

Right to Education Project

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Written response to

DFID's Education Strategy Consultation Paper

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Background and focus

The Right to Education Project (www.right-to-education.org) is an unprecedented collaborative initiative between ActionAid, Amnesty International and the Global Campaign for Education. Its rationale is based on the premise that education is a legal right with corresponding obligations for duty-bearers. Its main objective, therefore, is to promote advocacy, research and activism to demand compliance with human rights law on education.

Given this single-issue focus and rights-based approach, it has been decided to tailor this set of comments to those areas and questions where the Project can offer specific expertise and added value. For additional comments and feedback, the Right to Education Project fully endorses the positions of both ActionAid and the Global Campaign for Education-UK.

Section 1

In general, we value DFID's overall stand on education as a "driver for development" and a "tool in breaking the cycle of poverty". However, we would like to see greater emphasis on the fact that education is first and foremost a right. The paper mentions this in point 1.3, but we are concerned that the subsequent bullet points seem more oriented towards education as instrumental to growth, employment, income, productivity, etc. We believe it would be of the essence for DFID to acknowledge education as a **fundamental entitlement**, with learners as rights-holders and the state as the prime duty bearer. It would also be significant for DFID to consider education as a **multiplier of other rights**. Not only does education underpin achievement of all MDGs, as rightly indicated in point 1.2, but it also unlocks other human rights: where the right to education is effectively guaranteed and implemented, the enjoyment of all human rights and freedoms is enhanced; where the right to education is denied or violated, the enjoyment of other rights and freedoms is curtailed. Either way, the impact on the three main areas of concern (growth, environment and security) is immediate and obvious and so it should be recognised by DFID.

In this section, and in general throughout the paper, there is no **reference to human rights provisions** on education. We feel this is a missed opportunity as international human rights instruments can offer an additional, legal, and universally applicable source of legitimacy to DFID's strategy. All the main international human rights treaties contain provisions on education (art. 13 and

14 ICESCR, art. 10, 13, 14 and 16 CEDAW, art. 28 and 29 CRC, art. 24 ICRPD, etc.) that could be easily reflected in the consultation paper to support DFID's arguments in favour of access, equality, quality, employment, growth and respect for the environment. If not referenced within the text, we would then suggest using one or two quotes from the Universal Declaration for Human Rights (UDHR) or the Convention on the Rights of the Child (CRC) as illustrative examples of the role and impact of education. These would complement the citations already in use and send a stronger signal about DFID's attention to education as a right. Below are two specific suggestions:

- *"Everyone has the right to education" (Art. 26 UDHR);*
- *"...the education of the child shall be directed to: ...
(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" (Art. 29 CRC).*

Section 2

We understand DFID's choice of priorities and agree with the analysis of progress and challenges. As a note of caution, however, we would like to highlight that, while great progress has been achieved on MDG2 in the majority of countries/regions, one challenge that should be explored further is the fact that in two regions (East Asia/Pacific and, significantly, North America/Western Europe) the numbers of **children out of school** has increased and not declined. This might clearly depend on a variety of factors. However, the point made here is that if from an MDG perspective, average progress is positive, from a **human rights perspective**, every child who is not in school is the living proof of a violation of his or her right to education and the state's failure to fulfil its obligations. This is why it is important to look not only at MDGs (which are not legally binding) but also at rights-based obligations.

DFID's focus on a number of countries, regions and situations (fragile states) has already made a significant contribution and UK commitments and efforts in Africa and South/West Asia are certainly still highly necessary. However, if DFID wants to "increase access to education everywhere", it would be important to further explore and consider this additional challenge, especially in view of **understanding root causes** in order to address constraints to access and identifying **key areas for more effective investments**.

Sections 3 and 4

The paper's focus on learning, teachers and students is encouraging from a human rights perspective, as is the fact that access, gender equality, quality, and school-labour market links are prioritised. However, the justification of needs and choices would benefit from a more articulated approach. For instance, the list of reasons why it is important to focus on those three priorities remains still too focused on economic interests or perspectives. This undermines both the **value of education as a right in itself** and the significant and **broader impact** of accessible, gender equal education of good quality on social cohesion, the development of social awareness and active citizenship, and the enhancement of democratic participation in society, all critical elements for our "common growth, security and climate".

Moreover, there is a risk of partially neglecting or summarily lumping together **marginalised groups** when, instead, each of them should be considered and included in any approach to access and equality. Here, again, a rights-based approach could be useful. According to the Committee on Economic, Social and Cultural Rights, “*as an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities*” (General Comment N. 13, paragraph 1).

