

Right to Education Indicator based on the 4 A framework

Concept Paper

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Abbreviations

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	United Nations Committee on Economic, Social and Cultural Rights
CMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRC CRC Committee	Convention on the Rights of the Child United Nations Committee on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
EDI	Education for All Development Index
EFA	Education for All
GDP	Gross domestic product
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ISCED	International Standard Classification of Education
MDG	Millennium Development Goal
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OHCHR	United Nations Office of the High Commissioner for Human Rights
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UN-HABITAT	United Nations Settlements Programme
WHO	World Health Organisation

Introduction

This Concept Paper outlines the broader issues which have been addressed in order to establish a set of right to education indicators based on the 4-A framework as developed by Katarina Tomaševski, the former UN Special Rapporteur on the right to education. It explains the choices made when developing these indicators and discusses human rights indicators with a focus on the right to education.

The Concept Paper is divided into six sections. The first section sketches the background of the proposed right to education indicators, by discussing the initiatives undertaken to date in this regard. The second section examines the main differences between education and right to education indicators, while explaining how the latter can remedy the shortcomings of the former. The third section establishes a framework for the right to education indicators through dealing with three issues. First, it explains the importance of providing human rights indicators with a normative basis and which international and regional human rights treaties have been used for creating right to education indicators. Second, the advantages of using the 4-A framework are examined and compared with those of the structural-process-outcome indicator model of the OHCHR. Third, the way in which human rights indicators can measure a state's progress in the full realisation of human rights is being dealt with. The fourth section discusses three transversal issues which are addressed alongside the right to education indicators. First, it explains why human rights indicators should be disaggregated and how this has been achieved. Second, it stresses the importance of participation in education and the way in which the indicators measure this participation. Third, it deals with accountability which is evaluated by the indicators in several ways. The fifth section outlines the methodology, by explaining which steps have been undertaken with a view to establishing an accurate and comprehensive set of right to education indicators based on the 4-A framework. The sixth and last section discusses the application of the indicators, which should already be considered at this stage in order to facilitate their future use.

1. Background

Human rights indicators have been created since the end of the 1990s, following a suggestion of Danilo Turk, the former UN Special Rapporteur on the realisation of economic, social and cultural rights.¹ He also recommended that the UN Centre for Human Rights (now OHCHR) organised a seminar on indicators relating to economic, social and cultural rights. In 1998, Paul Hunt, the UN Special Rapporteur on the right to health, developed a few right to education indicators, which had to be disaggregated by vulnerable groups.² He later developed a comprehensive set of indicators relating to the right to health.³ He also proposed to divide human rights indicators into three types, structural, process and outcome, a division which has been taken over by the OHCHR.

¹ D. Turk, *The Realization of Economic, Social and Cultural Rights. Progress Report*, 18 July 1991, E/CN.4/Sub.2/1991/17, at paras 6-48; D. Turk, *The Realization of Economic, Social and Cultural Rights. Progress Report*, 6 July 1990, E/CN.4/Sub.2/1990/19, at paras 1-105.

² P. Hunt, *State obligations, indicators, benchmarks and the right to education* (Background paper submitted to the Committee on Economic, Social and Cultural Rights), 16 July 1998, E/C. 12/1998/11.

³ P. Hunt, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, 3 March 2006, E/CN.4/2006/48, Annex. See also P.

Upon request of the treaty bodies, the OHCHR proposed a framework for establishing human rights indicators as well as comprehensive lists of indicators relating to twelve human rights, including the right to education. It set up a group of experts and collaborated actively with international agencies and NGOs to create these indicators. Several organisations took also the initiative to develop human rights indicators in their own field. UN-HABITAT established right to adequate housing indicators and WHO organised consultations on right to health indicators. No such initiatives have taken place with a view to establishing right to education indicators.

However, several experts focused on indicators relating to the right to education. At the beginning, the right to education was even regularly used as example to demonstrate how human rights indicators could be created. This was the case with the initial human rights indicators of Paul Hunt, as mentioned above, but also with those of Isabelle Kempf, who proposed that human rights indicators take the form of a three-level pyramid.⁴ More recently, sets of right to education indicators have been proposed by Audrey Chapman as well as a group of researchers under the aegis of the UNESCO Institute for Lifelong Learning. The Robert F. Kennedy Memorial Center for Human Rights also developed indicators to monitor the right to education of Afro-descendant and Indigenous People's in the Americas.⁵ At the national level, several actors took the initiative to develop right to education indicators within their jurisdiction. However, comparatively with other human rights they have been few collective efforts to develop indicators relating to the right to education at the international level. One of the reasons might be that education has long time been – and still sometimes is – considered principally as a development goal. Although the right to education is outlined in several international and regional human rights treaties, the international community has been quite slow to recognise it as a right.

Katarina Tomaševski, the former UN Special Rapporteur on the right to education, considerably contributed to the understanding of the right to education. She divided the obligations relating to the right to education into a 4-A framework: availability, accessibility, acceptability and adaptability. She also proposed that right to education indicators be established on the basis of this framework.⁶ The two first aforementioned sets of right to education indicators, however, do not take this point of departure. Audrey Chapman based her indicators on the structural-process-outcome indicator model of the OHCHR, with an emphasis on CESCR General Comment No 13.⁷ These indicators do not very much differ from those established by the OHCHR, although

Hunt and G. MacNaughton, 'A Human Rights-Based Approach to Health Indicators', in M. Baderin and R. McCorquodale (eds), *Economic, Social and Cultural Rights in Action* (Oxford: Oxford University Press, 2007) 303-330, Annex.

⁴ See I. Kempf, *How to Measure the Right to Education: Indicators and their Potential Use by the Committee on Economic, Social and Cultural Rights* (Background paper submitted to the Committee on Economic, Social and Cultural Rights), 13 November 1998, E/C.12/1998/22, at 3.

⁵ Robert F. Kennedy Memorial Center for Human Rights, *Right to Education of Afro-descendant and Indigenous People's in the Americas, Report prepared for a thematic hearing before the Inter-American Commission on Human Rights* (Washington D.C.: The RFK Center, 2008).

⁶ See K. Tomaševski, *Annual Report of the Special Rapporteur on the Right to Education*, 7 January 2002, E/CN.4/2002/60, at 12-13.

⁷ A. Chapman, 'Development of Indicators for Economic, Social and Cultural Rights: The Rights to Education, Participation in Cultural Life and Access to the Benefits of Science', in Y. Donders and V. Volodin (eds), *Human Rights in Education, Science and Culture. Legal Developments and Challenges* (Paris: UNESCO Publishing, 2007) 111-151.

their presentation is more user-friendly. The UNESCO Institute for Lifelong Learning based its right to education indicators on the 4-A framework, but – astonishingly – ignored the way in which the 4 As are interpreted by human rights lawyers.⁸ The methodology used to establish these indicators can however be an inspiration, especially since their establishment was combined with their immediate application in one country, Burkina Faso. In contrast, the right to education indicators established by the Robert F. Kennedy Memorial Center for Human Rights are based on the 4-A framework to which is added accountability (thereby making it a ‘5-A framework’). This framework was combined with the structural-process-outcome indicator model of the OHCHR by dividing the indicators also into structural, process and outcome indicators. While the indicators are limited in number, the approach is interesting because it includes several transversal issues (in the structural indicators in particular) and because it focuses on one vulnerable group, namely Afro-descendant and Indigenous People’s in the Americas. National initiatives to create right to education indicators also used the 4-A framework. The Office of the Colombian Ombudsman is currently monitoring the right to education with right to education indicators based on the 4-A framework. US State courts also applied the 4-A framework to develop indicators for examining the quality – or acceptability – of education.

