



United Nations  
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# Guidelines to strengthen the right to education in national frameworks

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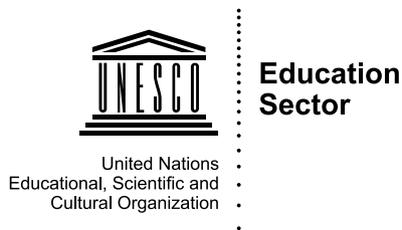
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Guidelines to strengthen the right  
to education in national frameworks

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### UNESCO Education Sector

Education is UNESCO's top priority because it is a basic human right and the foundation on which to build peace and drive sustainable development. UNESCO is the United Nations' specialized agency for education and the Education Sector provides global and regional leadership in education, strengthens national education systems and responds to contemporary global challenges through education with a special focus on gender equality and Africa.



### The Global Education 2030 Agenda

UNESCO, as the United Nations' specialized agency for education, is entrusted to lead and coordinate the Education 2030 Agenda, which is part of a global movement to eradicate poverty through 17 Sustainable Development Goals by 2030. Education, essential to achieve all of these goals, has its own dedicated Goal 4, which aims to *"ensure inclusive and equitable quality education and promote lifelong learning opportunities for all."* The Education 2030 Framework for Action provides guidance for the implementation of this ambitious goal and commitments.



## Foreword

The realization of the right to education is under threat. Everywhere, the COVID-19 pandemic has hit the most vulnerable and marginalized the hardest, affecting 1.6 billion learners at its peak, when the majority of the world's schools were shut. It has widened inequalities and could erode hard-won decades of progress. According to UNESCO's estimates, about 24 million children and youth from pre-primary to tertiary education are at risk of drop out because of the pandemic's economic impact alone. This aggravates a pre-existing learning crisis. In his policy brief released in August 2020, the United Nations Secretary-General warned that we face a "generational catastrophe," with cascading effects across all the sustainable development agenda.

We have a responsibility not to let this happen. Education, is a fundamental human right: this is the cardinal principle guiding all our actions. It underpins the Education 2030 Agenda, by which countries pledged to "ensure inclusive and equitable quality education and to promote lifelong learning opportunities for all." It is also the bedrock of more inclusive and sustainable societies. Now is the time to accelerate implementation of the right to education, taking into account all the barriers holding it back, from social to economic to digital. Indeed, the right to education is increasingly linked to the right to connectivity. It is estimated that close to one third of the student population – close to 500 million – had no access to remote learning solutions during the pandemic. No education system was prepared to withstand the shock of this crisis.

Instead, the pandemic obliges us to rethink the preparedness of education systems in a more holistic way, and to build back on more inclusive, fair and resilient ground. It is essential to strengthen the foundations of the right to education at national level. This implies that governments adopt rights-based and inclusive approaches to their institutional, legal and education policy frameworks to ensure that no one is left behind, because every learner counts.

These timely Guidelines were developed precisely with the aim to assist countries and stakeholders to conduct assessments of their national education legal and policy frameworks. The first edition was published in 2014. Today, more than being just a revision, the new Guidelines have been entirely re-designed and re-written to reflect the new context, trends and challenges. They build on the new knowledge we produced, capitalize on the work carried out in countries, and use improved methodological tools.

During the extraordinary Global Education Meeting convened by UNESCO in October 2020, Member States committed to protect and invest in education as an imperative to ensure a more just, inclusive and sustainable future. More than ever, I am determined to ensure that the right to education, which is an integral part of UNESCO's mission, is fully protected, respected and fulfilled in all circumstances. I trust these Guidelines will provide useful insights and step-by-step guidance to ensure the 2030 Education Agenda adopted five years ago translates into a future of respect, dignity and opportunity for every human being.



Stefania Giannini  
Assistant Director-General for Education, UNESCO

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# Abbreviations and acronyms

**CADE** - Convention against Discrimination in Education

**CEDAW** - Convention on the Elimination of All Forms of Discrimination against Women

**CEDAW Committee** - Committee on the Elimination of All Forms of Discrimination against Women

**CERD** - Committee on the Elimination of Racial Discrimination

**CESCR** - Committee on Economic, Social and Cultural Rights

**CLADE** - Latin American Campaign for the Right to Education (*Campaña Latinoamericana por el Derecho a la Educación*)

**CMW** - Committee on Migrant Workers

**CRC** - Convention on the Rights of the Child

**CRC Committee** - Committee on the Rights of the Child

**CRIN** - Child Rights Information Network

**CRPD** - Convention on the Rights of Persons with Disabilities

**CRPD Committee** - Committee on the Rights of Persons with Disabilities

**FFA** – Framework for Action

**GC** – General Comment

**GDP** – Gross Domestic Product

**GR** – General Recommendation

**GEMR** - Global Education Monitoring Report

**HRBA** – human rights-based approach

**HRC** - Human Rights Committee

**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

**ICRMW** - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

**IHRL** - international human rights law

**ILO** - International Labour Organization

**LGBTQI** - lesbian, gay, bisexual, transgender, queer or questioning, and intersex

**OECD** - Organization for Economic Co-operation and Development

**OEI** - Organization of Ibero-American States (*Organización de Estados Iberoamericanos*)

**OHCHR** - United Nations Office of the High Commissioner for Human Rights

**RTE** - Right to Education Initiative

**SDGs** - Sustainable Development Goals

**SDG 4** - Sustainable Development Goal 4

**TVET** - technical and vocational education and training

**UDHR** - Universal Declaration of Human Rights

**UN** - United Nations

**UNDRIP** - United Nations Declaration on the Rights of Indigenous Peoples

**UNESCO** - United Nations Educational, Scientific and Cultural Organization

**UNESCO IIEP** - UNESCO International Institute for Educational Planning

**UNESCO UIL** - UNESCO Lifelong Learning Institute

**UNESCO UIS** - UNESCO Institute for Statistics

**UNEVOC** - UNESCO International Centre for Technical and Vocational Education and Training

**UNICEF** - United Nations Children's Fund

**UPR** - Universal Periodic Review

# Introduction

## Context

Accelerating the fulfilment of the right to education for all is one of the major challenges faced today, with the target date for achieving the Education 2030 agenda, in light of Sustainable Development Goal 4 (SDG 4), fast approaching. Millions of children and adolescents worldwide remain out of school and many others are deprived of educational opportunities as a result of many economic, social and cultural barriers, as well as a lack of quality education conditions. Confronted with this reality, Member States are increasingly seeking ways and means to step up efforts to ensure their national systems and frameworks are aligned with international commitments and obligations. In order to do this they must be sufficiently equipped with guidance that responds to national needs to ensure the enforcement of the right to education.

Furthermore, recent events have put an additional strain on educational systems. The COVID-19 pandemic, which drastically affected the right to education of students around the world, risks stalling progress made over the last decades and may even result in a regression due to the unpreparedness of education systems to face massive school closures and the lack of distance learning opportunities. Indeed, pre-existing inequalities and disparities in education have been magnified, particularly where learning was heavily reliant on connectivity, and the long-term effects of the crisis are yet to be measured. During the COVID-19 crisis, one third of students – close to 500 million – were not able to access remote learning solutions. As highlighted by the recent UN Policy Brief: Education during COVID-19 and beyond, learning losses are also threatening to extend beyond this generation and erase decades of progress, not least in support of girls and young women’s educational access and retention.<sup>1</sup> Some 23.8 million additional children and youth (from pre-primary to tertiary) may drop out or not have access to school next year due to the pandemic’s economic impact alone.<sup>2</sup>

The pandemic has, nevertheless, provided an opportunity to rethink the resilience and preparedness of education systems, and this starts with strengthening the foundations of the right to education at national level. Now, more than ever, governments need to adopt a rights-based, inclusive approach to their legal and policy frameworks to ensure that everyone has the right to education and that no one is left behind.

## Why these Guidelines?

International human rights instruments have, over the years, established a solid international normative framework providing for the right to education. At country level, considerable efforts have also been made to enforce this right. However, these efforts are not sufficient; further concrete actions are needed to ensure domestic implementation and effective enforcement of this key human right. This cannot be achieved without strong national legal and policy frameworks that lay the foundation and conditions for the delivery and sustainability of free, inclusive, equitable and quality education. Such solid frameworks can also facilitate the continuity of education and learning during times of crisis.

### DEFINITION

**International human rights instruments:** ‘any formal, written document of [...] states that sets forth rights as non-binding principles (a declaration) or codifies rights that are legally binding on those states that ratify them (a covenant, treaty, or convention).’<sup>3</sup>

1 UN, 2020, *Policy Brief: Education during COVID-19 and beyond*, p. 2. Accessible at: <https://unsdg.un.org/resources/policy-brief-education-during-covid-19-and-beyond>

2 UNESCO, 2020, *COVID-19 Education Response: How many students are at risk of not returning to school?* Advocacy paper, p. 10. Accessible at: <https://unesdoc.unesco.org/ark:/48223/pf0000373992>

3 Council of Europe, 2020, *Compass, Manual for Human Rights Education with Young People*, 2nd edition, updated in 2020, p. 482, see ‘Instruments’. Accessible at: <https://rm.coe.int/compass-eng-rev-2020-web/1680a08e40>

These Guidelines were developed with the aim to strengthen national frameworks by assisting countries and stakeholders in conducting an assessment of the compatibility of their national education legal and policy framework with international standard-setting instruments on the right to education, and in light of SDG 4 commitments.

These Guidelines provide a hands-on approach aiming to assist in the review of national education legal and policy frameworks in view of:

1. Developing practical knowledge on the right to education based on the Right to education handbook<sup>4</sup> and supporting capacity development;
2. Providing operational tools to assess the status of the right to education at country level and its compatibility with international and regional human rights obligations and international commitments (notably SDG 4);
3. Identifying legal and policy gaps in education at country level and resulting challenges;
4. Making recommendations for the full alignment of national constitutions, legislation, singular and policies with international standards and provisions;
5. Providing insights on how to implement the recommendations in view of necessary reforms.

## Who should use the Guidelines and how?

These Guidelines are primarily intended for ministries of education in the review of the education legal and policy framework at country level. However, they also may be used by other relevant actors, such as local education groups, intergovernmental organizations and civil society organizations. For instance, UN agencies at country level can use these Guidelines to provide technical support to countries, including for the preparation of national reports required by UN monitoring mechanisms.

It is advised that the right to education review is participatory and conducted by experts and practitioners who have a deep understanding and knowledge of the national educational system. Ideally, the review team should be composed of experts from diverse backgrounds, including those with legal and institutional profiles and an education policy analyst. As national contexts differ considerably, the timeframe for the completion of the review will depend on local contexts and specificities, availability of information, composition of the team and other parameters.

## How are these Guidelines organized?

These Guidelines are divided into two parts:

The **first part** presents an overview of the relevant international normative framework regarding the right to education. It describes States' obligations regarding the implementation of this right and how to concretely incorporate the obligations into national frameworks. The common challenges to the realization of the right to education are also explained. This part serves as a reference and provides the basis for the review and analysis.

The **second part** suggests a series of indicative steps of the review process itself and contains Guidelines on how to proceed with a national review. A three-step methodology is presented:

1. **Information and data collection:** Human rights indicators and relevant sources are used to collect information on the current status of the right to education at national level.
2. **Data analysis and assessment:** Having gathered the information, the law and policy checklist is used as a basis for comparison and analysis, allowing for the assessment of areas of compliance or gaps in national legal and policy frameworks with international education norms and to draw conclusions to ensure a better alignment with these norms.
3. **Conclusions and recommendations:** Finally, guidance on the formulation of recommendations is provided, intended to inform discussions on national legal and policy reform.

4 UNESCO and Right to Education Initiative (RTE), 2019, *Right to education handbook*. Accessible at: <https://unesdoc.unesco.org/ark:/48223/pf0000366556/PDF/366556eng.pdf.multi>

The second part concludes on how to structure the findings in the report. In accordance with the Guidelines for the review, the format of the report should correspond to its overall objectives: assessing the current country situation, identifying gaps and making recommendations.

The **third part** aims to provide guidance on next steps. This part proposes concrete actions to implement the recommendations formulated based on the review in order to engage in, or inform ongoing, legal and policy reforms and/or to pave the way for the revision and/or elaboration of new laws and policies.

**Annexes I-II** present the detailed table of recommended indicators (Annex I) and a list of the main international human rights instruments (Annex II).

# Part I.

Introducing the

right to education

## Section 1. What is the right to education?

Education was recognized internationally for the first time as a human right in the 1948 Universal Declaration of Human Rights (UDHR) which states in Article 26 (1) that 'Everyone has the right to education'.

Since then, the right to education has been asserted in numerous international treaties and texts of varying legal nature and affirmed by both legally binding and non-binding instruments. These international instruments are of great importance as they define norms, reaffirm main principles and give them concrete substance. Moreover, they give shape to Member States' commitment to the right to education to be translated into concrete national-level action.

These instruments fall into two categories:

- **Hard law:** Those having legally binding force, since they are adopted and ratified by the Member States (mainly conventions and treaties);
- **Soft law:** Those which, though they do not have legally binding force, embody a great political and moral authority (notably declarations and recommendations). For instance at UNESCO, recommendations are monitored on the same level as legally-binding instruments.

### DEFINITIONS

**Convention:** 'a binding agreement between states; used synonymously with treaty and covenant [...] [i]t is legally binding for governments that have ratified it.'<sup>5</sup>

**Declaration:** document stating agreed upon principles and standards but which is not legally binding'<sup>6</sup>.

**UNESCO Recommendation:** an instrument, similar to a declaration, which lays down "[...] principles and norms for the international regulation of any particular question [inviting] Member States to take whatever legislative or other steps may be required in conformity with the constitutional practice of each State and the nature of the question under consideration to apply the principles and norms aforesaid within their respective territories" [...] These are therefore norms which are not subject to ratification but which Member States are invited to apply.'<sup>7</sup>

The first international legally binding instrument to enshrine the right to education and to be entirely devoted to it, is the 1960 UNESCO Convention against Discrimination in Education (CADE)<sup>8</sup>. In addition to proscribing any form of discrimination in education, it addresses equality of opportunity, access to free education and the rights of minority groups. Article 4 of the CADE not only formulates the legally binding clause, but also details duties and actions for States Parties to implement. In addition, Article 5(1)(a) of the CADE provides that education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms, while promoting understanding, tolerance and friendship among all nations, racial or religious.<sup>9</sup>

5 Council of Europe, 2020, *Compass, Manual for Human Rights Education with Young People*, op. cit., p. 480.

6 Ibid., p. 481.

7 UNESCO, General introduction to the standard-setting instruments of UNESCO [online]. Accessible at: [http://portal.unesco.org/en/ev.php-URL\\_ID=23772&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html#name=1](http://portal.unesco.org/en/ev.php-URL_ID=23772&URL_DO=DO_TOPIC&URL_SECTION=201.html#name=1) [Accessed on 20 September 2020]

8 Accessible at: [http://portal.unesco.org/en/ev.php-URL\\_ID=12949&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html)

9 Regarding the issue of human rights education, OHCHR and UNESCO developed a self-assessment guide for governments: OHCHR and UNESCO, 2012, *Human Rights Education in Primary and Secondary School Systems: A Self-assessment Guide for Governments*. Accessible at: <http://www.ohchr.org/Documents/Publications/SelfAssessmentGuideforGovernments.pdf>

 **Article 4:**

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

- (a) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;
- (b) To ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent;
- (c) To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity;
- (d) To provide training for the teaching profession without discrimination.

Drawing upon the CADE, the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>10</sup> comprehensively prescribes the right to education in its Articles 13 and 14. It has particular importance within the UN human rights legal framework as it forms part of the International Bill of Rights.

The first paragraph of Article 13 refers to educational aims while the second paragraph lays out obligations by which the State must abide at all levels of education. It also makes reference to literacy, scholarships and the conditions of teaching staff. Paragraphs 3 and 4 address the freedom of choice in education. They establish the right of parents to choose an alternative school (as opposed to a public one), as well as the right of individuals to establish and direct educational institutions. Article 14 of the Covenant is entirely dedicated to primary education.

 **Article 13:**

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. ...

Also, part of the International Bill of Rights, the 1966 International Covenant on Civil and Political Rights (ICCPR)<sup>11</sup>, evokes the right to education within the broader context of freedom of thought, conscience and religion. Article 18(4) states that, '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.'

<sup>10</sup> Accessible at: <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

<sup>11</sup> Accessible at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

Under international law, there are also treaties entirely dedicated to specific groups of people as there is a recognition that they need to have their rights affirmed and require particular measures to ensure that these are effectively realized. This is notably the case for children, women and people with disabilities.

As one of the most widely ratified treaties, the 1989 Convention on the Rights of the Child (CRC)<sup>12</sup> applies to all people under the age of 18. It refers to education in Articles 28 and 29. Article 28 affirms the ‘right of the child to education’ and the State’s duty, notably, to ensure primary education is free and compulsory. In addition, it states that school discipline should be administered in a manner consistent with a child’s human dignity and further encourages States to ensure regular school attendance and the reduction of drop-out rates. Article 29 adds that the education of the child shall be directed towards the development of the child’s personality, talents, and mental and physical abilities to their fullest potential.

The 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>13</sup> considers the specific needs and circumstances of women and girls. Article 10 provides that ‘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’.

Specifically dedicated to persons with disabilities, the 2006 Convention on the Rights of Persons with Disabilities (CRPD)<sup>14</sup> enshrines the right of persons with disabilities to education in its Article 24 and provides ‘States Parties shall ensure an inclusive education system at all levels and lifelong learning’.

The right to education therefore appears across numerous international human rights treaties. Indeed, all human rights are universal, indivisible and interdependent. The right to education is no exception as, while it enables the increased enjoyment of other human rights, it is equally dependent on whether other human rights are being enjoyed. Consequently, it is important to adopt a human rights-based approach (HRBA) to the review exercise to ensure a comprehensive analysis of the interconnections between all human rights. The main cross-cutting right to education themes in these treaties can be found in the following table:

#### CROSS-CUTTING THEMES IN INTERNATIONAL HUMAN RIGHTS TREATIES

##### Non-discrimination and equality of opportunity in education

- Refugee Convention<sup>15</sup>: Article 22
- Convention on Statelessness<sup>16</sup>: Article 22
- UNESCO CADE: Articles 1, 3, 4(d) and 6
- ICERD<sup>17</sup>: 5(e)(v) and 7
- ICESCR: Articles 2 and 3<sup>18</sup>
- CEDAW: Article 10
- CRC: Article 28(1)
- ILO Convention No. 169<sup>19</sup>: Article 26
- UNESCO TVET Convention<sup>20</sup>: Article 2(3)
- ICRMW<sup>21</sup>: Articles 30 and 43(1)(a)-(c) and 45(1)(a)-(b)
- CRPD: Article 24(1)

##### Quality education

- UNESCO CADE: Articles 1(2), 2(a) and 4(b)
- CEDAW: Article 10(b)
- CRPD: Article 24(2)(b)

12 Accessible at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

13 Accessible at: <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>

14 Accessible at: <https://www.ohchr.org/en/hrbodies/crpd/pages/conventionrightspersonswithdisabilities.aspx>

15 Convention Relating to the Status of Refugees (1951). Accessible at: <https://www.ohchr.org/en/professionalinterest/pages/statusofrefugees.aspx>

16 Convention relating to the Status of Stateless Persons (1954). Accessible at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/StatelessPersons.aspx>

17 International Convention on the Elimination of All Forms of Racial Discrimination (1965). Accessible at: <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>

18 While these are general provisions that do not explicitly relate to education, they provide an important foundation for the universal right to education.

19 ILO C169 - Indigenous and Tribal Peoples Convention (1989). Accessible at: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:P12100\\_ILO\\_CODE:C169](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:P12100_ILO_CODE:C169)

20 UNESCO Convention on Technical and Vocational Education (1989). Accessible at: [http://portal.unesco.org/en/ev.php-URL\\_ID=13059&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13059&URL_DO=DO_TOPIC&URL_SECTION=201.html)

21 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990). Accessible at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx>

<b>Free and compulsory primary education</b>	<ul style="list-style-type: none"> <li>• UNESCO CADE: Article 4(a)</li> <li>• ICESCR: Article 13(2)(a)</li> <li>• CRC: Article 28 (1)(a)</li> <li>• CRPD: Article 24(2)(a)</li> </ul>
<b>Accessible secondary education</b>	<ul style="list-style-type: none"> <li>• UNESCO CADE: Article 4(a)</li> <li>• CRPD: Articles 24(2)(a) and (b)</li> <li>• ICESCR: Article 13(2)(b)</li> <li>• CRC: Article 28(1)(b)</li> </ul>
<ul style="list-style-type: none"> <li>• including <b>technical and vocational</b> secondary education and through the <b>introduction of free education</b></li> </ul>	<ul style="list-style-type: none"> <li>• ICESCR: Article 13(2)(b)</li> <li>• CRC: Article 28(1)(b)</li> </ul>
<b>Technical and vocational education and training and/or guidance</b>	<ul style="list-style-type: none"> <li>• ICESCR: Articles 6(2) and 13(2)(b)</li> <li>• CEDAW: Article 10(a)</li> <li>• ILO Convention N°142<sup>22</sup>: Articles 2 – 5.</li> <li>• CRC: Articles 28(1)(b) and (d)</li> <li>• ILO Convention No. 169: Article 22</li> <li>• UNESCO TVET Convention</li> <li>• ICRMW: Articles 43(1)(b) and (c) and 45(b)</li> <li>• CRPD: Articles 24(5) and 27(1)(d)</li> </ul>
<b>Accessible higher education</b>	<ul style="list-style-type: none"> <li>• UNESCO CADE: Article 4 (a)</li> <li>• ICESCR: Article 13(2)(c)</li> <li>• CRC: Article 28 (1)(c)</li> <li>• CRPD: Article 24(5)</li> <li>• UNESCO Global Convention<sup>23</sup>: Articles 2(9) and 3(3)</li> </ul>
<b>Scholarship/Fellowship system/ Financial assistance</b>	<ul style="list-style-type: none"> <li>• ICESCR: Article 13(2)(e)</li> <li>• CEDAW: 10(d)</li> <li>• CRC: Article 28(1)(b)</li> </ul>
<b>Fundamental education/</b> Education for those <b>persons who have not received or completed the whole period of their primary education/Literacy</b>	<ul style="list-style-type: none"> <li>• UNESCO CADE: Article 4(c)</li> <li>• ICESCR: Article 13(2)d</li> <li>• CEDAW: Article 10(e)</li> <li>• CRC: Article 28(c)</li> </ul>
<b>Liberty/duty of parents and/or legal guardians</b> with regard to education	<ul style="list-style-type: none"> <li>• UNESCO CADE: Article 5(1)(b)</li> <li>• ICESCR: Article 13(3)</li> <li>• ICCPR Article 18(4)</li> <li>• CRC: Articles 18 and 14(b)</li> <li>• ICRMW: Article 12(4)</li> </ul>
<b>Establishment of educational institutions</b> , which conform to the <b>minimum standards</b> laid down by the State	<ul style="list-style-type: none"> <li>• UNESCO CADE: Articles 2 and 5(c)</li> <li>• ICESCR: Article 13(4)</li> <li>• CRC: Article 29(2)</li> <li>• ILO Convention No. 169: Article 27(3)</li> </ul>

22 ILO C142 - Human Resources Development Convention (1975). Accessible at: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C142](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C142)

23 UNESCO Global Convention on the Recognition of Qualifications concerning Higher Education (2019). Accessible at: [http://portal.unesco.org/en/ev.php-URL\\_ID=49557&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=49557&URL_DO=DO_TOPIC&URL_SECTION=201.html)

<p><b>Religious and moral education</b> of children in conformity with parent's own convictions</p>	<ul style="list-style-type: none"> <li>• UNESCO CADE: Article 5(b)</li> <li>• ICESCR: Article 13(3)</li> <li>• ICCPR: Article 18(4)</li> <li>• ICRMW: Article 12(4)</li> <li>• CRC: Article 30</li> </ul>
<p>Aims of education: Education shall be directed to the <b>development of the human personality</b>, strengthen the <b>respect for human rights</b> and <b>fundamental freedoms</b></p>	<ul style="list-style-type: none"> <li>• UNESCO CADE: Article 5(1)(a)</li> <li>• ICESCR: Article 13(1)</li> <li>• CRC: Article 29(1)</li> <li>• CRPD: Article 24(1)(a)</li> </ul>
<ul style="list-style-type: none"> <li>• and shall promote <b>understanding, tolerance and friendship</b> among all</li> </ul>	<ul style="list-style-type: none"> <li>• UNESCO CADE: Article 5(1)(a)</li> <li>• ICESCR: Article 13(1)</li> <li>• CRC: Article 29(1)</li> </ul>
<ul style="list-style-type: none"> <li>• and enable all persons to <b>participate effectively in a free society</b></li> </ul>	<ul style="list-style-type: none"> <li>• ICESCR: Article 13(1)</li> <li>• CRPD: Article 24(1)(c)</li> </ul>
<p><b>Teaching profession</b></p>	<ul style="list-style-type: none"> <li>• UNESCO CADE: Articles 2(a) and 4(d)</li> <li>• UNESCO TVET Convention: Article 5</li> <li>• ICESCR: Article 13(2)(e)</li> <li>• CEDAW: Article 10(b)</li> <li>• CRPD: Article 24(4)</li> </ul>

Besides the international instruments cited above, *Annex II* provides an extensive list of international and regional normative instruments that enshrine the right to education which include, among others, humanitarian law, labour law and refugee law.

While international instruments provide a solid foundation for the realization of the right to education, national frameworks are increasingly providing further guarantees on specific aspects of this right in light of international developments and to respond to the needs of an evolving society. These national frameworks are often inspired by non-legally binding international instruments.

Indeed, some international instruments are considered as soft law as they do not give rise to binding legal obligations and therefore cannot be legally enforced. States Parties are only bound in a moral or political sense to these instruments. Yet, these instruments have become increasingly important in the practice of international human rights law (IHRL), due to their innovative content and their potential to guide and inspire action at national level. The UDHR and the Education 2030 Framework for Action are two examples of soft law.

