination:

- Direct discrimination is when a person, on account of one or more of the prohibited grounds (see multiple discrimination), is treated less favourably than someone else in comparable circumstances.
- Indirect discrimination is when a practice, rule, policy, or requirement is outwardly neutral but has a disproportional impact upon a particular group. For an example of indirect discrimination, see *DH and others v Czech Republic*: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256>

For further information, see INTERIGHTS (2011) *Non-Discrimination in International Law: A Handbook for Practitioners*: <http://www.interights.org/document/153/index.html>

⁸⁰ For more information on the indicator 'Pupil / textbook ratio,' see: <http://www.right-to-education.org/monitoring/content/pupiltextbook-ratio>

⁸¹ For example, if you compared the percentage of 'Trained teachers rate for children with disabilities' with figures from 10 years ago, and found that the percentage had significantly decreased, this would reveal that

the State has regressed in providing for a crucial education input (trained teachers) and therefore hindered the right to education of children with disabilities.

⁸² *Idem* 24

⁸³ *Idem* 3

⁸⁴ Article 2 (1) of the *International Covenant on Economic, Social and Cultural Rights* (1966) obliges States to take the necessary steps to the **maximum of its available resources** to progressively realise the right to education. Maximum available resources refers to the resources available within the State and from the international community.

States must prioritise the allocation of necessary resources to ensuring the satisfaction of minimum essential levels of the right to education and other economic, social and cultural rights.

See the Committee on Economic, Social and Cultural Rights Statement (2007) *An evaluation of the obligation to take steps to the 'maximum available resources' under an optional protocol to the Covenant*: <http://www2.ohchr.org/english/bodies/cescr/docs/statements/Obligationtotakesteps-2007.pdf>

⁸⁵ *Idem* 15

⁸⁶ *Idem* 9

⁸⁷ *Idem* 10

⁸⁸ For example, Human Rights Watch found that in Indonesia the problem of school fees and related costs, which posed a significant barrier to children's education, were related to a 2003 national education law that stipulated that funding for education is a 'shared responsibility' of the national and regional governments, and the 'community'.

Source: Human Rights Watch (2005) *Failing Our Children Barriers to the Right to Education*: <http://www.hrw.org/reports/2005/education0905/education0905.pdf>

⁸⁹ *Idem* 79

⁹⁰ For further information on the minimum age of marriage, see Right to Education Project's page on *Minimum Age*: <http://www.right-to-education.org/issue-page/minimum-age> and the Girls Not Brides website: <http://www.girlsnotbrides.org/>

⁹¹ To conduct a search on relevant recommendations and concluding observations by the various UN human rights mechanisms on your country, use the *Universal Human Rights Index*, developed by OHCHR and the UNESCO database: <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/right-to-education/database/>

You can find further information on relevant databases, here: <http://www.right-to-education.org/page/where-find-information>

⁹² For example:

"The Committee recommends that the State party take all necessary measures to promote inclusive education of children with all forms of disabilities and invites the State party to adopt a law which prohibits discrimination against persons with disabilities" (Committee on the Rights of the Child (2011) Concluding Observations: Cuba (CRC/C/CUB/CO/2): Para.44).

"The Committee regrets that the State party, as yet, does not have a comprehensive anti-discrimination law. the Committee is particularly concerned that persons with disabilities face discrimination with regard to their rights to education and housing (...)" (Committee on Economic, Social and Cultural Rights (2012) Concluding Observations: Iceland (E/C.12/ISL/CO/4): Para.5).

"(...) the Committee urges the State party (a) To take further legislative measures to systematically harmonise its legislation with the requirements of its 2009 anti-discrimination law, and raise public awareness on the legal remedies available in cases of discrimination, including by making available information on how to make complaints to the State party's Institution of the Human Rights Ombudsman in Bosnia and Herzegovina, especially in education and health - care institutions, where children frequently encounter discrimination" (Committee on the Rights of the Child (2012) Concluding Observations: Bosnia and Herzegovina (CRC/C/BIH/CO/2-4): Para.30).

To access treaty body documentation, including concluding observations and reports, see *Treaty Bodies Search*: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en

⁹³ *Idem* 1

⁹⁴ *Idem* 59

⁹⁵ For more information on the indicator 'Percentage of schools that have a shortage of classrooms,' see: <http://www.right-to-education.org/monitoring/content/percentage-schools-have-shortage-classrooms>

⁹⁶ For more information on the indicator 'Teacher absenteeism rate,' see: <http://www.right-to-education.org/monitoring/content/teacher-absenteeism-rate>

⁹⁷ For this indicator, it is important to examine the root causes of why there is a high teacher absenteeism rate and not just accept figures at face value. For example, teachers may not have been paid by the State.

⁹⁸ *Idem* 80

⁹⁹ For more information on the indicator 'Percentage of the population for whom school-house distance is more than 5 km,' see: <http://www.right-to-education.org/monitoring/content/percentage-population-whom-school-house-distance-more-5-km>

¹⁰⁰ For more information on the indicator 'Percentage of household expenditure on education,' see: <http://www.right-to-education.org/monitoring/content/percentage-household-expenditure-education>

¹⁰¹ For more information on the indicator 'Are reasonable accommodation measures available for children with disabilities in mainstream schools?,' see: <http://www.right-to-education.org/monitoring/content/are-reasonable-accommodation-measures-available-children-disabilities-mainstream-schools>

¹⁰² *Idem* 50

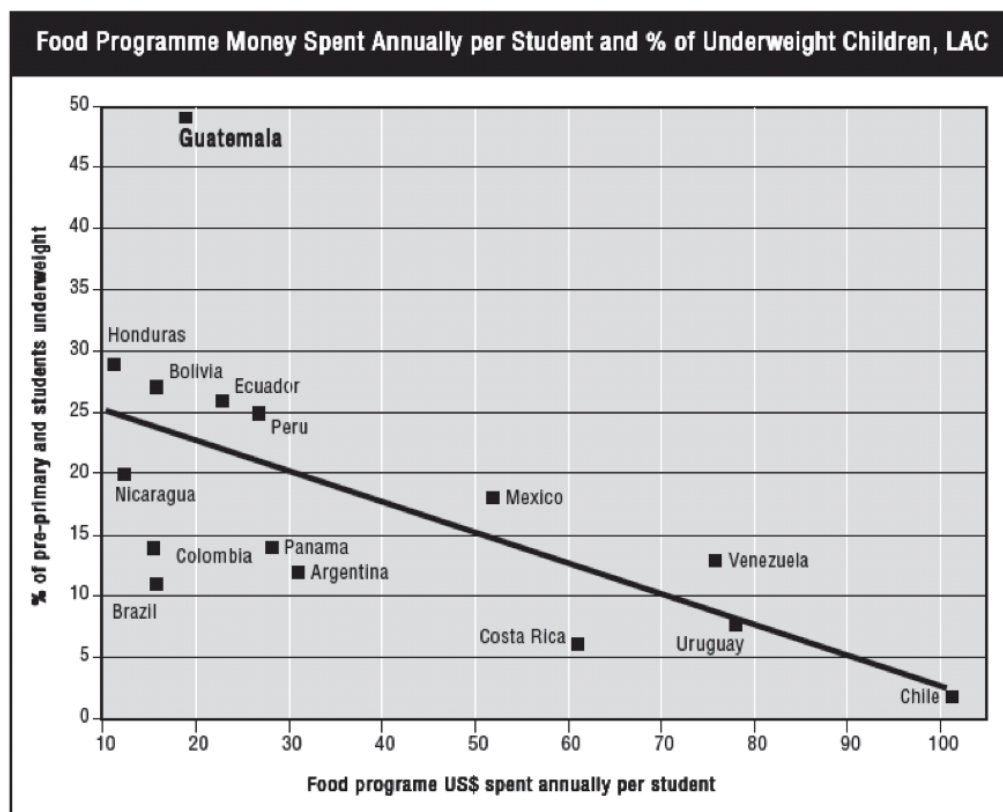
¹⁰³ For more information on the indicator 'Percentage of teachers not belonging to minority groups or trained in minority culture or languages,' see: <http://www.right-to-education.org/monitoring/content/percentage-teachers-not-belonging-minority-groups-trained-minority-culture-or-languages>

¹⁰⁴ For more information on the indicator 'Are there special measures to include child labourers in education and find solutions for them and their families?,' see: <http://www.right-to-education.org/monitoring/content/are-there-special-measures-include-child-labourers-education-and-find-solutions-them-and>

¹⁰⁵ For more information on the indicator 'Are there mobile schools for children of nomads?' see: <http://www.right-to-education.org/monitoring/content/are-there-mobile-schools-children-nomads>

¹⁰⁶ For example, the graph below shows how much money per student Guatemala devotes to its existing school meals programme compared with similar programmes in other countries in the region.

This data is then contrasted with the magnitude of the problem that the programme purportedly attempts to overcome, namely the reduction of child malnutrition. The comparisons suggest that Guatemala's financial commitment to this programme is incommensurate with the enormity of the deprivations.



Source: Felner, E (2008) A new frontier in economic and social rights advocacy? Turning quantitative data into a tool for human rights accountability, *SurInternational Journal on Human Rights*, Year 5, Number 9: <http://www.right-to-education.org/resource/new-frontier-economic-and-social-rights-advocacy-turning-quantitative-data-tool-human>: p.138.

Step 4: Monitor the Use of Resources for Education

Budgets reflect governments' priorities. Without the allocation of resources,¹ especially financial, States cannot realise the right to education. Specifically, States cannot meet their minimum core obligations,² such as securing free and compulsory primary education for all, or the obligation to progressively realise³ certain aspects of the right to education, such as the progressive introduction of free secondary, vocational and higher education.

A lack of resources has grave effects on the enjoyment of the right to education because the lack of investment hinders the proper implementation and / or formulation of education policies.⁴ For instance, education policies that address lack of access and improving education quality often require the building of schools, the training of teachers, the distribution of textbooks and the inspection of schools.

Using a specific type of process indicator,⁵ this step will help you to analyse expenditure and resource allocation ratios, and to identify whether the policy failures you identified in Step 3⁶ are a result of a State's failure to allocate the necessary resources for the realisation of the right to education.

This step will also help you monitor other finance-related factors, such as corruption, that may be affecting the realisation of the right to education.

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4.1 Monitor resource allocation

This step will help you assess whether the policy failures you identified in Step 3⁷ are a result of inadequate financing. This will further strengthen your case that the deprivation or inequality you have identified is avoidable.

Firstly, the connection between education financing and the right to education will be explained. You will then be introduced to the three most important expenditure and resource allocation ratios that measure States' efforts with regard to the fulfilment of the right to education. Lastly, you be guided on how to interpret the data you gather for these ratios when compared to relevant benchmarks.

The role of education and resource allocation ratios in monitoring the right to education

States are subject to different types of obligations regarding the right to education, one of which is to take appropriate financial measures.⁸

Given that all human rights impose positive obligations, it is unthinkable that the obligations the right to education entails can be met without financial resources. However, as explained in 'What to monitor',⁹ international human rights law acknowledges that the full realisation of the right to education is not immediately achievable due to resource constraints and instead imposes an obligation to progressively realise¹⁰ certain aspects of the right to education according to maximum available resources,¹¹ although it should be stressed that some aspects of the right to education impose obligations of immediate effect.

Obligations of immediate effect are unqualified and not limited by other considerations. Vis-à-vis the right to education obligations of immediate effect include:

- Ensure the right to education is exercised free from discrimination of any kind.
- Provide free and compulsory primary education, or if this is not immediately possible States must work out and adopt a plan of action for the progressive implementation,

within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

- Take “deliberate, concrete and targeted” steps towards the full realisation of the right to education.

The obligations to secure the right to education free from discrimination and to provide free and compulsory primary education are also minimum core obligations¹² of the right to education, along with the obligations to:

- Ensure that education conforms to the aims of education.¹³
- Adopt and implement a national educational strategy that includes provision for secondary, higher and fundamental education.¹⁴
- Ensure free choice of education without interference from the State or third parties, subject to conformity with “minimum educational standards”.

Minimum core obligations are also immediate in nature and must be prioritised when it comes to the allocation of resources.

The remaining content of the right to education is subject to progressive realisation according to maximum available resources. Progressive realisation does not mean States can defer their obligations; rather States have a specific and continuing obligation “to move as expeditiously and effectively as possible”. This means that States must continuously improve conditions necessary for the full realisation of the right to education and refrain from taking retrogressive measures that diminish peoples’ enjoyment of the right to education. For example, budget cuts that have the effect of reducing enjoyment of the right to education, particularly of already marginalised groups,¹⁵ would not be permissible under the *International Covenant on Economic, Social and Cultural Rights*, unless such measures have been “introduced after the most careful consideration of all alternatives and that they

are fully justified by reference to the totality of the rights provided for in the and in the context of the full use of the State party's maximum available resources".

Progressive realisation cannot be understood without reference to maximum available resources. According to the International Budget Partnership¹⁶ the use of maximum available resources requires States to:

- **Mobilise as many resources as possible**, including maximising domestic revenue through the collection of tax.
- **Prioritise economic, social and cultural rights** in the use and allocation of their resources.
- **Efficiently spend funds**, including ensuring funds are not wasted through overpaying for goods and services.
- **Ensure that expenditure is effectively spent**, that is, expenditures must have the effect of enhancing peoples' enjoyment of the right to education.
- **Fully spend funds allocated to the right to education.**
- **Ensure that funds allocated to education are not be diverted to other areas**, especially programmes that are not related to economic, social and cultural rights.

The obligation to dedicate the maximum available resources to the realisation of progressive elements of the right to education is itself subject to the obligation "to strive to ensure the widest possible enjoyment of the right to education under the prevailing conditions".