2. Education versus Right to Education Indicators

Development indicators have been established during the last decades, especially in the UN context. States have shown themselves more willing to contribute to applying such indicators, because they consider that these indicators do not aim to criticise them. In contrast, human rights indicators have as purpose to hold duty-bearers accountable for their human rights obligations. They do not aim to evaluate whether populations have access to basic needs, but to which extent states respect, protect and fulfil human rights. Furthermore, human rights indicators focus on discrimination, by requiring that the data they use be disaggregated by vulnerable groups. They also evaluate whether states use participatory approaches when implementing human rights. Lastly, human rights indicators examine whether states have established accountability mechanisms to implement human rights.

With respect to the right to education, education indicators have been developed by several international agencies. The UNESCO Institute for Statistics has been particularly active in this respect. The *Global Education Digest 2008* for instance provides comprehensive statistical data on trends in primary and secondary education around the world.⁹ UNESCO also participates in the EFA movement and coordinates data collection for monitoring progress in achieving the EFA Goals. The EFA Development Index (EDI), which is limited to Goals 2, 4, 5 and 6 due to data constraints, establishes a composite index per state for this purpose.¹⁰ OECD also established a series of education indicators to evaluate the performance of education

⁸ J.-J. Friboulet *et al.*, *Measuring the Right to Education* (Translation: Joanna Bourke-Martignoni) (Paris/Hamburg: UNESCO/Institute for Lifelong Learning, 2006).

⁹ UNESCO Institute for Statistics (UIS), *Global Education Digest 2008. Comparing Education Statistics across the World* (Montréal, UIS, 2008).

¹⁰ UNESCO, *Education for All Global Monitoring Report 2009. Overcoming inequality: why governance matters* (Paris: UNESCO, 2008).

systems.¹¹ Regional initiatives also exist, including those of the Asian Development Bank and the US Department of Education, Institute of Education Science.

The aforementioned indicators, however, are not right to education indicators. They face three problems which prevent them from monitoring compliance with human rights treaties. The first problem is that the indicators generally take the form of composite indexes, which allow making cross-national comparisons. Such indexes can only be obtained by weighing different variables against each other. This is particularly problematic with respect to human rights, because it would require to calculate how many times one kind of human rights violation is worth another one. The second problem is that education indicators do not sufficiently focus on discrimination. The national average literacy rate for instance does not provide information on the risk of vulnerable groups being denied access to education. As will be discussed, what most characterises human rights indicators is data disaggregation. Efforts have nonetheless been done by international agencies to provide data disaggregated by gender, which is notably due to the fact that both EFA Goal 4 and MDG 3 aim to achieve gender parity within a certain time (the former of which is more ambitious than the latter, because it requires gender equality by 2015). The third problem is that education indicators mainly provide quantitative information. Enrolment rates do not inform about the quality of the education provided. Some education indicators however deal with this, such as the aforementioned OECD indicators which evaluate test results against investment in education. The OECD Programme for International Student Assessment (PISA) and the Southern and Eastern Africa Consortium for Monitoring Educational Quality (SACMEQ) also measure skills acquired by students. Still, these indicators do not evaluate whether education conforms to human rights standards. In addition to improving skills, education should promote tolerance and disseminate human rights standards in an environment respectful of the child's dignity. One of the advantages of right to education indicators is thus that these indicators can also measure rights *in* education and rights *through* education. The right to education indicators created so far, unfortunately, do not much do this, in contrast to the proposed set of right to education indicators.

This does not mean that education indicators are useless. They can be used to measure compliance with the right to education in two ways. First, education and right to education indicators overlap to a certain extent (as do development and human rights as such). The availability of education can for instance be measured by enrolment ratios. The budget allocated to education also reflects efforts done by states to make education generally available. Second, it is possible to adapt education indicators by supplementing the data they rely on with data linked to right to education standards, which requires to disaggregate the data by vulnerable groups. This can turn the education indicators into right to education indicators. To continue with the aforementioned example, enrolment ratios can so be disaggregated by vulnerable groups to evaluate discrimination in education. The task is made easier through the fact that international agencies already focus on gender discrimination. However, it is necessary to also disaggregate data by other vulnerable groups in order to establish proper right to education indicators.

¹¹ OECD, *Education at a Glance 2008* (Paris: OECD, 2008).

3. Framework

Before creating indicators on the right to education, three key issues have to be discussed. First, the right to education indicators must be based on international human rights law. Second, the 4-A framework for the right to education is considered the best starting point to create these indicators. Third, the indicators can help to track progress in the full realisation of the right to education.

A. Normative Basis

In order to develop indicators to monitor compliance with human rights treaties it is essential that the indicators reflect the international legal framework as closely as possible. This is not the case with current education indicators. As mentioned earlier, these indicators evaluate development rather than human rights achievements. Providing indicators with a normative basis is necessary to allow actors to make claims to governments, which might otherwise consider the indicators illegitimate. It is therefore essential that the right to education indicators be right-based indicators.

The right to education indicators should therefore be based on international human rights law. This requires first that the content of the right to education be properly understood. While it might be argued that some economic, social and cultural rights are not clearly understood, this cannot be said from the right to education (which also falls under the category of civil and political rights). This right is probably one the most developed rights in international and regional human rights treaties, especially with respect to primary education. Treaty bodies issued general comments on the right to education, and academic authors have much discussed it in recent years. The next step is to break down the right to education into its constitutive elements in order to provide a general structure for the right to education indicators. The 4-A framework developed by Katarina Tomaševski has been chosen for this purpose, as explained in the next section.

Because of the importance to provide indicators with a normative basis, the right to education indicators are primarily based on international human rights treaties, although non-binding instruments have been taken into account. These include:

- the Universal Declaration of Human Rights (UDHR)¹²
- the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- the International Covenant on Civil and Political Rights (ICCPR)
- the International Covenant on Economic, Social and Cultural Rights (ICESCR)
- the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- the Convention on the Rights of the Child (CRC)
- the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)

¹² UDHR has a preeminent place among international human rights law, and although not a binding treaty when it was concluded, many of its provisions are now considered to be customary international law and it has an authoritative character, often referred to directly in national constitutions.

- the Convention on the Rights of Persons with Disabilities (CRPD)
- the UNESCO Convention against Discrimination in Education
- the Convention relating to the Status of Refugees
- the ILO Minimum Age Convention
- the ILO Worst Forms of Child Labour Convention
- the ILO Indigenous and Tribal Peoples Convention
- the Rules for the Protection of Juveniles Deprived of their Liberty
- the Standard Minimum Rules for the Treatment of Prisoners
- the Convention relating to the Status of Refugees
- the Geneva Convention Relative to the Treatment of Prisoners of War
- the Declaration on the Rights of Indigenous Peoples
- the UNESCO Recommendation against Discrimination in Education
- the UNESCO Convention on Technical and Vocational Education
- the UNESCO Revised Recommendation concerning Technical and Vocational Education
- the UNESCO Recommendation concerning the Status of Teachers
- the UNESCO Recommendation concerning the Status of Higher Education

Teaching Personnel

- the UNESCO Recommendation on the Development of Adult Education
- the UNESCO Recommendation on Education for International Understanding and Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms

Two treaties deserve particular attention: ICESCR and CRC. ICESCR contains the most developed and comprehensive provisions on the right to education. Article 13 outlines state obligations not only relating to primary, secondary and tertiary education but also relating to the content of education – also called the social aspect of the right to education. It also deals with the right of parents to choose the education of their children according to their religious and moral convictions and the right to establish private schools – also called the freedom aspect of the right to education. Article 14 also provides for the obligation to set up a plan of action, in case the right to free and compulsory education is not achieved within two years after the ratification of the ICESCR. CESCR furthermore issued two general comments on the right to education: General Comment No 13 on the right to education (Article 13 of the Covenant) and General Comment No 11 on plans of action for primary education (Article 14 of the Covenant). CRC, which is the most widely ratified international human rights treaty, also includes detailed provisions on the right to education. Articles 28 and 29 repeat most of the rights protected under Article 13 of ICESCR, and add even new dimensions to the right to education (including the obligations to provide educational and vocational information, to encourage school attendance, to administer school discipline in conformity with the child's dignity and to promote respect for the natural environment). However, a closer reading of CRC leads to the conclusion that the human rights standards provided by this Convention are lower than those provided by ICESCR (except of course those that are only provided by CRC). To circumvent this problem, CRC includes a savings clause in Article 41, which stipulates that when other international and regional human rights treaties provide for higher human rights standards the latter are applicable. In view of this, the right to education indicators can safely be based only on those human rights treaties that provide for the highest protection.

Regional human rights treaties are also to be considered. These include:

1. in Europe:
 - Protocol 1 to the European Convention of Human Rights
 - the (Revised) European Social Charter
 - the EU Charter of Fundamental Rights
 - the Framework Convention for the Protection of National Minorities
 - the European Charter for Regional or Minority Languages
 - the European Convention on the Legal Status of Migrant Workers
 - the OSCE Helsinki Final Act
2. in the Americas:
 - the Charter of the Organisation of American States
 - the American Convention on Human Rights
 - the American Declaration of the Rights and Duties of Man
 - the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador)
3. in Africa:
 - the African Charter on Human and Peoples' Rights
 - the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
 - the African Charter on the Rights and Welfare of the Child

The human rights standards provided for in these regional human rights treaties further recognise the right to education. Naturally, they only bind those states that are parties to them. This means that two scenarios exist regarding human rights indicators. First, a regional human rights treaty might repeat a right already protected by international human rights treaties. In this case, the fact that a regional instrument confirms that right reinforces it (in the region concerned). Second, the regional human rights treaty might recognise a right that is not provided for in international human rights treaties. It creates then a new right only applicable to those states that are parties to the regional human rights treaty in question. In that case, the indicators relating to this right only concern these states.

A last question is the definition of the term 'education'. The question has two aspects. First, there must be an agreement on the period covered by the levels of education, i.e. primary, secondary and tertiary levels, otherwise it is impossible to evaluate the extent to which they are available. The International Standard Classification of Education (ISCED) has been used as common denominator to determine the duration of these levels of education. Second, the content of education must be defined, which international and regional human rights treaties, in addition to treaty bodies, do. In general, it is considered that education should not only aim at improving basic skills but also at developing the child's personality. This last aspect is dealt with in great detail by the proposed right to education indicators, because this makes the very difference between them and traditional education indicators.

B. 4-A Framework

The right to education indicators are based on the 4-A framework as developed by Katarina Tomaševski, the first UN Special Rapporteur on the right to education. This framework is best suited to identify state obligations relating to the right to education. Although it does not provide a set of right to education indicators as such, it is the ideal stepping stone to their creation, something which Tomaševski herself had in mind when proposing it.

The OHCHR applied the structural-process-outcome indicator model to all human rights, including the right to education. Through the use of this model, it sought to standardise a framework with a view to monitoring compliance with entire human rights treaties. This approach has its merits, because it creates a uniform method of human rights monitoring, which facilitates the task of their future users. However, it might not always be the most appropriate to establish a comprehensive and accurate set of indicators for evaluating compliance with the various aspects of the right being measured. There are, in other words, both advantages and disadvantages in the structural-process-outcome indicator model. While taking a distance from this model, the right to education indicators seek also to benefit as much as possible from these advantages. This project acknowledges therefore the work of the OHCHR and considers that both initiatives are complementary and may strengthen each other. The structural indicators have for instance been taken over by the right to education indicators (mainly in the governance framework). Although they only measure human rights compliance in theory, they are necessary to evaluate the legal and institutional protection of human rights. The division into process and outcome indicators has not been used explicitly, but a balance has been sought between both kinds of indicators within the indicators.

There are three advantages in taking the 4-A framework as starting point to establish right to education indicators. First, indicators based on the 4-A framework are the most closely linked to international human rights law, since this framework appears to be the best way to classify state obligations relating to the right to education. This not only facilitates the creation of a comprehensive and accurate set of right to education indicators but also helps to establish a clear general structure for these indicators. Second, the 4-A framework has proven to be effective in bridging disciplinary gaps, which is especially important considering that indicators stem from the development field. As a result, it has been possible to integrate development concerns into the 4 As, which in turn allowed to take advantage of existing education indicators. Third, the 4-A framework emphasises both the quantitative and qualitative aspects of the right to education, by measuring not only the right to education but also rights *in* education and rights *through* education. In view of this, in contrast to the right to education indicators of the OHCHR, the right to education indicators based on the 4-A framework rely not only on quantitative but also on qualitative data.

The 4 As have been interpreted as follows. First, availability examines whether education is generally available. Second, accessibility focuses on the various obstacles in accessing education. Third, acceptability evaluates the various aspects of the content of education. Fourth, adaptability examines whether education is adapted to the needs of various categories of persons. The 4 As (in addition to the governance framework previously called structural indicators) have been further divided into several headings, as will be outlined later.

Considering the advantages of using the 4-A framework, The Right to Education Project followed the 4 As as strictly as possible. Exceptions have however been made when this multiplies the indicators. One of the major hurdles facing human rights indicators is complexity, which is mainly caused through seeking to make them a perfect intellectual exercise. To avoid this, issues which straddle different As have as a rule not been addressed in several parts of the chart, even if the indicators relating to these issues should in fact have been split into these parts. Whenever possible, such issues are examined comprehensively as soon as relevant. This is however not the case with transversal issues, which will be discussed in the next section. These transversal issues are not only dealt with alongside the other indicators, but also, for two of them, separately. Thus, while the indicators are disaggregated by vulnerable groups, these vulnerable groups are also dealt with as such in the indicators on adaptability. Similarly, accountability issues are examined not only in general in the governance framework but also in relation to particular issues in the indicators on availability, accessibility, acceptability and adaptability.

C. Progressive Realisation

The right to education includes both obligations which are to be realised immediately and obligations which are subject to progressive realisation. The obligation to ensure free and compulsory primary education (including that of establishing a plan of action for this purpose), the prohibition of discrimination in education, the obligation to take steps towards achieving progressively the full realisation of the right to education, the obligation to respect to the choice of parents to choose the education of children according to their religious and moral convictions are for instance immediate obligations. These can also be qualified as 'minimum core obligations' which apply regardless of available resources.¹³ This means that the indicators can be interpreted notwithstanding the results obtained for the same indicators in the past. Most of the obligations relating to the right to education, however, are to be realised progressively according to the maximum available resources of a state. This is for instance the case with the obligation to ensure that secondary and higher educations are made available for free. This also concerns the improvement of the infrastructure of schools, the working conditions of teachers, the quality of education, etc. It is only after having applied the indicators several times that it will be possible to determine if a state has fulfilled its human rights obligations.

