



United Nations
Educational, Scientific and
Cultural Organization

THE RIGHT TO EDUCATION

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.

AN INTERNATIONALLY RECOGNIZED RIGHT

The Right to Education is established by a number of international instruments.

► The entitlements to education at various levels are laid down in UNESCO's *Convention against Discrimination in Education* (1960), which covers the right to education comprehensively and is recognized by UNESCO's Executive Board as a key pillar of Education for All (EFA).

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:

Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (1966), draws extensively on UNESCO's *Convention against Discrimination in Education*, and like the Convention, covers the right to education comprehensively.

General Comment 13 on this Article 13, elaborated 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,
- *Convention on the Rights of Persons with Disabilities* (2006), article 24.

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 Constitution stipulates. 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.

► 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 available;
- Capacity-based access to higher education;
- Opportunities for continuing education and literacy programme and life long learning;
- Minimum international standards of quality education and teaching profession.

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.

The **conventions** and treaties have **binding force for States** which are parties to them. States must **incorporate their obligations** into their domestic legal order.

Even though the **recommendations** do not have binding force, they reflect **political commitments** by Member States and have moral force. Governments are expected to take measures for giving effect to them through national legislation.

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 Organization 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 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 case 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.

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.

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 unreached. As the General Comment No. 13 on Article 13, 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, recognising the need for equity, inclusion and social cohesion in today's societies.

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.

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. Its 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

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