The Committee on Economic, Social and Cultural Rights (CESCR) also makes it clear that resource constraints, even in times of economic recession, do not eliminate the obligations

to monitor enjoyment levels of the right to education, and to devise strategies and programmes to realise the right to education (Paragraph 11). The CESCR also specifies that there is a special duty to protect the most vulnerable members of society through the adoption of relatively low-cost targeted programmes (Paragraph 12).

Expenditure and resource allocation ratios¹⁷ can be used to conduct a basic analysis of expenditure patterns. Ratios can help to assess the adequacy and distribution of resources allocated to education. More specifically, ratios can help you identify when a government:

- Devotes insufficient resources to the education sector, hampering the realisation of minimum essential levels or the progressive realisation of the right to education.¹⁸
- Prioritises aspects of the right to education that are subject to progressive realisation rather than obligations of immediate effect or minimum core obligations, for example disproportionate spending on tertiary versus primary education.¹⁹
- Fails to raise sufficient revenues to be able to adequately fund the education inputs necessary to fully realise the right to education.

Using the *Indicators Selection Tool*

To access the finance indicators, select *Education Financing* under the selection criteria *Governance and Policy Processes*.

The screenshot displays the 'Indicators Selection Tool' interface, which is organized into five main panels, each with a question mark icon in the top right corner. The panels are as follows:

- 1. Levels and Types of Education**: Contains a list of education levels with their respective counts: Pre-Primary (0), Primary (1), Secondary (0), Vocational Education (0), Higher Education (0), and Adult Education (0).
- 2. Types of Indicator**: Contains a list of indicator types with their counts: Outcome Indicators (0), Structural Indicators (1), and Process Indicators (12).
- 3. Areas of Focus**: Contains a list of focus areas with their counts: Quality of Education (0), School Safety and Violence (0), Learning Outcomes (0), School Infrastructure (0), Teachers (0), Learning Material (0), Content of Education (0), Access to Education (0), Administrative Accessibility (0), Economic Accessibility (0), Physical Accessibility (0), Free Education (1), and Educational Freedom/Private Education (0).
- 4. Marginalised groups**: Contains a list of groups with their counts: Women and Girls (0), Indigenous Peoples and Minorities (0), Persons with Disabilities (0), Persons with HIV/AIDS (0), Migrants, Refugees and IDPs (0), Persons in Detention (0), Persons Living in Poverty (0), and Child Labourers (0).
- 5. Contexts**: Contains a list of contexts with their counts: Armed Conflict (Including Child Soldiers) (0) and Natural Disasters (0). Below this list is a section titled 'Policy Processes and Governance' which includes: Transparency (2), Participation (1), Accountability (4), Decentralisation (2), and Education Financing (checked, with a count of 2).

If data is available for the indicator you have selected, you will be directed to the relevant source.

Expenditure and allocation ratios

1. Education expenditure ratio²⁰

This ratio refers to the percentage of GDP²¹ spent on public education. This is the most basic expenditure ratio related to the right to education. It provides a snapshot of the extent of State commitment to the provision of education, reflecting the level of resources the State is willing to invest in education relative to its level of development.

A low education expenditure ratio means that resources may be insufficient to effectively address the various obstacles inhibiting access to quality education.

2. Education allocation ratio²²

This ratio refers to the percentage of public expenditure allocated to education. It reflects the relative priority given to education amongst competing budgetary needs.

According to international law, national sovereignty implies that governments have a wide margin of discretion in selecting the appropriate measures necessary for realising economic, social and cultural rights. This includes spending priorities. Nevertheless, there are limits to that discretion. Therefore, the extent to which a low education allocation ratio is problematic from a human rights perspective depends on the circumstances. If a State has not fulfilled its minimum core obligations regarding the right to education, for example, a significant number of individuals deprived of the most basic forms of education or a wide disparity in the primary completion rates of boys and girls, then a low education allocation ratio would not be justified.

Thus, this ratio can help expose and challenge cases in which a government might make false arguments about lack of sufficient resources to discharge its duty of progressive realisation when, in fact, the problem is not resource constraints but rather the preference of that government to use available resources for other less essential areas.²³

3. Primary education priority ratio²⁴

This ratio, which refers to the percentage of the total education expenditure allocated to primary education,²⁵ reflects priorities within a given educational system. The interpretation of this ratio will depend once again on the circumstances. Countries that have already achieved high enrolment rates and standards of primary education may be justified in prioritising secondary or higher education, for example. However, in countries where a significant proportion of the population is illiterate or where many children are deprived of the most basic forms of education, a low primary education priority ratio could be interpreted as a violation of the State's minimum core obligations to provide free and compulsory primary education.

4.2 Compare expenditure and resource allocation ratios with benchmarks

As for Steps 2.3²⁶ and 3.3²⁷ benchmarks can help you assess the adequacy of the ratio levels.

Types of benchmarks

Specifically, ratio levels can be compared with the following types of benchmarks:

- **State formal commitments**

Compare ratio levels with guarantees and commitments made in documents such as constitutions, laws, policies and national plans.²⁸ For instance, if a country's national laws state that a certain percentage of the national budget should be allocated to education²⁹ or stipulate a specific percentage for some level of education (eg primary education) you can compare the actual budget allocation with that set in law and make the case that the budget allocation is inadequate according the country's own laws.

- **International benchmarks**

The *Education 2030 Incheon Declaration and Framework for Action*³⁰ set spending targets for education at at least 4% to 6% of gross domestic product and / or at least 15% to 20% of total public expenditure.

- **Cross-country comparisons**

Comparing data across countries can reveal whether levels of education expenditure and allocation ratios are consistent with similar countries in the same region.³¹

- **Cross-sector comparisons**

Compare education spending relative to 'non-priority' sectors within the budget.³²

- **Time series analysis**

Measuring levels of the same ratios over a period of time can give an indication of whether resources are being employed to progressively realise the right to education. For instance, analysing changes in the education allocation ratio³³ can help you track shifts in the relative priority given by the government to the education sector.

4.3 Analyse other financial issues

Beyond looking at expenditure ratios, there are multiple other factors related to the management of financial resources that bear upon the realisation of the right to education according to maximum available resources,³⁴ including:

Discriminatory distribution of education resources

The prohibition of discrimination³⁵ is an immediate obligation under human rights law. This means States cannot invoke a lack of resources as a reason for non-compliance. It is therefore necessary to analyse whether resources are being distributed in a discriminatory manner amongst different groups.

One form of discrimination would be if funding for education is disproportionately allocated to districts where most people are from the majority ethnic or religious group. This could be assessed by comparing the education budget allocated per child in districts where most people are from the majority ethnic or religious group to that where most people are from minority ethnic or religious groups.

Another form of discrimination includes unfair distribution patterns of public education programmes that benefit people other than those who need assistance most. Paragraph 12 of the Committee on Economic, Social and Cultural Rights (CESCR) *General Comment 13* states: “In times of severe resources constraints whether caused by a process of adjustment, of economic recession, or by other factors the vulnerable members of society can and indeed must be protected by the adoption of relatively low-cost targeted programmes.” A failure to meet this immediate obligation can be assessed by contrasting the benefits of a programme with levels of deprivation that the programme is supposed to address.³⁶

Discrimination resulting in inequities in the quality of the provision of education is a related problem. The CESCR recognises that “sharp disparities in spending policies that result in differing qualities of education for persons residing in different geographic locations may constitute discrimination under the International Covenant on Economic, Social and Cultural Rights” (CESCR *General Comment 13*, Para.35). One way to measure this is to compare data, disaggregated³⁷ by region or municipality, on the quality of an essential education service (eg quality of teachers or conditions of school facilities) with demographic data from the same regions or municipalities disaggregated by ethnic group or poverty level. This could show, for instance, that less qualified teachers – a primary factor in the quality of education – are teaching in the areas largely populated by an ethnic minority or persons living in poverty.³⁸

Gap between approved budget and its execution

Comparing the approved budget for education with the execution of this budget³⁹ over time can give an indication of the real commitment (as opposed to its intentions) towards the full realisation of the right to education. This comparison could raise questions regarding the government’s compliance to various types of human rights obligations. For instance, if that comparison shows that the government has not spent a significant percentage of the overall budget that had been approved for the education sector, this may suggest a failure to actually fulfil its obligation of the use of maximum available resources for the progressive realisation⁴⁰ of the right to education.⁴¹ On the other hand, if the gap between approved

budget and its execution is specific to a programme designed to provide the goods and services necessary to ensure that disadvantaged groups (eg girls, children belonging to an ethnic minority, etc) enjoy the right to education, this may suggest a discriminatory practice against that disadvantaged group.

Inertia of the budgetary process may undermine a government's decision to adopt a policy that prioritises marginalised groups

In many countries budgets are to a great extent determined by inertia – utilising past budget allocations to determine budgets for the forthcoming year. This inertia in the budgetary process may undermine the intentions of a government to shift its policy priorities in order to comply with its human rights obligation.⁴²

The first step in assessing whether the education budget is largely determined by inertia is to compare the current budget with those of previous years. If the education budget (and the composition of the budget, such as the percentage allocated to the various levels of education and amount dedicated to infrastructure) is static but education policy⁴³ has changed significantly, this may indicate that insufficient resources have been allocated to fully implement the new policy.

You may want to interview government officials (from the Treasury or the Ministry of Education) and ask whether, over those years, education priorities have changed. If they have, you should ask them how is it that if priorities have changed, these changes are not reflected in the budget. You may also want to ask whether the Ministry of Education requested extra funds from the Ministry of Finance to adequately cover new education priorities and policies. If they offer no reasonable response, you could reasonably infer that the budget is determined to a great extent by inertia. Alternatively, you may prefer a more direct approach and ask to what extent past budget allocations are used to determine budgets for the upcoming year.

Timely flow of resources

Another aspect that should be assessed is the extent to which resources reach schools in a timely manner. A failure to do so may undermine the government's efforts to comply with its obligations regarding the right to education. For instance, if schools, local authorities or education ministries receive the funds necessary to buy essential resources (eg textbooks) towards the end of the school year, this may affect children's right to education.⁴⁴

Corruption in the education sector

In many countries corruption in the education sector is rampant,⁴⁵ siphoning scarce public resources into private pockets and undermining the government's ability to provide quality education for all. Frequent forms of corruption in education include the illegal charging of 'enrolment fees', selling educational material and school supplies that should be distributed freely, accepting bribes to influence the selection of grant recipients, selling school diplomas or exam scores, and the use of school facilities by administrators or other people for private purposes.

Various aspects of corruption can be assessed. These include:

- The extent to which there is corruption in the education sector (in comparison with other sectors).
- The areas of the education sector in which corruption is more widespread (eg procurement of textbooks,⁴⁶ demand of illegal fees, chronic absenteeism of teachers, etc).
- The marginalised groups that bear the brunt of the corruption practices in the education sector.
- The governance weaknesses (both within the education sector and overall in the country) that are driving corrupt practices (eg inadequate salaries for teachers,

inadequate accountability mechanisms, people's lack of awareness about the services they are entitled to, etc).

Various methods and tools⁴⁷ can be used to assess corruption in the education sector, including:

- Household surveys that measure people's actual experience with corruption in the education sector⁴⁸ (and other relevant sectors) are particularly helpful in assessing the impact of corruption on everyday lives. Experience-based surveys also help to identify the extent to which disadvantaged groups bear the brunt of corrupt social services and whether corruption impacts on access to education and related services.
- Interviews⁴⁹ with various education stakeholders, including parents, teachers, head teachers, representatives of school governance bodies (eg Parent Teacher Associations) and local government officials, can help to uncover problems in the use of public resources for education and in the accountability mechanisms regarding those resources.⁵⁰
- Another method for assessing financial management is to track public expenditures. Data on budget allocations on education provides a rough indication of the relative importance a government attributes to this area, but offers little insight into how much actually reaches schools. To analyse this and other issues related to budget utilisation, Public Expenditure Tracking Surveys (PETS)⁵¹ devised by the World Bank could help you to track the flow of resources from the central government (eg Ministry of Finance) through the various levels of state administration down to schools the front-line service facilities, focusing on *en route* leakages and corruption.⁵²

Endnotes: Step 4: Monitor the Use of Resources for Education

¹ For additional information on education financing from a human rights perspective, see Right to Education Project's page on *Education Financing*: <http://www.right-to-education.org/issue-page/education-financing>

² On **minimum core obligations**, the Committee on Economic, Social and Cultural Rights states:

"On the basis of the extensive experience gained by the Committee, as well as by the body that preceded it, over a period of more than a decade of examining States parties' reports the Committee is of the view that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party. Thus, for example, a State party in which any significant number of individuals is deprived of (...) the most basic forms of education is, prima facie, failing to discharge its obligations under the Covenant. If the Covenant were to be read in such a way as not to establish such a minimum core obligation, it would be largely deprived of its *raison d'être*. By the same token, it must be noted that any assessment as to whether a State has discharged its minimum core obligation must also take account of resource constraints applying within the country concerned. Article 2 (1) obligates each State party to take the necessary steps "to the maximum of its available resources". In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations."

Committee on Economic, Social and Cultural Rights (2003) *General Comment 3: The Nature of States Parties' Obligations* (Art.2, Para.1): <http://www.refworld.org/docid/4538838e10.html>: Para.10.

³ Article 2 (1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (1966) recognises that economic, social and cultural rights are not always immediately realisable. The full and immediate realisation of the right to education can be hampered by a lack of resources and can only be achieved over a period of time, particularly for countries with fewer resources.

The ICESCR therefore imposes the obligation to **progressively realise** certain aspects of the right to education (including free secondary, higher, and fundamental education). However, not all aspects of the right to education are subject to progressive realisation, for example, States must prohibit discrimination in and to education and ensure that primary education is free and compulsory for all.