The SDG 4-Education 2030 Framework for Action<sup>24</sup> was adopted to implement the Sustainable Development Agenda which sets a new transformative and universal vision for education ending in 2030. It details how to achieve Sustainable Development Goal No. 4 (SDG 4), which calls upon States to 'ensure inclusive and equitable quality education and promote lifelong learning opportunities for all'. While not legally binding, this political commitment provides a valuable opportunity to stress the role of education as a main driver of development and its contribution in achieving other Sustainable Development Goals (SDGs).

The SDG 4-Education 2030, which encompasses both SDG 4, as well as education-related targets across the other SDGs,<sup>25</sup> was framed with the right to education at its core and the objective of leaving no one behind. While SDG 4 does not in itself establish legal obligations for countries, it calls for a comprehensive and holistic approach to education, including the adoption of legislative and policy measures to effectively implement SDG 4-Education 2030. In addition, SDG 4-Education

24 UNESCO, 2015, *Education 2030: Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4*. Accessible at: <https://unesdoc.unesco.org/ark:/48223/pf0000245656/PDF/245656eng.pdf.multi>

25 UNESCO, 2017, *Unpacking Sustainable Development Goal 4 Education 2030*, Appendix 2. Accessible at: <https://unesdoc.unesco.org/ark:/48223/pf0000246300>

2030 allows for legal accountability through the effective enforcement of the right to education, as its content is rights-based and aligned with international legal frameworks.

The concept of lifelong learning is also brought to the centre of the Education 2030 Agenda, whereby learning begins at birth and continues throughout life. This concept is becoming more and more relevant as we witness changes in the economy, labour markets and in the demography which have expanded the need and opportunities to continue education and learning across formal and informal settings. The value of early childhood education is now also widely recognised and the evolution in the digital world has further accentuated the need of lifelong learning opportunities. While there are no specific legal obligations under international law, States have a legal obligation to provide the right to education which includes the right to 'continuing education' (Article 4(c) of the CADE) and the right to 'fundamental education' (Article 13(2)(d) of the ICESCR), both intrinsic to lifelong learning.

The importance of the right to education is such that, according to the United Nations' Committee on Economic, Social and Cultural Rights (CESCR), it 'epitomizes the indivisibility and interdependence of all human rights'<sup>26</sup>. This right is comprehensive in its scope and encompasses almost every aspect of education. However, the normative content, which consists of what all right-holders are entitled to, is not static as it is continually being developed through treaties and elaborated through authoritative interpretations<sup>27</sup> in order to better ensure the realization of this right. The right to education is therefore not merely limited to access, a common misconception, but creates entitlements to quality and inclusive education, in line with the aims of education and based on principles of non-discrimination and equality.

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26 CESCR, 1999, *General Comment No. 11: Plans of Action for Primary Education*, Doc. E/C.12/1999/4, para. 2.

27 These mainly relate to General Comments and General Recommendations of the UN human rights treaty-bodies but this also may include interpretations by international experts, as for instance the recently adopted Abidjan Principles.

## Section 2. How can the right to education be implemented according to State obligations?

### i. State obligations under international human rights law

As subjects of international law, **States are the primary duty-bearers** of the right to education. They must therefore take appropriate measures to ensure the full enjoyment of this right within their jurisdiction. The CESCR's General Comment 13 on the right to education, as for all other human rights, imposes 'three types or levels of obligations on States parties: the obligations to **respect, protect and fulfil**'<sup>28</sup>.



**RESPECT**  
Requires States to ensure that the measures taken **do not hinder or prevent** the enjoyment of the right to education.

- For example, a State must not introduce educational legislation that discriminates individuals or groups on any prohibited grounds nor impede parents from choosing the education of their children.

**PROTECT**  
Requires States to take measures to **prevent that third parties do not interfere** with the right to education.

- For instance, States must ensure that parents or guardians do not prevent girls from attending school, that private educational institutions abide by the national approved minimum standards of education and that their curriculum is aligned with educational objectives set out in international standards.

**FULFIL**  
Includes both an obligation to **facilitate** and to **provide**.  
The obligation to facilitate, requires States to **take positive measures that fully realize** the right to education.

- For example, the State should support minority and indigenous communities to establish their educational facilities.

When an individual or group is unable to realize the right to education themselves by means at their disposal, the State has an obligation to **provide the specific right** as laid out in international human rights conventional law which is not the same for all levels of education.

- While the obligations differ depending on each level of education, a State must develop a system of schools which entails, for instance, constructing schools, developing appropriate curriculum and educational material as well as training teachers and providing them with competitive remuneration.

<sup>28</sup> CESCR, 1999, *General Comment No. 13: The Right to Education*, Doc. E/C.12/1999/10, para. 46.

 **DEFINITION**

**General Comment:** ‘treaty body’s interpretation of human rights treaty provisions, thematic issues or its methods of work. General comments often seek to clarify the reporting duties of State parties with respect to certain provisions and suggest approaches to implementing treaty provisions. Also called “general recommendation” (Committee on the Elimination of Racial Discrimination and Committee on the Elimination of Discrimination against Women).<sup>29</sup>

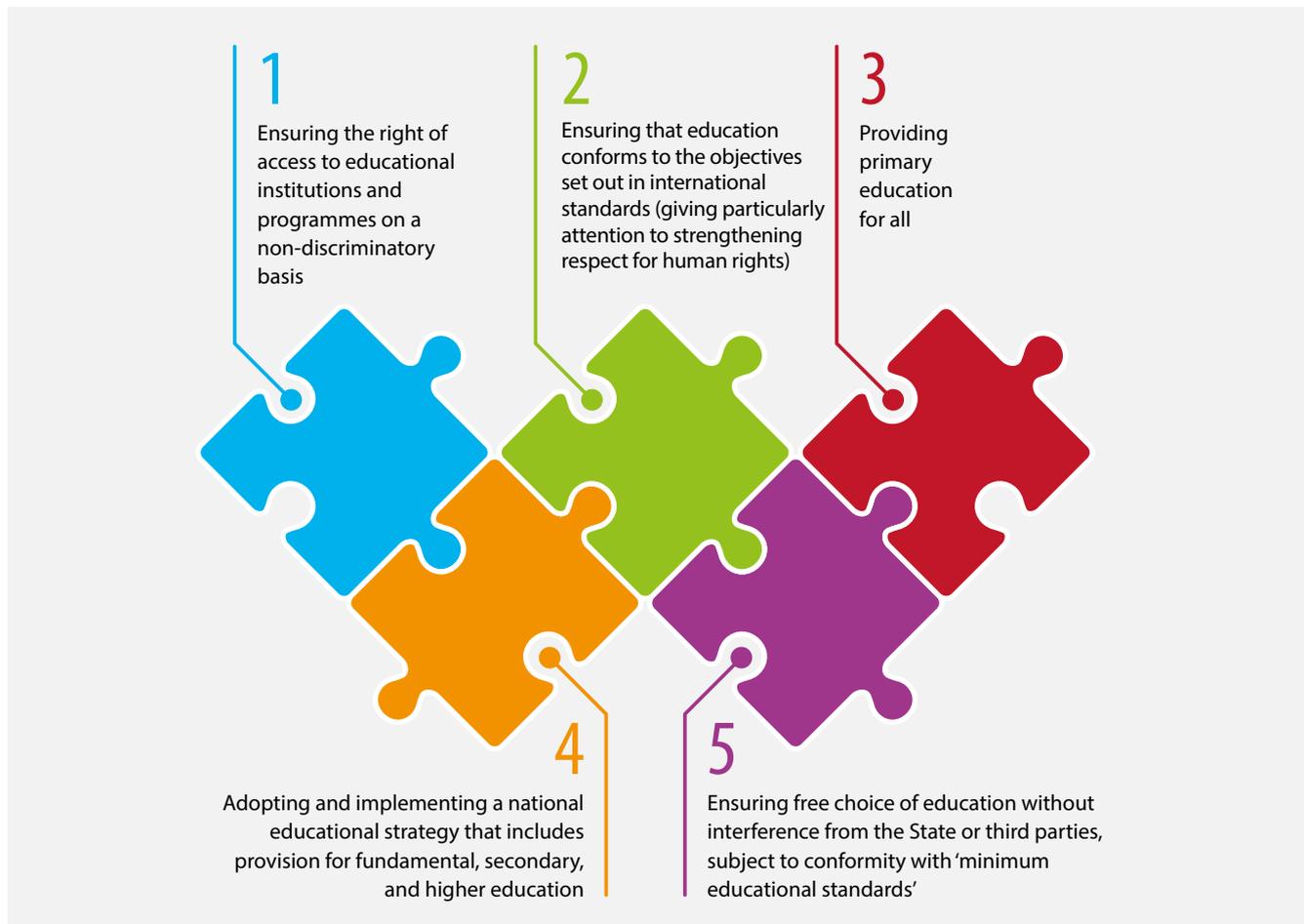
The State has an obligation to ensure that the obligations to respect, protect and fulfil, comply with the essential features of the right to education. These essential features of the right to education have been elaborated by the CESCR in General Comment 13. This is known as the **‘4As framework’**<sup>30</sup>. Education must be:



<sup>29</sup> OHCHR, Human Rights Treaty Bodies - Glossary of technical terms related to the treaty bodies [online]. Accessible at: <https://www.ohchr.org/EN/HRBodies/Pages/TBGlossary.aspx#gc> [Accessed on 20 September 2020]

<sup>30</sup> The ‘4As framework’ was initially developed by Katarina Tomaševski, the former UN Special Rapporteur on the right to education. For more information see: Tomaševski, K, 2001, *Right to Education Primers No. 3: Human Rights Obligations: Making Education Available, Accessible, Acceptable and Available*. Accessible at: [https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Tomasevski\\_Primer%203.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Tomasevski_Primer%203.pdf)

The right to education can be progressively implemented, in accordance with available resources. **Progressive realization** does not deprive the obligations of meaningful content, but as stated by the CESCR: ‘State parties have a specific and continuing obligation “to move as expeditiously and effectively as possible” towards the full realization of article 13’<sup>31</sup>. Nevertheless, some aspects of the law must be implemented immediately because they constitute the heart of the right to education. These are known as **‘minimum core obligations’**<sup>32</sup>, and include:



Furthermore, States need to comply with the **obligations of immediate effect**<sup>33</sup>, which requires the following actions to be taken at once to make the right to education a reality:

- Guarantee that the right to education is exercised free from both *de jure* discrimination (exists in legal and policy frameworks) and *de facto* discrimination (exists in reality).

States must take immediate action to prevent, diminish and eliminate discrimination defined as ‘any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination and which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of [the right to education]’<sup>34</sup>. Elimination of discrimination includes the use of affirmative action when required.

31 CESCR, 1999, *General Comment No. 13*, op. cit., para. 44.

32 CESCR, 1990, *General Comment No. 3: The Nature of States Parties’ Obligations*, Doc. E/1991/23, para. 10.

33 CESCR, 1999, *General Comment No. 13*, op. cit., para. 43 and CESCR, 1990, *General Comment No. 3*, op. cit., para. 1.

34 CESCR, 2009, *General Comment No. 20: Non-discrimination in economic, social and cultural rights*, Doc. E/C.12/GC/20 para. 7.

- Take deliberate, concrete and targeted steps towards the full realization of the right to education by all appropriate means.

States are required to adopt and implement a national educational strategy to realize the right to education and closely monitor its progress. While 'all appropriate means' should be taken, particular importance is given to legislative measures.

States must also use the '**maximum available resources**'<sup>35</sup> to meet their obligations, prioritizing the satisfaction of minimum core obligations. This requires the State to make every effort to use all the resources at its disposition through both domestic resources and those available from the international community through international cooperation and assistance.

As States have the obligation to progressively realize the right to education, deliberate **retrogressive measures** require 'most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the State party's maximum available resources.'<sup>36</sup> States have the burden to prove that all alternatives have been considered and that all available resources have been explored.

Some examples of potential violations of the core content of the right to education may include the following:

- The introduction of legislation that discriminates against individuals or groups, or failure to repeal this kind of legislation, and the failure to take measures that address de facto educational discrimination;
- The use of curricula inconsistent with the educational objectives set out in international standards<sup>37</sup>;
- The failure to introduce, as a matter of priority, primary education that is compulsory and available free to all, and the failure to take 'deliberate, concrete and targeted' measures towards the progressive realization of fundamental, secondary, and higher education;
- The prohibition of private educational institutions and the failure to ensure private educational institutions conform to the 'minimum educational standards';
- The denial of academic freedom and the closure of educational institutions in times of political tension.

This is based on a human rights-based approach (HRBA) to education, which promotes the empowerment of learners, establishes the obligations of States and outlines mechanisms of accountability before the law in the case of rights violations.

Furthermore, **political commitments to SDG 4** provide a valuable opportunity to reinforce efforts made towards the implementation of the right to education, just as strengthening the right to education can offer a solid foundation as well as guidance to achieve SDG 4. In fact, SDG 4-Education 2030 is rights-based and covers the multidimensional nature of the right to education. Unlike legally binding treaties, States choose to be *morally* and *politically* bound to achieve SDG 4 within the time span of 15 years. However, such efforts may be futile if there are legal gaps resulting from incomplete national legal frameworks. Therefore, States need to establish strong, rights-based, national legal and policy frameworks aligned with right to education principles and obligations. In addition, SDG 4-Education 2030 reinforces the normative content of the right to education, as for example, it calls on States to introduce at least one year of free and compulsory pre-primary education. As such, by mutually reinforcing each other, the right to education and the SDG 4-Education 2030 Agenda can be fully implemented.

<sup>35</sup> CESCR, 1990, *General Comment No. 3*, op. cit., paras. 10 - 13.

<sup>36</sup> *Ibid.*, para. 9.

<sup>37</sup> See Article 13(1) of the ICESCR which provides that education shall: be directed to the full development of the human personality and the sense of its dignity; strengthen the respect for human rights and fundamental freedoms; 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.

## ii. Incorporating the right to education in national frameworks

States have the responsibility to ensure that international legal and political obligations and commitments to the right to education are translated in their national frameworks.<sup>38</sup> These include a variety of formally adopted State measures ranging from legal texts, policies, and financial commitments to administrative measures. Each of these play a crucial role in the realization of the right to education.

With regard to the national legal framework, States need to ensure that **ratified legal instruments are duly incorporated in the domestic legal order**. This may require taking positive measures to guarantee the rights laid out in the treaty or amending conflicting national legislations.<sup>39</sup>

Taking primacy over all other domestic laws and policies, the **constitution** is the highest legal protection that can be accorded to the right to education. Despite the brevity of constitutional provisions, by enshrining the right to education and defining its scope in the constitution, the State ensures its sustainability as the provisions guaranteed therein are less easily repealed. **Legislation**, on the other hand, allows for the content and scope to be further elaborated and offers the next highest legal protection. Through constitutional and legal provisions, the right to education becomes justiciable whereby any aggrieved individual or group can have appropriate redress and remedies. As a legally enforceable right, it also allows for government to be held accountable. Finally, **regulations**, also known as subordinate or secondary legislations, detail the practical requirements, principles, and procedures for the effective implementation of primary legislation. Without such measures, the primary legislation cannot be fully enforced. Furthermore, it allows for a response to rapidly changing situations.

Within the policy framework, **policies, strategies, programmes and plans**, while being time-bound, are an important link in the chain to uphold the right to education and improve its realization. States must ensure that they are aligned with national legal frameworks. Special emphasis should be given to ensure the prevention and eradication of discrimination, the adoption of positive measures to support the vulnerable and which must comply with human rights principles of participation, accountability and transparency. Awareness-raising actions could be used as a strategy to foster incorporation of the right to education, through campaigns; community outreach; human rights education in schools; and capacity-building of civil servants, politicians, teachers, school staff, among others, in order to challenge misconceptions, and break down barriers and cultural norms that hinder the enjoyment of the right to education.

**Resources** are a common challenge to the implementation of the right to education, however, ‘minimum core obligations’ require immediate implementation. As such, States must ensure the allocation of the ‘maximum available resources’. International benchmarks recommend that States should commit at least 4% to 6% of gross domestic product to education and/or at least 15% to 20% of total public expenditure<sup>40,41</sup>. Efforts to track that funds effectively reach targeted areas are also important.

Finally, **judicial** and **administrative** measures also need to be taken in this context. The former, complement the legal measures to ensure the effective enforcement of the right to education, however, legal arrangements are necessary to make this right justiciable. States must ensure an enabling judicial environment. Administrative measures, for their part, include most notably how public authorities are organized, their powers and functions. Administrative remedies, such as ombudspersons and national human rights institutions are mechanisms of particular importance that can provide remedial action.

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38 For more information, see: UNESCO and RTE, 2019, *Right to education handbook*, op. cit., chapter 6.

39 Depending on the domestic legal arrangements, States incorporate treaties through either: the ‘dualist’ approach, by which treaties do not apply directly within the domestic legal order and must be implemented through legislation; the ‘monist’ approach, by which, upon ratification, the treaty becomes automatically part of domestic law; or the ‘hybrid’ approach, by which a monist or dualist approach is adopted depending on the type of treaty and/or the source of international law.

40 UNESCO, 2015, *Education 2030: Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4*, op. cit., para. 14.

41 There are examples of countries which have translated this political commitment into their legal frameworks to ensure that the allocation of a minimum percentage of the national budget to education can be legally enforced.

## Section 3. Challenges to the full realization of the right to education

As discussed in the previous section, ensuring the realization of the right to education requires a variety of actions from legal measures to awareness raising. This is to overcome the numerous challenges and obstacles which exist in all areas of national life. Among these, ensuring free and compulsory quality basic education, equal opportunities and inclusive education are some of the most common challenges faced by States across the world. With the adoption of the SDG 4-Education 2030 Agenda in 2015, renewing the commitment of States to ensure inclusive and equitable quality education, such areas deserve particular attention.

The SDG 4-Education 2030 Framework for Action requires States to ‘Ensure access to and completion of quality education for all children and youth to at least 12 years of free, publicly funded, inclusive and equitable quality primary and secondary education, of which at least nine years are **compulsory**, as well as access to quality education for out-of-school children and youth through a range of modalities.’<sup>42</sup> However, 258.4 million children, adolescents and youth were out of school in 2018<sup>43</sup>, that is to say that one in every six children out of primary and secondary school. These global figures mask important regional differences, with low-income countries having considerably higher out-of-school rates.<sup>44</sup>

Aside from ensuring the right to compulsory education, States also need to strengthen their efforts to guarantee that education is **free of charge**, by eliminating direct costs and minimizing indirect costs as they constitute a barrier for the enjoyment of the right to education. Furthermore, in both public and private schools, far too often the **quality** of the learning environment, teachers’ conditions, training and status and the relevance of the content of education do not meet international human rights standards.

These issues are particularly apparent with the increasing involvement of **private actors in education** in various forms. While private actors have an important role to play in providing education, particularly by ensuring the moral and religious education of children as requested by the right to education, they must conform to ‘minimum standards of education’<sup>45</sup> and should not contradict the primary responsibility of the State to provide public education.

Nevertheless, the rapid growth in the scale and scope of private actors in education has, when unregulated<sup>46</sup>, taken advantage of the fragility and limitations of States, in order to make a profit out of the provision of education, often at the expense of the most vulnerable groups. Indeed, inequalities are often exacerbated due to the incapacity of families to pay tuition fees, a situation which favours the economically privileged and undermines the principle of equality of opportunity. Similarly, the quality of the education often suffers, particularly with regards to what is taught, what materials are used and how learning is assessed, but also relating to the disregard of the status of teachers, resulting in underqualified and underpaid teachers with inadequate working conditions. Additionally, the systemic impact of the growing involvement of private actors on the whole education system can be observed, creating, for instance, school segregation.

**Inclusive education**<sup>47</sup> is at the heart of SDG 4-Education 2030, yet disparities and inequalities in education persist and affect disproportionately the most vulnerable. Such vulnerable groups are groups of people who have suffered prolonged and historical discrimination based on, among others; race, colour, sex, language, religion, political or other opinion, national or

42 UNESCO, 2015, *Education 2030: Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4*, op. cit., para. 12.

43 UNESCO UIS.Stat. Number of out-of-school children, adolescents and youth of primary and secondary school age, 2018 World Data [online]. Accessible at: <http://data.uis.unesco.org/> (retrieved on 15 June 2020)

44 UNESCO Institute for Statistics (UIS), 2019, *Fact Sheet No. 56: New Methodology Shows that 258 Million Children, Adolescents and Youth Are Out of School*, Doc. UIS/2019/ED/FS/56, p. 13.

45 See Article 13(3) of the ICESCR.

46 For guidance on regulating the private sector and ensuring compliance with human right obligations, see the Abidjan Principles. Accessible at: <https://www.abidjanprinciples.org/en/principles/overview>

47 Please refer to: UNESCO, 2017, *Guide for ensuring inclusion and equity in education*. Accessible at: <https://unesdoc.unesco.org/ark:/48223/pf0000248254>; and to: UNESCO Bangkok Office, 2015, *Embracing Diversity: Toolkit for creating Inclusive Learning-Friendly Environments*. Accessible at: <https://unesdoc.unesco.org/ark:/48223/pf0000137522>

social origin, economic condition and/or birth (for example; girls and women, people with disabilities, national, linguistic or ethnic minorities, indigenous people, refugees, migrants, internally displaced people, asylum seekers, stateless people, etc.). To ensure inclusive education, States need to put the right to education into action by meaningfully including all learners, especially from the most vulnerable groups; respecting and valuing their diverse needs, abilities and characteristics; ensuring equality of opportunities and treatment; and eliminating all forms of discrimination in the learning environment. It is a process by which States are required to continually seek to respond to the diverse needs of each person.

Target 4.5 of SDG 4 specifically calls on States to 'eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations.'

To make the right to education a reality for each and every person, it is therefore necessary to identify and remove all forms of barriers to education and ensure the presence, participation and achievement of all students. Wide educational opportunities must be offered in formal, non-formal and informal settings, in particular in conflict and post-conflict situations where formal education systems may not be functional.

While the challenges raised in this section are considerable, a first step towards addressing them is reviewing the legal and policy national framework, assessing its compatibility with international standards, and clearly identifying the existing gaps and specific challenges that hinder the full realization of the universal right to education for all without any discrimination or exclusion.

Considering the current context, two specific challenges to the full realization of the right to education deserve special attention: the right to education of girls and women, as while constituting half of the world's population, they continue to see their educational opportunities flouted, and emergency contexts, as whether its natural disasters, conflict situations or health crises, the fragility of education systems is often revealed.

### Girls and women<sup>48</sup>

Gender equality is given special importance in target 4.5 of SDG 4, as girls and women constitute a particularly vulnerable group. They account for 131.7 million out-of-school children<sup>49</sup> and for two-thirds of the 750 million illiterate adults<sup>50</sup> as their learning opportunities are often compromised by a number of in- and out-of-school barriers.

Child marriage is a serious barrier as it often results in girls dropping out of school and, conversely, children who are out of school are more likely to get married. Additionally, pregnant and parenting girls are sometimes prohibited to attend school or to sit exams. Girls and women also represent the majority of people living in poverty and therefore are less likely to be sent to school. Furthermore, gender-based violence and female genital mutilation are forms of discrimination which can keep girls out of school temporarily or permanently. There is, therefore, an urgency to ensure that educational environments are inclusive of all learners and propitious for learning. Obstacles relating to gender discrimination and stereotyping, lack of gender-segregated toilets and lack of female teachers need to be overcome as they have serious repercussions on their right to education.

It should be noted that in some regions, gender inequalities affect predominantly boys due to child labour, disengagement, poverty and stereotypes, among other factors.

Gender inequalities are therefore manifested in all aspects of the education process (e.g. access, retention, completion, treatment, learning outcomes as well as education and career choices) and are both a cause and a result of chronic and systemic discrimination and gender stereotyping.

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48 Since 2008, Gender Equality was designated as one of the two global priorities of UNESCO.

49 UNESCO UIS, 2018, *Fact Sheet No. 48: One in Five Children, Adolescents and Youth is Out of School*, Doc. UIS/FS/2018/ED/48, p. 5.

50 UNESCO UIS, 2017, *Fact Sheet No. 45: Literacy Rates Continue to Rise from One Generation to the Next*, Doc. FS/2017/LIT/45, p. 1.

The rights provided by the CEDAW are the most comprehensive ones regarding gender equality, as they include at the same time an equal right of access to education (with respect to their participation and equal representation across levels of education), equal rights within education and equal rights through education.<sup>51</sup> This requires action at multiple levels - within and outside the education system by adopting gender sensitive and responsive education systems, laws and policies, educational content, pedagogies and learning environments.<sup>52</sup> Additionally, achieving gender equality in education necessitates an approach that equally empowers male and female learners, facilitating access to, retention in and completion of education for all.

UNESCO has set gender equality as a global organizational priority and through its Strategy for Gender Equality in and through Education (2019-2025) aims to drive action towards the attainment of the SDGs, and particularly SDG 4 by notably ensuring better legal, policy and planning frameworks to advance rights. As such, the implementation of international instruments is key to eliminate discrimination and to strengthen the right of girls and women to quality education. This cannot be achieved without solid national legal and policy frameworks that are gender responsive and inclusive.

## Emergency contexts

In light of the COVID-19 pandemic, education systems around the globe have been confronted with unprecedented hurdles as the delivery of education has massively shifted to distant learning solutions due to the sudden and massive closure of schools to try and curb the propagation of the virus. While ensuring continuity in education has been at the forefront of the global discussion around this pandemic, natural hazards and conflict situations, as well as other pandemics,<sup>53</sup> also constitute significant challenges for certain countries and such contexts can benefit from the international response and the lessons learned from COVID-19.

### DEFINITION

**Emergency contexts:** include natural hazards, pandemics and conflict situations caused by political and social tensions which, in this context, result in the disruption of the education of learners.

States have an obligation to ensure the right to education at all times, including in times of crisis. This includes, in all circumstances, compliance with the '4As Framework'<sup>54</sup> whereby education must be available, accessible, acceptable and adaptable. Integrating this framework in the development of laws and policies is essential to ensure the most vulnerable are not left behind, particularly in emergency contexts.

