

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 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 particular 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 information • Develop closer relationships with key people in relevant government departments and convince them that they can

	<p>benefit from your work</p> <ul style="list-style-type: none"> • 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 quantitative 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	A high percentage of household expenditure on education	Problem in the economic accessibility of schools

	education ¹⁰⁰		
	Are reasonable accommodation measures available for children with disabilities in mainstream schools? ¹⁰¹	A high percentage of schools that fail to reasonably accommodate the needs of disabled students (eg they are designed and built in ways that make them inaccessible to wheelchairs)	Problem in the physical accessibility of education for children with disabilities
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	A failure to adapt schools' schedules during harvest seasons in rural areas or to make non-formal schooling	Problems in the adaptability of the education system to suit locally specific needs and

	solutions for them and their families? ¹⁰⁴	available for child labourers may hinder their access to education	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.

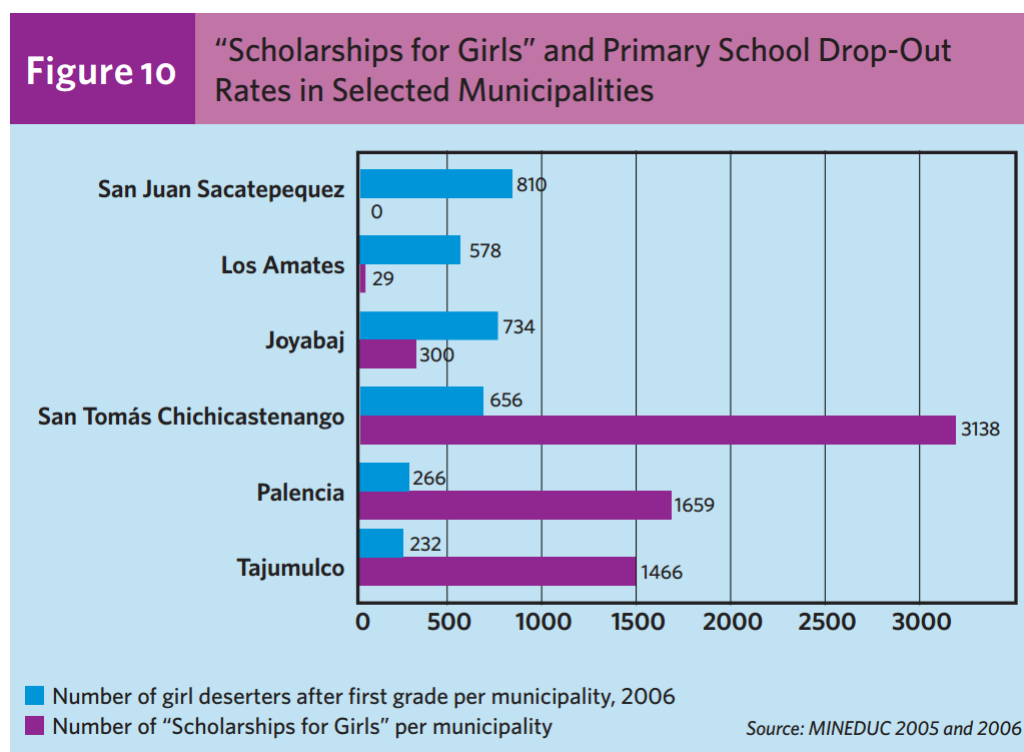
Source: PROBE & Centre for Development Economics (1999) *Public Report on Basic Education in India*: http://www.undp.org/content/dam/india/docs/public_report_basic_education_india.pdf: Chapter 4, p.1-3.

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

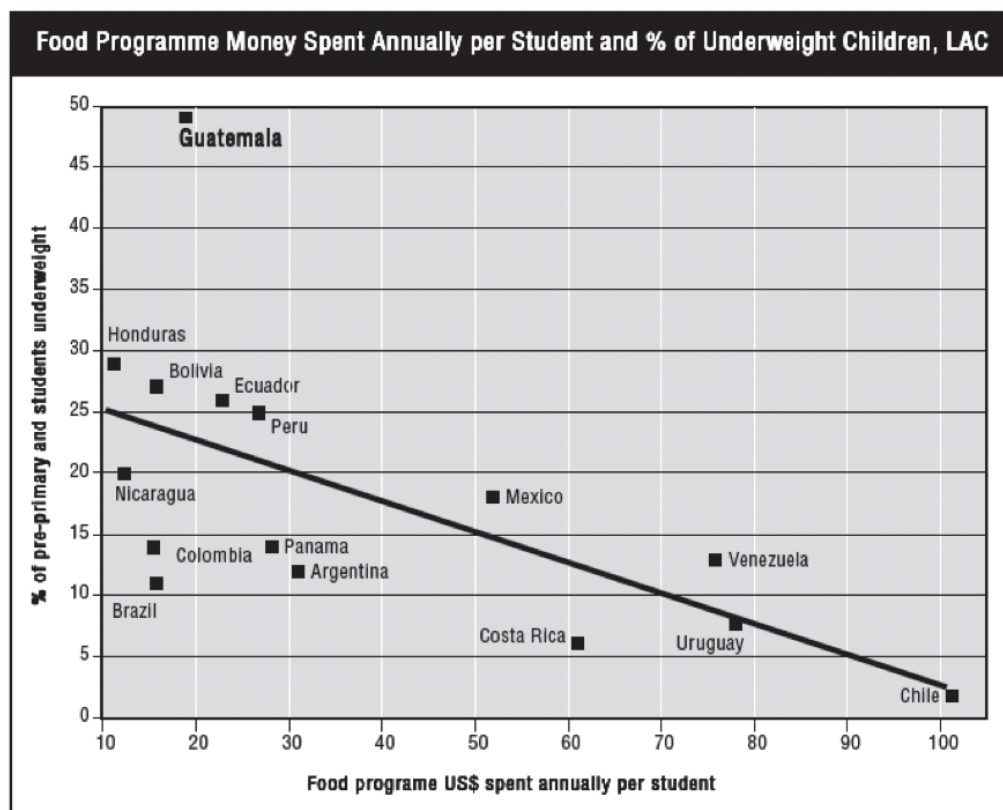
¹⁰³ For more information on the indicator 'Percentage of teachers not belonging to minority groups or trained in minority culture or languages,' see: <http://www.right-to-education.org/monitoring/content/percentage-teachers-not-belonging-minority-groups-trained-minority-culture-or-languages>

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.