For further information, see Right to Education Project's page *Understanding Education as a Human Right*: <http://www.right-to-education.org/page/understanding-education-right#sthash.Uat6sLqc.dpuf>

For further information on progressive realisation, see Committee on Economic, Social and Cultural Rights (2003) *General Comment 3: The Nature of States Parties' Obligations* (Art.2, Para.1): <http://www.refworld.org/docid/4538838e10.html>

⁴ **Education policies** are the set of actions, laws, regulatory measures, and funding priorities on education adopted by a government.

Strictly speaking laws and policies are distinct: laws are a system of rules that regulate behaviour, and are usually enforceable in courts; whilst policies are informal and set out a government's major objectives, defining the government's priorities and strategies to achieve its goals.

Education policies and laws are the primary means by which the right to education is implemented at the national and sub-national level.

⁵ **Process indicators** measure the various types of State efforts (such as: education policies, education inputs, budget allocation, and programmes and measures to address specific education issues) undertaken in order to realise and implement the right to education.

⁶ See Step 3 of the Monitoring Guide, available to download here: <http://www.right-to-education.org/monitoring/guide/step-3-analyse-educational-laws-policies-their-implementation>

⁷ *Idem* 6

⁸ See Article 2(1) of the *International Covenant on Economic, Social and Cultural Rights* (1996): http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/ICESCR_1966_en.pdf and the Committee on Economic Social and Cultural Rights (1990) *General Comment 3: The Nature of States Parties' Obligations* (Art.2, Para.1): <http://www.refworld.org/docid/4538838e10.html>: Para.7.

⁹ See 'What to monitor' in the Introduction to the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide/how-use-guide>

¹⁰ *Idem* 3

¹¹ Article 2 (1) of the *International Covenant on Economic, Social and Cultural Rights* (1966) obliges States to take the necessary steps to the **maximum of its available resources** to progressively realise the right to education. Maximum available resources refers to the resources available within the State and from the international community.

States must prioritise the allocation of necessary resources to ensuring the satisfaction of minimum essential levels of the right to education and other economic, social and cultural rights.

See the Committee on Economic, Social and Cultural Rights Statement (2007) *An evaluation of the obligation to take steps to the 'maximum available resources' under an optional protocol to the Covenant*: <http://www2.ohchr.org/english/bodies/cescr/docs/statements/Obligationtotakesteps-2007.pdf>

¹² *Idem* 2

¹³ Aims of Education – Article 29 of the *Convention on the Rights of the Child* (1989):

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 civilisations 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.

For further information, see *Convention on the Rights of the Child*: <http://www.right-to-education.org/resource/convention-rights-child> and Committee on the Rights of the Child (2001) *General Comment 1: Article 29 (1): The Aims Of Education*: <http://www.right-to-education.org/resource/crc-general-comment-1-article-29-1-aims-education>

¹⁴ **Fundamental education** replaces missed primary education; however the right to fundamental education is far broader. The Committee on Economic, Social and Cultural Rights (CESCR) provides the following interpretation of fundamental education (Article 13 (2) (d)) in *General Comment 13*:

“It should be emphasised that enjoyment of the right to fundamental education is not limited by age or gender; it extends to children, youth and adults, including older persons. Fundamental education, therefore, is an integral component of adult education and life-long learning. Because fundamental education is a right of all age groups, curricula and delivery systems must be devised which are suitable for students of all ages” (Para.24).

Furthermore, the CESCR adds that ‘fundamental education’ in general terms corresponds to ‘basic education’, as laid out in the *World Declaration on Education for All* (1990, *Jomtien Declaration*):

http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Dakar_Framework_for_Action_2000_en.pdf

¹⁵ For example, in Argentina from 2002 to 2009 the number of children in early education (45 days to 5 years) in Buenos Aires remained constant, even though there had been a steady increase in the number of children applying for early education. As a result, thousands of children were unable to participate in early education in public schools. Between 2002 and 2006, the number of excluded children increased by 37 percent. In 2006, 6,047 children were left out; by 2008 that number had risen to almost 8,000.

This increasing exclusion did not affect all children equally. Children living in the six poorest districts of the city were disproportionately affected; they accounted for more than half of all excluded children. In comparison, less than 15 percent of the excluded children lived in affluent districts.

In 2006, the Asociación Civil por la Igualdad y la Justicia (Civil Association for Equality and Justice, ACIJ) filed ACIJ filed a class action lawsuit against the government of Buenos Aires. It claimed that from 2002 to 2006 the government had not fulfilled the guarantee of early education and had violated its obligation of non-discrimination. ACIJ showed that:

- There was a consistent pattern of children being denied access to early education because of insufficient space in schools. While this situation affected the whole city, it was much worse in the poorer districts.
- The government consistently underspent budget resources that had been allocated to improve school infrastructure and maintenance. These resources could have been used to build more schools or classrooms and thus open space for more students.

For further information, see International Budget Partnership (2014) *Article 2 & Government Budgets: Discriminatory allocations and expenditures on the basis of socio-economic status*: <http://www.internationalbudget.org/wp-content/uploads/Article-2-and-Governments-Budgets.pdf#page=59>

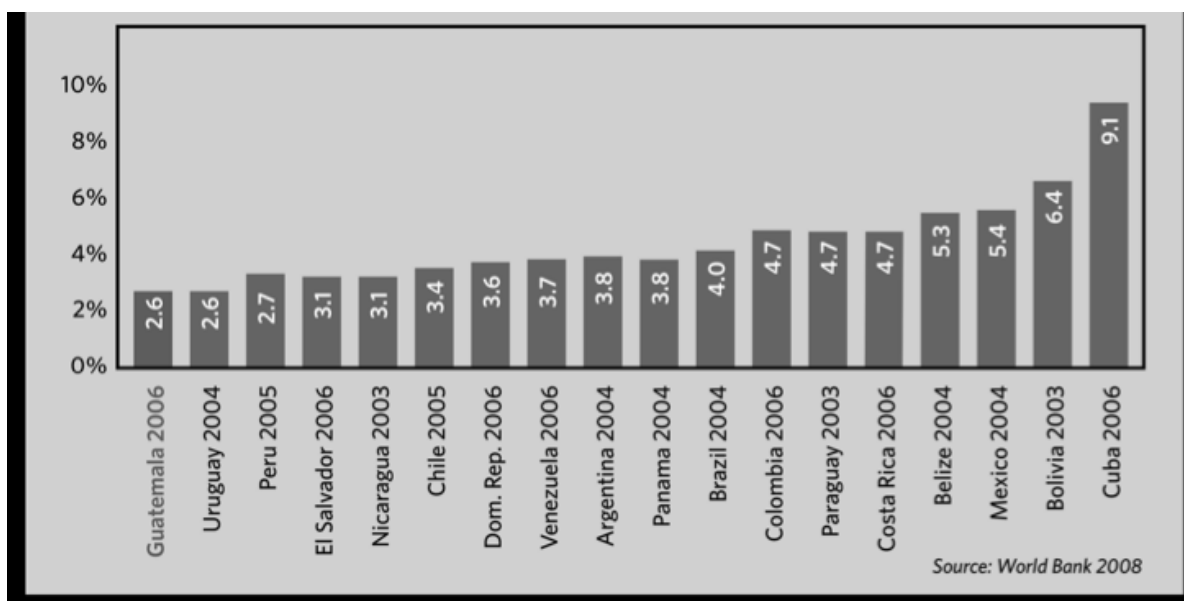
¹⁶ International Budget Partnership (2014) *Article 2 & Government Budgets: The Use of Maximum Available Resources*:

<http://www.internationalbudget.org/wp-content/uploads/Article-2-and-Governments-Budgets.pdf#page=75>

¹⁷ This framework is adapted from a set of ratios proposed by UNDP to analyse public spending on human development in the *Human Development Report 1991*: <http://hdr.undp.org/en/reports/global/hdr1991>

¹⁸ For example, the graph below shows that Guatemala has the lowest levels of education spending relative to GDP in Latin America and the Caribbean.

Government Spending on Education, Total, Latin America and the Caribbean (% of GDP, Latest Available Data)

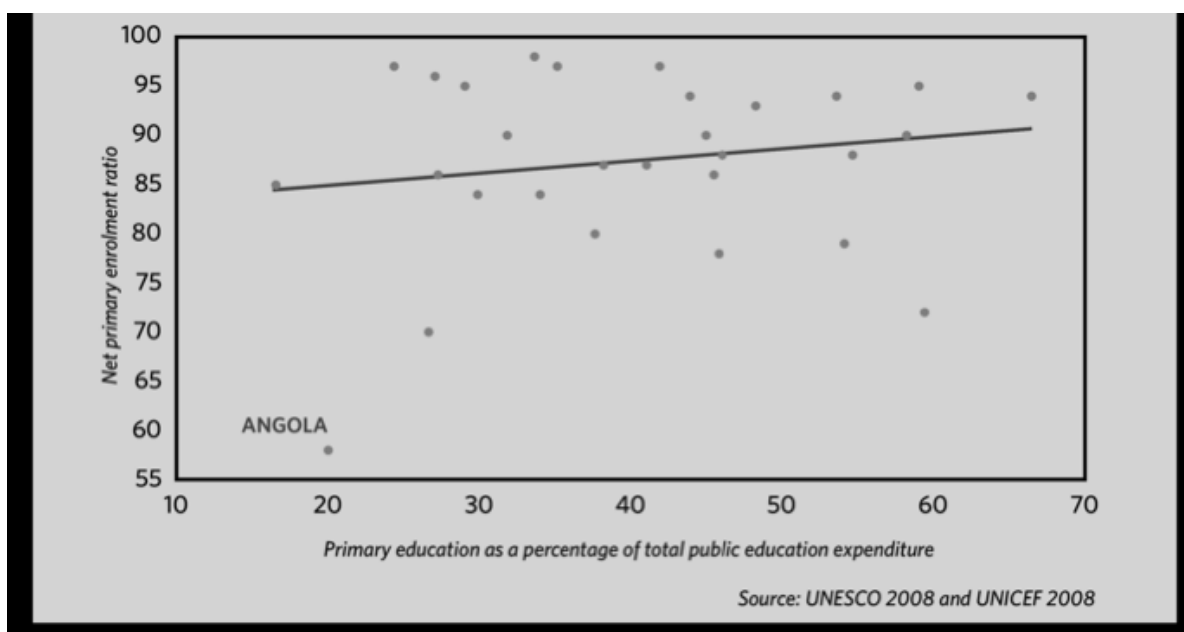


Source: Center for Economic and Social Rights *Fact Sheet No. 3 (Guatemala)*: <http://www.cesr.org/downloads/Guatemala%20Fact%20Sheet.pdf>: p.7, figure 13.

¹⁹ In Angola only 58% of children of primary school-age are enrolled in school — the lowest primary enrolment rate of all lower-middle-income countries in the world. Despite this Angola only allocates 20% of its education spending to primary education, much lower than the majority of the other countries at the same level of economic development.

Primary Education Expenditure and Primary Enrolment Ratio, Lower-middle Income Countries, Latest Available Data

Each dot represents a lower-middle income country.



Source: Center for Economic and Social Rights *Fact Sheet No. 5 (Angola)*: <http://www.cesr.org/downloads/Angola%20Fact%20Sheet%20-%20WEB%20version.pdf>: p. 6, figure 13.

²⁰ For more information on the indicator 'Education expenditure ratio' see:

²¹ **Gross domestic product (GDP)** is the value of the output of all goods and services produced in a country during a given time period – usually a year.

Per capita GDP is GDP divided by the total population.

GDP and per capita GDP are indicators commonly used to measure the level of economic development of a country.

²² For more information on the indicator ‘Education allocation ratio’ see:

<http://www.right-to-education.org/monitoring/content/education-allocation-ratio>

²³ For example, in its report *Living Large: Counting the Cost of Official Extravagance in Kenya*: http://www.knchr.org/Portals/0/Reports/Living_Large.pdf, the Kenya National Commission on Human Rights showed that Kenya’s government had spent more than USD \$12 million on new cars for senior government officials – enough money to send 25,000 children to school for eight years.

²⁴ For more information on the indicator ‘Primary education priority ratio’ see:

<http://www.right-to-education.org/monitoring/content/primary-education-priority-ratio>

²⁵ Depending on the level of development of your country, you may want to change this ratio for a ‘basic education priority ratio’, which in many countries includes not only primary education, but also lower-secondary education.

²⁶ See Step 2.3 of the *Monitoring Guide*, available to download here:

<http://www.right-to-education.org/monitoring/guide/23-compare-outcome-indicators-benchmarks>

²⁷ See Step 3.3 of the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide/33-compare-structural-and-process-indicators-benchmarks>

²⁸ These can be found on Right to Education Project’s page on *National Implementation*:

<http://www.right-to-education.org/page/where-find-information>

²⁹ **Costa Rica**: “Public expenditure in State education, including higher education, shall not be less than six percent (6%) per annum of the gross domestic product...” (Article 78 of the Costa Rican Constitution).

Paraguay: The Education Act allocates **at least 20% of the national budget to education**.

Sources: Wilson, D (2004) *A human rights contribution to defining quality education*. UNESCO (2005/ED/EFA/MRT/PI/51): <http://unesdoc.unesco.org/images/0015/001525/152535e.pdf> and Muñoz, V (2009) *Report of the Special Rapporteur on the right to education*, Mission to Paraguay (A/HRC/14/25/Add.2): http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.25.Add.2_en.pdf

³⁰ Access the *Education 2030 Incheon Declaration and Framework for Action*, here:

<http://www.right-to-education.org/resource/education-2030-incheon-declaration-and-framework-action>

³¹ For example, when examining the Second Periodic Report of the Dominican Republic, the UN Committee on Economic, Social and Cultural Rights noted with great concern that State expenditure on education and training as a proportion of total public spending was less than half the average in Latin America.