During emergencies, where learners are unable to continue their education in the school classroom, the right to education must be guaranteed in order to avoid widening inequalities resulting in disparities, and sometimes, increased school dropout. This may be ensured through distance learning solutions, for instance, the provision of print-based learning materials, or one-way massive broadcasting (television and radio programmes), or through online channels using social media or learning platforms. This is of particular importance to fulfil the right to education as, almost overnight, the COVID-19 pandemic forced countries around the globe to rely completely on distance learning solutions. Whatever the solution, it must be adapted to the country context in order to avoid posing an additional burden on learners, particularly the most vulnerable. Measures may also be required to address issues of connectivity and access to educational materials both for teachers and students, which could include the provision of charge-free devices and internet.

51 CEDAW, 2017, *General Recommendation No. 36 on the right of girls and women to education*, Doc. CEDAW/C/GC/36, para. 24.

52 Ibid.

53 Regarding Post Conflict and Post Disaster (PCPD) contexts and education in emergency, it would be useful to refer to INEE Minimum Standards for Education which include specific indicators and guidelines for education in emergency. See: INEE. 2012. *Minimum Standards for Education: Preparedness, Response, Recovery*, 2<sup>nd</sup> edition. Accessible at : [https://inee.org/system/files/resources/INEE\\_Minimum\\_Standards\\_Handbook\\_2010%28HSP%29\\_EN.pdf](https://inee.org/system/files/resources/INEE_Minimum_Standards_Handbook_2010%28HSP%29_EN.pdf)

54 See *Part I, Section 2(i)*, for more information on the '4As framework'.

Individual monitoring, evaluation and student support are also required to ensure that students are actually learning when using distance learning solutions. This in turn can help identify learning gaps among students in order to mitigate the short-term impact of education loss, giving special attention to vulnerable groups. In fact, the separation (in terms of space and time) of teachers and learners must be accompanied by appropriate teaching and learning strategies which take into consideration self-paced learning and needs of parents and families.

As distance learning should be seen as a temporary solution to face the crisis<sup>55</sup>, States need to plan for measures that go beyond the crisis itself and include quick recovery and concrete remedial measures to ensure that every learner can go back to school, as soon as the conditions permit, in a safe, supportive and inclusive environment so that no one is left behind. Designing remedial courses, for missed class-time, adapted to the learner's needs are therefore an important part of recovery. Additionally, monitoring measures should also continue during school reopening, in order to adopt targeted measures for those students at risk of dropping out.

Emergency contexts offer countries an opportunity to *build back better* which begins by reviewing and strengthening legal and policy frameworks to integrate a human-rights approach and provide necessary resiliency to face future crises. Tapping into the collective experiences and practices around the world, governments need to anticipate the risks of disruption to education through legal and policy reform so that everyone, in every context, without discrimination of any kind, enjoys their right to education.

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<sup>55</sup> UN Special Rapporteur, 2020, *Impact of the COVID-19 crisis on the right to education; concerns, challenges and opportunities*, Doc. A/HRC/44/39, para. 5.

# Part II.

## Undertaking the review process

The overall aim of the review process is to monitor and assess the implementation of the right to education at country level and provide concrete guidance on the elaboration of future legal and policy texts to ensure the full realization of the right to education and to advance towards meeting the SDG 4-Education 2030 commitments by 2030. This review also enables to strengthen capacities on the right to education and its effective implementation.

The review team can be set up by national authorities (ministries of education) which will decide the roles and responsibilities of each member. As it was indicated earlier, it is suggested that the review team is composed of experts of diverse backgrounds, including legal and institutional profiles and education policy analyst, with the collaboration of the national statistics institute and relevant technical ministries (ministry of employment, ministry of social affairs, ministry of gender equality, ministry of finance, etc.).

The review process begins with the examination of the country context based on general indicators. While the country context is not strictly required for the review process, it provides an understanding of the surrounding factors potentially affecting the education system.

To facilitate the review process, a step-by-step methodology has been elaborated. First, information on the current status of the right to education at national level is collected using selected indicators and relevant sources. Based on the information gathered, the law and policy checklist (*Table 2*) allows for the interpretation of the information and assessment of areas of compliance or lack thereof, of national constitutional, legislative and policy frameworks with international standards in education. Using the results of the checklist, the major priority issues, bottlenecks and difficulties affecting the full implementation of the right to education are identified and analyzed in order to draw conclusions. Finally, on the basis of the latter, recommendations for changes in the national frameworks can be formulated. These recommendations are intended to inform discussions on legal and policy reform to better respect, protect and fulfil the right to education for all. A report is drafted based on the information gathered, findings and recommendations that emerge in the review process. A suggested outline is proposed for this purpose.

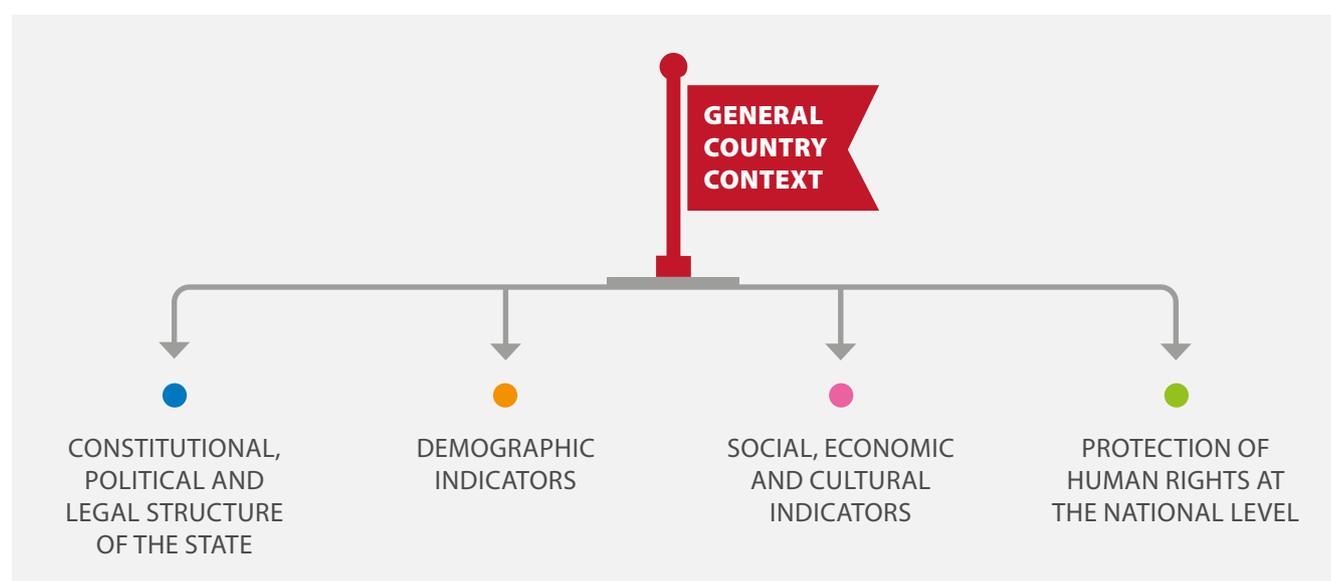


The user of these Guidelines will be responsible for planning, coordinating and implementing the review processes and producing a final report, by making maximum use of existing in-country capacities among the concerned national bodies, agencies and experts.

# Section 1. Analyzing the current status of the right to education

## i. Analyzing the general country context

While not intrinsically part of the review, in order to have a holistic understanding of the education system, it could be useful to collect information, which may, to a varying degree, impact the full realization of the right to education.<sup>56</sup> Intended to be brief, this section seeks to provide an overview of the country context.



**Constitutional, political and legal structure of the State:** This part includes the description of the constitutional structure and the political and legal framework of the State, including the type of government, the electoral system and the organization of the executive, legislative and judicial organs.

**Demographic indicators:** Information on the population size, growth and density (in rural and urban areas) and population groups (e.g. ethnic, linguistic, religious and indigenous groups).

**Social, economic and cultural indicators:** If available, the information should cover the last three years and include:

- Proportion of population below the national poverty line
- Employment rate
- Income disparities

**Protection of human rights at the national level:** Information on what processes and remedies are available in cases of breach or violation of human rights such as through judicial and quasi-judicial mechanisms, including institutions or national mechanisms with responsibility for overseeing the implementation of human rights.

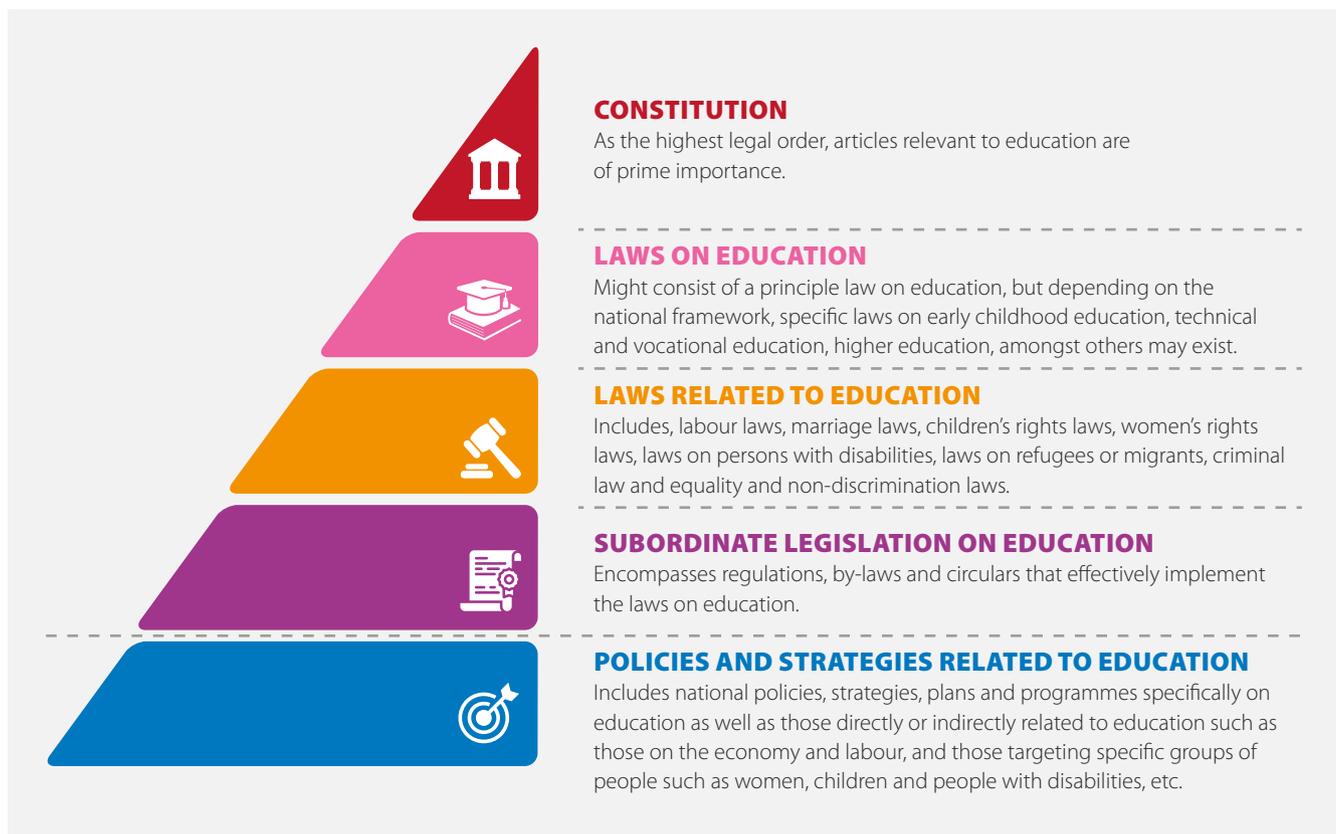
<sup>56</sup> To gather the information, see the relevant sources of information provided in *Part II, Section 1(v)*.

**Educational landscape:** Information on the participation of different actors and stakeholders, including the nature of non-governmental and non-formal schools.

Complementary information can be found in the documentation provided by the Office of the Higher Commissioner for Human Rights (OHCHR). For a given country, the 'National report' prepared for the Universal Periodic Review (UPR)<sup>57</sup> analyses the States' actions regarding all the fundamental human rights. Additionally, the 'Compilation of UN information' compiles information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner.

## ii. Identifying national legal and policy texts

As part of the review process, relevant national legal and policy texts should be identified. As the right to education is not only covered in specific education-related official texts, other legislations and policies that have either direct or indirect implications on the realization of this right should also be gathered. This is particularly true for the legal framework. To help guide and identify the texts, the following list can be used<sup>58</sup>:



<sup>57</sup> See : <https://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>

<sup>58</sup> To identify the texts, see the relevant sources of information provided in, *Part II, Section 1 (v)*.

### iii. Examining UN monitoring mechanisms' conclusions

The UN monitoring mechanisms include a range of bodies (both charter-based and treaty-based) with the mandate to monitor the right to education at national level. For the purpose of this exercise, special attention should be given to the UN treaty bodies, the Universal Periodic Review and the Special Procedures in order to guide and frame the review, as the issues raised through these mechanisms should be taken into consideration in *Part II, Section 2*. The most recent reports, in the past 5-10 years, of the different UN bodies should be analyzed.

The **UN treaty bodies**, which consist of committees of independent experts for each of the nine core UN human rights treaties, monitor States' compliance with the core international human rights treaties<sup>59</sup> by periodically examining the reports submitted by the State Party as well as by civil society on the implementation of these treaties. At the end of the reporting process, the committee issues concluding observations to the State and provides recommendations that the State is encouraged to implement, including on the right to education.

The reviewers are encouraged to examine the most recent concluding observations among the following committees:

- Committee on Economic, Social and Cultural Rights (CESCR)<sup>60</sup>
- Committee on Migrant Workers (CMW)<sup>61</sup>
- Committee on the Elimination of Discrimination against Women (CEDAW Committee)<sup>62</sup>
- Committee on the Elimination of Racial Discrimination (CERD)<sup>63</sup>
- Committee on the Rights of Persons with Disabilities (CRPD Committee)<sup>64</sup>
- Committee on the Rights of the Child (CRC Committee)<sup>65</sup>
- Human Rights Committee (HRC)<sup>66</sup>

The *Most recent Concluding Observations* can be found by visiting the OHCHR's official website and selecting the country using the 'Human Rights by country' tab to access the country homepage: <https://www.ohchr.org/EN/pages/home.aspx>. For all the concluding observations, select 'Reporting Status' on the country homepage.

The concluding observations' structure includes a section on *principal subjects of concern and recommendations*. Once the concerns and recommendations relating to the right to education have been identified, the reviewers are encouraged to extract key elements which will be useful to frame the analysis when monitoring progress on the implementation of the right to education in the following section.

The **Universal Periodic Review (UPR)** is a unique process which involves a review of the human rights records of all UN Member States on a periodic basis.<sup>67</sup> The UPR is a state-driven process, under the auspices of the UN Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations, through the submission of a national report. The result of each review is reflected in the '*Report of the Working Group*', which lists the recommendations, including on the right to education, that the State under review is called to implement before the next review.

Similar to the concluding observations of the human rights treaty-based committees, the reviewers are invited to examine the recommendations of the most recent UPR cycle related to the right to education. To view the recommendations of the '*Report of the Working Group*' for a given country, visit the OHCHR's webpage on the UPR: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>. The Report of the Working Group includes a section on *conclusions and/or recommendations*

59 See the OHCHR's website for the list of core International Human Rights Instruments: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>.

60 CESCR's Concluding Observations regarding Articles 13 and 14 of the ICESCR.

61 CMW's Concluding Observations regarding Articles 30 and 45 of the ICRMW.

62 CEDAW Committee's Concluding Observations regarding Article 10 of the CEDAW.

63 CERD's Concluding Observations regarding Articles 5(v) and 7 of the CERD.

64 CRPD Committee's Concluding Observations regarding Article 24 CRPD.

65 CRC's Committee's Concluding Observations regarding Articles 28 to 30 of the CRC.

66 HRC's Concluding Observations regarding Article 18.4 of the ICCPR.

67 See: OHCHR, 2008, *Working with the United Nations Human Rights Programme: A Handbook for Civil Society, Chapter 7*. Available at: [https://www.ohchr.org/EN/AboutUs/CivilSociety/Documents/Handbook\\_en.pdf](https://www.ohchr.org/EN/AboutUs/CivilSociety/Documents/Handbook_en.pdf)

which are formulated in short sentences and presented as a list. Those related to the right to education should be extracted and used to frame the analysis.

The system of **Special Procedures of the Human Rights Council** is a central element of the UN and covers all human rights. As of 7 October 2020, there are 44 thematic<sup>68</sup> and 11 country<sup>69</sup> mandates. Special procedures are either an individual, called *Special Rapporteur or Independent Expert*, or a *Working Group* composed of five members (one from each of the five United Nations regional groupings).<sup>70</sup> They are appointed by the Human Rights Council and serve in their personal capacities. At the invitation of States, mandate-holders carry out country visits to assess the human rights situation at the national level.<sup>71</sup> At the end of their visits, they engage in dialogue with the State on their findings and recommendations and present a report to the Human Rights Council. The findings and recommendations related to the right to education of these reports should also be identified as they are useful to frame the analysis.

The following Special Procedures are of particular interest:

- UN Special Rapporteur on the right to education: <https://www.ohchr.org/EN/Issues/Education/SREducation/Pages/CountryVisits.aspx>

### DEFINITION

**Special Rapporteur on the Right to Education:** The mandate of the Special Rapporteur on the Right to Education was established in 1998 to examine the human right to education and to provide recommendations to governments and other stakeholders.<sup>72</sup>

- UN Special Rapporteur on minority issues: <https://www.ohchr.org/EN/Issues/Minorities/SRMinorities/Pages/visits.aspx>
- UN Special Rapporteur on the human rights of migrants: <https://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/CountryVisits.aspx>
- UN Special Rapporteur on the rights of indigenous peoples: <https://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/CountryReports.aspx>
- UN Special Rapporteur on the rights of persons with disabilities: <https://www.ohchr.org/EN/Issues/Disability/SRDisabilities/Pages/Countryvisits.aspx>
- UN Special Rapporteur on violence against women, its causes and consequences; <https://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/CountryVisits.aspx>
- UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity : <https://www.ohchr.org/EN/Issues/SexualOrientationGender/Pages/CountryVisits.aspx>
- UN Independent Expert on the enjoyment of human rights by persons with albinism: <https://www.ohchr.org/EN/Issues/Albinism/Pages/Documents.aspx>
- UN Independent Expert on the enjoyment of all human rights by older persons: <https://www.ohchr.org/EN/Issues/OlderPersons/IE/Pages/CountryVisits.aspx>
- UN Working Group on discrimination against women and girls: <https://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/CountryVisits.aspx>
- UN Working Group of Experts on People of African Descent: <https://www.ohchr.org/EN/Issues/Racism/WGAfricanDescent/Pages/CountryVisits.aspx>

68 For the thematic mandates see here: <https://spinternet.ohchr.org/ViewAllCountryMandates.aspx?Type=TM&lang=en>

69 For the country mandates see here: <https://spinternet.ohchr.org/ViewAllCountryMandates.aspx?lang=en>

70 The full list of mandate-holders can be found here: <https://www.ohchr.org/EN/HRBodies/SP/Pages/Publications.aspx#directory>

71 For more information see: <https://www.ohchr.org/EN/HRBodies/SP/Pages/CountryandothervisitsSP.aspx>

72 For more information on the mandate, please see: OHCHR, Special Rapporteur on the right to education [online]. Accessible at : <https://www.ohchr.org/en/issues/education/sreducation/Pages/SREducationIndex.aspx> [Accessed on 20 September 2020]

## iv. Measuring the status of implementation

In order to ascertain the status of implementation of the right to education, indicators are used. In fact, indicators are a tool commonly used to measure progress and results in a certain field, such as that of education. More specifically, an indicator that refers to human rights, in this case the right to education, means it is 'specific information on the state or condition of an object, event, activity or outcome that can be related to human rights norms and standards; that addresses and reflects human rights principles and concerns; and that can be used to assess and monitor the promotion and implementation of human rights'<sup>73</sup>.

In response to a rising demand for tools to monitor the implementation of the provisions contained within human rights treaties, the OHCHR adopted a conceptual and methodological framework for human rights indicators (which includes the right to education)<sup>74</sup>. Building on this, the present Guidelines have further developed a list of specific indicators for gathering information on the status of implementation of the right of education. Without claiming to be exhaustive, these indicators attempt to capture as many dimensions of the right to education as possible and provide a broad and comprehensive framework of analysis.

With the knowledge that there is a significant number of indicators, a concise list of core indicators was extracted to facilitate the work of the reviewers in this exercise. These indicators are relevant to all country contexts and are important for the review. Particular attention is given to the 'minimum core obligations' and priority SDG 4 commitments in relation to the right to education. Therefore, this limited list of indicators should be considered as generic, while the full list of indicators is included in *Annex I*. According to the country context, specific priorities and needs, resources and availability of information, a pragmatic and more comprehensive approach can be adopted to use additional (or all) indicators presented in Annex I to conduct a more thorough analysis.

The proposed indicators for this section follow the OHCHR model for human rights-based indicators:

- **Structural indicators** evaluate whether or not a country has established a proper infrastructure for the realization of the right to education (e.g. institutions, constitutional provisions, laws and policies).
- **Process indicators** evaluate the level of implementation of activities necessary to deliver good quality education.
- **Outcome indicators** evaluate the status of the population's enjoyment of the right to education.

The indicators seek one of three responses:

- **'Yes' or 'No'**: For example, 'The legislation makes pre-primary education free to all'
- **A quantitative response** (an amount or percentage): For example, 'Percentage of Gross Domestic Product [GDP] devoted to education'
- **A qualitative response**: For example, 'There is an inspection system to monitor and evaluate the quality and content of education - If yes, describe how this is done'

Indicators should be valid, objective, sensitive, specific, user-friendly and feasible, as well as policy-relevant, consistently measurable over time and capable of disaggregation. Thus, indicators can be used to identify differences, disparities, gaps, remaining challenges, disadvantaged population groups and geographical areas, and future priorities within the country's educational system, in particular its legal and policy framework for education.

To obtain the information for some of the indicators, full use can be made of data from the latest population censuses and household surveys. Additionally, relevant country-specific information on the implementation of the right to education can be found using the sources provided in the following *section*.

73 OHCHR, 2012, *Human Rights Indicators. A Guide to Measurement and Implementation*. Available at: [https://www.ohchr.org/documents/publications/human\\_rights\\_indicators\\_en.pdf](https://www.ohchr.org/documents/publications/human_rights_indicators_en.pdf)

74 For more information, see: <http://www.ohchr.org/EN/Issues/Indicators/Pages/HRIIndicatorsIndex.aspx> and see Table 6, of *Human Rights Indicators Tables – Updated with SDG Indicators*: [https://www.ohchr.org/Documents/Issues/HRIIndicators/SDG\\_Indicators\\_Tables.pdf](https://www.ohchr.org/Documents/Issues/HRIIndicators/SDG_Indicators_Tables.pdf)

**TABLE 1: LIST OF CORE SELECTED INDICATORS**

Below are selected core indicators relevant to all country contexts and are particularly significant when conducting the review. **The numerical order is explained by the numbering used in the full list** of indicators which can be found in *Annex I*.

For the purpose of these indicators, depending on the national context, vulnerable groups may include: girls and women, people with disabilities, national, ethnic and linguistic minorities, indigenous people, people living in rural areas, migrants, refugees, asylum-seekers, internally displaced people, people from poor households, people affected by an incurable disease or disorder, people in detention, LGBTQI, among others.