Benchmarks can be helpful to track a state's progress in the full realisation of the right to education. The achievement of these benchmarks can then be regularly monitored by the right to education indicators. Establishing benchmarks will especially be necessary

¹³ According to CESCR General Comment No 13 (para. 57) are minimum core obligations in the context of Article 13 of ICESCR the obligations 'to ensure the right of access to public educational institutions and programmes on a non-discriminatory basis; to ensure that education conforms to the objectives set out in article 13 (1); to provide primary education for all in accordance with article 13 (2) (a); to adopt and implement a national educational strategy which includes provision for secondary, higher and fundamental education; and to ensure free choice of education without interference from the State or third parties, subject to conformity with "minimum educational standards" (art. 13 (3) and (4)).' See also F. Coomans, 'In Search of the Core Content of the Right to Education', in A. Chapman and S. Russell (eds), *Core Obligations: Building a Framework for Economic, Social and Cultural Rights* (Antwerp: Intersentia, 2002) 217-246.

to evaluate the extent to which a state is fulfilling its obligation to progressively realise the right to education according to its maximum available resources. Because states have not the same resources at their disposal, the benchmarks will however differ from state to state or even over time in one state. It is also important to provide a proper time framework for them and also to ensure that they are challenging enough while not being unrealistic. Benchmarks – or rather intermediate benchmarks – can also be useful to monitor immediate obligations (which are by themselves benchmarks). While the failure to fulfil the latter violates the right to education, there is no reason to not set intermediate benchmarks to encourage States to gradually reduce this human rights violation. Thus, benchmarks can be established for the entire set of right to education indicators where necessary. Civil society organisations can set these benchmarks in the light of policy commitments and state practice, and put pressure on governments to accept them, while monitoring them with the indicators.

The obligation to progressively realise human rights means that retrogressive measures can only be justified where necessary provided all alternatives have been considered most carefully and bearing in mind the full range of the state's human rights obligations. However, such measures are never tolerated with respect to obligations of immediate nature, the fulfilment of which is easily identified by human rights indicators. This means that retrogressive steps are forbidden with respect to these obligations. States may for instance not increase indirect costs relating to primary education, which is why it is important that right to education indicators examine these costs. Retrogressive measures might also take the form of a withdrawal of support which was available in the past.

States have to progressively realise the right to education according to their maximum available resources. Available resources include not only immediately but also potentially available resources, such as those that states can obtain through taxation and reforms as well as international cooperation and assistance. Human rights compliance will therefore not be evaluated similarly in different states or at different times in one state. The result is that similar indicators might lead to different results depending on the state in which and the time they are applied. The benchmarks will have to take this into account. Medium scores in developed states might therefore indicate a failure to meet human rights obligations, since their resources should allow them to do better. The same scores in developing states might result in human rights compliance, considering their limited capacity to progressively realise the right to education. No improvements in a state that faced a serious decline in its available resources can also be considered positive. In other words, a developed state that improved an already high score might be considered worse than a developing state that improved or maintained a medium score. It is therefore important to know the capacity of the state concerned, and the steps it has taken to supplement inadequate resources, before reaching conclusions.

The obligation to progressively realise human rights raises therefore sensitive questions. Whether the obligation has been fulfilled is always a matter of judgment. The problem is exacerbated through the fact that progressively realisation gives states a certain leeway when implementing human rights. Their freedom is however limited, because they have immediate obligations, which also concerns the right to education. One way to determine if the obligation to progressively realise human rights is fulfilled, besides detecting retrogressive measures, is through budgetary analysis by for instance examining the percentage of a state's GDP allocated to education. This can reveal

whether a state is allocating sufficient resources with a view to progressively achieve the full realisation of the right to education. However, budgetary analysis only provides part of the necessary information, because education must not only be available but also be acceptable and adaptable. In other words, a high budget allocated to education does not guarantee that this budget is used according to international human rights law.

4. Transversal issues

Three transversal issues are dealt with by the right to education indicators. First, the right to education indicators have to be disaggregated in order to capture discrimination in education. Second, they should examine to which extent states respect participatory rights in educational matters. Third, they have to deal with issues relating to accountability, although they already do so by their own nature.

A. Discrimination

Measuring discrimination is probably what most characterises human rights indicators. Indicators which measure the average enjoyment of human rights do not reveal whether states are fulfilling their human rights obligations. The principle of non-discrimination is central to international human rights law when it comes to both civil and political and economic, social and cultural rights. Achieving non-discrimination is not subject to progressive realisation, which means that states violate human rights whenever discriminations take place. According to this, states should – immediately – both prohibit discrimination by law and seek to eliminate discrimination in practice. The right to education, which falls under both civil and political and economic, social and cultural rights, is no exception to this. Many provisions of international human rights treaties moreover explicitly provide for non-discrimination in education.¹⁴ An entire convention is even dedicated to this purpose, namely the UNESCO Convention against Discrimination in Education.

As a result, any discrimination revealed by a human rights indicator will point to a state's failure to meet its human rights obligations, notwithstanding the average enjoyment of human rights in that state. As already mentioned, this is one of the main differences between education and right to education indicators. For this reason, measuring the extent to which discrimination exists in the realisation of human rights is essential when developing human rights indicators. This can be achieved by disaggregating these indicators as much as possible, which does not prevent from dealing with vulnerable groups also separately.

However, disaggregation is more difficult in practice than in theory for three reasons. First, it is a costly operation, which is the main reason why data has not been much disaggregated so far. The more data is disaggregated, the more information is required at the individual level. So far disaggregated data have mostly been gathered in the field of gender discrimination. However, to measure compliance with human rights, it is necessary to also provide data on their enjoyment by other vulnerable groups, failing which the right to education indicators will not be effective. Second, disaggregation

¹⁴ See Article 5 (e) (v), ICERD; Article 10 (b), CEDAW; Article 24 (1), CRPD.

requires that vulnerable groups be identified. While this might be easy for some categories which are determined on objective criteria, such as gender and age, others depend on less apparent criteria, such as ethnic and race. Inquiring about this could also be considered as a violation of the right to privacy in some states and therefore be impossible to do. In addition, the identification of a group as a minority should always be in accordance with that group's own interpretation of their status, as they may not wish to be defined as a minority or as a vulnerable group. The onus is then on the data collector to respect this view while also facilitating the non-discriminatory enjoyment of their human rights, to education and in general. Third, governments are reluctant to disaggregate data, or communicate these data when they have them, since this will show whether human rights are really enjoyed in the state. It will trigger swift reactions from the vulnerable groups discriminated against (and those organisations defending them) and promptly confront states with their failure to meet their human rights obligations.

In order to identify discriminations, the data on which the indicators rely should be disaggregated by vulnerable groups. It requires therefore applying the indicators to various categories, which narrows down the indicators. A distinction can be made between categories by which indicators should in principle always be disaggregated and categories by which this should be done depending on the situation. The former categories are essential to all indicators, except in certain cases when they are irrelevant, whereas the latter categories have to be included only under certain conditions. It should be noted that some indicators are already disaggregated from the start, because they focus as such on vulnerable groups. These indicators should however be further disaggregated by other specific categories.