³² *Idem* 23

³³ *Idem* 22

³⁴ *Idem* 11

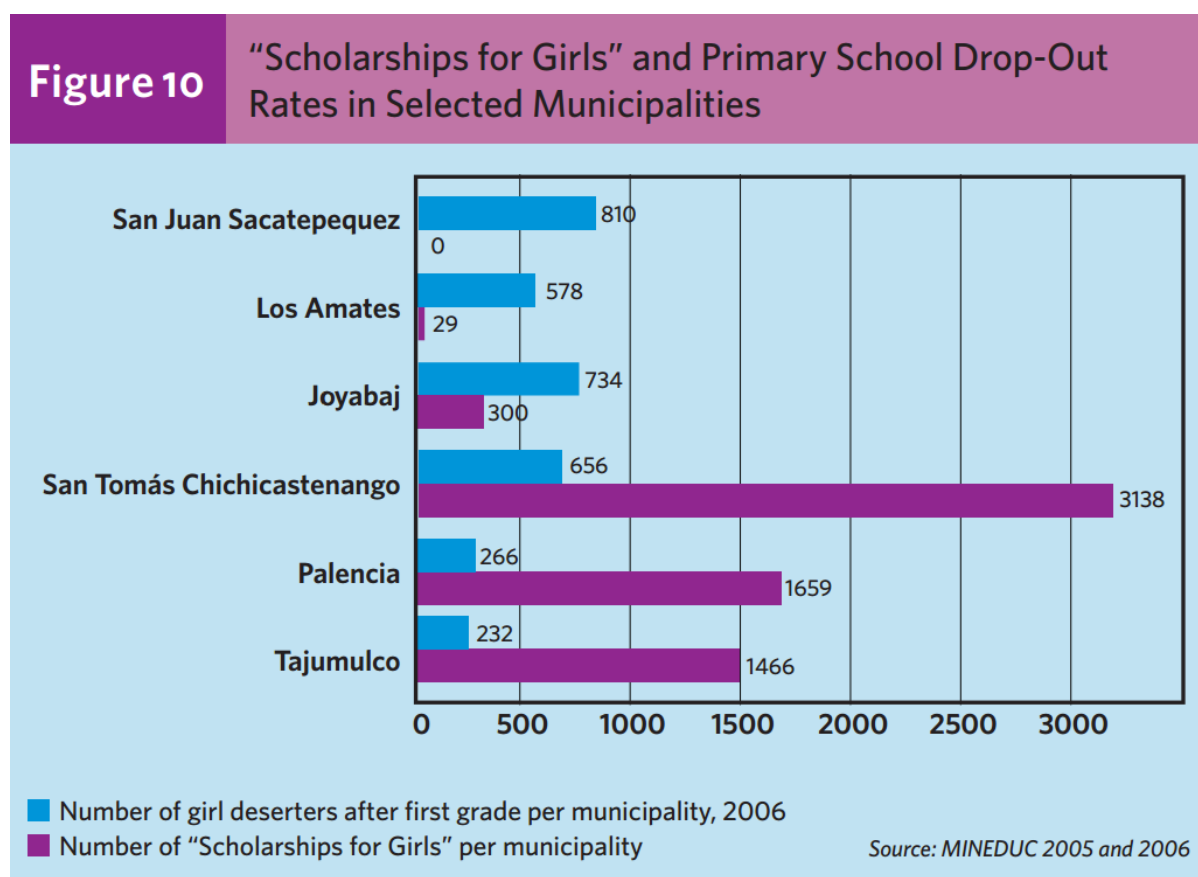
³⁵ **Discrimination** “implies any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms” (Human Rights Committee *General Comment 18*: <http://www1.umn.edu/humanrts/gencomm/hrcom18.htm>: Para.7).

International law prohibits both direct and indirect discrimination:

- Direct discrimination is when a person, on account of one or more of the prohibited grounds (see multiple discrimination), is treated less favourably than someone else in comparable circumstances.
- Indirect discrimination is when a practice, rule, policy, or requirement is outwardly neutral but has a disproportional impact upon a particular group. For an example of indirect discrimination, see *DH and others v Czech Republic*: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-83256>

For further information, see INTERIGHTS (2011) *Non-Discrimination in International Law: A Handbook for Practitioners*: <http://www.interights.org/document/153/index.html>

³⁶ The following graph shows that the allocation of resources of Guatemala’s ‘Scholarships for Girls’ established to reduce the staggering repetition and desertion rates of first grade girls, has often been skewed. Some of the municipalities with a relatively low number of girls dropping out of school after first grade in 2005 received a large number of ‘Scholarships for Girls’ the following year. In other municipalities with much higher levels of girl deserters after first grade, received fewer scholarships the following year.



Source: Center for Economic and Social Rights *Fact Sheet No. 3 (Guatemala)*: <http://www.cesr.org/downloads/Guatemala%20Fact%20Sheet.pdf>: p.5, figure 10.

³⁷ **Disaggregated data** is data that has been broken down by detailed sub-categories, for example by marginalised group, gender, region or level of education. Disaggregated data can reveal deprivations and inequalities that may not be fully reflected in aggregated data.

³⁸ For instance, the following figures compare results by department (equivalent to provinces in that country) of an assessment of the reading abilities of all primary school teachers in Guatemala, with the incidence of poverty and concentration of Indigenous peoples in each of these departments. By making this comparison, this simple method reveals that the most disadvantaged children are being taught by the least qualified teachers. The three departments in which teachers had the lowest reading test scores are the three departments with the highest incidence of poverty. They are also amongst those departments with the largest concentration of indigenous people.

Teachers Reading Test scores poverty incidence and concentration of indigenous people Guatemala by department					
Poverty Incidence		Teachers' Reading Test Scores		Concentration of Indigenous People	
Dept.	Poverty	Dept.	Score	Dept.	% Pop. Indigenous
Quiché	81	Sacatepéquez	72.6	Totonicapán	98%
Alta Verpaz	78.8	Guatemala	66.5	Sololá	96%
Sololá	74.6	Chimaltenango	66	Alta Verapaz	93%
Totonicapán	71.9	El Progreso	61.4	Quiché	89%
Huehuetenango	71.3	Retalhuleu	60.5	Chimaltenango	79%
Baja Verapaz	70.4	Petén	60.5	Huehuetenango	65%
San Marcos	65.5	San Marcos	60.2	Baja Verapaz	59%
Jalapa	61.2	Zacapa	59.9	Quetzaltenango	54%
Chimaltenango	60.5	Jalapa	59.8	Suchitepéquez	52%
Chiquimula	59.5	Chiquimula	59.3	Sacatepéquez	42%
Santa Rosa	57.9	Escuintla	58.8	San Marcos	31%
Petén	5.7	Suchitepéquez	57.4	Petén	31%
Suchitepéquez	54.7	Quetzaltenango	56.8	Retalhuleu	23%
Zacapa	53.9	Baja Verapaz	56.2	Jalapa	19%
Retalhuleu	50.4	Jutiapa	55.6	Chiquimula	17%
Jutiapa	47.3	Totonicapán	54.2	Guatemala	14%
Quetzaltenango	44	Huehuetenango	53.5	Escuintla	7%
El Progreso	41.8	Santa Rosa	52.5	Jutiapa	3%
Escuintla	41.4	Sololá	51.4	Santa Rosa	3%
Sacatepéquez	36.5	Quiché	51.2	El Progreso	1%
Guatemala	16.3	Alta Verapaz	50.9	Zacapa	1%

Source: Felner, E (2008) *A new frontier in economic and social rights advocacy? Turning quantitative data into a tool for human rights accountability*, Sur International Journal on Human Rights, Year 5, Number 9: <http://www.right-to-education.org/resource/new-frontier-economic-and-social-rights-advocacy-turning-quantitative-data-tool-human>, p.140.

³⁹ In most countries, governments regularly publish data on the execution of the budget, which in many cases can be found on the websites of the Ministry of Finance or the Ministry of Education.

⁴⁰ *Idem* 3

⁴¹ For example, the Civil Association for Equality and Justice, an Argentinian NGO, wrote a report (in Spanish) about the Government of the City of Buenos Aires's investment in education, using data from the last trimestral report on budget execution for the year 2011: <http://acij.org.ar/blog/2012/04/03/informe-sobre-la-ejecucion-del-presupuesto-educativo-2011/>. The Report concluded that the Government did not use all of the resources which were made available by the Ministry of Education, and that they had underexecuted the budget lines assigned for school infrastructure.

In Ireland, it has been reported that in 2010 the Department of Education has failed to spend almost half of the budget designated to it for the building of new schools and classrooms: <http://humanrights.ie/announcements/underspending-on-schools-violating-the-right-to-education/>

⁴² For example, in its national strategy for poverty reduction for 2005, the government of Bangladesh set improving equity as well as quality as key education objectives. However, a study on the allocation of resources in this sector found that education spending was regressive (spending more on the non-poor than the poor, even at the primary level) and thus detrimental to the stated objectives of the Bangladeshi government. This was due, in part, to an incremental budgeting process that uses past allocations as its starting point. This introduces a substantial amount of sluggishness into the budgetary process that excludes any evaluation of the fit between current spending patterns and stated policy goals. It also results in programmes continuing to receive funding long after their purpose and goals have become obsolete.

Source: A-Samarrai, S (2008) *Governance and education inequality in Bangladesh*, UNESCO (2009/ED/EFA/MRT/PI/34): <http://unesdoc.unesco.org/images/0018/001800/180086e.pdf>: p.6.

⁴³ *Idem* 4

⁴⁴ For example, a study in Ecuador showed that ministries were granted budgets but not allowed to spend against them without the finance ministry's permission. Often, this permission was granted only in the final quarter of the fiscal year.

Source: World Bank (2002) cited in Winkler DR (2004) *Strengthening Accountability in Public Education*, Education Policy and Data Centre: <http://www.epdc.org/education-data-research/strengthening-accountability-n-public-education>: p.5.

⁴⁵ For an overview of the extent to which corruption and poor governance affects the realisation of the right to education, see Transparency International's *Global Corruption Report: Education* (2013): <http://www.transparency.org/topic/detail/education>, as well as its page on Education: <http://www.right-to-education.org/resource/global-corruption-report-education>

In addition, see Corruption Watch's page: *Tools to fight corruption at your school*: <http://www.corruptionwatch.org.za/tools-to-fight-corruption-at-your-school/>

⁴⁶ See Right to Education Project's Success Story Series: *The Limpopo Textbook Crisis in South Africa - How SECTION27 used rights-based strategies to hold the government accountable*: <http://www.right-to-education.org/resource/limpopo-textbook-crisis-south-africa-how-section27-used-rights%E2%80%90based-strategies-hold>

⁴⁷ For details on these and other tools, see UNDP & Global Integrity (2008) Users' Guide to Measuring Corruption: <http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/anti-corruption/a-users-guide-to-measuring-corruption/> and Transparency International (2012) *Gateway - Corruption Assessment Toolbox: Education, Health and Water Topic Guide*: <http://gateway.transparency.org/files/uploads/Education, Health Water Topic Guide.pdf>

⁴⁸ Data on people's experience with corruption in the education sector can be found in the *Global Corruption Barometer* run by Transparency International: <http://www.transparency.org/research/qcb/overview>. This is

the largest cross-country survey to assess the general public's perceptions and experiences of corruption and bribery.

⁴⁹ Interviews on corruption in the education sector - selected questions

Question	Who to interview	Application
How often are parents asked to pay bribes for education services?	Parents, members of PTAs, teachers; on-site observations	To assess the extent of corruption
Do ministers and senior civil servants in the education sectors have an obligation to publicly declare their assets and income declaration and those of their dependents before and after they leave their post?	Interview with relevant education officials; interview with other relevant stakeholders from education CSOs, jurists, academics (to obtain the necessary information on these questions you may want to complement the interviews with a review of relevant law)	To assess the presence, effectiveness and independence of an asset disclosure regime
Is there any legal body mandated to audit these asset disclosures?		
Is there any requirement of public disclosure of these declarations?		
Does the government publish detailed information about tender for procurement in the education sector (terms and conditions, evaluation process and final decisions)?	Interview with relevant education officials; interview with other relevant stakeholders from education CSOs, jurists, academics (to obtain the necessary information on these questions you may want to complement the interviews with a review of government publications and websites)	To assess the integrity of tendering processes
Is this information easily available to the public?		
Are there clear, objective, transparent and easily accessible criteria for allocating resources to schools (in the deployment of teachers and head-teachers, construction of new schools, reparation of existing schools, distribution of equipment and material, provision of cash transfers etc)?	Interview with relevant government officials (to obtain the necessary information on these questions you may want to complement the interviews with a review of relevant government publications and website as well as a review of the distribution of government budget within the sector)	To assess whether the distribution of resources is fair, based on objective criteria, transparent and equitable, or if there are clientelistic practices in the distribution of resources

Source: Felner, E (2013) *Discussion Paper - Assessing Governance to achieve Health and Education Goals*: http://www.gaportal.org/sites/default/files/Discussion_pap_Government_Assessments_health_education_goals_undp_2013.pdf: p.67.

⁵⁰ For examples of monitoring exercises using this method see: Africa Education Watch & Transparency International (2010) *Good Governance Lessons For Primary Education*: <http://image.guardian.co.uk/sys-files/Guardian/documents/2010/02/23/AfricaEducationWatch.pdf> and Human Rights Watch (2007) *Chop Fine: The Human Rights Impact of Local Government Corruption and Mismanagement in Rivers State, Nigeria*: <https://www.hrw.org/sites/default/files/reports/nigeria0107%5B1%5D.pdf>

⁵¹ For information on conducting PETS see: Reinikka, R & Smith, N (2004) *Public expenditure tracking surveys in education*, UNESCO International Institute for Educational Planning:
<http://www.unesco.org/iiep/PDF/pubs/Reinikka.pdf>

⁵² For example, the first PETS, carried out by the World Bank in 250 primary schools in Uganda, found that schools received only 13% of the non-salary-related funds to which they were entitled. Most schools had received no funds at all and most parents and teachers were not even aware that the grants existed. Financing earmarked for education was diverted to other sectors, used for political activities or stolen.