## 1. Core structural indicators

Indicator	Yes/No/Comment
<b>Constitutional provisions</b>	
4. The country's constitution recognizes education as a right for all	
6. The constitution guarantees:	
6.1. The right to pre-primary education - If so, specify if its free and/or compulsory	
6.2. The right to primary education - If so, specify if its free and/or compulsory	
6.3. The right to secondary education - If so, specify if its free and/or compulsory	
6.5. The right to education for all (irrespective of nationality, citizenship, sex, age...)	
7. The constitution specifies (whether implicit or explicit) the right to education without discrimination	
<b>Legislation</b>	
10. The legislation guarantees compulsory pre-primary education – If so, specify enrolment ages and duration	
11. The legislation guarantees compulsory primary education – If so, specify enrolment ages and duration	
12. The legislation guarantees compulsory secondary education – If so, specify enrolment ages and duration	
13. The State has legislation expressly recognizing the right to education for all	
14. The legislation makes pre-primary education free to all	
15. The legislation makes primary education free to all	
16. The legislation makes secondary education free to all	
21. The legislation provides for the right of access to educational institutions and programmes on a non-discrimination basis for students specifically based on race, colour, sex, language, religion, political or other opinion, ethnic, national or social origin, economic condition or birth, disability, family status, or sexual orientation	
26. The legislation prohibits child marriages (below the age of 18) as it would interfere with school attendance	
27. The legislation restricts child labour to encourage children to attend school	
28. The legislation prohibits	
28.1. Corporal punishment	
28.2. School-related gender-based violence	
<b>National strategy and plan of action</b>	
32. The State has a budgeted and costed national education strategy and plan of action, including a timeline for achieving the goals and a monitoring mechanism for the assessment of their attainment	
33. If yes: The national education strategy and/or plan of action expressly include the goals of:	

33.1. Progressive introduction of compulsory and free pre-primary education (yes/no/not relevant because goal already achieved)	
33.2. Universal, compulsory, and free primary education (yes/no/not relevant because goal already achieved)	
33.3. Progressive introduction of free secondary education (yes/no/not relevant because goal already achieved)	
33.4. Progressive introduction of free higher education (yes/no/not relevant because goal already achieved)	
35. The strategy and/or plan includes provisions for temporary and special measures for target groups (for example vulnerable groups including working and street children)	
36. The strategy and/or plan includes sector-wide distance learning solutions	
37. If yes: The strategy and/or plan provides for inclusive measures for vulnerable groups (provision of free basic digital devices, assistive tools for students with disabilities, flexible programme schedules, ensuring connectivity, etc.)	
<b>Participation</b>	
45. The State has a mechanism to consult representatives of community leaders, representatives of non-governmental education, teachers, parents and students in the formation of educational policy, other than normal political institutions, at the national/regional level	
<b>Private schooling</b>	
57. The legislation expressly recognizes the:	
57.1. Liberty of individuals and groups to establish and direct educational institutions, subject to the requirement that the education given in such institutions shall conform to the minimum standards laid down by the State	
57.2. Right of parents or legal guardians to choose schools for their children other than those established by the public authorities, which conform to their own convictions and to the minimum educational standards laid down or approved by the State	
58. The legislation and regulations ensure the implementation of the right to education in the context of the involvement of private actors.	
<b>Curriculum</b>	
59. The State establishes minimal standards regulating the curriculum and the quality of study programmes and educational methods, including distance learning programmes	
61. The official curriculum is culturally appropriate and includes human rights education and/or values, such as respect for human dignity, non-discrimination and equal status before the law	

## 2. Core process indicators

Indicator	Yes/No/Comment
<b>Monitoring</b>	
3. The national government collects adequate data to evaluate performance under the national strategy/action plan, particularly in relation to vulnerable groups 3.1. Through educational statistics collected through school reporting	
8. Data is collected on: 8.1. The participation and engagement of students using distance learning programmes	
10. The data (preferably disaggregated) is publicly available related to: 10.1. Pre-primary education (yes/no/some)	
10.2. Primary education (yes/no/some)	

## Part II. Undertaking the review process

10.3. Secondary education (yes/no/some)	
10.4. Higher education (yes/no/some)	
10.5. Non-formal education (yes/no/some)	
<b>Charges payable in public education</b>	
22. Specify whether or not there are charges for each of the following components in public pre-primary education:	
22.1. Enrolment fees	
22.2. Tuition fees	
22.3. Indirect fees	
23. Specify whether or not there are charges for each of the following components in public primary education:	
23.1. Enrolment fees	
23.2. Tuition fees	
23.3. Indirect fees (e.g. uniforms, school supplies and educational materials, school meals, school transport)	
24. Specify whether or not there are charges for each of the following components in public secondary education:	
24.1. Enrolment fees	
24.2. Tuition fees	
24.3. Indirect fees (e.g. uniforms, school supplies and educational materials, school meals, school transport)	
<b>Teacher availability, training and qualifications</b>	
41. Average percentage of teachers at all levels completing mandatory in-service training:	
41.1. Pre-primary level	
41.2. Primary level	
41.3. Secondary level	
41.4. Higher level	

## 3. Core outcome indicators

Indicator	Comment
For indicators 1-12, ideally the information should be gathered for the following: total, female, male, in urban areas, in rural areas, low income groups, people with disabilities, and minority groups (language, religion, ethnicity, etc.) and for each grade, unless otherwise indicated.	
<b>School attendance</b>	
1. Enrolment rate in pre-primary education	
2. Enrolment rate in primary education	
3. Dropout rate in primary education	
4. Out-of-school rate in primary education	
6. Percentage of total students in primary school who are enrolled in private schools (total, in urban areas and in rural areas)	
7. Enrolment rate in secondary education	
8. Dropout rate for secondary education	
9. Out-of-school rate in secondary education	

10. Percentage of total students in secondary school who are enrolled in private schools (total, in urban areas and in rural areas)	
11. Enrolment rate in vocational education programmes at secondary level	
12. Enrolment rate in for higher education	
13. Percentage of students enrolled in public higher education institutions	
15. Percentage of children completing primary education (primary completion rate)	
18. Percentage of children completing secondary education (secondary completion rate)	

## v. Sources of information<sup>75</sup>

### General country information

- National statistics databases, documents and reports (including Education Sector Analysis, Education Joint Sector Review report, etc.)
- UN cooperation frameworks<sup>76</sup> (instrument for the planning and implementation of the UN development activities at country level): <https://unsdg.un.org/resources/cooperation-framework>
- Database of the UN: <http://data.un.org/>
- World Bank Open Data: <https://data.worldbank.org/indicator>

### Conventions' ratification status:

- UNESCO instruments : [http://portal.unesco.org/en/ev.php-URL\\_ID=12025&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=-471.html](http://portal.unesco.org/en/ev.php-URL_ID=12025&URL_DO=DO_TOPIC&URL_SECTION=-471.html)
- Status of ratification of International Human Rights Treaties: <http://indicators.ohchr.org/>

### National framework

- Official websites of the ministries of education and legislative bodies for each country
- NATLEX Database of the ILO: [http://www.ilo.org/dyn/natlex/natlex4.home?p\\_lang=en](http://www.ilo.org/dyn/natlex/natlex4.home?p_lang=en)
- OECD Education profiles by country: <http://www.oecd.org/edu/bycountry/>
- UNESCO International Institute for Educational Planning (IIEP) Planipolis (portal of national education plans and policies and also of education legislation): <http://planipolis.iiep.unesco.org/en>
- UNESCO Institute for Lifelong Learning (UIL): <https://uil.unesco.org>
- Eurydice (Europe): [https://eacea.ec.europa.eu/national-policies/eurydice/home\\_en](https://eacea.ec.europa.eu/national-policies/eurydice/home_en)
- Organization of Ibero-American States (*Organización de Estados Iberoamericanos*, OEI) (Education law of Countries of Latin America): <http://www.oei.es/inicial/legislacion/index.html>

<sup>75</sup> The order of the sources is presented either alphabetically or thematically.

<sup>76</sup> For UN staff, additional information may be found in the UN Common Country Assessment – see in particular the situation analysis with regard to education.

## Monitoring of the right to education

- National reports submitted to UN monitoring mechanisms<sup>77</sup> (Please note that concerning State reports in general, there could be significant gaps between what is reported and the realities on the ground, requiring some care when using State reports as a research source):
  - For the UN treaty bodies: access the *State Party's report* by visiting the OHCHR's official website, selecting the country homepage using the 'Human Rights by country' tab and selecting 'Reporting Status': <https://www.ohchr.org/EN/pages/home.aspx>.
  - For the UPR: access the *National report* by selecting the country on the UPR webpage: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>.
- UN Treaty Body Database: [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/TBSearch.aspx](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/TBSearch.aspx)
- UNESCO's Observatory on the Right to Education: <http://www.unesco.org/education/edurights/>
  - Notably the national reports submitted to UNESCO under the 'Monitoring' section.
- GEM reports (including the statistical tables in the annex of the reports): <https://en.unesco.org/gem-report/>
- Reports of UN Special Procedures (see also *Part II, Section 1(iii)*):
  - Thematic mandates: <https://spinternet.ohchr.org/ViewAllCountryMandates.aspx?Type=TM&lang=en>
  - Country mandates: [http://spinternet.ohchr.org/\\_Layouts/SpecialProceduresInternet/ViewAllCountryMandates.aspx](http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewAllCountryMandates.aspx)
  - Country visits of Special Procedures:
    - By country: <https://spinternet.ohchr.org/ViewCountryVisits.aspx?visitType=all&lang=en>
    - By mandate: <https://spinternet.ohchr.org/ViewMandatesVisit.aspx?visitType=all&lang=en>
  - UN Special Rapporteurs on the right to education:
    - Annual thematic reports: <https://www.ohchr.org/EN/Issues/Disability/SRDisabilities/Pages/Reports.aspx>
    - Country visits: <https://www.ohchr.org/EN/Issues/Education/SREducation/Pages/CountryVisits.aspx>
- UNICEF Publications: <http://www.unicef.org/publications/> and Country Profiles: <http://www.unicef.org/infobycountry/>
- UNESCO Atlas on Girls' and Women's Right to Education: <https://en.unesco.org/education/girls-women-rights>
- UN Girls' Education Initiative: <http://www.ungei.org/>
- ILO Comments by supervisory bodies: <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:20010:0::NO::>
- UNESCO International Centre for Technical and Vocational Education and Training (UNEVOC): <http://www.unevoc.unesco.org/go.php>
- UNESCO Institute for Lifelong Learning (UIL): <https://uil.unesco.org/library>
- Global Report on Adult Learning and Education: <https://uil.unesco.org/adult-education/global-report>
- Child Rights Information Network (CRIN): <http://www.crin.org/resources/index.asp>
- European Agency for Development in special needs education: <http://www.european-agency.org/country-information>
- Civil society websites, such as:
  - Education International: [https://www.worldsofeducation.org/en/woe\\_homepage](https://www.worldsofeducation.org/en/woe_homepage)
  - End Corporal Punishment: <https://endcorporalpunishment.org/reports-on-every-state-and-territory/>

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<sup>77</sup> Each treaty body has produced written guidelines for States Parties, giving advice on the form and content of the reports States are obliged to submit under the relevant treaty. These guidelines can vary in approach: some committees have provided detailed guidance on an article-by-article basis while others have given more general guidance.

- Girls Not Brides: <https://www.girlsnotbrides.org/where-does-it-happen/>
- Human Rights Watch: <https://www.hrw.org/publications>
- International Catholic Child Bureau: <https://bice.org/en/>
- Johns Hopkins Institute for education policy: <https://edpolicy.education.jhu.edu/>
- Latin American Campaign for the Right to Education (*Campaña Latinoamericana por el Derecho a la Educación*, CLADE): <https://redclade.org/en/>
- OIDEL: <https://www.oidel.org/presentation/?lang=en>
- Right to Education Initiative: <http://www.right-to-education.org/>

## Education statistics

- Data Centre of the UNESCO Institute for Statistics (UIS): <http://data.uis.unesco.org/>
  - Data for the Sustainable Development Goals: [http://www.uis.unesco.org/\\_LAYOUTS/UNESCO/education-2030/explore.html](http://www.uis.unesco.org/_LAYOUTS/UNESCO/education-2030/explore.html)
- UNESCO, UIS and GEMR, World Inequality Database on Education: <https://www.education-inequalities.org/>
- UNICEF database: <https://data.unicef.org/resources/resource-type/datasets/>
- World Bank Education Data: <https://data.worldbank.org/topic/education>

## Section 2. Using the law and policy checklist to review the degree of compliance of the national framework with international standards

With a view to reviewing national legal and policy frameworks on the right to education and their alignment with international human rights law and international commitments (notably SDG 4-Education-2030), an analytical table (checklist) has been developed. This checklist, which provides an analytical framework for country analysis leading to specific recommendations, translates international human rights obligations and commitments into concrete action by providing indicative legal and policy implications at national level.

### i. Checklist structure

The checklist (*Table 2*) has been organized in thematic areas to facilitate the review and the structuring of the report, however, as the thematic areas are often crosscutting, a holistic approach to the right to education should be adopted, whereby when analyzing one theme, implications on a different theme may need to be included.

There are seven themes that are covered:

1. General principles on the right to education, monitoring and accountability
2. Quality and relevance of education and learning
3. Free and compulsory education
4. Technical and vocational education and training and higher education
5. Lifelong learning opportunities
6. Inclusive education and elimination of barriers to education
7. Teaching profession

Each of the seven themes of the checklist is structured in two main parts:

- **INTERNATIONAL HUMAN RIGHTS INSTRUMENTS**, which constitute the theoretical part and present the most relevant international human rights provisions and standards related to each theme. These are not exhaustive and can be further complemented (notably with regional instruments). This part is divided into: *hard law instruments*, which are legally binding and set legal obligations derived from internationally agreed normative standards on the right to education, and *soft law instruments*, which are non-legally binding and notably clarify and interpret legal obligations, cover emerging issues and offer guidance on the implementation of the right to education. The latter includes political commitments and special emphasis is given to the Education 2030 Agenda.
- **GUIDING QUESTIONS**, developed in light of the international human rights instruments, constitute the practical part and help analyze the information gathered through the structural, process and outcome indicators in the previous *Section 1 (iv)* by revealing legal and policy gaps and specific challenges to the full realization of the right to education in a country. Alongside each listed question, reference to the most relevant indicators is made to facilitate the analysis (the core indicators are indicated with an asterisk).

### Checklist vis-à-vis indicators

While the way the checklist is formulated may sometimes be similar to the indicators, the nature and purpose of these two tools are different and have been conceived as complementary:

- The purpose of the **indicators** provided in the previous *Section 1 (iv)* is to *gather information and data* on the right to education which are to feed into the checklist.
- The aim of the **checklist** is to *analyze* the information gathered against international standards.

## ii. How to use the checklist

- 1. Begin by reading the GUIDING QUESTIONS.** Each Guiding question, which is based on international human rights instruments, acts primarily as a benchmark by indicating what should be reflected in the national frameworks.
- 2. Refer to the relevant INTERNATIONAL HUMAN RIGHTS INSTRUMENTS in relation to each question.** This section provides the reviewer with a strong basis for the analysis by presenting obligations, norms and standards, elaborated by international human rights instruments in relation to the right to education, for which countries are required to comply.
- 3. Respond to the GUIDING QUESTIONS** using the information gathered through the indicators and from relevant sources (see previous *Section 1*) to describe the status of implementation of the right to education at national level. In order to identify the gaps or challenges, the reviewers are to analyse:
  - a.** the conformity of the national framework with international human rights instruments,
  - b.** the effective implementation of the right to education at national level, as well as
  - c.** the overall consistency of the national framework (see the following page).

To support the analysis and the conclusions drawn, reference should be made to the provisions and standards of international human rights instruments. Depending on the national context and the Guiding question, certain instruments may prove to be more specific and adapted for the analysis than others. For example, when addressing issues related to women, the CEDAW could be more useful even if the right to education should be guaranteed for all, this instrument addresses their particular right.

Aside from international human rights standards, the information can also be further analyzed in light of<sup>78</sup>:

- ♦ nationally determined benchmarks
- ♦ past performance
- ♦ performance by a country of comparable level of development
- ♦ performance between different disaggregated groups (women/men, rural/urban...)

Please note that while the questions for this section are used as a benchmark to draw conclusions, they can also be used to formulate recommendations (see the following *Section 3*).

78 UNESCO and RTE, 2019, *Right to education handbook*, op. cit., p. 200.

## Consistency of the national framework

Beyond the analysis of the alignment of the national framework with the international framework, an important part of the review consists of analyzing the **coherence within the national framework itself as well as the overall consistency**. States must ensure not only that laws are aligned with international human rights instruments, but also with other national texts that are part of the national legal and policy framework (notably following a legal amendment or an adoption of a new text). For instance, by ensuring that:

- Legislation is aligned with the constitution;
- Education laws are aligned with other legislations that have direct implications on the right to education (such as labour laws, civil laws, children's rights laws, women's rights laws, laws on persons with disabilities, laws on refugees or migrants, equality and non-discrimination laws, criminal law, etc.);
- Regulatory texts (regulations, circulars, by-laws, decrees, etc.) are aligned with the legislation and provide details and practical measures for the effective implementation of the guarantees foreseen in the law;
- Policies (strategies, plans, programmes, etc.) are consistent with the legal texts.

The following are examples where there is a lack of consistency:

- An article of the Child law was amended which provides that parents have the obligation to ensure that children are enrolled in education up until the age of 15 years, however, the Education law provides that education is compulsory until the age of 13 years.
- The Education law provides for the right to education without discrimination based on sex, however, a circular was adopted that prohibits pregnant girls from continuing their education.
- The minimum age of employment in the Labour law is set at the age of 14, however, compulsory education lasts up until the child turns 16, which may lead to the child dropping out of school to go work.
- A policy aims to reinforce special education despite the Education law providing for the right to inclusive education.

What is meant by consistency is that the national texts do not contradict each other and are aligned in their provisions. It should be recognized that **sometimes policies are more advanced in terms of right to education guarantees than the legislation** and therefore, this does not constitute a contradiction nor inconsistency. Indeed, as policies are not enforceable in court, they allow for the government to set goals to improve the education system and address national issues in a more flexible manner. However, in time the legislation should evolve in order to include such guarantees to ensure durability and enforcement.

The following are examples of such cases:

- A strategy that includes the protection of learners in the digital environment does not need to translate immediately into a legal protection in order to be aligned. However, depending on the timeframe and feasibility, according such a legal protection is highly desirable.
- An education policy that makes pre-primary education compulsory is not conflicting with legal texts that do not provide for compulsory pre-primary education. Nevertheless, as the international framework requires at least one year of compulsory pre-primary education, the alignment of the legislation with the policy is encouraged.

**TABLE 2: LAW AND POLICY CHECKLIST**

As fully explained above, the table is divided into two parts:

- **INTERNATIONAL HUMAN RIGHTS INSTRUMENTS** (theoretical part)
- **GUIDING QUESTIONS** (practical part)

For the step-by-step guidance on how to use the checklist, please refer to *Section (ii)* above.

Please note that the full list of international human rights instruments, including the hyperlinks, can be found in *Annex II*.

## 2.1 GENERAL PRINCIPLES ON THE RIGHT TO EDUCATION, MONITORING AND ACCOUNTABILITY

### INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

#### HARD LAW INSTRUMENTS

##### RIGHT TO EDUCATION

The right to education has been recognized by numerous international and regional treaties, notably in the **UNESCO Convention against Discrimination in Education (CADE, 1960)**, which is entirely dedicated to the right to education. See also:

- Articles 13 and 14 of the **UN International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966)**. Article 13(1) notably states: 'The States Parties to the present Covenant recognize the right of everyone to education. ...'
- Article 10 of the **UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979)**
- Articles 28 and 29 of the **UN Convention on the Rights of the Child (CRC, 1989)**
- Article 24 of the **UN Convention on the Rights of Persons with Disabilities (CRPD, 2006)**

##### NON-DISCRIMINATION AND EQUALITY

The principle of non-discrimination and equality guaranteed in Article 2(2) of the **ICESCR** obliges each State Party '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' and Article 3 adds that: 'The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.' See also:

- Articles 3 and 22 of the **Convention relating to the Status of Refugees (Refugee Convention, 1951)**
- Articles 3 and 22 of the **Convention relating to the Status of Stateless Persons (Convention on Statelessness, 1954)**
- Article 1, 3 and 4(d) and 6 of the **CADE**, of which Article 1(1) states '... the term 'discrimination' includes any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education'

#### SOFT LAW INSTRUMENTS

##### RIGHT TO EDUCATION

The **Universal Declaration of Human Rights (UDHR, 1948)** recognized for the first time, that 'Everyone has the right to education.' (Article 26(1)).

##### NON-DISCRIMINATION AND EQUAL OPPORTUNITIES

General Comments (GCs) explain the following on non-discrimination:

- 'Given the principles of non-discrimination, equal opportunity and effective participation in society for all, the State has an obligation to ensure that the liberty set out in article 13 (4) does not lead to extreme disparities of educational opportunity for some groups in society' (**CESCR's GC No. 13 (1999) on the Right to education**, para. 30).
- 'Both direct and indirect forms of differential treatment can amount to discrimination ...' (**CESCR's GC No. 20 (2009), on Non-discrimination in economic, social and cultural rights**, para. 10). According to the CESCR, 'other status' is to include age, nationality, marital and family status, sexual orientation and gender identity, health status, place of residence, and economic and social situation (paras. 27-35).
- '[States Parties] must take urgent steps to remove all legal, administrative and other forms of discrimination impeding the right of access to inclusive education' (**CRPD Committee's GC No. 4 (2016) on the Right to inclusive education**, para. 40(a)). It also states: '... the right to education must be assured without discrimination and on the basis of equality of opportunity. States Parties must ... guarantee to all persons with disabilities equal and effective protection against discrimination on all grounds' (para. 13).

##### MONITORING

In the **CESCR's GC No. 13** states are required, to 'closely monitor education—including all relevant policies, institutions, programmes, spending patterns and other practices—so as to identify and take measures to redress any de facto discrimination. Educational data should be disaggregated by the prohibited grounds of discrimination' (para. 37). Additionally, **CESCR's GC No. 3 on The nature of States parties' obligations** clarifies that States must 'monitor the extent of the realization, or more especially of the non-realization, of economic, social and cultural rights, and to devise strategies and programmes for their promotion' (para. 11).

- Articles 1-5 of the **CEDAW** and on education Article 10 of the **CEDAW** provides that '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) ... equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training'
- Articles 1-3, 5(e)(v) and 7 of the **UN International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, 1965)**
- Articles 2(1) and 28(1) of the **CRC**
- Articles 2, 4-6, 12 and 24(1) of the **CRPD**
- Articles 1(1), 7, 43(1)(a)-(c) and 45(1)(a)-(b) of the **UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW, 1990)**, and Article 30 which states that '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'

#### EQUALITY OF OPPORTUNITIES

The **CADE** was the first international human rights treaty to provide for equality of opportunity in its Article 4: 'The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education ...'. See also:

- Article 10(d),(e) and (g) of the **CEDAW**
- Article 28(1) of the **CRC**
- Article 24(1) of the **CRPD**

#### ACCOUNTABILITY

The **CESCR's GC No. 9 on the Domestic Application of the Covenant** explains that right to education should be recognized, 'in appropriate ways within the domestic legal order, appropriate means of redress, or remedies, must be available to any aggrieved individual or group, and appropriate means of ensuring governmental accountability must be put in place' (para. 2).

#### EDUCATION 2030 AGENDA

##### NON-DISCRIMINATION AND EQUALITY

The **Framework for Action (FFA)** calls on States to: 'Ensure equity and inclusion in and through education and ... to address the multiple forms of discrimination ... which impede the fulfilment of the right to education.' (para. 13). It is also recommended that 'To ensure gender equality, education systems must act explicitly to eliminate gender bias and discrimination resulting from social and cultural attitudes and practices and economic status' (para. 20) and encourages that 'The provision of ... primary and secondary education ... should be ensured for all, without discrimination' (para. 30).

##### MONITORING AND ACCOUNTABILITY

The **Incheon Declaration** further calls 'for strong global and regional collaboration, cooperation, coordination and monitoring of the implementation of the education agenda based on data collection, analysis and reporting at the country level, within the framework of regional entities, mechanisms and strategies' (para. 13). Furthermore, 'We resolve to develop comprehensive national monitoring and evaluation systems in order to generate sound evidence for policy formulation and the management of education systems as well as to ensure accountability' (para. 18).

The **FFA** adds 'to ensure quality education and conditions for effective education outcomes, governments should strengthen education systems by instituting and improving appropriate, effective and inclusive governance and accountability mechanisms; quality assurance; education management information systems; transparent and effective financing procedures and mechanisms; and institutional management arrangements, as well as ensure that robust, timely and accessible data are available' (para. 18).

### GUIDING QUESTIONS

#### RIGHT TO EDUCATION

- Does the constitution and law enshrine the **universal right to education** (all levels and types of education) and **without any limitations** (as to age, citizenship, nationality, etc.)? Structural indicators: 1, 2, 3, 4\*, 5, 6.1\*, 6.2\*, 6.3\*, 6.4, 6.5\*, 13\*

#### NON-DISCRIMINATION, EQUALITY, INCLUSION AND EQUAL OPPORTUNITIES

- Do the constitution and national laws proscribe **discrimination** and guarantee the **principles of equity, inclusion, gender equality and equality of opportunities in all levels and types of education**? Structural indicators: 7\*, 21\*
- Is **discrimination with regard to education defined in the constitution and law** as including any distinction, exclusion, limitation or preference based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic or social condition, birth, age, nationality, marital and family status, sexual orientation and gender identity, health status, place of residence, or other status, having the purpose or effect of nullifying or impairing equality of treatment in education? Structural indicators: 7\*, 21\*

**MONITORING AND ACCOUNTABILITY**

- Does the legal and policy framework put in place **monitoring mechanisms** which assess compliance of the States' obligation with regard to the **right to education**, including the compliance of **public and private** educational institutions? Structural indicators: 32\*, 58\* / Process indicators: 1, 2, 3.1\*, 3.2, 3.3, 4, 5, 6, 7, 45, 46.
- Are relevant monitoring **results made public**? Process indicators: 9, 10\*, 15
- Is the monitoring process **participatory and regular** by ensuring:
  - That mechanisms are in place for the full and effective participation of all stakeholders? Structural indicators: 45\*, 46, 47 / Process indicators: 14
  - That the frequency of the monitoring process is determined by law? Process indicators: 9
- Does the legal and policy framework ensure a propitious environment for the **justiciability of the right to education** (e.g. are judges and lawyers trained on the right to education, are there human rights institutions, is the judicial system independent, does civil society provide legal support, etc.)?<sup>79</sup> Structural indicators: 42, 43, 44 / Process indicators: 11, 12, 13

**2.2 QUALITY AND RELEVANCE OF EDUCATION AND LEARNING****INTERNATIONAL HUMAN RIGHTS INSTRUMENTS****HARD LAW INSTRUMENTS****AIMS OF EDUCATION**

The aims of education are provided for in the **CRC** in Article 29(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'. See also:

- Article 5(1)(a) of the **CADE**
- Article 13(1) of the **ICESCR**

**CURRICULA**

To achieve the aims of education, curricula has an important role. Article 10(b) of **CEDAW**, provides that to ensure women have equal rights with men in the field of education they shall have access to the same curricula.

**SOFT LAW INSTRUMENTS****AIMS OF EDUCATION**

The **UDHR** was the first instrument to set out the aims of education, which includes human rights education, in its Article 26(2). The **CRC Committee's GC No. 1 (2001) on the Aims of Education** further states that '[T]hese aims...are all linked directly to the realization of the child's human dignity and rights, taking into account the child's special developmental needs and diverse evolving capacities' (para. 1). Recognizing that every 'child has unique characteristics, interests, abilities, and learning needs', the curriculum must be suitable to the 'child's social, cultural, environmental and economic context and to his or her present and future needs and take full account of the child's evolving capacities' (para. 9).

**STANDARDS AND NORMS OF EDUCATION**

According to the **CESCR's GC No. 13**, education shall exhibit the following essential features:

'(a) Availability. Functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State Party. What they require to function depends upon numerous factors, including the developmental context within which they operate; for example, all institutions and programmes are likely to require buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on; while some will also require facilities such as a library, computer facilities and information technology;

79 See: UNESCO and RTE, 2019, *Right to education handbook*, op. cit., chapter 8, section 8.3.a.iii "Barriers to the justiciable right to education" and section 8.3.a.iv "Enabling conditions for the legal enforcement of the right to education".