The following categories at least are central to the development of right to education indicators:

- gender
- geographic region
- rural/urban
- minority
- income

The gender category is self-explanatory. Girls are particularly discriminated in education around the world, which has widely been acknowledged in recent years. The region category aims to detect geographic differentiation, which is especially important when regional governments have education in their attributions, such as in decentralised or federal states. The rural/urban category is essential, because education is in general worse in rural than in urban areas. The minority category is also necessary to examine discriminations against minority groups. This category will however have to be further defined according to the state under examination. Minorities could for instance be linguistic, ethnic, non-national, cultural, religious, or other. In states which include indigenous peoples, education indicators should also be disaggregated to reflect those belonging to indigenous peoples. The income category is essential, because low income happens to be one of the major obstacles to access education.

Additional discrimination grounds can be taken into account. These include:

- age
- language
- race

- religion
- social status and level of income
- official status (i.e. regular or irregular migrant, refugee, citizen etc.)
- origin
- disability
- sexual orientation
- opinion

Whether the aforementioned discrimination grounds must be included depends on three factors. First, as is the case with minorities, certain categories might be present or relevant in some states but not in others. For instance, in many states, developed countries in particular, indicators will especially have to be disaggregated by official status, as irregular migrants or rejected asylum seekers often face particular barriers to realising their right to education. Second, some indicators are more sensitive to certain categories than others. Since fundamental education should be available regardless of age, indicators relating to this should be disaggregated by age in particular. Third, disaggregating indicators by the aforementioned discrimination grounds will depend on the choice of their users to focus on certain vulnerable groups. Remembering that disaggregation has a cost, the indicators might be applied to evaluate only their enjoyment of the right to education.

Another category included is the distinction into primary, secondary and tertiary education levels. This category is of a different nature, because it does not regard discrimination, but examines to which extent the state gives priority to these individual education levels. It has nonetheless been inserted under discrimination, since doing otherwise would have multiplied most of the indicators by three. This would have made the chart much longer, with the risk of discouraging their future use.

Indicators should also address multiple – or intersectional – discriminations. Multiple discriminations take place when vulnerable people are discriminated several times because they belong simultaneously to different categories. An example is girls living in rural areas (which belong thus to both the female and rural categories). It is therefore necessary to disaggregate again indicators which are already disaggregated. Indicators that have been disaggregated by specific categories have thus to be disaggregated once more by other categories. This operation could be called “multiple disaggregation”. Although the operation is costly, it is the most effective way of holding states accountable for meeting their human rights obligations.

This is a simple (and fictional) example:

- NER for primary school: 60 %
- Disaggregated by gender: 40 % (female) / 80 % (male)
- Disaggregated by rural/urban: 30 % (rural) 50 % (urban) (female) / 70 % (urban) 90 % (urban) (male)

This means that 60 % children go to primary school, 40 % girls go to primary school, and 30 % girls in rural areas go to primary school. As a result, girls living in rural areas are the most discriminated group in achieving primary education (in contrast to boys living in urban areas). How many times this operation must take place is a question to be determined for each indicator.

B. Participation

A cross-cutting procedural right is the right to participate in decisions which affect the realisation of human rights. This concerns the right to education more than any human right. Participation leads to empowerment, because it allows people to contribute to their own development, which can be achieved by education. Moreover, participation in public affairs is a right protected by international human rights law.¹⁵ Its importance has also been stressed by several human rights bodies, including the CRC Committee, which often reminds states of the importance of children's participation in education. CRC further provides that children should have the opportunity to express their views freely in all matters concerning them.¹⁶ Participation can therefore be considered as procedural requirement which determines how states should implement the right to education. In other words, it is both a means for and an end in achieving the right to education.

Participation in education concerns various actors, including not only parents, teachers and community leaders but also children, whose participation was often considered accessory in the past. In view of this, provision should be made to ensure that children have the opportunity to express their views on educational policies. Education does therefore no longer belong exclusively to adults but also to its recipients, i.e. mainly children. This does not mean that children's views should be given priority, but that they should at least be balanced with those of the adults responsible for their education. To do so, special procedures must be put in place allowing children to participate in a way that takes their age into account. This requires that states not only legally protect their participatory rights but also create institutional mechanisms which are child-friendly.

The indicators deal with participation not separately, but rather examine, as far as possible, respect for participatory rights alongside the other indicators. As mentioned above, participation in education concerns different actors, although that of children is emphasised in the proposed right to education indicators. The indicators not only evaluate whether children have the possibility to be involved in decision-making but also whether special procedures are created for this. However, participation is only examined with respect to certain issues, which have been determined with the aid of the concluding observations of treaty bodies, the CRC Committee in particular. Thus, respect for participatory rights is dealt with in relation to five issues. The chart will nonetheless make it possible to consider participation in education in relation to other issues later on, since participation is a transversal issue.

The five issues for which participatory rights are highlighted are the following:

- Education curriculum
- Discipline
- School attendance
- Minority rights
- Plans of action

¹⁵ According to Article 25 of the ICCPR, citizens have the right '[t]o take part in the conduct of public affairs, directly or through freely chosen representatives'.

¹⁶ According to Article 12 (1) of the CRC, '[s]tates Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child'.

First, people have the right to take part in defining education curricula. This not only applies to general courses but also – and above all – to the language of instruction, which may be different from the maternal language, and the degree and content of any possible religious instruction, which should take the convictions of both parents and children into account. Second, children should be allowed to personally respond to disciplinary sanctions. They should be heard in any administrative proceeding affecting them, as provided by CRC.¹⁷ Since this issue is closely related to complaints mechanisms, it has however been considered under accountability. Third, since education should be adaptable, both parents and children, but also the communities to which they belong, should be given the opportunity to express themselves on the strategies adopted with a view to encouraging school attendance and reducing drop-out rates. Fourth, minorities have the right to express themselves in order to ensure that their needs are taken into account in educational matters. Fifth, plans of action require strong ownership, which can only be achieved through the participation of relevant stakeholders.

Participation is mainly a qualitative issue. Although some of its aspects can be counted, it principally requires information taking a narrative form. The only way of measuring whether concerned people have the possibility to participate meaningfully in education is through making appreciations. There are two questions on which indicators can focus to measure participatory rights. First, indicators can evaluate whether states have created special procedures allowing children, parents and community leaders to participate. These procedures should have as purpose to consult them when making decisions on educational matters. Second, indicators can evaluate whether school personnel is sufficiently trained in promoting participatory rights. Indicators can for instance examine whether training helps them to adopt participatory approaches in and outside classes.

C. Accountability

As mentioned earlier, education has so far been measured mainly from a development perspective. Education as a development goal took precedence over education as a right, which left little room for right to education indicators. The latter however allow actors to hold duty-bearers accountable for their human rights obligations. Duty-bearers are mainly states, but can also be international organisations and individuals. However, the proposed right to education indicators focus exclusively on states – at least at this stage of their development – because they are principally responsible for implementing human rights.

As with human rights indicators in general, addressing accountability is one of the most important characteristic of the right to education indicators. The latter are closely related to accountability, because they help actors to question governments in relation to their human rights obligations. Provided they are based on international human rights law, they can be a tool for identifying a state's failure to progressively realise human rights. The indicators not only hold states accountable for their human rights obligations by

¹⁷ According to Article 12 (3) of the CRC, 'the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body'.

their own nature, but can also evaluate whether they established appropriate accountability mechanisms. They can also examine legal protection, including not only the ratification of international and regional human rights treaties but also the enactment of domestic legislation protecting human rights.

