

## INTERNATIONAL INSTRUMENTS

### Free and Compulsory Education

- Universal Declaration on Human Rights (Article 26)
- International Covenant on Economic, Social and Cultural Rights (Articles 13 and 14)
- Convention on the Rights of the Child (Article 28)
- Convention on the Elimination of All Forms of Discrimination against Women (Article 10)
- Convention on the Rights of Persons with Disabilities (Article 24)
- UNESCO Convention against Discrimination in Education (Articles 4)
- ILO Convention 182 on Worst Forms of Child Labour (Preamble, Articles 7 and 8)
- African Charter on the Rights and Welfare of the Child (Article 11)
- African Youth Charter (Articles 13 and 16)
- Arab Charter (Article 41)
- Charter of the Organisation of American States (Article 49)
- Additional Protocol to the American Convention on Human Rights, Protocol of San Salvador (Articles 13)
- European Union Charter of Fundamental Rights (Article 14)
- Revised European Social Charter (Articles 10 and 17)
- ASEAN Human Rights Declaration (Article 31)

#### Universal Declaration on Human Rights

##### Article 26.1

Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory...

#### International Covenant on Economic, Social and Cultural Rights

##### Article 13

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;

(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.

#### **[CESCR General Comment 11](#)**

The Committee on Economic, Social and Cultural Rights has interpreted Article 14 in its General Comment 11: Plans of Action for Primary Education. Paragraph 6 and 7 refer to free and compulsory education.

##### 6. Compulsory

The element of compulsion serves to highlight the fact that neither parents, nor guardians, nor the State are entitled to treat as optional the decision as to whether the child should have access to primary education. Similarly, the prohibition of gender discrimination in access to education, required also by articles 2 and 3 of the Covenant, is further underlined by this requirement. It should be emphasized, however, that the education offered must be adequate in quality, relevant to the child and must promote the realization of the child's other rights.

##### 7. Free of charge

The nature of this requirement is unequivocal. The right is expressly formulated so as to ensure the availability of primary education without charge to the child, parents or guardians. Fees imposed by the Government, the local authorities or the school, and other direct costs, constitute disincentives to the enjoyment of the right and may jeopardize its realization. They are also often highly regressive in effect. Their elimination is a matter which must be addressed by the required plan of action. Indirect costs, such as compulsory levies on parents (sometimes portrayed as being voluntary, when in fact they are not), or the obligation to wear a relatively expensive school uniform, can also fall into the same category. Other indirect costs may be permissible, subject to the Committee's examination on a case-by-case basis. This provision of compulsory primary education in no way conflicts with the right recognized in article 13.3 of the Covenant for parents and guardians "to choose for their children schools other than those established by the public authorities".

#### **[CESCR General Comment 13](#)**

The Committee on Economic, Social and Cultural Rights has interpreted Article 13 in its General Comment 13: the Right to Education. See particularly article 8 to 14 .

## Convention on the Rights of the Child

### Article 28

1. States Parties recognise the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

## Convention on the Elimination of All Forms of Discrimination against Women

### Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (d) The same opportunities to benefit from scholarships and other study grants;

## Convention of the Rights of Persons with Disabilities

### Article 24

1. States Parties recognise the right of persons with disabilities to education. With a view to realising this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to: a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity; b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential; c) Enabling persons with disabilities to participate effectively in a free society.

2. In realising [the right of persons with disabilities to education], States Parties shall ensure that: a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability; b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;

## UNESCO Convention against Discrimination in Education

### Article 4

The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

(a) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;

## ILO Convention No. 182 on Worst Forms of Child Labour

### Preamble

(...) Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families....

### Article 7

2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:

(c) Ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;

### Article 8

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

## African Charter on the Rights and Welfare of the Child

### Article 11.3

3. States Parties to the present Charter shall take all appropriate measures with a view to achieving the full realisation of this right and shall in particular:

(a) provide free and compulsory basic education:

(b) encourage the development of secondary education in its different forms and to progressively make it free and accessible to all;

(c) make the higher education accessible to all on the basis of capacity and ability by every appropriate means;

## African Youth Charter

### Article 13 - Education and Skills Development

4. States Parties shall take all appropriate measures with a view to achieving full realisation of this right and shall, in particular:

a) Provide free and compulsory basic education and take steps to minimise the indirect costs of education;

b) Make all forms of secondary education more readily available and accessible by all possible means including progressively free;

## Arab Charter on Human Rights

### Article 41

2. The States parties shall guarantee their citizens free education at least throughout the primary and basic levels. All forms and levels of primary education shall be compulsory and accessible to all without discrimination of any kind.

## Charter of the Organisation of American States

### Article 49

The Member States will exert the greatest efforts, in accordance with their constitutional processes, to ensure the effective exercise of the right to education, on the following bases:

- a) Elementary education, compulsory for children of school age, shall also be offered to all others who can benefit from it. When provided by the State it shall be without charge;

## Additional Protocol to the American Convention on Human Rights, Protocol of San Salvador

### Articles 13

3. The States Parties to this Protocol recognize that in order to achieve the full exercise of the right to education:

- a. Primary education should be compulsory and accessible to all without cost;
- b. Secondary education in its different forms, including technical and vocational secondary education, should 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 should be made equally accessible to all, on the basis of individual capacity, by every appropriate means, and in particular, by the progressive introduction of free education;

### Article 16 - Rights of Children

Every child has the right to free and compulsory education, at least in the elementary phase, and to continue his training at higher levels of the educational system.

## Revised European Social Charter

### Article 10 - the right to vocational training

5. With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake to encourage the full utilisation of the facilities provided by appropriate measures such as:

- a. reducing or abolishing any fees or charges;
- b. granting financial assistance in appropriate cases;

### Article 17: The Right of Children and young persons to social, legal and economic protection

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

2. to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

## European Union Charter of Fundamental Rights

### Article 14

1. Everyone has the right to education and to have access to vocational and continuing training.
2. This right includes the possibility to receive free compulsory education.

## ASEAN Human Rights Declaration

### Article 31

(1) Every person has the right to education.

(2) Primary education shall be compulsory and made available free to all. Secondary education in its different forms shall be available and accessible to all through every appropriate means. Technical and vocational education shall be made generally available. Higher education shall be equally accessible to all on the basis of merit.