### HUMAN RIGHTS EDUCATION

Human rights education can be considered as a right in itself and is provided for as part of the aims of education. The **ICESCR**, in its Article 13(1) states that 'education shall strengthen the respect for human rights and fundamental freedoms...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'. See also:

- Article 5(1)(a) of the **CADE**
- Article 29(1)(b) of the **CRC**

### FINANCING EDUCATION

Financing education is covered in the **ICESCR**, in its Article 2(1) which provides 'Each State Party ... 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'. See also: Article 4 of the **CRC**

### MINIMUM EDUCATION STANDARDS

Article 13(3) of the **ICESCR** provides for the need to establish minimum education standards: 'The States Parties ... 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.'

### PRIVACY

While not applying specifically to education, the **UN International Covenant on Civil and Political Rights (ICCPR, 1966)** provides in its Article 17: '1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.' See also: Article 16 of the **CRC**.

(b) Accessibility. Educational institutions and programmes have to be accessible to everyone, without discrimination ... [E]ducation has to be within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school) or via modern technology (e.g. access to a 'distance learning' programme) ... [E]ducation has to be affordable to all.

(c) Acceptability - the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents; this is subject to the educational objectives required by article 13 (1) and such minimum educational standards as may be approved by the State (see art. 13 (3) and (4)).

(d) Adaptability - education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.' (para. 6).

In the **CESCR's GC No. 13** it is explained that **minimum education standards** '... may relate to issues such as admission, curricula and the recognition of certificates. In their turn, these standards must be consistent with the educational objectives set out in article 13 (1)' (para. 29). Furthermore, 'States parties are obliged to establish 'minimum educational standards' to which all educational institutions established in accordance with article 13 (3) and (4) are required to conform. They must also maintain a transparent and effective system to monitor such standards' (para. 54).

### FINANCING EDUCATION

The **CESCR's GC No. 13** states 'Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth. Increasingly, education is recognized as one of the best financial investments States can make' (para. 1). To this end the Committee states in **CESCR's GC No. 3** '... even where the available resources are demonstrably inadequate, the obligation remains for a State party to strive to ensure the widest possible enjoyment of the relevant rights [including the right to education] under the prevailing circumstances.' (para. 11).

## EDUCATION 2030 AGENDA

### STANDARDS AND CURRICULA

**Target 4.7** aims to 'ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture's contribution to sustainable development' by 2030.

An indicative strategy as to achieving Target 4.1 of Education 2030 is presented by the **FFA**: 'Define standards and review curricula to ensure quality and relevance to the context, including skills, competencies, values, culture, knowledge and gender responsiveness' (para. 34). Quality inputs and instructional processes can lead to 'effective and relevant learning outcomes' that 'enable all learners to acquire relevant knowledge, skills and competencies' (para. 32).

**FINANCING EDUCATION**

The **FFA** created a new international commitment to allocate 'at least 4% to 6% of gross domestic product (GDP) to education; and/or allocat[e] at least 15% to 20% of public expenditure to education' (para. 105).

**GUIDING QUESTIONS****AIMS OF EDUCATION**

- Do national laws clearly set the **aims of education** in accordance with international law? Structural indicators: 9

**CURRICULA**

- Does the legal framework establish a **regulatory framework** to ensure **standardized curricula** of quality by level of education, including of distance learning programmes? Structural indicators: 30, 59\*, 59.1, 59.2 / Process indicators: 36
- Does the **official curriculum** include:
  - **human rights** education and integrate values such as **sustainable development, global citizenship, non-discrimination, equality and gender equality** and **freedom of expression** (and prohibition of any hatred that constitutes incitement to discrimination, hostility or violence)? Structural indicators: 29, 61\*, 62
  - units on the **constitution and democracy**? Structural indicators: 63
  - classes related to information on **religion, ethics** and/or **culture**? Structural indicators: 64

**STANDARDS OF EDUCATION**

- To what extent is there an adequate inspection system to **monitor and evaluate the quality of the content of education**, including of distance learning programmes? Structural indicators: 60 / Process indicators: 54 / Outcome indicators: 15\*, 16, 18\*, 19
- To what extent is **access to quality public education** ensured, including proper infrastructure, access to drinking water, electricity, internet and computers, among others? Process indicators: 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 67, 68, 69, 70, 71, 72, 73/ Outcome indicators: 6\*, 10\*
- Does the legal framework provide for **minimum standards in education, including for the curriculum, to which all educational actors (private, religious or others)** should comply? Structural indicators: 57\*, 58\*, 59, 59.1, 59.2 / Process indicators: 43, 44
- Does the legal and policy framework provide for the **protection of learners in the digital environment**?<sup>80</sup> Structural indicators: 31, 38

**EDUCATION FINANCING**

- Is **education financing** guaranteed in the legal framework? Process indicators: 16
- Do laws or policies undertake the necessary steps to ensure allocating **at least 4-6% of GDP to education and/or at least 15%-20% to public expenditure**? Process indicators: 16, 17, 18, 19, 20
- Does the State **invest primarily in public education**? Process indicator: 39, 42, 50, 51, 62, 73 / Outcome indicator: 6\*, 10\*

80 For more information, see: UNESCO IITE, 2020, *Personal Data Security Technical Guide for Online Education Platforms*. Accessible at : <https://iite.unesco.org/wp-content/uploads/2020/05/Personal-Data-Security-Technical-Guide-for-Online-Education-Platforms-1.pdf>

## 2.3 FREE AND COMPULSORY EDUCATION

## INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

## HARD LAW INSTRUMENTS

## EARLY CHILDHOOD CARE AND EDUCATION

Article 28(1) of the **CRC** provides ‘States Parties recognize the right of the child to education ...’ and defines the age of the child: ‘For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.’ (Article 1). See also:

- Article 10(a) of the **CEDAW**
- Article 30 of the **ICRMW**

## PRIMARY AND SECONDARY EDUCATION

The **ICESCR** obligates: ‘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’ (Article 13(2)). See also:

- Article 22(1) of the **Refugee Convention**
- Article 22(1) of the **Convention on Statelessness**
- Article 4(a) of the **CADE** which specifies to ‘assure compliance by all with the obligation to attend school prescribed by law’.
- Articles 28(1)(a) and 28(1)(b) of the **CRC**
- Article 10(a) of the **CEDAW**
- Article 30 of the **ICRMW**
- Articles 24(2)(a)-(b) of the **CRPD**

## SOFT LAW INSTRUMENTS

## EARLY CHILDHOOD CARE AND EDUCATION

Early childhood is internationally recognized as a critical period for realizing children’s rights (**CRC Committee’s GC No. 7 (2005) on Implementing child rights in early childhood** (para. 6). While the right to early childhood care and education is not clearly enshrined in international law, the CRC Committee states: ‘The Committee interprets the right to education during early childhood as beginning at birth and closely linked to young children’s right to maximum development ...’ (para. 28).

## PRIMARY AND SECONDARY EDUCATION

The **UDHR** in its Article 26(1) states that ‘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’.

The **CESCR’s GC No. 13**, explains that “[P]rogressive introduction of free education” means that while States must prioritize the provision of free primary education, they also have an obligation to take concrete steps towards achieving free secondary and higher education’ (para.14). The **CESCR’s GC No. 11 (1999) on the Plans of action for primary education** further details the following:

- ‘Article 14 of the International Covenant on Economic, Social and Cultural Rights requires each State party which has not been able to **secure compulsory primary education, free of charge**, to undertake, 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 primary education free of charge for all.’ (para. 1)
- With regard to **access to education and compulsory education**: ‘The element of compulsion serves to highlight the fact that neither parents, nor guardians, nor the State are entitled to treat as optional the decision as to whether the child should have access to primary education’ (para. 6).
- With regard to **free of charge education**: ‘The right is expressly formulated so as to ensure the availability of primary education without charge to the child, parents or guardians. Fees imposed by the Government, the local authorities or the school, and other direct costs, constitute disincentives to the enjoyment of the right and may jeopardize its realization. They are also often highly regressive in effect. Indirect costs, such as compulsory levies on parents (sometimes portrayed as being voluntary, when in fact they are not), or the obligation to wear a relatively expensive school uniform, can also fall into the same category’ (para. 7).

## EDUCATION 2030 AGENDA

## EARLY CHILDHOOD CARE AND EDUCATION

The **Education 2030 FFA** calls on States through **SDG 4 Target 4.2** to: ‘ensure that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education’. To meet this target, it states that ‘it is important that all children have access to quality holistic early childhood development, care and education for all ages. The provision of at least one year of free and compulsory quality pre-primary education is encouraged, to be delivered by well-trained educators’ (**FFA**, para. 36).

**PRIMARY AND SECONDARY EDUCATION**

**SDG 4 Target 4.1** of the Education 2030 Agenda calls on States to 'ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes'. To achieve this goal, the **FFA** encourages: 'The provision of 12 years of free, publicly funded, inclusive, equitable, quality primary and secondary education – of which at least nine years are compulsory, leading to relevant learning outcomes – should be ensured for all, without discrimination. The provision of free education includes the removal of cost related barriers to primary and secondary education' (para. 30).

**Civil society documents**

(based on the international framework and therefore do not create new norms)

**FREE EDUCATION**

The **Abidjan Principles**<sup>81</sup> state that in the case of 'impermissible steps, such as the introduction or raising of fees or defunding of public or free education, they should seek to remedy this situation in the shortest possible time' (para. 78).

**GUIDING QUESTIONS****EARLY CHILDHOOD CARE AND EDUCATION**

- Is at least **one year of free and compulsory pre-primary education** guaranteed in the law? Structural indicators: 6.1\*, 10\*, 14\*, 18\*, 32\*, 33.1\* / Process indicators: 17.2, 19.1, 20, 21, 22, 29.1, 50 / Outcome indicators: 1\*
- Does the legal framework ensure the right to benefit from appropriate **child-care services and facilities**?

**PRIMARY AND SECONDARY EDUCATION**

- Does the constitution provide for **free and compulsory** primary and/or secondary education? Structural indicators: 6.2\*, 6.3\*
- Are **12 years of free publicly funded primary and secondary education** guaranteed in the legal framework? Structural indicators: 6.2\*, 6.3\*, 15\*, 16\*, 32\*, 33.2\*, 33.3\*, 34 / Process indicators: 17.3, 17.4, 18, 19.2, 19.3, 20, 21, 23\*, 24\*, 25, 28, 29.2, 29.3
- Are **local governments or education institutions** expressly **prohibited by the legislation to charge supplementary fees** for books, school supplies, uniforms, construction or maintenance of school buildings and teacher's salaries? Structural indicators: 18
- Are **at least 9 years of primary and secondary education compulsory** in the legal framework (and does the State have the duty to guarantee compulsory education)? Structural indicators: 6.2\*, 6.3\*, 11\*, 12\*, 32\*, 33.2\*, 33.3\*, 34 / Outcome indicators: 2\*, 3\*, 4\*, 5, 7\*, 8\*, 9\*, 15, 17, 18
- Does the legislation **specify the age at which compulsory school ends/begins**? (*This is important to ensure the alignment of ages with the minimum age of employment*). Structural indicators: 11\*, 12\*

81 The UN Human Rights Council adopted a resolution (41st session, 9 July 2019) on the right to education which took note of the development by experts of the Abidjan Principles. See: UN Human Rights Council, 2019, *The right to education: follow-up to Human Rights Council resolution 8/4*, Doc. A/HRC/41/L.26 Available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/41/L.26](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/L.26)

## 2.4 TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING AND HIGHER EDUCATION

## INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

The provisions and standards related to secondary education in table 2.3 also apply to technical and vocational education and training (TVET) as secondary education includes TVET. Additionally, TVET has its own specific provisions in human rights law.

## HARD LAW INSTRUMENTS

On both TVET and higher education, Article 24(5) of the **CRPD** provides 'States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, ... 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'. See also:

- Article 22(2) of the **Refugee Convention** which provides for the favourable treatment of refugees and in any case not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education.
- Article 22(2) of the **Convention on Statelessness**, similar to the Refugee Convention but applies to stateless persons.
- Article 10(a) of the **CEDAW**, which provides for the right to vocational guidance and equality in technical, professional and higher technical education
- Article 43(1)(a) of the **ICRMW** on the equal treatment of migrants in accessing educational institutions

## TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING

The **ICESCR** provides in its Article 6(2) 'The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual'. See also:

- The **CEDAW** provides for the right to vocational training in Article 11(1)(c) and in Article 14(2) (d) provides 'To obtain all types of training and education, formal and non-formal... , as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency'
- The **CRC** which applies to children, provides on the right to vocational education in secondary education in Article 28(1)(b)
- Article 27(1)(d) of the **CRPD** provides 'Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training' and also Article 24(5)
- Articles 43(1)(b) and (c) of the **ICRMW**
- **Convention concerning Technical and Vocational Education and Training (2015)**

## HIGHER EDUCATION

The **ICESCR** provides in its Article 13(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'. See also:

- The **CADE** provides for the right to higher education in Article 4(a)
- The **CEDAW** provides that equality shall be ensured in higher technical education in Article 10(a)
- The **CRC** provides for the right to higher education in Article 28(1)(c)
- The **CRPD** provides that that 'persons with disabilities are able to access general tertiary education' in Article 24(5)

Specifically, with regard to **qualifications** see:

- Article 22(2) of the **Refugee Convention**
- Article 22(2) of the **Convention on Statelessness**
- Article 10(b) of the **CEDAW**

## SOFT LAW INSTRUMENTS

## TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING

The **CESCR's GC No. 13** recognizes that **TVET** is both part of secondary education yet is not limited to a specific level of education as it forms an integral element of all levels of education and 'has a wider role, helping 'to achieve steady economic, social and cultural development and full and productive employment' (para. 15). It should also be understood as a component of general education (para. 16).

The **Recommendation concerning Technical and Vocational Education and Training (2015)** is entirely dedicated to the norms and standards on TVET.

## HIGHER EDUCATION

The **CESCR's GC No. 13** explains that ensuring that higher education is available 'on the basis of capacity' means 'The "capacity" of individuals should be assessed by reference to all their relevant expertise and experience' (para. 19).

The **World Declaration on Higher Education for the 21st Century (1998)** provides an understanding of what higher education encompasses: 'all types of education (academic, professional, technical, artistic, pedagogical, long distance learning, etc.) provided by universities, technological institutes, teacher training colleges, etc., which are normally intended for students having completed a secondary education, and whose educational objective is the acquisition of a title, a grade, certificate, or diploma of higher education' (para. 2). See also: **Recommendation on the Recognition of Studies and Qualifications in Higher Education (adopted 13 November 1993)**.

- **Regional Conventions on Higher Education**<sup>82</sup>
- **Global Convention on the Recognition of Qualifications concerning Higher Education (2019)**

Regarding **scholarships and fellowships** see:

- Article 22(2) of the **Refugee Convention**
- Article 22(2) of the **Convention on Statelessness**
- Article 3(c) of the **CADE** provides 'Not to allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries'
- The **ICESCR** further provides in its Article 13(1)(e) 'The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established ...'
- The **CEDAW**, in its Article 10(d) provides that women should be ensured 'the same opportunities to benefit from scholarships and other study grants'

## EDUCATION 2030 AGENDA

Furthermore, the Education 2030 Agenda also calls on States to 'ensure equal access for all women and men to affordable and quality technical, vocational and tertiary education, including university' (**SDG 4 Target 4.3**) and to 'substantially increase the number of youth and adults who have relevant skills, including technical and vocational skills, for employment, decent jobs and entrepreneurship' (**SDG 4 Target 4.4**).

## GUIDING QUESTIONS

### TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING

- Does the legal and policy framework guarantee **a sufficient number of both initial and continuous TVET and skills development opportunities** to all women and men, at secondary and tertiary levels, with special attention to vulnerable groups? Process indicators: 48, 49 / Outcome indicators: 11\*, 14
- Does the legal framework ensure the **quality of technical and vocational education and training**, including of the providers, by adopting legal provisions or regulations on **standards and norms** on education and training? Structural indicators: 59\*, 59.1, 59.2 / Process indicators: 43.4, 44.4, 49
- Are there legal or policy measures that establish or strengthen **affordable institutional arrangements for the provision of TVET**, to promote employment, decent jobs and entrepreneurship? Structural indicators: 16\*, 17, 19 / Process indicators: 19.4
- Does the legal framework include provisions regarding **quality assurance systems** for TVET qualifications and institutions, including private providers? Process indicators: 45.4, 46.4, 49
- Are **institutionalized mechanisms for the involvement of a wide range of public and private stakeholders** in the governance of TVET systems established? Process indicators: 14
- Are there legal or policy measures that ensure that TVET **helps to achieve steady economic, social and cultural development and full and productive employment**?

### HIGHER EDUCATION

- Are there legal or policy measures in place to ensure the **progressive introduction of free higher education**? Structural indicators: 6.4, 17, 33.4\* / Process indicators: 17.5, 19.5, 29.4 / Outcome indicators: 12\*, 13\*
- Are there legal or policy measures to ensure that each individual can afford higher education, including TVET, based on their income, by establishing an **adequate fellowship system** and guarantee the right of **access to grants, scholarships, credits, loans** for students on the basis of non-discrimination, equity and equality (including through affirmative measures), with special attention to vulnerable groups? Structural indicators: 19 / Process indicators: 29.4 / Outcome indicators: 12\*, 13\*, 20, 21
- Does the legal framework ensure the quality of higher education, including of the providers, by adopting legal provisions or regulations on **standards and norms** relating to the quality of education? Process indicators: 43.5, 44.5, 45.5, 46.5, 49
- Are there legal measures that ensure **comparability, recognition, validation and accreditation of skills or qualifications acquired**, including prior learning and acquired skills, in the home country or abroad, or in an informal or non-formal way? Structural indicators: 1.2

82 Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Latin America and the Caribbean (1974), Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab and European States Bordering on the Mediterranean (1976), Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab States (1978), Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region (1979), Regional Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and other Academic Qualifications in Higher Education in the African States (1981), Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific (1983), Convention on the Recognition of Qualifications concerning Higher Education in the European Region (1997), Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education (2011), and Revised Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in African States (2014).

## 2.5 LIFELONG LEARNING OPPORTUNITIES

## INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

## HARD LAW INSTRUMENTS

The right to education, as with all other human rights, applies to all ages including adults. The **ICESCR** provides in its Article 13(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'. See also:

- The **CADE** encourages education for those who have not received/ completed primary education in Article 4(c).
- Article 14(2)(d) of **CEDAW** provides the right 'To obtain all types of training and education, formal and non-formal, including that relating to functional literacy.'
- The **CRC** provides in its Article 28(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.'
- Article 24(5) of the **CRPD**, which provides 'States Parties shall ensure that persons with disabilities are able to access ... 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.'

## SOFT LAW INSTRUMENTS

The **CESCR** explains: 'It should be emphasized that enjoyment of the right to fundamental education is not limited by age or gender; it extends to children, youth and adults, including older persons. Fundamental education, therefore, is an integral component of adult education and lifelong learning. Because fundamental education is a right of all age groups, curricula and delivery systems must be devised which are suitable for students of all ages' (para. 24).

The **Recommendation on Adult Learning and Education (2015)** states that adult education 'comprises all forms of education and learning that aim to ensure that all adults participate in their societies and the world of work. It denotes the entire body of learning processes, formal, non-formal and informal, whereby those regarded as adults by the society in which they live, develop and enrich their capabilities for living and working, both in their own interests and those of their communities, organizations and societies'. See also: **Hamburg Declaration on Adult Learning (1997)**

## EDUCATION 2030 AGENDA

Furthermore, **SDG 4 Target 4.6** calls on States to 'ensure that all youth and a substantial proportion of adults, both men and women, achieve literacy and numeracy'. The **FFA** further states: 'The right to education begins at birth and continues throughout life; therefore, the concept of lifelong learning guides SDG 4-Education 2030. To complement and supplement formal schooling, broad and flexible lifelong learning opportunities should be provided through non-formal pathways with adequate resources and mechanisms and through stimulating informal learning, including through use of ICT' (para. 15).

## GUIDING QUESTIONS

## FUNDAMENTAL EDUCATION

- Does the constitution and law recognize the right to education of adults who have **not received or completed compulsory education**? Structural indicators: 8 / Process indicators: 8.2, 10.5, 17.6, 19.6, 32
- Does the legal framework ensure the **quality of literacy and numeracy programmes** according to the **minimum education standards** laid down or approved by the competent authorities? Structural indicators: 59\*, 59.1, 59.2, 60 / Process indicators: 8.2, 10.5, 17.6, 19.6 / Outcome indicators: 22
- Does the legal and/or policy framework, through a **sector-wide and multisector approach**, ensure **equitable and quality lifelong learning opportunities** that replace **missed and incomplete compulsory education**, including acquisition of a relevant and recognized proficiency level of **functional literacy and numeracy** skills? Process indicators: 8.2, 10.5, 32 / Process indicators: 8.2, 10.5, 17.6, 19.6 / Outcome indicators: 22

## TRAINING OPPORTUNITIES

- Does the legal and policy framework, through a sector-wide and multisector approach, establish a system of **continuing education and equitable access to learning and training opportunities** (for example, professional training and qualifications, skills development, classes for the elderly, etc.)? Process indicators: 8.2, 10.5, 17.6, 19.6, 32, 33, 34
- Are there legal or policy measures that ensure that adult education **helps to achieve steady economic, social and cultural development and full and productive employment**?

## 2.6 INCLUSIVE EDUCATION AND ELIMINATION OF BARRIERS TO EDUCATION

## INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

## HARD LAW INSTRUMENTS

## EDUCATIONAL FREEDOM

The **ICESCR** provides in its Article 13(3) that: '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.' Article 13(4) adds: '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 [on the aims of education] 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.' See also:

- Articles 2, 5(1)(b) and (c) of the **CADE**
- Article 18 (4) of the **ICCPR**
- Article 12(4) of the **ICRMW**

## PROTECTION AGAINST ALL VIOLENCE

Article 19(1) of the **CRC** provides: 'States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.' Additionally, Article 16 of the **CRPD** provides that 'States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.'

## REGULAR ATTENDANCE AND SCHOOL DROPOUTS

The **CRC** provides in Article 28(1)(e) that the States shall 'Take measures to encourage regular attendance at schools and the reduction of drop-out rates.' See also: Article 10(f) of the **CEDAW**

## INCLUSIVE EDUCATION

Inclusive education is enshrined in the **CRPD**, Article 24 provides 'With a view to realizing [the right to education] without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning ...'

## SOFT LAW INSTRUMENTS

## PROTECTION AGAINST ALL VIOLENCE

In order to ensure quality education, the **CRC Committee's GC No. 1** states that the 'school environment itself must thus reflect the freedom and the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin ... A school which allows bullying or other violent and exclusionary practices to occur is not one which meets the requirements of [the aims of education]' (para. 19). **CRC Committee's GC No. 8 (2006) on the Right of the child to protection from corporal punishment and other cruel or degrading forms of punishment** states: 'Addressing the widespread acceptance or tolerance of **corporal punishment** of children and eliminating it, in the family, schools and other settings, is ... an obligation of States Parties under the Convention.' (para. 3). 'The Committee defines 'corporal' or 'physical' punishment as any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light. ... In addition, there are other non-physical forms of punishment that are also cruel and degrading and thus incompatible with the Convention. These include, for example, punishment which belittles, humiliates, denigrates, scapegoats, threatens, scares or ridicules the child' (para. 11).

**CEDAW Committee's General Recommendation (GR) No. 35 on Gender-based violence against women**, states that the 'overarching obligation of States parties is to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including gender-based violence against women' (para. 21). Furthermore, private bodies providing education whose acts or omission that constitute gender-based violence against women shall be attributable to the State itself (para. 24(a)). Additionally, **CEDAW Committee's GR No. 19 on Violence against women** defines discrimination as including 'gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately' (para. 6).

## STANDARDS AND NORMS IN EDUCATION

The **CESCR's GC No. 13** states that education shall exhibit essential features including, amongst others (mentioned in table 2.2):

(a) Availability. Functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party.

(b) Accessibility. Educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. Accessibility has three overlapping dimensions:

Non-discrimination - education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds (see paras. 31-37 on non-discrimination);

#### GIRLS AND WOMEN

The **CEDAW** provides in its Article 10 'States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education.'

Specifically, on **child marriage**:

- Article 16(2) of the **CEDAW** reads 'The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.'

#### PERSONS WITH DISABILITIES

According to the **CRPD** Article 24, States should ensure: '(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.'

#### INDIGENOUS AND TRIBAL PEOPLES

**ILO Indigenous and Tribal Peoples Convention No. 169 (1989)** provides in Article 27 that '1. Education ... shall incorporate their histories, their knowledge and technologies, their value systems and their further social, economic and cultural aspirations. 2. The competent authority shall ensure the training of members of these peoples and their involvement in the formulation and implementation of education programmes, .... 3. ... governments shall recognise the right of these peoples to establish their own educational institutions and facilities, provided that such institutions meet minimum standards established by the competent authority in consultation with these peoples. ...'. Article 28 further adds, '(1) Children belonging to the peoples concerned shall, wherever practicable, be taught to read and write in their own indigenous language or in the language most commonly used by the group to which they belong. .... (2). Adequate measures shall be taken to ensure that these peoples have the opportunity to attain fluency in the national language or in one of the official languages of the country ...'

Physical accessibility - education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school) or via modern technology (e.g. access to a 'distance learning' programme);

Economic accessibility - education has to be affordable to all. This dimension of accessibility is subject to the differential wording of article 13 (2) in relation to primary, secondary and higher education: whereas primary education shall be available "free to all", States parties are required to progressively introduce free secondary and higher education. ...

(d) Adaptability - education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings' (para. 6).

#### INCLUSIVE EDUCATION

The **CRPD Committee's GC No. 4 on the right to inclusive education**, states that: 'Inclusive education is to be understood as: a) A fundamental human right of all learners. Notably, education is the right of the individual learner, and not, in the case of children, the right of a parent or caregiver' (para. 10). Furthermore, 'Inclusion involves a process of systemic reform embodying changes and modifications in content, teaching methods, approaches, structures and strategies in education to overcome barriers' (para. 11).