For further information, see World Bank (2011) *Public Expenditure Tracking Surveys (PETS)*:
<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPSIA/0,,contentMDK:20467145~menuPK:1108016~pagePK:148956~piPK:216618~theSitePK:490130,00.html>

Step 5: Examine Policy Processes

Monitoring¹ the right to education involves not only assessing policy efforts but also analysing the extent to which the process of elaboration, implementation and evaluation of these policies² has been undertaken in accordance with cross-cutting human rights principles, such as participation.

This step will help you assess, using a special category of process indicators,³ the compliance of your country with these procedural human rights principles throughout the policy cycle⁴ of the education policies you identified in Step 3.⁵

For a comprehensive and human rights-based monitoring exercise, it is necessary to examine both policy efforts and policy processes. If you have limited resources you may decide to forgo this step but you should make this explicit in your report.

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Using the *Indicators Selection Tool*

The *Indicators Selection Tool*⁶ has an entire criterion devoted to policy processes. Please select the human rights principle you wish to monitor under *Policy Processes and Governance*.

When monitoring policy processes you do not need to make selections for the other criteria as this is a standalone criterion.

This step provides guidance for using policy process indicators. Please refer to the relevant section below for specific guidance on each human rights principle.

5.1 Accountability

In a lot of countries, many of the lasting problems in the delivery of education – unequal access to schools, poor quality, chronic teacher absenteeism, endemic corruption – are related to weak accountability mechanisms.

Rights imply duties, and obligations - to be effective - require accountability mechanisms. Human rights law can be used to hold governments – the primary duty-bearer⁷ of human rights – accountable for avoidable deprivations and inequalities of education outcomes.

As part of your monitoring effort, you may want to assess the key accountability mechanisms that affect the full realisation of the right to education, including:

Inspection system within the education sector

Under international law, States are obliged to “establish and maintain a transparent and effective system which monitors whether or not education is, in fact, directed to the educational objectives set out in article 13 (1)” (Committee on Economic, Social and Cultural Rights *General Comment 13*: Para.49). In addition all education provided by private actors must conform to State-approved minimum standards and the State must maintain a transparent and effective system to monitor such minimum standards (CESCR *General*

Comment 13: Para.54). For these reasons, most countries have oversight mechanisms within the education sector, enabling the Ministry of Education to assess the availability, accessibility, acceptability and adaptability⁸ of its services, as well as its impact on the population. In evaluating the extent to which this type of system is effective in holding schools, teachers and school principals accountable for their performance, you may look at the following issues:

- Is there a school inspection system?⁹
- Is the school inspection system adequately staffed?
- Do inspectors have adequate training and qualifications?
- Do inspectors receive human rights training?
- Do inspectors spend enough time in each school in order to provide effective evaluation?
- How often do supervisors visit each school?¹⁰
- Do inspection guidelines meet the aims of education?¹¹
- Are private schools subject to inspection by the State?
- Is there a body that monitors private education?¹²
- Has the State set or approved minimum educational standards applicable to private educational institutions?¹³
- Do the findings of monitoring and evaluation have an impact on policy reform and programme implementation?

Complaint mechanisms

Most countries have complaint mechanisms that allow individuals to file complaints if they feel that their right to education has been violated. These complaint mechanisms, typically a human rights commission, an ombudsman or a Parliamentary Committee, provide an institutionalised process through which duty-bearers can be held accountable in relation to their duties, and right-holders¹⁴ can demand a remedy for human rights violations.

To assess the extent to which existing complaint mechanisms in your country serve as an effective means for accountability regarding violations of the right to education, you may want to analyse the following issues, using the *Indicators Selection Tool*:¹⁵

- The number of administrative complaints on the right to education¹⁶ would indicate the extent to which the complaint mechanisms are being used.
- The percentage of right to education complaints resolved within a given time frame may indicate whether the procedure is efficient and timely.
- A comparison of the number of complaints received by the oversight institution(s), the number investigated, the number substantiated by investigation and the number of sanctions for staff and / or redress for the citizens involved. The proportion of received complaints on the right to education that have been investigated by an administrative body¹⁷ would demonstrate the extent to which the institution has effective enforcement powers.
- The extent to which the public has readily accessible information about the existence and procedures related to complaint mechanisms.
- You could also assess the extent to which the oversight institutions responsible for handling complaints meet certain minimum conditions¹⁸ to be able to hold the government and civil servants accountable for violations of the right to education.

Judicial accountability

In countries where the right to education has been recognised in the constitution or in legislation and is justiciable,¹⁹ courts can play a key role in holding governments to account. (If the right to education is not formally recognised and redress is not possible, then this is evidence of a lack of accountability.)

The number of legal cases that have been brought under these provisions is one indicator of their effectiveness, as is the number of court cases on educational rights.²⁰ However, it is important to bear in mind that these numbers are not always due to the effectiveness of courts at holding governments to account. They could be due to: better investigative techniques, increased confidence in the judicial system that has led more people to report abuses, an increase in cases that have been brought against certain political opponents, or other factors. At the same time, a major factor influencing judicial accountability is the degree of judicial independence.²¹ Therefore, beyond looking at the number of cases brought to courts under provisions related to the right to education, it is also necessary to examine the proportion of court cases on the right to education that have been adjudicated against the State.²² You may also want to look at how and if court judgements are effectively enforced.

5.2 Transparency

Access to information is essential to enable people to exercise their human rights. Without relevant, timely and accurate information, right-holders²³ cannot know which services they are entitled to, what the costs are (if any), which complaint mechanisms exist to seek redress when their right to education is violated, etc. For instance, without clear and easily accessible information about a school scholarship programme, parents may not know whether their children are eligible for a programme that may be their only means to afford to send their children to school.

Transparency is also the backbone of accountability. The efforts of civil society organisations and the media to hold governments accountable for the provision of quality education can be significantly undermined without regular access to government documents, data and

records. For instance, lack of access to adequate budget data²⁴ makes it harder to hold a government accountable for policies that are supposed to address inequalities in education.

In order to evaluate whether the education policy / programmes you are monitoring are adequately transparent, you may examine the following indicators, amongst others:

- **Public availability of information on education produced by the State:** Is the education data gathered by the State publicly available?²⁵ Does the State body responsible for monitoring the education system produce regular and publicly available reports on the state of education?²⁶
- **Service provision:** Are there transparent procedures for the hiring process of teachers and for contracts / tenders for education services?²⁷
- **Criteria for targeted programmes:** Are the criteria used to select the schools or children that benefit from targeted programmes publicly available?²⁸
- **Budgetary information:** Is there public access to key public financial documents related to education?²⁹
- **Legislation on access to information:** Is there a freedom of information law? Are the provisions of this law adequate to comply with the human rights principle of transparency?³⁰

5.3 Participation

Public participation in the design, implementation and monitoring of education policies is a fundamental human right. Underlying this principle is the basic idea that rights-holders³¹ should be active agents, rather than passive recipients. Public participation also helps to strengthen the acceptability and adaptability³² of education, allowing the government to know more about the concerns, needs and preferences of different groups.

As part of your monitoring effort, you may assess the extent to which the public is encouraged to participate at all stages of the education policy cycle.³³

The *Indicators Selection Tool*³⁴ includes a number of indicators designed to analyse the extent to which a wide range of education policies adopted by the government are adequately participatory. These include:

- Are there any established mechanisms that enable parents, children and / or community leaders to work with the school staff in carrying out school self-assessments and developing school improvement plans?
- Are there any established mechanisms that enable parents, children and / or community leaders to contribute to defining school curricula and other parts of the learning process, and to making decisions on the school environment?³⁵
- Are there established mechanisms to enable parents, children and community leaders to contribute to the formulation and / or implementation of strategies to identify out-of-school children, to encourage school attendance and to reduce drop-out rates?³⁶
- Are there established mechanisms to enable parents, children and community leaders belonging to minorities to contribute to ensuring that education takes their needs into account?³⁷
- Are measures taken to enhance parents' understanding of the importance of their children's early education?³⁸
- Are there effective mechanisms to ensure that civil society organisations are consulted when national educational policies and legislations are agreed upon and multilateral or bilateral agreements that have an effect on the right to education are negotiated?³⁹

- Do civil society organisations face obstacles set by the State when monitoring the right to education?⁴⁰

Furthermore, in order to evaluate whether the various participatory mechanisms set up by the government regarding these education policy / programmes are adequately participative, you may examine the following:

- **Inclusiveness:** To what extent were the mechanisms set up by the government for participation in the formulation of the policy / plan inclusive, allowing different groups of the population - especially traditionally excluded or marginalised groups – to actively participate in the various stages of the policy cycle?
- **Informed participation:** Did the government provide the necessary information to the public -through means that they can actually access⁴¹ - about key aspects of the education policy / programme (eg the scope of the problem it's trying to address, its objectives and time-bound goals, intended beneficiaries, the resources available, etc) to enable informed participation?
- **Impact of participation:** To what extent were the inputs from various stakeholders⁴² taken into account? What was actually incorporated into the policy / plan and subsequently implemented?

Endnotes: Step 5: Examine Policy Processes

¹ **Human rights monitoring** is the process of collection and verification of information on human rights problems. For more details on monitoring the right to education, see Right to Education Project's page on Monitoring: <http://www.right-to-education.org/page/monitor>

² **Education policies** are the set of actions, laws, regulatory measures, and funding priorities on education adopted by a government.

Strictly speaking laws and policies are distinct: laws are a system of rules that regulate behaviour, and are usually enforceable in courts; whilst policies are informal and set out a government's major objectives, defining the government's priorities and strategies to achieve its goals.

Education policies and laws are the primary means by which the right to education is implemented at the national and sub-national level.

³ **Process indicators** measure the various types of State efforts (such as: education policies, education inputs, budget allocation, and programmes and measures to address specific education issues) undertaken in order to realise and implement the right to education.

⁴ **Policy cycle** refers to the different phases of the policy-making process. Typically, these involve:

1. Problem definition (ie the recognition of certain issue as a public problem demanding government attention)
2. Policy-formulation
3. Implementation
4. Evaluation

⁵ See Step 3 of the *Monitoring Guide*, available to download here: <http://www.right-to-education.org/monitoring/guide/step-3-analyse-educational-laws-policies-their-implementation>

⁶ Access the *Indicators Selection Tool*, here: www.right-to-education.org/monitoring/tool

⁷ **Duty-bearers** are those actors who have a particular obligation or responsibility to respect, promote and realise human rights and to abstain from human rights violations. The term is most commonly used to refer to State actors, but non-State actors can also be considered duty-bearers. An obvious example is private armed forces or rebel groups, which under international law have a negative obligation to refrain from human rights violations. Depending on the context, individuals (eg parents), local organisations, private companies, aid donors and international institutions can also be duty-bearers.

Source: UNICEF *Gender Equality - UN Coherence and You – Glossary*: p.1: <http://www.unicef.org/gender/training/content/resources/Glossary.pdf>

⁸ For further information on the 4As Framework, developed by Katarina Tomaševski, see:

- The Right to Education Project (2001) *Project Primer 3: Human Rights Obligations: Making Education Available, Accessible, Acceptable and Available*: <http://www.right-to-education.org/resource/primer-no-3-human-rights-obligations-making-education-available-accessible-acceptable-and>
- Committee on Economic, Social and Cultural Rights (1999) *General Comment 13: The right to education (Article 13)*: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CESCR_General_Comment_13_en.pdf: Para.6.

⁹ For more information on the indicator 'Is there a school inspection system?', see: <http://www.right-to-education.org/monitoring/content/there-school-inspection-system>

¹⁰ For more information on the indicator 'Frequency of inspection visits,' see: <http://www.right-to-education.org/monitoring/content/frequency-inspection-visits>

¹¹ Aims of Education – Article 29 of the *Convention on the Rights of the Child* (1989):

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 civilisations 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.

For further information, see *Convention on the Rights of the Child*: <http://www.right-to-education.org/resource/convention-rights-child> and Committee on the Rights of the Child (2001) *General Comment 1: Article 29 (1): The Aims Of Education*: <http://www.right-to-education.org/resource/crc-general-comment-1-article-29-1-aims-education>

¹² For more information on the indicator 'Is there a monitoring body controlling whether minimum educational standards are met in private schools?,' see: <http://www.right-to-education.org/monitoring/content/there-monitoring-body-controlling-whether-minimum-educational-standards-are-met-private>

¹³ For more information on the indicator 'Are there minimum educational standards applicable to non-government schools?,' see: <http://www.right-to-education.org/monitoring/content/are-there-minimum-educational-standards-applicable-non-government-schools>

¹⁴ **Rights-holders** are individuals or social groups that have particular entitlements in relation to specific duty-bearers. In general terms, all human beings are rights-holders under the Universal Declaration of Human Rights.

In particular contexts, there are often specific social groups whose human rights are not fully realised, respected or protected. More often than not, these groups tend to include women and girls, ethnic minorities, indigenous peoples, and migrants and youth.

A human rights-based approach not only recognises that the entitlements of rights-holders need to be respected, protected and fulfilled, it also considers rights-holders as active agents in the realisation of human rights and development – both directly and through organisations representing their interests.

Source: UNICEF [Gender Equality - UN Coherence and You – Glossary](#): p.5.

¹⁵ *Idem* 6

¹⁶ For more information on the indicator 'Number of administrative complaints on the right to education,' see: <http://www.right-to-education.org/monitoring/content/number-administrative-complaints-right-education>

¹⁷ For more information on the indicator 'Proportion of received complaints on the right to education that have been investigated by an administrative body,' see: <http://www.right-to-education.org/monitoring/content/proportion-received-complaints-right-education-have-been-investigated-administrative-body>

¹⁸ In order to function effectively, oversight institutions such as human rights commissions, ombudspersons and parliamentary committees, should adhere to the following minimum conditions:

- Be completely independent of the government.
- Possess wide-ranging investigative powers.
- Be properly resourced and provide cost-free service to complainants.
- Be accessible both geographically, through local offices, and electronically.
- Be accountable and report to parliament.