The expression “economic and socially marginalized adults and children” goes beyond gender and difficult environments (emergencies and recovery) to include all other groups such as persons with disabilities, minorities (ethnic, linguistic, religious, etc.), non-nationals and refugees/IDPs/stateless persons, street children, persons affected by HIV/AIDS, working children, illiterate adults, war-affected children, pregnant/married girls, children deprived of their liberty or institutionalised, etc. This list is not exhaustive, but it already gives a good idea of the immense diversity of contexts and situations that must be taken into account (including the multiple combinations of any of them). While it is true that full coverage requires equally immense resources, it is also true that the universal, equal and equitable aspects of education cannot be met or addressed without paying due attention to such specificity. To be fully committed to “increasing access, delivering equality” requires devising, articulating and implementing a strategy that is able to **respond to this diversity while providing for specialist interventions**.

DFID’s consultation paper recognises the need for “innovative strategies and partnerships to remove the obstacles to education participation for excluded groups in societies”. However, the subsequent questions could be framed in a broader context and truly reflect the concern for appropriate inclusion. In this respect, Question 4.3 should look at fair and equitable treatment of all marginalised groups while Question 4.4 would become self-explanatory when applying the principle of non-discrimination.

Below are some illustrative suggestions:

Question 4.3

Fair and equitable treatment within the education system

- DFID should assist governments and civil society actors to ensure that the **form and substance** of education - including curricula, learning content, and teaching materials, methods and environments - are acceptable (e.g. relevant, culturally appropriate and of good quality) to all students and respect their human rights.

Fair and equitable treatment as students progress into the workplace

- DFID should target assistance towards programmes that are based on the premise that the acquisition of practical skills, know-how, attitudes and understanding relating to occupations in the various sectors of economic and social life is **adaptable** to the different needs and circumstances of students.

Question 4.4

- DFID should invest in building the capacity of national governmental mechanisms for data collection to **disaggregate data by all internationally prohibited grounds for discrimination**.
- DFID should support CSOs and academics to develop **research and tools** (such as indicators) for the identification and monitoring of discriminatory practices.
- DFID should assist governments in the adoption of **temporary special measures** targeted at bringing about de facto equality between men and women and for marginalised groups (for example to reduce drop-out rates of such groups).

DFID should ensure that spending policies do not increase disparities and/or impact on quality. In this sense, it should support civil society's capacity to **participate in and monitor budget activities** with a view to ensure non-discriminatory, equal and equitable investments and interventions.

Section 5

We welcome DFID's recognition of quality, classroom processes, and learning outcomes as priority areas. However, too much focus on quantifiable learning outcomes leads to neglecting the learning process and the 4 important dimensions of the right to education (4As) as identified by the international community:

Availability - functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State Party. [...]

Accessibility - educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State Party.

Accessibility has three overlapping dimensions:

- i. Non-discrimination - education must be accessible to all, especially the most vulnerable groups [...]
- ii. Physical accessibility - education has to be within safe physical reach [...]
- iii. Economic accessibility - education has to be affordable to all [...]

Acceptability - the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate case, parents. [...]

Adaptability - education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings. [...]¹

¹ Committee on Economic, Social and Cultural Rights, *General Comment N. 13*, paragraph 6.

In this sense, we encourage DFID to foster education that is:

- made available by state provision;
- free -- not only in economic terms (immediately at the primary level and increasingly at higher levels), but also free from discrimination and free from administrative and physical obstacles so that it is accessible to all;
- of good quality and acceptable to learners and, in appropriate cases, parents (emphasizing not only what is learnt but also how and where);
- adaptable to diverse abilities and situations.

In particular, a strong commitment to “improving the quality of education” requires supporting and encouraging education that promotes the child’s optimum development, is child friendly and empowering.

Below are some illustrations of how DFID’s support could **impact on classroom processes**.

Question 5.5

In order for prevalent methods of DFID support to be sufficiently able to have an impact, attention should focus on:

- **the purpose and content of the curriculum**
inclusive, tailored to the needs of children in different and difficult circumstances, free from stereotypical representations of various groups and respectful of children’s identities.
- **the nature and methods of teaching**
consistent with a human right approach and avoiding models that silence students and perceive them as passive recipients. Learners should be seen as active participants, with different capacities and abilities. Therefore, methods of appraising and monitor their progress should be sensitive and constructive rather than standardised and penalising those with particular learning needs.
- **the role of teachers**
qualified, trained pre- and in-service, motivated, adequately paid and fully respected in their human and labour rights.
- **the characteristics of the learning environment**
welcoming, gender sensitive, healthy and safe. It should respect the identity and integrity of the child and therefore eliminate forms of discrimination, discipline or violence that are inconsistent with human rights. Attention to the learning process in this area also requires eliminating barriers, such as poverty-induced obstacles or the language of instruction, and enhancing the capacity to retain students, especially those more at risk of dropping out like girls, children with special needs and children in difficult circumstances.