#### MINIMUM AGE OF EMPLOYMENT

The **CEDAW Committee's GR No. 36 on the Right of girls and women to education** states 'align the end of compulsory education with the minimum age for employment' (para. 24(f)).

#### GIRLS AND WOMEN'S EDUCATION

The **Joint GR/GC No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices** state that State Parties should 'Provide girls and women with educational ... opportunities in a safe and enabling environment where they can develop their self-esteem, awareness of their rights and communication, negotiation and problem-solving skills' (para. 69(b)). It is written that: 'Child marriage also contributes to higher rates of school dropout, especially among girls, forced exclusion from school and an increased risk of domestic violence, in addition to limiting the enjoyment of the right to freedom of movement' (para. 22). Female genital mutilation in all its forms is listed as a harmful practice due to the immediate and long-term health consequences (para. 19). This in turn affects the full realization of the right to education. Furthermore, **CEDAW Committee's GR No. 36**, recommends to 'review and/or abolish laws and policies that allow expulsion of pregnant girls, other categories of trainees and teachers and ensure there are no restrictions on their return following childbirth' (para. 24 (g)).

#### INDIGENOUS PEOPLES

The **UN Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007)** guarantees in Article 14(2) that: 'Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.'

**NATIONAL MINORITIES**

Article 5(1)(c) of the **CADE** further provides 'It is essential to recognize the right of members of national minorities to carry on their own educational activities, including the maintenance of schools and, depending on the educational policy of each State, the use or the teaching of their own language provided... (i) That this right is not exercised in a manner which prevents the members of these minorities from understanding the culture and language of the community as a whole. (ii) that the standard of education is not lower than the general standard laid down or approved by the competent authorities; (iii) That attendance at such schools is optional'

**REFUGEES**

The **Refugee Convention** provides in its Article 22 that '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 ...'. Similarly, the **Convention on Statelessness** provides the same provision for **stateless persons**.

**CHILD LABOUR**

The **ILO Minimum Age Convention n°138 (1973)** provides in Article 2, that '1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; ... no one under that age shall be admitted to employment or work in any occupation. ... 3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.' Article 7 further provides '1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is-- ... (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.'

**GUIDANCE AND COUNSELLING**

Article 28(1)(d) of the **CRC** provides: 'Make educational and vocational information and guidance available and accessible to all children ...'. See also:

- Article 10(a) of the **CEDAW**
- Article 27(1)(d) of the **CRPD**

**MOTHER TONGUE EDUCATION**

Regarding the right to learn in one's mother tongue, the **UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992)** provides in Article 4(3) that: 'States should take appropriate measures to allow persons belonging to minorities to have adequate opportunities to learn their mother tongue or to receive instruction in their mother tongue.' Article 4(4) further states that the history, traditions, and cultures of minorities should be reflected in education. See also: Article 14(1) of the **UNDRIP**.

**EDUCATION IN CONFLICT SITUATIONS**

The **Safe school declaration** welcomes the development of the Guidelines for protecting schools and universities from military use during armed conflict, which commits States to working together towards safe schools for all. It aims to 'Develop, adopt and promote conflict-sensitive' approaches to education in international humanitarian and development programmes, and at a national level where relevant; Seek to ensure the continuation of education during armed conflict, support the re- establishment of educational facilities and, where in a position to do so, provide and facilitate international cooperation and assistance to programmes working to prevent or respond to attacks on education, including for the implementation of this declaration.'

**EDUCATION 2030 AGENDA****PROTECTION AGAINST ALL VIOLENCE**

The **FFA** states: 'Stakeholders should make every effort to ensure that education institutions are protected as zones of peace, free from violence, including school-related gender-based violence' (para. 27). See also:

- **SDG 4 Target 4.5** and **Target 4.a**
- **SDG5 Target 5.2**
- **SDG16 Target 16.2**

**INCLUSIVE EDUCATION**

Target **4.5 of SDG 4** states 'By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations'. Furthermore, it states, 'The new education agenda [focuses] on inclusion and equity – giving everyone an equal opportunity, and leaving no one behind ... All people, irrespective of sex, age, race, colour, ethnicity, language, religion, political or other opinion, national or social origin, property or birth, as well as persons with disabilities, migrants, indigenous peoples, and children and youth, especially those in vulnerable situations or other status, should have access to inclusive, equitable quality education and lifelong learning opportunities' (para. 5).

**EDUCATION IN CONFLICT SITUATIONS**

The **FFA** further commits States to ‘institute measures to develop inclusive, responsive and resilient education systems to meet the needs of children, youth and adults in crisis contexts, including internally displaced persons and refugees’ (para. 26) and ‘Special measures should be put in place to protect women and girls in conflict zones. Schools and educational institutions – and the routes to and from them – must be free from attack, forced recruitment, kidnapping and sexual violence. Actions must be taken to end impunity for persons and armed groups that attack education institutions’ (para. 27).

**GUIDANCE AND COUNSELLING**

The **FFA** encourages States to ‘Promote flexible learning pathways in both formal and non-formal settings; enable learners to accumulate and transfer credits for levels of achievement; recognize, validate and accredit prior learning; and establish appropriate bridging programmes and career guidance and counselling services’ (para. 50).

.....  
**Civil society documents**

**FREE EDUCATION**

With regard to the financial barriers in education, the **Abidjan Principles** state that in private educational institutions, minimum standards should address governance issues including that all information regarding potential fees and other charges for the learners should be transparent and accessible (para. 55(a)) and ensure ‘the protection of learners’ rights in the context of failure or delay in the payment of fees’ (para. 55(h)).

**GUIDING QUESTIONS**

**EDUCATIONAL FREEDOM**

- Is the **liberty of individuals and groups to establish and direct educational institutions**, subject to the requirement that the education given in such institutions shall conform to the minimum standards laid down by the state, explicitly recognized in the legislation? Structural indicators: 57.1\*/ Process indicator: 35
- Does the constitution or legislation expressly recognize the **right of parents or legal guardians to choose schools** for their children other than those established by the public authorities, which conform to the minimum educational standards laid down or approved by the state? Structural indicators: 6.6, 57.2\*
- Does the legal framework expressly recognize the right of parents or legal guardians to ensure the **religious and moral education** of children in conformity with their own convictions? Structural indicators: 57.2\*, 64

**PROTECTION AGAINST ALL VIOLENCE**

- Does the legal framework **prohibit all forms of violence** (incl. bullying, cyberbullying, corporal punishment, all forms of gender-based and sexual violence and harassment) in the school environment? Structural indicators: 28\*

**STANDARDS AND NORMS IN EDUCATION**

- Are there legal provisions on **standards and norms relating to education facilities for vulnerable groups** such as women and girls, children with disabilities, among others including access to sanitation facilities, school meals, school supplies, ramps, appropriate transportation amongst others? Structural indicators: 24 / Process indicators: 47, 48, 49, 55, 56, 57, 66, 67, 68

**INCLUSIVE EDUCATION**

- Does the legal and policy framework ensure **access to education and inclusion of all learners** (girls and women, people with disabilities, groups living in rural areas, etc., including through affirmative or positive measures)? Structural indicators: 35\* / Process indicators: 19.10, 26, 27, 31, 47, 48 / Outcome indicators (for rural and urban areas): 6, 10
- To what extent does the law mandate **respect in the educational system for the culture and religious practices** of various groups and communities in the society? Structural indicators: 25, 64
- Do other **domestic laws** that have an impact on education (e.g. legislation on the rights of the child, on the rights of persons with disabilities, on the rights of women, etc.) adopt an **inclusive and equitable approach** and are they consistent with the legislation on education?
- Does the legal and policy framework put in place quality **distance learning solutions** giving particular attention to vulnerable groups? Structural indicators: 36, 37, 59, 59.1, 59.2, 60 / Process indicators: 33, 34, 47, 48

**MINIMUM AGE OF EMPLOYMENT**

- Is the legal age of **admission to work** and the age at which **compulsory education ends, fully aligned** in the domestic legislation and in any case does not fall below the age of 15 years? Structural indicators: 1.11, 1.13, 11\*, 12\*, 27\*

**REGULAR ATTENDANCE AND SCHOOL DROPOUTS**

- Does the legal and policy framework encourage **regular school attendance** and **reduce dropouts** or **early school leaving** (incl. through temporary **remedial action and accelerated learning strategies** depending of the specific contexts and needs)? Structural indicators: 40, 41

**FREE EDUCATION**

- Does the legal and policy framework **reduce financial barriers** to education (i.e. protection of learners' rights in the context of failure or delay in the payment of fee, introduction of scholarships...)? Process indicators: 19.10, 25, 26, 27, 28, 29, 30, 31

**EDUCATION IN CONFLICT SITUATIONS**

- Does the legal and policy framework guarantee a **safe learning environment in conflict situations** including the protection of school infrastructures (prohibition of armed forces to target, attack and/or occupy school infrastructure)?

**GIRLS AND WOMEN**

- To what extent does the national policy remove **gender bias and stereotypes** and ensure **gender parity** in education? Structural indicators: 35, 48.1, 49, 50, 51 / Process indicator: 19.8
- Is **career guidance and counselling opportunities** free of gender stereotyping guaranteed in the legal and policy framework?
- Is the right to education of **pregnant girls and young mothers** protected including through opportunities to continue their education and restrictions (such as expulsions from school) prohibited in the legal framework? Structural indicators: 51
- Does the legal framework prohibit all harmful practices such as **child marriage** (under the age of 18 years) and **FGM** as it interferes with school attendance? Structural indicators: 26\*
- Does the policy framework aim to eliminate **all harmful practices** detrimental to girls' and women's education? Structural indicators: 51

**OTHER VULNERABLE GROUPS**

- Are all legal obstacles that keep **vulnerable children and youth** out of education removed? Structural indicators: 4\*, 13\*, 21\*
- Is the right to receive instruction in their **mother tongue** at early stages guaranteed in the law? Process indicators: 37
- Are there legal and policy provisions guaranteeing the **right to education for persons with disabilities** based on an inclusive approach and which ensure the quality of their education? Is special attention given to vulnerable groups of people including, among others, persons with albinism? Structural indicators: 1.8, 23, 24, 35\*, 37\*
- Are there legal and policy provisions guaranteeing the **right to education for national minorities and indigenous peoples** (when relevant) and which ensure culturally relevant education? Structural indicators: 1.12, 35\*, 61\* / Process indicators: 19.9, 26.6, 27.6, 30.6, 35.1, 35.2, 35.4
- Do the domestic legislations and policies ensure that **refugees, stateless persons, migrants and internally displaced persons** (IDPs) have the right to access education and ensure their effective inclusion? Structural indicators: 1.3, 1.10, 35\*
- Is the recruitment of **child soldiers** prohibited in the law?

## 2.7 TEACHING PROFESSION

## INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

## HARD LAW INSTRUMENTS

## TRAINING

Teacher training is first provided for in Article 4(d) of the **CADE** whereby States Parties undertake: 'To provide training for the teaching profession without discrimination.'

## STATUS

The **ICESCR** further provides in its Article 13(1)(e): 'The development of a system of schools at all levels shall be actively pursued, ... and the material conditions of teaching staff shall be continuously improved.'

## SOFT LAW INSTRUMENTS

The **UNESCO/ILO Recommendation concerning the Status of Teachers (1966)** and the **Recommendation concerning the Status of Higher-Education Teaching Personnel (1997)** provide a comprehensive normative framework on the responsibilities and rights of teachers. On their **conditions and social status** the **1996 Recommendation** states that: 'The status of teachers should be commensurate with the needs of education as assessed in the light of educational aims and objectives; it should be recognized that the proper status of teachers and due public regard for the profession of teaching are of major importance for the full realization of these aims and objectives' (para. 5).

## TRAINING

The **CRC Committee's GC No. 1** states 'The relevant values cannot be effectively integrated into, and thus be rendered consistent with, a broader curriculum unless those who are expected to transmit, promote, teach and, as far as possible, exemplify the values have themselves been convinced of their importance. Pre-service and in-service training schemes which promote the principles reflected in article 29 (1) are thus essential for teachers, educational administrators and others involved in child education' (para. 18).

## TEACHING

The Committee states: 'The efforts to promote the enjoyment of other rights must not be undermined, and should be reinforced, by the values imparted in the educational process. This includes not only the content of the curriculum but also the educational processes, the pedagogical methods and the environment within which education takes place' (para. 8) and further states 'teaching methods should be tailored to the different needs of different children' (para. 9).

## STATUS

Status is defined in the **Recommendation of 1966** as meaning 'both the standing or regard accorded them, as evidenced by the level of appreciation of the importance of their function and of their competence in performing it, and the working conditions, remuneration and other material benefits accorded them relative to other professional groups' (para. 1 (b)). Specifically on the **salary** it is stated that: 'Amongst the various factors which affect the status of teachers, particular importance should be attached to salary, seeing that in present world conditions other factors, such as the standing or regard accorded them and the level of appreciation of the importance of their function, are largely dependent, as in other comparable professions, on the economic position in which they are placed' (para. 114).

## EDUCATION 2030 AGENDA

The **FFA** further states: 'As teachers are a fundamental condition for guaranteeing quality education, teachers and educators should be empowered, adequately recruited and remunerated, professionally qualified and supported within well-resourced, efficient and effectively governed systems' (para. 70).

## GUIDING QUESTIONS

## TRAINING

- Does the legal framework prohibit discrimination in the **recruitment and promotion of teachers and specify the discriminatory grounds**? Structural indicators: 22
- Does the legal framework guarantee the **right to teacher training**, including **pre-service, in-service / continuing professional teacher training** and ensure **teaching training standards by level (pre-primary through to higher education) and sector (public/private)**? Structural indicators: 6.7, 52, 53, 54 / Process indicators: 19.7, 38, 39, 40, 41
- Is there a **national plan for in-service / continuing professional teacher training**? Structural indicator: 32, 54 / Process indicators: 19.7

### TEACHING

- Does the legal and policy framework ensure that teachers are adequately trained on **human rights and cultural appropriateness in education**, to ensure an **inclusive safe environment, free from stereotypes**, and on **distance learning solutions**? Structural indicators: 48.3, 55, 56, 62

### STATUS

- Does the legal framework guarantee the **right to fair pay for teachers**, reflecting the importance of their function in society? Structural indicators: 6.7 / Process indicators: 19.7, 42
- Are there legal and policy measures to **improve the working conditions, welfare and social status** of teachers? Structural indicators: 45\*, 48.2 / Process indicators: 19.7

## Section 3. Elaborating recommendations for action for the better implementation of the right to education

The review is particularly useful to inform legal and policy elaboration and reform for the full realization of the right to education and to advance towards the achievement of SDG 4. To do so, the reviewers, based on the analysis and assessment undertaken, may wish to formulate some action-orientated recommendations.

Based on the identified gaps and inconsistencies that the analysis of the checklist has revealed, recommendations should be made on how to enhance the country's education system as a whole and its legal and policy frameworks in particular. The recommendations formulated are twofold:

1. Recommendations for **forming and strengthening** rights-based, inclusive legislation and policy
2. Recommendations for the **implementation** of rights-based, inclusive legislation and policy

To guide the formulation of the recommendations, the **GUIDING QUESTIONS** can be useful. It is important that the recommendations are drawn from the analysis.

In certain country contexts, recommendations may also be made regarding the need for the State to ratify relevant human rights treaties, and/or the submission of national reports to UN human rights monitoring mechanisms. Furthermore, it may be interesting to make recommendations with regard to legal and policy reforms that have been announced but have yet to be adopted that would ensure greater protection of the right to education. Worse, if the reform is retrogressive and has weakened the right to education, such an issue should be used to formulate the recommendations.

## Examples of the review process<sup>83</sup>

### Example 1

#### Step 1: Analyzing the current status of the right to education (Section 1)

##### ➤ Examine UN monitoring mechanisms (Part II, Section 1(iii))

**UN concluding observations:** The Committee on the Rights of the Child was concerned with the high number of out-of-school children, particularly at the secondary level.

##### ➤ Measure progress on implementation (Part II, Section 1(iv))

#### 1. Structural indicators

Question	Yes	No	Comment
11. The legislation guarantees compulsory primary education - If so, specify enrolment ages and duration *	Yes		The Education Act of 2005 guarantees compulsory primary education. Compulsory education begins when the child turns six and lasts 5 years (Article 7 of the Education Act of 2005).
12. The legislation guarantees compulsory secondary education - If so, specify enrolment ages and duration *	No		The Education Act of 2005 provides for the progressive introduction of compulsory secondary education.
32. The State has a budgeted and costed national education strategy and plan of action, including a timeline for achieving the goals and a monitoring mechanism for the assessment of their attainment *			The Ten-year plan (2015-2025) aims at introducing compulsory secondary education.
33. If yes: The national education strategy and/or plan of action expressly include the goals of: 33.2. Universal, compulsory, and free primary education (yes/no/not relevant because goal already achieved) *			Not relevant
33.3. Progressive introduction of compulsory and free secondary education (yes/no/not relevant because goal already achieved) *			The Ten-year plan (2015-2025) aims at introducing compulsory secondary education.
34. The time frame and coverage of the plan of action to implement the principle of compulsory primary education free of charge for all is (yes/no/not relevant because goal already achieved):			Not relevant

#### 2. Process indicators

Not relevant for the purpose of this example.

<sup>83</sup> Please note that while the information used in these examples are inspired by existing national contexts, they are not based on any specific country and are purely illustrative. Any similarities with a given country are unintentional.

### 3. Outcome indicators

Question	Comment
2. Enrolment rate in primary education *	2018 data: Net enrolment rate Total: 94%; female: 90%; male: 98%
3. Dropout rate in primary education *	2018 data: For the last grade the drop-out rate is: Total: 58%; female: 58%; male: 58%
4. Out-of-school rate in primary education *	2018 data: Total: 5%; female: 9%; male: 1%
5. Percentage of total primary school population who are older than the official primary school age	2018 data: Total: 14%, female: 13%, male: 15%
7. Enrolment rate in secondary education *	Total: 45.5%; female: 43%; male: 48%
8. Dropout rate in secondary education *	2018 data: For the last grade the drop-out rate is: Total: 10.5%; female: 9%; male: 12%
9. Out-of-school rate in secondary education *	2018 data: Total: 36.5 %; female: 40%; male: 33%
15. Percentage of children completing primary education (primary completion rate) *	No data for 2018, however in 2016: Total: 73%.
17. Percentage of primary school leavers who enter secondary school	The effective transition rate from primary to secondary is: Total: 67%
18. Percentage of children completing secondary education (secondary completion rate) *	No data for 2018, however in 2016 for lower secondary education: Total: 43% For upper secondary education: Total: 16%

## Step 2: Law and policy checklist (Section 2)

### 2.3 FREE AND COMPULSORY EDUCATION

#### International human rights instruments

##### HARD LAW INSTRUMENTS

##### PRIMARY AND SECONDARY EDUCATION

The ICESCR obligates: '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' (Article 13(2)). See also:

- Articles 4(a) and 4(b) of the CADE
- Articles 28(1)(a) and 28(1)(b) of the CRC which recognizes the right to education of children
- Articles 24(2)(a) and Article 24(2)(b) of the CRPD which recognizes the right to education of persons with disabilities

##### SOFT LAW INSTRUMENTS

##### PRIMARY AND SECONDARY EDUCATION

The **UDHR** in its Article 26(1) states that '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'.

The **CESCR's GC No. 13**, explains that "[P]rogressive introduction of free education" means that while States must prioritize the provision of free primary education, they also have an obligation to take concrete steps towards achieving free secondary and higher education' (para. 14). The **CESCR's GC No. 11 (1999)** on the **Plans of action for primary education**" further details the following:

- 'Article 14 of the International Covenant on Economic, Social and Cultural Rights requires each State party which has not been able to secure compulsory primary education, free of charge, to undertake, 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 primary education free of charge for all' (para. 1).

- With regard to access to education and compulsory education; 'The element of compulsion serves to highlight the fact that neither parents, nor guardians, nor the State are entitled to treat as optional the decision as to whether the child should have access to primary education' (para. 6).

### EDUCATION 2030 AGENDA

#### PRIMARY AND SECONDARY EDUCATION

**SDG 4 Target 4.1** of the Education 2030 Agenda calls on States to 'ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes.' To achieve this goal, the **FFA** encourages: 'The provision of 12 years of free, publicly funded, inclusive, equitable, quality primary and secondary education – of which at least nine years are compulsory, leading to relevant learning outcomes – should be ensured for all, without discrimination. The provision of free education includes the removal of cost related barriers to primary and secondary education' (para. 30).

- Are **at least 9 years of primary and secondary education compulsory** in the legal framework (and does the State have the duty to guarantee compulsory education)? Structural indicators: 6.2\*, 6.3\*, 11\*, 12\*, 32\*, 33.2\*, 33.3\*, 34 / Outcome indicators: 2\*, 3\*, 4\*, 5, 7\*, 8\*, 9\*, 15, 17, 18

#### ➤ Analysis

According to the Education Act of 2005, primary education is compulsory for a duration of five years starting from the age of 6 (Article 7). While the ICESCR obliges States to make primary education compulsory (Article 13(2)a), with the adoption of the Education 2030 Framework for Action, States are now required to provide '12 years of free, publicly funded, inclusive, equitable, quality primary and secondary education – of which at least nine years are compulsory' (para. 29). The State has made efforts to introduce compulsory secondary education with the Ten year plan (2015-2025), however enrolment rates in 2018 remain considerably low, with only 45.5% of student enrolled in secondary education (female: 43%; male: 48%) and a high drop-out rate at the end of primary education (58%). Furthermore, according to the most recent available data, in 2016, only 43% of students completed lower secondary education and merely 16% completed upper secondary education. The State should be encouraged to increase school attendance by making secondary education compulsory in the law.

### Step 3: Formulate recommendations (Section 3)

- Consider revising the Education Act of 2005 to guarantee nine years of compulsory primary and secondary education to align with the political commitment of introducing compulsory secondary education.

### Example 2

#### Step 1: Analyzing the current status of the right to education (Section 1)

##### ➤ Examine UN monitoring mechanisms (Part II, Section 1(iii))

**Universal Period Review:** The Working Group of the Universal Periodic Review recommended raising teacher's salary to improve their social status.

➤ **Measure progress on implementation** (Part II, Section 1(iv))

**1. Structural indicators**

Question	Yes	No	Comment
6. The constitution guarantees:			
6.7. Teachers' right to fair pay and training		No	

**2. Process indicators**

Question	Yes	No	Comment
42. Average salary of schoolteachers as percentage of regulated minimum wage per level:			No information
42.1. Pre-primary level (in urban areas, rural areas, public schools and private schools)			
42.2. Primary level (in urban areas, rural areas, public schools and private schools)			Information is only available for public schools. Teacher's salary is equivalent to 40% of the minimum wage.
42.3. Secondary level (in urban areas, rural areas, public schools and private schools)			Information is only available for public schools. Teacher's salary is equivalent to 50% of the minimum wage.
42.4. Higher level (in urban areas, rural areas, public schools and private schools)			Information is only available for public schools. Teacher's salary is equivalent to the minimum wage.

**3. Outcome indicators**

Not relevant for the purpose of this example.

**Step 2: Law and policy checklist** (Section 2)

**2.7 TEACHING PROFESSION**

**International human rights instruments**

**HARD LAW INSTRUMENTS**

**STATUS**

The **ICESCR** further provides in its Article 13(1)(e) 'The development of a system of schools at all levels shall be actively pursued... and the material conditions of teaching staff shall be continuously improved.'

**SOFT LAW INSTRUMENTS**

The **UNESCO/ILO Recommendation concerning the Status of Teachers (1966)** and the **Recommendation concerning the Status of Higher-Education Teaching Personnel (1997)** provide a comprehensive normative framework on the responsibilities and rights of teachers. ...

**STATUS**

Status is defined in the **Recommendation of 1966** as meaning 'both the standing or regard accorded them, as evidenced by the level of appreciation of the importance of their function and of their competence in performing it, and the working conditions, remuneration and other material benefits accorded them relative to other professional groups:(para. 1(b)). Specifically on the salary it states that 'Amongst the various factors which affect the status of teachers, particular importance should be attached to salary, seeing that in present world conditions other factors, such as the standing or regard accorded them and the level of appreciation of the importance of their function, are largely dependent, as in other comparable professions, on the economic position in which they are placed' (para. 114).

**EDUCATION 2030 AGENDA**

The **FFA** further states: 'As teachers are a fundamental condition for guaranteeing quality education, teachers and educators should be empowered, adequately recruited and remunerated, professionally qualified and supported within well-resourced, efficient and effectively governed systems.' (para. 70).

- Does the legal framework guarantee the **right to fair pay for teachers**, reflecting the importance of their function in society? Structural indicators: 6.7 / Process indicators: 19.7, 42

### ➤ **Analysis**

The UN working group recommended raising the salary of teachers. According to available information at primary level, teachers are paid only 40% of the minimum wage according to the Policy on Education. Secondary levels are similar, with teachers being paid merely 50%, while at higher education levels, teachers are paid the minimum wage. However, the ICESCR provides in its Article 13(1)(e), 'The development of a system of schools at all levels shall be actively pursued, ... and the material conditions of teaching staff shall be continuously improved'. Additionally, the UNESCO/ILO Recommendation concerning the Status of Teachers (1966) and the Recommendation concerning the Status of Higher-Education Teaching Personnel (1997) also establish a strong normative framework requiring of States that 'particular importance should be attached to salary, seeing that in present world conditions other factors, such as the standing or regard accorded them and the level of appreciation of the importance of their function, are largely dependent, as in other comparable professions, on the economic position in which they are placed' (UNESCO/ILO Recommendation of 1966, para. 114). While overall salaries have increased by 10% over the last five years according to the Policy on Education, further efforts should be made to ensure that teachers perform their function with the recognition and standing they deserve.

### **Step 3: Formulate recommendations** (Section 3)

- Consider amending the Constitution to guarantee that teachers shall have the right to fair pay and plan for an increase of teacher salaries within a feasible timeframe to correspond to other comparable professions.

## Section 4. Structure of the final report

The reviewers are requested to draft the final country report based on the guidance provided in the previous sections. The reviewers should keep in mind that the overall aim is to further strengthen capacities to monitor, evaluate and design future strategies and policies for the development of education at country level.