Source: Beetham, D (2006) *Parliament and democracy in the twenty-first century: A guide to good practice*. Geneva: Inter- Parliamentary Union: http://www.ipu.org/PDF/publications/democracy_en.pdf: p.76.

¹⁹ For further information, see the Right to Education Project's page on the *Justiciability of the Right to Education*: <http://www.right-to-education.org/issue-page/justiciability>

²⁰ For more information on the indicator 'Number of court cases on the right to education,' see: <http://www.right-to-education.org/monitoring/content/number-court-cases-right-education>

²¹ To find data on level of judicial independence in your country, see CIRI *Human Rights Data Project*: <http://www.humanrightsdata.com/p/data-documentation.html>

²² For more information on the indicator 'Proportion of court cases where it has been determined that there has been a violation of the right to education,' see: <http://www.right-to-education.org/monitoring/content/proportion-court-cases-where-it-has-been-determined-there-has-been-violation-right-education>

²³ *Idem* 14

²⁴ A study on the education budget in Bangladesh found that allocations to different sub-districts were not published despite being relatively easy to generate from government accounting systems. This made it impossible to correlate this data with other information about the sub-districts in order to assess the equity of public spending.

Source: A-Samarrai, S (2008) *Governance and education inequality in Bangladesh*, UNESCO (2009/ED/EFA/MRT/PI/34): <http://unesdoc.unesco.org/images/0018/001800/180086e.pdf>

²⁵ For more information on the indicator 'Is the education data gathered by the State publicly available?,' see: <http://www.right-to-education.org/monitoring/content/education-data-gathered-state-publicly-available>

²⁶ For more information on the indicator 'Does the State body responsible for monitoring the education system produce regular and publicly available reports on the state of education?,' see: <http://www.right-to-education.org/monitoring/content/does-state-body-responsible-monitoring-education-system-produce-regular-and-publicly>

²⁷ For more information on the indicator 'Are there transparent procedures for the hiring process of teachers and for contracts / tenders for education services?,' see: <http://www.right-to-education.org/monitoring/content/are-there-transparent-procedures-hiring-process-teachers-and-contractstenders-education>

²⁸ For more information on the indicator 'Are the criteria used to select the schools or children that benefit from targeted programmes publicly available?,' see: <http://www.right-to-education.org/monitoring/content/are-criteria-used-select-schools-or-children-benefit-targeted-programmes-publicly-available>

²⁹ For more information on the indicator ‘Is there public access to key public financial documents related to education?’, see: <http://www.right-to-education.org/monitoring/content/there-public-access-key-public-financial-documents-related-education>

³⁰ As a yardstick to assess the extent to which the existing legislation on freedom of information in your country is adequate for complying with the human rights principle of transparency, you can use the ‘Principles on Freedom of Information Legislation’, drafted by ARTICLE 19, an international human rights organisation with a specific mandate and focus on the defence and promotion of freedom of expression and freedom of information worldwide.

- **Principle 1 – Maximum disclosure:** Freedom of information legislation should be guided by the principle of maximum disclosure.
- **Principle 2 – Obligation to publish:** Public bodies should be under an obligation to publish key information
- **Principle 3 – Promotion of open government:** Public bodies must actively promote open government.
- **Principle 4 – Limited scope of exceptions:** Exceptions should be clearly and narrowly drawn and subject to strict “harm” and “public interest” tests.
- **Principle 5 – Processes to facilitate access:** Requests for information should be processed rapidly and fairly and an independent review of any refusals should be available.
- **Principle 6 – Costs:** Individuals should not be deterred from making requests for information by excessive costs.
- **Principle 7 – Open meetings:** Meetings of public bodies should be open to the public.
- **Principle 8 – Disclosure takes precedence:** Laws which are inconsistent with the principle of maximum disclosure should be amended or repealed.
- **Principle 9 – Protection for whistleblowers:** Individuals who release information on wrongdoing – whistleblowers – must be protected.

Source: ARTICLE 19 (1999) *Principles on Freedom of Information Legislation*:
<https://www.article19.org/data/files/pdfs/standards/righttoknow.pdf>

³¹ *Idem* 14

³² *Idem* 8

³³ One may distinguish four stages of participation: preference revelation; policy choice; implementation; and monitoring, assessment and accountability.

1. **Preference revelation:** The initial stage of any policy formulation. Before policies can be formulated, people must be able to express what objectives they want to achieve.

2. **Policy choice:** The stage at which policies are formulated and decisions taken regarding the allocation of resources amongst alternative uses. As different patterns of resource allocation will serve the interests of different groups of people differently, conflicts of interest are inherent in any process of policy formulation. In whose favour a conflict is resolved depends very much on who can participate effectively in the process. Traditionally, people living in poverty and other marginalised groups are left out, as they do not have enough political or financial power to make their interests count. A human rights approach must take steps to alter this situation, by creating a legal-institutional framework in which people living in poverty can participate effectively in policy formulation.

3. **Implementation:** Although the implementation of policies is primarily the responsibility of the executive arm of the State, opportunities must be created to enable persons living in poverty to exercise their right to participate in it as well.

4. **Monitoring and Assessment:** It is an essential feature of the human rights approach that the people who are affected by policies are able to participate in monitoring and assessing their success or failure and then

take part in the procedures for holding the duty-bearers accountable for their human rights obligations. Appropriate institutional arrangements are needed for such participation to be possible.

Source: Adapted from Office of the High Commissioner for Human Rights (2006) *Principles and Guidelines on a Human Rights-based Approach to Poverty Reduction Strategies*:

<http://www.ohchr.org/Documents/Publications/PovertyStrategies.pdf> p.15.

³⁴ *Idem* 6

³⁵ For more information on the indicator ‘Are there any established mechanisms that enable parents, children and / or community leaders to contribute to defining school curricula and other parts of the learning process, and to making decisions on the school environment?’, see:

<http://www.right-to-education.org/monitoring/content/are-there-any-established-mechanisms-enable-parents-children-and-or-community-leaders>

³⁶ For more information on the indicator ‘Are there established mechanisms to enable parents, children and community leaders to contribute to the formulation and / or implementation of strategies to identify out-of-school children, to encourage school attendance and to reduce drop-out rates?’, see:

<http://www.right-to-education.org/monitoring/content/are-there-established-mechanisms-enable-parents-children-and-community-leaders-contribute>

³⁷ For more information on the indicator ‘Are there established mechanisms to enable parents, children and community leaders belonging to minorities to contribute to ensuring that education takes their needs into account?’, see: <http://www.right-to-education.org/monitoring/content/are-there-established-mechanisms-enable-parents-children-and-community-leaders-belonging>

³⁸ For more information on the indicator ‘Are measures taken to enhance parents’ understanding of the importance of their children’s early education?’, see:

<http://www.right-to-education.org/monitoring/content/are-measures-taken-enhance-parents%E2%80%99s-understanding-importance-their-children%E2%80%99s-early>

³⁹ For more information on the indicator ‘Are there effective mechanisms to ensure that civil society organisations are consulted when national educational policies and legislations are agreed upon and multilateral or bilateral agreements that have an effect on the right to education are negotiated?’, see:

<http://www.right-to-education.org/monitoring/content/are-measures-taken-enhance-parents%E2%80%99s-understanding-importance-their-children%E2%80%99s-early>

⁴⁰ For more information on the indicator ‘Do civil society organisations face obstacles set by the State when monitoring the right to education?’, see: <http://www.right-to-education.org/monitoring/content/do-civil-society-organisations-face-obstacles-set-state-when-monitoring-right-education>

⁴¹ Uploading information online may help urban literate people, but would be of little use to rural or illiterate parents.

⁴² **Stakeholders** are all those who can affect your desired change, as well as those who are affected by it.

Step 6: Report Writing & Advocacy

The final stage of the monitoring process involves using the evidence you have gathered to draft a report.

This step will guide you through the essential elements of writing a report, including: advice on structure, presentation and what to include, and finally the advocacy¹ strategies you should consider in order to effect change.

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6.1 Draft report

The final stage of the monitoring process involves the preparation of a report, which should present your findings, conclusions and recommendations.

Structure

The content and structure of the report will depend on your advocacy objectives and the audience you are trying to reach. However, certain elements are crucial, including:²

1. Introduction

The introduction should make a concise presentation of your organisation and the goal(s) of the report. You should explain what motivated you to undertake this monitoring exercise, the subject of the report, the time period it was conducted over, the sample used, and who carried it out. The introduction should familiarise the reader with the study's primary conclusions. If it is well written, the introduction will attract readers' attention and encourage them to read the rest of the report.

2. Methods

This section should include details about the research methods you used. For instance, you could provide information about the main data sources you used and whether you relied primarily on official data sources or conducted your own data gathering, in which case you should specify the methods you used. If you conducted interviews with children, parents, teachers or other stakeholders,³ you should provide details about the number of people interviewed, the types of questions asked, etc. You should also acknowledge methodological limitations, for example if data was unavailable.

3. Findings

This section constitutes the main body of the report. Findings should be presented in a clear and succinct manner. You should present the evidence you gathered related to unequal enjoyment of the right to education⁴ (reflected in the data you gathered on outcome indicators)⁵ as well as on the shortcomings you found in education policies,⁶ whether these policies were affected by resource constraints,⁷ and the processes⁸ through which these

policies were formulated and implemented. This section should include an analysis of all the evidence you have gathered, explaining the ways in which that evidence reflects problems in terms of the right to education. See below for effective ways of communicating your findings.

4. Conclusions

See below.

5. Recommendations

See below.

6. Appendices and glossary

If you use technical terms in the report, you may want to include a glossary. Likewise, an acronyms list.

Adapt the report to your audience

Sometimes you may need to adapt the structure of the report for specific purposes. For instance, the structure of a shadow report⁹ to a UN treaty body¹⁰ would usually follow the structure of the corresponding government report, which in turn will typically be structured around each of the articles of the treaty in question.

Guidelines / tips

When drafting the report, you should follow some basic guidelines:

- **Ensure accuracy and credibility**

The effectiveness of your whole monitoring exercise hinges on the quality of the evidence on which it is based. That is why it is so crucial to ensure that the evidence is accurate¹¹ and your analysis rigorous and methodologically sound. Bear in mind that the institutions you criticise in your report (the Ministry of Education, the government, etc) may try to discredit your findings. So any inaccuracy in the data or unfounded conclusions could seriously undermine your credibility and the credibility of your report.

- **Consider the tone and language of the report**

Make sure that evidence is presented in a clear and concise manner and that the language and tone¹² are not off-putting.

- **Ground your analysis in human rights standards**

All monitoring exercises on the right to education should be grounded on the normative framework of international human rights law to which governments around the world have voluntarily committed themselves. Therefore, the report should make explicit reference to the human rights standards relevant to the findings of the report.¹³

- **Make your report advocacy-oriented**

When writing the report, think through how to present the findings in a way that maximises its advocacy potential.¹⁴ Your report should effectively communicate the data you have collected, make clear conclusions that articulate the main messages you are trying to communicate and make concrete and action-oriented recommendations.

How to communicate your collected data effectively

The way you convey the evidence you gathered during the monitoring process is crucial for effective advocacy. Even the most robust findings may fail to reach policy-makers if they are not well presented.

Most likely during the monitoring process, you will have gathered a large amount of data. You should refrain from including all that data in the report, as large amounts of information is overwhelming for the reader and dilutes your key message(s).

In your report, you should include data that supports your main findings. You will also need to determine the level of technical specificity. Once you have decided which data to include, you should then think through how to convey that data. Generally speaking, while tables allow for the efficient presentation of a large amount of data in an organised manner, graphs and info graphics are often a more compelling way of communicating information to various stakeholders.

One great tool is UNESCO's *World Inequality Database on Education* (WIDE),¹⁵ which can help you present inequalities in education in a unique and engaging way.¹⁶ Users of this database can create maps, charts, infographics and tables from the data, and download, print or share them online. You may wish to consider using other data visualisation tools. Education Report Cards, as used, for instance by PREAL,¹⁷ are another useful and eye catching advocacy tool used to present information on the performance of an education system in a format that is understandable to non-specialised audiences.

When presenting information about violations of the right to education you should contrast the data you have gathered with the legal commitments that the State has undertaken (nationally or internationally) or with the promises that the government has explicitly made to its citizens.¹⁸

Draw conclusions

Based on the evidence you have gathered throughout the monitoring process, you can draw conclusions regarding a State's compliance with its obligations and possible violations of the right to education.

Your conclusions should not just be a summary of the findings of your monitoring effort. Rather, you should use your findings as a basis for clearly and compellingly making a case that the State (or other duty-bearers)¹⁹ is or has violated the right to education.

To begin writing the conclusions, you could make a preliminary list of conclusions and for each one of them write the supportive findings:

1. Conclusion #1

- a. Finding #1a
- b. Finding #1b

2. Conclusion #2

- a. Finding #2a
- b. Finding #2b

When writing your report, you will probably not present the conclusions in this manner, but this preliminary step will help to ensure that your conclusions are adequately backed up by evidence.

Based on the normative human rights framework, you may also specify whether the problems you found are related to the lack of necessary laws or policies,²⁰ the inadequacy of those laws or policies²¹ and / or the lack of implementation of those policies.

You may limit your conclusions to the specific issues on the right to education that you have monitored, or you may also draw some conclusions from your monitoring exercise on more systemic issues.²²

Make recommendations

Without specific, concrete and actionable recommendations, there is little chance that your monitoring initiative will have concrete effects on policies and practices related to the right to education.