Section 8

We appreciate DFID's acknowledgment that the **indicators** in use are limited in their capacity to measure what is of value. We agree that they are useful and necessary to a certain extent, but we find them still too focused on quantitative rather than qualitative aspects. Given DFID's prioritisation of quality and equality, it is important to use additional and more accurate indicators that go beyond statistics and assess all the different dimensions of education as a right. We would therefore recommend complementing traditional indicators with rights-based ones firmly grounded in international human rights law, the above-mentioned 4As and the three key principles of non-discrimination, participation and accountability. Below are some examples:

Question 8.4			
	Discrimination	Participation	Accountability
Measuring access			
Tuition fees for primary education ²	by gender by region by rural/urban by public/private	Can parents, children and community leaders contribute to the formulation of strategies to identify out-of school, to encourage school attendance by and reduce the drop-out rates of children of low-income groups?	Is there a monitoring body evaluating the direct, indirect and opportunity costs of primary education? Is there a complaint mechanism for such costs?
Measuring gender equality			
Are measures taken to promote gender equality in education? ³ Are girls and boys given the same opportunity to speak in and outside classes? Do girls generally receive lower marks than boys? ⁴	by primary level by secondary level by tertiary level by region by rural/urban by minority		Is there a monitoring body controlling whether schools respect gender equality? Is there a complaint mechanism for gender discrimination?
Measuring quality			
Is access to schools safe? ⁵ Pupil/trained teacher ratio ⁶ Does education promote: respect for other nations, racial, ethnic or religious groups and indigenous peoples, non-violence, the environment, other? ⁷ Is corporal punishment common practice? Are teachers trained to respect children's dignity? ⁸	by region by rural/urban by minority by income schools only for girls		Is corporal punishment punished by law? Are children given the opportunity to be heard when they are sanctioned? Can they appeal against disciplinary sanctions or expulsion before an independent body?

² Article 13 (2) (a), ICESCR; Article 28 (1) (a), CRC; Article 17 (2), (Revised) European Social Charter; Article 13 (3) (a), Protocol of San Salvador; Article 11 (3) (a), African Charter on the Rights and Welfare of the Child.

³ Article 10 (a), CEDAW; Article 12 (1) (e), Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

⁴ Article 10 (a), CEDAW; Article 12 (1) (a), Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

⁵ Article 13 (2), ICESCR; Article 28 (1), CRC; Article 17 (2), (Revised) European Social Charter; Article 13 (3), Protocol of San Salvador; Article 11 (3), African Charter on the Rights and Welfare of the Child.

⁶ Article 13 (2) (a), ICESCR; Article 28 (1) (a), CRC; Article 17 (2), (Revised) European Social Charter; Article 13 (3) (a), Protocol of San Salvador; Article 11 (3) (a), African Charter on the Rights and Welfare of the Child.

⁷ Article 13 (1), ICESCR; Article 29 (1), CRC; Article 13 (2), Protocol of San Salvador; Article 11 (2) (d) and (g), African Charter on the Rights and Welfare of the Child.

⁸ Article 28 (2), CRC; Article 7, ICCPR; Article 11 (5), African Charter on the Rights and Welfare of the Child.

Question 8.4 (continued)			
	Discrimination	Participation	Accountability
Measuring classroom processes			
Does education aim to develop critical thinking? Does it enable children to make balanced decisions, resolve conflicts in a non-violent manner and to develop a healthy life-style? Does it encourage children to freely express their views? ⁹	by primary level by secondary level by tertiary level by region	Can parents, children and community leaders contribute to defining school curricula? Is the learning process participatory?	
Measuring the link between school and employment			
% Children under minimum legal age of employment working in practice ¹⁰ What is the legal minimum age of employment? Is it the same as the maximum age of completion of compulsory education? ¹¹	by age by gender by region by rural/urban by minority by income		Is there a monitoring body inspecting child labour?

Conclusion

Even when considering the important link between education and poverty reduction, a rights-based approach to education requires education to be considered as an end in itself rather than a means for achieving other ends. From the outset, a rights-based approach to realising education implies a commitment to countering social exclusion and discrimination as defined in various international human rights treaties. It also implies enabling individuals to participate in the design, implementation and monitoring of education strategies, to claim their right to education - and through this also other rights - and to hold states and other duty-bearers to account.

Adopting a stronger rights-based approach would allow DFID to answer some key questions about non-discrimination, participation and accountability and provide a more solid support to both strategy and interventions. Moreover, these fundamental human rights principles could help DFID identify:

- where the need is the greatest (non-discrimination)
- who to engage with and support -- Government, PTA, CSO, etc. (participation)
- what mechanisms are in place to check effectiveness and efficiency (accountability).

We believe this approach can make a difference and reinforce DFID's efforts in refining the parameters within which the new education strategy is developed.

⁹ Article 13 (1), ICESCR; Article 29 (1) (a), CRC; Article 17 (1), (Revised) European Social Charter; Article 13 (2), Protocol of San Salvador; Article 11 (2) (a), African Charter on the Rights and Welfare of the Child.

¹⁰ ILO Minimum Age Convention; Articles 7 (3), (Revised) European Social Charter; Article 7 (f), Protocol of San Salvador.

¹¹ ILO Minimum Age Convention; Articles 7 (3), (Revised) European Social Charter; Article 7 (f), Protocol of San Salvador.