As an integral part of UNESCO’s Constitutional mission for ensuring “full and equal opportunities for education for all”, the realisation of the Right to Education is one of the biggest developmental challenges, as millions of children and adults remain deprived of basic education in today’s learning societies.

**THE RIGHT TO EDUCATION**

**MAJOR CHALLENGES**

**Ensuring Equal Educational Opportunities for All in Law and in Fact**

The fundamental principle of equality of educational opportunities, enshrined in UNESCO’s Constitution, is expressed in UNESCO’s Convention and the Recommendation against Discrimination in Education, and the Convention on Technical and Vocational Education. However, as the outcome of the Seventh Consultation of Member States on implementation of UNESCO’s Convention and Recommendation shows, ensuring de facto equality of educational opportunities is a continuing challenge Member States face. UNESCO, therefore, places greater emphasis on action at national level for universalizing access to quality education for all without discrimination or exclusion. Positive measures and affirmative action are necessary for mitigating inequalities in educational opportunities. Equity, quality and financing are key areas in pushing forward the EFA agenda.

**Eliminating Inequities and Disparities in Education**

UNESCO’s conventions and recommendations in the field of education also cover inclusive dimensions of the right to education, and provide bases for normative action aimed at eliminating existing inequities and disparities in education and reaching the unenacted. As the General Comment No. 13 on Article 11, mentioned above, states “education must be accessible to all, especially the most vulnerable groups, in law and fact”.

The right to education of cultural, ethnic and linguistic minorities, of the indigenous peoples, of girls and women and of various vulnerable groups, rural and remote populations, nomads, migrant workers, and refugees, the disabled, and all those who are socially and economically marginalized, in particular children from poor households, must be respected, recognizing the need for equity, inclusion and social cohesion in today’s societies.

**Providing Free Primary Education: Compliance with International Obligations**

In many developing countries, especially in South East Asia and in Africa, universal free primary education is still far from being a reality. There is need for advocacy for full compliance with immediate and core obligation of States for providing primary school education free of charge to all. It’s importance has been emphasized by the Joint Expert Group.

**Modernizing National Legislation**

For strengthening legal foundations of the right to education, UNESCO recognizes the importance of national legislation in the strategic objective for EFA. The Organization, therefore, provides technical assistance in the process of constitutional reforms as well as modernizing/developing national legislation in the field of education, especially on the right to education, and makes available its experience and expertise to Member States.

**Financing of Education: Developing a Legal Framework**

Education is indeed best investment a country can make. Given resource constraint on achieving EFA, a legal framework can be instrumental for mobilizing resources on an enduring basis at national level. In this respect, existing constitutional and legislative provisions on the financing of education in several countries provide practical examples.

**Preserving Public Interest in Education**

It is important to preserve public interest in education, and engage Member States and new educational providers in a dialogue highlighting education as a public good.

FOR MORE INFORMATION

UNESCO Education Sector
Division for the Promotion of Basic Education
Section for the Promotion of Rights and Values in Education
7, place de Fontenoy
75252 Paris 07SP
France
Website: www.unesco.org/education
E-mail: r.moumne@unesco.org

© UNESCO 2008
ISBN 92-3-104230-8/ECO 080514
The Right to Education is established by a number of international instruments.

**Main Attributes**

- The right to education is an overarching right: a human right in itself and indispensable for the exercise of other human rights.
- Both individual and society are its beneficiaries. Indeed, education has the objective to ‘prepare the children of the world for the responsibilities of freedom’ as UNESCO’s Constitutions stipulate. It empowers individuals for full development of human personality, and participation in society through acquisition of knowledge, human values and skills. The right to education has close linkage with the right to development, and is a powerful tool in poverty reduction strategies.
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**International Obligations**

The right to education, like all human rights, imposes three levels of obligations on States: the obligation to respect, protect and fulfill.

In turn, the obligation to fulfill incorporates both an obligation to facilitate and an obligation to provide. The State obligations remain even in case of privatization of education.

- *Its main attributes are:*
  - Universal access to primary education free and compulsory for all;
  - Accessibility to secondary education in its different forms as well as technical and vocational education which should be made generally accessible;
  - Capacity-based access to higher education;
  - Opportunity for continuing education and literacy programme and life long education;
  - Minimum international standards of quality education and teaching profession.

**Monitoring the Implementation of the Right to Education**

The realization of the right to education is dependant upon its effective implementation. Obligations and political commitments under international instruments must be reflected in constitutions and national legislation and be further translated into policies and programmes. UNESCO’s Member States have the constitutional obligation to report to the Organizations on measures they take for implementing UNESCO’s conventions and recommendations.

The Committee on Conventions and Recommendations (CR), which is a subsidiary organ of UNESCO’s Executive Board, examines the outcome of periodic consultations of Member States conducted by UNESCO. Follow up is given to decisions accordingly adopted by UNESCO’s Governing Bodies – the Executive Board and the General Conference.