The recommendations should be based on an analysis of the shortfalls you found throughout the monitoring process with regards to the State's obligations on the right to education.

When making recommendations based on your findings and conclusions, you should take into account that according to international human rights law, States enjoy a wide margin of discretion in selecting the means for implementing their obligations pertaining to the right to education. Therefore, it is necessary to draw a balance between making concrete recommendations (that could be actually implemented by the State) and not making them too specific, so that the State can determine which specific measures to adopt in order to fulfil its obligations regarding the right to education.

In most cases, you would address most of your recommendations to the State, which bears primary responsibility for the protection and fulfilment of the right to education. However,

you may also make recommendations to other duty-bearers that have responsibility for an aspect of education policy (eg local governments), other State actors that can have an influence on education policies and practices (eg the judiciary) or other actors with influence (eg international financial institutions).

You may want to formulate both immediate recommendations that are easy to implement, as well as longer-term recommendations that address more systemic problems.²³

6.2 Follow-up action

The main purpose of monitoring is to hold States accountable for their actions related to the right to education. Therefore, writing a human rights report should not be the end-goal of the monitoring exercise, but rather the springboard for effective advocacy.²⁴

As a rule, the overall goal of your advocacy activities related to a monitoring exercise is to influence policy-makers to adopt the recommendations you set out in your report. Governments often have a whole set of political, economic and other interests that influence the extent to which they may be willing to adopt the necessary policies to implement the right to education. Therefore, typically, it will not be sufficient to apprise decision-makers of your findings and make your recommendations for them to adopt them. Rather, you need to think about what leverage you have and how you can put pressure on relevant decision-makers to adopt your recommendations regarding the right to education.

Types of advocacy strategies

There are many strategies that you could use to advance your advocacy goals. These include:

- **Report to human rights mechanisms**

There are various human rights mechanisms at the national, regional and international level²⁵ that monitor the implementation of the right to education and could be used to report violations of the right to education or gaps in implementation. For information on how to report to international human rights mechanisms related to the right

to education (UN treaty bodies,²⁶ the Human Rights Council, UN Special Rapporteurs, UNESCO Committee on Conventions and Recommendations) as well as to regional and national human rights mechanisms, see here.²⁷

- **Create partnerships**

To strengthen your leverage in your advocacy efforts, you may want to join forces with other individuals and organisations that share your concerns regarding the right to education and want to promote similar recommendations. There are various types of partners²⁸ that you may consider teaming up with for your advocacy efforts. In selecting them you should take into account how they can complement the skills, resources, contacts and experience of your own group; the political context around the issues you are trying to promote; and the objectives you are trying to achieve.

- **Use the courts**

There are judicial and quasi-judicial mechanisms to litigate on the right to education at national, regional and national level.²⁹

- **Work with parliamentarians**³⁰

Parliamentarians can be particularly useful allies for promoting your advocacy goals. Typically, parliamentarians have little time for research and may appreciate receiving well-researched information from civil society organisations. This could help them to develop appropriate policies and to hold governments to account for implementing them. You may consider holding meetings with relevant parliamentary committees (eg the education or the human rights committees, etc) to present your findings as well as working with individual parliamentarians who support your advocacy messages, so that they use their leverage to put pressure on policy-makers.

- **Work with the media**

Using the media effectively to convey your findings and recommendations is a key ingredient to any advocacy effort. Working with the media can help you reach out to many people in order to:

- Raise awareness of the issue you have identified and how it affects people.
- Show them that there is a way of dealing with the issue.
- Enlist them to put pressure on the government to adopt your recommendations.

Some general rules³¹ may help you to work effectively with the media. There are various types of media, including TV, radio, newspapers, Internet, etc. When selecting which to use, you should consider the relative advantages and disadvantages³² of each of these forms.

Bear in mind that you may need to adapt the content of your monitoring report for implementing each of these strategies. For instance, if you are submitting a shadow report³³ to a UN human rights treaty body³⁴ you will need to focus on those aspects of your monitoring initiative and recommendations related to the mandate of the treaty body and explicitly link your concerns with the human rights standards³⁵ related to the corresponding convention. If, on the other hand, you plan to start a public campaign or to reach out to the media, you will need to summarise your findings in a succinct and attractive manner, so as to draw the attention of the public and journalists. In short, you should consider the various ways³⁶ in which to spread your advocacy message.

Criteria for selecting advocacy strategies

To select the most appropriate strategies to promote your advocacy efforts, you should take into account a number of factors:³⁷

- **Who you are**

The identity, public standing, skills, experience and resources of your group will influence which strategies you adopt. For instance, if you are a local NGO with very limited resources, you probably will not be able to undertake a large nation-wide advocacy campaign, unless you collaborate closely with other groups that have greater resources and experience working at that level.

- **Who are the stakeholders?**

There are probably many different individuals, organisations, departments and institutions that have a stake (either directly or indirectly) in the change you hope to bring about. Amongst all these stakeholders, there are likely to be some who approve of the change you want, others who oppose it and some who do not have strong feelings either way. To determine which strategies to adopt, you will need to take into account who your potential allies and opponents are, what their interests and motivations are regarding the issues you are promoting, and what power they have.

- **Timing of your advocacy efforts**

The adoption of some strategies may be tied to particular events taking place at a specific time. For instance, if a UN treaty body will be discussing your country's compliance with a human rights treaty that is relevant to the issues you are raising you may decide to produce a shadow report based on the monitoring report you have produced.

GOOD LUCK!

Endnotes: Step 6: Report Writing & Advocacy

¹ **Advocacy** is the process of influencing those who make policy decisions, write laws and regulations, and distribute resources that affect people's well-being. Advocacy delivers deliberate messages intended to influence the thoughts, perspectives and actions of people in authority.

Campaigning is one strategy for advocacy, building public pressure around an issue through strategies like mass action, public forums and media campaigns.

Lobbying is another strategy for advocacy, building pressure around an issue within the education system through strategies such as policy analysis and dialogue, negotiation and forming collaborative partnerships.

Source: Commonwealth Education Fund (2009) *A Budget Guide for Civil Society Organisations Working in Education*: p.24:

www.right-to-education.org/resource/budget-guide-civil-society-organisations-working-education

² This step is adapted from Helsinki Foundation for Human Rights (2001) *Human Rights Monitoring*: p.185-9 (accessible to members only): http://www.hfhrpol.waw.pl/pliki/Monitoring_eng.pdf

³ **Stakeholders** are all those who can affect your desired change, as well as those who are affected by it.

⁴ See Step 2 of the *Monitoring Guide*, available to download, here:

<http://www.right-to-education.org/monitoring/guide/step-2-identify-deprivations-inequalities-education>

⁵ **Outcome indicators** measure the extent to which a population enjoys the right to education.

⁶ See Step 3 of the *Monitoring Guide*, available to download, here:

<http://www.right-to-education.org/monitoring/guide/step-3-analyse-educational-laws-policies-their-implementation>

⁷ See Step 4 of the *Monitoring Guide*, available to download, here:

<http://www.right-to-education.org/monitoring/guide/step-4-analyse-use-resources-education>

⁸ See Step 5 of the *Monitoring Guide*, available to download, here:

<http://www.right-to-education.org/monitoring/guide/step-5-examine-policy-processes>

⁹ **Shadow reports** are a method for non-government organisations (NGOs) to supplement and / or present alternative information to reports governments are required to submit under human rights treaties. Unlike governments' reports, which often highlight the progress of the State in meeting its human rights obligations whilst downplaying violations, shadow reports often provide treaty body committees with crucial information about problems in implementation and areas of government non-compliance.

NGOs around the world use shadow reports to lobby various United Nations' bodies, including treaty-monitoring bodies, thematic groups, charter-based bodies, and the High Commissioner for Human Rights.

Source: The Advocates for Human Rights' page on *Shadow Reporting*:

<http://www.theadvocatesforhumanrights.org/mechanisms>

¹⁰ **UN treaty bodies** are committees of independent experts created under a particular UN treaty. They are mandated to monitor how States that have ratified the treaty in question comply with their obligations to implement the human rights guaranteed by the treaty. They periodically examine State reports and issue concluding observations on States' compliance to the treaty, as well as make recommendations.

Most treaty bodies can receive individual complaints or communications in cases of human rights violations, if the State in question has recognised the competence of the treaty body to do so.

Treaty bodies also adopt General Comments, which provide authoritative interpretations of the provisions of the treaty the treaty body oversees.

For further information, see Right to Education Project's page on *International Human Rights Mechanisms*: <http://www.right-to-education.org/page/international-human-rights-mechanisms>

¹¹ You may adopt a series of measures to assure readers that the evidence you have gathered is accurate and your report is credible and based on sound fact-finding:

- Avoid reporting findings as established facts unless they have been verified as such. If you include any piece of information that is not fully confirmed, this should be made clear.
- Make a clear distinction between the evidence you have gathered and the analysis you make based on that evidence.
- Explain in detail the methods you use for collecting information and be explicit about the limitations of the data you have gathered.

¹² Guidelines on tone and language in human rights reports:

- Use language that is simple, but not colloquial.
- Use professional terminology, but not professional jargon.
- Draw a clear distinction between facts and commentary, always starting with the facts.
- Do not use too many foreign-language expressions.
- Avoid emotional descriptions.
- Avoid general, imprecise assertions.

Source: Helsinki Foundation for Human Rights (2001) *Human Rights Monitoring*: p. 190 (accessible to members only): http://www.hfhrpol.waw.pl/pliki/Monitoring_eng.pdf

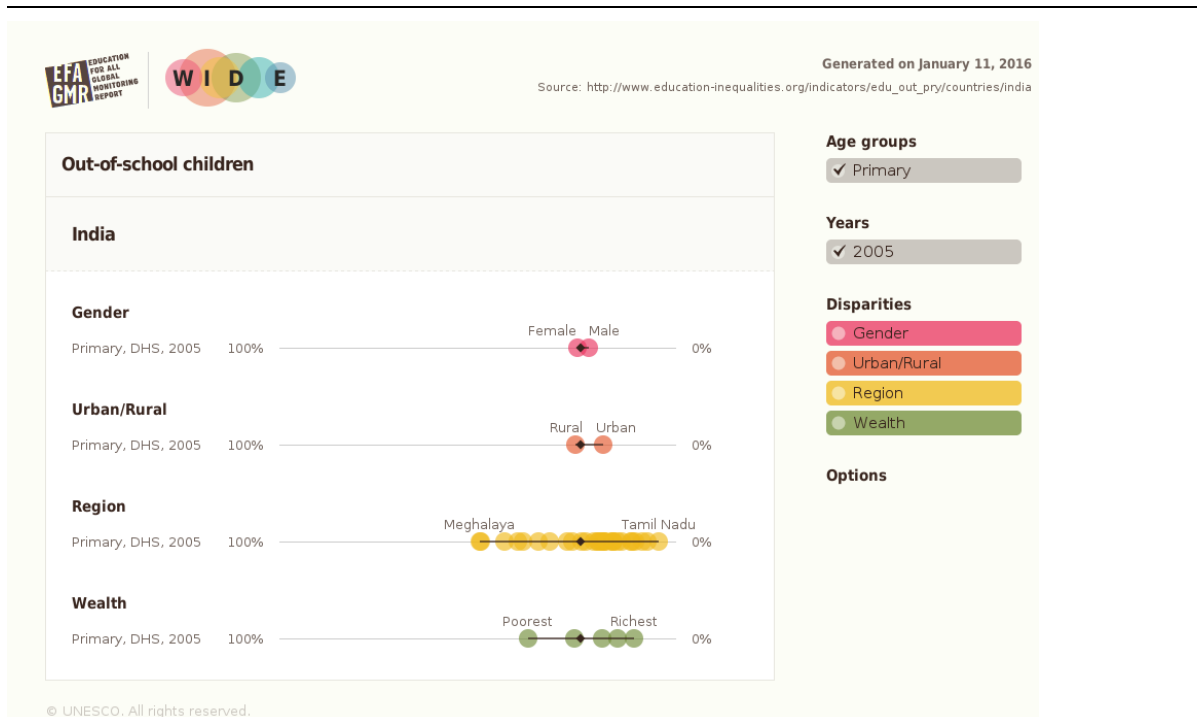
¹³ When you use the *Indicators Selection Tool*, the indicators that you have selected will be accompanied by a list of relevant human rights standards. Access the *Indicators Selection Tool*, here: <http://www.right-to-education.org/monitoring/tool>

¹⁴ A good example is the *Public Report on Basic Education in India*, widely acclaimed as a landmark study on primary education in India, which adeptly combines data analysis with personal stories based on interviews with affected communities; a critical analysis of the facts and myths about the educational situation in India; and concrete recommendations.

See PROBE & Centre for Development Economics (1999) *Public Report on Basic Education in India: Chapter 4*: http://www.undp.org/content/dam/india/docs/public_report_basic_education_india.pdf

¹⁵ See the *GEM World Inequality Database on Education (WIDE)*: <http://www.education-inequalities.org/>

¹⁶ For example, Out-of-school children in India:



¹⁷ The Partnership For Educational Revitalization in the Americas (better known as PREAL) publishes periodic reports on educational progress, in the form of 'education report cards', on Latin American countries, so that leaders both inside and outside the education sector have independent, reliable information on how their schools are doing compared to other regions or countries. Inspired by the report cards students receive in school, education report cards have become important accountability tools. By grading, or ranking, that performance using a 'school-style' grading system, report cards allow parents and other members of civil society to quickly recognise both exemplary performance and areas that need improvement. Armed with this information they can lobby for appropriate change.