The report should identify areas of compliance as well as differences, gaps, disparities, remaining challenges, disadvantaged population groups and geographical areas, future priorities within the country's educational system, and legal and policy frameworks for education.

The following is a proposed outline of the final report to help organize and present the findings with indicative proportions for each section expressed in percentage in parenthesis:

### I. Presentation of the current context and national frameworks in a given country (≈ 25%)

- Brief introduction of the country background based on *Part II, Section 1(i)* (≈ 5%).
- Overview of the legal and policy framework regarding the right to education: a brief description of the constitutional and legislative framework as well as policies based *Part II, Section 1(ii)* (≈ 15%). Here the information on ratification of international human rights treaties relating to education may also be included.
- [Optional] Presentation of the findings of UN monitoring mechanisms: Summary of the most recent and relevant country-specific observations and recommendations made by UN human rights bodies and the Universal Periodic Review Working Group based on *Part II, Section 1(iii)* (≈ 5%).

### II. The right to education in practice (≈ 65%)

Analysis of the findings and conclusions based on *Part II, Section 2* with regard to the:

- Compliance with and gaps in the national frameworks (i.e. an analysis of what is missing with regards to international standards under the right to education or what could be strengthened in the country's constitution, legislation and policies).
- Compliance with and gaps between the legal and policy frameworks and concrete implementation.

As the core of the review, this part may be structured around the seven themes used for the Law and policy checklist (*Table 2*) in Section 2 (for example, 'Free and compulsory education', 'Quality and relevance of education and learning', etc.) or only a selection of these depending on national priorities.

### III. Concrete recommendations to improve the right to education in legal and policy frameworks and ensure alignment (≈ 10%)

Formulate recommendations based on *Part II, Section 3*, preferably listing them according to the structure used in the analysis of the findings (for example, 'Free and compulsory education', 'Quality and relevance of education and learning', etc.). Each recommendation should be phrased in one clear and sharp sentence.

# Part III.

## Implementing the recommendations

The ultimate aim of the report, and more broadly the review exercise, is to instigate concrete action at national level. In the absence of national engagement to foster change through the development or reform of legal and policy frameworks, the review process is limited to capacity development and the identification of gaps and findings. While these are important aspects of the process, for the right to education to become a reality for every person, the report requires follow-up steps to translate the recommendations formulated in the report into improving the national framework.

Unlike the preparation of the report, the time required for legal and policy development and/or necessary reform are not without consequence and depend on external factors such as political will, availability of resources and capacity, and national priorities, among others. Despite this, certain actions can be taken to ensure the most favourable environment for such changes.

## Section 1. Finalizing and disseminating the report

For the report to be comprehensive, relevant and truly reflect reality, a participative process is essential. As such, it is recommended that consultations are conducted to review, revise and/or complete as well as finalize the report. The consultations have an important role in ensuring that all issues affecting the realization of the right to education, particularly for the most vulnerable groups, are reflected in the report. These consultations should include:

- Relevant ministries across sectors
- Parliamentarians
- International/regional experts
- Civil society, notably NGOs working in the field of education
- Trade unions and staff associations
- Education institution leaders, teachers and students (both private and public sector) as well as parents/families

The diversity and plurality of actors is important to ensure engagement but also transparency. Indeed, inclusive participation forms part of human rights principles and should not be disregarded in the process.

Once finalized, it is paramount that the report is disseminated to galvanize support, raise awareness of key issues affecting the implementation of the right to education, and to challenge mindsets (such as the negative norms and stereotypes that have been revealed by the review).

Ensuring that stakeholders and rights-holders are fully aware of their duties and rights is an essential step in the implementation of the right to education. By disseminating the report, everyone can play a role in ensuring that the recommendations made are concretely translated into national frameworks and that efforts are made at all levels of society to progress towards SDG 4 commitments and the full realization of the right to education.

## Section 2. Defining a roadmap to implement the recommendations in light of national priorities

To engage in concrete changes, a more focused consultation with pertinent participants should be organized for this purpose. Participants involved in this consultation must include government officials and parliamentarians with the power to engage in the decision-making process of legal and policy reforms and/or developments as well as the adoption of other measures to ensure the full realization of the right to education. Furthermore, legal and policy experts on education should be involved.

The **first step** for consultation participants is to validate the recommendations. **Secondly**, the recommendations should be reorganized by level of importance and according to national priorities, resources and capacity. **Third**, a roadmap for the implementation of the recommendations should be elaborated.

To elaborate the roadmap, the group of participants should evaluate the possible current/on-going legal or policy reforms in order to see how these recommendations can influence these reforms. Plans to include the priority recommendations in the ministerial agenda, ways to involve technical and financial partners, as well as ways to improve cooperation across sectors, should be considered.

The recommendations formulated are broken down into a step-by-step process for their effective implementation.

### Follow-up on the report's recommendations

Depending on the recommendations of the report, the following actions, which may not be directly applicable to every country context, could be envisaged:



#### Recommendations in relation to the revision/adoption of a legislation on education

- Based on the conclusions and recommendations formulated in the report:
  - ◆ Legislators identify concrete revisions needed to ensure the full alignment with international human rights law and an amendment proposal is drafted; or
  - ◆ Legislators further review the existing gaps in the national framework, including the need of implementing decrees, to ensure the full alignment with international human rights law and prepare a bill.
- Advocacy activities are organized to gather support amongst legislators for the amendment proposal/bill.
- According to national practice, the amendment proposal/bill is presented and approved by the competent national body.



#### Recommendations in relation to ensuring compliance of legislation in force

- In light of the report's recommendations, legislators and/or policy-makers conduct a review of the sanctions applicable in case of non-compliance of the law in force, the supervision of the education sector and inspection services, and the training of inspectors to evaluate their effectiveness and shortcomings.
- Appropriate mechanisms are reinforced or established, and/or regulations are adopted, to ensure the full compliance of legal and policy measures.



#### Recommendations in relation to the revision/elaboration of a policy on education

- On the basis of the report's conclusions and recommendations, policy-makers review the education policy and identify how to ensure full alignment with international human rights law and national legal framework.
- Policy-makers undertake the process to elaborate or revise, depending on the need, the education policy.
- The draft/revised education policy is adopted according to national practice.



### Recommendations in relation to awareness campaigns and activities

- Key issues that require being addressed through awareness-raising activities, such as lack of information on the right to education and social norms that have a negative effect on the realization of this right, are identified in the report.
- A targeted communication and advocacy strategy is elaborated with key partners, including civil society organizations, based on reaching the targeted audience, which may include all levels of society (family, teachers, community groups, local leaders, officials, etc.) and by evaluating the most effective mediums for raising awareness (mass media such as television and radio programs and/or newspaper articles, websites, social media campaigns, documentaries, planned events..).
- The communication and advocacy materials are disseminated in national and local languages to ensure a wide reach.



### Recommendations in relation to data collection

- The report may reveal that data is lacking, therefore, to better inform policy and legal reform, the precise type of missing data (both qualitative and quantitative), including disaggregated data and paying close attention to vulnerable groups, is identified together with, where appropriate, civil society, national human rights institutes and relevant stakeholders.
- The national institute of statistics evaluates the methodology to efficiently gather this data and reinforces the monitoring and data collection mechanisms to ensure that the data collected is comprehensive and representative.<sup>84</sup>
- The data collected is presented in a clear manner and made publicly available, while respecting personal data privacy.



### Recommendation in relation to the ratification of the UNESCO Convention against Discrimination in Education

- The Ministry of Education engages in the process and consults with the ministry in charge of ratification, according to national practice in force within the framework of national legal system (as regards technical and procedural aspects), which officially initiates the process of ratification.
- The ministry introduces the proposal to the national competent authority (usually the Parliament) for ratification.
- The State deposits an instrument of ratification (for signatory States) or an instrument of accession (for non-signatory States) with the Director-General of UNESCO.<sup>85</sup>

## Legislature as guardian of the right to education

National parliaments, assemblies or congresses have four key functions which are crucial to promoting and protecting human rights, and notably the right to education:

- To legislate
- To scrutinize the executive branch
- To vote on the budget
- To represent citizens and voters and voice their concerns

In fact, parliamentarians can influence government decisions and actions on education and can facilitate dialogue between governments and communities and constituencies as elected representatives. As vital intermediaries, linking the political process and society, parliamentarians can be champions of SDG 4 in their own constituencies and in the nation at large by:

- Ensuring the ratification or accession to international human rights treaties guaranteeing the right to education
- Ensuring the right to education is fully incorporated in national legislations
- Ensuring that legislation establishes a monitoring mechanism on the right to education
- Ensuring the maximum available resources are allocated to the realization of the right to education when approving national budget

<sup>84</sup> See: UN OHCHR, 2018, *A human rights-based approach to data - Leaving no one behind in the 2030 agenda for sustainable development*. Accessible at: <https://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>

<sup>85</sup> For the model instrument of ratification see: [http://portal.unesco.org/en/ev.php-URL\\_ID=27541&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=27541&URL_DO=DO_TOPIC&URL_SECTION=201.html)

- Monitoring government spending
- Scrutinizing legislation to ensure that it is compliant with state's international human rights obligations
- Conducting enquiries or hearings into legal and policy failures of the executive
- Ensuring the executive responds to international commitments, including through the timely submission of national periodic reports on the right to education to international and regional human rights monitoring mechanisms

Therefore, their involvement in the process is crucial and can equip them with the understanding to ensure a human rights-based approach in their functions with regard to the right to education.

# Annex I

## Comprehensive list of recommended indicators

The selected core indicators, which aim to facilitate the review exercise, are indicated with an asterisk. They apply widely to all country contexts and give particular attention to the ‘minimum core obligations’ and priority SDG 4 commitments in relation to the right to education. The 11 global indicators to monitor SDG 4<sup>86</sup> have been integrated with a varying degree depending on the precision of each. As explained in *Part II, Section 1(iv)*, the review team can adopt a flexible approach in the selection of indicators and for this reason, the indicators formulated for the purpose of the review of the right to education are less specific.

### 1. Structural indicators

Question	Yes	No	Comments
<b>Treaty ratification<sup>87</sup></b>			
1. The State has ratified the following international treaties:			
1.1. UNESCO Convention against Discrimination in Education (1960)			
1.2. UNESCO Global Convention on the Recognition of Qualifications concerning Higher Education (2019)			
1.3. Convention Relating to the Status of Refugees (1951)			
1.4. UN International Covenant on Economic, Social and Cultural Rights (1966)			
1.5. UN International Covenant on Civil and Political Rights (1966)			
1.6. UN Convention on the Elimination of All Forms of Discrimination against Women (1979)			
1.7. UN Convention on the Rights of the Child (1989)			
1.8. UN Convention on the Rights of Persons with Disabilities (2006)			
1.9. UN International Convention on the Elimination of All Forms of Racial Discrimination (1965)			
1.10. UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)			
1.11. ILO's Minimum age Convention No. 138 (1973)			
1.12. ILO's Indigenous and Tribal Peoples Convention No. 169 (1989)			
1.13. ILO's Worst Forms of Child Labour Convention No. 182 (1999)			
2. The State has ratified regional human rights instruments recognizing the right to education - if yes indicate which			

<sup>86</sup> UNESCO, 2015, *Education 2030: Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4*, op. cit., Annex I.

<sup>87</sup> For the ratification of UN instruments visit: <https://indicators.ohchr.org/>

For the ratification of UNESCO instruments, visit: [http://portal.unesco.org/en/ev.php-URL\\_ID=13648&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=-471.html](http://portal.unesco.org/en/ev.php-URL_ID=13648&URL_DO=DO_TOPIC&URL_SECTION=-471.html)

<b>General information</b>			
3. The following levels of the political system have competencies to implement the right to education:			
3.1. National			
3.2. Regional, state, or provincial level			
3.3. Local, town, or municipal level			
<b>Constitutional provisions</b>			
4. The country's constitution recognizes education as a right for all *			
5. If not: The provision of universal education is recognized as a directive principle of state policy			
6. The constitution guarantees:			
6.1. The right to pre-primary education * - If so, specify if its free and/or compulsory			
6.2. The right to primary education * - If so, specify if its free and/or compulsory			
6.3. The right to secondary education *- If so, specify if its free and/or compulsory			
6.4. The right to higher education- If so, specify if its free			
6.5. The right to education for all (irrespective of nationality, citizenship, sex, age..) * <sup>88</sup>			
6.6. The liberty of parents to choose their child's education			
6.7. Teachers' right to fair pay and training			
7. The constitution specifies (whether implicit or explicit) the right to education without discrimination *			
8. The constitution recognizes the right to education of adults who have not received or completed compulsory schooling			
9. The form and the substance of education is in line with the aims and objectives identified in Article 5.1 of UNESCO's Convention against Discrimination in Education, in Article 13 of the International Covenant of Economic, Social and Cultural Rights, and Article 29 of the Convention on the Rights of the Child <sup>89</sup>			
<b>Legislation</b>			
10. The legislation guarantees compulsory pre-primary education – If so, specify enrolment ages and duration *			
11. The legislation guarantees compulsory primary education – If so, specify enrolment ages and duration *			
12. The legislation guarantees compulsory secondary education – If so, specify enrolment ages and duration *			
13. The State has legislation expressly recognizing the right to education for all * <sup>90</sup>			
14. The legislation makes pre-primary education free to all *			

88 The right to education should not be limited to a certain group of people (people belonging to a specific nationality, children, etc.)

89 The texts of the conventions are each respectively accessible at: [http://portal.unesco.org/en/ev.php-URL\\_ID=12949&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html#STATE\\_PARTIES](http://portal.unesco.org/en/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html#STATE_PARTIES) (CADE), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx> (ICESCR), and <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (CRC)

90 See note 69 above.

15. The legislation makes primary education free to all *			
16. The legislation makes secondary education free to all *			
17. The legislation makes higher education free to all			
18. The legislation expressly prohibits local governments or schools from charging supplementary fees (for instance for books, school supplies, construction or maintenance of school buildings, teacher's salaries..)			
19. The legislation provides for the right of access to grants/scholarships/credits/loans for students			
20. The legislation provides for:			
20.1. School meals			
20.2. School supplies			
20.3. School transportation			
21. The legislation provides for the right to educational institutions and programmes on a non-discrimination basis for students specifically based on race, colour, sex, language, religion, political or other opinion, ethnic, national or social origin, economic condition or birth, disability, family status or sexual orientation *			
22. The legislation expressly prohibits discrimination in the recruitment and promotion of teachers			
23. The legislation recognizes the right of people with disabilities to education			
24. The legislation makes provision for the necessary equipment and support to enable students with disabilities to attend school			
25. The legislation mandates respect in the educational system for the culture and religious practices of various groups and communities in the society			
26. The legislation prohibits early marriages (below the age of 18) as it would interfere with school attendance *			
27. The legislation restricts child labour to encourage children to attend school *			
28. The legislation prohibits:			
28.1. Corporal punishment *			
28.2. School-related gender-based violence*			
29. The curricula are gender-sensitive and non-discriminatory on any basis			
30. The legislation establishes a regulatory framework that includes standardized curricula (by level of education)			
31. The legislation protects personal data of learners			
<b>National strategy and plan of action</b>			
32. The State has a budgeted and costed national education strategy and plan of action, including a timeline for achieving the goals and a monitoring mechanism for the assessment of their attainment *			
33. If yes: The national education strategy and/or plan of action expressly include the goals of:			
33.1. Progressive introduction of compulsory and free pre-primary education (yes/no/not relevant because goal already achieved) *			
33.2. Universal, compulsory, and free primary education (yes/no/not relevant because goal already achieved) *			

33.3. Progressive introduction of compulsory and free secondary education (yes/no/not relevant because goal already achieved) *			
33.4. Progressive introduction of free higher education (yes/no/not relevant because goal already achieved) *			
33.5. Lifelong learning opportunities (yes/no/not relevant because goal already achieved)			
34. The timeframe and coverage of the plan of action to implement the principle of compulsory primary education free of charge for all is (yes/no/not relevant because goal already achieved):			
35. The strategy and/or plan includes provisions for temporary and special measures for target groups (for example vulnerable groups including working and street children) *			
36. The strategy and/or plan includes sector-wide distance learning solutions *			
37. If yes: The strategy and/or plan provides for inclusive measures for vulnerable groups (provision of free basic digital devices, assistive tools for students with disabilities, flexible programme schedules, ensuring connectivity, etc.) *			
38. The State has a policy to ensure the protection of learners in the digital environment (for example: personal data protection, privacy, protection against cyberbullying, targeted advertisement, etc.)			
39. The State has a policy to ensure vocational and technical education			
40. The State has a policy regarding alternative programmes or second options to support drop-out students			
41. The State has a policy addressing or tackling early school leaving			
<b>Human rights institutions</b>			
42. The State has human rights institutions (commission, ombudsperson, or representative) mandated to monitor the right to education			
43. If yes: The human rights institution collects data and issue regular reports on the status of the achievement of the right to education (yes/irregularly/no)			
44. The State has judicial mechanisms that adjudicate human rights violations			
<b>Participation</b>			
45. The State has a mechanism to consult representatives of community leaders, representatives of non-governmental education, teachers, parents and students in the formation of educational policy, other than normal political institutions, at the national/regional level *			
46. Approximate number of education institutions with mechanisms (e.g. student councils) for students to participate in matters affecting them.			
47. Approximate number of registered and/or active NGOs involved in the promotion and protection of the right to education.			
<b>Gender issues</b>			
48. Public policy measures taken to:			
48.1. Remove gender bias and stereotypes in education			
48.2. Remove gender bias from teachers' education strategies			
48.3. Train teachers in gender equality issues			

49. The State has a policy to protect girls' access to education by ensuring that third parties, including parents and employers, do not prevent girls from going to school			
50. The State has a policy to ensure gender parity in education			
51. There are legal provisions and opportunities ensuring that pregnant girls can continue their education			
<b>Teacher training</b>			
52. Teacher training is provided for in the constitution or the legislation			
53. The legislation provides teacher training as a right and/or an obligation			
54. Training and professional development of teachers are provided through pre- and in-service (by level of education and sector (public/private))			
55. If so: They equip teachers on how to use distance learning solutions and design and facilitate their delivery			
56. If so: They aim to facilitate the full understanding and practice of human rights in schools			
<b>Private schooling</b>			
57. The legislation expressly recognizes the: 57.1. Liberty of individuals and groups to establish and direct educational institutions, subject to the requirement that the education given in such institutions shall conform to the minimum standards laid down by the State *			
57.2. Right of parents or legal guardians to choose schools for their children other than those established by the public authorities, which conform to their own convictions and to the minimum educational standards laid down or approved by the State *			
58. The legislation and regulations ensure the implementation of the right to education in the context of the involvement of private actors. *			
<b>Curriculum</b>			
59. The State establishes minimal standards regulating the curriculum and the quality of study programmes and educational methods, including distance learning programmes * - if so:			
59.1. The national standards apply to the entire country			
59.2. The standards are set by provincial, regional, state and/or municipal governments			
60. There is an inspection system to monitor and evaluate the quality and content of education, including distance learning programmes - if yes, describe how this is done			
61. The official curriculum is culturally appropriate and includes human rights education and/or values, such as respect for human dignity, non-discrimination and equal status before the law: *			
61.1. In primary school			
61.2. In secondary school			
62. The State has adopted measures to ensure that the school environment is inclusive, respectful of human rights, allowing the whole school community (students, teachers, staff and administrators, parents) to practice human rights through real-life activities			

63. The official curriculum includes units on the constitution and democracy 63.1. In primary school			
63.2. In secondary school			
64. The legislation provides for a specific class related to culture and/or religion to be part of school-offered curricula			
65. The official curriculum for all levels and all subjects is available through distance learning solutions (for example, online platforms, print-based home learning, TV or radio programmes, etc.)			

## 2. Process indicators

Question	Yes	No	Comments
<b>Reporting</b>			
1. Number of reports the State has submitted to the UN treaty-based bodies monitoring the implementation of the following treaties that include the status of the right to education:			
1.1. ICESCR			
1.2. ICCPR			
1.3. CRC			
1.4. CEDAW			
1.5. CRPD			
2. Number of reports the State has submitted to UNESCO monitoring the implementation of the CADE (since the 8 <sup>th</sup> Consultation)			
<b>Monitoring</b>			
3. The national government collects adequate data to evaluate performance under the national strategy/action plan, particularly in relation to vulnerable groups 3.1. Through educational statistics collected through school reporting *			
3.2. Through national household surveys			
3.3. Through national census surveys			
4. Data is collected at the pre-primary level and is disaggregated (by private and public sector and on the basis of students' age, sex, urban/rural location/ income of family, linguistic or ethnic group and disabilities)			
5. Data is collected at the primary level and is disaggregated (by private and public sector and on the basis of students' age, sex, urban/rural location/ income of family, linguistic or ethnic group, disabilities..)			
6. Data is collected at the secondary level and is disaggregated (by private and public sector and on the basis of students' age, sex, urban/rural location/ income of family, linguistic or ethnic group, disabilities..)			
7. Data is collected at the higher education level and is disaggregated (by private and public sector and on the basis of students' age, sex, urban/rural location, income of family, linguistic or ethnic group, disabilities..)			

8. Data is collected on:			
8.1. The participation and engagement of students using distance learning programmes *			
8.2. Non-formal education			
9. Reports are issued annually analyzing these data that cover trends at the:			
9.1. National level (yes/no/sometimes)			
9.2. State/regional or provincial levels (yes/no/sometimes)			
10. The data (preferably disaggregated) is publicly available related to: *			
10.1. Pre-primary education (yes/no/some)			
10.2. Primary education (yes/no/some)			
10.3. Secondary education (yes/no/some)			
10.4. Higher education (yes/no/some)			
10.5. Non-formal education (yes/no/some)			
<b>Complaint and court cases (i.e. the justiciability of the right to education)</b>			
11. Number of administrative complaints filed in the last 10 years regarding the right to education			
12. Number of court cases filed in the last 10 years regarding the right to education			
13. Number of complaints and court cases responded to effectively by the government			
<b>Participation</b>			
14. The State consulted with a wide range of representatives of the following groups in the past year about issues related to formulating, implementing and/or monitoring national educational policies:			
14.1. Civil society (yes/no/some)			
14.2. Educational professional organizations (yes/no/some)			
14.3. Local governments (yes/no/some)			
14.4. Community leaders (yes/no/some)			
14.5. Representatives of vulnerable groups (yes/no/some)			
14.6. Private sector (yes/no/some)			
14.7. Student organizations (yes/no/some)			
15. In the past year, the State disseminated information on its educational policies and relevant educational data to:			
15.1. Civil society (yes/no/some)			
15.2. Educational professional organizations (yes/no/some)			
15.3. Local governments (yes/no/some)			
15.4. Community leaders (yes/no/some)			
15.5. Representatives of vulnerable groups (yes/no/some)			
15.6. Private sector (yes/no/some)			
15.7. Student organizations (yes/no/some)			

<b>Basic financial context</b>			
16. The legal framework guarantees education financing			
17. Percentage of GDP devoted to education:			
17.1. Total			
17.2. Pre-primary education			
17.3. Primary education			
17.4. Secondary education			
17.5. Higher education			
17.6. Non-formal education			
18. Percentage of budget allocated overall to education by:			
18.1. National government			
18.2. Regional, state, or provincial governments			
18.3. Local governments			
19. Percentage of public expenditure allocated to:			
19.1. Pre-primary education			
19.2. Primary education			
19.3. Secondary education			
19.4. Vocational training			
19.5. Higher education			
19.6. Non-formal education			
19.7. Teacher training			
19.8. Special measures to improve the gender balance (gender-responsive budgeting)			
19.9. Special measures to improve the education-based condition of minority groups			
19.10. Special measures targeting poor and/or isolated localities and areas of the country			
20. Net official development assistance (ODA) for education received or provided as proportion of public expenditure on education.			
21. Amount of educational funding received from foreign bilateral and multilateral funding sources:			
21.1. Total amount for most recent year			
21.2. Percentage of total public educational budget			
<b>Charges payable in public education</b>			
22. Specify whether or not there are charges for each of the following components in public pre-primary education: *			
22.1. Enrolment fees			
22.2. Tuition fees			
22.3. Indirect costs			

23. Specify whether or not there are charges for each of the following components in public primary education:			
23.1. Enrolment fees *			
23.2. Tuition fees *			
23.3. Indirect fees (e.g. uniforms, school supplies and educational materials, school meals, school transport)			
24. Specify whether or not there are charges for each of the following components in public secondary education:			
24.1. Enrolment fees *			
24.2. Tuition fees *			
24.3. Indirect fees (e.g. uniforms, school supplies and educational materials, school meals, school transport) *			
25. Total average cost per year per family for a student in a public primary school			
26. There is a special funding system to ensure access to primary education for students from the following population groups:			
26.1. Low income groups			
26.2. Female students			
26.3. Persons with disabilities			
26.4. Immigrants, displaced persons, refugees, asylum-seekers and stateless persons			
26.5. Groups living in dispersed rural and/or isolated areas			
26.6. Minority groups (language, religion, ethnicity, etc.)			
27. Average percentage of pupils (by target group) covered under publicly supported programmes or incentives for primary education:			
27.1. Low income groups			
27.2. Female students			
27.3. Persons with disabilities			
27.4. Immigrants, displaced persons, refugees, asylum-seekers and stateless persons			
27.5. Groups living in dispersed rural and/or isolated areas			
27.6. Minority groups (language, religion, ethnicity, etc.)			
28. Total average cost per year per family for a student in a public secondary school			
29. Share of annual household expenditure on education per child enrolled in public			
29.1. Pre-primary school			
29.2. Primary school			
29.3. Secondary school			
29.4. Higher education			
30. Average percentage of pupils (by target group) receiving public support or grants for secondary education:			
30.1. Low income groups			