The right to education indicators deal thus with accountability in three ways. First, they are by definition related to accountability. Any properly created set of human rights indicators is a means to hold states accountable for their human rights obligations. Not only to the proposed right to education indicators but also the two other transversal issues being dealt with, which are discrimination and participation, have this function. Second, the governance framework specifically relates to accountability. By evaluating legal protection, plans of actions, monitoring mechanisms, and budget, these indicators examine whether states created proper institutions with a view to making their human rights commitments effective. Third, specific indicators address accountability as a transversal issue, i.e. alongside the other indicators. This guarantees that accountability is again addressed everywhere relevant in the chart.

The specific indicators relating to accountability (falling thus under the third category) deal with the following issues:

- Legal protection
- Monitoring mechanisms
- Complaints Mechanisms

These specific indicators aim to examine whether states have taken steps which allow citizens to hold them accountable for their obligations relating to the right to education. They do so not in general, like in the governance framework, but in relation to those particular issues that are being dealt with by the indicator to which they are related. In other words, the accountability issues which are addressed in the governance framework are refined through the specific indicators. As far as possible, it is ensured that both the governance framework and the specific indicators do not overlap, but complement each other.

5. Methodology

The right to education indicators have been established in three steps. First, human rights standards were classified in a general structure based on the 4-A framework. Second, this general structure was turned into a chart with the right to education indicators. Third, information for their users was made available in the footnotes and in a User's Guide.

The first step was to classify right to education standards into a general structure based on the 4-A framework. These standards had then to be linked to indicators, which was done through translating human rights concepts into measurable units. This required that the right to education standards were first clearly understood, the purpose of which was to ensure that every single aspect of the right to education was covered in the general structure. To make the general structure as didactic as possible, as already mentioned, those issues that straddled different As were as a rule not dealt with at different places but were fully dealt with as soon as relevant. The only exception to this is the three aforementioned transversal issues which are addressed with respect to all the

right to education indicators. Another aspect is that expressions used in human rights treaties were not always literally taken over by the right to education indicators. Most of the future users of the indicators are not human rights lawyers which understand the correct meaning of these expressions. In addition, some human rights concepts are difficultly measurable, at least in the way they are framed in international and regional human rights treaties. The translation process of human rights concepts into measurable units required that the indicators rather use the concrete and understandable sense of these human rights concepts. Priority was therefore given as much as possible to the usual sense of human rights concepts.

The second step was to turn the general structure (which was only an intermediary step) into a chart with the right to education indicators. The chart is composed of five parts: governance framework, indicators on availability, indicators on accessibility, indicators on acceptability and indicators on adaptability. Each part has been divided into several headings which were identified according to international human rights law. The headings of the five parts are the following:

Governance Framework:

- Normative framework
- Educational policy
- Plan of action
- Recourses
- Monitoring
- Budget
- International assistance and cooperation

Availability indicators:

- Early childhood care and education
- Primary education
- Secondary education (including training and vocational education)
- Tertiary education (including training and vocational education)
- Fundamental education
- Adult basic and literacy education
- Educational and vocational information and guidance
- Private schools
- Closing schools
- School infrastructure
- Working conditions of teachers

Accessibility indicators:

- Physical obstacles
- Economic obstacles
- Administrative obstacles
- Gender obstacles
- Socio-cultural obstacles
- Out-of-school children

Acceptability indicators:

- Skills
- Tolerance

- Qualification of teachers
- Gender
- Discipline
- Religion
- Language

Adaptability indicators:

- Child labour
- Child soldiers
- Minorities
- Disabled
- Prisoners
- Armed conflict

The five parts of the chart are outlined in individual documents. Under each heading figures a list of right to education indicators. In order to facilitate the future use of the indicators, it has been made sure that these indicators clearly provide what kind of response is needed for their application. This was part of the exercise to make the right to education indicators user-friendly. Depending on the kind of data required, responses can take the form of percentages, ratios, yes or no answers, or a choice in a list or open responses. Where different answers are possible, a non-exhaustive list of answers has been provided by the indicator. The indicators have also taken advantage of existing education indicators. This particularly concerns the indicators on availability, which use a certain number of education indicators (which are supplemented by data linked to the right to education through disaggregation). Where sufficiently related to international human rights law, the terminology of the education indicators has been taken over by the right to education indicators in order to make clear what the latter are measuring. The chart has furthermore been divided into five columns. While the first two columns list the headings and the indicators, respectively, the three last columns deal with the three transversal issues (which are discrimination, participation and accountability). One column disaggregates the indicator by those categories that are enumerated in this column. The two other columns examine participation and accountability. As mentioned earlier, these two transversal issues have only been addressed with respect to certain issues, which is why they are not dealt with in relation to every single indicator. In this way, the transversal issues are addressed in vertical columns which run up the side of all indicators.

The third step was to make the right to indicators workable, which has been done in two ways. First, the indicators themselves include footnotes which provide information for their future users. The footnotes under each indicator refer to the provisions of international and regional human rights treaties on which the indicator is based and to the other indicators to which the indicator is related. The full text of the provisions referred to are available in the Annex to this Concept Paper. The purpose of the references to related indicators is to help actors to contextualise the indicators in order to reach balanced conclusions. Second, User's Guides will have to be elaborated to help future users to correctly apply the right to education indicators. It explains what information is necessary to use the indicators, how their results should be interpreted, the prioritisation process they should undergo as well as the actors potentially involved in the testing phase.

6. Application

To increase the chances of applying the right to education indicators, conceptual issues relating to their application have to be discussed at the first stage of their development. These issues include the purposes of the indicators, the importance of their application, and data availability, which is maybe the most difficult question with respect to human rights indicators.

The main purpose of human rights indicators is to help actors to monitor compliance with human rights treaties. They can help actors to identify a state's human rights violations and evaluate its progress in the full realisation of human rights. As mentioned earlier, human rights indicators can hold duty-bearers accountable for their human rights obligations. In view of this, they can help actors to make recommendations to governments so that they improve their human rights record. This can lead a concrete dialogue with state authorities on how to reach this objective, which can be furthered by establishing benchmarks the achievement of which can be evaluated by the human rights indicators. Human rights indicators can also be useful in judicial proceedings, by informing courts on human rights issues before they make their decisions. Statistical data helped for instance the European Court of Human Rights in solving alleged cases of discrimination in the *D.H. and others v. Czech Republic* case.¹⁸

The proposed right to education indicators have also been established with another purpose in mind, which appears less to be an issue in other sets of human rights indicators. This is to help their future users to better understand state obligations relating to the right to education. The right to education indicators have thus been considered a promotion tool as such, which is also why importance has been attached to make them intelligible and user-friendly. As already mentioned, it should be kept in mind that the indicators will often be used by non human rights lawyers. This requires a certain extent of vulgarisation (which does not mean that the indicators are not strictly based on international human rights law), which requires that the human rights indicators use an understandable language. One of the purposes of the indicators is thus to provide actors with a clear picture of the right to education and to enable them to ask relevant questions to governments.

Another important aspect of human rights indicators is the importance to apply them. This might sound obvious, but it happens that most of the sets of human rights indicators have never been tested in reality. Avoiding this scenario is another reason why it is important to make the right to education indicators as user-friendly as possible. Application is not only necessary to avoid creating purely theoretical indicators but also for the development of the human rights indicators as such. Human rights indicators are a learning-by-doing instrument, in that they should be adapted continuously after their application, which is a requisite to make them useful. They should raise comments from their users, which should subsequently lead to their adaptation so as to make them more operational. In view of this, they should be applied repeatedly, which is also necessary to track a state's progress in the full realisation of human rights.