See PREAL's *Education Report Cards*: http://preal.org/ENGL/ActividadesN.asp?Id_Quienes=&Id_Seccion=21

¹⁸ For example the following table that contrasts data with legal commitments for Guatemala:

Aspect of the right to education	Promises and commitments	Reality
Access to primary education	Guatemala ratified the <i>International Covenant on Economic, Social and Cultural Rights</i> which states: "Everyone has the right to education. Primary education shall be compulsory and free to all" (Article 13)	30% of children do not finish primary school
Lower secondary school	The inhabitants have the right and obligation to receive early, pre-primary, primary and basic* education within the age limits set by the law (Article 74 of the Guatemalan Constitution)	34.4% of children are enrolled in lower-secondary school

Quality of education	Primary education is understood as those programmes designed “to give students a sound basic education in reading, writing and mathematics...”**	Mean test scores of latest students assessment of 6 th grade: 44.7 in math and 52.1 in reading (out of 100 points)
Equality of opportunities	"Guatemalans must build a just society that contributes to living under the rule of equality and social justice" (Article 1, Law of National Education (1991))	"A latino boy living in an urban area who has no other occupation but study and whose parents have 12 years of schooling and do not belong to the poorest quintile has a 97% chance of being in school. (In contrast) a girl in a rural area who works and belongs to an ethnic group, and whose parents are illiterate and belong to the poorest 20% of the income distribution, has just a 22% chance of being in the school system" (Porta & Laguna (2007))

Source: Felner, E (2008) – unpublished

Notes

* Basic education corresponds in Guatemala’s education system to lower secondary school

** Guatemala’s Secretariat of Planning and Programming of the Presidency citing the standard definition of primary education by UNESCO’s International Standard Classification of Education

¹⁹ **Duty-bearers** are those actors who have a particular obligation or responsibility to respect, promote and realise human rights and to abstain from human rights violations. The term is most commonly used to refer to State actors, but non-State actors can also be considered duty-bearers. An obvious example is private armed forces or rebel groups, which under international law have a negative obligation to refrain from human rights violations. Depending on the context, individuals (eg parents), local organisations, private companies, aid donors and international institutions can also be duty-bearers.

Source: UNICEF *Gender Equality - UN Coherence and You – Glossary*: p.1:

<http://www.unicef.org/gender/training/content/resources/Glossary.pdf>

²⁰ In a report that examined the right to education of children in detention in thirteen countries, Defence for Children International found that: “There were a number of examples where national legislation fails to establish provisions for the education of children in detention and where education is treated as an opportunity rather than a right.”

Source: Defence for Children International (2009) *Education in Chains: Gaps in Education Provision to Children in Detention*: p. 8: http://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/DCI_Education_in_Detention_2009.pdf

²¹ Human Rights Watch, in a report on barriers to education for persons with disabilities in China, concluded:

“While Chinese laws and regulations contain provisions prohibiting discrimination on the basis of disability, the provisions are often vague, fail to precisely define discrimination, and do not outline effective redress mechanisms.

The Chinese government also does not have a clear policy on ‘reasonable accommodation’ in mainstream schools — defined in the Convention on the Rights of Persons with Disabilities as ‘necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden.’”

Source: Human Rights Watch (2013) *“As Long as They Let Us Stay in Class” Barriers to Education for Persons with Disabilities in China*: p.3: https://www.hrw.org/sites/default/files/reports/china0713_ForUpload.pdf

²² The Center for Economic and Social Rights (CESR) in a report on Guatemala, concluded:

"Economic and social rights are the unfulfilled agenda of Guatemala's post-conflict transition. While the return to democracy and the end of conflict have made it possible for many Guatemalans to exercise their right to freedom of expression and to periodically elect their representatives, the right to an adequate and dignified standard of living is still far from being universally enjoyed. This is dramatically illustrated by alarming levels of child malnutrition, maternal death and youth illiteracy, perhaps the most disquieting manifestations of social injustice and exclusion in Guatemala. That the democratic transition has not resulted in significant progress in the fulfilment of economic and social rights is due, in large part, to the vision of the State that has dominated policymaking in recent decades. Guatemala has become a weak State that has increasingly ceded more space to private markets, meanwhile transforming education, health and food into privileges for those who can afford them, rather than upholding them as universal rights, and treating people as consumers rather than rights-holding citizens.

Guatemala's dismal economic and social rights outcomes are evidence that the fulfilment of these rights cannot be left exclusively in the hands of the market, nor does it automatically result from increased economic growth. It requires an active role by the State in harnessing the benefits of the economy toward the goals of progressive realisation, universality and equality in rights. Consolidating democracy implies adjusting public policy, in particular fiscal policy, to a new conception of the state and the citizen as duty-bearers and rights-holders, respectively. The global economic crisis, whose impact is all too evident in Guatemala, has created an opportunity to debate and build consensus on the fiscal policy necessary to improve democratic governance in the country, as well as around the vision of the state that underpins it: one that respects, protects and fulfils the rights of all citizens or a minimal state that is captive to the interests of a privileged few."

Source: Center for Economic and Social Rights (2009) *Rights or Privileges - Executive Summary*: p. 20:
<http://cesr.org/downloads/Rights%20or%20Privileges%20Executive%20Summary%20final.pdf>

²³ For guidance, you can use this tool developed by CAFOD:

Aim: To examine evidence about a policy and formulate immediate and longer- term recommendations on how to change the policy itself and / or its implementation.

Context: This tool can be used individually or with a group. It can be applied to evidence gathered by the group itself or to evidence gathered by others.

How to use this tool

Step 1: Review the evidence on policy implementation. Use the information to make a comprehensive list of problems, relating to the programme or policy you are monitoring.

Step 2: Consider which of these problems may be relatively easy to address. Identify which problems are more systemic and will call for more demanding, longer-term solutions. If possible, write each problem on a separate card and arrange them along a continuum like the one below:

Step 3: In relation to each problem, consider what actions you think government could or should take to resolve the situation – or to move in the direction of finding a solution.

Step 4: Formulate these suggested actions as recommendations. You can use a table like the one below to help you differentiate between:

- **Immediate or first-aid remedies** – steps that should be taken now to ameliorate the worst affects of a policy or programme
- **Longer-term remedies** – the systemic changes that are required to address the root causes of poor or inadequate policy outcomes. Attach time-frames to the longer-term remedies. This will indicate when you think the actions should have been taken.

Step 5: Make sure all your recommendations are clear, reasonable, viable and affordable.

Example: Recommendations relating to a feeding programme in a school

Problem	First-aid remedy	Longer-term remedy
The programme is not reaching the most vulnerable children	Improve targeting	Develop a reliable system to gather data on numbers and distribution of vulnerable children across schools and districts
Meals are not delivered regularly in districts A and B	Investigate and review contracts with service providers	Improve the management of contracts with external service providers and set early warning system in place
The nutritional quality of meals in districts X and Y is inadequate	Create norms and standards prescribing nutritional requirements; review content of meals and improve their nutritional quality	Create a monitoring system to ensure that all meals consistently meet nutritional requirements
Etc		

Source: CAFOD, Christian Aid and Trocaire (2007) *Monitoring Government Policies: A toolkit for civil rights organisations in Africa*: p.94: http://commdev.org/files/1818_file_monitoringgovernmentpolicies.pdf

²⁴ *Idem* 1

²⁵ For further information on human rights mechanisms, see the Right to Education Project's pages on:

- *International Human Rights Mechanisms:*
<http://www.right-to-education.org/page/international-human-rights-mechanisms>
- *Regional Human Rights Mechanisms:*
<http://www.right-to-education.org/page/regional-human-rights-mechanisms>

²⁶ *Idem* 10

²⁷ For information on how to report to international human rights mechanisms related to the right to education (UN treaty bodies, the Human Rights Council, UN Special Rapporteurs, UNESCO Committee on Conventions and Recommendations) as well as to regional and national human rights mechanisms, see: see the Right to Education Project's page on *Reporting* (<http://www.right-to-education.org/page/report>) and factsheet on *How to Use Human Rights Mechanisms* (<http://www.right-to-education.org/resource/how-use-human-rights-mechanisms-23>).

²⁸ To guide you in your selection of potential partners, keep the following in mind:

- If you want to build a broad social movement, numbers and geographical spread are important. You might give priority to organisations with large membership bases and strong grassroots networks of their own.
- You may want to identify partners who have expertise in awareness-raising, public communication and advocacy. Who will be able to help you disseminate evidence, present your findings and put out a compelling argument to convince decision-makers?
- You may want to identify partners who – because of their public status and / or contacts – may be able to influence key policy-makers that have the authority to adopt and / or implement some of the recommendations you are making.
- Remember that those most affected by the problem you are tackling have valuable first-hand knowledge and experience. They should be amongst those consulted and included in the work.

Source: Adapted from ActionAid International (2010) *Using Evidence to Establish Accountability: A Sourcebook on democratic accountability for development practitioners and learning facilitators*: p.83: <http://www.actionaid.org/publications/using-evidence-establish-accountability-sourcebook-democratic-accountability-developmen>

²⁹ To explore issues surrounding the decision to take this course of action in a case related to the right to education, see the Right to Education Project's page on *Litigating*:
<http://www.right-to-education.org/page/litigate>

³⁰ This section is adapted from Haki Zetu (2010) *ESC Rights in Practice, Part II*: p.133:
https://www.amnesty.nl/sites/default/files/public/main_book_part_2.pdf

³¹ Working effectively with the media is critical to most successful campaigns. Some general rules follow to help you work effectively with the media:

- Understanding media bias to create stories and hold events that are tailored to specific media interests. The media is always biased and most media outlets have a point of view that is necessary to gain the loyalty of their readers. That perspective skews how stories are written, edited and published.
- Follow up all stories and interviews. All media is under-funded and almost no media outlet has the time and resources to investigate all the news it needs or wants to cover. Reporters rely on trusted sources to give them stories and information. Even the best reporters sometimes get their facts wrong.
- Build personal relationships with as many media outlets as possible. Trust and relationships are crucial to working with the media. Give them reliable and good information, help them do their job and avoid limiting your relationships to those who share your views; people with different views can be helpful too.
- Provide clear simple information to minimise the risk of your message being diluted. Most media forms require simple, clear messages. In the process of translating what you provide, journalists often dilute your message as they are often unable to carry your message in its entirety.
- Tell stories. Be sure to translate your information into something that is understandable to the general public.
- Be prepared: Ensure that you have the connections and contacts to back up your story. For example, if you are campaigning around the right of girls to go to school, anticipate that the media will want to interview some families whose sons go to school, but whose daughters do not. Know how to contact such families. Know who would be willing to speak to the media and who would be able to tell a good personal story. Make sure the people you select are accessible to the media, so that you can respond quickly to an opportunity.

Source: CIVICUS (2011) *Campaigning Toolkit for Civil Society Organisations Engaged in the Millennium Development Goals*: Chapter 4, p.5-8: https://www.civicus.org/new/media/MDG_Toolkit_complete.pdf

³² The advantages and disadvantages of using different media:

Source: CIVICUS (2011) *Campaigning Toolkit for Civil Society Organisations Engaged in the Millennium Development Goals*: Chapter 4, p.9: https://www.civicus.org/new/media/MDG_Toolkit_complete.pdf

Advantages and disadvantages of different media	
Display media – posters, calendars, wall charts, etc	
Advantages <ul style="list-style-type: none"> popular, visual longevity, public relations potential 	Disadvantages <ul style="list-style-type: none"> limited space for information audience must be able to read and understand the language
Organisational print media – newsletters, pamphlets, books	
Advantages <ul style="list-style-type: none"> control of message can communicate a more detailed, complicated story 	Disadvantages <ul style="list-style-type: none"> require language and literacy skills require a lot of effort to produce become outdated quickly might be viewed as propaganda
Mass print media – newspapers, magazines, etc	
Advantages <ul style="list-style-type: none"> reach large audiences, powerful have credibility 	Disadvantages <ul style="list-style-type: none"> audience is defined language, literacy and price limit access
Mass electronic media – radio, television,	
Advantages <ul style="list-style-type: none"> direct reach large audiences accessible 	Disadvantages <ul style="list-style-type: none"> require production skills time-bound can send mixed message
Folk media – drama, music and oral testimonies	
Advantages <ul style="list-style-type: none"> emotive engaging potentially interactive can be used in many arenas 	Disadvantages <ul style="list-style-type: none"> require skills and effort time-bound message may get lost without follow-up limited audience
Visual electronic media – internet	
Advantages <ul style="list-style-type: none"> global efficient reach mass audience able to control message 	Disadvantages <ul style="list-style-type: none"> expense limits type of audience who can access requires language skills
Cellular telephone – sms's	
Advantages <ul style="list-style-type: none"> immediate efficient 	Disadvantages <ul style="list-style-type: none"> limited space for content limited access

³³ *Idem* 9

³⁴ *Idem* 10

³⁵ When you use the *Indicators Selection Tool*, the indicators that you have selected will be accompanied by a list of relevant human rights standards. Access the *Indicators Selection Tool*, here:

<http://www.right-to-education.org/monitoring/tool>

³⁶ Ways to spread a message:

- Distributing leaflets.
- Face-to-face meetings with influential people.
- Sending text messages.
- Convening public meetings.
- Getting interviewed on radio.
- Inviting a celebrity to champion our cause.
- Speaking up at meetings hosted by others.
- Performing in street theatre.
- Displaying on public notice boards.
- Posting information on a website.
- Using social media.
- Writing a blog.
- Holding a public demonstration.
- Publishing articles in local newspapers.
- Organising a concert or cultural event.

Adapted from ActionAid International (2010) *Using Evidence to Establish Accountability: A Sourcebook on democratic accountability for development practitioners and learning facilitators*: p.81:

<http://www.actionaid.org/publications/using-evidence-establish-accountability-sourcebook-democratic-accountability-developmen>

³⁷ This section is adapted from ActionAid International (2010) *Using Evidence to Establish Accountability: A Sourcebook on democratic accountability for development practitioners and learning facilitators*:

<http://www.actionaid.org/publications/using-evidence-establish-accountability-sourcebook-democratic-accountability-developmen>