

INTERNATIONAL INSTRUMENTS

Education Financing

- **International Covenant on Economic, Social and Cultural Rights, 1966**
(Articles 2, 13 and 14; General Comments 3, 13 and 11)
- **Convention on the Rights of the Child, 1989** (Articles 4 and 28.3)
- **UNESCO-ILO Recommendation concerning the Status of Teachers, 1966** (Article 10)
- **Jakarta Declaration, 2005** adopted at the International Conference on the Right to Basic Education as a Fundamental human right and the Legal Framework for its Financing (Paragraph IV)
- **Jomtien Statement, 2011** adopted at the 10th Meeting of the High-Level Group on Education for All (EFA) (Paragraph 6)
- **Pledges to the Global Partnership for Education, 2011**
- **International Development Strategy for the Second United Nations Development Decade**, adopted by the UN General Assembly in 1970 (Paragraph 43)

International Covenant on Economic, Social and Cultural Rights, 1966

Article 13

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization 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.

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.

Article 2

1. 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 realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

General Comment 13

1. ...Increasingly, education is recognized as one of the best financial investments States can make...

43. While the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes on States parties various obligations which are of immediate effect. States parties have immediate obligations in relation to the right to education, such as the “guarantee” that the right “will be exercised without discrimination of any kind” (art.2 (2)) and the obligation “to take steps” (art. 2 (1)) towards the full realization of article 13. Such steps must be “deliberate, concrete and targeted” towards the full realization of the right to education.

44. The realization of the right to education over time, that is “progressively”, should not be interpreted as depriving States parties’ obligations of all meaningful content. Progressive realization means that States parties have a specific and continuing obligation “to move as expeditiously and effectively as possible” towards the full realization of article 13.

51. As already observed, the obligations of States parties in relation to primary, secondary, higher and fundamental education are not identical. Given the wording of article 13 (2), States parties are obliged to prioritize the introduction of compulsory, free primary education. This interpretation of article 13 (2) is reinforced by the priority accorded to primary education in article 14. The obligation to provide primary education for all is an immediate duty of all States parties.

53. Under article 13 (2) (e), States parties are obliged to ensure that an educational fellowship system is in place to assist disadvantaged groups. The obligation to pursue actively the “development of a system of schools at all levels” reinforces the principal responsibility of States parties to ensure the direct provision of the right to education in most circumstances.

54. States parties are obliged to establish “minimum educational standards” to which all educational institutions established in accordance with article 13 (3) and (4) are required to conform. They must also maintain a transparent and effective system to monitor such standards. A State party has no obligation to fund institutions established in accordance with article 13 (3) and (4); however, if a State elects to make a financial contribution to private educational institutions, it must do so without discrimination on any of the prohibited grounds.

56. In its General Comment 3, the Committee drew attention to the obligation of all States parties to take steps, “individually and through international assistance and cooperation, especially economic and technical”, towards the full realization of the rights recognized in the Covenant, such as the right to education. Articles 2 (1) and 23 of the Covenant, Article 56 of the Charter of the United Nations, article 10 of the World Declaration on Education for All, and Part I, paragraph 34 of the Vienna Declaration and Programme of Action all reinforce the obligation of States parties in relation to the provision of international assistance and cooperation for the full realization of the right to education. In relation to the negotiation and ratification of international agreements, States parties should take steps to ensure that these instruments do not adversely impact upon the right to education. Similarly, States parties have an obligation to ensure that their actions as members of international organizations, including international financial institutions, take due account of the right to education.

60. Given article 22 of the Covenant, the role of the United Nations agencies, including at the country level through the United Nations Development Assistance Framework (UNDAF), is of special importance in relation to the realization of article 13. Coordinated efforts for the realization of the right to education should be maintained to improve coherence and interaction among all the actors concerned, including the various components of civil society. UNESCO, the United Nations Development Programme, UNICEF, ILO, the World Bank, the regional development banks, the International Monetary Fund and other relevant bodies within the United Nations system should enhance their cooperation for the implementation of the right to education at the national level, with due respect to their specific mandates, and building on their respective expertise. In particular, the international financial institutions, notably the World Bank and IMF, should pay greater attention to the protection of the right to education in their lending policies, credit agreements, structural adjustment programmes and measures taken in response to the debt crisis. When examining the reports of States parties, the Committee will consider the effects of the assistance provided by all actors other than States parties on the ability of States to meet their obligations under article 13. The adoption of a human rights-based approach by United Nations specialized agencies, programmes and bodies will greatly facilitate implementation of the right to education.