The last question which should be dealt with is data availability. This is probably the most delicate questions with respect to human rights indicators. On the one hand,

¹⁸ ECtHR *D.H. and others v. Czech Republic* (57325/00), 13 November 2007.

human rights indicators must not overly be determined by the data that are available. They must primarily be established according to international and regional human rights treaties. Human rights indicators should also be an incentive to collect human rights-related data and to disaggregate available data by vulnerable groups. On the other hand, considering data availability is a necessary step to make sure the indicators can effectively be applied. Some data can simply not be provided or will not be collected because this can only be done at an overly disproportionate cost. However, the right to education indicators were exclusively guided by the international legal framework in the first stage of their development. Only later will they be contrasted with the availability of data to develop a workable framework.

ANNEX

Article 55, Charter of the United Nations

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

1. higher standards of living, full employment, and conditions of economic and social progress and development;
2. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
3. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56, Charter of the United Nations

All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.

Article 2, Universal Declaration of Human Rights (UDHR)

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status...

Article 26, Universal Declaration of Human Rights (UDHR)

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 5, International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race,

colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- (e) Economic, social and cultural rights, in particular:
- (v) The right to education and training;

Article 2, International Covenant on Civil and Political Rights (ICCPR)

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 6, International Covenant on Civil and Political Rights (ICCPR)

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 7, International Covenant on Civil and Political Rights (ICCPR)

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 9, International Covenant on Civil and Political Rights (ICCPR)

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 18, International Covenant on Civil and Political Rights (ICCPR)

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19, International Covenant on Civil and Political Rights (ICCPR)

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 19, International Covenant on Civil and Political Rights (ICCPR)

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 22, International Covenant on Civil and Political Rights (ICCPR)

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 26, International Covenant on Civil and Political Rights (ICCPR)

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

Article 2, International Covenant on Economic, Social and Cultural Rights (ICESCR)

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 4, International Covenant on Economic, Social and Cultural Rights (ICESCR)

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 6, International Covenant on Economic, Social and Cultural Rights (ICESCR)

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7, International Covenant on Economic, Social and Cultural Rights (ICESCR)

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

- (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Article 8, International Covenant on Economic, Social and Cultural Rights (ICESCR)

- 1. The States Parties to the present Covenant undertake to ensure:
 - (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;
 - (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.
- 2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.
- 3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9, International Covenant on Economic, Social and Cultural Rights (ICESCR)

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 12, International Covenant on Economic, Social and Cultural Rights (ICESCR)

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13, International Covenant on Economic, Social and Cultural Rights (ICESCR)

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
 - (a) Primary education shall be compulsory and available free to all;
 - (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
 - (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
 - (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14, International Covenant on Economic, Social and Cultural Rights (ICESCR)

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 23, International Covenant on Economic, Social and Cultural Rights (ICESCR)

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 10, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

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

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same Opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 2, Convention on the Rights of the Child (CRC)

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 4, Convention on the Rights of the Child (CRC)

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

Article 24, Convention on the Rights of the Child (CRC)

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- (a) To diminish infant and child mortality;
- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
- (c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
- (d) To ensure appropriate pre-natal and post-natal health care for mothers;
- (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
- (f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 28, Convention on the Rights of the Child (CRC)

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

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- (d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29, Convention on the Rights of the Child (CRC)

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30, Convention on the Rights of the Child (CRC)

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 38, Convention on the Rights of the Child (CRC)

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

Article 1, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

Article 30, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)

Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.

Article 5, Convention on the Rights of Persons with Disabilities (CRPD)

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.

2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.

4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

Article 24, Convention on the Rights of Persons with Disabilities (CRPD)

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:

(a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

(b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;

(c) Enabling persons with disabilities to participate effectively in a free society.

2. In realizing this right, States Parties shall ensure that:

(a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

(b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;

(c) Reasonable accommodation of the individual's requirements is provided;

(d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;

(e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

(a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;

(b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;

(c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without

discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

Rule 38, Rules for the Protection of Juveniles Deprived of their Liberty

Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided outside the detention facility in community schools wherever possible and, in any case, by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty. Special attention should be given by the administration of the detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education.

Rule 39, Rules for the Protection of Juveniles Deprived of their Liberty

Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes.

Article 40, Standard Minimum Rules for the Treatment of Prisoners

Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

Article 77, Standard Minimum Rules for the Treatment of Prisoners

1. Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.
2. So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

Article 22, Convention relating to the Status of Refugees

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.
2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

Article 38, Geneva Convention Relative to the Treatment of Prisoners of War

While respecting the individual preferences of every prisoner, the Detaining Power shall encourage the practice of intellectual, educational, and recreational pursuits, sports and games amongst prisoners, and shall take the measures necessary to ensure the exercise thereof by providing them with adequate premises and necessary equipment.

Article 50, Geneva Convention relative to the Protection of Civilian Persons in Time of War

The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.

...

Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.

Article 14, Declaration on the Rights of Indigenous Peoples

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

UNESCO Convention against Discrimination in Education

Declaration on the Rights of Indigenous Peoples

ILO Minimum Age Convention

ILO Worst Forms of Child Labour Convention

ILO Indigenous and Tribal Peoples Convention

UNESCO Recommendation against Discrimination in Education

UNESCO Convention on Technical and Vocational Education

UNESCO Revised Recommendation concerning Technical and Vocational Education

ILO/UNESCO Recommendation concerning the Status of Teachers

UNESCO Recommendation concerning the Status of Higher Education Teaching Personnel

UNESCO Recommendation on Education for International Understanding and Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms

UNESCO Recommendation on the Development of Adult Education

Principles relating the Status and Functioning of National Institutions for Protection and Promotion of Human Rights (The Paris Principles)

Article 2, Protocol 1 to the European Convention on Human Rights

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

Article 7, (Revised) European Social Charter

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;

Article 17, (Revised) European Social Charter

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

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

Article 13, Framework Convention for the Protection of National Minorities

1. Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.

2. The exercise of this right shall not entail any financial obligation for the Parties.

Article 14, Framework Convention for the Protection of National Minorities

1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.
3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.

Article 8, European Charter for Regional or Minority Languages

With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:

- a
 - i to make available pre-school education in the relevant regional or minority languages; or
 - ii to make available a substantial part of pre-school education in the relevant regional or minority languages; or
 - iii to apply one of the measures provided for under i and ii above at least to those pupils whose families so request and whose number is considered sufficient; or
 - iv if the public authorities have no direct competence in the field of pre-school education, to favour and/or encourage the application of the measures referred to under i to iii above;
- b
 - i to make available primary education in the relevant regional or minority languages; or
 - ii to make available a substantial part of primary education in the relevant regional or minority languages; or
 - iii to provide, within primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or
 - iv to apply one of the measures provided for under i to iii above at least to those pupils whose families so request and whose number is considered sufficient;
- c
 - i to make available secondary education in the relevant regional or minority languages; or

ii to make available a substantial part of secondary education in the relevant regional or minority languages; or

iii to provide, within secondary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

iv to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;

d

i to make available technical and vocational education in the relevant regional or minority languages; or

ii to make available a substantial part of technical and vocational education in the relevant regional or minority languages; or

iii to provide, within technical and vocational education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum; or

iv to apply one of the measures provided for under i to iii above at least to those pupils who, or where appropriate whose families, so wish in a number considered sufficient;

e

i to make available university and other higher education in regional or minority languages; or

ii to provide facilities for the study of these languages as university and higher education subjects; or

iii if, by reason of the role of the State in relation to higher education institutions, sub-paragraphs i and ii cannot be applied, to encourage and/or allow the provision of university or other forms of higher education in regional or minority languages or of facilities for the study of these languages as university or higher education subjects;

f

i to arrange for the provision of adult and continuing education courses which are taught mainly or wholly in the regional or minority languages; or

ii to offer such languages as subjects of adult and continuing education; or

iii if the public authorities have no direct competence in the field of adult education, to favour and/or encourage the offering of such languages as subjects of adult and continuing education;

g to make arrangements to ensure the teaching of the history and the culture which is reflected by the regional or minority language;

h to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party;

i to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.