30.2. Female students			
30.3. Persons with disabilities			
30.4. Immigrants, displaced persons, refugees, asylum-seekers and stateless persons			
30.5. Groups living in dispersed rural and/or isolated areas			
30.6. Minority groups (language, religion, ethnicity, etc.)			
31. There is a special funding system or other incentives to ensure access to secondary education for students from the following population groups:			
31.1. Low income groups			
31.2. Female students			
31.3. Persons with disabilities			
31.4. Immigrants, displaced persons, refugees, asylum-seekers and stateless persons			
31.5. Groups living in dispersed rural and/or isolated areas			
31.6. Minority groups (language, religion, ethnicity, etc.)			
<b>Continuing education</b>			
32. Percentage of adult population enrolled in basic education programmes			
33. Percentage of students, by level, enrolled in distance and continuing education programmes:			
33.1. Primary schools			
33.2. Secondary schools			
33.3. Vocational schools			
33.4. Institutions of higher learning			
34. Percentage of students, by level of education, who have access at home to:			
34.1. Electricity			
34.2. Telephones			
34.3. Televisions			
34.4. Radios			
34.5. Digital devices			
34.6. Internet connectivity			
<b>Public support and management of education</b>			
35. Number of institutions of ethnic, linguistic minority and religious population groups recognized by public authorities:			
35.1. Ethnic minorities			
35.2. Language minorities			
35.3. Religious groups			
35.4. Indigenous peoples			
35.5. Groups living in dispersed rural and/or isolated areas			
35.6. Children of immigrant families			

36. Periodicity of curricula revision at all levels:			
36.1. Primary level			
36.2. Secondary level			
36.3. Higher level			
<b>Education in children's mother tongue</b>			
37. Percentage of primary school students getting education in their mother tongue (total, female, male, in urban areas, in rural areas)			
<b>Teacher availability, training and qualifications</b>			
38. Percentage of teachers meeting the minimum certification requirements:			
38.1. In pre-primary school classes (in urban areas and rural areas)			
38.2. In lower primary school classes (grades 1-3) (in urban areas and rural areas)			
38.3. In upper primary school classes (grades 4 and above) (in urban areas and rural areas)			
38.4. In lower secondary school teaching (first three years) (in urban areas and rural areas)			
38.5. In upper secondary school teaching (fourth year and above) (in urban areas and rural areas)			
39. Learner/educator ratio			
39.1. In pre-primary school (in urban areas, rural areas, public schools and private schools)			
39.2. In primary school (in urban areas, rural areas, public schools and private schools)			
39.3. In secondary school (in urban areas, rural areas, public schools and private schools)			
40. Percentage of teachers who do not meet the minimum standards			
40.1. In pre-primary education			
40.2. In primary education			
40.3. In secondary education			
40.4. In higher education			
41. Average percentage of teachers at all levels completing mandatory in-service training: *			
41.1. Pre-primary level			
41.2. Primary level			
41.3. Secondary level			
41.4. Higher level			
<b>Teacher salaries</b>			
42. Average salary of schoolteachers as percentage of regulated minimum wage per level:			
42.1. Pre-primary level (in urban areas, rural areas, public schools and private schools)			
42.2. Primary level (in urban areas, rural areas, public schools and private schools)			

42.3. Secondary level (in urban areas, rural areas, public schools and private schools)			
42.4. Higher level (in urban areas, rural areas, public schools and private schools)			
<b>Private schools - School registrations</b>			
43. Number of schools that the government has recognized in the past year:			
43.1. Pre-primary schools			
43.2. Primary schools			
43.3. Secondary schools			
43.4. Vocational schools			
43.5. Institutions of higher learning			
44. Number of schools that the government has refused to register in the past year:			
44.1. Pre-primary schools			
44.2. Primary schools			
44.3. Secondary schools			
44.4. Vocational schools			
44.5. Institutions of higher learning			
<b>Private schools - School closings</b>			
45. Number of schools that the government has temporarily closed in the past year:			
45.1. Pre-primary schools			
45.2. Primary schools			
45.3. Secondary schools			
45.4. Vocational schools			
45.5. Institutions of higher learning			
46. Number of schools that the government has permanently closed in the past year:			
46.1. Pre-primary schools			
46.2. Primary schools			
46.3. Secondary schools			
46.4. Vocational schools			
46.5. Institutions of higher learning			
<b>Geographical accessibility</b>			
47. Percentage of children having to travel more than 1 kilometre to reach primary school:			
47.1. Nationally			
47.2. In rural areas			
47.3. In urban areas			

48. Percentage of children having to travel more than 1 kilometre to reach secondary school:			
48.1. Nationally			
48.2. In rural areas			
48.3. In urban areas			
49. Percentage of schools or institutions conforming to national requirements on academic and physical facilities:			
49.1. Nationally			
49.2. In rural areas			
49.3. In urban areas			

<b>Pre-primary schools (infrastructure)</b>	<b>Total</b>	<b>Rural</b>	<b>Urban</b>	<b>Private</b>	<b>Public</b>
50. Total number of schools					

<b>Primary schools (infrastructure)</b>	<b>Total</b>	<b>Rural</b>	<b>Urban</b>	<b>Private</b>	<b>Public</b>
51. Total number of schools					
52. Percentage of schools with buildings in a state of disrepair					
53. Percentage of schools with a shortage of classrooms					
54. Percentage of schools with inadequate textbooks					
55. Percentage of schools with no water					
56. Percentage of schools lacking access to sanitary facilities					
57. Percentage of schools with inadequate toilet facilities and not appropriate for girls					
58. Percentage of schools with no electricity					
59. Percentage of schools with no telephones or internet services					
60. Percentage of schools lacking access to library facilities					
61. Percentage of schools lacking access to recreational and sporting facilities					

<b>Secondary schools (infrastructure)</b>	<b>Total</b>	<b>Rural</b>	<b>Urban</b>	<b>Private</b>	<b>Public</b>
62. Total number of schools					
63. Percentage of schools with buildings in a state of disrepair					
64. Percentage of schools with a shortage of classrooms					

65. Percentage of schools with inadequate textbooks					
66. Percentage of schools with no water					
67. Percentage of schools lacking access to sanitary facilities					
68. Percentage of schools with inadequate toilet facilities and not appropriate for girls					
69. Percentage of schools with no electricity					
70. Percentage of schools with no telephones or internet services					
71. Percentage of schools lacking access to library facilities					
72. Percentage of schools lacking access to recreational and sporting facilities					

Institutions of higher learning (infrastructure)	Total	Rural	Urban	Private	Public
73. Total number of institutions					

### 3. Outcome indicators

Question	Comments
For indicators 1-20, the information should be gathered for the following: total, female, male, in urban areas, in rural areas, low income groups, people with disabilities, and minority groups (language, religion, ethnicity, etc.) and for each grade, unless otherwise indicated.	
<b>School attendance</b>	
1. Enrolment rate in pre-primary education*	
2. Enrolment rate in primary education*	
3. Dropout rate in primary education*	
4. Out-of-school rate in primary education*	
5. Percentage of total primary school population who are older than the official primary school age	
6. Percentage of total students in primary school who are enrolled in private schools (total, in urban areas, in rural areas)*	
7. Enrolment rate in secondary education *	
8. Dropout rate in secondary education*	
9. Out-of-school rate in secondary education*	
10. Percentage of total students in secondary school who are enrolled in private schools (total, in urban areas and in rural areas)*	
11. Enrolment rate of students in vocational education programmes at secondary level*	
12. Enrolment rate in higher education*	
13. Percentage of students enrolled in public higher education institutions*	
14. Percentage of students enrolled in vocational education programmes at post-secondary level	

<b>Education attainment</b>	
15. Percentage of children completing primary education (primary completion rate)*	
16. Percentage of primary school leavers who pass the primary school leaving exam	
17. Percentage of primary school leavers who enter secondary school	
18. Percentage of children completing secondary education (secondary completion rate)*	
19. Percentage of children passing the secondary school exams	
20. Number of graduates (first-level university degree) per 1000 population:	
21. Percentage of women and targeted population with professional or university qualification (total, in urban areas and in rural areas)	

<b>22. Literacy rate</b>	<b>Urban</b>			<b>Rural</b>	
<b>Age</b>	<b>Total</b>	<b>Female</b>	<b>Male</b>	<b>Female</b>	<b>Male</b>
<i>12-18</i>					
<i>19 and over</i>					

## Annex II. International standard-setting instruments related to the right to education

For more information, please refer to Chapter 2 of the Right to education handbook<sup>91</sup>.

Treaty	Key aspects related to the right to education
<b>Geneva Conventions (1949) and Additional Protocols<sup>92</sup></b>	<ul style="list-style-type: none"> <li>• Under the Third Geneva Convention, applicable during international armed conflicts, the detaining power shall encourage the practice of educational pursuits of <b>prisoners</b> by providing adequate and necessary equipment.</li> <li>• Under the Fourth Geneva Convention, applicable during international armed conflicts, an occupying power shall facilitate the exercise of their education <b>for orphans and children who are separated from their families</b>.</li> <li>• Under Additional Protocol I, applicable during international armed conflicts, when an evacuation occurs, the <b>child's education</b>, including religious and moral education when desired, should be provided and, with the cooperation of the national and local authorities, facilitate the proper working of all <b>institutions devoted to the care and education of children</b>.</li> <li>• Under Additional Protocol II, applicable during non-international armed conflicts, it is a 'fundamental guarantee' that <b>children receive an education</b>, in keeping with the wishes of their parents.</li> </ul>
<b>UN Convention Relating to the Status of Refugees (1951)</b>	<p>The Convention lays down basic minimum standards for the treatment of refugees, without prejudice to States granting more favourable treatment.</p> <ul style="list-style-type: none"> <li>• States shall accord to <b>refugees</b> the same treatment as is accorded to nationals with respect to elementary education.</li> <li>• For the other levels and fields, <b>not less favourable treatment</b> than that accorded to aliens generally 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 with the exception of requirements which by their nature a refugee is incapable of fulfilling.</li> </ul>
<b>UN Convention Relating to the Status of Stateless persons (1954)</b>	<p>The Convention provides that <b>stateless persons shall be accorded the same treatment</b> with respect to elementary education and as favourable as possible with regard to education other than elementary education.</p>

91 UNESCO and and RTE, 2019, *Right to education handbook*, op. cit.

92 Protocol I Additional to the Geneva Conventions 1949 relating to the Protection of Victims of International Armed Conflicts (1977); Protocol II Additional to the Geneva Conventions 1949 relating to the Protection of Victims of Non-International Armed Conflicts (1977); and Protocol III additional to the Geneva Conventions 1949 relating to the Adoption of an Additional Distinctive Emblem (2005)

<b>UNESCO Convention against Discrimination in Education (1960)</b>	<p>The Convention calls upon States to eliminate and prevent any form of discrimination at all types and levels of education and to promote equality of opportunity and of treatment.</p> <p>States Parties are to:</p> <ul style="list-style-type: none"> <li>• abrogate/discontinue any statutory provisions, administrative instructions and administrative practices involving discrimination in education and ensure <b>no discrimination</b> in access to education;</li> <li>• promote <b>equality of opportunity and of treatment</b>;</li> <li>• make <b>primary education</b> free and compulsory;</li> <li>• make <b>secondary education</b> in its different forms generally available and accessible to all;</li> <li>• make <b>higher education</b> equally accessible to all on the basis of individual capacity;</li> <li>• encourage the <b>education of persons who have not completed primary education</b>;</li> <li>• assure compliance by all with the <b>obligation to attend school</b>;</li> <li>• ensure <b>equal standards of quality</b> of education in public education institutions;</li> <li>• provide <b>training for the teaching profession</b> without discrimination;</li> <li>• respect the <b>liberty of parents or legal guardians</b> to choose the educational institution of their children other than public schools which conform to minimum educational standards laid down by the State;</li> <li>• ensure the right of members of <b>national minorities</b> to carry on their own educational activities, including the maintenance of schools.</li> </ul>
<b>UN International Convention on the Elimination of All Forms of Racial Discrimination (1965)</b>	<p>States Parties undertake to prohibit and to <b>eliminate racial discrimination in all its forms</b> and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law. States Parties should take measures to <b>combat prejudices</b> leading to racial discrimination <b>in teaching and education</b> and to promote understanding, tolerance and friendship among nations and racial or ethnical groups.</p>
<b>UN International Covenant on Economic, Social and Cultural Rights (1966)</b>	<p>The Covenant guarantees that children and young persons should be protected from economic and social exploitation and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The principle of equal rights of men and women also applies to the right to education.</p> <p>Specifically, with regard to education, governments shall ensure:</p> <ul style="list-style-type: none"> <li>• <b>right of everyone to education</b>;</li> <li>• <b>primary education</b> compulsory and available free to all;</li> <li>• <b>secondary education</b> in its different forms generally available and accessible to all (progressive introduction of free education);</li> <li>• <b>higher education</b> equally accessible to all, on the basis of capacity;</li> <li>• fundamental education encouraged for <b>those who have not received primary education</b>;</li> <li>• respect for the <b>liberty of parents or legal guardians</b> to choose for their children schools other than public schools;</li> <li>• the <b>liberty of individuals and bodies</b> to establish and direct educational institution which conform to <b>minimum educational standards</b> laid down by the State.</li> </ul>
<i>– UN Optional Protocol to the ICESCR (2008)</i>	<p>This treaty establishes an international complaints procedure for violations of the rights contained in the Covenant.</p>
<b>UN International Covenant on Civil and Political Rights (1966)</b>	<p>The Covenant guarantees the principle of <b>equality</b> before the law. The law shall <b>prohibit all forms of discrimination</b>. Every child shall have, without any discrimination, the right to measures of protection as are required by his status as a minor, on the part of his family, society and the State. Furthermore, it guarantees <b>educational freedom</b>.</p>
<b>ILO Convention n° 138 concerning Minimum Age for Admission to Employment (1973)</b>	<p>In principle, the minimum age for admission to employment or work shall not be less than the age of <b>completion of compulsory schooling</b> and, in any case, not less than 15 years (exceptions depending on specific circumstances or nature of the work/employment).</p>
<b>ILO Convention n°140 concerning Paid Education Leave (1974)</b>	<p>The Convention provides for the granting of <b>paid educational leave</b> through policy as part training and continuing education on a non-discriminatory basis.</p>

<b>ILO Convention N°142 concerning Human Resources Development (1975).</b>	States Parties are to establish and develop <b>general, technical and vocational education, educational and vocational guidance and vocational training</b> , within the system of formal education or outside it.
<b>UN Convention on the Elimination of All Forms of Discrimination against Women (1979)</b>	<p>States shall embody the principle of the <b>equality of men and women</b> in their national constitutions or appropriate legislation and prohibit legally all discrimination against women; and take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women. States Parties shall ensure girls and women have <b>equal rights</b> with boys and men in the field of education by:</p> <ul style="list-style-type: none"> <li>• providing the <b>same conditions</b> for <b>career and vocational guidance, access to studies, achievement of diplomas</b>, in rural as well as in urban areas and at all educational levels;</li> <li>• ensuring access to the <b>same curricula, examinations, qualified teaching staff, and school premises and equipment</b> of the same <b>quality</b>;</li> <li>• the <b>elimination of any stereotyped concept</b> of the roles of men and women at all levels and in all forms of education by the <b>revision of textbooks and school programmes</b> and the adaptation of <b>teaching methods</b>;</li> <li>• ensuring same opportunities to benefit from <b>scholarships and other study grants</b> and access to programmes of <b>continuing education and literacy programmes</b>;</li> <li>• ensuring the reduction of female student drop-out rates and programmes for girls and women <b>who have left school prematurely</b>;</li> <li>• ensuring same opportunities to participate actively in <b>sports and physical education</b>;</li> <li>• ensuring access to specific <b>educational information</b> to help to ensure <b>health</b>, including information on family planning.</li> </ul>
<b>– UN Optional Protocol to the CEDAW (2000)</b>	This treaty establishes an international complaints procedure for violations of the rights contained in the Convention.
<b>UNESCO Convention on Technical and Vocational Education (1989)</b>	States shall enshrine the right of equal access to technical and vocational education.
<b>UN Convention on the Rights of the Child (1989)</b>	<p>All children have the <b>right to education on the basis of equal opportunity</b>. Non-discrimination, primary consideration for the best interests of the child and respect for the views of the child are among the core principles set by the Convention. States Parties shall:</p> <ul style="list-style-type: none"> <li>• Make <b>primary education</b> compulsory and available free to all;</li> <li>• Make <b>secondary education</b>, including general and vocational education, available and accessible to every child, with the introduction of free education;</li> <li>• Make <b>higher education</b> accessible to all on the basis of capacity;</li> <li>• Make <b>educational and vocational information and guidance</b> available and accessible to all children;</li> <li>• Take measures to encourage <b>regular attendance</b> at schools and the reduction of drop-out rates;</li> <li>• Ensure that <b>school discipline</b> is administered in a manner consistent with the child's human dignity.</li> </ul> <p>States shall further:</p> <ul style="list-style-type: none"> <li>• Protect children <b>from all forms of violence</b>, injury or abuse, neglect or negligent treatment, maltreatment or exploitation while in the care of parent(s), legal guardian(s) or any other person who has the care of the child, through all appropriate legislative, administrative, social and educational measures;</li> <li>• Ensure that all levels of society, particularly parents and children, have <b>access to education on child health and nutrition and family planning education</b>;</li> <li>• Ensure that children with disabilities have the right to <b>special care and support</b>, as well as all the rights set by the Convention, including education;</li> <li>• Protect the child from <b>economic exploitation</b> and from performing any work that is likely to be hazardous or to interfere with the child's education or be harmful to their health or wellbeing;</li> <li>• Take all effective and appropriate measures with a view to <b>abolishing traditional practices</b> prejudicial to the health of children.</li> </ul>

– <i>UN Optional Protocol to the CRC on the involvement of children in armed conflict (2002)</i>	Raises the age for <b>direct participation in armed conflict to 18</b> and establishes a ban on compulsory recruitment for children under 18.
– <i>UN Optional Protocol to the CRC on the sale of children, child prostitution and child pornography (2002)</i>	States Parties shall <b>prohibit the sale of children, child prostitution and child pornography</b> .
– <i>UN Optional Protocol to the CRC on a communications procedure (2014)</i>	This treaty establishes an international complaints procedure for violations of the rights contained in the Convention and its Protocols.
<b>ILO Convention n° 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989)</b>	Measures shall be taken to ensure that <b>indigenous and tribal peoples</b> have the opportunity to acquire education at all levels <b>on at least an equal footing</b> with the rest of the national community.
<b>UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)</b>	Each child of a migrant worker shall have the basic right of access to education, vocational guidance and vocational training, on the basis of equality of treatment with nationals of the State concerned. Access to schools shall <b>not be refused or limited because of the irregular situation</b> (stay or employment) of either parent or because of the irregularity of the child's stay in the country. Parental freedom in the moral and religious education of their children shall be assured.
<b>Roma Statute of the International Criminal Court (1998)</b>	The Statute provides that the targeting and destruction of <b>educational property</b> may constitute a war crime.
<b>ILO Convention n° 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999)</b>	States Parties shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency (covering also slavery, the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict). <ul style="list-style-type: none"> <li>• ensure access to <b>free basic education</b>;</li> <li>• prevent the engagement of children in <b>the worst forms of child labour</b> and wherever possible and appropriate, <b>vocational training</b>;</li> <li>• <b>provide assistance</b> for the removal of children from the worst forms of child labour;</li> <li>• <b>identify and reach out</b> to children at <b>special risk</b> and take account of the <b>special situation of girls</b>.</li> </ul>
<b>UN Convention on the Rights of Persons with Disabilities (2006)</b>	States Parties undertake to adopt <b>all appropriate legislative, administrative and other measures</b> for the implementation of the rights recognized in the present Convention, including the right to education; to protect persons with disabilities from all forms of exploitation, violence and abuse; to <b>modify or abolish existing laws, regulations, customs and practices that constitute discrimination</b> against persons with disabilities. States Parties shall ensure that: <ul style="list-style-type: none"> <li>• Persons with disabilities are not excluded from the general education system, nor children with disabilities from <b>free and compulsory primary education</b>, or from <b>secondary education</b>, on the basis of disability;</li> <li>• Persons with disabilities can access an inclusive, quality and free <b>primary education and secondary education</b> on an equal basis and without discrimination;</li> <li>• <b>Reasonable accommodation and individualized support</b> shall be provided;</li> <li>• General <b>tertiary education, vocational training, adult education and lifelong learning</b> accessible without discrimination and on an equal basis with others;</li> <li>• Persons with disabilities shall <b>learn life and social development skills</b> to facilitate their full and equal participation in education and employ <b>trained and qualified teachers</b>, including those with disabilities.</li> </ul>
– <i>Optional Protocol to the CRPD (2008)</i>	This treaty establishes an international complaints procedure for violations of the rights contained in the Convention.

<b>Global Convention on the Recognition of Qualifications concerning Higher Education (2019) and Regional Conventions on Higher Education<sup>93</sup>.</b>	States Parties are to adopt measures to <b>widen access to higher education</b> , facilitate the cross-border education for students, teachers, researchers and jobseekers. States shall also strengthen international cooperation in higher education and raise the quality of higher education.
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## Regional instruments

### AFRICAN:

- African Charter on Human and People's Rights, 1981;
- African Charter on the Rights and Welfare of the Child, 1990;
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003;
- African Youth Charter, 2006;
- Convention for the Protection and Assistance of Internally Displaced Persons in Africa, 2009.

### AMERICAN:

- Charter of the Organization of American States, 1948;
- American Declaration of the Rights and Duties of Man, 1948;
- American Convention on Human Rights, 1969;
- Protocol of San Salvador: Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights, 1988;
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, 1994;
- Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, 1999;
- Inter-American Democratic Charter; 2001.

### ARAB:

- Arab Charter on Human Rights, 2004.

### EUROPEAN:

#### European Union:

- Charter of Fundamental Rights, 1999.

#### Council of Europe:

- Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, and its Protocols 1, 4, 6, 7, 11 and 12;
- European Convention on the Legal Status of Migrant Workers, 1977;
- European Social Charter, 1961, 1999;
- European Charter for Regional or Minority Languages, 1992;
- Framework Convention for the Protection of National Minorities, 1995;
- Charter on Education for Democratic Citizenship and Human Rights Education, 2010;
- Convention on Preventing and Combating Violence against Women and Domestic Violence, 2011.

## UN declarations

- Universal Declaration of Human Rights, 1948;
- Declaration on the Rights of the Child, 1959;
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992;
- Declaration on the Rights of Indigenous Peoples, 2007;
- Declaration on Human Rights Education and Training, 2011.

<sup>93</sup> Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Latin America and the Caribbean (1974), Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab and European States Bordering on the Mediterranean (1976), Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in the Arab States (1978), Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the States belonging to the Europe Region (1979), Regional Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and other Academic Qualifications in Higher Education in the African States (1981), Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific (1983), Convention on the Recognition of Qualifications concerning Higher Education in the European Region (1997), Asia-Pacific Regional Convention on the Recognition of Qualifications in Higher Education (2011), and Revised Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in African States (2014).

### Other instruments of human rights framework<sup>94</sup>

- American Declaration on the Rights and Duties of Man, 1948;
- UNESCO/ILO Recommendation concerning the Status of Teachers, 1966;
- UNESCO Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms, 1974;
- UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel, 1997;
- Hamburg Declaration on Adult Learning, 1997;
- World Declaration on Education for All, Jomtien, Thailand, 1990;
- Cairo Declaration on Human Rights in Islam, 1990;
- Declaration and Integrated Framework of Action on Education for Peace, Human Rights and Democracy, 1994;
- Salamanca Statement on Principles, Policies and Practice in Special Needs on Education, 1994;
- Delhi Declaration, Education for All Summit, 1993;
- World Declaration on Higher Education for the Twenty-first Century, 1998;
- World Programme for Human Rights Education (2005-ongoing);
- Dakar Framework for Action, World Education Forum, Dakar, Senegal, 2000;
- Universal Declaration on Cultural Diversity, 2001;
- Declaration of Amsterdam, 2004;
- Jakarta Declaration, 2005;
- ASEAN Human Rights Declaration, 2012;
- Safe Schools Declaration, 2015;
- UNESCO Recommendation concerning Technical and Vocational Education and Training (TVET), 2015;
- UNESCO Recommendation on Adult Learning and Education, 2015;
- Incheon Declaration and Education 2030 Framework for Action, 2015;
- Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education, 2019.

### General comments/recommendations adopted by UN Treaty bodies including notably:

#### COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS:

- General comment No. 3 (1990) on the nature of States parties' obligations (art. 2(1))
- General comment No. 9 (1998) on the domestic application of the Covenant
- General comment No. 11 (1999) on plans of action for primary education (art. 14)
- General comment No. 13 (1999) on the right to education (art. 13)
- General comment No. 20 (2009) on non-discrimination in economic, social and cultural rights (art. 2(2))

#### COMMITTEE ON THE RIGHTS OF THE CHILD:

- General comment No. 1 (2001) on the aims of education (art. 29(1))
- General comment No. 7 (2005) on implementing child rights in early childhood
- General comment No. 9 (2006) on the rights of children with disabilities

#### COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN:

- General Recommendation No. 19 (1992) on violence against women
- General recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19
- General Recommendation No. 36 (2017) on the right of girls and women to education

<sup>94</sup> The human rights framework consists of the evolving and interrelated body of international instruments that define human rights and establish mechanisms to promote and protect them.



United Nations  
Educational, Scientific and  
Cultural Organization

Education  
Sector

# Guidelines to strengthen the right to education in national frameworks

With the target date for achieving the SDG 4 - Education 2030 fast approaching, millions of school-age children are still out of school and millions of adults are still deprived of learning opportunities worldwide. Confronted with this reality, Member States are increasingly seeking ways and means to step up efforts to ensure their national systems and frameworks are aligned with international commitments and obligations in order to overcome challenges in the full implementation of the right to education and the realization of SDG 4.

The COVID-19 crisis demonstrated how the right to education can be weakened by the interruption of education services, exacerbating inequalities and disparities worldwide. Now, more than ever, it is an absolute priority to ensure that the right to education is strengthened in national legal frameworks and effectively enforced. With the development of solid rights-based and inclusive legal and policy frameworks at country level, the human right to education can become a reality for every single person, no matter the context.

Through a hands-on approach, the Guidelines aim to assist countries and stakeholders wishing to assess the compatibility of national education legal and policy frameworks with international standard-setting instruments and SDG 4 commitments and further develop them to advance the right to education for all and leave no one behind.

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