As in the case of the United Nations system, focus on monitoring is on universal ratification of the conventions, and on universal application of the conventions and recommendations.

UNESCO’s experience in monitoring shows that Member States particularly from the developing world do not have sufficient capacity and expertise for meeting their reporting obligations. Capacity-building and training programmes for the benefit of National Commissions for UNESCO are especially important in promoting normative action.

Protection of the Right to Education, its Enforcement and Justiciability

- Through its communications and complaints procedures, the CR examines cases of human rights violations within UNESCO’s fields of competence. A large number of complaints examined and communications settled by the CR have resulted in the protection of the right to education.
- In cases of violation of their right to education, citizens must be able to have legal recourse before the law courts or administrative tribunals. The judiciary has an essential role in protecting and enforcing the right to education as an entitlement. In several countries, law courts have upheld the right to education, and the decisions by judiciary are exemplary.
- The right to education is also enforced through administrative tribunals and national human rights institutions as well as by Ombudsperson where they exist, especially in the field of education.

Promotional Measures for Achieving the Right to Education

- Legal framework and normative bases of the right to education must be made known widely, with emphasis on its more effective implementation and on mobilizing efforts for overcoming difficulties and removing obstacles encountered by Member States.
- UNESCO promotes the right to education in several ways, notably by:
  - Disseminating normative texts, and creating greater awareness;
  - Review and analysis of constitutional provisions and strengthening its foundations in national legal systems;
  - Expounding legal and policy questions, and undertaking and supporting research and studies on its various dimensions;
  - Organizing expert consultations, collaborating with professional bodies and the academic community, and raising public debate for reflections on issues of key importance;
  - Developing partnerships and networks, including UNESCO Chairs on the Right to Education.

UNESCO’s Principal Role and Responsibility in the United Nations System

In the constellation of the United Nations system, UNESCO has principal role and responsibility in the field of the right to education.

The United Nations treaty bodies monitor the implementation of the United Nations human rights treaties and conventions. UNESCO’s cooperation with them centers around the right to education.

Collaboration between UNESCO and CESCR is especially significant, as both have shared concerns and common objectives in monitoring the implementation of the right to education in a complementary spirit.

- *The Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education,* established by the UNESCO’s Executive Board in 2001, has a broad mandate of monitoring the right to education in all its dimensions. It plays a valuable role in mutually reinforcing working methods and monitoring mechanisms of CESCR and the CR in making the monitoring more effective, with a focus on EFA.
The Right to Education is established by a number of international instruments. Several other UNESCO’s conventions and recommendations, including the Convention on Technical and Vocational Education (1989), further develop various dimensions of the right to education.

Among the United Nations human rights treaties:


General Comment 13 on Article 13, elaborated on by the United Nations Committee on Economic, Social and Cultural Rights (CESCR) in collaboration with UNESCO, elucidates the scope and nature of the right to education.

Specific dimensions of the right to education are covered notably by:

- the Convention on the Rights of the Child (1989), articles 28-30,
- the Convention on the Elimination of All Forms of Discrimination against Women (1979), article 10,
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990), articles 12, 30 and 45,

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As in case of the United Nations system, focus on monitoring is on universal ratification of the conventions, and on universal application of the conventions and recommendations. Monitoring is also of national convectors and courts.

The principles of the right to education.

- Rights are states’ responsibilities. States must incorporate their obligations into their domestic legal order.
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  - International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990), articles 12, 30 and 45,

- The conventions, with the exception of the rights to development and the right to education, have a strong individual focus and are binding for parties to them.
- Obligations include:
  - Non-discrimination:
    - All persons, including vulnerable groups, are entitled to equal access to education.
    - Discrimination in education is prohibited.
  - Minimum international standards of quality education and teaching profession.
  - Education is a human right and a means to achieving other human rights.
  - Education is a means to the right to development.
  - Education is a means to the right to the freedom of religion.
  - Education is a means to the right to participation in society.
  - Education is a means to the right to freedom of association.
  - Education is a means to the right to the freedom of expression.

- The obligations of UNESCO are mainly advisory.

- UNESCO’s Constitution stipulates.
- UNESCO’s Executive Board as a key pillar of Education for All (EFA).
- UNESCO's International Covenant on Economic, Social and Cultural Rights (CESCR) in collaboration with the United Nations Committee on Economic, Social and Cultural Rights (CESCR) in collaboration with

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THE RIGHT TO EDUCATION

MAJOR CHALLENGES

Transforming the right to education from an ideal into a living reality is a daunting challenge. UNESCO recognizes that priority consideration should be given to addressing the needs of the poor, the excluded and the marginalized.

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Responding to Quality Imperatives and Valorizing Teaching Profession

For making quality basic education available as a right, it is imperative to intensify UNESCO’s normative action according to the Convention against Discrimination in Education. Governments should improve quality in both private and public schools, following UNESCO’s Recommendation concerning the Status of Teachers (1966), with full respect for the international standards of teaching profession.

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