2 With regard to education and in respect of territories other than those in which the regional or minority languages are traditionally used, the Parties undertake, if the number of users of a regional or minority language justifies it, to allow, encourage or provide teaching in or of the regional or minority language at all the appropriate stages of education.

Article 14, European Convention on the Legal Status of Migrant Workers

1. Migrant workers and members of their families officially admitted to the territory of a Contracting Party shall be entitled, on the same basis and under the same conditions as national workers, to general education and vocation training and retraining and shall be granted access to higher education according to the general regulations governing admission to respective institutions in the receiving State.

2. To promote access to general and vocational schools and to vocational training centres, the receiving State shall facilitate the teaching of its language or, if there are several, one of its languages to migrant workers and members of their families.

3. For the purpose of the application of paragraphs 1 and 2 above, the granting of scholarships shall be left to the discretion of each Contracting Party which shall make efforts to grant the children of migrant workers living with their families in the receiving State – in accordance with the provisions of Article 12 of this Convention – the same facilities in this respect as the receiving State's nationals.

4. The workers' previous attainments, as well as diplomas and vocational qualifications acquired in the State of origin, shall be recognised by each Contracting Party in accordance with arrangements laid down in bilateral and multilateral agreements.

5. The Contracting Parties concerned, acting in close co-operation shall endeavour to ensure that the vocational training and retraining schemes, within the meaning of this Article, cater as far as possible for the needs of migrant workers with a view to their return to their State of origin.

Article 14, EU Charter of Fundamental Rights

1. Everyone has the right to education and to have access to vocational and continuing training.

2. This right includes the possibility to receive free compulsory education.

3. The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right.

OSCE Helsinki Final Act

Article 49, Charter of the Organization of American States

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

- a) Elementary education, compulsory for children of school age, shall also be offered to all others who can benefit from it. When provided by the State it shall be without charge;
- b) Middle-level education shall be extended progressively to as much of the population as possible, with a view to social improvement. It shall be diversified in such a way that it meets the development needs of each country without prejudice to providing a general education; and
- c) Higher education shall be available to all, provided that, in order to maintain its high level, the corresponding regulatory or academic standards are met.

Article 50, Charter of the Organization of American States

The Member States will give special attention to the eradication of illiteracy, will strengthen adult and vocational education systems, and will ensure that the benefits of culture will be available to the entire population. They will promote the use of all information media to fulfill these aims.

Article 26, American Convention on Human Rights (Pact of San José)

The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.

Article XII, American Declaration of the Rights and Duties of Man

Every person has the right to an education, which should be based on the principles of liberty, morality and human solidarity. Likewise every person has the right to an education that will prepare him to attain a decent life, to raise his standard of living, and to be a useful member of society. The right to an education includes the right to equality of opportunity in every case, in accordance with natural talents, merit and the desire to utilize the resources that the state or the community is in a position to provide. Every person has the right to receive, free, at least a primary education.

Article 7, Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador)

f. The prohibition of night work or unhealthy or dangerous working conditions and, in general, of all work which jeopardizes health, safety, or morals, for persons under 18 years of age. As regards minors under the age of 16, the work day shall be subordinated to the provisions regarding compulsory education and in no case shall work constitute an impediment to school attendance or a limitation on benefiting from education received;

Article 13, Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador)

1. Everyone has the right to education.

2. The States Parties to this Protocol agree that education should be directed towards the full development of the human personality and human dignity and should strengthen respect for human rights, ideological pluralism, fundamental freedoms, justice and peace. They further agree that education ought to enable everyone to participate effectively in a democratic and pluralistic society and achieve a decent existence and should foster understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups and promote activities for the maintenance of peace.

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

a. Primary education should be compulsory and accessible to all without cost;

b. Secondary education in its different forms, including technical and vocational secondary education, should be made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education;

c. Higher education should be made equally accessible to all, on the basis of individual capacity, by every appropriate means, and in particular, by the progressive introduction of free education;

d. Basic education should be encouraged or intensified as far as possible for those persons who have not received or completed the whole cycle of primary instruction;

e. Programs of special education should be established for the handicapped, so as to provide special instruction and training to persons with physical disabilities or mental deficiencies.

4. In conformity with the domestic legislation of the States Parties, parents should have the right to select the type of education to be given to their children, provided that it conforms to the principles set forth above.

5. Nothing in this Protocol shall be interpreted as a restriction of the freedom of individuals and entities to establish and direct educational institutions in accordance with the domestic legislation of the States Parties.

Article 17, African Charter on Human and Peoples' Rights

1. Every individual shall have the right to education.

Article 12, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

1. States Parties shall take all appropriate measures to:

- a) eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training;
- b) eliminate all stereotypes in textbooks, syllabuses and the media, that perpetuate such discrimination;
- c) protect women, especially the girl-child from all forms of abuse, including sexual harassment in schools and other educational institutions and provide for sanctions against the perpetrators of such practices;
- d) provide access to counselling and rehabilitation services to women who suffer abuses and sexual harassment;
- e) integrate gender sensitisation and human rights education at all levels of education curricula including teacher training.

2. States Parties shall take specific positive action to:

- a) promote literacy among women;
- b) promote education and training for women at all levels and in all disciplines particularly in the fields of science and technology;
- c) promote the enrolment and retention of girls in schools and other training institutions and the organisation of programmes for women who leave school prematurely.

Article 11, African Charter on the Rights and Welfare of the Child

1. Every child shall have the right to an education.

2. The education of the child shall be directed to:

- (a) the promotion and development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) fostering respect for human rights and fundamental freedoms with particular reference to those set out in the provisions of various African instruments on human and peoples' rights and international human rights declarations and conventions;
- (c) the preservation and strengthening of positive African morals, traditional values and cultures;

(d) the preparation of the child for responsible life in a free society, in the spirit of understanding tolerance, dialogue, mutual respect and friendship among all peoples ethnic, tribal and religious groups;

(e) the preservation of national independence and territorial integrity;

(f) the promotion and achievements of African Unity and Solidarity;

(g) the development of respect for the environment and natural resources;

(h) the promotion of the child's understanding of primary health care.

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

(a) provide free and compulsory basic education;

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

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

(d) take measures to encourage regular attendance at schools and the reduction of drop-out rates;

(e) take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community.

4. States Parties to the present Charter shall respect the rights and duties of parents, and where applicable, of legal guardians to choose for their children's schools, other than those established by public authorities, which conform to such minimum standards may be approved by the State, to ensure the religious and moral education of the child in a manner with the evolving capacities of the child.

5. States Parties to the present Charter shall take all appropriate measures to ensure that a child who is subjected to schools or parental discipline shall be treated with humanity and with respect for the inherent dignity of the child and in conformity with the present Charter.

6. States Parties to the present Charter shall have all appropriate measures to ensure that children who become pregnant before completing their education shall have an opportunity to continue with their education on the basis of their individual ability.

7. No part of this Article shall be construed as to interfere with the liberty of individuals and bodies to establish and direct educational institutions subject to the observance of the principles set out in paragraph I of this Article and the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the States.