General Comment 11

3. In line with its clear and unequivocal obligation under article 14, every State party is under a duty to present to the Committee a plan of action drawn up along the lines specified in paragraph 8 below... The Committee is fully aware that many diverse factors have made it difficult for States parties to fulfil their obligation to provide a plan of action. For example, the structural adjustment programmes that began in the 1970s, the debt crises that followed in the 1980s and the financial crises of the late 1990s, as well as other factors, have greatly exacerbated the extent to which the right to primary education is being denied. These difficulties, however, cannot relieve States parties of their obligation to adopt and submit a plan of action to the Committee, as provided for in article 14 of the Covenant.

9. Obligations. A State party cannot escape the unequivocal obligation to adopt a plan of action on the grounds that the necessary resources are not available. If the obligation could be avoided in this way, there would be no justification for the unique requirement contained in article 14 which applies, almost by definition, to situations characterized by inadequate financial resources. By the same token, and for the same reason, the reference to “international assistance and cooperation” in article 2.1 and to “international action” in article 23 of the Covenant are of particular relevance in this situation. Where a State party is clearly lacking in the financial resources and/or expertise required to “work out and adopt” a detailed plan, the international community has a clear obligation to assist.

General Comment 3 on the nature of the States parties obligations (Article 2.1)

Convention on the Rights of the Child, 1989

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 28

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and

facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

UNESCO-ILO Recommendation concerning the Status of Teachers, 1966

Article 10

Appropriate measures should be taken in each country to the extent necessary to formulate comprehensive educational policies consistent with the Guiding Principles, drawing on all available resources, human and otherwise. In so doing, the competent authorities should take account of the consequences for teachers of the following principles and objectives:

(l) as the achievement of the aims and objectives of education largely depends on the financial means made available to it, high priority should be given, in all countries, to setting aside, within the national budgets, an adequate proportion of the national income for the development of education.

Jakarta Declaration, 2005 adopted at the International Conference on the Right to Basic Education as a Fundamental human right and the Legal Framework for its Financing

Paragraph IV: On the basis of the four pioneering national experiences on financing education through a legal framework, namely Indonesia, Nigeria, India and Brazil, which we examined in detail, we recommend that (i) Governments elaborate legal framework for financing education, (ii) the CDESCR considers means of generalizing this approach through discussions within country reports; and (iii) designing legal framework be based upon public financing principles. Furthermore, we (i) encourage private sector to enter into partnerships with governments for equitably sharing responsibilities and dedicate more investment to educational activities which have been proved to be economically rewarding and have direct impact on employment, productivity and poverty eradication, (ii) suggest to international financial institutions to give priority to financing educational projects specially as incentives to countries to promote EFA. Resource mobilization for financing education at national and international level deserves new international thinking, both in terms of fund-raising and international partnerships for the right to education.

Jomtien Statement, 2011 adopted at the 10th Meeting of the High-Level Group on Education for All (EFA)

Paragraph 6: We urge national governments, with which the principal responsibility rests, supported by parliamentarians, to allocate at least 6% of GNP and/or at least 20% of public expenditure to education, and to ensure cost-effective use of resources.

Pledges to the Global Partnership for Education, 2011

International Development Strategy for the Second United Nations Development Decade, adopted by the UN General Assembly in 1970

Paragraph 43: In recognition of the special importance of the role which can be fulfilled only by official development assistance, a major part of financial resource transfers to the developing countries should be provided in the form of official development assistance. Each economically advanced country will progressively increase its official development assistance to the developing countries and will exert its best efforts to reach a minimum net amount of 0.7 per cent of its gross national product at market prices by the middle of the Decade.